



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT:** SEE BELOW

**DATE:** November 6, 2017

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**SUBJECT: GPT17-004. CITY-INITIATED GENERAL PLAN TEXT AMENDMENT TO CLARIFY GENERAL PLAN LAND USE DESIGNATIONS ASSOCIATED WITH THE VACATION, SALE, OR RELOCATION OF CITY RIGHT-OF-WAY AND STATE FREEWAYS AND TRANSPORTATION CORRIDORS.**

## **RECOMMENDATION**

The Planning Commission voted unanimously (7-0-0) to recommend that the City Council adopt a resolution approving the General Plan text amendment to clarify General Plan land use designations associated with the vacation, sale, or relocation of City right-of-way and State freeways and transportation corridors.

## **OUTCOME**

Should the City Council approve the General Plan Text Amendment, the Envision San José 2040 General Plan will be modified as detailed in the Planning Commission staff report (attached).

## **BACKGROUND**

On October 11, 2017, the Planning Commission held a public hearing to consider the proposed General Plan Text Amendment to clarify General Plan land use designations associated with the vacation, sale, or relocation of City right-of-way and State freeways and transportation corridors. The Director of Planning, Building and Code Enforcement recommended approval of the General Plan Text Amendment. The item was on the consent calendar and was approved by the Planning Commission with no discussion.

## **ANALYSIS**

For a complete analysis, please see the Planning Commission staff report (attached).

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### **EVALUATION AND FOLLOW UP**

If the General Plan Text Amendment is approved, the Envision San José 2040 General Plan will be modified to clarify General Plan land use designations associated with the vacation, sale, or relocation of City right-of-way and State freeways and transportation corridors.

### **PUBLIC OUTREACH**

Staff followed Council Policy 6-30: Public Outreach Policy. A notice of the public hearing was published in the San Jose Post Record and on the City's website. The staff report is also posted on the City's website and staff has been available to respond to questions from the public.

### **COORDINATION**

Preparation of this memorandum has been coordinated with the City Attorney's Office.

### **CEQA**

Pursuant to Section 15168 of the CEQA Guidelines, the City of San José has determined that the proposed General Plan Text Amendment is within the scope of the approved Final Program EIR for the Envision San José 2040 General Plan and Supplemental EIR to the Envision San Jose 2040 General Plan EIR, and Addenda thereto for which findings were adopted by City Council Resolution Nos. 76041 and 77617 respectively, that adequately describe the activity for the purposes of CEQA.

/s/

ROSALYNN HUGHEY, SECRETARY  
Planning Commission

For questions please contact Michael Brilliot, Division Manager, at 408-535-7831.

Attachment: Planning Commission Staff Report



## PLANNING COMMISSION STAFF REPORT

<b>File No.</b>	GPT17-004
<b>Applicant</b>	City-initiated
<b>Location</b>	Citywide
<b>Council District</b>	Citywide
<b>CEQA</b>	Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San José General Plan Final Program Environmental Impact Report (Resolution No. 77617), and Addenda thereto

**APPLICATION SUMMARY:**

City-initiated General Plan text amendment to clarify General Plan land use designations associated with the vacation, sale, or relocation of City right-of-way and State freeways and transportation corridors.

**RECOMMENDATION:**

1. Consider the Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San Jose General Plan Final Program Environmental Impact Report (Resolution No. 77617), and Addenda thereto in conformance with CEQA; and
2. Recommend that the City Council adopt a resolution approving the General Plan text amendment to clarify General Plan land use designations associated with the vacation, sale, or relocation of City right-of-way and State freeways and transportation corridors.

**PROJECT DESCRIPTION**

The proposed text amendment would modify Chapter 5 “Interconnected City” to include clarifying text on General Plan land use designations for City right-of-way and State freeways or transportation corridors that have been vacated, sold, or relocated. The proposed text is as follows in strikethrough/underline format:

**City Right-of-Way and State Freeways and Transportation Corridors**

In the event that City owned right-of-way or State owned freeways or transportation corridors, which do not have an underlying land use designation, are vacated, sold, or relocated, the land use designation of these rights-of-way or corridors is the designation of the property which bounds this area. If the area is bounded by more than one designation, each designation applies to the centerline of such right-of-way, freeway, or transportation corridor.

**Text Reference:**

Envision San José 2040 General Plan, Chapter 5 “Interconnected City,” Special Land Use Designations and Overlays, Page 27 (following “Area Development Policies”).

**Site Location:**

The Text Amendment is applicable to all City owned right-of-way or State owned freeways or transportation corridors that are vacated, sold, or relocated.

**ANALYSIS**

The purpose of the proposed General Plan text amendment is to clarify what the General Plan land use designation is for City owned right-of-way or State owned freeways or transportation corridors that are vacated, sold, or relocated. City streets and State transportation corridors do not have land use designations on the General Plan Land Use/Transportation Diagram. As a result, a General Plan land use amendment could be required anytime City or State owned right-of-way is vacated, sold, or relocated as part of a development project. This process is costly and can cause unnecessary delays for both private and public projects.

For example, in 2016, the City purchased State owned property along Highway 101 and South 31<sup>st</sup> Street for development of a neighborhood park. Because the site formerly served as Caltrans right-of-way under ownership of the State, the property did not have a General Plan land use designation. Not having a General Plan land use designation disqualified the project from utilizing a CEQA infill exemption and necessitated processing a General Plan amendment for the site. This resulted in increased costs and interruptions, and put the project at risk of losing grant funding because of the additional delay.

Another example that the proposed text amendment would address is City vacation of roadway “pork chop” islands, which are triangular raised pedestrian islands placed on corners between right-turn lanes and through-travel lanes. The City commonly vacates these pedestrian islands tied to public improvements associated with new development projects in order to improve pedestrian safety. The portion of right-of-way transferred to the adjacent property owner would currently be left without a General Plan land use designation.

The proposed General Plan text amendment would address this issue by assigning the General Plan land use designation of the property which bounds City or State right-of-way that is vacated, sold, or relocated. If the area is bounded by more than one designation, each designation would apply to the centerline of the City or State right-of-way.

**Envision San José 2040 General Plan Conformance**

The proposed text amendment would support the General Plan’s vision, goals, and policies by promoting implementation of the Land Use/Transportation Diagram, which serves as a central framework for the entire plan, and is consistent with the following General Plan goals and policies:

1. **Land Use / Transportation Diagram Goal IP-1:** Make land use and permit decisions to implement the *Envision General Plan* Land Use / Transportation Diagram and to further the vision, goals and policies of the *Envision General Plan*.

**Land Use / Transportation Diagram Policy IP-1.1:** Use the *Envision General Plan* Land Use / Transportation Diagram designations to indicate the general intended land use, providing flexibility to allow for a mix of land uses, intensities and development forms compatible with a wide variety of neighborhood contexts and to designate the intended roadway network to be developed over the

timeframe of the *Envision General Plan*. Use the Zoning designation to indicate the appropriate type, form and height of development for particular properties.

*Analysis: The proposed text amendment would support implementation of the Envision San Jose 2040 Land Use/Transportation Diagram by clarifying the land use designation for City owned right-of-way or State owned freeways or transportation corridors that are vacated, sold, or relocated.*

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The proposed General Plan text amendment does not include any construction, demolition, or other activity that has the potential to negatively impact the environment. The text amendment would not result in an increase in planned development beyond that which was analyzed in the Final Program EIR for the Envision San José 2040 General Plan. Pursuant to Section 15168 of the CEQA Guidelines, the City of San José has made a Determination of Consistency, as this activity is within the scope of the approved Envision San José 2040 General Plan, and the Final Program EIR for the Envision San José 2040 General Plan and Supplemental EIR to the Envision San José 2040 General Plan EIR, and Addenda thereto, for which findings were adopted by City Council Resolution Nos. 76041 and 77617 respectively, that adequately describe the activity for the purposes of CEQA.

### **PUBLIC HEARING NOTIFICATION**

Staff followed Council Policy 6-30: Public Outreach Policy. A notice of the public hearing was published in the San Jose Post Record and on the City's website. The staff report is also posted on the City's website and staff have been available to respond to questions from the public.

**Project Manager:** Jared Hart

**Approved by:**



, Planning Official for Rosalynn Hughey,  
Interim Planning Director

**Date:** 10/4/17

**Attachment:**

Draft Resolution

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AMENDING THE ENVISION SAN JOSE 2040 GENERAL PLAN PURSUANT TO TITLE 18 OF THE SAN JOSE MUNICIPAL CODE TO CLARIFY GENERAL PLAN LAND USE DESIGNATIONS ASSOCIATED WITH THE VACATION, SALE, OR RELOCATION OF CITY RIGHT-OF-WAY AND STATE FREEWAYS AND TRANSPORTATION CORRIDORS**

**Fall 2017 General Plan Amendment Cycle (Cycle 3)**

**GPT17-004**

**WHEREAS**, the City Council is authorized by Title 18 of the San Jose Municipal Code and state law to adopt and, from time to time, amend the General Plan governing the physical development of the City of San Jose; and

**WHEREAS**, on November 1, 2011, the City Council adopted the General Plan entitled, "Envision San Jose 2040 General Plan, San Jose, California" by Resolution No. 76042, which General Plan has been amended from time to time (hereinafter the "General Plan"); and

**WHEREAS**, in accordance with Title 18 of the San Jose Municipal Code, all general and specific plan amendment proposals are referred to the Planning Commission of the City of San Jose for review and recommendation prior to City Council consideration of the amendments; and

**WHEREAS**, on October 11, 2017, the Planning Commission held a public hearing to consider the proposed text amendment to the General Plan pertaining to the clarification of General Plan land use designations associated with the vacation, sale, or relocation of City right-of-way and State freeways and transportation corridors, File No. GPT17-004

specified in Exhibit "A" hereto ("General Plan Text Amendment"), at which hearing interested persons were given the opportunity to appear and present their views with respect to said proposed amendments; and

**WHEREAS**, at the conclusion of the public hearing, the Planning Commission transmitted its recommendations to the City Council on the proposed General Plan Text Amendment; and

**WHEREAS**, on November 14, 2017, the Council held a duly noticed public hearing; and

**WHEREAS**, copies of the proposed General Plan Text Amendment are on file in the office of the Director of Planning, Building and Code Enforcement of the City, with copies submitted to the City Council for its consideration; and

**WHEREAS**, pursuant to Title 18 of the San Jose Municipal Code, public notice was given that on November 14, 2017 at 6:00 p.m. in the Council Chambers at City Hall, 200 East Santa Clara Street, San Jose, California, the Council would hold a public hearing where interested persons could appear, be heard, and present their views with respect to the proposed General Plan Text Amendment (Exhibit "A"); and

**WHEREAS**, prior to making its determination on the General Plan Text Amendment, the Council reviewed and considered the Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 77617), and Addenda thereto; and

**WHEREAS**, the Council is the decision-making body for the proposed General Plan Text Amendment.

**NOW, THEREFORE**, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE AS FOLLOWS:

**SECTION 1.** The Council's determinations regarding General Plan Text Amendment File No. GPT17-004 are hereby specified and set forth in Exhibit "A," attached hereto and incorporated herein by reference.

**SECTION 2.** This Resolution shall take effect thirty (30) days following the adoption of this Resolution.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

\_\_\_\_\_  
SAM LICCARDO  
Mayor

ATTEST:

\_\_\_\_\_  
TONI J. TABER, CMC  
City Clerk



STATE OF CALIFORNIA                    )  
  ) ss  
COUNTY OF SANTA CLARA            )

I hereby certify that the amendments to the San Jose General Plan specified in the attached Exhibit A were adopted by the City Council of the City of San Jose on [REDACTED], as stated in its Resolution No. [REDACTED].

Dated: \_\_\_\_\_

\_\_\_\_\_  
TONI J. TABER, CMC  
City Clerk

**EXHIBIT "A"**

**File No. GPT17-004.** Amend General Plan text in Chapter 5, entitled "Interconnected City," "Special Land Use Designations and Overlays" section, following "Area Development Policies," to add the text as follows:

**"City Right-of-Way and State Freeways and Transportation Corridors**

In the event that City owned right-of-way or State owned freeways or transportation corridors, which do not have an underlying land use designation, are vacated, sold, or relocated, the land use designation of these rights-of-way or corridors is the designation of the property which bounds this area. If the area is bounded by more than one designation, each designation applies to the centerline of such right-of-way, freeway, or transportation corridor."

Citywide. CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San Jose General Plan Final Program Environmental Impact Report (Resolution No. 77617), and Addenda thereto.