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Staff Report for Discussion on Updating the Zoning Code

**SUMMARY AND RECOMMENDATIONS**

Staff requests direction from the City Council regarding updates to the Zoning Code, specifically initiating a comprehensive update to modernize the City’s Zoning Code, and to integrate new, updated, and ongoing policy issues. Although the City conducts regular updates to the Zoning Code, it has not initiated a truly comprehensive update for the purpose of modernizing its organization and layout since 1989. A comprehensive update would focus on reformatting and clarifying existing provisions to be more user-friendly, implementing recent City initiatives, such as the proposed Bayfair TOD Specific Plan, and to address public comments and regulatory updates regarding the Professional Office or P-zoning district, short-term rentals, accessory dwelling units, telecommunications, and sustainable landscaping, amongst others.

An alternative to a comprehensive update could be a targeted Zoning Code update, which would focus on one or a few specific initiatives described above. Tonight, staff seeks City Council direction on how to proceed regarding the aforementioned recommendations.

**BACKGROUND**

The Zoning Code is the primary tool of implementation for the General Plan, the comprehensive policy guide for the City, as well as specific plans such as the Downtown Transit Oriented Development (TOD) Strategy and the proposed Bayfair TOD Specific Plan (which is tentatively scheduled for City Council consideration at its February 20, 2018 regular meeting). The City’s power to implement planning is granted by the State Constitution; the Legislature regularly passes legislation that affects the Zoning Code.

The original Zoning Code was adopted in 1961; it consisted of one chapter within the Municipal Code. The City’s first major modernization effort began in February 1989, a three-year process that

resulted in the establishment of a “hearing draft” of the Zoning Code in 1991. After further discussion and amendments over the following year, the current iteration of the Zoning Code was adopted by the City Council in 1992.

Since that time, the City has regularly updated individual chapters of the Zoning Code, primarily in response to specific issues, State legislative mandates or to bring the Zoning Code into conformance with General Plan or Specific Plan updates (i.e., inclusionary zoning, accessory dwelling units, etc.).

The last major update to the Zoning Code was approved by the City Council in September 2016 in conjunction with the 2035 General Plan update. The changes were necessary to bring the Zoning Code into conformance with both the Downtown Transit Oriented Development (TOD) Strategy and the 2035 General Plan Update. While that public planning process implemented provisions such as the new Industrial Transition (IT) zoning district and updates to the Downtown Area (DA) zoning and development standards (including changes to the P-zoning district), it did not seek to comprehensively address the format and layout established in 1992. The 2035 General Plan Update planning process also led to the creation of new land uses such as the Bay Fair TOD and IT designations, the addition of a Medium High Density Residential designation, updates to Park and Open Space designations, removal of obsolete land uses such as Office, adjustments to allowable densities downtown, and mixed-use boundaries to reflect market trends and long-range forecasts. During the 2016 Zoning Code amendment process, staff initially recommended eliminating the P-zoning district because of the removal of the Office land use, but public feedback in favor of retaining the P-zone caused it to remain.

## **Analysis**

The City typically amends the Zoning Code a couple of times each year. Over time, multiple piecemeal changes have made the Zoning Code more difficult to use. While one section may have been updated or “cleaned-up,” sometimes other related codes were overlooked, resulting in unintended inconsistencies. The Planning Division has identified in recent years over 40 different code sections that need to be addressed through a clean-up effort.

Despite the major effort undertaken during the 2016 Zoning Code update, functional and organizational aspects of the Zoning Code still need to be addressed. The timing to organize the Zoning Code through a comprehensive update is ideal given the number of significant initiatives anticipated for 2018, including the upcoming Bayfair TOD Specific Plan, and further discussion regarding short-term rentals, accessory dwelling units and telecommunications. In addition, recent public comments have shown an interest in revisiting the multi-family residential development standards within the Professional Office (P) zoning district provisions.

Public comments on the P zoning district development standards have included requests to amend the General Plan. Although the withdrawn Planned Development (PD) application at 1388 Bancroft generated considerable public controversy and highlighted concerns with the Zoning Code, the need to revisit publically vetted and established General Plan and Downtown Transit Oriented Development policies are not necessary or recommended.

Considerations related to a comprehensive versus a targeted Zoning Code amendment effort would be expense and time, which would obviously be less for a targeted update than a comprehensive Zoning Code update, the latter of which could take from 12 to 24 months. A targeted effort could be accomplished without the need for a consultant within a shorter timeframe depending on the scope.

Staff would need direction from the City Council on which issues to focus upon in order to better determine the cost and scope of a targeted Zoning Code update.

Should the City Council direct staff to initiate a comprehensive update, below are the proposed next steps to begin the Request for Proposal (RFP) process during Spring 2018 to initiate either a comprehensive or targeted Zoning Code update:

- Issue RFP for a Planning Consultant Firm
- Selection of Qualified Firm
- Consultant Services Agreement to City Council

The Zoning Code amendment process would involve public participation as well as opportunities for public review/comment including community meetings and Planning Commission and City Council public hearings. By State law and City ordinance, the Planning Commission initially reviews proposed Zoning Code amendments and makes recommendations to the City Council, which makes the final decisions regarding Zoning Code amendments.

### **Previous Actions**

The most recent update to the Zoning Code was adopted by the City Council on March 20, 2017 to accommodate mandatory State legislation regarding the permit process for Accessory Dwelling Units. Prior to that time, a major update to the Zoning Code, along with land use updates, was adopted by the City Council on September 19, 2016 to bring it into conformance with the concurrent 2035 General Plan update.

### **Fiscal Impacts**

The estimated cost of a comprehensive overhaul of the Zoning Code is expected to exceed \$200,000. The Planning Division currently has \$125,000 in available funding in FY 2017-2018 and 2018-2019). An additional approximately \$75,000 would need to be identified to complete the Zoning Code update project. The City's Long Range Planning Fee, which is set aside for this purpose, represents an additional funding source.

### **ATTACHMENT(S)**

None

### **PREPARED BY:**

Andrew J. Mogensen, AICP  
Planning Manager, Community Development Department