



COUNCIL AGENDA: 6/14/22

FILE: 22-914

ITEM: 10.1 (a)

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: June 2, 2022

**SUBJECT: FILE NO. PP22-002 - AN ORDINANCE OF THE CITY OF SAN JOSE
AMENDING TITLE 20 (ZONING ORDINANCE OR ZONING CODE) OF
THE SAN JOSE MUNICIPAL CODE**

RECOMMENDATION

The Planning Commission voted 10-0-1 (Commissioner Cantrall 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. Approve an ordinance of the City of San José amending Title 20 (Zoning Ordinance or Zoning Code) to add previously approved text in (a) Chapter 20.30, Section 20.30.100 to rectify Table 20-50, and new Section 20.30.840 'Waiver'; (b) Chapter 20.40, Section 20.40.100 to rectify Table 20-90; (c) Chapter 20.50, Section 20.50.100 to rectify Table 20-110, and Section 20.50.110 'Commercial support'; (d) Chapter 20.75, Section 20.75.200 to rectify Table 20-156; 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 and 20.75, as described in the attached staff report.

BACKGROUND

On May 25, 2022, the Planning Commission conducted a public hearing on proposed Zoning Code updates. This item was approved by the Planning Commission with no discussion.

Commissioner Lardinois made a motion to recommend approval of the staff recommendation. Commissioner Oliverio seconded this motion. The Commission voted 10-0-1 (Commissioner Cantrall - absent) to recommend approval of the item per staff's recommendation. No additional comments were associated with this action.

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 updates to incorporate previous City Council approved text language, and also rectify a minor typographical error.

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 has no effect on Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

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: May 13, 2022

SUBJECT: File No. PP22-002. AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING TITLE 20 (ZONING ORDINANCE OR ZONING CODE) OF THE SAN JOSE MUNICIPAL CODE TO ADD PREVIOUSLY APPROVED TEXT IN (A) CHAPTER 20.30, SECTION 20.30.100 TO RECTIFY TABLE 20-50, AND NEW SECTION 20.30.840 'WAIVER'; (B) CHAPTER 20.40, SECTION 20.40.100 TO RECTIFY TABLE 20-90; (C) CHAPTER 20.50, SECTION 20.50.100 TO RECTIFY TABLE 20-110, AND SECTION 20.50.110 'COMMERCIAL SUPPORT'; (D) CHAPTER 20.75, SECTION 20.75.200 TO RECTIFY TABLE 20-156; 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) to add previously approved text in (a) Chapter 20.30, Section 20.30.100 to rectify Table 20-50, and new Section 20.30.840 'Waiver'; (b) Chapter 20.40, Section 20.40.100 to rectify Table 20-90; (c) Chapter 20.50, Section 20.50.100 to rectify Table 20-110, and Section 20.50.110 'Commercial support'; (d) Chapter 20.75, Section 20.75.200 to rectify Table 20-156; 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 changes or technical, formatting and other non-substantive changes to ensure that the Municipal Code incorporates approved changes to maintain consistency with the General Plan and conform to State mandates.

Staff found that certain City Council approved sections of the Zoning Ordinance were inadvertently omitted during publishing, partially published, or overlapped with subsequent Zoning Code updates. This zoning amendment proposes to rectify any inaccuracies related to City Council approvals over the last approximately five years and to re-insert previously omitted text to ensure consistency with previously approved updates to the Zoning Code. No new text that was not previously approved by the City Council is proposed as part of this ordinance, with exception of correcting a minor typological error.

ANALYSIS

This update will incorporate prior City Council approved items onto Title 20 of the San José Municipal Code Zoning Code, that were inadvertently omitted.

1. On December 12, 2017, the City Council approved amendments to General Plan Text (File No. GPT17-007) and North San José Area Development Policy to revise the Industrial Park and Transit Employment Center land use designations and allow additional flexibility for retail and service commercial uses within the North San José Development Policy area. This approval further amended the North San José Area Development Policy to establish criteria for commercial support uses in single-use buildings proposed on properties in the IP Industrial Park Zoning District. Section 20.50.110 of the Zoning Code was updated to allow commercial support uses in single-use buildings in the IP Industrial Park Zoning District within the North San José Development Policy area that meet certain criteria and are consistent with the Policy. The zoning ordinance amendment portion of that work was inadvertently not published. This amendment would re-adopt the omitted updates in their entirety.
2. On May 19, 2020, the City Council approved amendments to Chapter 20.190 (File No. PP20-009) to extend the applicability of City density bonus development incentives and updated the City's density bonus ordinance in conformance with State law. This approval amended Chapter 20.30, Chapter 20.40, Chapter 20.70, Chapter 20.75, and Chapter 20.200 to enumerate those changes, add a definition for Permanent Supportive Housing and Low Barrier Navigation Center and include a new Chapter 20.195 to implement ministerial approvals. The approved text was inadvertently partially published and omitted certain sections. This amendment would re-adopt the omitted sections.

3. On December 14, 2021, the City Council approved a new Part 8 to Chapter 20.30 to implement Senate Bill 9 (File No. PP21-013) and allow for additional density in single-family neighborhoods. The City Council approved Urgency Ordinance 30706 and recommended that Ordinance 30707 incorporate the following item in Part 8: “In the event these standards physically preclude the creation of a second unit pursuant to Senate Bill 9, applicants shall seek waivers through a process to be defined in administrative guidelines promulgated by the City.” The approved text was inadvertently omitted from the second reading of the ordinance. This amendment would add the omitted text.

San Jose’s online Municipal Code is published by a third-party vendor therefore Planning staff does not control the publishing process or timelines. In order to eliminate future publishing omissions or errors, staff plans to create a centralized database of zoning ordinance updates that will be used to closely monitor publishing timelines so that staff can work with the vendor to promptly correct any errors or omissions. This database will also be used by different planning teams who may be preparing ordinance updates concurrently so staff can more easily identify where the same parts of the code are being updated concurrently, as this overlap can also lead to omissions in previously approved Council text.

General Plan Conformance

The Envision San José 2040 General Plan supports routine 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 publishing errors and update certain sections of the Zoning Code to conform with the General Plan and implement the goals and policies. 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, 20.30.840, 20.40.100, 20.50.100, and 20.75.100 are all non-substantive or proposed as part of the ongoing maintenance of the Zoning Code. These changes help ensure that the Zoning Ordinance is 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/

Robert Manford for
CHRISTOPHER BURTON, DIRECTOR
Planning, Building and Code Enforcement

Attachments:

- 1) Draft Ordinance
- 2) Determination of Consistency

PP22-002

Links to Attachments 1-2

Click on the title to view document

Attachment 1: Draft Ordinance
Attachment 2: Determination of Consistency