

# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT:** SEE BELOW

**DATE:** June 14, 2019

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**SUBJECT: File No. PP19- 038. AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING TITLE 20 OF THE SAN JOSÉ MUNICIPAL CODE (ZONING ORDINANCE) TO: ADD OR REMOVE USES AND CHANGE PERMIT REQUIREMENTS IN THE OPEN SPACE/AGRICULTURE, RESIDENTIAL, COMMERCIAL, INDUSTRIAL, AND DOWNTOWN ZONING DISTRICTS IN TABLES: 20-30, 20-50, 20-90, 20-110, 20-140; AMEND SECTION 20.50.110 FOR COMMERCIAL SUPPORT IN INDUSTRIAL DISTRICTS; REPEAL SECTION 20.50.115 FOR LARGE FORMAT COMMERCIAL ESTABLISHMENT, ASSOCIATED COMMERCIAL; REPEAL SECTION 20.70.140 ON ART DISPLAY STRUCTURE; AMEND SECTION 20.70.520 THE DOWNTOWN GROUND-FLOOR SPACE OVERLAY (DG OVERLAY) IN ITS ENTIRETY TO REPLACE IT WITH THE ACTIVE USE AREA OVERLAY; CLARIFY AND CONSOLIDATE USES IN THE PARKING AND LOADING CHAPTER 20.90; UPDATE THE CONFORMANCE WITH THE GENERAL PLAN TABLE 20-270 IN SECTION 20.120.110; ADD, REMOVE, OR UPDATE VARIOUS DEFINITIONS IN CHAPTER 20.200; AND MAKE OTHER TECHNICAL, NON-SUBSTANTIVE, OR FORMATTING CHANGES WITHIN SPECIFIED SECTIONS.**

## **RECOMMENDATION**

The Planning Commission voted 4-0-2 (Commissioners Ballard and Griswold absent) to recommend that the City Council:

1. Consider the Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (FEIR), 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. 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; and

2. Adopt an Ordinance of the City of San José amending Title 20 of the San José Municipal Code (ZONING ORDINANCE) to: add or remove uses and change permit requirements in the Open Space/Agriculture, Residential, Commercial, Industrial, and Downtown Zoning Districts in Tables: 20-30, 20-50, 20-90, 20-110, 20-140; amend Section 20.50.110 for Commercial Support in Industrial districts; repeal Section 20.50.115 for Large Format Commercial Establishment, Associated Commercial; repeal Section 20.70.140 on Art Display Structure; amend Section 20.70.520 the Downtown Ground-floor Space Overlay (DG Overlay) in its entirety to replace it with the Active Use Area overlay; clarify and consolidate uses in the Parking and Loading Chapter 20.90; update the Conformance with the General Plan Table 20-270 in Section 20.120.110; add, remove, or update various definitions in Chapter 20.200; and make other technical, non-substantive, or formatting changes within specified sections.

## **OUTCOME**

Approving the ordinance will amend Title 20 to update allowed uses, permit requirements, and definitions, to better align the Zoning Ordinance with the General Plan Goals, Policies, and Land Use Designations. If the ordinance is not approved, inconsistencies will remain between the Zoning Ordinance and the General Plan Major Strategies, Goals, Policies, and Land Use Designations.

## **BACKGROUND**

On June 12, 2019, the Planning Commission conducted a public hearing on proposed amendments to the Zoning Code. The Planning commission asked clarifying questions and provided some feedback.

Regarding the use category *School, driving (Class C & M license)* in the Industrial zoning districts, Commissioner Leyba mentioned that Class C licenses refer to regular driver licenses and not licenses for driving Commercial Vehicles but the staff report indicated that it was for larger, commercial vehicles. Commissioner Leyba asked staff to clarify which type of driver license this use is referring to. Staff stated that the intent was for this use to be for commercial vehicles so staff will confirm the parameters of a Class C license and update the draft ordinance if needed.

After the public hearing staff confirmed that Class C licenses are the common licenses that most people obtain for driving: however, there is also a Commercial Class C license which allows an individual to drive larger vehicles, including ones with hazardous materials. Staff will revise the ordinance to add a note in the Industrial Use table to explain that the Commercial Class C license is the only license that driving schools would be able to offer in LI and HI zoning districts.

Chair Allen expressed concerns related to making changes to where assembly uses are allowed, particularly performing arts spaces, and how not allowing these uses in industrial districts will

make it more difficult for arts organizations to find space that is large enough and affordable for rehearsals and performances. He further stated that he understood the need to preserve the industrial lands and that he supported the proposed changes as staff recommended.

Commissioner Oliverio made a motion to approve. Commissioner Leyba seconded the motion.

The Planning Commission voted 4-0-2 (Ballard and Griswold absent) per the recommendation by staff.

## **ANALYSIS**

For a complete analysis of the proposed ordinance, please see the Planning Commission staff report (attached).

Staff provides the following additional analysis regarding the proposed change to religious assembly uses in the industrial zoning districts: “Church/Religious Assembly” is an enumerated use that is currently permitted through a Conditional Use Permit in the CIC Combined Industrial/Commercial zoning district, the TEC Transit Employment Center zoning district only on a site with a General Plan Land Use Designation of Combined Industrial/Commercial or Transit Employment Center, and in the IP Industrial Park and LI Light Industrial zoning districts only on a site with a General Plan Land Use Designation of Combined Industrial/Commercial. “Church/Religious Assembly” is the only assembly use currently allowed in the TEC, IP, and LI zoning districts. The proposed ordinance would disallow “Church/Religious Assembly” in the TEC, IP, and LI zoning districts which would align this use with other assembly uses in the Industrial Zoning Districts. As a result, all assembly type uses would be treated in the same manner in the Zoning Ordinance with no preference or burden given to one type of assembly use over another.

## **EVALUATION AND FOLLOW UP**

If the Zoning Ordinance update is approved, Title 20 (the Zoning Ordinance) will be modified to reflect the revisions detailed in the Planning Commission staff report.

## **PUBLIC OUTREACH**

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 Jose 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.

Staff initiated outreach efforts to gather public input on the proposed Zoning Ordinance changes. A series of focus groups were held at City Hall on January 17, 24, & 25, 2019 to engage with the

development community and understand the issues and opportunities they face with development in the City of San José. In total there were 19 participants including developers, architects, land use consultants, and environmental advocates.

Staff also held a community meeting at the Martin Luther King Jr Library in Room 225 on April 29, 2019, seven members of the public attended the meeting and three additional people submitted questions or comments via email.

## **COORDINATION**

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

## **CEQA**

Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (FEIR), for which findings were adopted by City Council through Resolution No. 76041 on November 1, 2011, and Supplemental EIR Resolution No. 77617, adopted by City Council on December 15, 2015, and Addenda thereto. 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/  
ROSALYNN HUGHEY, Secretary  
Planning Commission

For questions please contact Michael Brilliot, Deputy Director, at 408-535-7831.

Attachment: Planning Commission Staff Report