

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: September 28, 2022

SUBJECT: FILE NO. PP22-006. AMENDMENT TO THE “SAN JOSE DOWNTOWN DESIGN STANDARDS AND GUIDELINES” AND THE “SAN JOSE CITYWIDE DESIGN STANDARDS AND GUIDELINES” BY ADDING AN ADDITIONAL SET OF FINDINGS TO THE EXCEPTIONS TO THE STANDARDS SECTIONS AND TO MAKE OTHER TECHNICAL OR NON-SUBSTANTIVE TEXT CHANGES

RECOMMENDATION

The Planning Commission voted 8-1-0 (Commissioner Garcia opposed) to recommend that the City Council take the following actions:

1. Consider the Determination of Consistency with the Envision San Jose 2040 General Plan Final Program Environmental Impact Report (FEIR), adopted through Resolution No. 76041, and Supplemental EIR Resolution No. 77617, adopted on December 15, 2015, and Addenda thereto.
2. Adopt a resolution amending the “San José Downtown Design Standards and Guidelines” to update the Exceptions to the Design Standards section to add an additional set of findings to the Exceptions to the Standards Sections and to make other technical or non-substantive text changes.
3. Adopt a resolution amending the “San José Citywide Design Standards and Guidelines” to update the Exceptions to the Design Standards section to add an additional set of findings to the Exceptions to the Standards Sections and to make other technical or non-substantive text changes.

OUTCOME

If adopted, these resolutions would update the “San José Downtown Design Standards and Guidelines” and the “San José Citywide Design Standards and Guidelines” by adding an additional set of findings to create flexibility for decision-makers and to make other technical or non-substantive text changes to the Exceptions to the Design Standards sections of these Design Guidelines.

BACKGROUND

On April 23, 2019, the City Council adopted Resolution No. 79060 to approve the “San José Downtown Design Standards and Guidelines” (Downtown Design Guidelines). On May 21, 2019, the City Council adopted Resolution No. 79094 to amend the “San José Downtown Design Standards and Guidelines” to include Section 4.2.2.b related to bird safety. On February 23, 2021, the City Council adopted Resolution No. 79905 to approve the “San José Citywide Design Standards and Guidelines” (Citywide Design Guidelines).

Proposed projects must meet the design standards set forth in the respective Downtown Design Guidelines or Citywide Design Guidelines (collectively “the Design Guidelines”), depending on the location of the project site. The Design Guidelines include an Exceptions to the Design Standards process by which a project applicant may request an exception or exceptions to one or more of the mandatory design standards. The decision maker (Planning Director, Planning Commission, or City Council, as applicable) must make mandatory findings to approve or deny the exception request, which includes how the physical constraints and unique situations of the project site make it infeasible to comply with that design standard; how approving the exception will not create a safety hazard or impair the integrity and character of the neighborhood; and how the proposed project meets the intent of the design standard.

On September 14, 2022, the Planning Commission held a public hearing on the proposed updates to the Design Guidelines. Planning staff provided background about the current Exceptions to the Design Standards process and an overview of the proposed updates to the Downtown Design Guidelines and Citywide Design Guidelines. Staff outlined the proposed additional set of mandatory findings that would allow the decision maker to approve an exception if the decision-maker cannot make all of the current set of mandatory findings. If the decision maker cannot make the initial mandatory exception findings, the decision maker may still grant the exception if all the following findings are made:

1. The project advances the Major Strategies of Chapter 1 of the General Plan;
2. The project is consistent with the Values and Guiding Principles of the Design Guidelines;
3. The project achieves the stated Rationale of the section of the Design Guidelines in which the project does not meet the required Standard; and
4. There are counterbalancing considerations that justify the inconsistency.

Staff explained that the purpose of the recommended changes is to address challenges associated with making findings under the current exceptions and to make the exceptions commensurate with the realities of today’s unpredictable and changing environment. Staff also noted that the proposed update also includes minor text changes for improved readability and consistency between the Downtown Design Guidelines and the Citywide Design Guidelines.

All Commissioners were present and voted 8-1-0 (Commissioner Garcia opposed) to recommend that the City Council approve resolutions updating the “San José Downtown Design Standards and Guidelines” and the “San José Citywide Design Standards and Guidelines.” The Planning

Commission's comments and questions are summarized within the "Commission Recommendation/Input" section below.

Public Testimony

There was one public speaker. Mike Sodergren with the Preservation Action Council of San Jose (PAC SJ) asked how the public would be informed or notified when a project applicant requests an exception. Mr. Sodergren also inquired about the status of pending exception requests and who the decision-making body was for projects in which exception requests have been granted. Mr. Sodergren also expressed concern that the proposed update could be a way for projects to bypass standards. He particularly expressed concerns related to historic preservation design standards.

ANALYSIS

A complete analysis of these proposed updates to the "San José Downtown Design Standards and Guidelines" and the "San José Citywide Design Standards and Guidelines" are contained in the attached Planning Commission staff report.

CONCLUSION

The Planning Commission voted 8-1-0 (Commissioner Garcia opposed) to recommend that the City Council approve resolutions updating the "San José Downtown Design Standards and Guidelines" and the "San José Citywide Design Standards and Guidelines" by adding an additional set of findings to the Exceptions to the Standards Sections and to make other technical or non-substantive text changes.

EVALUATION AND FOLLOW-UP

If the proposed Design Guidelines updates are approved by the City Council, the resolutions will be effective upon City Council approval.

CLIMATE SMART SAN JOSE

The recommendation in this memorandum has no effect on Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

Multiple public outreach meetings were held for the 2019 Downtown Design Guidelines and the 2021 Citywide Design Guidelines, including community workshops, focus groups, and other community engagement efforts. Stakeholders and participants included residents, business owners, developers, architects, environmental advocacy groups, San Jose State University, the San Jose Downtown Association, SPUR, the Santa Clara Valley Transportation Authority, the American Institute of Architects, the Station Area Advisory Group, the SoFA Leadership Team, the Preservation Action Council of San Jose, the development and construction community, and design professionals. In summary, stakeholders provided comments on the user-friendliness and applicability of the respective Downtown Design Guidelines and Citywide Design Guidelines, compatibility with historic context, economic and architectural feasibility, consistency within the document, and consideration of sustainability elements.

Since the public and stakeholders did not comment on the Design Guidelines' Exceptions to the Standards process at prior community meetings or public hearings, staff did not pursue formal public outreach for this proposed update. Staff received feedback from applicants about the Exceptions to the Standards during the development review process for projects subject to the Design Guidelines. Staff also shared this proposed update with the San Jose Downtown Association, a key downtown stakeholder where a significant amount of development is proposed.

Overall, the purpose of the proposed amendment is to provide decision makers with greater flexibility when considering exception requests if projects advance the General Plan's Major Strategies and meet the goals and objectives of the Design Guidelines. Projects are still required to meet overall Rationale of the Standard; therefore, this proposed update would not negate the intent of the established Standards.

Staff posted a notice of the Planning Commission and City Council public hearings in the San Jose Post Record newspaper. This 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.

COMMISSION RECOMMENDATION/INPUT

At the September 14, 2022 Planning Commission hearing, Commissioner Cantrell asked staff how the proposed exception findings would affect the entitlement review and public hearing timeline. Staff responded that the proposed update would facilitate the overall process in that it

would provide staff and decision makers with the ability and flexibility to consider alternative building designs and counterbalancing justifications when considering a development proposal.

Commissioner Ornelas-Wise made a motion to recommend approval to the City Council, citing the benefits of allowing flexibility for decision makers. Commissioner Cantrell seconded the motion. The Planning Commission voted 8-1-0 (Commissioner Garcia opposed) to recommend that the City Council approve two resolutions updating the “San José Downtown Design Standards and Guidelines” and the “San José Citywide Design Standards and Guidelines” by adding an additional set of findings to the Exceptions to the Standards Sections and to make other technical or non-substantive text changes.

CEQA

Pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code (collectively, “CEQA”), the City has made a 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 with Resolution No. 76041 on November 1, 2011, and Supplemental EIR Resolution No. 77617, adopted by City Council on December 15, 2015, and Addenda thereto. 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/

Christopher Burton, Secretary
Planning Commission

For questions, please contact Robert Manford, Deputy Director, at (408) 535-7900.

Attachment: Planning Commission Staff Report



Memorandum

TO: PLANNING COMMISSION

FROM: Christopher Burton

SUBJECT: “San José Downtown Design Standards and Guidelines” and “San José Citywide Design Standards and Guidelines” Exceptions to the Design Standards Updates

DATE: September 7, 2022

COUNCIL DISTRICT: Citywide

Project	“San José Downtown Design Standards and Guidelines” and “San José Citywide Design Standards and Guidelines” Exceptions to the Standards Revisions
Guidelines Application	Areas of the City of San José within the Urban Growth boundary, excluding single-family residences; rehabilitation, modifications, or addition to historic buildings or adaptive reuse of historic buildings.
Project Description	Amend the Exceptions to the Design Standards findings in the “San José Downtown Design Standards and Guidelines” and the “San José Citywide Design Standards and Guidelines” by adding an additional set of findings to create flexibility and to make other technical or non-substantive text changes to the Exceptions to the Design Standards sections of these Design Guidelines.
CEQA	Determination of Consistency with the Final Program Environmental Impact Report (EIR) for the Envision San José 2040 General Plan (Resolution No. 76041), the Supplemental EIR to Envision San José 2040 General Plan EIR (Resolution No. 77617), and Addenda thereto
Project Planner	Sylvia Do

RECOMMENDATION

Planning staff recommends that the Planning Commission recommend that the City Council take all of the following actions:

1. Consider the Determination of Consistency with the Envision San Jose 2040 General Plan Final Program Environmental Impact Report (FEIR), adopted through Resolution No. 76041, and Supplemental EIR Resolution No. 77617, adopted on December 15, 2015, and Addenda thereto.
2. Adopt a Resolution amending the “San José Downtown Design Standards and Guidelines” to update the Exceptions to the Design Standards section.

3. Adopt a Resolution amending the “San José Citywide Design Standards and Guidelines” to update the Exceptions to the Design Standards section.

PROJECT BACKGROUND

Background

On April 23, 2019, the City Council adopted Resolution No. 79060 to approve the “[San José Downtown Design Standards and Guidelines](#)” (Downtown Design Guidelines) to replace the 2004 “Downtown Design Guidelines.” On May 21, 2019, the City Council adopted Resolution No. 79094 to amend the “San José Downtown Standards and Guidelines” to include Section 4.2.2.b related to bird safety. The Downtown Design Guidelines generally apply to the General Plan Downtown Growth Area and the Diridon Station Area Plan Area. The area is generally bounded in the south by Highway 280, on the north by Coleman Avenue, on the west by Diridon Station, and on the east by San José State University.

On February 23, 2021, the City Council adopted Resolution No. 79905 to approve the “[San José Citywide Design Standards and Guidelines](#)” (Citywide Design Guidelines) to replace the City’s Commercial Design Guidelines (1990), Industrial Design Guidelines (1992), and Residential Design Guidelines (1997). The Citywide Design Guidelines apply to areas of the City within the General Plan urban growth boundary, excluding single-family residences; rehabilitation, modifications or additions to historic buildings or adaptive reuse of historic buildings; and downtown and the Diridon Station area where the Downtown Design Guidelines apply. For approved Urban Villages Plans, Specific Plans, or Area Development Policies, the standards and guidelines within their respective documents still apply and take precedence. If those documents are silent on any specific design components, the design standards and guidelines contained in the Citywide Design Guidelines shall apply for those design components only.

The Downtown Design Guidelines and Citywide Design Guidelines (collectively “the Design Guidelines”) define “standards” as objective design requirements that are quantifiable and verifiable. Proposed projects must meet the design standards set forth in the respective Downtown Design Guidelines or Citywide Design Guidelines.

The Design Guidelines include a process by which a project applicant may request an exception or exceptions to one or more of the mandatory design standards. The application for an exception must contain detailed information on the design standard that is requested to be waived; how the physical constraints and unique situations of the project site make it infeasible to comply with that design standard; and how the request meets each exception requirements. The decision maker (Planning Director, Planning Commission, or City Council, as applicable) will consider the request and information provided and must make the following mandatory findings to approve or deny the request:

1. There is a physical constraint or unique situation that:
 - a. Is not created by the project applicant or property owner; and
 - b. Is not caused by financial or economic considerations.
2. Approving the waiver will not create a safety hazard or impair the integrity and character of the neighborhood in which the subject property is located.
3. The proposed project meets the intent of the design standard under consideration to the extent feasible.
4. The proposed project meets all other guidelines and standards in the Design Guidelines. (Note: This Finding #4 is in the Downtown Design Guidelines only.)

Project Description

The proposed updates to the Downtown Design Guidelines and Citywide Design Guidelines would revise the Exceptions to the Design Standards findings to provide flexibility for decision-makers to consider alternative building designs. Staff proposes adding an additional set of mandatory findings that would allow the decision maker to approve an exception if the decision-maker cannot make all of the initial set of mandatory findings.

The purpose of the recommended changes is to address challenges associated with making findings under the current exceptions and to make the exceptions commensurate with the realities of today's unpredictable and changing environment.

If the decision maker cannot make the initial mandatory exception findings, the decision maker may still grant the exception if all the following findings are made:

1. The project advances the Major Strategies of Chapter 1 of the General Plan;
2. The project is consistent with the Values and Guiding Principles of the Design Guidelines;
3. The project achieves the stated Rationale of the section of the Design Guidelines in which the project does not meet the required Standard; and
4. There are counterbalancing considerations that justify the inconsistency.

The proposed update includes minor text changes for improved readability and clarifies in the Downtown Design Guidelines that the exception process is in addition to the concessions and waivers process under State Density Bonus laws or other applicable state laws. This State Density Bonus law reference is already in the Citywide Design Guidelines. This update also eliminates the existing Finding #4 from the Downtown Design Guidelines for consistency purposes with the Citywide Design Guidelines.

The proposed revisions to the Design Guidelines are shown in Exhibit A.

ANALYSIS

Since the City Council's adoption of the Downtown Design Guidelines in April 2019 and the Citywide Design Guidelines in February 2021, Planning permit applicants have requested a combined 31 exception requests for ten development projects. The respective decision makers of four approved projects have granted a total of 12 design standard exceptions based upon the current exception findings. The other projects are still in various stages of the development review process.

The intent of the current design standard exception findings is to maintain a high bar for architecture and site design while allowing exceptions in very limited circumstances, including physical constraints or unique situations not created by the applicant or property owner and that are not caused by financial or economic considerations.

As Planning staff have been applying the Design Guidelines and their Standards, staff has found that the Standards resulted in greater predictability to the development community about the City's design expectations. However, as exemplified by approved and pending development projects with design exception requests, staff has also experienced challenges with finding project consistency given the rigid nature of the objective Standards. In several instances, it has been challenging for staff to make the exception findings when a project otherwise meets the intent of Standards and the project would facilitate growth envisioned by the General Plan, would result in high quality site building design, and would maintain and enhance the character of its neighborhoods and communities. There may also be unique circumstances that will also have to be considered in granting the exception. An example of such a

challenge is a pending project that meets the intent of a Downtown Design Guidelines Standard by taking design cues from curvilinear features of adjacent historic buildings, rather than rectilinear features.

The proposed amendment to the exception findings would allow for greater design creativity and originality, in addition to a certain level of flexibility in an unpredictable and changing environment. This approach would provide room for new and unexpected design and other exemption consideration factors that may not otherwise meet the strict criteria. The proposed changes would collectively ensure that projects advance the Major Strategies of the Envision San Jose 2040 General Plan. The General Plan's twelve Major Strategies include design and development strategies such as, Major Strategy # 3 – Focused Growth, Major Strategy #6 – Streetscapes for People, and Major Strategy #9 – Destination Downtown.

The proposed amendment would also provide flexibility in achieving a high standard of design envisioned by the respective Design Guidelines, in that projects are required to be consistent with the Design Guideline's Values and Guiding Principles and projects must achieve the stated Rationale of the section of the Design Guidelines in which the project does not meet the applicable Standard. In addition, the decision maker must also determine that there are counterbalancing considerations that justify the inconsistency (e.g., providing on-site affordable housing units beyond standard requirements, adding a significant number of housing units to address the housing crisis, improving the City's jobs-to-housing ratio, substantially increasing employment opportunities, etc.).

The proposed additional set of findings would provide decision makers with greater flexibility by allowing other counterbalancing and unique circumstances as factors to be considered when considering exception requests.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (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 with 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.

These revisions to the "San José Downtown Design Standards and Guidelines" and the "San José Citywide Design Standards and Guidelines" will advance the General Plan goals and policies and is consistent with the analysis and discussion of the Goals and Policies in the General Plan Final and Supplemental EIRs. Any further actions, such as actions to approve individual development projects subject to these Design Guidelines will require additional environmental review at the time such actions are proposed.

COMMUNITY OUTREACH

Multiple public outreach meetings were held for the 2019 Downtown Design Guidelines and the 2021 Citywide Design Guidelines, including community workshops, focus groups, and other community engagement efforts. Stakeholders and participants included residents, business owners, developers, architects, environmental advocacy groups, San Jose State University, the San Jose Downtown Association, SPUR, the Santa Clara Valley Transportation Authority, the American Institute of Architects, the Station Area Advisory Group, the SoFA Leadership Team, the Preservation Action Council of San Jose, the development and construction community, and design professionals. In summary, stakeholders provided comments on the user-friendliness and applicability of the respective Downtown Design Guidelines and Citywide Design Guidelines, compatibility with historic context, economic and architectural feasibility,

consistency within the document, and consideration of sustainability elements. City staff and the consultant revised the Design Guidelines documents in response to public feedback.

Since the public and stakeholders did not comment on the Design Guidelines' Exception to the Standards process at prior community meetings or public hearings, staff did not pursue formal public outreach for this proposed update. Staff received feedback from applicants about the Exception to the Standards during the development review process for projects subject to the Design Guidelines. Staff also shared this proposed update with the San Jose Downtown Association, a key downtown stakeholder where a significant amount of development is proposed.

Overall, the purpose of the proposed amendment is to provide decision makers with greater flexibility when considering exception requests if projects advance the General Plan's Major Strategies and meet the goals and objectives of the Design Guidelines. Projects are still required to meet overall Rationale of the Standard; therefore, this proposed update would not negate the intent the established Standards.

Staff posted a notice of the Planning Commission and City Council public hearings in the San Jose Post Record newspaper. This staff report is also posted also posted on the City's website and staff has been available to respond to questions from the public.

Project Manager: Sylvia Do

Approved by: /s/ Robert Manford, Deputy Director for Christopher Burton, Planning Director

ATTACHMENTS:
Exhibit A: Proposed Revisions to the Design Standard Exception Findings of the Downtown Design Guidelines and the Citywide Design Guidelines
Exhibit B: Proposed Resolution Revising the Downtown Design Standards and Guidelines
Exhibit C: Proposed Resolution Revising the Citywide Design Standards and Guidelines

PP22-006

Links to Attachments A-C

Click on the title to view document

Exhibit A: Proposed Revisions to the Design Standard Exception Findings of the Downtown Design Guidelines and the Citywide Design Guidelines
Exhibit B: Proposed Resolution Revising the Downtown Design Standards and Guidelines
Exhibit C: Proposed Resolution Revising the Citywide Design Standards and Guidelines