

## **Planning Staff Responses to Comments shown in “red”**

Rosalyn Hughey  
Director, Planning, Building and Code Enforcement Laura  
Meiners  
Planner  
GP19-012, C19-042, CP20-019, T20-020  
*Sent via email*

Dear Director Hughey and Planner Meiners,

On December 9, 2020 we received a response to a letter submitted to the Planning Department about the proposed Senior or Assisted Living development on the corner of Gifford and San Carlos.

The first response from you had to be corrected verbally during the Planning Commission meeting because it cited incorrect documents. Please clarify your verbal correction regarding the appropriate document reference.

**Staff Response:** At the Planning Commission hearing, staff provided a verbal correction to one of the responses regarding the referenced Diridon Station Area Plan (DSAP) Environmental Impact Report (EIR). Staff clarified that based on the preliminary analysis by the environmental consultant, the environmental clearance for the proposed Amended DSAP will be an Addendum to the Downtown Strategy 2040 EIR, not a new EIR.

Our understanding of the current applicable documents and the specific pages are as follows:

**Downtown Strategy 2040, Integrated Final EIR December  
2018  
Page 209**

### **Diridon Station Area Plan (DSAP)**

The majority of the DSAP area is within the Downtown Strategy 2040 boundaries. The Downtown Strategy 2040 does not propose changes to the DSAP. Development occurring in the DSAP area would be subject to land use regulations and policies established in the DSAP. The project, therefore, would be consistent with the DSAP.

**Staff Response:** This text is an excerpt from the Downtown Strategy 2040, Integrated Final EIR, page 209.

**Diridon Station Area Plan (DSAP) June  
2014**

Page 4-9 number 5 states the following:  
ASSUMPTIONS AND EXCLUSIONS

The height limits used in the development of the test-fit plan are consistent with, and in most cases below, the height limits established in the Urban Design Section of this Plan. Building

heights used in the test-fit plan are also below the maximum building heights established by Federal Aviation Administration (FAA) Part 77, as discussed below. In the southern zone building heights were set to respect the scale of the adjacent neighborhoods and the recommendations in relevant Strong Neighborhood Initiative (SNI) documents. (underlined for emphasis)

Staff Response: The 2014 DSAP recognizes the height considerations of the Strong Neighborhood Initiative's (SNI) Delmas Park Neighborhood Improvement Plan. The 2014 DSAP includes a "Final Plan – Maximum Build-Out" section that provides "test fits" used to establish the maximum theoretical possible development. The test-fit scenarios themselves are not policy. The "Final Plan – Maximum Build-Out" section of the DSAP includes a diagram of the test-fit Southern Zone building heights (Figure 4-1-5) and maximum build-out (Figure 4-1-6) for the purposes of the environmental analysis for the DSAP.

Page 4-16

#### STRONG NEIGHBORHOOD INITIATIVE ZONES

Project sub-areas D (Dupont/McEvoy) and F (Park/San Carlos) both fall within existing SNI (Strong Neighborhood Initiative) boundary and both of these areas have had SNI Neighborhood Improvement Plans and/or Business Improvement Plans prepared in the recent past. Delmas Park SNI Neighborhood Revitalization Plan gives general guidance on the community's preferred land uses, and desirable massing/heights/densities of buildings. The proposed uses, block and street patterns and building heights indicated in the 'test-fit' DSAP - Final Plan Report are intended to be respectful of and consistent with the community's recommendations.

Staff Response: The proposed project was analyzed in accordance with the 2014 DSAP, which recognizes the height considerations of the SNI Delmas Park Neighborhood Plan. The 2020 General Plan land use designations for the proposed project site in the SNI Delmas Park Neighborhood Plan were General Commercial on the portion fronting W. San Carlos and Residential Support for the Core on the rear portion of the site. The 2014 DSAP and Envision San Jose 2040 General Plan land use designations for the proposed project site are Downtown on the portion fronting W. San Carlos and Residential Neighborhood on the rear portion of the site. The proposed General Plan Amendment requests changing the existing Residential Neighborhood designated rear portion of the site to Downtown, so that the entire project site would be designated Downtown.

#### **2002 Delmas Park Neighborhood Improvement Plan**

**Approved and accepted by City Council and the Planning Commission**

**Amended in 2007 without changes to this language by City Council and Planning Commission**

Page 30 states the following: Infill Development Criteria During the planning process community members made specific recommendations for infill development within the West San Carlos corridor, including height, density, tenant mix, and architectural character. Height/Density Community members support significant density and height for new development, provided it is sensitive to adjacent neighborhood conditions. The "Infill Location and Heights" graphic on the following page illustrates height/density criteria. Infill recommendations for specific locations are:

- West San Carlos Street Frontage - Replace existing auto and light industrial uses with housing over commercial; 4-5 stories average height along the frontage, stepping down to 3 stories adjacent to single-family areas on the north and south.

Page 31 includes a map clearly identifying the site as a redevelopment area with 4 -5 stories.

***If the references above are not correct or have been amended, please provide the name of the amending document and the page that supersedes these pages.***

**Page 1** the second response states that “the project is required to meet the requirements of the current Plan”. ***Please define the “current Plan”.***

**Staff Response:** The reference to “current Plan” is the 2014 DSAP.

**Page 2** ***Provide estimated numbers of jobs that could occupy this site and housing units that could be built if this site was developed to the 2002 Delmas Park Infill Location and Heights development guidelines.***

Please note that in the reply, staff mentions that the development will provide “residential care for up to 190 residents”. Will staff be using residential care as housing units?

**Staff Response:** The April 2002 SNI Delmas Park Neighborhood Improvement Plan (SNI Plan) does not provide recommendations on land uses for the entire proposed project site. The SNI Plan focuses on height and step-down guidelines. Also, because job densities vary widely by use and business type, it is not possible to provide an absolute (accurate) jobs capacity. However, staff has calculated an estimate jobs and housing yield for the site based on the General Plan 2020 land use designations, which are included on page 29 of the SNI Plan. The proposed project site’s properties along West San Carlos Avenue were designated General Commercial in General Plan 2020. Using the SNI Plan’s recommended height limit of five stories and assuming a lot coverage of 80% of the aggregated 0.31-acre commercial site, approximately 50,014 square feet of gross commercial space could be achieved. The General Plan 2020 land use designation on the proposed project site’s four other properties to the south was Residential Support for the Core. This land use designation had a minimum density of 25 dwelling units to the acre. Since the SNI Plan advocated lower densities on these properties, applying the minimum density to these four properties would yield 15 dwelling units.

The 190-bed commercial residential care facility is considered a commercial use (not calculated as housing units). The project also includes 4 residential (housing) units.

**Page 2** ***Using assisted living standards, provide the number of daily visitors anticipated for a development of this size and if possible, impacts on visitation if visitors are not provided parking.***

**Staff Response:** Pursuant to the applicant, on an average weekday, there will be 20 to 25 visitors, the majority of which are between 5 and 8pm, typically at or after dinner time when relatives/friends are able to visit. This timeframe coincides with the majority of staff finishing work and leaving the facility, around the same time at 4:30/5:00pm each day. This works well for

parking purposes. During weekends, visitation is approximately 45 to 50 people each day, spread out throughout the day. The parking provided on site, 32 parking spaces, meets the San Jose Zoning Ordinance requirements for residential care use.

**Page 2** Staff response regarding existing adjacent land uses states:

“Upon review, the property adjacent to the south is a commercial use, not single-family residential.”

To use the existing use instead of the existing R2 zoning as justification for developing 69’ at the property line is absurd. Evaluating the site based on the existing land uses is not standard and ignores the damage that was done to Delmas Park when the Light Industrial zoning was laid over the existing residential neighborhood. We have been working for decades to remove incompatible light industrial uses in our neighborhood. The building height set back from the property line does not meet the intent on page 30 of the Delmas Park Neighborhood Improvement Plan.

***Please define legal non-conforming land use and if existing land use or zoning are used to guide development.***

Staff Response: While staff does consider existing uses adjacent to development proposals, the proposed project was analyzed in accordance with the 2014 DSAP and the 2018 Downtown Urban Design Guidelines and Standards (which includes the DSAP area). The existing 2014 DSAP and Envision San Jose 2040 General Plan land use designations for the proposed project are Downtown on the portion fronting W. San Carlos Avenue and Residential Neighborhood on the rear portion of the site. The proposed designation is Downtown for the entire site.

Per the DSAP Building Height Diagram, Figure 3-2-1, the project site is located in a transitional 65-foot height area between the planned 110-foot height area to the north on the other side of W. San Carlos Avenue, and the 35-foot height area to the south.

While the proposed DC Downtown Primary Commercial Zoning District allows zero rear-yard setback, the applicant is providing a 10-foot setback for the majority of the rear property line.

Legal non-conforming uses are defined in Section 20.200.610 of the Zoning Code as “Any lawful use of land or structure, which ceases to conform to the provisions of this title upon a rezoning or annexation, or because of changes in the regulations under this title, shall be deemed to be a legal nonconforming use.” Additional development provisions for legal non-conforming uses are pursuant to Section 20.150 of the Zoning Code.

***If the applicable planning documents are as referenced in the beginning of this letter, is the statement about the “superseded planning document” accurate?***

Staff Response: It is recognized that the April 2002 SNI Delmas Park Neighborhood Improvement Plan represents the community’s vision. The proposed project was analyzed in accordance with the 2014 DSAP, which recognizes the height considerations of the SNI Delmas Park Neighborhood Improvement Plan. The adoption of the 2014 DSAP also includes environmental clearance and is considered the existing land use regulatory framework.

This project has been identified as both a Senior Assisted Living and Assisted Living.

***Will this project be age restricted?***

Staff Response: No, this project is not age restricted.

Thank you,

Greg Felix President  
Delmas Park Neighborhood Association (for  
identification purposes only)

Sarah Springer Bert  
Weaver Kathy  
Sutherland Past  
Presidents  
Delmas Park Neighborhood Association (for  
identification purposes only)

Jake Lavin Patrice  
Shaffer Residents  
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identification purposes only)

Cc:

Mayor Sam Liccardo Kelly  
Klein  
Councilmember Raul Peralez  
Christina Ramos, David Tran, Bridget Brown City  
Manager Dave Sykes