

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: November 8, 2021

SUBJECT: FILE NO. PP21-021. AN ORDINANCE OF THE CITY OF SAN JOSÉ AMENDING TITLE 20 (ZONING ORDINANCE OR ZONING CODE) OF THE SAN JOSÉ MUNICIPAL CODE TO: (A) AMEND CHAPTER 20.30, SECTION 20.30.100 TO INCLUDE MINOR TEXT ALTERATION TO TABLE 20-50, AND CLARIFYING CHANGES TO SECTION 20.30.270, ‘CORNER LOT- REAR SETBACK-EXCEPTION FOR ATTACHED GARAGE’, SECTION 20.30.500, ‘DEVELOPMENT STANDARDS’, AND SECTION 20.30.530, ‘HEIGHT EXCEPTIONS – ACCESSORY BUILDINGS’; (B) AMEND CHAPTER 20.40, SECTION 20.40.100 TO RECTIFY TABLE 20-90 TO ADD PRIOR APPROVED TEXT; (C) AMEND CHAPTER 20.50, SECTION 20.50.100 TO RECTIFY TABLE 20-110 TO ADD PRIOR APPROVED TEXT; (D) AMEND CHAPTER 20.70, SECTION 20.70.100 TO INCLUDE MINOR CORRECTION TO TABLE 20-140 TO INCORPORATE INDOOR THEATER USE; (E) AMEND CHAPTER 20.90, SECTION 20.90.220 TO CORRECT A REFERENCE TO TABLE 20-190; AND TO MAKE OTHER TECHNICAL, NON-SUBSTANTIVE, OR FORMATTING CHANGES WITHIN THOSE SECTIONS OF TITLE 20 OF THE SAN JOSÉ MUNICIPAL CODE.

RECOMMENDATION

The Planning Commission voted 10-0-1 (Commissioner Montanez - absent) to recommend that the City Council:

1. Consider the Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (FEIR), for which findings were adopted by City Council through Resolution No. 76041 on November 1, 2011, and Supplemental EIR Resolution No. 77617, adopted by City Council on December 15, 2015, and Addenda thereto; and
2. Adopt an ordinance of the City of San José amending Title 20 (Zoning ordinance or Zoning code) of the San José Municipal Code to: Amend various sections of Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code to: (a) Amend Chapter 20.30, Section 20.30.100 to include minor text alteration to Table 20-50, and clarifying changes to Section 20.30.270, ‘Corner lot- Rear setback-Exception for attached

garage’, Section 20.30.500, ‘Development standards’, and Section 20.30.530, ‘Height exceptions – Accessory Buildings’; (b) Amend Chapter 20.40, Section 20.40.100 to rectify Table 20-90 to add prior approved text; (c) Amend Chapter 20.50, Section 20.50.100 to rectify Table 20-110 to add prior approved text; (d) amend Chapter 20.70, Section 20.70.100 to include minor correction to Table 20-140 to incorporate indoor theater use; (e) amend Chapter 20.90, Section 20.90.220 to correct a reference to Table 20-190; and to make other technical, non-substantive, or formatting changes within those sections of Title 20 of the San José Municipal Code.

OUTCOME

Approval of the proposed Municipal Code amendments will amend Chapters 20.30, 20.40, 20.50, 20.70, and 20.90, as described in the attached staff report.

BACKGROUND

On October 27, 2021, the Planning Commission conducted a public hearing on the proposed Zoning Code updates. This item was deferred from the October 13, 2021 hearing so that staff could prepare a presentation for the Commission regarding the proposed changes.

Commissioner Bonilla appreciated staff for their due diligence as the presentation summarized and delineated proposed Zoning Code changes. This clarification is helpful not only for the Planning Commissioners but also benefits the general public.

Commissioner Cantrell asked if an outdoor theater is an enumerated use. Staff confirmed that both outdoor and indoor theater uses were presently incorporated in the Zoning Code.

Commissioner Oliverio questioned whether similar staff presentations will be preferred hereafter for future Zoning Code updates. Commissioner Bonilla indicated that owing to current constraints in virtual meetings with limited interaction, staff’s presentation will be helpful in clarifying and identifying the proposed changes. Commissioners Young, Ornelas-Wise, and Torrens agreed that it was helpful to pull the item off the consent calendar to review the details. They were supportive of a brief presentation in order to better comprehend the proposed changes prior to recommendation.

Commissioner Michael Young made a motion to recommend approval of the staff recommendation. Commissioner Deborah Torrens seconded this motion. The Commission voted 10-0-1 (Commissioner Montanez - absent) to recommend approval of the item per staff’s recommendation. Commissioner Bonilla.

ANALYSIS

A complete analysis of the proposed quarterly updates to the Zoning Code is contained in the attached Planning Commission Staff Report that provides the analysis and coordination conducted on the proposed item.

CONCLUSION

The Planning Commission voted to recommend that the City Council approve the proposed changes to the Zoning Code pursuant to staff's recommendation. These changes provide text clarifications and updates to accommodate prior approvals, rectify typographical errors as well as include other minor clarifying edits.

EVALUATION AND FOLLOW-UP

If the proposed Zoning Code update changes are approved by City Council, the new Ordinance will be effective 30 days after the second reading.

CLIMATE SMART SAN JOSE

The recommendation in this memorandum aligns with one or more Climate Smart San José energy, water, or mobility goals as it facilitates reduction in resources by streamlining the development review process and incorporating changes, and supporting current trends.

PUBLIC OUTREACH/INTEREST

Public outreach for this proposal complies with the City Council's Public Outreach Policy and the Municipal Code. A public hearing notice, including the Planning Commission and City Council hearing dates, was published in the San José Post-Record and emailed to a list of interested groups and individuals. Staff posted the hearing notice, staff report, and draft ordinance on the PBCE Department website. Staff has been available to discuss the proposal with interested members of the public.

COORDINATION

The preparation of the proposed ordinance and this memorandum were coordinated with the City Attorney's Office.

CEQA

Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (FEIR), for which findings were adopted by City Council through Resolution No. 76041 on November 1, 2011, and Supplemental EIR Resolution No. 77617, adopted by City Council on December 15, 2015, and Addenda thereto (SCH#2009072096). Pursuant to Section 15168 of the CEQA Guidelines, the City of San José has determined that this activity is within the scope of the earlier approved programs and the Final Program EIRs adequately describe the activity for purposes of CEQA.

/s/
CHRISTOPHER BURTON, SECRETARY
Planning Commission

For questions, please contact Michael Brilliot, Deputy Director, Planning Division at Michael.brilliot@sanjoseca.gov.

Attachment: Staff Report to Planning Commission



Memorandum

TO: PLANNING COMMISSION

FROM: Christopher Burton

SUBJECT: SEE BELOW

DATE: October 1, 2021

SUBJECT: File No. PP21-011, AN ORDINANCE OF THE CITY OF SAN JOSÉ AMENDING TITLE 20 (ZONING ORDINANCE OR ZONING CODE) OF THE SAN JOSÉ MUNICIPAL CODE TO: (A) AMEND CHAPTER 20.30, SECTION 20.30.100 TO INCLUDE MINOR TEXT ALTERATION TO TABLE 20-50, AND CLARIFYING CHANGES TO SECTION 20.30.270, ‘CORNER LOT-REAR SETBACK-EXCEPTION FOR ATTACHED GARAGE’, SECTION 20.30.500, ‘DEVELOPMENT STANDARDS’, AND SECTION 20.30.530, ‘HEIGHT EXCEPTIONS-ACCESSORY BUILDINGS’; (B) AMEND CHAPTER 20.40, SECTION 20.40.100 TO RECTIFY TABLE 20-90 TO ADD PRIOR APPROVED TEXT; (C) AMEND CHAPTER 20.50, SECTION 20.50.100 TO RECTIFY TABLE 20-110 TO ADD PRIOR APPROVED TEXT; (D) AMEND CHAPTER 20.70, SECTION 20.70.100 TO INCLUDE MINOR CORRECTION TO TABLE 20-140 TO INCORPORATE INDOOR THEATER USE; (E) AMEND CHAPTER 20.90, SECTION 20.90.220 TO CORRECT A REFERENCE TO TABLE 20-190; AND TO MAKE OTHER TECHNICAL, NON-SUBSTANTIVE, OR FORMATTING CHANGES WITHIN THOSE SECTIONS OF TITLE 20 OF THE SAN JOSÉ MUNICIPAL CODE.

RECOMMENDATION

Staff recommends that the Planning Commission recommend the City Council take all of the following actions;

1. Consider the Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (FEIR), for which findings were adopted by City Council through Resolution No. 76041 on November 1, 2011, and Supplemental EIR Resolution No. 77617, adopted by City Council on December 15, 2015, and Addenda thereto; and
2. Adopt an ordinance of the City of San José amending Title 20 (Zoning ordinance or Zoning code) of the San José Municipal Code to: Amend various sections of Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code to:
 - a. Amend Chapter 20.30, Section 20.30.100 to include minor text alteration to Table 20-50, and clarifying changes to Section 20.30.270, ‘Corner lot-Rear Setback-Exception for attached garage’, Section 20.30.500, ‘Development standards’, and Section 20.30.530, ‘Height Exceptions – Accessory Buildings’;

- b. Amend Chapter 20.40, Section 20.40.100 to rectify Table 20-90 to add prior approved text;
- c. Amend Chapter 20.50, Section 20.50.100 to rectify Table 20-110 to add prior approved text;
- d. Amend Chapter 20.70, Section 20.70.100 to include minor correction to Table 20-140 to incorporate indoor theater use;
- e. Amend Chapter 20.90, Section 20.90.220 to correct a reference to Table 20-190; and to include minor formatting change; and to make other technical, non-substantive, or formatting changes within those sections of Title 20 of the San José Municipal Code.

OUTCOME

Approval of the proposed Municipal Code amendments will amend various chapters within Title 20 as described in the Analysis section below.

BACKGROUND

Staff routinely updates the Zoning Code to incorporate clarifying changes, minor modifications or technical, formatting and other non-substantive changes, to ensure that the Municipal Code incorporates approved changes, follows development trends, maintains consistency with the General Plan, and is in conformance to State mandates. The changes described below intend to correct minor typological errors, make minor alterations, and ensure consistency with any prior approvals.

ANALYSIS

1. Update Chapter 20.30, Residential Zoning Districts to incorporate the following minor text modifications:

- a. *Table 20-50, Section 20.30.100:* Rectify a typological error to retain the ‘S’ Special Use Permit requirement for Day care use, and delete the inadvertently listed ‘- not permitted.’
- b. *Section 20.30.270-Corner Lot-Rear Setback - Exception for attached garage:* Incorporate clarifying changes and streamline the rear setback exception for a garage attached to a dwelling, and to reconcile it with other setback exceptions in the R-1 and R-2 Residential Zoning Districts:

Notwithstanding the provisions of Section 20.30.200, the rear setback for ~~the portion of a dwelling that contains an attached garage and no other~~ a garage that is attached to a primary dwelling unit on a corner lot in a R-1 or R-2 residence district, ~~and having said garage as an integral part of the building in which dwelling and attached garage are located,~~ may be reduced to five feet where all of the following provisions are met:

- A. The portion of ~~said building~~ the garage which is situated within twenty feet of the rear lot line of said corner lot ~~does not extend in front of the building setback line required of the lots situated within the same block and to the rear of said corner lot~~ maintains a corner side setback of ten feet. Notwithstanding this provision, the garage must meet the driveway length requirement of Section 20.90.130 (C); and
- B. ~~Where, in addition, the portion of said building which is situated within twenty feet of the rear lot line of said corner lot does not occupy more than thirty percent of the required rear setback area of said corner lot; and~~
- C. ~~Where~~ The portion of said building the garage which is situated within twenty feet of the rear lot line of said corner lot ~~does not exceed one story in height and does not exceed sixteen feet in height.~~
- c. *Section 20.30.500- Development Standards:* Delete Note No. 5 from Table 20-70, “Accessory Buildings and Structures Development Regulations,” which includes a partial reference to height exception for solar photo-voltaic system further elaborated in *Section 20.30.530*. This update will delete the obsolete cross-reference, and consolidate the height exception information.
- d. *Section 20.30.530- Height exceptions:* Incorporate the term ‘structures’ in the current Accessory Building reference. The height exception requirements for solar photo-voltaic system requirements are applicable to buildings as well as structures. This update will clarify that requirements apply to both buildings and structures.
2. *Update Table 20-90, Section 20.40.100, Commercial Zoning Districts and Public/Quasi-Public Zoning District; and Table 20-110, Section 20.50.100, Industrial Zoning Districts, to ensure consistency with prior approval:* On February 25, 2020 the City Council approved an ordinance update that included changes to permit requirements for off-sale of alcohol and tasting rooms associated with wineries, breweries, and distilleries. Some of the modifications to Chapter 20.40 Commercial Zoning Districts and Chapter 20.50 Industrial Zoning approved by this ordinance were inadvertently removed in a subsequent Zoning Ordinance update. This update will ensure that prior approvals are re-incorporated into the Zoning Code. No additional changes are proposed.
3. *Update Table 20-140, Section 20.70.100, Downtown Zoning District to ensure consistency with other Code language:* Replace the term ‘Movie Theater’ with the term ‘Indoor Theater’ in the Downtown Zoning District to maintain consistency with the same reference used elsewhere in the Zoning Ordinance. No additional changes are proposed.
4. *Update Section 20.90.220, Reduction in required off-street parking spaces, to include minor formatting change:* This update will address a minor typographical error to update the item ‘Table 20-90’ to ‘Table 20-190’ in this Section. No additional changes are proposed.

General Plan Conformance

The Envision San José 2040 General Plan encourages the periodic review of the Zoning Ordinance and other supporting Ordinances in the Municipal Code to ensure that the document reflects the goals, policies, and implementation of the General Plan.

General Plan Goals/Policies: Title 20- Zoning Ordinance

The proposed amendments to Title 20 would rectify errors, update, and clarify certain sections of the Zoning Code to allow for conformance with and implementation of the goals and policies of the General Plan. The proposed amendments to Title 20 are consistent with the following General Plan policy:

1. *General Land Use Policy LU-1.10: Review criteria in the Zoning Ordinance and update it as appropriate to reflect Land Use goals, policies, and implementation actions in this Plan.*

The amendments to Sections 20.30.100, 20.30.270, 20.40.100, 20.50.100, 20.70.100 and 20.90.220, are all minor formatting, non-substantive or clarifying changes proposed as part of the ongoing maintenance of the Zoning Code. These changes help ensure that the Zoning Ordinance is routinely maintained, and is consistent with any prior City Council approval.

PUBLIC OUTREACH/INTEREST

Staff followed Council Policy 6-30: Public Outreach Policy, in that notices for the public hearings were posted on the City's website and published in the San José Post-Record and emailed to a list of interested groups and individuals. This staff report and attachments were posted on the City's website. Staff has been available to respond to questions from the public. No public comments were received.

COORDINATION

The preparation of the proposed ordinance and this staff report were coordinated with the City Attorney's Office.

CEQA

Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (FEIR), for which findings were adopted by City Council through Resolution No. 76041 on November 1, 2011, and Supplemental EIR Resolution No. 77617, adopted by City Council on December 15, 2015, and Addenda thereto (SCH#2009072096). Pursuant to Section 15168 of the CEQA Guidelines, the City of San José has determined that this activity is within the scope of the earlier approved programs and the Final Program EIRs adequately describe the activity for purposes of CEQA. The project does not involve new significant effects beyond those analyzed in the Final Program EIRs.

/s/

Michael Brilliot for
CHRISTOPHER BURTON, DIRECTOR
Planning, Building and Code Enforcement

Attachments:

- 1) Draft Ordinance
- 2) Determination of Consistency

PP21-011

Links to Attachments 1-2

Click on the title to view document

Attachment 1:	Draft Ordinance
Attachment 2:	Determination of Consistency