



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT:** SEE BELOW

**DATE:** November 18, 2022

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**SUBJECT: PP22-015 PARKING/TRANSPORTATION DEMAND MANAGEMENT  
(TDM) ORDINANCE UPDATE**

## **RECOMMENDATION**

The Planning Commission voted 9-0-1-0 (Ahluwalia, absent) to recommend to the City Council to:

- (a) Consider the Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (FEIR), adopted 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
- (b) Approve an ordinance to:
  - (1) Make modifications to Chapter 20.90 in Title 20 for Parking, Loading, and Transportation Demand Management.
    - I. Add Part 9 – Transportation Demand Management to establish requirements for TDM in new development.
    - II. Revise tables and text in Chapter 20.90 to expand the chapter's purpose and definitions, remove parking minimums, modify parking space design standards, make modifications to parking requirements for bicycle and two-wheeled motorized vehicle parking and remove parking reduction exceptions.
  - (2) Remove references to parking requirements in various sections of Title 20. Remove references to minimum parking requirements from Chapter 20.55 (Urban Village and Mixed-Use Zoning Districts); Chapter 20.70 (Downtown Zoning Regulations); Chapter 20.80 (Specific Use Regulations); Chapter 20.150 (Nonconforming Uses); Chapter 20.180 (Mobilehome Park Conversions to Resident Ownership or to Any Other Use); Chapter 20.190 (Affordable Housing Density Bonuses and Incentives); and Chapter 20.195 (Ministerial Approvals).
  - (3) Revise text and add text in Chapter 20.180 (Specific Use Regulations). Add and modify the existing text to allow/expand uses in existing parking lots and allow existing buildings to change to different TDM uses. Add Part 8.75 (Conversions of an Existing Use to Another Use with a Different TDM Use Designation); and establish a process for when an existing building is converted to a new use that triggers the requirement for a TDM plan. Modify Part 10 (Outdoor Vending Facilities) and make modifications to standards/requirements for outdoor vending facilities (e.g. food trucks), including

allowing multiple on one lot. Add Part 10.5 (Conversion of Parking to Other Outdoor Uses) and establish permitting process, and requirements for the conversion of parking to other uses. Modify Part 16 (Temporary Outdoor Use of Private Property) and modify requirements to be based on existing parking rather than the mandatory parking.

- (4) Minor changes and other technical, non-substantive, or formatting changes within these sections.

## **OUTCOME**

Should the City Council accept staff's recommended ordinance language, the ordinance would go into effect 90 days after the second reading. Staff recommends extending the standard 30-day ordinance effectiveness date to 90-days to ensure adequate time for the development review process to be modified, as well as to allow developments currently under review to be deemed complete prior to the ordinance change. Once the ordinance is in effect, mandatory minimum parking requirements will no longer be in effect and new development projects must meet the new TDM requirements.

## **BACKGROUND**

Over the past three and a half years, the City has been reevaluating its parking requirements and TDM measures to improve consistency with Climate Smart San José and the Envision San José 2040 General Plan transportation and land use goals. This has been a joint effort between the Department of Planning, Building, and Code Enforcement and the Department of Transportation under the umbrella of the American Cities Climate Challenge and the multi-departmental Climate Smart San José team. Over this three-and-a-half-year period, staff has participated in over 40 different engagement events, reaching over 1600 attendees, including over 20 different neighborhood groups. Staff has also coordinated with numerous community and advocacy groups, as well as numerous other jurisdictions in the Bay Area and the entire state of California, and throughout the country.

This ordinance is the result of the direction from the Council at the June 14, 2022, meeting. At that meeting, staff presented three policy options for consideration: To remove mandatory minimum parking requirements citywide, except for single-family properties, or to only remove mandatory minimum parking requirements in Planned Growth Areas identified in the General Plan. In all three options, staff recommended adopting mandatory TDM requirements for new developments. The Planning Commission was presented with these policy options at their June 8, 2022, meeting and provided comments to the City Council (summarized in the attached Planning Commission Memorandum). The Council directed staff to draft this proposed ordinance to remove the City's mandatory minimum off-street parking requirements in all areas of the city for both existing buildings and new development (except in areas where the City has defined contractual agreements regarding parking). The Council also directed that this ordinance implements mandatory TDM requirements in a new development or existing buildings where the use is changing to a more intensive use.

On November 16, 2022, the Planning Commission held a hearing on the proposed amendments to the parking and TDM zoning ordinance provisions. Staff from the Planning Division and Department of Transportation provided an overview of the proposed amendments and was available to respond to questions from the Commission. The Planning Commission's comments and questions are summarized in the "Commission Recommendation/Input" section below.

### Public Testimony

A total of thirteen members of the public spoke on the item. Representatives from the Greenbelt Alliance, Silicon Valley Bike Coalition, Catalyze SV, Silicon Valley Leadership Group, Transform, Save the Bay, Silicon Valley @ Home, and SPUR spoke in favor of the staff recommendation. Two additional public commenters raised concerns but did not express specific opposition to or support for the proposal.

### ANALYSIS

A complete analysis of the proposed Zoning Ordinance amendment is contained in the Planning Commission Memorandum dated November 4, 2022 (attached).

### CONCLUSION

The Planning Commission voted 9-0-1-0 (Ahluwalia, absent) to recommend to the City Council to approve the staff recommendation.

### CLIMATE SMART SAN JOSE

The recommendation in this memorandum aligns with one or more Climate Smart San José energy, water, or mobility goals.

Eliminating mandatory minimum parking requirements would facilitate increasing the density of new development (persons/jobs/acre), reducing Vehicle Miles Traveled, and increasing mobility choices other than single-occupancy, gas-powered vehicles.

### PUBLIC OUTREACH

This memorandum will be posted on the City Council Agenda website for the November 29, 2022, Council Meeting.

This project has undergone extensive community engagement over the past two and a half years, beginning with an Urban Land Use Institute Technical Assistance Panel presentation to the Planning Commission at a Special Study Session on January 29, 2020. Since that date, there have been over 40 separate events engaging over 1,600 attendees. These events have ranged from

webinars put on by some of the City's partners such as SPUR and Greenbelt Alliance, to engagement with local developers (on five separate occasions) and neighborhood groups (over 20 different neighborhood groups and organizations), to three virtual citywide workshops hosted by City staff. Over the past several months staff reached out to over a half dozen neighborhood groups located in Districts 5 and 7 based on Council direction to engage with communities that are impacted by overcrowding. A complete discussion of the public outreach is contained in the attached Planning Commission Memorandum.

### **COORDINATION**

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

### **COMMISSION RECOMMENDATION/INPUT**

The Commission heard the staff presentation, asked questions, discussed the item, and provided the following input:

The Commission was supportive of the concept of removing mandatory minimum parking requirements and adopting new TDM requirements. Commissioners noted that this approach goes above and beyond the removal of parking minimums implemented by the state through Assembly Bill 2097, in particular the addition of TDM requirements to benefit new and existing residents.

Some of the Commissioners had questions about the proposed menu of TDM requirements and how it would be maintained. Staff responded that the menu would continue to be revised by staff over time as the City continued to gather data. Commissioner Lardinois asked how the menu would apply to unique uses, such as hotels. Staff noted that the draft ordinance includes a user-defined TDM strategy in which a development could choose their own TDM options outside of the "menu," as long as they can show that the program would result in an equivalent reduction in trips. Commissioner Cantrell stated that he would like it if the Affordable Housing options in the TDM menu could be weighted more in order to incentivize that choice.

Several Commissioners asked additional questions about the public outreach work done. Commissioner Young specifically asked what was done to help address issues in overcrowded neighborhoods. Staff responded that older apartment complexes developed before the modern parking code tend to be overcrowded so the draft ordinance includes provisions that those buildings would not be allowed to make any further reductions to their existing parking.

Commissioner Ornelas-Wise supported the notion of "right-sizing" parking, but she wanted to make sure that it was done in a thoughtful manner. She emphasized that safety and ease of use for seniors, women, and families with children should continue to be emphasized. Commissioner Rosario also expressed that he supported any efforts that make the City safer.

Commissioner Oliverio had questions about AB 2097, specifically asking what the result would be if the City did not move forward with the proposed ordinance. Staff responded that parking minimums would still be removed in significant portions of the city, however, the requirement for TDM, which is a crucial component of this ordinance update, would not be included.

Commissioner Oliverio also asked staff about other cities that had undertaken similar changes to parking requirements, especially ones that were similar to San Jose. Staff noted that Seattle was a similar comparison. Since Seattle has removed their parking minimums, parking continues to be constructed, just slightly less than before. Minneapolis has also seen similar results.

Commissioner Barocio had questions about the relation between the item and the proposed update to Council Policy 5-1, Vehicle Miles Traveled, which was the following item on the agenda. He asked whether they were contingent on each other and must be approved together. Staff stated that the two items were not contingent upon each other but overlap in that both address how we analyze and affect the City's transportation sector.

Commissioner Young made the motion to approve the staff recommendation, which was seconded by Commissioner Garcia. The Planning Commission voted 9-0-1-0 (Ahluwalia, absent) to recommend the City Council approve the staff recommendation.

### **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. 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 Michael Brilliot, Deputy Director at (408) 535-7831.

Attachment: Planning Commission Memorandum dated November 4, 2022



# Memorandum

**TO:** PLANNING COMMISSION

**FROM:** Christopher Burton, Director,  
PBCE

**SUBJECT:** PP22-015

**DATE:** November 4, 2022

**COUNCIL DISTRICT:** Citywide

**PROJECT INFORMATION**

<b>Project</b>	Parking and Transportation Demand Management (TDM) Ordinance Update
<b>Applicability</b>	Citywide
<b>Project Description</b>	An ordinance of the City of San José amending Title 20 of the San José Municipal Code (Zoning Ordinance) to: Add Part 9 Transportation Demand Management (TDM) to the retitled Chapter 20.90 Parking, Loading and Transportation Demand Management; Revise tables and text in Chapter 20.90 to remove parking minimums, modify parking space design standards, and modify parking requirements for bicycle and two-wheeled motorized vehicle parking and remove parking reduction exceptions; Revise tables and text in 20.70 Downtown Zoning Regulations to remove requirements and references to mandatory minimum off-street parking; Remove references to parking requirements in Chapters 20.55, 20.80, 20.150, 20.180, 20.190 and 20.195; Revise and add text to expand/modify processes for issuing outdoor event permits, outdoor vending permits and conversion of existing parking to outdoor use in Chapter 20.80 Specific Use Regulations; And make other technical, non-substantive, or formatting changes within those section of Title 20 of the San José Municipal Code.
<b>CEQA</b>	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.
<b>Project Planner</b>	Ed Schreiner, Planner IV, Project Manager

**RECOMMENDATION**

Staff recommends that the Planning Commission recommend to the City Council to:

1. Consider the Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (FEIR), adopted 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 to:
  - a. **Make modifications to Chapter 20.90 in the Title 20 for Parking, Loading and Transportation Demand Management,**
    - Add Part 9 – Transportation Demand Management to establish requirements for TDM in new development
    - Revise tables and text in Chapter 20.90 to expand the chapter purpose and definitions, remove parking minimums, modify parking space design standards, make modifications to parking requirements for bicycle and two-wheeled motorized vehicle parking and remove parking reduction exceptions
  - b. **Remove references to parking requirements in various sections of Title 20.** Remove references to minimum parking requirements from the following chapters:
    - Chapters 20.55 – URBAN VILLAGE AND MIXED-USE ZONING DISTRICTS
    - Chapter 20.70 – DOWNTOWN ZONING REGULATIONS
    - Chapter 20.80 – SPECIFIC USE REGULATIONS
    - Chapter 20.150 – NONCONFORMING USES
    - Chapter 20.180 – MOBILEHOME PARK CONVERSIONS TO RESIDENT OWNERSHIP OR TO ANY OTHER USE
    - Chapter 20.190 – AFFORDABLE HOUSING DENSITY BONUSES AND INCENTIVES
    - Chapter 20.195 – MINISTERIAL APPROVALS
  - c. **Revise text and add text in Chapter 20.180 – SPECIFIC USE REGULATIONS.** Add and modify existing text to allow/expand uses in existing parking lots and allow existing buildings to change to different TDM uses
    - Add Part 8.75 - CONVERSIONS OF AN EXISTING USE TO ANOTHER USE WITH A DIFFERENT TDM USE DESIGNATION
      - Establish a process for when an existing building is converted to a new use that triggers the requirement for a TDM plan
    - Modify Part 10 – OUTDOOR VENDING FACILITIES
      - Make modifications to standards/requirements for outdoor vending facilities (e.g. food trucks), including allowing multiple on one lot
    - Add Part 10.5 – CONVERSION OF PARKING TO OTHER OUTDOOR USES
      - Establish permitting process, requirements for the conversion of parking to other outdoor uses

- Modify Part 16 – TEMPORARY OUTDOOR USE OF PRIVATE PROPERTY
  - Modify requirements to be based on existing parking rather than mandatory parking
- d. **Minor Changes.** And other technical, non-substantive, or formatting changes within these sections.

## PROJECT BACKGROUND

Over the past three and a half years, the City has been reevaluating its parking requirements and Transportation Demand Management (TDM) measures to improve consistency with Climate Smart San José and the Envision San José 2040 General Plan transportation and land use goals. This has been a joint effort between the Department of Planning, Building and Code Enforcement (PBCE) and the Department of Transportation (DOT) under the umbrella of the American Cities Climate Challenge (ACCC) and the multi-departmental Climate Smart San José team. Over this three-and-a-half-year period, staff has participated in over 40 different engagement events, reaching over 1600 attendees, including over 20 different neighborhood groups. Staff has also coordinated with numerous community and advocacy groups, as well as numerous other jurisdictions in the Bay Area, California and throughout the country.

The consideration of this ordinance is the second part of a two-step process. The first step, which occurred in June 2022, was to determine to what extent the City would remove parking minimums. Staff presented three options for consideration to both the Planning Commission and City Council: To remove mandatory minimum parking requirements citywide, remove them citywide except for single family properties, or to only remove mandatory minimum parking requirements in Planned Growth Areas identified in the General Plan. Planning Commission provided comments to the City Council (summarized in attached Planning Commission memo) and Council directed staff to draft this proposed ordinance to remove the City's minimum off-street parking requirements in all areas of the city for both existing buildings and new development (except in areas where the City has defined contractual agreements regarding parking). Council also directed that this ordinance implements mandatory TDM requirements in new development or existing buildings where the use is changing to a more intensive use.

Should Planning Commission and Council accept staff's recommended ordinance language, the ordinance would go into effect 90 days after the second reading, which would be in mid-March. Staff recommends extending the standard 30-day ordinance effectiveness date to 90-days to ensure adequate time for the development review process to be modified, as well as allow developments currently under review to be deemed complete prior to the ordinance change. Once the ordinance is in effect, parking minimums will no longer be in effect for new development and new development projects must meet the new TDM requirements.

### Transportation and Greenhouse Gas (GHG) emissions

Climate Smart San José, adopted by the City Council in 2018, is a community-wide initiative to reduce greenhouse gas emissions, air pollution, save water, and improve quality of life. Climate Smart is one of the first detailed City plans for reaching the targets of the international Paris Agreement. Furthermore, at the end of 2018, San José was selected as one of 25 cities to participate in the American Cities Climate Challenge, which was sponsored by Bloomberg Philanthropies to provide resources and support to U.S. Cities as they accelerate climate action. Climate Challenge actions will collectively reduce CO2 emissions by 74 million metric tons from 2020 through 2030, using a holistic approach that focuses on clean buildings and transportation.<sup>1</sup>

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<sup>1</sup> <https://www.bloomberg.org/environment/supporting-sustainable-cities/american-cities-climate-challenge/>



Achieving San José's carbon reduction goals are in large part dependent on changing land use patterns that emphasize cars as the primary mode of transportation. The urban form and density of a city is inextricably linked to a city's carbon output per capita because the urban form of a city dictates travel behavior. In San José, single-occupant trips are the most prevalent mode of transportation and, according to the Climate Action & Resilience Plan, **51% of San José's emissions can be attributed to vehicle travel.**

While some amount of GHG reduction may be seen by continued adoption of Electric Vehicles, this is only one piece of the complete puzzle. Electric Vehicles still contribute to traffic congestion and its associated quality of life issues, traffic safety problems, and sprawl based land use patterns. The more other transportation options exist, the fewer people will drive and thus generate less GHG (as well as less need for parking), and the safer our roadways will be.

### **History of Parking and Transportation Policies**

Between the 1940s and 1970s, cities around the country began introducing minimum parking requirements to their zoning codes. In that era, zoning was used to ensure an ample supply of (generally free) off-street parking at any destination. In 1949, San José followed that paradigm and adopted the City's first parking requirement, one space per residential unit. Through the 1950s and early 1960s these parking requirements were expanded to include more uses until November of 1965, when minimum parking requirements were developed and adopted for nearly every land use that could occur in San José. Because an oversupply of free off-street parking was seen as preferable to an undersupply, minimum parking requirements were designed to accommodate potentially infrequent peak demands for off-street parking.

### **Problems with mandatory minimum parking requirements**

Minimum parking requirements are blunt instruments that seldomly reflect the actual parking demands for a development and will often, by design, result in an oversupply of parking for a new development. As cities grapple with addressing climate change, increasing development costs, and lost potential tax revenues from under-utilized land, it has become clear that no longer mandating an over-supply of parking is a key strategy.

Historically, the minimum off-street parking requirement for any given development is calculated based on one factor, such as the square footage of a commercial use or the number of residential units in a development. In reality, numerous factors affect the true parking demand for a given development. These factors include the surrounding density and mix of land uses, the price of parking, access to public transportation, the frequency and mode of public transportation, commercial trade areas, nearby infrastructure, income levels, vehicle ownership rates, flexible work schedules, telecommuting, sales volume, and many more.

**When minimum parking requirements are applied, they tend to reduce density and increase the distance between land uses. This in turn makes walking, biking, and public transportation less viable modes of transportation, and ultimately increases the amount of driving and the demand for parking.** In other words, the presence of off-street parking facilities – and associated density reductions and negative impacts to non-auto travel – actually further contributes to off-street parking demand. Furthermore, this reduction in density and resulting increased parking demand can be compounded if minimum parking requirements lead to an oversupply of off-street parking.

Minimum parking requirements also have a clear cost. Parking itself is expensive to build, with costs in the Bay Area ranging from approximately \$30,000 for a surface parking space to over \$75,000 for an underground parking space.<sup>2</sup> The construction of unneeded parking spaces solely to satisfy meeting the

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<sup>2</sup> [Sheltering in Place Reveals How Much Parking Dominates Our Cities — and Lives | SPUR](#) (2020)

required minimums of a zoning code adds a substantial cost to a development and, in some cases, can make the project infeasible.

### **San José's Existing TDM framework**

In order to reduce single occupancy vehicle trips, thereby reducing Vehicles Miles Traveled (VMT), other forms of transportation need to be made more accessible and more attractive. This is where Transportation Demand Management (TDM) comes in. TDM requires that developers incorporate programs and/or public improvements into their development projects that will make non- single occupancy vehicle options more viable for tenants of the project. This includes things such as purchasing transit passes for tenants, installing bike share stations, building enhanced pedestrian infrastructure off the project site, etc.

In the current Zoning Ordinance, TDM is used as a method to allow developments to reduce their parking requirements below the existing minimums. In order for a project to be approved with up to a 50% reduction below the minimum, it must provide two or more TDM measures. Because there is a somewhat limited number of TDM measures that a project can choose (a total of 14 listed in Title 20) and no clarity on what level of TDM implementation is needed for approval, the process often requires a lengthy negotiation process, prolonging the development approval timeline. Developers face uncertainty on how much TDM they will need to provide for their project to be approved with the amount of parking that they anticipate the project will require, and the process of identifying and selecting TDM measures is not transparent to the public.

In addition, TDM is sometimes required as part of the CEQA process as mitigation for projects that otherwise would generate higher VMT. These CEQA-related TDM measures are currently separate from the ones required by the Zoning Ordinance and are comprised of a substantially different "menu" of choices. This results in a disjointed approach to transportation issues for projects. For the City and developers, this can make it difficult and confusing to monitor and implement the TDM measures.

### **Parking and transportation policies changes in California**

There have been two recent major shifts in parking and transportation policies in California that this work compliments. First, occurring four years ago with the adoption of SB 743, was the shift from measuring transportation impacts based on VMT rather than Level of Service. The second change, adopted this year, was the removal of any parking requirements statewide near high quality transit.

#### *Level of Service to VMT*

Level of Service measured transportation impacts according to the amount of delay in car travel. Projects were required to mitigate their transportation impacts by building more infrastructure for cars, making car travel more attractive. This created a cycle that continually encouraged solo vehicle travel. The new VMT metric, which measures the average amount and distance people drive by personal vehicle in a day, turns this misguided approach on its head. It instead measures environmental transportation impacts based on an increase in the number of miles driven by car per capita created by a development. Projects must mitigate those impacts in a holistic manner that accounts for alternate means of transportation, including implementing TDM measures. As a jurisdiction that is deeply committed to doing our part to combat climate change, San José was the fourth city in California to adopt VMT as its transportation metric.

#### *California Assembly Bill AB2097*

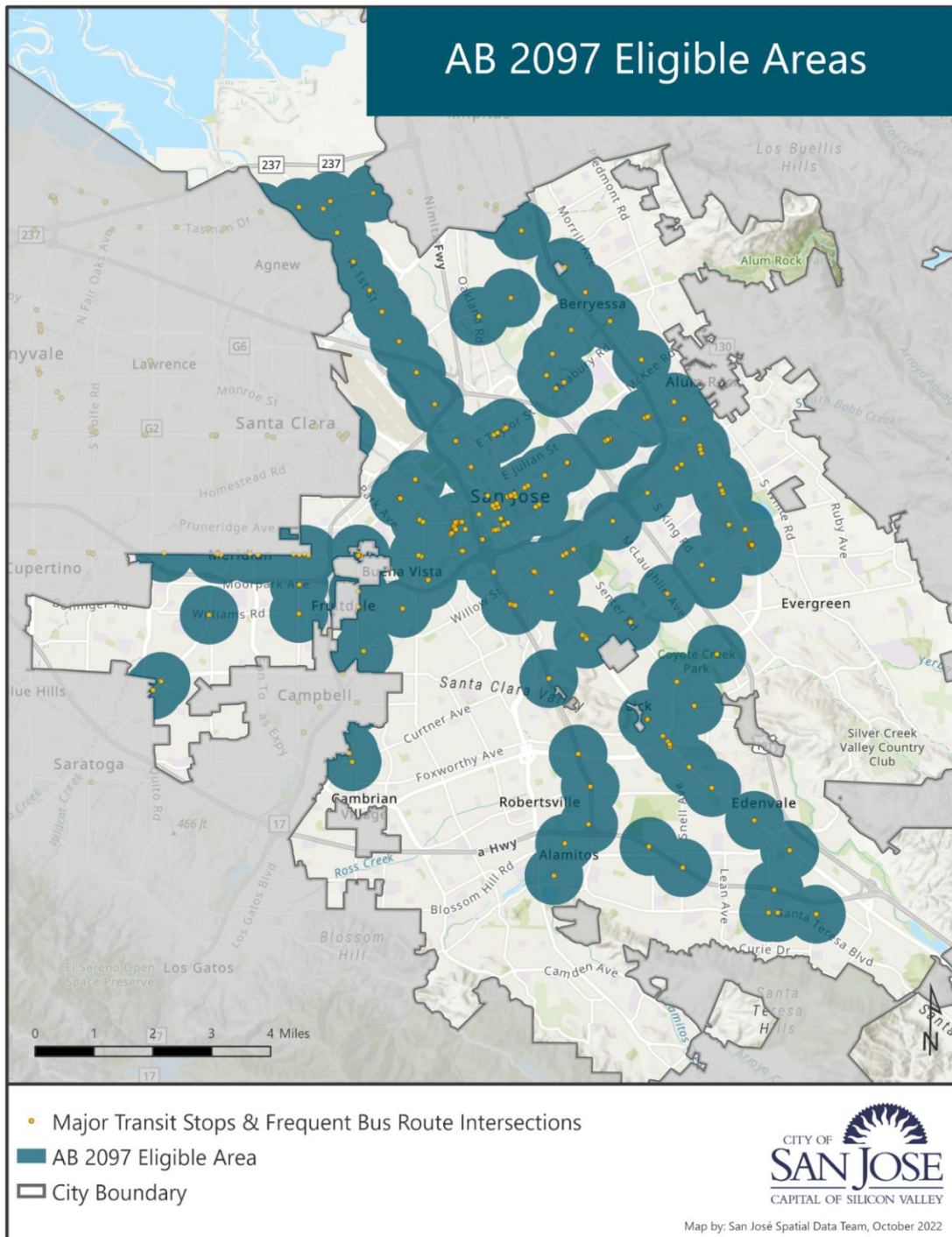
On September 22, 2022, Governor Newsom signed into law California Assembly Bill (AB) 2097. This bill prohibits public agencies from imposing and enforcing any minimum automobile parking requirements within ½ mile of public transit. The bill defines this as being located within ½ mile of a "Major Transit Stop" Per existing state definitions this means:

**Major Transit Stop (PRC §21064.3):**

1. An existing rail or bus rapid transit station.
2. A ferry terminal served by either a bus or rail transit service.
3. The intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

Per PRC §21155 this also includes major transit stops that are included in the applicable regional transportation plan (such as a planned future BART station).

**Figure 1 – Map of areas covered by AB 209**



This ordinance update will make San Jose quickly compliant with AB 2097. It is also worth noting that AB 2097 includes a specific carve-out to allow the continuation of parking minimums in areas where public jurisdictions have a preexisting contractual agreement, an amendment for which the City lobbied. This will allow the City to continue to maintain some low parking minimums for the area located around the SAP Center, which is reflected in the draft ordinance.

### **City Council Direction – June, 2022**

On June 14, 2022, staff presented Council with a preliminary outline of this proposed ordinance update and provided the City Council with three specific directions to pursue:

1. Remove parking minimums citywide and implement Transportation Demand Management (TDM) for new development.
2. Remove parking minimums citywide, with the exception of single-family residence and implement TDM for new development.
3. Remove parking minimums in areas of the City designated as growth areas by Envision San Jose 2040 and implement TDM for new development.

After hearing the staff presentation and comments from the public, the City Council recommend 10-0-1 (Councilmember Esparza absent) to direct staff to return by the end of 2022 with an update to the Zoning Ordinance following option 1, removing parking minimums and requiring TDM measures citywide. In addition, the motion passed by City Council included the following direction:

- Craft a Transportation Demand Management (TDM) ordinance and set of measures that appear clear, transparent, cost-effective, easy to implement, and equitable. The subsequent TDM program should have the capacity for project monitoring, enforcement, evaluation and if necessary, recalibration.
- Accelerate the implementation of changes such that the City:
  - Ensures that it no longer halts the approval of the relocation of any business in San Jose due to mandatory parking minimum, where the business owner has satisfied themselves that available parking suffices;
  - Enables the development of affordable and multifamily housing.
- As part of upcoming transportation planning and operations update efforts, include consideration of policy options for mitigating any potential unintended consequences of the ordinance update for current residents, such as:
  - a. Include in "Move San Jose" Plan returning to Council in fall 2022 a discussion of:
    - Unbundled parking
    - Shared use parking
    - Demand-driven parking pricing
    - Options for reducing the need for parking
  - b. When returning to Council with the ordinance implementing Council's direction on this item, include a discussion of the following elements and potential improvements to parking operations:
    - Update Residential Permit Parking (RPP) program to align it with the policy goals in the General Plan and Climate Smart,
    - Expanding residents' access to privately-owned parking, especially after-hours access to commercial spaces,

- Modernizing payment solutions for curbside parking, including technologies that enable variable demand-based pricing
- Provide analysis on the impacts this policy change will have on overcrowded census tracts including:
  - Outreach to community members in overcrowded census tracts
  - Strategies to mitigate if negative impacts are found during the analysis.

Based on the above Council direction, staff has crafted an ordinance update that, combined with a new chapter to the city's Transportation Analysis Handbook, will become a "one-stop shop" for VMT/CEQA analysis and TDM. Responses to the above additional Council directions are incorporated into the analysis below.

## ANALYSIS

The proposed Parking and TDM ordinance update represents the culmination of nearly four years of work by staff including researching, drafting, revising, and both internal and public discussion. The draft ordinance update is based on direction from the June 14 City Council hearing. This update represents a substantial change to the San Jose Municipal Code Title 20 (the Zoning Ordinance).

The current Zoning Ordinance includes Chapter 20.90 which is titled "Parking and Loading." This draft ordinance re-titles Chapter 20.90 as "Parking, Loading and Transportation Demand Management" and reframes it to no longer focus on minimum parking requirements and subsequent exceptions for how these minimum requirements can be reduced. In addition, there are numerous other places in the Zoning Ordinance that refer to minimum parking requirements that would be updated. In the current Zoning Ordinance, TDM is only required if a project proposes to reduce its parking below the standard minimum parking requirements. In the draft ordinance, "Transportation Demand Management" would be added as a stand-alone requirement for projects that is not tied to seeking a parking reduction.

The removal of the minimum parking requirements in Chapter 20.90 will allow a developer, business, or homeowner to determine the parking needs of their site based on their specific conditions, rather than based on an arbitrary minimum number of spaces determined by the City. However, removing mandatory minimum parking requirements alone is not enough to achieve our GHG reduction goals. Along with the strategies of Move San Jose (Aug 2022), providing TDM measures is a necessity for projects going forward, as future development must focus on ways to get people to reduce their VMT by limiting their single-occupancy vehicle trips. In this way, the City can reduce the GHG generation from the transportation sector. Revisions to Chapter 20.90 would require TDM measures be provided in a broader category of projects and will consolidate these requirements with CEQA-based TDM measures per City Council Policy 5-1, resulting in TDM being reviewed under a singular process.

### **Remove Minimum Parking Requirements and Other Parking Requirements**

Under the proposed ordinance update, mandatory minimum parking requirements would be eliminated throughout the city. Staff believes that the majority of new development projects would be built with at least some parking, even though parking won't be mandated through arbitrary zoning standards. Developers report that in nearly every case the market will demand that parking is built in San José. Furthermore, project financiers expect projects to have market-based parking ratios. Lastly, the absence of minimum parking requirements does not prohibit developing parking after a development is built. The developer will still have the flexibility to determine the appropriate number of parking spaces based on the project and market conditions.

The majority of the modified code language needed to remove mandatory minimum parking requirements is based in Chapter 20.90. The largest modification made was to remove the entire column listed as “Vehicle Parking Required” on Table 20-190. Mandatory minimum parking requirements for the downtown core are in Chapter 20.70 – Downtown Zoning Regulations, so this ordinance would similarly amend Table 20-140 within that chapter to remove minimum parking requirements.

The removal of minimum parking requirements also results in the removal of most of the exceptions contained in Chapter 20.90 to reduce parking below the previously existing minimum parking requirements. Exceptions to parking requirements and outdated references to a former Downtown Parking Management Zone would also be removed from Chapter 20.70. Further, some of the sections in the Purpose and Definitions portion of Chapter 20.90 would be updated or removed to reflect the removal of the minimum parking requirements.

Along with the removal of the minimums, some other portions of Chapter 20.90 would be updated to reflect more modernized standards. The current ordinance has very specific requirements for the size of vehicle parking stalls. This update allows more flexibility on when full size, small size and uniform size parking spaces can be used, as well as reduces the two-way drive aisle width to 24 feet, which is similar to other jurisdictions such as San Diego. The code already includes an exception process for two-way drive aisles to be reduced in width, which is frequently used, so this change aligns the baseline requirement with what we currently see being built using the exception.

Additionally, Part 4 of the chapter, previously referred to as “Motorcycle Parking Standards” has been re-titled “Two-wheeled Motorized Vehicle Parking Standards” to reflect that not all licensed two-wheeled vehicles are necessarily referred to as “motorcycles.” Currently the code prescribes mandatory minimum motorcycle parking requirements based on land use categories. This update requires a development to provide two-wheeled motorized vehicle parking equal to 2.5% of total vehicle parking provided. This is generally lower than the previous ratios in the ordinance based on feedback from developers reporting that their two-wheeled motorized vehicle parking is consistently under-utilized.

Though minimum vehicle parking requirements have been removed, Chapter 20.90 continues to maintain existing minimum bicycle parking requirements. Some additional design standards and locational requirements are being added to Part 2.5 to make bicycle parking more convenient and efficient based on feedback from the Active Transportation team in the Department of Transportation.

There are a few specific vehicle-based uses that occur within the city that staff recommends should still retain some requirements for storage of vehicles. The proposed new section 20.90.064 deals with these uses. Many businesses, especially industrial uses, have business vehicles. The proposed ordinance language specifies that these vehicles may not be parked in a public or private right-of-way which means that these facilities will need to demonstrate that they have room to store the vehicles either on-site or at another off-street location. The proposed ordinance also includes minimum parking requirements for vehicle rental facilities. After reaching out to a few different rental agencies, staff determined that these uses should provide storage for 25% of the amount of their rental vehicle inventory. For auto repair and similar uses, staff proposes requirements for off-street storage of vehicles to replace the former parking requirement that functioned as such. Based on concern staff heard from various residents located in multi-family constructed prior to 1965 (the date of modern parking requirements) and the general lack of parking in these locations, proposed ordinance language has also been added so that parking in these locations cannot be further reduced.

Lastly, proposed amendments to Part 8 of Chapter 20.90 would remove outdated language for the Alum Rock Village Parking Management Zone and add a note that that the area around the SAP Center located within the Arena Management Agreement still has a minimum commercial parking requirement. As discussed above, there is a specific reference in AB 2097 that allows municipalities to retain minimum

parking requirements in areas that had previous contractual agreements.

Outside of Chapter 20.90, the proposed ordinance amendments would also remove references to minimum parking requirements from the following chapters:

- Chapter 20.55 – URBAN VILLAGE AND MIXED-USE ZONING DISTRICTS
- Chapter 20.70 – DOWNTOWN ZONING REGULATIONS
- Chapter 20.80 – SPECIFIC USE REGULATIONS
- Chapter 20.150 – NONCONFORMING USES
- Chapter 20.180 – MOBILEHOME PARK CONVERSIONS TO RESIDENT OWNERSHIP OR TO ANY OTHER USE
- Chapter 20.190 – AFFORDABLE HOUSING DENSITY BONUSES AND INCENTIVES
- Chapter 20.195 – MINISTERIAL APPROVALS

### **Transportation Demand Management**

Removing parking minimums is a key component in achieving the City's climate goals but alone is not enough; helping people to use transit, walk, and bike more through TDM is an important complement to the removal of parking minimums. TDM can provide or incentivize convenient amenities and viable, affordable transportation options. Growing data shows how effective TDM is in reducing congestion and greenhouse gas emissions. This concept is gaining traction throughout the country, as other cities in the US have already adopted very similar TDM requirements to those proposed with this ordinance, along with the removal of parking minimums. This includes cities such as San Francisco and Buffalo, New York. Regionally, Mountain View, Sunnyvale, Fremont and Pleasanton all have mandated TDM requirements.

Envision San José 2040 goal TR-11 calls for reducing vehicle miles traveled (VMT) by 45% by 2040 by improving transportation options beyond single-occupant vehicles. An effective TDM program will reduce VMT, and therefore carbon emissions, and parking demand, from every new development subject to the proposed TDM ordinance.

This update will no longer connect TDM requirements to the pursuit of parking reductions. Instead, it streamlines our process by creating one menu of TDM requirements for all projects. The measures contained in the menu would also qualify as CEQA mitigation measures if a project is required to reduce their VMT as part of that process. By unifying these two elements of the development process, this change will make the process more transparent for developers while helping the City achieve its transportation goals.

#### *What are TDM plans?*

TDM is focused on moving people. It includes infrastructure improvements, policies, and programs that facilitate the reduction and redistribution of travel demand and increases efficiencies in the transportation network. TDM ultimately facilitates shifts in behavior toward walking, biking, or taking transit, and reduces the number of drive-alone trips.

A TDM plan identifies specific measures that a development will implement to reduce drive-alone trips. An important aspect of TDM measures is that they are clearly quantifiable and backed by evidence of their effectiveness. Programmatic measures can include things like transit subsidies to employees, car and bike share programs, unbundling parking costs from rents, or subsidizing public transit service upgrades or extensions. Infrastructure improvements can include things such as making new street connections,

bicycle and micro-mobility network improvements, trails or other walking network improvements, improvements to bus or rail infrastructure, or providing enhanced bike parking facilities. Project characteristics can even be TDM measures themselves, such as providing affordable housing or building less parking.

### *Existing and Proposed TDM Program Framework*

Under San José's current rules, developing TDM Plans is unclear, complicated, and expensive. The amendments to the TDM ordinance proposed by staff would create a clear approach to standardizing TDM plans. In addition to the ordinance, staff has prepared a supplemental TDM chapter in the San José Transportation Analysis Handbook (described later in this analysis) that contains technical guidance so that the complete set of requirements for transportation analysis in San José is in one document.

Simplifying the program will result in more predictable outcomes. The proposed ordinance and new program outlined in the Transportation Analysis Handbook create a clear system which developments would use to understand their TDM requirements. This starts with drive-alone trip reduction goals for every development, by assigning each development a point target. Not all projects would be subject to the TDM requirements; the criteria for requiring TDM plans under the proposed framework would be the same as the threshold for requiring a detailed VMT analysis under CEQA (Council Policy 5-1).

### *Specific TDM Related Ordinance Updates*

In the draft ordinance language, Chapter 20.90 would be updated to be titled "Parking, Loading and Transportation Demand Management" to reflect that TDM is an integral part of the development process. Changes to Chapter 20.90 that incorporate the TDM program include changes to the purposes and definitions to the chapter, as well as identifying a staff position known as the "TDM coordinator" who is responsible for overseeing the TDM program. Table 20-190 would be updated to include a new column, entitled "TDM Use Category." This categorizes all the 130+ enumerated uses into four separate TDM use categories. The four categories are:

1. Home End Uses - HEU (examples: single family home, apartment, mobile home park)
2. Visit End Uses – VEU (examples: retail, restaurant, personal services, medical offices)
3. Commute End Uses – CEU (examples: office buildings, schools, research & development)
4. Other – OTH (examples: warehouse, golf course, transfer station)

These four different TDM use categories all have different visitation patterns and, as a result, there are different TDM measures that may be effective for these uses. For example, commute end uses are those that have their most significant traffic impacts at peak commute hours, while visit end uses have more variable transportation demand periods throughout the day. The TDM measures applicable to each of these four use categories are outlined in the "TDM Menu" portion of the Transportation Analysis Handbook, described later in this analysis section.

### *When TDM plans are required*

The majority of the code language update to incorporate TDM into the Zoning Ordinance is located in the newly added Part 9 of Chapter 20.90, entitled "Transportation Demand Management." Part 9 would be updated to require TDM for all development, with the exception of relatively small projects, consistent with existing exemption criteria in Council Policy 5-1. The ordinance language adds two additional exemption criteria:

1. *Projects where a Planned Development Zoning District has been effectuated prior to the adoption of the ordinance.* For Planned Development Zonings, the CEQA is done at the Zoning stage. Implementing additional TDM requirements after that point could prove onerous.



2. The second screening criteria would be added as a pipeline provision so that projects that are already under review would not have to be substantially changed to meet the requirements of the updated zoning ordinance. This pipeline provision was added based on concern from developers regarding redesign costs. This still allows a developer with a project under review to opt-in to the new requirements if they determine they are more beneficial to their project.

In most cases the requirement for a project to implement TDM measures will be triggered by redevelopment of a site. The proposed ordinance also anticipates and requires TDM measures where an existing building is repurposed from a lower intensity use with less potential to generate trips to a higher intensity use, or the new use is from a different TDM use category where different TDM measures are effective. Examples include converting a warehouse to an office building or converting a non-residential building to residences. Since different TDM use categorizations have different TDM strategies that are effective for them, a permitting process needs to regulate these conversions if they would not otherwise trigger a development permit. Newly created Part 8.75 of Chapter 20.180 would designate that a Special Use Permit is required in these instances.

#### *TDM Plan Review Process*

Projects subject to the TDM ordinance must submit a draft TDM Plan at the time of submittal of their development permit (or Special Use Permit if a development permit would not otherwise be required). The TDM Plan is required at this stage because the amount of parking proposed with a development is integrally related to TDM requirements. Also, TDMs required by this ordinance may contain measures that count towards reducing VMT under CEQA, which are both project attributes that need to be addressed in the development permit process. Finally, it is important for a developer to think about TDM requirements early in the development process and inform the public. The TDM Plan must outline all TDM measures that the project will do. In order to balance the need for early identification of TDM measures with the need for flexibility for a developer to adjust the measures as their project may be modified in the future, the draft ordinance includes provisions to modify the TDM Plan after the development review process.

While the TDM Plan needs to be approved during the development permitting process, developers have expressed concern that they often do not know who a project's tenants will be. Since different TDM measures may be more effective or desired by different tenants, flexibility in the TDM Plan is needed. The proposed ordinance update includes a process in which the TDM Plan may be modified administratively. Modifications to programmatic measures that were included in the TDM plan during the development stage may be approved through an Administrative Permit that does not require an additional public hearing process.

There are, however, a number of cases in which specific TDM measures could not be updated through an Administrative Permit;

1. If a developer agreed, based on public feedback, to specifically condition a programmatic TDM element in their development approval (Staff expects this scenario to be rare) or;
2. If the programmatic measure is specifically required as CEQA VMT mitigation or;
3. TDM points that are credited based on the project's parking supply or;
4. TDM points received based on committing to the construction of off-site multi-modal improvements.

For these four cases, the TDM plan can only be changed with a permit amendment and subsequent public hearing process.

### *TDM Points System*

TDM Plans are based on a simple points system. Projects will generally be required to include TDM measures that total 25 points, with each point roughly equivalent to a 1% reduction in single-occupancy vehicle trips.<sup>3</sup> The Transportation Analysis Handbook includes the full TDM menu and assigns each TDM measure a certain number of points, based on its effectiveness and value. As originally conceived, the number of points was set at 30, based on greenhouse gas reduction goals in Envision San José 2040. However, after feedback from developers and reviewing the Cost of Development study analysis, this requirement was reduced to 25 points to decrease the burden that the cost of additional TDM may have on the viability of a new development project.

Out of the 25 total TDM points required, up to 20 can be achieved based solely on a project's parking supply. As excess parking has been shown to induce solo vehicle trips, projects with low parking ratios are already implementing a very effective TDM measure. Based on this, the ordinance establishes Table 20-257 (see exhibit C), the Parking Supply TDM Point Value table that determines how many TDM points a project receives based on its proposed parking supply.

Initially Table 20-257 was set very aggressively, with extremely low parking ratios needed to achieve TDM points. However, during the outreach process, staff received feedback from developers that extremely low parking ratios were not currently obtainable for most projects. Under current market conditions, developers can only receive financing for their projects if the lenders deem that they are viable projects and have ample parking to meet demand, and most lenders are fairly conservative. Based on this feedback received, staff studied parking supplies provided in both residential and nonresidential projects approved over the last five years. Excluding the extreme outliers, staff identified the average parking ratio of residential and nonresidential developments approved in these projects. These average ratios were used to adjust the table so parking at current market levels would achieve 14-16 points of TDM requirements. Therefore, projects that are developed at the market average parking ratio would need to do approximately 9-11 points of additional TDM measures.

Generally, the first four points of TDM measures can be provided through no/low-costs measures such as shared or unbundled parking. The remainder of the points would need to be achieved through other measures, such as subsidized transit passes, bike share memberships or multi-modal infrastructure improvements. This table can be adjusted in the future to remain in step with market conditions.

In addition to being able to select their TDM points based on the TDM menu in the Transportation Analysis Handbook, staff has added ordinance language to allow a "User Defined TDM measure." This section has been put in place to allow flexibility in the case that the developer wants to go "off-menu" and pursue a TDM measure that is not currently defined by the Transportation Analysis Handbook. Through this process, which may be done as part of the development permit or on its own as a Special Use Permit, the developer must provide evidence that the alternative TDM plan proposed will demonstrate the same outcomes as the strategies provided in the existing TDM menu. If the user defined TDM measure is effective, it could be added in the future to the Transportation Analysis Handbook.

### *TDM Plan Implementation and Ongoing Monitoring*

An approved TDM Plan will be in effect for the lifetime of the project, which is ensured by the requirement that the TDM Plan be executed and recorded through a covenant and agreement that runs with the land. This is to ensure that, as a property is sold or users change, there is a clear record attached to the property that documents the ongoing requirement to abide by the TDM plan.

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<sup>3</sup> The 25-point requirement applies to uses defined as Home End, Visit End, or Commute End Uses. Projects with TDM use category of "Other" require a total of 5 points.

For the purpose of ongoing monitoring of compliance with and effectiveness of TDM measures, development projects would be classified into two tiers based on size. The smaller projects would be classified as Tier 1 projects and the large projects as Tier 2 projects, based on size thresholds is shown below in the proposed new Table 20-250.

<b>TABLE 20-250: PROJECT LEVEL THRESHOLDS</b>		
<b>Use Category</b>	<b>Level 1</b>	<b>Level 2</b>
	If a project meets <b>ANY</b> of the criteria below, it is classified in Level 1	If a project meets <b>ANY</b> of the criteria below, it is classified in Level 2.
<i>Home End Uses</i>	16-299 dwelling units	300+ dwelling units
<i>Commute End Uses</i>	10,000-149,999 sf of gross floor area	150,000+ sf of gross floor area
<i>Visit End Uses</i>	100,000-249,999 sf of gross floor area	250,000+ sf of gross floor area
<i>Other Uses</i>	30,000 sf – 249,999 of gross floor area	250,000 + sf of gross floor area
<i>Special Uses</i>	hotel/motel with 150-249 guest rooms, or suites of rooms	hotel/motel with 250+ guest rooms, or suites of rooms
	school, college, or university (which requires building permits from City of San Jose) with 250 or more students	N/A

All projects must provide evidence on an annual basis to the TDM coordinator that they are fulfilling commitments outlined in their approved TDM plan, such as evidence that they have subscribed to a bike share program or receipts for the purchase of transit passes. This requirement may be waived or reduced by the TDM coordinator if over a five-year period the project has consistently shown they are meeting these conditions.

For projects that fall within Tier 2, they must additionally provide evidence that their TDM plan is achieving the trip reduction goal established during the TDM planning process. They must provide data as part of their annual reporting, such as periodic driveway counts. If the project is not meeting its trip reduction goal, it will need to work with the TDM coordinator to modify its TDM plan to get a more successful outcome or potentially be subject to fines. This reporting requirement may also be waived or reduced by the TDM coordinator if over a five-year period the project has consistently shown they are meeting the trip reduction goals. This model is currently being used in other cities and institutions, including the City of Sunnyvale, the Mountain View North Bayshore, and Stanford University.

The goal of this part is to establish a thorough and effective way of incorporating Transportation Demand Management into the Zoning Code as a requirement for all new projects, while at the same time allowing

for some flexibility as the city changes and grows in the future.

The substantial updates to the Zoning ordinance are one of two primary components of establishing a new TDM program. The other component is an update to the City of San Jose's Transportation Analysis Handbook, which provides the detailed technical requirements for TDM plans.

### **Transportation Analysis Handbook**

The City's Transportation Analysis (TA) Handbook is a comprehensive guide that provides screening criteria, thresholds of significance, and mitigation options for environmental clearance for projects under CEQA. It also provides the appropriate methodologies, procedures, and process for determining the effects of projects on the local transportation system. The handbook will be updated to include a new chapter, Transportation Demand Management (see exhibit B), which provides a guide for projects to develop a TDM Plan and meet the TDM program requirements. The TDM chapter includes screening criteria, TDM point targets, a menu of TDM measures, and monitoring and compliance requirements to be used during the development and implementation of a project's TDM Plan.

#### *25 TDM Points equivalent to 25% reduction in VMT*

The TDM point requirement was identified based on how much VMT reduction is needed for a project to help the City advance its 2040 carbon reduction goals of 45% below the 2017 level. Under CEQA, projects are subject to the significance thresholds for VMT that are 15% below a citywide or regional average. In other words, in addition to transportation evaluation under CEQA, the City needs a TDM program that can help projects achieve an additional 25 to 30% reduction in VMT. When developing a TDM Plan, projects would compile a list of TDM measures to meet the 25 TDM points. Each of the TDM measures has a corresponding point value based on its general effectiveness on reducing VMT per empirical research, with one TDM point being equivalent to approximately 1% reduction in VMT.

#### *Equity-based TDM Measures*

In December 2021, City staff collaborated with Latinos United for a New America to engage with three equity priority communities – the Bonita (District 3), Tropicana-Lanai (District 5), and Santee (District 7) neighborhoods. These equity priority communities helped City staff identify which TDM measures should be labeled equity-forward and prioritized by developers in their TDM Plan. After understanding the specific needs for the communities, City staff refined the TDM program to include a list of "equity measures", such as infrastructure improvements on local streets beyond project frontages, that would benefit not only the future tenants of the new projects but also the low-income and historically underserved neighborhoods where the project would be located. Projects would receive twice as many TDM points by selecting the following equity measures in their TDM Plan.

- Provide bike and micromobility network improvements beyond project frontage
- Provide transit network improvements beyond project frontage
- Provide neighborhood street improvements beyond project frontage
- Provide pedestrian network improvements beyond project frontage
- Provide transit fare subsidies to low-income families in the local community
- Provide alternative transportation benefits to low-income families in the local community

#### *Smart Parking Measures*

The TDM program would help advance the Move San Jose Plan's Smart Parking Policies by including shared use parking, unbundled parking, market-rate parking pricing, and options to not overbuild parking in the TDM menu. City staff responded to Councilmember Mahan's comment about encouraging shared

parking by proposing to add details in the Transportation Analysis Handbook on the various types of shared use parking that would qualify for TDM points. A project would receive as many as two TDM points by sharing parking between multiple uses of the project, sharing parking with an adjacent property, and/or sharing parking with the general public.

#### *Updates to the TDM Menu and Monitoring, Report, and Compliance Requirements*

As changes occur within the evolving field of TDM, potential updates to the TDM menu may become necessary. Allowing for adjustments ensures that TDM measures listed in the menu reflect the most up-to-date research on the effectiveness of a TDM measure. Over time, City staff will continue to analyze data and collect research to maximize the effectiveness of the measures in reducing VMT. As such, potential updates to the TDM menu could include the elimination or addition of TDM measures or the modification of points associated with existing TDM measures.

In addition to the potential updates to the TDM menu, the TDM monitoring and compliance requirements may be subject to change, depending on analysis conducted by City Staff over the course of the TDM program's implementation, as well as updates to available data sources.

#### *Cost of TDM Measures*

The TDM program is developed to give project applicants greater certainty about transportation improvement needs during the development review process. Today, determining the appropriate types of transportation improvements and associated costs to address transportation impacts under CEQA requires a lengthy negotiation process with project applicants. This negotiation has resulted in uncertain and sometimes inequitable outcomes for project applicants. For example, under CEQA, a smaller project may sometimes be conditioned to a more expensive package of mitigations to address similar level of transportation impacts than a much larger project. The TDM program aims to streamline the development review process by (1) making sure that the TDM menu is the same as the menu being used for transportation review under CEQA, and (2) establishing a points system that is based on objective criteria with greater certainty about the cost of TDM measures. Additionally, as noted earlier, based on developer feedback, staff reduced the overall TDM point requirement from 30 to 25, as well as adjusting the TDM point credit given for parking ratios based on existing market conditions. The goal of this effort was to have TDM requirements with the proposed ordinance be roughly equivalent to TDM requirements that were applied to previous projects that requested reductions below established minimum parking requirements.

### **Other Transportation Related Policies**

#### *Parking Program Updates*

In June 2022, the City Council directed that staff include a discussion of potential updates to the City's parking programs as part of this item. Specifically, the Council requested the discussion include:

- Aligning the Residential Permit Parking (RPP) program with the policy goals in the General Plan and Climate Smart,
- Expanding residents' access to privately-owned parking, especially after-hours access to commercial spaces,
- Modernizing payment solutions for curbside parking, including technologies that enable variable demand-based pricing
- Provide analysis on the impacts this policy change will have on overcrowded census tracts including:

- Outreach to community members in overcrowded census tracts
- Strategies to mitigate if negative impacts are found during the analysis.

The City's Residential Permit Parking (RPP) program is a special City service intended to improve parking conditions in heavily impacted neighborhoods where standard parking restrictions are ineffective. There are currently 22 RPP zones in San José. RPP zones limit parking to residents and their guests during specified hours. Businesses located in RPP zones are also eligible for permits for their employees. Most of the zones are located adjacent to regional attractions and were established to prevent excessive parking intrusion from vehicles originating outside of the neighborhood. Five of the zones were established based on newer guidelines that considered excessive parking demand generated from within a neighborhood. Currently, there are no resources for establishing new RPP zones in the City's budget, only for managing existing zones.

The Department of Transportation manages the RPP program and recognizes the need to better align the program with the General Plan and Climate Smart. The Department recommends an outreach and education process with the Council and community to review and modernize the program. Key objectives and considerations during this process include:

- Streamlining program rules across programs to increase consistency and fairness across permit boundaries and ensure sufficient parking within boundaries for existing and future residents
- Implications (benefits and costs/challenges) of expanding the program in the future to address future growth, including fiscal sustainability, affordability (e.g., cost to residents), legal parameters, and equity across the City and in the vicinity of RPP zones.

The Council also directed that the City consider how to expand residents' access to privately-owned parking, especially after-hours access to commercial parking spaces. As part of the proposed ordinance, the City incentivizes this type of shared parking, with TDM point credit provided for sharing parking among uses in exactly this way. Tapping into existing private lots will require additional flexibility, creativity and effort, crafting and promoting agreements that enable specific shared-use parking arrangements.

In addition, the City Council requested modernized payment solutions for curbside parking, including technologies that enable variable demand-based pricing. City parking meters already allow payment by credit card, contactless payment, and/or coins, and you can easily add payment remotely. The City is also pursuing regional funding to upgrade parking technology further, precisely to enable variable, demand-based parking pricing. An application to the Metropolitan Transportation Commission (MTC) was submitted in late September; staff will keep the City Council apprised of the outcome of this and other opportunities.

Finally, the City Council directed that staff perform an analysis of how the proposed Parking and TDM ordinance update would impact currently overcrowded neighborhoods. In Summer 2022, City staff discussed this policy update with five neighborhoods with a high share of households in renter-occupied units living in crowded housing conditions – Santee, Seven Trees, Alma, Tropicana-Lanai, and West Evergreen neighborhoods. The questions raised by these neighborhoods can be categorized into two:

- Since this policy update applies to only new development projects and not to existing neighborhoods, would this policy bring significant growth to their neighborhoods and exacerbate the current overcrowding and on-street parking problems in their neighborhoods?
- Would this policy update address spillover parking from projects near transit stations with low parking ratios?

Overcrowding is a direct result of a lack of housing availability and affordability. While the Parking and TDM ordinance update is not intended to provide direct solutions for the issues related to overcrowding, the policy update aims to help address the issues with transportation solutions. The TDM menu includes a measure that incentivizes projects to increase the proportion of affordable housing units above and beyond the Inclusionary Housing Ordinance requirements. In addition, the TDM menu includes measures about improving the street conditions for pedestrian, cyclists, and transit riders in the neighborhood where the project would be located, as well as providing transit pass and bikeshare subsidies to new tenants and/or low-income families in the neighborhood. This policy update would help address concerns of potential spillover parking by improving the viability, safety, and affordability of transportation options, especially for short-distance trips that can be made by transit, bike, or on foot.

### **Additional Related Ordinance Changes**

The removal of minimum parking requirements creates new opportunities to re-purpose excess parking areas, such as permanently expanded outdoor dining areas or temporary use of these areas for events or outdoor vending. As a result, there are some additional changes and additions proposed to Chapter 20.80, which is titled "Specific Use Regulations".

Part 10 of Chapter 20.80 regulates "Outdoor Vending Facilities" which most often refers to food trucks. In the current ordinance, outdoor vending facilities can only occur if there is excess parking beyond the minimum requirements and were limited to only one per site. With the removal of parking minimums, the opportunity is opened up for more existing parking lots to provide space for food trucks. In anticipation, the ordinance is proposed to be updated to allow, depending on the size of the site, as many as five outdoor vending facilities on one site. Related sections of the code are proposed to be modernized.

Along with the opportunities for the expansion of opportunities for food trucks, the removal of parking minimums also opens up the option to re-utilize parking lots for outdoor dining (as we have seen through the Al Fresco program throughout the pandemic) or other outdoor uses, such as outdoor gym space. Part 10.5 has been added to the ordinance to allow "Conversion of Parking to Other Outdoor Uses." Meeting certain conditions, this is proposed to be permitted through an Administrative Permit and for some of the smaller conversions not affecting an on-site circulation, through a Permit Adjustment, both of which are staff level approvals. This would allow a streamlined legalization process for existing Al Fresco sites when the program ends.

Part 16 of Chapter 20.80 regulates "Temporary Outdoor Use of Private Property," more commonly known as "Event Permits," which are issued through the City's office of Cultural Affairs. This covers events like festivals, fairs, or outdoor fundraisers. Along with other general requirements, a limitation in the current ordinance for event permits is that no more than 30% of the required parking or 150 spaces can be displaced by the event. Since under this proposed ordinance update, there would no longer be "required" parking spaces, the language is proposed to be updated to state that no more than 50% of the *existing* parking or 250 spaces can be displaced. This proposed change was coordinated with the Office of Cultural Affairs and would expand the possibilities for outdoor events to be permitted through this process. Events that do not meet this requirement would need to be permitted through a public hearing process.

Since many of these updated and new specific use permitting processes would be permitted through Administrative Permits, some additional changes are proposed to Part 10 "Administrative Permits" of Chapter 20.100 "Administration and Permits." Specifically, this Part is proposed to be updated to reflect that Administrative Permits for the conversion of parking to outdoor dining or TDM Plan Modification are transferrable and do not have a term limit. The same conditions were also added to Administrative Permits for tap rooms and tasting rooms, as a clean-up from a previous ordinance update.

## Consistency with General Plan Policies

The Envision San José 2040 General Plan provides the framework for decision-making related to the City's land uses and has been called the "constitution" for land use development to emphasize its importance to land use decisions. Any new development is subject to review through the City's development permit process and must conform to the goals and policies of the General Plan, including those related to traffic, noise, air quality, and employment and housing capacity. Various General Plan Policies are incorporated into the General Plan EIR and SEIR as mitigation measures. Therefore, compliance with the policies would not result in new environmental impacts.

Staff has identified approximately 80 General Plan policies that removal of mandatory parking minimums and expansion of the TDM program would advance. A complete list of these policies is included in Exhibit A, most prominent of which are Transportation Goals relating to a balanced transportation system, maximized public transit and reduction in vehicle miles travelled. Specifically, Transportation Action TR 9.5 is to remove minimum parking requirements for new development citywide and Goal TR-9 is to reduce VMT by 45% by 2040 from the 2017 level. Other goals cited include improving the pedestrian and bicycle experience, promoting jobs and housing growth and densification, among others.

## COORDINATION

The preparation of the proposed ordinance and this staff report was a collaborative effort with the Department of Transportation. The proposed ordinance and staff report was coordinated with the City Attorney's Office. Additionally, multiple draft versions of the ordinance were shared with various City departments including the Housing Department, Department of Public Works, Environmental Services Department, Office of Cultural Affairs, and Office of Economic Development. Feedback from various departments was incorporated into the final draft of the ordinance.

On September 26, 2022, the proposed draft ordinance was referred to the Santa Clara County Airport Land Use Commission (ALUC). The ALUC has scheduled this item for review at their November 16 Commission meeting.

## 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 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. 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.

## PUBLIC OUTREACH

This project has undergone an extensive community engagement over the past two and a half years, beginning with an Urban Land Use Institute Technical Assistance Panel presentation to the Planning Commission at a Special Study Session on January 29, 2020. Since that date, there have been over 40 separate events engaging over 1,600 attendees. These events have ranged from webinars put on by some of the City's partners such as SPUR and Greenbelt Alliance, to engagement with local developers (on five separate occasions) and neighborhood groups (over 20 different neighborhood groups and organizations),



to three citywide workshops hosted by City staff. Staff specifically reached out to over a half dozen neighborhood groups located in District 5 and 7 based on Council direction to engage with communities that were impacted by overcrowding. Below is a list of all of the individual outreach engagements that were held as part of the development of the proposed Parking and Transportation Demand Management (TDM) Ordinance Update

1/28/2020	ULI TAP Panelist Interviews
1/29/2020	Planning Commission Study Session: ULI TAP
3/2/2020	District 6 Leadership Group
5/5/2020	Delmas Park Neighborhood Association
5/21/2020	SPUR forum: Reducing Parking Requirements
6/4/2020	GBA: Parking Reform for Climate Smart Cities
10/19/2020	SPUR forum: Implementing Successful Value-Driven Transportation Pricing
12/3/2020	Si Se Puede Focus Group
1/7/2021	Small Business Focus Group
1/28/2021	Si Se Puede Focus Group
2/10/2021	Spartan Keyes Focus Group (SCU)
2/11/2021	Roosevelt Park Focus Group (SCU)
2/25/2021	SPUR Stadium TDM Webinar
3/9/2021	SCU Capstone Presentation
4/16/2021	Developer's Roundtable
5/26/2021	Catalyze SV Project Advocacy Committee
6/15/2021	SUN Neighborhood Association
6/17/2021	Developer's Roundtable
6/24/2021	Parking and Mobility in San Jose Community Workshop
7/22/2021	Parking and Mobility in San Jose Community Workshop
8/4/2021	SPUR Roundtable Parking/TDM
8/7/2021	Veggielution Community Farm Day
8/13/2021	SPUR forum: Imagining a City that Puts People First
8/14/2021	ARUVA Meeting
8/27/2021	Parking/TDM City Council Study Session
11/9/2021	Joint Venture Public Sector Climate Task Force
12/15/2021	Blanca Alvarado School Posada (LUNA)
12/17/2021	Tropicana Posada (LUNA)
12/20/2021	Bonita Posada (LUNA)
12/22/2021	LUNA Posada (LUNA)
1/11/2022	LUNA Promotora Engagement
2/28/2022	VTA-CDTN Meeting
2/28/2022	SPUR forum: Coming to Terms with the Bay Area's Parking Problem
3/31/2022	SPUR forum: Eliminating Barriers to Common-sense Transportation Projects

9/7/2022	Seven Trees Neighborhood Association
9/13/2022	Alma Neighborhood Association
9/14/2022	Developer Focus Group (OED)
9/15/2022	Citywide Informational Session
9/19/2022	Tropicana Lanai Neighborhood Association
9/21/2022	West Evergreen Neighborhood Association
9/27/2022	SPUR Developer's Roundtable
10/20/2022	Santee Neighborhood Association

Some concerns were expressed by members of the community that the ordinance change would lead to additional spillover parking in their neighborhoods, especially in neighborhoods that are already impacted by parking shortages, largely due to overcrowding. Other residents cited concern that the region's existing transit service was inadequate to support the shift away from cars and that many residents had no alternatives other than car travel. In some disadvantaged communities, concern was expressed about specific TDM measures, such as parking pricing.

Residents who supported the proposal cited a number of different reasons, including the proposal's impact on climate change and the potential to create more (and specifically more affordable) housing. Residents were also hopeful that the ordinance change would provide an opportunity to expand the City's infrastructure for non-auto related means of travel, including improving bicycle travel and transit service. Other residents believed that it generally made more sense to allow the market to determine the amount of parking needed rather than City, through arbitrary minimum requirements.

In engagement done with developers, they were overwhelmingly in support of removing parking minimums, which is often a barrier to a project "penciling out" when more parking is required by the code than is deemed necessary for existing market conditions. Some developers expressed concerns over the potential cost of additional TDM measures, though developers that have done projects in the larger Bay Area region were familiar with the concept, as it is similar to San Francisco's model and more locally what Sunnyvale has done. As cited in the analysis section, based on specific feedback from the developers, staff reduced the TDM point requirement from 30 to 25 and re-balanced the parking ratio table (Table 20-257) to be more in line with existing market conditions.

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.

**Project Manager:** Ed Schreiner

**Approved by:** /s/, Michael Brilliot, Deputy Director for Christopher Burton, Planning Director

<b>ATTACHMENTS:</b>
Exhibit A: General Plan Consistency
Exhibit B: Draft Transportation Analysis Handbook, Chapter 4 – Transportation Demand Management
Exhibit C: Ordinance
Exhibit D: Determination of Consistency

# PP22-015

## Links to Attachment A-D

Click on the title to view document

Exhibit A: General Plan Consistency
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Public Correspondence received after 11/9/22