



COUNCIL AGENDA: 5/7/2019  
ITEM: 4.1  
FILE NO: 19-306

# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Toni J. Taber, CMC  
City Clerk

**SUBJECT:** SEE BELOW

**DATE:** May 7, 2019

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**SUBJECT: San José Downtown Design Guidelines and Standards.**

**RECOMMENDATION:**

Adopt a resolution amending the San José Downtown Design Guidelines and Standards to include Section, 4.4.2.b, relating to bird safety design.

CEQA: Determination of Consistency to 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 General Plan EIR (Resolution No. 77617), and Addenda thereto. File Nos. GPT19-001 & PP19-018. Planning Commission recommends approval (6-0). Council Districts 3 and 6. (Planning, Building and Code Enforcement)

**[CONTINUED FROM 4/23/19 - Item 10.2 (19-249)]**



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Rosalynn Hughey

**SUBJECT:** SEE BELOW

**DATE:** April 11, 2019

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**COUNCIL DISTRICT: 3 & 6**

**SUBJECT: FILE NOS. GPT19-001 & PP19-018. (1) AMEND THE DIRIDON STATION AREA PLAN TO MODIFY THE INTRODUCTORY TEXT AND DELETE CERTAIN GUIDELINES RELATING TO SITE PLANNING, ACCESS AND CIRCULATION, BUILDING FORM, AND OPEN SPACE FROM “CHAPTER 3. FINAL PLAN DESIGN GUIDELINES;” (2) ADOPT THE PROPOSED “SAN JOSE DOWNTOWN DESIGN GUIDELINES AND STANDARDS” TO REPLACE THE 2004 “DOWNTOWN DESIGN GUIDELINES” FOR PROJECTS GENERALLY LOCATED IN DOWNTOWN; AND (3) DELEGATE AUTHORITY TO THE DIRECTOR OF PLANNING, BUILDING, AND CODE ENFORCEMENT TO MAKE MINOR UPDATES, CLARIFICATIONS, CORRECTIONS, OR TECHNICAL CHANGES TO THE TEXT AND DIAGRAMS OF THE “SAN JOSE DOWNTOWN DESIGN GUIDELINES AND STANDARDS”**

## **RECOMMENDATION**

The Planning Commission voted 6-0 to recommend that the City Council take the following actions:

- (1) Adopt a resolution approving a City-initiated General Plan text amendment to delete certain design guidelines relating to site planning, access and circulation, building form, and open space from “Chapter 3. Final Plan Design Guidelines” of the 2014 Diridon Station Area Plan and amend the introductory text under “Section 3.2, Built Form, Guidelines for Site Planning” of the 2014 Diridon Station Area Plan.
- (2) Adopt a resolution (i) approving a new “San José Downtown Design Guidelines and Standards” document to replace the existing “2004 Downtown Design Guidelines” for projects generally located in the Downtown area; and (ii) delegating the authority to the Director of Planning, Building, and Code Enforcement to make minor clarifications, corrections, or technical changes to the text and diagrams of the San José Downtown

Design Guidelines and Standards to be published on the Planning, Building, and Code Enforcement webpage, with the following revisions:

- (a) Section 1.1, map on page 3, change the label of Downtown core (2011 General Plan) on the map to "General Plan Downtown Growth Area."
- (b) Define "historic building" in Section 2.3 1.c. on page 13, and in Section 4.2.4., Applicability, item c on page 38.
- (c) Section, 4.4.2.b, "City of San José Voluntary Bird-Friendly Building Design Fact Sheet" shall be mandatory for projects located in the design guidelines boundary.

Commissioner Yesney made the motion to recommend approval of the staff recommendation with the changes described above. Commissioner Leyba seconded the motion. The motion was approved (6-0).

## **OUTCOME**

The proposed General Plan Amendment to Diridon Station Area Plan and San José Downtown Design Guidelines ("Design Guidelines") would take effect thirty (30) days after approval by the City Council ("Effective Date"). Any Planning application submitted after the Effective Date for a new permit or permit amendment would be required to comply with the new Downtown Guidelines.

## **BACKGROUND**

On March 27, 2019, the Planning Commission held a public hearing to consider the City-initiated General Plan Text Amendment to Diridon Station Area Plan and new Design Guidelines.

During staff's presentation, staff summarized the background, community outreach process, structure of the Design Guidelines, and explained how the Design Guidelines were in conformance with multiple goals and policies of the Envision San José 2040 General Plan, as detailed in the Planning Commission Staff Report.

### **Public Testimony**

Six members of the public spoke on the proposed public hearing items. The first speaker, Jeanie Yorbeckmoes, representing the Axis Homeowners' Association, shared that the Design Guidelines are not changing the existing Historic Design Guidelines except for guidelines for sites adjacent to historic buildings. She asked that no such change be made at this time and the adjacency design guidelines be addressed when all the historic design guidelines are updated together. Her major concern was that the 2004 Draft San José Downtown Historic Design Guidelines Document has a guideline that states that "new buildings should not dwarf existing historic buildings" and the new Design Guidelines have no guidelines for buildings that are adjacent to historic buildings with more than 40 feet height. She also mentioned that there is no

transition setback for the sides of the buildings adjacent to historic buildings and that should be added to the Design Guidelines.

The second speaker, Brian Grayson of the Preservation Action Council – San Jose, commented that the proposed Design Guidelines and existing Historic Design Guidelines should be respectful of historic buildings and not allow new development to overpower them. He added that his organization believes the City should include guidelines not only for adjacency to historic buildings but also proximity to historic buildings. He mentioned that ignoring historic street walls can damage historic context. He asked that the City create a “Zone of Respect” abutting historic buildings and enforce consistency with the average street wall heights. He explained that the Secretary of the Interior’s Standards for the Treatment of Historic Properties state that new features that are out of scale with historic context are not recommended. In addition, he requested that the Council provide resources for updating the historic districts and citywide design guidelines as these guidelines should work together to have an integrated approach.

The third speaker, Shani Kleinhaus, representing the Santa Clara Valley Audubon Society and Sierra Club, expressed her concern that the proposed Design Guidelines have few guidelines for bird safety and several hazards for birds. She added that birds could smash into walls of glass along creek areas if they are not properly protected. She mentioned that the proposed Design Guidelines have not taken the opportunity to integrate bird safety design recommendations from other cities.

The fourth speaker, Kathy Sullivan, a resident of the Delmas Park neighborhood, mentioned that she was astounded that her neighborhood residents and representatives were not involved in the process of preparing the proposed Design Guidelines. She added that she was interested to see how the guidelines interface with the “Lakehouse Historic District.” She asked if City staff could provide a presentation about the proposed Design Guidelines to her neighborhood.

The fifth speaker, Mike Casa, a graduate Planning student at San José State University, mentioned that he had attended several meetings regarding the proposed Design Guidelines and that his interest was in the open space requirement and connections to public transit and paseos. He added that Chapter 3 enables human scale connection to the public space and to future BART and Diridon Station Area expansion.

The last speaker, Mike Sodergren, addressed the importance of preserving historic buildings and expressed concern that many historic buildings are being demolished in the South First Street district, which has a high concentration of historic buildings.

#### Staff and Planning Commission Discussion

Regarding the historic-related comments, staff mentioned that the proposed Design Guidelines are neither updating the historic district design guidelines nor changing the “2004 Draft San José Downtown Historic Design Guidelines.” Those guidelines will remain in use in reviewing projects by community or decision makers. Staff, however, have integrated the infill section of the 2004 Draft San José Downtown Historic Design Guidelines into the proposed Design

Guidelines. In addition, the Design Guidelines include guidelines for historic adjacency and landmark adjacency. Staff explained that the historic section was completely revised in coordination with the Historic Landmark Commission and Historic Preservation Officer. Staff described that any historic building above 45 feet in height will be in an urban context, and adjacent new development will not be required by the proposed Design Guidelines to provide a massing transition to such a structure.

Additionally, staff explained that the proposed Design Guidelines include Bird Safe Guidelines in other sections in addition to 4.4.2.b Windows and Glazing: Bird Safety, including Section 4.4.2. standard c, Section 4.4.8 standard d, Section 4.4.9.a standard d, and Section 4.4.9.b standard b. Staff recommended that the Bird Safety Design Guidelines be a stand-alone citywide document that can be updated regularly when the building technology changes, similar to that of other cities like San Francisco and Portland. The consultant added that they have incorporated many bird-safe guidelines, such as avoiding transparency through barriers, transparent skyways, removing transparency in front of large areas, and exempting podium level lighting for buildings within 300 feet of Riparian Corridors.

Planning Commissioner Yesney appreciated the additional detail about the bird safety issue. She asked about the idea of wall washing or shining lights into the sky and if wall washing lights can be directed downward. She mentioned that the issue of bird safety has been an afterthought for many buildings in Downtown and that bird safety matters in Downtown because of the Guadalupe River. She requested that the City adopt comprehensive citywide bird safety design guidelines and also to use bird safety guidelines in reviewing individual buildings in Downtown. She emphasized the importance of bird safety design guidelines for buildings at gateway locations and adjacent to the creeks.

Vice Chair Ballard mentioned that she appreciated many parts of the proposed Design Guidelines related to bike and pedestrian design. Her first question was how we are balancing the future transportation needs and advances in technologies to the way we design the cities and if the Downtown guidelines reflect those matters. For example, she asked if we should design buildings that do not allow for on-street parking and what would that mean.

Staff responded that the proposed Design Guidelines apply to private development and they are not meant to apply to rights-of-way. Curb management is important but is out of the scope of the guidelines and is administered by the Departments of Transportation and Public Works. In addition, Council approved a set of Complete Streets Design Guidelines in 2018 that include best practices about designing the right-of-way.

Planning Commissioner Leyba appreciated the strategy to avoid duplicating the guidelines in different documents but asked if there are adopted bird safety design guidelines. Staff responded that the City Council Policy for Riparian Corridor Protection and Bird-Safe Design applies to areas north of Highway 237 and that there is a City of San José Voluntary Bird-friendly Building Design Fact Sheet.

Planning Commissioner Griswold asked staff to clarify the meaning of the terms “historic building” and “contributor to a district or conservation area” on pages 13 and 38. She raised concerns that historic studies for houses are expensive and staff should be clear about different definitions in the Historic Resources Inventory (HRI). Staff agreed to clarify these terms in the proposed Design Guidelines update and mentioned that the City has been updating the GIS data to show the HRI on the map to provide more clarification for applicants. Commissioner Yesney added that for CEQA analysis, if there is a chance of damaging or destroying a potential historic resource, one must either verify that a structure is a historic resource or treat it as a historic resource. In addition, staff explained that “contributor,” “identified structures” and “structure of merit” are defined in the Envision San José 2040 General Plan. Landmarks and candidate City landmarks are identified in the Municipal Code under Title 13, and there are also state and national registers of historic structures.

Planning Commissioner Ballard asked that how would staff manage curb cuts. She asked if staff looked at an entire block to identify the maximum number of curb cuts on that block and how staff would implement shared driveways. She added that frequent curb cuts can affect the creation of protected bike lanes. Staff responded that applicants work with the Department of Transportation and Public Works on the location and geometry of curb cuts. They determine if a curb cut is too close to a corner or impedes visibility close to a corner. Staff added that the proposed Design Guidelines have guidelines for minimizing curb cuts on key pedestrian routes and requires minimum spacing between them to address this issue.

Commissioner Ballard asked a clarifying question regarding the design of bike storage. Staff responded that Section 3.4.4 of the proposed Design Guidelines refer to both the Zoning Code Title 20 and Santa Clara Valley Transportation Authority bicycle technical guidelines.

Planning Commissioner Yesney made a motion, seconded by Commissioner Leyba, to recommend to City Council the staff’s recommendation with the bulleted changes explained in the recommendation on pages 1-2 herein. The motion was approved by the Commission 6-0.

## **ANALYSIS**

Staff analysis is included in the Planning Commission staff report, attached.

## **EVALUATION AND FOLLOW UP**

Should the City Council approve the General Plan text amendment and “San José Downtown Design Guidelines and Standards, Council Priority #19 will be partially completed. Further Council action will be required on the Citywide Residential and Commercial Guidelines and the Berryessa BART Design Guidelines.

Furthermore, if the City Council delegates the authority to the Director of Planning, Building, and Code Enforcement to make minor updates, clarifications, corrections, or technical changes to

the text and diagrams of the “San Jose Downtown Design Guidelines and Standards,” the Planning Director will continually review the Design Guidelines and publish any minor updates online. Any major changes will require Planning Commission and City Council public hearings.

## **PUBLIC OUTREACH**

Staff followed Council Policy 6-30: Public Outreach Policy to inform the public of the proposed Design Guidelines. In preparation for the Planning Commission hearing, staff posted a notice of the Planning Commission and City Council public hearings on the City website and sent it to interested stakeholders on the project list. The hearing notice was published on ‘San José-Post Record’ on March 8, 2019. The staff report is also posted on the City’s website. Staff has been available to respond to questions from the public.

The first of two community workshops was held on April 19, 2018. Approximately 40 residents and stakeholders attended and participated in a brainstorming exercise to develop values and guiding principles for Downtown’s design and public realm. From March 2018 to January 2019, staff conducted focus group meetings to obtain additional feedback. Staff engaged Downtown residents, 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.

The second community workshop to review the revised draft document was held on December 5, 2018. Approximately 20 residents and stakeholders attended and provided comments. Some community members and design professionals provided comments after the workshop.

Two Planning Commission Study Sessions were held in November and December 2018, and two Historic Landmarks Commission Study Sessions were held in February and March, 2019, during which commissioners asked questions and provided feedback.

## **COORDINATION**

Preparation of this memorandum was coordinated with the City Attorney’s Office.

## **CEQA**

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The environmental impacts of this project were addressed in a Determination of Consistency with the Final Program Environmental Impact Report (EIR) for the Envision San José 2040 General Plan (Resolution No. 76041), the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 77617), and Addenda thereto. Adoption of the proposed Design Guidelines does not result in new significant impacts beyond those identified in

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**Subject: File Nos. GPT19-001 & PP19-018**

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the General Plan Final and Supplemental EIRs. The adoption of the Design Guidelines will advance the General Plan goals and policies and is consistent with the analysis and discussion of the Destination Downtown Strategy and Downtown Urban Design Goals and Policies in the General Plan Final and Supplemental EIRs. Any further actions, such as actions to approve individual development projects within the Guidelines Boundary, will require additional environmental review at the time such actions are proposed.

The EIR, SEIR, and Addenda thereto are available for review on the Planning web site at: <http://www.sanjoseca.gov/index.aspx?NID=2435>.

/s/

ROSALYNN HUGHEY, SECRETARY  
Planning Commission

For questions, please contact Deputy Director, Robert Manford, at (408) 535-3555.

Attachment: Planning Commission Staff Report and Resolutions.