

November 29, 2022

San José City Council
City of San José
200 E. Santa Clara Street
San José CA 95113

Re: Item 8.4 – Amendment to Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code for the Parking and Transportation Demand Management Policy Ordinance

Dear Mayor Liccardo, Vice Mayor Jones and Councilmembers:

Thank you for giving us the opportunity to comment on this item. We have no concerns with the ordinance as it relates to the elimination of parking minimums and changes to TDM. The parking reforms presented under this ordinance represent over three years of deep community engagement, policy analysis and development. We are in full support of the recommendations brought forth by city staff to remove parking minimum requirements citywide and reform TDM in San José.

However, we have concerns regarding the proposed ordinance **as it relates to the conversion of parking spaces into Outdoor Dining and Outdoor Uses**. It is no secret that the restaurant, hospitality, and service industries have been disproportionately affected by COVID-19. As a result, cities throughout the state acted quickly to implement outdoor dining and outdoor use programs as a way to lessen the impact of COVID restrictions. The state, in passing bills such as AB 773 and AB 61 recognized the value of outdoor dining and the continuing need for relaxed rules until 2024. As the author of AB 61 commented, “neighborhood restaurants are the backbone of communities.” It is no different in San José.

The City’s Al Fresco initiative has led to a marked change in outdoor street activation and supported local business economic recovery. The City offered a streamlined permitting and registration process for parklets, sidewalk patios, and private parking lot structures. Additionally,

the City was able to appropriate American Rescue Plan funds as grants to local businesses. These efforts equipped businesses to better adapt to changing health guidelines, and by extension, allowed city residents and visitors to once again meet collectively in person and enjoy outdoor dining. This unintended pilot in outdoor dining and public life was enormously successful for local businesses, our streets, and the city.

The inclusion of a permitting process for outdoor uses in parking spaces within the item before you today represents a step toward codifying and making permanent this citywide initiative. It establishes administrative processes for businesses to bring their temporary structures into compliance. **However, these critical decisions will have an unclear effect on an indeterminate number of businesses currently utilizing the Al Fresco outdoor dining program today, and those that would hope to do so in the near future.** Effective policy making requires meaningful community and stakeholder engagement, policy analysis and development, and collaborative solution-making.

It is unclear how many current businesses are aware of these proposed changes. Although many businesses will be able to come into compliance under the administrative process, it is unclear how many will be required to undergo a separate, more cost-intensive process. The language in the proposed ordinance would make no changes to the outdoor dining permitting process within Sections 20.40.520, 20.55.201 or 20.75.320 in the City Municipal Code.

- Essentially, this means that businesses (with the exception of downtown) located in commercially zoned, urban village, mixed-use, and pedestrian oriented districts within 150 feet of residentially zoned property that currently have outdoor uses in private parking lots and are interested in converting parking spaces to outdoor dining will need to apply for a Special Use Permit (SUP). **In other words, businesses that fall within these sections of the code will need to follow pre-pandemic rules.** Most private parking lot outdoor uses have been concentrated in non-downtown areas of the city and could potentially mean that a significant number of businesses will be required to undergo the SUP process.
- According to the current PBCE fee schedule, estimates for Special Use Permit costs could range between \$13,000 - \$22,000 (and might still be denied), and take 4 to 6

months to complete. Rather than streamlining the process, this part of the proposed ordinance might have an opposite chilling effect.

Furthermore, there does not appear to be any funding allocated to support those businesses who have used private parking lots to activate San Jose's neighborhoods. OED is offering \$25,000 for parklets and waived fees in order to support businesses who have temporary parklets in making them permanent. It remains to be seen if businesses with private parking lot setups will have the same support. **There is the opportunity to provide clearer guidance and encourage efforts across City departments to unify the Al Fresco program.**

The Al Fresco program has been very much loved in the City and has the support of businesses, diverse organizations, and the general public. While parklets and closed streets in Downtown and Willow Glen have led to enhanced street vibrancy, the reality is that the greatest impact of Al Fresco took place in private parking lots throughout San José. It brings to life the vision of Urban Villages and the General Plan to expand public life, outdoor amenities, and enhancements to the public realm in neighborhoods across the City. Outdoor dining in private parking lots allowed residents in areas not suited for parklets and sidewalk dining (most of San José) to enjoy the benefits of the Al Fresco program. What the private parking lot component of this program has shown is that this type of activity can work in the more suburban areas of our city. It brought people out of their homes and created vibrancy within neighborhoods in a way and in places that had not been possible before. We need to embrace this vibrancy in all parts of the city instead of potentially undercutting the success of the pandemic-era initiative.

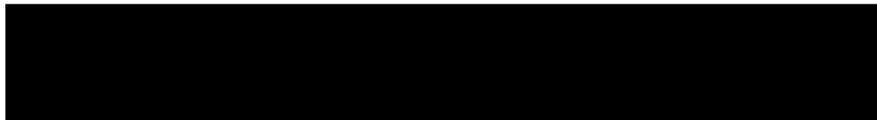
We make the following recommendations:

- Rather than suspension of enforcement, extend the temporary program for at least 6 months (some cities, like Los Angeles, have extended their program by as long as 2 years) with direction to staff to:
 - draft an ordinance that provides more flexibility for outdoor dining in zoning designations, commercial corridors, and districts outside of downtown;
 - make available Al Fresco business data, current uses and enforcement of the program citywide and which aspect of the program businesses are utilizing (parklet, sidewalk, or parking lot);

- provide an estimate of process time and total costs for each permitting item required, e.g. permit adjustment, administrative permit, and special use permit.
- Develop coordinated and cross-departmental Al Fresco program materials, guidance, and resources that unifies and encompasses parklets, sidewalk patios, and private property (parking lots); and
- Explore funding opportunities and resources for all businesses that have successfully participated in the Al Fresco program, not just those utilizing parklets.

We appreciate the work staff has done on this issue. It is certainly a step in the right direction; but we believe that if we want to see all of San José enjoy the benefits of Al Fresco, some work is left to be done.

Sincerely,

A large black rectangular redaction box covering the signature area of the letter.

Fred Buzo
San José Director

Erika Pinto
San José Planning Policy Manager

Update TDM Code - Item 8.4

Angela Schertle <[REDACTED]>

Mon 11/28/2022 8:33 PM

To: Liccardo, Sam <[REDACTED]> Jones, Chappie <[REDACTED]> Jimenez, Sergio
<[REDACTED]> Perez, Raul <[REDACTED]> Cohen, David
<[REDACTED]> Carrasco, Magdalena <[REDACTED]> Davis, Dev
<[REDACTED]> Esparza, Maya <[REDACTED]> Arenas, Sylvia <[REDACTED]> Foley,
Pam <[REDACTED]> Mahan, Matt <[REDACTED]> District1 <[REDACTED]> District2
<[REDACTED]> District3 <[REDACTED]> District4 <[REDACTED]> District5
<[REDACTED]> District6 <[REDACTED]> District7 <[REDACTED]> District8
<[REDACTED]> District9 <[REDACTED]>

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[External Email]

Mayor Liccardo and Councilmembers,

Overhauling arbitrary and outdated parking policies in San Jose has been an effort decades in the making.

That's why I strongly urge you to take the next step and approve city staff's recommendation before you today – Item 8.4.

In doing so, you'll affirm your vote 5 months ago to eliminate parking mandates in new developments. I also support your voting for a more robust Transit Demand Management (TDM) plan that replaces these mandates.

A 'Yes' vote is right for the following reasons:

1. Such a vote simply enshrines the one you took a few months ago, which is more important than ever.
2. These changes will encourage less driving. More driving causes more traffic congestion, air pollution, & worsens climate change.
3. This reform will incentivize developers to provide more tangible benefits to San Joseans like VTA transit passes, street improvements, and/or designated rideshare areas.
4. Fewer parking spaces don't just mean more community benefits; it will also remove obstacles in building more homes.

Our worsening climate & housing crisis require urgent responses, and so I am following this vote closely and urge you to adopt the staff recommendation to adopt a robust Transportation Demand Management plan in place of parking mandates.

Let's continue to focus on the future, not the past.

I strongly urge you to vote Yes on Item 8.4.

Thank you — Angie Schertle
San Jose District 3 resident

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My Thoughts on TDM - Item 8.4.

L A Kurth <[REDACTED]>

Tue 11/29/2022 9:37 AM

To: Liccardo, Sam <[REDACTED]> Jones, Chappie <[REDACTED]> Jimenez, Sergio
<[REDACTED]> Perez, Raul <[REDACTED]> Cohen, David
<[REDACTED]> Carrasco, Magdalena <[REDACTED]> Davis, Dev
<[REDACTED]> Esparza, Maya <[REDACTED]> Arenas, Sylvia <[REDACTED]> Foley,
Pam <[REDACTED]> Mahan, Matt <[REDACTED]> District1 <[REDACTED]> District2
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<[REDACTED]> District 6 <[REDACTED]> District7 <[REDACTED]> District8
<[REDACTED]> District9 <[REDACTED]>

[External Email]

Mayor Liccardo and Councilmembers,

Dear Mayor, Mayor-to-be, and Councilors,

With the exception of mayor Liccardo who has ridden a bike to work (and gotten seriously injured doing it) are any of you currently using bikes or public transit or even vanpools to get to work? What would it take for you to give up your cars assuming you live at least five miles from work?

Has anyone surveyed current renters to find out which transit alternatives to cars would work for them AND to let them know of any updates/increased services? Has VTA + city government publicized which routes go where? (the VTA website is quite icky. I used it to try to find a bus or light rail and found it focused on minimizing walking instead of minimizing the number of transfers. I'm unwilling to wait for two buses to get somewhere, and I bet most people feel the same.

That seems like the minimum before potentially making life even more hellish and costly because of parking fines, conflicts with neighbors, and the very very high cost of Uber and Lyft (\$600/month minimum for a five-mile commute for one of my friends in Japantown). People with more than one child, more than one bag of groceries, and limited time, at this point cannot realistically depend on public transit.

People are leaving California and one reason is that their needs aren't taken into account. (from the Mercury News: " San Jose lost nearly 14,700 residents in 2021, which was a 1.5% decrease from 2020 — and a rate of decline that was five times greater than the pace statewide."

Sincerely,

Lita Kurth, Willow Glen

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On Nov 28, 2022, at 10:36 AM, Alex Shoor <[REDACTED]> wrote:

<Catalyze SV logo horizontal.png>

Mayor Liccardo, Mayor-elect Mahan and Councilmembers,

Only five months ago, you took a bold, necessary vote on reforming parking requirements on new development. An earnest thank you for that!

Tomorrow, you can affirm that vote and enshrine thoughtful policies from San Jose staff that better align with key city goals around mobility, housing & global warming.

As such, Catalyze SV staff, so many of our stakeholders in the community & many of our nonprofit partners passionately support staff's recommendation on Item 8.4. We urge you to approve it without delay or equivocation.

We support this change because we think the City's decades-old parking mandates have contributed to more congestion, more pollution, worse public health, less housing, less use of our transit systems, & fewer community benefits in developments.

One of Catalyze SV's core values is convenient transportation choices; Item 8.4 fits extremely well with this because it brings into a much better balance the various ways people can and do get around our Valley.

Staff have done a great job of responding to the questions and concerns you and your colleagues raised at the study session last year and the Council meeting this one. We anticipate you may have more tomorrow.

Whatever you ask, Catalyze SV strongly urges you to vote YES on Item 8.4.

Thank you for your continued work on this crucial issue. Yours in community - Alex

--

Alex Shoor

Executive Director | Catalyze SV

[Get Catalyze SV apparel](#) | [Schedule time w/Alex](#)

Please note my new email address & our org's new domain

[REDACTED] | www.CatalyzeSiliconValley.org

Please support item 8.4 to Update TDM Code!

Ali Sapirman <[REDACTED]>

Tue 11/29/2022 5:04 PM

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Dear Mayor Liccardo, Councilmembers, and Staff,

My name is Ali Sapirman and I am writing on behalf of the Housing Action Coalition, a member-supported nonprofit that advocates for creating more housing for residents of all income levels to help alleviate the Bay Area and California's housing shortage, displacement, and affordability crisis. I am also writing as a San Jose resident.

I am writing in strong support of item 8.4, to Update TDM Code.

San Jose's carbon reduction will not happen unless we change land use patterns that prioritize cars as the primary mode of transportation. Providing TDM measures is a necessity for projects going forward, and future projects should focus on reducing VMT by limiting their single occupancy vehicle trips.

I strongly support a TDM plan that replaces arbitrary, excessive parking mandates. Changes to TDM will reduce VMT and as a result, reduce traffic congestion, air pollution and global warming. Alongside this feature, it will also encourage developers to provide more benefits to San José residents like VTA transit. Fewer parking spaces do not just simply mean more community benefits, it will also remove obstacles in building more homes.

Across our state, more than 97% of cities and counties have been unable to produce enough affordable housing. It is the time to take action and take our state's housing crisis seriously. We have been concentrating on raising money to fund more affordable housing, but the crisis and developers are running into multiple challenges with these antiquated parking requirements. Aftermath of this will be less housing and even less affordable opportunities. I highly recommend the commissioners to adopt new strategies that will reduce the number of parkings that can supply our community with more affordable housing.

Thank you for your tireless efforts to ensure positive and sustainable climate and housing outcomes for our communities. Please support the recommendations above to eliminate parkings minimums city wide.

In solidarity,

--

Ali Sapirman | Pronouns: They/Them
South Bay Organizer | Housing Action Coalition
50 Otis St, San Francisco, CA 94103
[REDACTED]

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Fw: My Thoughts on TDM - Item 8.4.

City Clerk <[REDACTED]>

Wed 11/30/2022 10:16 AM

To: Agendadesk <[REDACTED]>

Office of the City Clerk | City of San José

200 E. Santa Clara St., Tower 14th Floor

San Jose, CA 95113

Main: 408-535-1260

Fax: 408-292-6207

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From: Laurie Duckham-Shoor <[REDACTED]>

Sent: Wednesday, November 30, 2022 9:54 AM

To: Liccardo, Sam <[REDACTED]> Jones, Chappie <[REDACTED]> Jimenez, Sergio
<[REDACTED]> Perez, Raul <[REDACTED]> Cohen, David <[REDACTED]> Carrasco, Magdalena <[REDACTED]> Davis, Dev <[REDACTED]> Esparza, Maya
<[REDACTED]> Arenas, Sylvia <[REDACTED]> Foley, Pam <[REDACTED]> Mahan, Matt
<Matt.[REDACTED]> District1 <[REDACTED]> District2 <[REDACTED]> District3
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<[REDACTED]> District7 <[REDACTED]> District8 <[REDACTED]> District9
<[REDACTED]> District 10 <[REDACTED]> Sahid, Robyn <[REDACTED]> Lomio, Michael
<[REDACTED]> Brilliot, Michael <[REDACTED]> Burton, Chris
<[REDACTED]> Manford, Robert <[REDACTED]> Ristow, John
<[REDACTED]> Tam, Wilson <[REDACTED]> Schreiner, Edward <[REDACTED]> City Clerk <[REDACTED]> <[REDACTED]>

Subject: My Thoughts on TDM - Item 8.4.

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Let's continue to focus on the future, not the past.

I strongly urge you to vote Yes on Item 8.4.

Thank you

Laurie Duckham

Sent from my iPhone

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FW: City Council agenda item no. 8.3, December 6, 2022, Amendment to Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code for the Parking and Transportation Demand Management Policy Ordinance

City Clerk <city.clerk@sanjoseca.gov>

Tue 12/6/2022 9:14 AM

To: Agendadesk <Agendadesk@sanjoseca.gov>

📎 1 attachments (138 KB)

SCC Response Letter for City of San Jose Parking_TDM Ordinance Revision Referral to ALUC-112222#11.pdf;

From: Gutierrez, Samuel <samuel.gutierrez@pln.sccgov.org>

Sent: Tuesday, December 06, 2022 9:11 AM

To: City Clerk <city.clerk@sanjoseca.gov>

Cc: Hilbrants, Carl <Carl.Hilbrants@PLN.SCCGOV.ORG>; Mikhail, Leza <leza.mikhail@pln.sccgov.org>; Onciano, Jacqueline <jacqueline.onciano@pln.sccgov.org>

Subject: City Council agenda item no. 8.3, December 6, 2022, Amendment to Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code for the Parking and Transportation Demand Management Policy Ordinance

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To: The City Clerk's Agenda Desk – City of San José

The County of Santa Clara Planning and Development Department is submitting formal comments for the December 6, 2022, San José City Council agenda item no. 8.3, PP22-015 Amendment to Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code for the Parking and Transportation Demand Management Policy Ordinance. Contrary to the statement in the staff report for item 8.3, the ALUC did not schedule this item for the 11/16/2022 ALUC meeting because the application was deemed incomplete by the County. As explained in the County's letter dated 11/22/2022 (attached to this email for submission into the record), the 60-day window for a consistency determination commences once an application is deemed complete. The referral submission by the City was not deemed to be a complete referral application for review by the Santa Clara County Airport Land-Use Commission (ALUC). The ALUC has not made a consistency determination for the proposed zoning amendment, and it is premature—and contrary to State law—for the City Council to take action on this item today without providing the ALUC its statutory right to review the application. Therefore, on behalf of the ALUC, we respectfully request that this item 8.3 be continued to a date uncertain so a complete application can be submitted and the ALUC can consider and take action on that application within 60 days of its submission. County Planning Staff is available to work with City Planning Staff to move complete referral application to be considered by ALUC as soon as possible.

Sincerely,



Samuel Gutierrez

Principal Planner

Department of Planning and Development

County of Santa Clara

70 W. Hedding Street | 7th Floor | East Wing

San Jose | CA 95110

Phone: (408) 299 - 5787

samuel.gutierrez@pln.sccgov.org

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Airport Land Use Commission

County Government Center,
70 West Hedding Street, East Wing, 7th Floor
San José, CA 95110
(408) 299-5700

November 22, 2022

Christopher Burton
Director of Planning, Building and Code Enforcement
City of San José
200 East Santa Clara Street, Floor T3
San José, CA 95113

RE: Referral from the City of San José related to San José Parking / Transportation Demand Management Zoning Ordinance Update (Title 20).

Dear Mr. Burton:

This letter is a formal response to the letter sent on November 22, 2022, to Santa Clara County Airport Land Use Commission (ALUC) Staff regarding the referral application request for “San José Parking Transportation Demand Management Ordinance.” In the letter sent to County ALUC Staff, it is stated that the 60-day statute for action on the referral for the “San José Parking / Transportation Demand Management Zoning Ordinance Update” has started and action by the Airport Land Use Commission (ALUC) must be done by November 23, 2022. ALUC 60-day response deadline is not triggered until the application referral submittal is deemed complete by Santa Clara ALUC Staff. The County of Santa Clara ALUC website notes that “*The ALUC has 60 days after submittal of a complete application to act on a referral*” under the “*For Submitting Referrals*” ribbon on the website. Similarly, the required ALUC referral application form (noted as a missing and an incomplete item), states at the top of the application form, “*Referrals will not be processed until the County Deem the Application Complete*”. This is supported by the Caltrans Aeronautics - California Airport Land Use Planning Handbook, *section 6.3.1, page 6-9, Information Required for Project Reviews*, where it is clearly stated that the ALUC 60-day response deadline is not triggered until the project information submittal is complete (link provided on the [ALUC home page](#), under [California Division of Aeronautics](#)).

No such completeness determination has been provided for this referral application request, instead, an incomplete determination letter was provided on November 16, 2022, stating that the following items were incomplete items for this application request:

Plans:

1. Provide 11” X 17” maps of the subject area (boundaries) with the AIA, Part 77 contours (height), CNEL contours (noise), and safety zone data overlaid and flight paths (GIS layers for these items are available at the following URL: <https://www.arcgis.com/home/search.html?q=owner%3A%22SCC.Planning.Office%22%20ALUC&t=content&restrict=false&start=61&num=20&focus=layers>). Please ensure maps indicate the areas that are subject to the proposed ordinance changes and those areas



Airport Land Use Commission

County Government Center,
70 West Hedding Street, East Wing, 7th Floor
San José, CA 95110
(408) 299-5700

relationship to the AIA, Part 77 contours (height), CNEL contours (noise), and safety zone data overlaid and flight paths. If applicable, zoomed exhibits to the subject area(s) should be provided.

Application form:

1. Provide a completed ALUC Referral Application form.

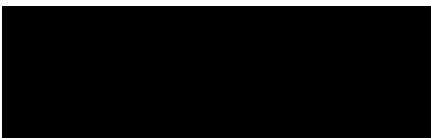
URL: https://stgenpln.blob.core.windows.net/document/ALUC_Referral_Application.pdf

The incomplete determination letter also stated that partial resubmittals will not be processed. In response to the incomplete letter, San José Planning Staff stated on November 16, 2022, "*The ordinance change applies to the entire city, so there is no logic in providing a map,*" which does not speak to the specific incomplete item for maps that indicate the areas subject to the proposed ordinance change and the relationship to the Airport Influence Area (AIA). No maps of the entire City of San José were required to be submitted. No statement was provided by San José Planning Staff regarding the requirement for a complete referral application form to be provided, which as noted above clearly states the requirement for an application to be deemed complete for further processing of a referral application.

The referral application that has been submitted by San José Planning Staff for ALUC review and action, continues to be incomplete as determined by County ALUC Staff. To move the application forward, please provide the incomplete items as reiterated in this letter. To aid in the processing of the referral application, the required fees for the referral application has been calculated in by ALUC Staff in advance in the amount of \$1,829.00 which to be made out to the County of Santa Clara Airport Land Use Commission. The fee payment should be mailed to my attention at 70 West Hedding Street, West Wing, 7th Floor, San José, CA 95110.

If you have questions regarding this referral request and the incomplete items, feel free to contact me at (408) 299-5781 or carl.hilbrants@pln.sccgov.org.

Sincerely,



Carl Hilbrants
Senior Planner / ALUC Program Coordinator

cc: Samuel Gutierrez, Principal Planner