



File #: 24-0431, Version: 1

REPORT TO COUNCIL

SUBJECT

Proposed Project: Consider actions related to implementation of the 2023-2031 Housing Element to amend the By-Right Approval process for certain parcels within the City:

A. Introduce an Ordinance to Amend By-Right Approval (Chapter 19.73 of the Sunnyvale Municipal Code) to clarify ministerial review of projects as it relates to proposed subdivisions.

File #: PLNG-2024-0105

Location: Citywide

Applicant: City of Sunnyvale

Environmental Review: Non-discretionary project (Public Resources Code Section 21080(b)(1), CEQA Guidelines Sections 15268, 15357)

Project Planner: Julia Klein, (408) 730-7463, jklein@sunnyvale.ca.gov

SUMMARY OF COMMISSION ACTION

The Planning Commission considered this item on February 26, 2024. No members of the public spoke on the item or provided written comments before the meeting.

The Planning Commission voted in accordance with the staff recommendation to recommend approval of Alternative 1 to adopt the ordinance amending By-Right Approval (Chapter 19.73 of Sunnyvale Municipal Code) provisions to clarify ministerial review of projects as it relates to proposed subdivisions and find the action exempt from the California Environmental Quality Act (CEQAA). The vote was 7-0.

The Planning Commission provided the following clarifying comments/questions:

- Confirmed the proposed ordinance incorporates recommended language from HCD and that this is HCD's last requested change as it relates to the Housing Element. Staff submitted the original draft Urgency Ordinance to HCD on January 25, 2024; and a copy of the signed Urgency Ordinance was sent on January 31, 2024 (the day after the urgency ordinance was adopted). Formal comment on the ordinance was received from HCD on February 12.
- Inquired about repercussions for not adopting the amendment. Staff referenced the repercussions from the staff report for the January 22, 2024, Planning Commission meeting, clarified that the first two are no longer applicable, and indicated that there is uncertainty regarding the applicability of the remaining ones as the proposed amendment is minor in nature.
- Confirmed the dual track review/approval for the formal Ordinance and Urgency Ordinance are necessary to ensure there are no gaps in implementation of the proposed amendment.

See Attachment 5 for an excerpt of the draft Planning Commission minutes.

PUBLIC CONTACT

Public contact was made by posting the Council meeting agenda on the City's official-notice bulletin board at City Hall, at the Sunnyvale Public Library and in the Department of Public Safety Lobby. In addition, the agenda and this report are available at the NOVA Workforce Services reception desk located on the first floor of City Hall at 456 W. Olive Avenue (during normal business hours), and on the City's website. Email notifications were sent to interested parties, including housing advocacy organizations and neighborhood groups. The hearing date was included on the City's Housing Element Update webpage and published in the *Mercury News* newspaper. Notices were mailed to property owners and tenants within 300 feet of the sites eligible for By-Right approval.

ALTERNATIVES

1. Take the following actions:
 - a. Find that the Action is Exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080(b)(1) and CEQA Guidelines Section 15268 and 15357; and
 - b. Introduce an Ordinance in Attachment 2 to amend By-Right Approval (Chapter 19.73 of the Sunnyvale Municipal Code).
2. Take the actions in Alternative 1 with modifications.
3. Do not Introduce the Ordinance and provide direction to staff on desired changes.

STAFF RECOMMENDATION

Alternative 1: Take the following actions:

- a. Find that the Action is Exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080(b)(1) and CEQA Guidelines Section 15268 and 15357; and
- b. Introduce an Ordinance in Attachment 2 to the report to amend By-Right Approval (Chapter 19.73) to the Sunnyvale Municipal Code).

The proposed Ordinance implements the 2023-2031 Housing Element H2. Rezone Program by amending By-Right Approval (Chapter 19.73) provisions to clarify that projects with subdivisions would be subject to a ministerial review process and would need to comply with the Subdivision Map Act. As mentioned in the Planning Commission staff report for February 26, 2024, a dual track review/approval for the formal Ordinance and Urgency Ordinance are necessary to ensure there are no gaps in implementation of the proposed amendment. As Urgency Ordinances are effective for 45-days, an Extension to the Urgency Ordinance is scheduled for City Council review on April 9, 2024.

Prepared by: Julia Klein, Principal Planner
Reviewed by: Shaunn Mendrin, Planning Officer
Reviewed by: Trudi Ryan, Director of Community Development
Reviewed by: Connie Verceles, Deputy City Manager
Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. Report to Planning Commission [24-0385, February 26, 2024] (without attachments)
2. Draft Ordinance
3. RTC No. 24-0266, January 30, 2024, By-Right Zoning Introduction
4. HCD Letter Dated February 12, 2024

Additional Attachments for Report to Council

5. Excerpt of Final Minutes of the Planning Commission Meeting of February 26, 2024