

From: [Phan, Johnny](#)
To: [Downtown West Project](#)
Subject: Fwd: DW -- Clean-Up Edits
Date: Thursday, May 20, 2021 1:46:08 PM
Attachments: [Reso and Ordinance Clean-up Edits.docx](#)

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Begin forwarded message:

From: "Phan, Johnny" <Johnny.Phan@sanjoseca.gov>
Date: May 20, 2021 at 12:44:00 PM PDT
To: "Douglas-Fry, Joan" <Joan.Douglas-Fry@sanjoseca.gov>
Cc: "Uemura, Sue" <Sue.Uemura@sanjoseca.gov>
Subject: FW: DW -- Clean-Up Edits

Hi Joan – Attached are the latest changes to the resolutions and ordinances. I reviewed the changes. Just minor stuff. Go ahead and make all the changes in the attached. Most are the same I previously sent to you with new ones related to PG&E which is reverting back to language we had at Planning Commission.

Go ahead and finalize the documents and put in the Google shared drive as you finalize them.

Thanks! Johnny

From: MWChan@perkinscoie.com <MWChan@perkinscoie.com>
Sent: Thursday, May 20, 2021 12:15 PM
To: Phan, Johnny <Johnny.Phan@sanjoseca.gov>
Cc: Gray, Matthew S. (SFO) <mgray@perkinscoie.com>
Subject: DW -- Clean-Up Edits

[External Email]

Hi Johnny,

Attached is an updated list of clean-up edits for the resolutions and ordinances.

Under the PD Zoning Ordinance, PD Permit and VTM Resolution, you'll see clean-up edits to the PG&E language (fixing date of grant deed to align with legal description). One set of PG&E edits is to the existing language in the legislation. Another set of edits (which I've noted as "alternative language") reflects the language that was included in the Planning Commission version of the documents (the redline is against the existing language but should reflect the Planning Commission language). We are in the process of finalizing an MOU with PG&E. If we are able to finalize the MOU within the next several days, we would request reverting back to the Planning Commission version of the PG&E language. We should have additional information on timing of the MOU in the next couple of days, but wanted to provide you with proposed clean-up edits to both versions.

Please let me know if you have any questions. Thanks,

Michelle

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COUNSEL

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EIR Resolution

1. Page 2, first WHEREAS clause (companion approval recital):

“approval of Major Encroachment Permits (Resolution No~~S~~. ____)”

2. Replace scan with electronic version

ALUC Resolution

1. Page 8, paragraph 2:

As stated in the Environmental Impact Report for the Project, the City requires compliance with the ~~C~~Cited Building Code noise standards (p. 3.10-17), regularly imposes Standard Condition of Approval NO-2 to

2. Page 8, paragraph 3:

This resolution does not rely on any single finding to support this conclusion, but rather on all the findings taken together; these findings include not only benefits of exterior spaces and minimal airport noise complaints from Downtown residents within the 65 dBA CNEL noise contour who have outdoor spaces, but all six other findings, including requirements for ~~a~~avigation easements and pre-contract notices to residential buyers and tenants.

3. Page 9, Section H, paragraph 1:

The first finding is accurately quoted ~~by~~but the second is not quoted correctly.

4. Replace scan with electronic version

General Plan Amendment

1. Page 8, companion recital

“approval of Major Encroachment Permits (Resolution No~~S~~. ____)”

2. Exhibit B: General Plan Consistency Findings.

Remove “Draft” stamp. It is covering up text.

DSAP Amendment

1. Page 7, 2nd WHEREAS clause

WHEREAS, the governing DSAP for the Project shall be the DSAP Amendment approved by this ~~R~~esolution; and

2. Page 9, last WHEREAS clause

“approval of Major Encroachment Permits (Resolution No~~s~~. ____)”

3. Replace scanned with electronic version

Title 20 Ordinance

1. Page 6, last sentence

“approval of Major Encroachment Permits (Resolution No~~s~~. ____)”

PD Zoning Ordinance

1. Page 6, first WHEREAS clause:

“approval of Major Encroachment Permits (Resolution No~~s~~. ____)”

2. Page 17, section 5, first sentence:

5. The GDP authorizes ~~S~~pecial ~~E~~vents and ~~L~~imited-~~T~~erm ~~U~~ses (as defined in the GDP)

3. Page 27, Section 6 (PG&E Property) [*Change to Existing Posted Language*]:

The Downtown West PD Zoning District, as further described in Exhibit “A”, currently includes an approximately 0.18 acre-parcel, described as “Parcel #1” in the deed recorded November 25, 19~~3~~26, in Book 797, page 336 of Santa Clara County Records, generally located at the intersection of Cahill Street and West San Fernando (“PG&E Property”),

4. Page 27, Section 6 (PG&E Property) [*Alternative Language: note, this language reverts back to language in Ordinance for the Planning Commission*];

A. The Downtown West PD Zoning District, as further described in Exhibit “A”, currently includes an approximately 0.18 acre-parcel, described as “Parcel #1” in the deed recorded November 25, 19~~3~~26, in Book 797, page 336 of Santa Clara County Records, generally located at the intersection of Cahill Street and West San Fernando (“PG&E Property”), which is owned by Pacific Gas & Electric Company (“PG&E”) and is subject to the jurisdiction of the California Public Utilities Commission (“CPUC”) under California Public Utilities Code Section 851. PG&E authorized the inclusion of the PG&E Property within the boundary of the Downtown West PD Zoning District provided that CPUC subsequently confirms that the PG&E Property may be included within the proposed Downtown West PD

Zoning District. This Ordinance shall not become effective as to the PG&E Property and the City shall not grant any Subsequent Approvals (as defined in the Development Agreement) over the PG&E Property until Google provides documentation to the Director of PBCE demonstrating that ~~PG&E has authorized the inclusion of the PG&E Property within the boundary of the Downtown West PD Zoning District, and the CPUC has provided the requested authorization that the PG&E Property may be included within the proposed Downtown West PD Zoning District.~~

The zoning for the PG&E Property shall remain Light Industrial until Google provides documentation to the Director of PBCE demonstrating that ~~PG&E has authorized the inclusion of the PG&E Property within the boundary of the Downtown West PD Zoning District, and the CPUC has provided the requested authorization.~~ If Google fails to provide the required documentation of CPUC's consent within twenty-four (24) months of the effective date of this Ordinance, Google's request PG&E's authorization to include the PG&E Property within the Downtown West PD Zoning District shall be deemed withdrawn. Upon a request from Google, and subject to the written consent of PG&E, the Director of PBCE may extend the twenty-four month period described in the preceding sentence for an additional period not to exceed twelve months. In the event Google does not provide timely documentation of ~~PG&E's and the CPUC's~~ consent, Google shall update the boundaries of the Downtown West PD Zoning District shown in the GDP to exclude the PG&E Property. Notwithstanding anything to the contrary in Section 20.120.510 of the San José Municipal Code, such an update to the GDP may be administratively approved by the Director of PBCE.

5. Replace scanned with electronic version

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| <u>PD Permit Resolution</u> |
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1. Page 7, companion recital:

“approval of Major Encroachment Permits (Resolution No. ~~s.~~ ____)”

2. Page 12, last sentence in Section 11 (Tree Removal Findings):

... and reduce the need for irrigation after the plant establishment period.

3. Page 26, paragraph 14 (PG&E Property) [*Change to Existing Posted Language*]

The Downtown West PD Zoning District, as further described in Exhibit “A”, of Ordinance No. , currently includes an approximately 0.18 acre-parcel, described as “Parcel #1” in the deed recorded November 25, 19326, in Book 797, page 336 of Santa Clara County Records, generally located at the intersection of Cahill Street and West San Fernando (“PG&E Property”),

4. Pages 26, paragraph 14 (PG&E Property) [*Alternative Language: note, this language reverts back to original language*]:

- a) The Downtown West PD Zoning District, as further described in Exhibit “A”, of Ordinance No. ____, currently includes an approximately 0.18 acre-parcel, described as “Parcel #1” in the deed recorded November 25, 19326, in Book 797, page 336 of Santa Clara County Records, generally located at the intersection of Cahill Street and West San Fernando (“PG&E Property”), which is owned by Pacific Gas & Electric Company (“PG&E”) and is subject to the jurisdiction of the California Public Utilities Commission (“CPUC”) under California Public Utilities Code Section 851. PG&E authorized the inclusion of the PG&E Property within the boundary of the Downtown West PD Zoning District provided that CPUC subsequently confirms that the PG&E Property may be included within the proposed Downtown West PD Zoning District (see Ordinance No. ____). If Ordinance No. ____, approving the Downtown West PD Zoning District, becomes effective as to the PG&E Property, this Resolution shall become effective as to the PG&E Property which shall automatically become subject to the Downtown West PD Permit.

5. Replace scanned with electronic version

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| <u>VTM Resolution</u> |
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1. Page 3 last sentence:

“approval of Major Encroachment Permits (Resolution Nos. ____)”

2. Condition 15.C, include the following text which was omitted:

The private Microgrid is aligned to the City’s policies including the Climate Smart Plan, and the target of no net new emissions.

3. Page 39, Condition 17 (PG&E Property) [*Change to Existing Posted Language*]

PG&E Property. The subdivision depicted on this Vesting Tentative Map includes an approximately 0.18 acre-parcel, described as “Parcel #1” in the deed recorded November 25, 19326, in Book 797, page 336 of Santa Clara County Records, generally located at the intersection of Cahill Street and West San Fernando Street (“PG&E Property”), and which is subject to the jurisdiction of the California Public Utilities Commission (“CPUC”) under California Public Utilities Code Section 851. PG&E authorized the inclusion of the PG&E Property within the boundary of the Vesting Tentative Map provided that CPUC subsequently confirms that the PG&E Property may be included within the proposed subdivision. As such, Subdivider shall be required to provide documentation demonstrating that CPUC has provided the requested authorization to the Public Works Director. If Subdivider fails to provide this documentation within twenty-four months of the effective date of this Resolution, the PG&E Property shall be automatically deemed to be excluded from the boundary of the subdivision shown on this Vesting

Tentative Map, and Subdivider shall not be permitted to file a phased final map that ~~includes the PG&E Property reflects the parcelization shown on Sheets _____~~. Upon a request of the Subdivider, and subject to the written consent of PG&E, the Public Works Director may extend the twenty-four month period described in the preceding sentence for an additional period not to exceed twelve months.

4. Page 39, Condition 17 (PG&E Property) *[Alternative Language: note, this language reverts back to original language]:*

... which is owned by Pacific Gas & Electric Company ("PG&E") and which is subject to the jurisdiction of the California Public Utilities Commission ("CPUC") under California Public Utilities Code Section 851. PG&E authorized the inclusion of the PG&E Property within the boundary of the Vesting Tentative Map provided that CPUC subsequently confirms that the PG&E Property may be included within the proposed subdivision. As such, Subdivider shall be required to provide documentation demonstrating that CPUC has provided the requested authorization to the Public Works Director. If Subdivider fails to provide this documentation within twenty-four months of the effective date of this Resolution, the PG&E Property shall be automatically deemed to be excluded from the boundary of the subdivision shown on this Vesting Tentative Map, and Subdivider shall not be permitted to file a phased final map that ~~includes the PG&E Property reflects the parcelization shown on Sheets _____~~. Upon a request of the Subdivider, and subject to the written consent of PG&E, the Public Works Director may extend the twenty-four month period described in the preceding sentence for an additional period not to exceed twelve months.

DA Ordinance

1. Page 6, 3rd WHEREAS clause:

"approval of Major Encroachment Permits (Resolution Nos. ____)"

HP Permit Amendment

1. Replace scan with electronic version

Landmark Boundary Adjustment (Depot)

1. Replace scan with electronic version

Landmark Boundary Adjustment (Water Works)

1. Replace scan with electronic version

CIMP Resolution

1. Top of Page 2

“approval of Major Encroachment Permits (Resolution No~~s~~. ____)”

2. Top of Page 3”

... which is further described in the Conformance Review Implementation Guide (“Implementation Guide”), dated *[update with final approved date]* April 2021 and

MEP Resolution (District Systems)

1. Page 1, 2nd WHEREAS clause, add the following (note, the Resolution reference here should be singular):

“approval of the Construction Impact Mitigation Plan (Resolution No. ____);
approval of Major Encroachment Permits (Resolution No. ____); and ...”

MEP Resolution (Streetscape)

1. Page 1, 2nd WHEREAS clause, add the following (note, the Resolution reference here should be singular):

“approval of the Construction Impact Mitigation Plan (Resolution No. ____);
approval of Major Encroachment Permits (Resolution No. ____); and ...”

Street Vacations (all 5 resolutions)

1. Page 1, companion recital

“approval of Major Encroachment Permits (Resolution No~~s~~. ____)”

2. Exhibit B to all Resolutions:

“On these five Subject Portions the vehicular component of the right of way will be vacated, and the bicycle and pedestrian components of the ROW will remain in place, which allows them to continue to function consistently with the proposed open space plan as *defined set forth* in the DWDSG. . .”