



**DATE:** June 9, 2020

**CATEGORY:** Public Hearing

**DEPT.:** Community Development

**TITLE:** **Zoning Text Amendments Regarding Family Day-Care Homes and Planned Community Permits**

### **RECOMMENDATION**

Introduce an Ordinance Amending Sections of Chapter 36 (Zoning Ordinance) of the City Code to Update Home-Based Child-Care Regulations to Align with New State Regulations and to Modify Planned Community Permit Regulations, to be read in title only, further reading waived, and set a second reading for June 23, 2020 (Attachment 1 to the Council report).

### **BACKGROUND**

On April 28, 2020, the City Council held a public hearing to discuss proposed code amendments related to accessory dwelling units (ADU), home-based child care, and modifications to Planned Community Permit regulations (Attachment 2 – [City Council Report – April 28, 2020](#)). The City Council approved the amendments at that time; however, prior to the second reading on May 12, 2020, staff received information about the proposed ADU regulations that will require more time to assess.

As a result, the City Council approved a motion to bifurcate the proposed text amendments and review amendments related to ADUs in fall 2020. Staff's recommendations described herein relate to the proposed zoning text amendments related to home-based child-care regulations and Planned Community Permit regulations.

### **Previous Public Hearings**

#### *Environmental Planning Commission Public Hearing*

On March 4, 2020, the Environmental Planning Commission (EPC) held a public hearing to discuss the proposed code amendments to Chapter 36 (Attachment 3 – [Environmental Planning Commission Staff Report – March 4, 2020](#)). The EPC voted

unanimously to recommend the City Council adopt the proposed zoning text amendments with no text changes.

## **ANALYSIS**

### **Family Day-Care Homes**

On September 5, 2019, Governor Newsom signed into law Senate Bill No. 234, which amends several sections of the Health and Safety Code relating to family day-care homes to streamline the administration of child-care licensing to facilitate an increase in the supply of licensed family day-care homes. This legislation became effective on January 1, 2020.

The following is a summary of the proposed amendments to the City's existing regulations pertaining to family day-care homes which would bring them into compliance with State law and can be found in their entirety in Attachment 1.

#### *Permitting Process*

The City's current regulations list small-family day-care homes, which may provide care for up to six children, as a principally permitted use within residential zoning districts and large-family day-care homes, which may allow seven to 14 children, are conditionally permitted with approval of a nondiscretionary Conditional Use Permit. State law allows small-family day-care homes to care for up to eight children in some cases, and staff is proposing a modification to the City's definition for small-family day-care homes to be consistent with the State's definition. Additionally, State law requires that large-family day-care homes now be a principally permitted use, similar to small-family day-care homes, and shall not require approval of a nondiscretionary Conditional Use Permit.

#### *Standards for Large-Family Day-Care Homes*

The City's current regulations require that both large-family day-care homes and commercial child day-care centers comply with criteria related to spacing and concentration, traffic control, proximity to other uses, outdoor play areas, and parking. SB 234 prevents jurisdictions from applying additional standards to large-family day-care homes beyond what is required by the underlying zoning district for a residential use or development. The proposed amendments would remove the requirement that these criteria apply to large-family day-care homes but would still require that they apply to commercial child day-care centers.

### **Planned Community Permits**

Planned Community Permits allow new construction, redevelopment, or changes of use within a Planned Community District (Precise Plans) provided that the proposal complies with the special land use and project development standards of the applicable Precise Plan. Similar to Planned Unit Development Permits, which may apply to projects in standard zoning districts, Planned Community Permits allow flexibility and diversity in site planning, structure heights, and location in planned community districts (Precise Plans) while protecting the integrity and character of the district.

Staff proposes minor amendments to the Planned Community Permit section to clarify that the purpose of a Planned Community Permit is to allow for creative, innovative developments within a context of defined community goals. The proposed amendments clarify that, in some cases, variations from the applicable Precise Plan standards may be granted, but in order for these variations to be granted, proposals must clearly demonstrate superior site and building design and comply substantially with the intent of the requirements in the applicable Precise Plan.

These amendments are necessary in order to address the decision by the Santa Clara County Superior Court in the case of *County Inn, LLC v. City of Mountain View* (Case No. 18CV322114). The court ruled that the City lacked the authority under the current language of the Zoning Code to approve certain variations from applicable Precise Plan standards. Because the Planned Community District is intended to provide for creative, innovative developments within a context of defined community goals, these amendments establish specific criteria for approval of variations from applicable Precise Plan standards. Any action by the Planning Division on a request for a variation from applicable Precise Plan standards is subject to the public review and hearing process and requisite findings set forth in the Zoning Code.

### **ENVIRONMENTAL REVIEW**

The action to modify Chapter 36 for updates to the zoning text is exempt from the California Environmental Quality Act pursuant to Section 15061(b)(3) (the “common-sense” exemption) because it includes text amendments related to recent legislation enacted by the State and minor amendments to clarify an existing planning permit. Therefore, it can be seen with certainty that there is no possibility that the activity will have a significant effect on the environment.

**FISCAL IMPACT** – None.

## **CONCLUSION**

Staff recommends that Council approve the proposed zoning text amendments to comply with State legislation pertaining to home-based child-care and to clarify the language for Planned Community Permits.

## **ALTERNATIVES**

1. Approve the zoning text amendments with modifications.
2. Refer the project back to the EPC for further analysis and reconsideration.
3. Disapprove the zoning text amendments.

## **PUBLIC NOTICING**

Agenda posting, newspaper publication, and a copy of the report on the City website.

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- Attachments:
1. Ordinance of Zoning Text Amendments (Chapter 36)
  2. [City Council Report – April 28, 2020](#)
  3. [Environmental Planning Commission Staff Report – March 4, 2020](#)
  4. Summary of Draft Amendments