

**From:** [Phan, Johnny](#)  
**To:** [Downtown West Project](#)  
**Subject:** FW: DW -- Ordinance/Agenda Clean-up Edits  
**Date:** Wednesday, June 9, 2021 3:23:49 PM  
**Attachments:** [Ordinance Clean-up Edits \(6-01-21\).docx](#)

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**From:** MWChan@perkinscoie.com <MWChan@perkinscoie.com>  
**Sent:** Tuesday, June 1, 2021 10:42 AM  
**To:** Phan, Johnny <Johnny.Phan@sanjoseca.gov>  
**Cc:** Gray, Matthew S. (SFO) <mgray@perkinscoie.com>  
**Subject:** DW -- Ordinance/Agenda Clean-up Edits

[External Email]

Hi Johnny,

Attached are clean-up edits to the PD Zoning, DA, and T20 ordinances and proposed language to include in the updated agenda. Please let us know if you have any questions. Thank you,

Michelle

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## PD Zoning Ordinance

- Page 14, paragraph "C": GDP should be dated "May 2021"
- Page 16, paragraph "J". Change date of Implementation Guide to "May 12, 2021"
- Page 23, paragraph 2b. Strike Resolution No. 80025. This should just refer to the District Systems MEP which is Resolution No. "80024"
- Please make sure there are line spaces between all WHEREAS clauses.
- Page 27-28, paragraph A (PG&E Condition), please correct as follows:

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 CPUC has provided the requested authorization.

The zoning for the PG&E Property shall remain Light Industrial until Google provides documentation to the Director of PBCE demonstrating that CPUC has provided the requested authorization.

- Page 28, paragraph B (Existing Uses and Structures). Keep existing text and include alternative language below in red.

Existing Uses and Structures. The City Council does not intend to prohibit any uses and/or structures the City is obligated to allow on Lots ABC pursuant to the Arena Management Agreement by and between the City of San José and San José Arena Management, LLC, as amended through December 4, 2018 (the "AMA"). The uses the City is required to allow on such property under the AMA, which include parking and supporting entertainment uses, are consistent with General Plan as amended through the effective date of this ordinance, including the applicable Downtown and Commercial Downtown land use designations. All uses and structures the City is required to allow on such property under the AMA, to the extent such uses or structures do not conform to the requirements of this ordinance, the applicable GDP and/or the applicable PD Permit, are deemed legal non-conforming uses or legal non-conforming

structures. The ordinances applicable to legal nonconforming uses and legal nonconforming structures, which are in Chapter 20.150 of the Municipal Code, as that chapter may be amended, shall be applied to such legal nonconforming uses and structures in a manner that does not breach any obligation of the City under the AMA with respect to Lots ABC. Sections 20.150.030 and 20.150.300 through 20.150.320 of the Municipal Code shall not be applicable to such property. Further, if requested by Sharks Sports & Entertainment, the Director of PBCE or designee, in consultation with the City Attorney, may reduce, adjust, or waive any requirement that is necessary to enable the City to comply with its obligations under the AMA.

If approval by the City Council of amendments to the AMA occurs pursuant to the May 25, 2021 Settlement Agreement and Release by and between the City of San Jose, Google, LLC, and Sharks Sports & Entertainment, Inc. within the time established therein, the following version of Section 6, paragraph B shall replace the version of Section 6, paragraph B above.

Existing Uses and Structures. The City Council does not intend to prohibit any uses and/or structures the City is obligated to allow on Lots ABC pursuant to the Arena Management Agreement by and between the City of San José and San José Arena Management, LLC as amended through December 4, 2018 (the “AMA”). The uses the City is required to allow on such property under the AMA, which include parking and supporting entertainment uses, are consistent with the General Plan as amended through the effective date of this ordinance, including the applicable Downtown and Commercial Downtown land use designations. The requirements of this ordinance, the GDP, the PD Permit, and Municipal Code chapter 20.150 shall not apply to Lots ABC (and Lots ABC shall retain their existing Industrial / Heavy Industrial zoning) until such time as the Project Sponsor acquires fee title or any other legal or equitable interest that includes a right to possession of Lots ABC.

#### **Agenda: PD Zoning Ordinance**

- **Agenda text** of the action being taken at second reading on PD Zoning Ordinance should state:

“Adoption of ordinance on second reading, with instructions to clerk to conform ordinance to actions taken relative to amendments to the Arena Management Agreement.”

### **DA Ordinance**

- Title of Resolution: Correct spelling of “Reimbursement”

### **Agenda: DA Ordinance**

- **Agenda text** of the action being taken at second reading on PD Zoning Ordinance should state:

“Adoption of ordinance on second reading, with instructions to clerk to conform the Development Agreement prior to its execution in accordance with actions taken relative to amendments to the Arena Management Agreement. (Redline text in Section 3.3, 14.2, 14.6 (14.7 in redline), and Exhibit K to be accepted only if amendments to AMA approved by Council pursuant to City/Google/SSE Settlement Agreement & Release within the time established therein.)”

### **T20 Ordinance**

- Page 3, update dates of PD Permit documents as follows:

**WHEREAS**, the specific land use regulations and development standards applicable to the Downtown West PD Zoning District are established in the Downtown West General Development Plan (“GDP”), dated May ~~April~~ 2021, which guides the content of the Downtown West Planned Development Permit (“Downtown West PD Permit”), which consists of the following components, **as such documents may be amended from time to time**: Downtown West Design Standards and Guidelines (“DWDSG”) dated March 1, 2021 **(and the Errata dated May 7, 2021)**, Downtown West Improvement Standards (“DWIS”) dated April 5, 2021, Conceptual Infrastructure Plan Sheets dated March 31, 2021, and the Conformance Review Implementation Guide (“Implementation Guide”) dated **May 12** ~~April 9~~, 2021 (collectively, these documents are referred to as the “Downtown West PD Permit”); and