



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: February 14, 2020

SUBJECT: FILE NO. PP19-085: AMENDMENT TO TITLE 20 OF THE SAN JOSE MUNICIPAL CODE (ZONING ORDINANCE)

RECOMMENDATION

1. Consider the Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (FEIR), for which findings were adopted by City Council through Resolution No. 76041 on November 1, 2011, and Supplemental EIR Resolution No. 77617, adopted by City Council on December 15, 2015, and Addenda thereto. 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. Approve an ordinance amending San José Municipal Code for various sections of Title 20 (Zoning Code) which includes the following:
 - a. Amend section 20.30.600 table 20-80 to add clarifying language to the corner lot side setback requirement for fences.
 - b. Amend section 20.80.1440 to allow outdoor private property special events on properties with lawful non-residential uses within residential zoning districts through the Event Permit process.
 - c. Amend section 20.80.1450 to define a setback from an outdoor private property special event to the nearest residential structure for events located on properties with lawful non-residential uses in residential zoning districts.
 - d. Amend section 20.80.1460 to include downtown zoning districts with commercial districts and to reduce setbacks for outdoor private property special events in commercial districts that are in designated neighborhood business districts and comply with residential standards under this part.
 - e. Amend section 20.80.1460 and 20.80.1470 to increase the number of outdoor private property special events which can take place in commercial and industrial zoning districts.
 - f. Amend section 20.80.1510 to increase the Event Permit review period from thirty (30) to forty-five (45) days.
 - g. Amend section 20.80.1410 to clarify the term “director.”

OUTCOME

Approval of these sections as amended will:

- Remove unclear and redundant language from the fence regulations.
- Clarify the term “director” for permit administration.
- Expand the potential for events in residential districts.
- Include the downtown zoning district into the commercial zoning criteria for events.
- Expand the potential for events in Neighborhood Business Districts.
- Expand the total number of possible events in industrial and commercial districts from two and three to five in a four-month window.
- Change the review period for Event Permits in the municipal code to match existing practice.

BACKGROUND

On January 22, 2020, the Airport Land Use Commission (ALUC) conducted a public hearing on the proposed amendments to the Zoning Code to determine if these changes are consistent with the San José International Airport and Reid Hillview Airport Comprehensive Land Use Plan (CLUP). No members of the public spoke on the item. ALUC staff recommended that the Zoning Code amendments be considered consistent with the safety, height, and noise policies within the San José International Airport and Reid Hillview Airport CLUP. The Commission voted unanimously in favor of finding the proposed quarterly update consistent with the CLUP.

On February 12, 2020, the Planning Commission conducted a public hearing on the proposed amendments to the Zoning Code. No members of the public spoke on the item.

Commissioner Griswold asked for clarification as to why events on land zoned residential and occupied by churches and schools would not be required to setback 50 feet from adjacent residential uses, but that events on properties occupied by commercial or other non-residential uses were proposed to have a 50-foot set back. Staff explained that based on experience with events in commercial areas, a setback of 50 feet is recommended because these events are typically larger than those on residentially-zoned land. Commissioner Griswold also asked whether staff had considered mixed use in residential zoning districts. Staff shared that mixed use did not come up during the evaluation of these amendments because these areas have less outdoor space and therefore are less desirable for special events.

Chair Ballard asked staff for examples of events under these amendments and what type of events these might be. Staff responded that Lincoln Avenue, 13th Street, and other business districts are areas where special events occur; these include one-day fairs, church carnivals, and other smaller event types.

Chair Ballard also inquired if there was an estimate number of sites that might open for events under the proposed amendments and if there were considerations for a follow-up strategy on the success of these amendments. Staff indicated that while it is difficult to predict the precise

number of sites which would be open to hold events under the proposed amendments, a large increase of sites was not anticipated; staff did share that two new sites were identified in the CLUP areas. Planning staff also indicated that there would be coordination with the Office of Cultural Affairs on the impact of the Ordinance amendments.

Commissioner Griswold pointed out that the amendment to Table 20-80 for Fence Regulations still left ambiguity in the fence regulations for corner lots and recommended to remove the wording “at least five feet from the property line” from the fence regulation for side setback areas not adjacent to a street. Staff concurred with the clarification and it has been incorporated in the draft ordinance for the City Council consideration.

Commissioner Bonilla asked why staff was proposing an increase from two to five events and increasing the time period from 30 to 45 days to accept or deny permits. Staff expressed a desire to increase the total number of events to facilitate place making and cultural activity in the City. The increase in the processing time period reflects the anticipated increase in requests and current staffing availability in the Office of Cultural Affairs.

After discussion, the Planning Commission voted (5-0-2, Commissioners Allen and Oliverio absent) to recommend that the City Council approve the Zoning Ordinance amendments.

ANALYSIS

A complete analysis of the issues regarding the Zoning Ordinance amendments is contained in the attached Planning Commission Staff Report.

CONCLUSION

The amendments would remove ambiguities in the Title 20 Zoning Code for both the Fence Regulations Table 20-80 and the Outdoor Private Property Special Events Permit process.

EVALUATION AND FOLLOW-UP

If the proposed Zoning Ordinance amendments are approved by Council, the new Ordinance will be effective 30 days after the second reading.

CLIMATE SMART SAN JOSE

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

PUBLIC OUTREACH

Staff followed Council Policy 6-30: Public Outreach Policy to inform the public of the proposed Zoning Ordinance amendments. A public hearing notice, including the Planning Commission and City Council hearing dates, was published in the San José Post-Record and emailed to a list of interested groups and individuals. The staff report is posted on the City's website.

A community meeting was held January 13, 2020. Eight community members attended the meeting. Attendees overall expressed support for proposed changes. Staff also received correspondence from one community member.

This memorandum will be posted on the City's Council Agenda website for the February 25, 2020 Council Meeting. Staff has been available to discuss the proposal with interested members of the public.

COORDINATION

The preparation of the proposed Zoning Ordinance amendments and this memorandum were coordinated with the City Attorney's Office and the Office of Cultural Affairs.

CEQA

A Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (FEIR), for which findings were adopted by City Council 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](#)