

County of Santa Clara
Airport Land Use Commission



DATE: March 24, 2021, Regular Meeting
TIME: 6:00 PM
PLACE: **By Virtual Teleconference Only**

AGENDA

Pursuant to the provisions of California Governor's Executive Order N-29-20, issued on March 17, 2020, this meeting will be held by teleconference only. No physical location will be available for this meeting; however, members of the public will be able to participate in the meeting as noted below.

To address the Commission in public comment, please review the Public Comment Instructions below, then access the teleconference at <https://sccgov-org.zoom.us/j/98230805293> (recommended) or (669) 900-6833, meeting ID 98230805293# (participant ID not required).

Further instructions for accessing the teleconference will be posted online at: www.sccgov.org/bosmeeting

Notice to the Public - Meeting Procedures

In compliance with the Americans with Disabilities Act and the Brown Act, those requiring accommodations in this meeting should notify the Clerk of the Airport Land Use Commission no less than 24 hours prior to the meeting at (408) 299-5001, or TDD (408) 993-8272.

Please note: To contact the Commission and/or to inspect any disclosable public records related to an open session item on a regular meeting agenda and distributed by the County to all or a majority of the Board of Supervisors (or any other commission, or board or committee) less than 72 hours prior to that meeting, visit our website at <http://www.sccgov.org> or contact the Clerk at (408) 299-5001 or 70 W. Hedding Street, San Jose, CA 95110, during normal business hours.

Persons wishing to address the Commission are requested to limit their comments to two minutes. Groups of speakers on a specific item are asked to limit their total presentation to a maximum of twenty minutes for each side of the issue.

Public Comment Instructions

Members of the Public may provide public comments at this meeting as follows:

- Written public comments may be submitted by email to bnc@cob.sccgov.org. Written comments will be distributed to the Commission as quickly as possible, however, please note that documents may take up to 24 hours to be posted to the agenda outline.
- Spoken public comments will be accepted through the teleconference meeting. To address the Commission, click on the link above for the appropriate meeting to access the Zoom-based meeting. Please read the following instructions carefully.
 1. You may download the Zoom client or connect to the meeting in-browser. If using your browser, make sure you are using a current, up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers including Internet Explorer.
 2. You will be asked to enter an email address and name. The Clerk requests that you identify yourself by name as this will be visible online and will be used to notify you that it is your turn to speak.
 3. When the Chairperson calls for the item on which you wish to speak, click on "raise hand." The Clerk will activate and unmute speakers in turn. Speakers will be notified shortly before they are called to speak. (Call in attendees press *9 to request to speak, and *6 to unmute when prompted.)
 4. When called to speak, please limit your remarks to the time limit allotted.

Opening

1. Call to Order/Roll Call.
2. Public Comment.

This item is reserved for persons desiring to address the Commission on any matter within the subject matter jurisdiction of the Commission that is not on this agenda. Members of the public who wish to address the Commission on any item not listed on the agenda should request to speak at this time. Individuals will be called to speak in turn.

Speakers are limited to the following: three minutes if the Chairperson or designee determines that five or fewer persons wish to address the Commission; two minutes if the Chairperson or designee determines that between six and fourteen persons wish to address the Commission; and one minute if the Chairperson or designee determines that fifteen or more persons wish to address the Commission.

The law does not permit Commission action or extended discussion of any item not on the agenda except under special circumstances. If Commission action or response is requested, the Commission may place the matter on a future agenda.

Regular Agenda - Items for Discussion

3. Consider recommendations relating to a request from the County of Santa Clara relating to Ordinance amendments to Section 1.20.070 of the Zoning Ordinance of the County of Santa Clara, Appendix I (Zoning), regarding County and other public agency projects. Location: Countywide. (County of Santa Clara File No. PLN20-10-CWP) (ID# 105091)

Possible action:

- a. Find the Ordinance Amendments consistent with the policies contained within the Countywide Comprehensive Land Use Plan (CLUP).

OR

- b. Find the Ordinance Amendments inconsistent with the policies contained within the Countywide CLUP.

4. Consider referral from the City of Santa Clara relating to the El Camino Real Specific Plan. (ID# 105138)

Possible action:

- a. Find the Specific Plan consistent with the policies contained within the San Jose International Airport (SJC) Comprehensive Land Use Plan (CLUP).

OR

- b. Find the Specific Plan inconsistent with the policies contained within the SJC CLUP.

5. Consider Referral from the City of San Jose for a Zoning Amendment to Title 20 of the City of San Jose Zoning Code affecting San Jose International and Reid-Hillview Airports to create new zoning districts that set the standards for future development. (ID# 105143)

Possible action:

- a. Find the Zoning Amendment consistent with the policies contained within the San Jose International Airport (SJC) and Reid-Hillview Airport (RHV) Comprehensive Land Use Plans (CLUPs).

OR

- b. Find the Zoning Amendment inconsistent with the policies contained within the SJC and RHV CLUPs.

6. Provide comments relating to the proposed decision and findings by the City of San Jose to overrule the December 16, 2020 County of Santa Clara Airport Land Use Commission (ALUC) determination for the Downtown West Mixed-Use General Plan Amendment and Rezoning project and direct County staff to forward ALUC comments to the City of San Jose. (ID# 105155)
7. Provide comments relating to the proposed decision and findings by the City of San Jose to overrule the December 16, 2020 County of Santa Clara Airport Land Use Commission (ALUC) determination for the Diridon Station Area Plan Amendment and Rezoning project and direct County staff to forward ALUC comments to the City of San Jose. (ID# 105213)
8. Discuss and approve Airport Land Use Commission Work Plan for Fiscal Year July 1, 2021 through June 30, 2022 (FY 2021-2022) and Accomplishments for FY 2020-2021, to be submitted to the Clerk of the Board by April 1, 2021, and subsequently forwarded to the Board of Supervisors through the Housing, Land Use, Environment, and Transportation Committee. (ID# 105171)
9. Discuss 2021 Comprehensive Land Use Plans amendments.
10. Receive report from Chairperson relating to Commission activities. (Walter Windus)
11. Receive report from the Department of Planning and Development. (Mark Connolly)
12. Receive report from Airport Planner, San Jose International Airport. (Ryan Sheelen)
13. Receive report relating to plans for the future of Reid-Hillview Airport pursuant to actions taken by the Board of Supervisors. (Ken Betts)
14. Receive report from Assistant Director of County Airports. (Ken Betts)
15. Receive report from Moffett Federal Airfield representative. (David Satterfield)
16. Receive report relating to Palo Alto Airport. (Mark Connolly)
17. Propose future agenda items.

Announcements**18. Announcements and correspondence:**

- a. Commissioners' announcements.
- b. Reminder: Annual Form 700 Statements of Economic Interests are due April 1, 2021.
- c. There are currently no vacancies on the Commission. For internet access to the vacancies list and applications, please visit www.sccgov.org/vacancies.
- d. The County of Santa Clara provides reimbursement to appointed Commissioners for family care expenses incurred during the time spent performing their official County duties. For additional information please contact the Office of the Clerk of the Board at (408) 299-5001.

Adjourn

19. Adjourn to the next regular meeting on Wednesday, April 28, 2021 at 6:00 p.m. in Room 157, County Government Center, 70 W. Hedding Street, San Jose, or by virtual teleconference.

County of Santa Clara
Department of Planning and Development



105091

DATE: March 24, 2021
TO: Airport Land Use Commission
FROM: Mark Connolly, Senior Planner / Deputy Zoning Administrator
SUBJECT: County of Santa Clara and Public Agency Ordinance Amendments

RECOMMENDED ACTION

Consider recommendations relating to a request from the County of Santa Clara relating to Ordinance amendments to Section 1.20.070 of the Zoning Ordinance of the County of Santa Clara, Appendix I (Zoning), regarding County and other public agency projects. Location: Countywide. (County of Santa Clara File No. PLN20-10-CWP)

Possible action:

- a. Find the Ordinance Amendments consistent with the policies contained within the Countywide Comprehensive Land Use Plan (CLUP).

OR

- b. Find the Ordinance Amendments inconsistent with the policies contained within the Countywide CLUP.

PROJECT DESCRIPTION

The proposed Zoning Ordinance amendments include the following:

- Exempt land uses and development on lands owned or leased by the County of Santa Clara ("County"), or any district for which the Board of Supervisors acts as the governing body of the district, unless the Board of Supervisors expressly subjects a specific parcel or parcels to the Zoning Ordinance.
- Exempt land uses and development of other local agencies on lands owned or leased by the County that constitute outdoor recreation and are compatible with the natural environment from the Zoning Ordinance.
- Authorize the Board of Supervisors to exempt any other land use or development of a local agency from the Zoning Ordinance.

REASONS FOR RECOMMENDATION

As a County-wide Ordinance amendment, the adoption affects lands within the entire County of Santa Clara. Lands within any of the five airports that have County, or other Agency-owned lands within the Airport Influence Area (AIA) are affected. Therefore, for the purposes of this review, the County-wide CLUP, which includes all five-airport specific CLUP's, is the policy document applicable for the ALUC's consistency determination. This includes the San Martin Airport, which is in the unincorporated area.

Pursuant to State Law, anytime a change to a Zoning Ordinance proposed within the Airport Influence Area (AIA) of an adopted Comprehensive Land Use Plan (CLUP), a referral must be made to the County ALUC for a consistency determination. The jurisdiction must refer the application to the ALUC to provide a consistency determination with the appropriate CLUP policies prior to final adoption.

County Land Use and Development Projects

The County constructs and operates facilities located both in the unincorporated area and within city boundaries. For example, the County owns and operates the County of Santa Clara Animal Shelter located at 12370 Murphy Ave, unincorporated San Martin, which is immediately south of San Martin Airport and within the AIA of San Jose International Airport.

The County also operates facilities such as the Elmwood Correctional Complex in the City of Milpitas. Also, Valley Medical Center health facilities operate in several jurisdictions, including San José, Morgan Hill, Gilroy, and the unincorporated area. Under existing State law (Gov. Code § 53090 *et seq.*) these facilities are exempt from a city's zoning and building ordinances.

Similarly, the County builds and operates other facilities within the County unincorporated areas, such as County Park facilities and various Capital projects. These facilities in unincorporated areas may be exempt from any and all provisions of the Zoning Ordinance under Section 1.20.070(B) and by action of the Board of Supervisors. The proposed ordinance would amend Section 1.20.070(B) of the County Zoning Ordinance to exempt land uses and development on lands owned or leased by the County from the Zoning Ordinance. The Board of Supervisors, however, may subject a land use or development to the Zoning Ordinance for a specific parcel or parcels. The amendment applies to lands owned or leased by the County of Santa Clara, or any district for which the Board of Supervisors acts as the governing body of the district, such as the Vector Control District, Fire District, and Sanitation District No. 2-3 ("Dependent Districts").

Other Public Agency Outdoor Recreation Projects

The current County Zoning Ordinance does not expressly address low-intensity outdoor recreation facilities and uses managed by public agencies. These types of land uses are managed by agencies such as the Santa Clara Valley Open Space Authority (OSA) and Midpeninsula Regional Open Space District (Midpen). Public agencies with a focus on public open space often acquire land for open space preservation and allow public access through trailheads and public trails. The types of improvements and activities associated with public agency managed outdoor recreation includes passive parks, open space preserves, ranger outposts, trails and trail heads, related parking, public restrooms, signage, kiosks, and

information booths. Outdoor recreation that is compatible with the natural environment, and managed by public agencies, supports the resource conservation goals of the County General Plan and conforms with the policy objectives of the County's rural land use designations and zoning districts. The amendments would exempt these publicly managed land uses and development from the Zoning Ordinance. Any publicly managed outdoor recreational uses that are not compatible with the natural environment and, by extension not low-intensity, such as visitor and education centers and horse boarding facilities, would remain subject to the Zoning Ordinance, unless the Board of Supervisors exempts this use, or any other land use and development not constituting outdoor recreation and compatible with the natural environment, from the Zoning Ordinance on a case-by-case basis.

However, County and other public agencies would continue to be subject building permit requirements.

Exhibits of strike though and clean copy versions of these proposed Ordinance amendments are attached as Attachment A and B.

CONSISTENCY WITH THE SANTA CLARA COUNTY CLUPS

The proposed Zoning Ordinance amendments do not propose any project-specific development. Therefore, the ALUC does not have a specific project to apply the policies of safety, height and noise to. A potential aviation land use conflict could arise if development, or expansion were proposed on land owned or leased by the County or Dependent Local Agency / Districts, within the AIA of one of the five airports in Santa Clara County, and no ALUC review were performed, because it was exempted from County Ordinances.

For example, the County Animal shelter is almost entirely located within the Runway Protection Zone (RPZ), south of San Martin Airport. Without ALUC review and application of CLUP policies, an expansion could result in a significant aviation risk.

Although the proposed Zoning Ordinance amendments exempt development from the application of the Zoning Ordinance, development is not exempted from the requirement to obtain a Building Permit. Sec. A1-7. - Territorial applicability of Code of the County of Santa Clara Ordinance states:

This Ordinance "Code" is applicable in the unincorporated territory of the County of Santa Clara and to that territory within the corporate limits of any city over which the county has jurisdiction or control by virtue of the Constitution or any law, by reason of ownership or control of property, or by virtue of any agreement between the county and any city within the territorial limits of the county.

(Ord. No. NS-300.735, § 1, 10-19-04)

The Building Code is part of the County Ordinance Code and therefore this provision still requires the applicability of a Building Permit for any development projects undertaken by

the County and other public agencies affected by the proposed amendments. When a Building permit is processed, part of that review is by the Planning Department, which as part of its review, use established tools to identify whether a project is located within an AIA of an airport. Although this would be late to identify a potential aviation land use conflict, the Building Permit review process would be a safety net to ensure the applicable CLUP policy are applied to the project.

Existing provisions of the County Zoning Ordinance and the County General Plan require that the proposed amendments must maintain consistency with state and federal law and cannot conflict with the general purposes of the Zoning Ordinance. This further provides a requirement for the County Planning Department to perform ALUC policy review.

Overall, exempting development projects by the County, the Dependent Districts, and low-intensity public agency recreation projects will not eliminate the ability for the County Planning Department to review a project for aviation land use impacts. The requirement for any agency to obtain a Building Permit will be where the ALUC review can occur and applications ensured to be consistent with the policies contained within the Countywide Comprehensive Land Use Plan (CLUP).

STEPS FOLLOWING ACTION:

The project was heard by the County of Santa Clara Planning Commission on February 25, 2021, who made a favorable recommendation to the County Board of Supervisors. Following the determination of consistency with the ALUC CLUP, the ALUC recommendations will be forwarded to the County Planning Office to include in Board of Supervisors actions in April 2021.

ATTACHMENTS:

- Attachment A - Section 1.20.070(B) Amendments (Strikethrough) (PDF)
- Attachment B - Section 1.20.070(B) Amendments (Clean) (PDF)

ORDINANCE NO. NS-1200.377
AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA AMENDING APPENDIX I, ZONING, OF THE SANTA CLARA COUNTY ORDINANCE CODE RELATING TO COUNTY AND OTHER LOCAL AGENCY PROJECTS.

Summary

This ordinance amends Appendix I, Zoning, of the County of Santa Clara Ordinance Code, relating to the review process for land uses and development on lands owned or leased by the County, or any district for which the Board of Supervisors acts as the governing body of the district, and land uses and development on lands owned or leased by other local agencies.

THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA ORDAINS AS FOLLOWS:

SECTION 1. Section 1.20.070 of Chapter 1.20, Article 1 of Appendix I, Zoning, of the County of Santa Clara Ordinance Code, is amended as follows:

§ 1.20.070 Compliance

The following provisions govern compliance with the zoning ordinance.

- A. **General.** No person shall use or allow the use of any land, building or structure except in strict compliance with the provisions of this zoning ordinance, including the conditions of any permit issued pursuant to this zoning ordinance.
- ~~B. **Exemption for County-Owned Lands.** The Board of Supervisors shall have the authority to exempt land uses and development that are located on County-owned lands from any and all provisions of the zoning ordinance.~~
- B. **County and Local Agency Land Uses and Development.** The following rules govern the application of the zoning ordinance to County and Local Agency land uses and development in unincorporated county:
 - 1. **County.** Land uses and development on lands owned or leased by the County or any district for which the Board of Supervisors acts as the governing body of the district shall be exempt from the zoning ordinance unless the Board expressly subjects the land use or development on a specific parcel or parcels to the zoning ordinance.

2. **Local Agency.** Any land use or development of a Local Agency, as defined in section 53090(a) of the Government Code except a Local Agency subject to § 1.20.070(B)(1), that constitutes outdoor recreation and is compatible with the natural environment including, but not limited to, passive parks, open space preserves, ranger outposts, trails and trail heads and related parking, public restrooms, signage, kiosks, and information booths, shall be exempt from the zoning ordinance. The Board of Supervisors may exercise its discretion to exempt any other land use or development of a Local Agency from the zoning ordinance.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California on _____ by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

MIKE WASSERMAN, President
Board of Supervisors

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors
ATTEST:

Megan Doyle
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

Elizabeth G. Pianca
Lead Deputy County Counsel

ORDINANCE NO. NS-1200.377

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA AMENDING APPENDIX I, ZONING, OF THE SANTA CLARA COUNTY ORDINANCE CODE RELATING TO COUNTY AND OTHER LOCAL AGENCY PROJECTS.

Summary

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§ 1.20.070 Compliance

The following provisions govern compliance with the zoning ordinance.

- A. **General.** No person shall use or allow the use of any land, building or structure except in strict compliance with the provisions of this zoning ordinance, including the conditions of any permit issued pursuant to this zoning ordinance.
- B. **County and Local Agency Land Uses and Development.** The following rules govern the application of the zoning ordinance to County and Local Agency land uses and development in unincorporated county:
 1. **County.** Land uses and development on lands owned or leased by the County or any district for which the Board of Supervisors acts as the governing body of the district shall be exempt from the zoning ordinance unless the Board expressly subjects the land use or development on a specific parcel or parcels to the zoning ordinance.
 2. **Local Agency.** Any land use or development of a Local Agency, as defined in section 53090(a) of the Government Code except a Local Agency subject to § 1.20.070(B)(1), that constitutes outdoor recreation and is compatible with the natural environment including, but not limited to, passive parks, open space preserves, ranger outposts, trails and trail heads and related parking, public

restrooms, signage, kiosks, and information booths, shall be exempt from the zoning ordinance. The Board of Supervisors may exercise its discretion to exempt any other land use or development of a Local Agency from the zoning ordinance.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California on _____ by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

MIKE WASSERMAN, President
Board of Supervisors

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors
ATTEST:

Megan Doyle
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

Elizabeth G. Pianca
Lead Deputy County Counsel

County of Santa Clara
Department of Planning and Development



105138

DATE: March 24, 2021

TO: Airport Land Use Commission

FROM: Mark Connolly, Senior Planner / Deputy Zoning Administrator

SUBJECT: Request from the City of Santa Clara for review of the El Camino Real Specific Plan

RECOMMENDED ACTION

Consider referral from the City of Santa Clara relating to the El Camino Real Specific Plan.

Possible action:

- a. Find the Specific Plan consistent with the policies contained within the San Jose International Airport (SJC) Comprehensive Land Use Plan (CLUP).

OR

- b. Find the Specific Plan inconsistent with the policies contained within the SJC CLUP.

REASONS FOR RECOMMENDATION

The City proposes a Specific Plan to create a framework for the development for the El Camino Real focus area, as designated in the City's General Plan, would apply to approximately 316 acres located on both sides of the El Camino Real between Lafayette Street and Halford Avenue in the City of Santa Clara. The Specific Plan would include the development of up to 6,200 housing units, compared with existing conditions, and a reduction of approximately 395,000 square feet of commercial space, when compared with the existing General Plan land use designations (See Attachment A).

Pursuant to State Law, anytime a Specific Plan is proposed within the Airport Influence Area (AIA) of an adopted CLUP, a referral must be made to the County ALUC for a consistency determination. The City must refer the application to the ALUC to provide a consistency determination with the appropriate CLUP policies prior to final approval.

Of the 316-acre area spanning El Camino Real, only the last 6 easterly blocks between Monroe Street and The Alameda are within the AIA of SJC. This area is located approximately three quarters of a mile west of the Airport.

The following is a consistency analysis of the Project with the San Jose International Airport Comprehensive Land Use Plan (CLUP):

Safety:

Safety of people on the ground and in the air and the protection of property from airport-related hazards are among the responsibilities of the Airport Land Use Commission. The 2002 Caltrans Handbook presents guidelines for the establishment of airport safety areas in addition to those established by the FAA.

Airport safety zones are established to minimize the number of people exposed to potential aircraft accidents in the vicinity of the Airport by imposing density and use limitations within these zones. The safety zones are related to runway length and expected use.

As can be seen on Attachment B, the site is located outside of all safety zones for SJC. Therefore, none of the safety policies contained within the SJC CLUP are applicable to the proposed Project.

Noise:

The SJC CLUP noise contours use CNEL for depicting noise disruption from aviation activity, due to the penalty added during nighttime activities where aviation noise disruption could affect people the most. The SJC CLUP uses 65, 70 and 75 decibel CNEL noise contours and includes different noise mitigation based on the type of use exposed to aviation noise.

As seen on Attachment B, the project is located outside of all noise contours for SJC. Therefore, none of the SJC CLUP noise policies apply and no additional open space is required.

Height:

Airport vicinity height limitations are required to protect the public safety, health, and welfare by ensuring that aircraft can safely fly in the airspace around an airport. This protects both those in the aircraft and those on the ground who could be injured in the event of an accident. In addition, height limitations are required to protect the operational capability of airports, thus preserving an important part of National and State aviation transportation systems.

Federal Aviation Regulations (FAR) Part 77, Objects Affecting Navigable Airspace, establishes imaginary surfaces for airports and runways as a means to identify objects that are obstructions to air navigation. Each surface is defined as a slope ratio or at a certain altitude above the Airport elevation. The ALUC uses the surfaces as height restriction boundaries.

As can be seen on Attachment C, there are two areas of the El Camino Real Specific Plan that are within the AIA of SJC that would prescribe height limits. The area along El Camino Real and The Alameda, closest to the Airport, would allow a maximum height of 4-5 stories, or approximately 60 feet above grade. This area is located below the 212 Above Mean Sea Level (AMSL) Part 77 surface. Overall, the maximum height of development allowed in the Specific Plan would not conflict with the FAA FAR Part 77 Surfaces, because a worst-case AMSL height is well below the lowest AMSL Part 77 surface.

Although the maximum allowed building height is well below the lowest Part 77 surface, a FAA No Hazard Determination may be required for some of the taller buildings, depending on how tall they are proposed. Doing so would ensure that future project-specific

development will not be a hazard to aircraft operations. Therefore, staff has included the following recommended condition be added into the El Camino Real Specific Plan:

- Prior to approval of project specific development within the Community Mixed-Use 4-5 story area, City staff shall check with the FAA to ensure a No Hazard Determination is not required. If a No Hazard Determination is required, one shall be obtained prior to the issuance of a building permit.

Avigation Easement:

Avigation Easements provide notice to future owners and occupants of buildings that there will be aviation activity around them. Avigation Easements are important disclosures both for the public and Airfield operators to ensure aviation activity is taken into consideration.

SJC CLUP policy G-5 states: Where legally allowed, dedication of an avigation easement to the City of San Jose on behalf of San Jose International Airport shall be required to be offered as a condition of approval on all projects located within an Airport Influence Area, other than reconstruction projects as defined in paragraph 4.3.7 of the CLUP.

Staff recommends the following Condition of the project's approval:

- Future project-specific development within the Airport Influence Area of San Jose International Airport, shall be required to obtain an avigation easement prior to the issuance of a building permit. The easement shall be similar to that which is shown in Exhibit 1 of the SJC CLUP Appendix and shall be dedicated on behalf of San Jose International Airport.

STEPS FOLLOWING ACTION

Following the determination of consistency with the ALUC CLUP, the ALUC recommendations will be forwarded to the City of Santa Clara Planning Staff to be included in Planning Commission and City Council actions.

ATTACHMENTS:

- Attachment A - ALUC Referral Ltr_El Camino Real Specific Plan (DOCX)
- Attachment B - El Camino Real Specific Plan within the SJC AIA, Noise and Safety (PDF)
- Attachment C - ECR Specific Plan with FAA Part 77 Surfaces (PDF)



**City of
Santa Clara**
The Center of What's Possible

February 17, 2021

Mr. Mark Connolly
Airport Land Use Commission
County Government Center, East Wing
70 West Hedding Street, 7th Floor
San Jose, CA 95110

RE: ALUC Referral Project – El Camino Real Specific Plan

Dear Mr. Connolly:

We would like to schedule an ALUC hearing for the review of the El Camino Real Specific Plan.

The City has been developing a Specific Plan to implement the City's General Plan goals and policies for the El Camino Real corridor. The Specific Plan will provide detailed guidance for the development of future land uses including urban design elements to implement the City's General Plan vision for the transformation of the corridor from low intensity, automobile-oriented uses to a more urban, mixed-use environment supporting a significant residential population.

The Specific Plan for the El Camino Real focus area, as designated in the City's General Plan, would apply to approximately 316 acres located on both sides of the El Camino Real between Lafayette Street and Halford Avenue in the City of Santa Clara. The Specific Plan would include the development of up to 6,200 housing units, compared with existing conditions, and a reduction of approximately 395,000 square feet of commercial space, when compared with the existing General Plan land use designations.

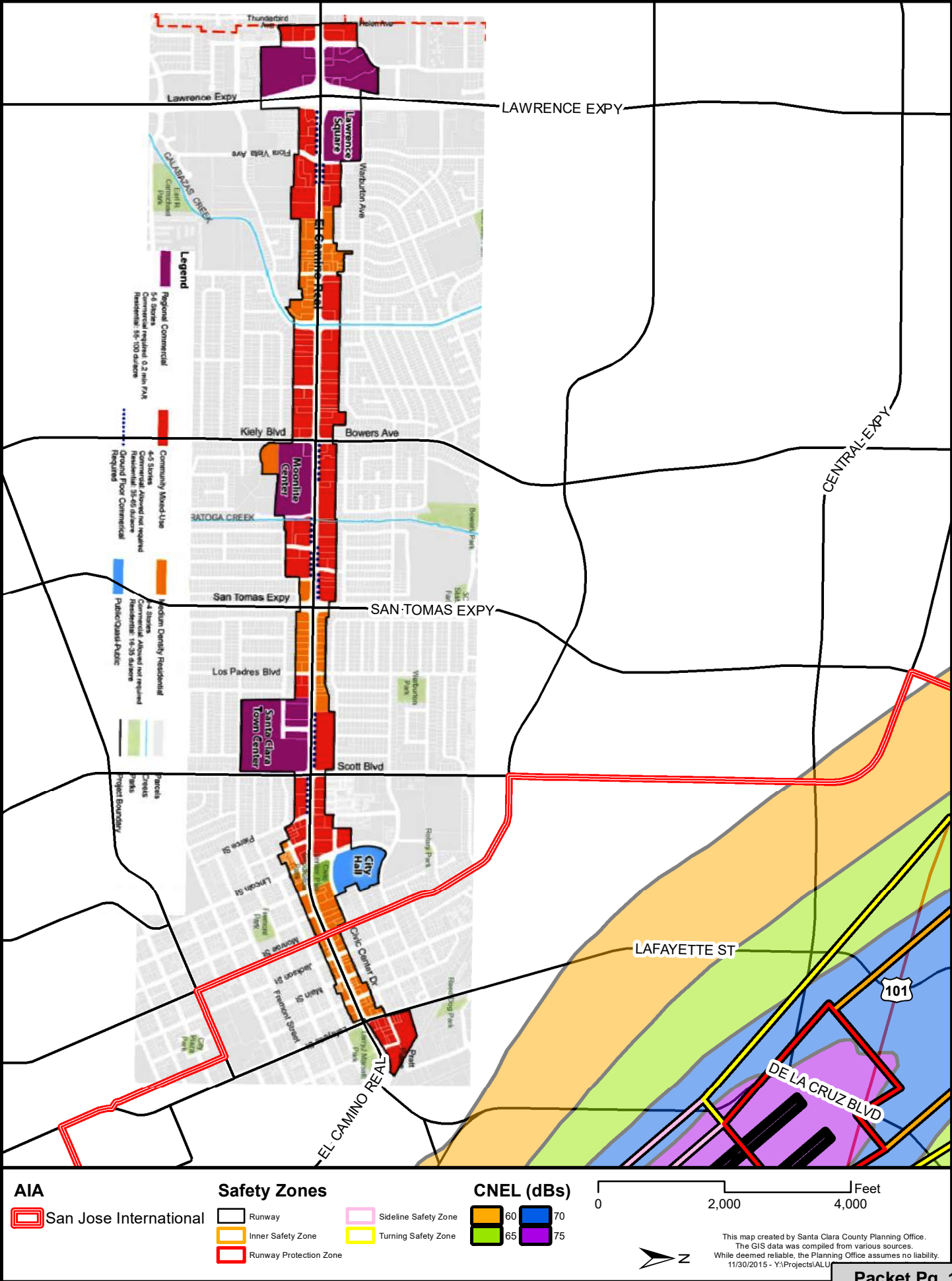
The associated actions would include the adoption of an EIR, along with adoption of associated General Plan Amendments and rezoning for the project area. The draft Specific Plan and Environmental Impact Report can be reviewed on the project website at:

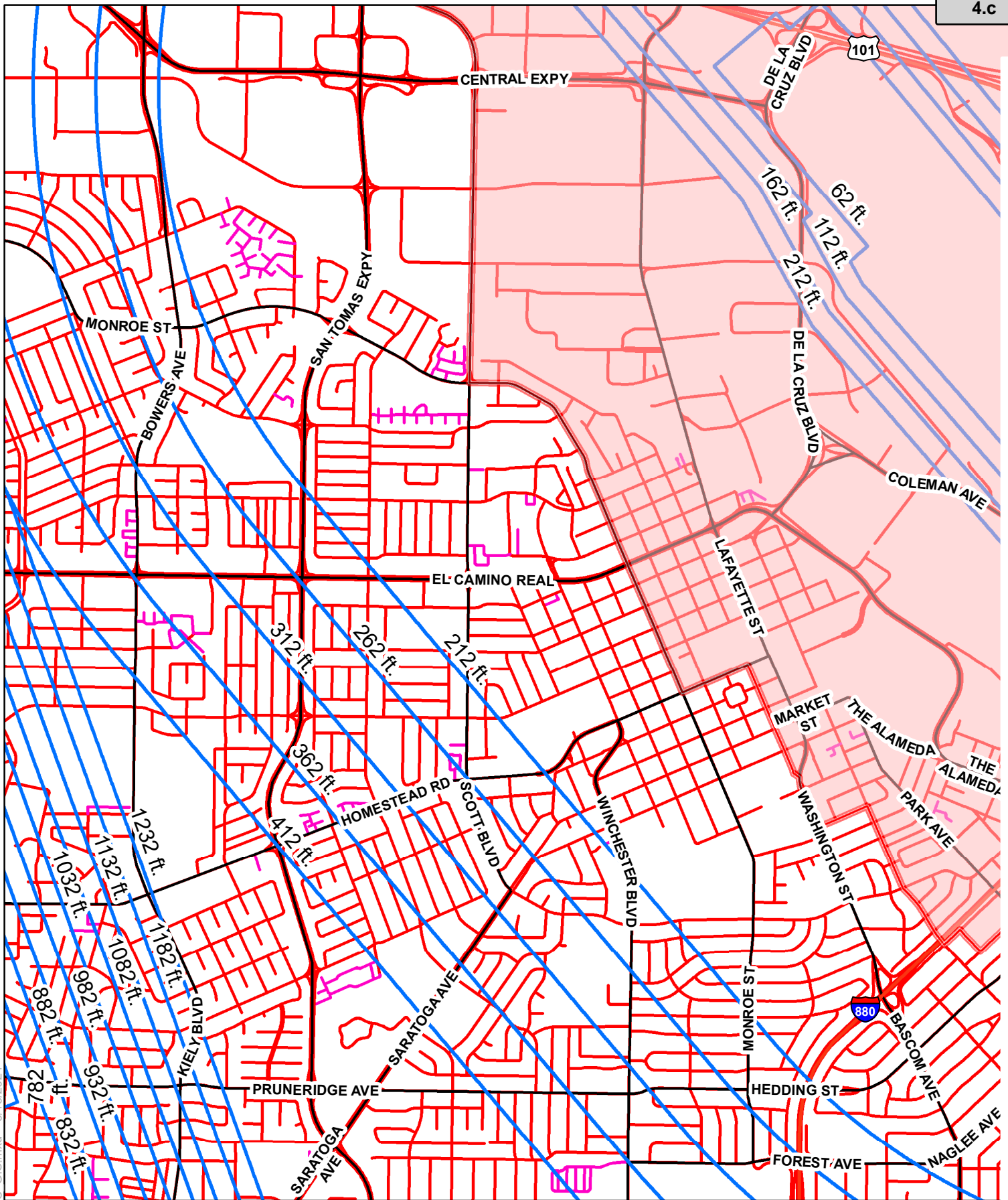
www.santaclaraca.gov/ECR

If there is any other information you need, please email me at lxavier@santaclaraca.gov

Sincerely,

Lesley Xavier
Principal Planner, City of Santa Clara





County of Santa Clara
 Department of Planning and Development
 Planning Office
 County Government Center, East Wing
 70 West Hedding Street, 7th Floor
 San Jose California 95110-1705

El Camino Real Specific Plan with Part 77 Surfaces

0 2,400 4,800
 Feet

County of Santa Clara
Department of Planning and Development



105143

DATE: March 24, 2021

TO: Airport Land Use Commission

FROM: Mark Connolly, Senior Planner / Deputy Zoning Administrator

SUBJECT: City of San Jose Zoning Ordinance Amendment for Urban Village and Mixed-Use Zoning Districts

RECOMMENDED ACTION

Consider Referral from the City of San Jose for a Zoning Amendment to Title 20 of the City of San Jose Zoning Code affecting San Jose International and Reid-Hillview Airports to create new zoning districts that set the standards for future development.

Possible action:

- a. Find the Zoning Amendment consistent with the policies contained within the San Jose International Airport (SJC) and Reid-Hillview Airport (RHV) Comprehensive Land Use Plans (CLUPs).

OR

- b. Find the Zoning Amendment inconsistent with the policies contained within the SJC and RHV CLUPs.

REASONS FOR RECOMMENDATION

The project is a City initiated Zoning Amendment that potentially affects lands within the San Jose International and Reid Hillview Airport Influence Area (AIA). As such the amendments are affected by policies of safety, height and noise contained within the Comprehensive Land Use Plan (CLUP's) for San Jose International Airport and Reid Hillview Airport.

Pursuant to State Law, anytime a zoning amendment is proposed within the Airport Influence Area (AIA) of an adopted CLUP, a referral must be made to the County ALUC for a consistency determination. The City must refer the application to the ALUC to provide a consistency determination with the appropriate CLUP policies prior to final approval.

Project Description

The City of San José is proposing an ordinance amending Title 20 of the San José Municipal Code (Zoning Ordinance) to: Add Chapter 20.55 Urban Village and Mixed-Use Zoning

Districts; To revise text for specific use regulations in Chapter 20.80. To add or clarify references to Urban Village and Mixed-use zoning districts to various sections; To revise text to incorporate new zoning districts into existing permit requirements in Chapter 20.100; To revise Table 20-10 in Section 20.10.060, Zoning districts established, and Table 20-270 in Section 20.120.110, Conformance with the general plan, to add Urban Village and Mixed-use zoning districts to the tables; To revise and add definitions in Chapter 20.200; and make other technical, non-substantive, or formatting changes within those section of Title 20 of the San José Municipal Code.

The following is a consistency analysis of the Project with the San Jose International Airport Comprehensive Land Use Plan and Reid Hillview Airport (CLUP's):

Safety:

Safety of people on the ground and in the air and the protection of property from airport-related hazards are among the responsibilities of the Airport Land Use Commission. The 2002 Caltrans Handbook presents guidelines for the establishment of airport safety areas in addition to those established by the FAA.

Airport safety zones are established to minimize the number of people exposed to potential aircraft accidents in the vicinity of the Airport by imposing density and use limitations within these zones. The safety zones are related to runway length and expected use.

San Jose International Airport

As can be seen on Attachment D, none of the sites proposed for new zoning designations are within SJC safety zones. Therefore, none of the safety policies contained within the SJC CLUP are applicable to the proposed Project.

Reid Hillview Airport

As can be seen on Attachment F, none of the sites proposed for new zoning designations are within RHV safety zones. Therefore, none of the safety policies contained within the RHV CLUP are applicable to the proposed Project.

Noise:

The SJC CLUP noise contours use CNEL for depicting noise disruption from aviation activity, due to the penalty added during nighttime activities where aviation noise disruption could affect people the most. The SJC CLUP uses 65, 70 and 75 decibel CNEL noise contours and includes different noise mitigation based on the type of use exposed to aviation noise.

San Jose International Airport

As can be seen on Attachment E, none of the sites proposed for new zoning designations are within SJC noise contours. Therefore, none of the noise policies contained within the SJC CLUP are applicable to the proposed Project.

Reid Hillview Airport

As can be seen on Attachment G, none of the sites proposed for new zoning designations are within RHV noise contours. Therefore, none of the noise policies contained within the RHV CLUP are applicable to the proposed Project.

Height:

Airport vicinity height limitations are required to protect the public safety, health, and welfare by ensuring that aircraft can safely fly in the airspace around an airport. This protects both those in the aircraft and those on the ground who could be injured in the event of an accident. In addition, height limitations are required to protect the operational capability of airports, thus preserving an important part of National and State aviation transportation systems.

Federal Aviation Regulations (FAR) Part 77, Objects Affecting Navigable Airspace, establishes imaginary surfaces for airports and runways as a means to identify objects that are obstructions to air navigation. Each surface is defined as a slope ratio or at a certain altitude above the Airport elevation. The ALUC uses the surfaces as height restriction boundaries.

San Jose International Airport

As can be seen on page 2 and 4 of Attachment A (referral), the Diridon Station Area Urban Village site is proposed for a new zoning district and is within the Diridon Station Area Plan(DSAP) specific plan area. This area allows heights to follow Terminal Instrument Procedures (TERP surfaces), following adoption of TERPS by the City of San Jose City Council in Summer of 2020. The ALUC reviewed the DSAP in December 2020 and found it inconsistent with the SJC CLUP height policies, because the ALUC uses FAA Part 77 surfaces as a height restriction boundary, which are lower than the TERP surfaces.

However, on page 2 and 4 of the referral, the City of San Jose Planning Staff has noted "The development standards set forth in the Urban Village and Mixed-use zoning districts shall not apply to those properties which are located in the Diridon Station Area Plan, and which fall under the Airport Influence Area of San Jose International Airport".

Therefore, the City of San Jose is stating that the subject referral established Zoning districts, but after the zoning districts are adopted through the proposed Ordinance, they will be applied to properties through subsequent rezoning actions that will be referred to the ALUC when required. By doing so, the City of San Jose acknowledges that height is already defined through the DSAP, and the proposed Urban Village Zoning will not prescribe development standards. As previously stated, the ALUC has already deemed the DSAP inconsistent with the heights policies contained in the SJC CLUP and is currently awaiting an Overrule.

Overall, the establishment of an Urban Village Zoning district by itself would create any land use inconsistencies. Potential inconsistencies could result from development standards that are added through project specific rezoning.

Reid Hillview Airport

The closest site proposed for a new Zoning district to RHV Airport is a Mixed-Use Neighborhood district that would allow a maximum height of 45 feet above grade. The

proposed site is located approximately three quarters of a mile south of RHV below the 283 AMSL Part 77 surface. The site area has a topographic elevation of approximately 133 feet AMSL. Therefore, a 45-foot tall building would not conflict with the Part 77 Surfaces.

Avigation Easement:

Avigation Easements provide notice to future owners and occupants of buildings that there will be aviation activity around them. Avigation Easements are important disclosures both for the public and Airfield operators to ensure aviation activity is taken into consideration.

Because there is no project specific development proposed, there is no project to condition an Avigation Easement for.

STEPS FOLLOWING ACTION

Following the determination of consistency with the ALUC CLUP, the ALUC recommendations will be forwarded to the City of San Jose Planning Staff to be included in Planning Commission and City Council actions.

ATTACHMENTS:

- Attachment A - CITY_OF_SAN_JOSE_ALUC_REFERRAL_3_13_2021_REVISED (PDF)
- Attachment B - REVISED_URBAN_VILLAGE_MIXED_USE_ZONING_DISTRICTS_ORDINANCE (PDF)
- Attachment C- Strikethrough comparison Document (PDF)
- Attachment D- SJC Zoning Sites with Safety(PDF)
- Attachment E- SJC Zoning sites with Noise CNEL (PDF)
- Attachment F- RHV Zoning sites with Safety (PDF)
- Attachment G- RHV Zoning sites with Noise CNEL (PDF)



Planning, Building and Code Enforcement
PLANNING DIVISION

March 8, 2021

Mark J. Connolly
*Senior Planner / Deputy Zoning Administrator/
Airport Land Use Commission Program Manager*
County of Santa Clara
Planning Division
70 W. Hedding Street
San Jose, CA 95110

Dear Mr. Connolly:

RE: City of San Jose Urban Village and Mixed-Use Zoning Districts

In accordance with California Public Utilities Code Section 21676(b) the City of San José is referring proposed changes to the Zoning Ordinance (Title 20) to you for a determination of the proposed changes' consistency with Santa Clara County's adopted Comprehensive Land Use Plans (CLUPs) for Norman Y. Mineta San José International Airport (Mineta Airport) and Reid-Hillview Airport.

The Zoning Ordinance included in this referral does not include any rezoning actions. The proposed ordinance creates new zoning districts that set the standards for future development. After these zoning districts are adopted through this ordinance, they will be applied to property through subsequent rezoning actions that will be referred to the ALUC when required. The maps included in this referral highlight the existing General Plan land use designations which the proposed zoning districts will conform with.

The City Council hearing for these items will be held on May 11, 2021. For the City to consider your comments, please respond within 60 days of receipt of this letter. Please submit comments on or before Friday, May 7, 2021.

If you have any comments or questions, please feel free to contact me by e-mail at brent.carvalho@sanjoseca.gov or on my direct line at 408-535-6862. Thank you.

Sincerely,

Brent Carvalho
Planner, Project Manager

Attachments

1. Project description
2. Maps
3. Draft ordinance language

PROJECT DESCRIPTION

An ordinance of the City of San José amending Title 20 of the San José Municipal Code (Zoning Ordinance) to: Add Chapter 20.55 Urban Village and Mixed-Use Zoning Districts; Revise text for specific use regulations in Chapter 20.80 to add or clarify references to Urban Village and Mixed-use zoning districts to various sections; Revise text to incorporate new zoning districts into existing permit requirements in Chapter 20.100; Revise Table 20-10 in Section 20.10.060, Zoning districts established, and Table 20-270 in Section 20.120.110, Conformance with the general plan, to add Urban Village and Mixed-use zoning districts to the tables; Revising and adding definitions in Chapter 20.200; And make other technical, non-substantive, or formatting changes within those section of Title 20 of the San José Municipal Code.

BACKGROUND

The current scope of work represents the “next step” of a multiyear effort to bring the Zoning Ordinance into conformance with the Envision San José 2040 General Plan. The first phase of this work was approved by City Council on June 25th, 2019, to begin the process to align the zoning ordinance with the General Plan. As a charter city, the City of San Jose has never been required to have the General Plan and Zoning Ordinance in alignment, however, recent direction by City Council as well as California State Legislature through SB 1333 has made the effort a top priority.

The City of San José's first general plan, referred to as General Plan '75, was adopted in March 1976. That General Plan was then replaced by the Horizon 2000 General Plan, and again updated and replaced by the 2020 General Plan. The current General Plan, Envision San José 2040, was adopted in 2011, after a multi-year outreach process which included a task force of community members. With the adoption of the General Plan, several land use designations were created which did not have zoning districts which directly conformed with the density and scale of development that those designations allowed. Specifically, the land use designations which allow high density commercial, residential, and mixed-used development lack conforming zoning districts.

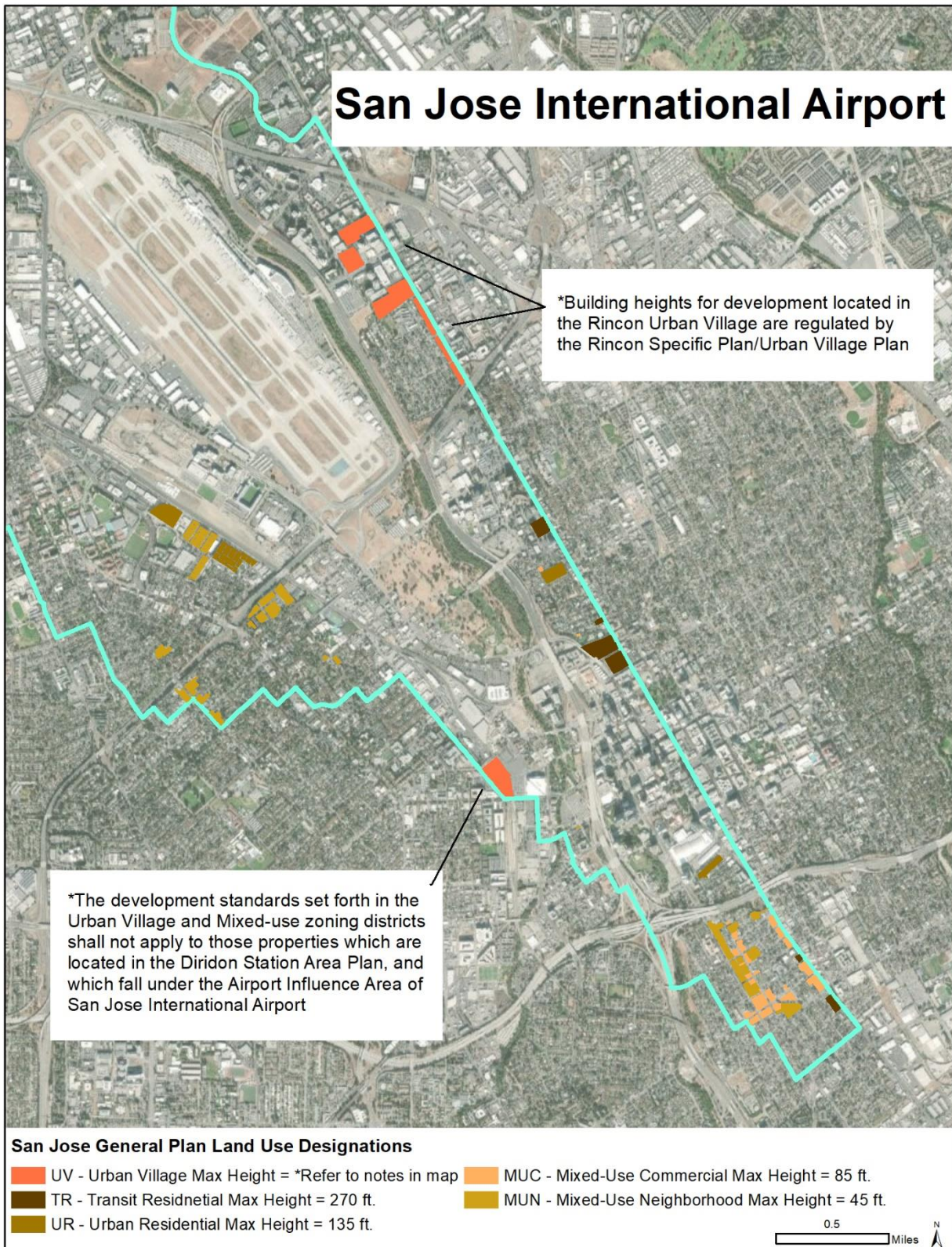
The first Zoning Ordinance was adopted in 1929 and has been updated both incrementally and comprehensively multiple times since that time. The last comprehensive update to the zoning ordinance was in 2001, however, aligning the zoning ordinance with the General Plan was not part of the objective and there were no laws in place at the time which required alignment. Furthermore, that update occurred 10 years before the Envision San Jose 2040 General Plan was adopted and as a result there are still inconsistencies between the Zoning Ordinance and the General Plan. The two policy documents have governed development in different ways over time, however, they have never been comprehensively updated in a coordinated effort focused on aligning the development standards of the Zoning Ordinance with the goals and objectives of the General Plan.

Six General Plan land use designations serve as the basis for the new zoning districts: Urban Village Commercial, Urban Village, Mixed-use Commercial, Mixed-use Neighborhood, Urban Residential, and Transit Residential. The maps included in this referral identify the General Plan land use designations which the proposed zoning districts will conform to. No rezoning actions are included in the proposed ordinance; rezoning of properties will happen as part of a separate phase of this work and will be referred to ALUC at a later date. Further, any future development in these zoning districts would require issuance of a development permit where a project would be reviewed for consistency with the CLUP as applicable. The Urban Village land use designations included in the San Jose International Airport referral area have already established building height requirements for development in the Rincon Specific Plan and the Diridon Station Area Plan and as such the building heights included in this proposed ordinance have no impact on those areas.

PROJECT DETAILS

Changes to Title 20 will introduce a Chapter to the municipal code which will include development standards and a use table for the Urban Village and Mixed-use zoning districts; this ordinance will also update various sections of other chapters as well as add or revise definitions as follows:

1. **Add Chapter 20.55 in the Title 20 for Urban Village and Mixed-Use Zoning District**, Thereby creating six zoning districts which conform to the General Plan land use designations by the same names: *Urban Village Commercial (UVC)*, *Urban Village (UV)*, *Mixed-use Commercial (MUC)*, *Mixed-use Neighborhood (MUN)*, *Urban Residential (UR)*, and *Transit Residential (TR)*. Development standards and use regulations for the Urban Village and Mixed-use zoning districts reflect the density and scale of development as directed by the Envision San Jose 2040 General Plan.
2. **Revise text for specific use regulations in Chapter 20.80 to add Urban Village and Mixed-use zoning districts to various sections.** Add the Urban Village and Mixed-use zoning districts to the following specific use sections:
 - Part 5.75 - TAPROOM OR TASTING ROOM AND OFF-SALE OF ALCOHOLIC BEVERAGES IN CONJUNCTION WITH A WINERY, BREWERY, OR DISTILLERY
 - Part 8.5 - HISTORIC LANDMARK STRUCTURE RE-USE
 - Part 11 - OFF-SALES OF ALCOHOLIC BEVERAGES
 - Part 13.7 - RETAIL ART STUDIO
 - Part 14 - SEASONAL SALES
 - Part 18 - TEMPORARY TRAILERS
3. **Revise text in Chapter 20.100.** Incorporate and clarify how the new zoning districts work in relation to existing permit requirements
 - Part 4 - ADJUSTMENTS
 - Part 5 - SITE DEVELOPMENT PERMIT
 - Part 9 - SINGLE FAMILY HOUSE PERMIT
4. **Revise Table 20-10 in Section 20.10.060, Zoning districts established, and Table 20-270 in Section 20.120.110, Conformance with the general plan.** Add the Urban Village and Mixed-use zoning districts to the tables.
5. **Revise and add definitions in Chapter 20.200;** Add definitions for, Floor Area, Floor Area Ratio (FAR), Density, and Privately Owned Public Open Space (POPOS); and revise definitions for, Mixed-use, and Private Open Space in Chapter 20.200 *Definitions*.
6. **Minor Changes.** And other technical, non-substantive, or formatting changes within these sections.





ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING TITLE 20 OF THE SAN JOSE MUNICIPAL CODE (ZONING ORDINANCE) TO: ADD CHAPTER 20.55 URBAN VILLAGE AND MIXED-USE ZONING DISTRICTS; REVISE TEXT FOR SPECIFIC USE REGULATIONS IN CHAPTER 20.80 TO ADD OR CLARIFY REFERENCES TO URBAN VILLAGE AND MIXED-USE ZONING DISTRICTS TO VARIOUS SECTIONS; REVISE TEXT TO INCORPORATE NEW ZONING DISTRICTS INTO EXISTING PERMIT REQUIREMENTS IN CHAPTER 20.100; REVISE TABLE 20-10 IN SECTION 20.10.060, ZONING DISTRICTS ESTABLISHED, AND TABLE 20-270 IN SECTION 20.120.110, CONFORMANCE WITH THE GENERAL PLAN, TO ADD URBAN VILLAGE AND MIXED-USE ZONING DISTRICTS TO THE TABLES; REVISING AND ADDING DEFINITIONS IN CHAPTER 20.200; AND MAKE OTHER TECHNICAL, NON-SUBSTANTIVE, OR FORMATTING CHANGES; ALL TO EFFECTUATE ZONING CODE AND GENERAL PLAN CONFORMANCE

WHEREAS, pursuant to Section 15168(c)(2) of the CEQA Guidelines, the City of San José has determined that this Ordinance is pursuant to, in furtherance of and within the scope of the previously approved program evaluated in the Final Program Environmental Impact Report for the Envision San José 2040 General Plan (the “FEIR”), for which findings were adopted by City Council through its Resolution No. 76041 on November 1, 2011, and Supplemental Environmental Impact Report (the “SEIR”), through Resolution No. 77617, adopted by City Council on December 15, 2015, and Addenda thereto, and does not involve new significant effects beyond those analyzed in the FEIR and SEIR; and

WHEREAS, the City Council of the City of San José is the decision-making body for this Ordinance; and

WHEREAS, this Council of the City of San José has considered and approves the information contained in the FEIR, as supplemented and addenda thereto, and related City Council Resolution Nos. 76041 and 77617 and the determination of consistency therewith prior to taking any approval actions on this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. A new Chapter is added to Title 20 of the San José Municipal Code to be numbered, entitled and to read as follows:

Chapter 20.55 – URBAN VILLAGE AND MIXED-USE ZONING DISTRICTS

Part 1 - GENERAL

20.55.010 - Urban Village and Mixed-Use Zoning Districts.

- A. This chapter sets forth the land use and development regulations applicable to the Urban Village and Mixed-Use Zoning Districts established by Section 20.10.060.
- B. No building, structure, or land shall be used, and no building or structure shall be erected, enlarged, or structurally altered, in the UVC, UV, MUC, MUN, UR, and TR Zoning Districts except as set forth in this chapter.
- C. The Urban Village and Mixed-Use Zoning Districts are intended to support implementation of the General Plan by providing flexibility for the development of employment uses, high density housing, and mixed-use development. The purposes of the Urban Village and Mixed-Use Zoning Districts are as follows:
 1. UVC Urban Village Commercial District. The UVC Urban Village Commercial district is intended to implement the Urban Village Commercial general plan designation. Residential uses are not permitted in the UVC district.
 2. UV Urban Village District. The UV Urban Village district is intended to implement the Urban Village general plan land use designation.
 3. MUC Mixed-Use Commercial District. The MUC Mixed-Use Commercial district is intended to implement the Mixed-Use Commercial general plan land use designation.
 4. MUN Mixed-Use Neighborhood District. The MUN Mixed-Use Neighborhood district is intended to implement the Mixed-Use Neighborhood general plan land use designation.
 5. UR Urban Residential District. The UR Urban Residential district is intended to implement the Urban Residential general plan land use designation.
 6. TR Transit Residential District. The TR Transit Residential district is intended to implement the Transit Residential general plan land use designation.

20.55.020 Urban Villages as a Major Strategy for growth

- A. The General Plan establishes the concept for Urban Villages as one of the Major Strategies for achieving active, dense, and mixed-use growth areas within the city. The Urban Village and Mixed-Use zoning districts (UVC, UV, MUC, MUN, UR, and TR) will be applied to and conform to their respective General Plan Land Use Designations throughout the Urban Villages.
- B. Urban Village Planning Process. The Urban Village planning process (as described in General Plan Appendix 6) is an intensive community outreach process to adopt policies and standards for development in a specific area. Once the planning process is completed, the Urban Village plans are then heard by the Planning Commission which makes a recommendation to City Council before the plan is voted on and approved by the City Council. Once approved, the plans become official policy documents which are specific to their respective areas.

1. Approved Urban Village Plans. For development projects located in an approved urban village area, the standards for development provided by the urban village plan shall prevail over the standards in this Chapter. However, when a plan does not contain a regulation which is detailed in this Chapter, the zoning standard of development shall be applied.
 2. Unplanned, Urban Village Planning Areas. Urban Villages that have been designated but have not completed the Urban Village planning process are considered to be unplanned. For those Urban Villages that are unplanned, the development regulations in this Chapter shall prevail.
- C. Mixed-Use zoning outside of Urban Villages. The MUC, MUN, UR and TR zoning districts may also be applied to properties that exist outside of identified urban villages.
- D. Development in the Urban Village and Mixed-Used Zoning Districts is subject to a variety of policies and standards, the following is a list of the hierarchy of standards for development:
1. The General Plan
 2. Approved Urban Village Plans
 3. Urban Village and Mixed-Use Zoning Districts
 4. Citywide Design Standards and Guidelines

20.55.030 Citywide Design Standards and Guidelines

- A. The San José Citywide Design Standards and Guidelines provide detailed design regulations regarding placement, scale, shape, form, and intensity of design arrangement of buildings and opens spaces and their relationship to the neighborhoods and the city. Those standards and guidelines are referenced throughout this section and should be used together with the Urban Village and Mixed-Use zoning district development standards to inform future development.

20.55.040 Applying Floor Area Ratio vs. Dwelling Units per Acre

- A. To calculate density and development intensity, refer to Table 20-136 in Section 20.55.100 for information on each zoning district's standards for Floor area ratio (FAR) or dwelling units per acre (du/ac);
- B. For development projects that are 100% Commercial, the FAR standard shall apply;
1. UVC shall require an FAR of up to 8.0;
 2. UV shall require an FAR of up to 10.0;
 3. MUC shall require an FAR of 0.25 - 4.5;
 4. MUN shall require an FAR of 0.25 - 2.0;
 5. UR shall require an FAR of 1.0 - 4.0;
 6. TR shall require an FAR of 2.0 - 12.0;
- C. For Mixed-use development, both standards for FAR and du/ac shall apply. In addition to meeting the FAR standard, projects are required to provide a minimum du/ac, there is no maximum, except in MUC and MUN.

1. Calculating Mixed-Use FAR shall include the combined floor area of both the commercial and residential portions of the entire project.
2. Mixed-use development du/ac and FAR standards:
 - a. The UV zoning district shall have a minimum density of 55 du/ac and maximum FAR of 10.0;
 - b. The UR zoning district shall have a minimum density of 30 du/ac and maximum FAR of 4.0;
 - c. The TR zoning district shall have a minimum density of 50 du/ac and maximum FAR of 12.0;
 - d. The MUN zoning district shall have a maximum density of 30 du/ac and an overall FAR of 0.25 - 2.0;
 - e. The MUC zoning district shall have a maximum density of 50 du/ac and an overall FAR of 0.50 - 4.5;
- D. For projects that are 100% Residential the standard for du/ac shall apply.
 1. UV shall require 55 to 250 du/ac;
 2. UR shall require 30 to 95 du/ac;
 3. TR shall require 50 to 250 du/ac;
 4. MUN shall have a maximum of 30 du/ac. In addition to the standard for du/ac, Single-family homes shall conform to the FAR standards detailed in Table 20-137 in Section 20.55.104.

Part 2 - DEVELOPMENT REGULATIONS

20.55.100 - Development standards.

- A. All development in the Urban Village and Mixed-Use Zoning Districts shall conform to the development regulations set forth below in Table 20-136. For development projects located in an approved urban village area, the standards for development provided by the urban village plan shall prevail over the standards in this Chapter. However, when a plan does not contain a regulation which is detailed in this Chapter, the zoning standard of development shall be applied.
- B. The development standards set forth throughout Chapter 20.55 - Urban Village and Mixed-use zoning districts, shall not apply to those properties which are located in the Diridon Station Area Plan, and which fall under the Airport Influence Area of the San Jose International Airport.

Table 20-136
Urban Village and Mixed-Use Zoning Districts
Development Standards

| Regulations | Zoning Districts | | | | |
|---------------|------------------|---------------|---------------|---------------|---------------|
| | UVC | UV | MUC | UR | TR |
| Min. Lot Area | 8,000 sq. ft. | 6,000 sq. ft. | 6,000 sq. ft. | 6,000 sq. ft. | 6,000 sq. ft. |

| | | | | | | |
|--|-------|--|-----------|------------|-----------|------------|
| 100% Commercial FAR | | Max. 8.0 | Max. 10.0 | 0.25 - 4.5 | 1.0 - 4.0 | 2.0 - 12.0 |
| Mixed-use | FAR | N/A | Max. 10.0 | 0.5 - 4.5 | Max. 4.0 | Max. 12.0 |
| | du/ac | N/A | Min. 55 | Max. 50 | Min. 30 | Min. 50 |
| 100% Residential du/ac | | N/A | 55 – 250 | N/A | 30 – 95 | 50 – 250 |
| Max. Building Height | | Refer to Approved Urban Village Plan | | 85 ft. | 135 ft. | 270 ft. |
| | | For additional information refer to Chapter 20.85 Specific Height Restrictions. For development located in areas with approved Urban Village Plans refer to the Urban Village Plan for height regulations. | | | | |
| Additional regulations for Urban Villages | | For development in approved Urban Village areas, refer to the Urban Village Plan for additional information on development standards and requirements | | | | |
| | | Setback Regulations | | | | |
| Front Setback | | Maximum 10 ft. | | | | |
| Side Setback | | Maximum 10 ft. | | | | |
| Rear Setback | | Minimum 10 ft. | | | | |
| Public Open Space in Setback areas | | No setback shall be required to the property line abutting public plazas, paseos, POPOS, and other public open spaces, which conform to the Citywide Design Standards and Guidelines for Building Placement and Form, Proportion, and Scale. | | | | |
| Exceptions to Setback Regulations | | Refer to Section 20.55.101 | | | | |
| | | Additional Development Regulations | | | | |
| Ground-Floor Commercial Regulations for 100% Commercial or Mixed-use | | Refer to the Citywide Design Standards and Guidelines for additional information regarding minimum frontage, height, depth, and other requirements for ground-floor commercial spaces. | | | | |
| Open Space Regulations for 100% Residential and Mixed-use | | Refer to Section 20.55.102 | | | | |
| Lighting | | Refer to Section 20.55.103 | | | | |

| | |
|---------|---|
| Parking | For general parking regulations, refer to Chapter 20.90 |
| | No unmounted camper or vehicle, other than those vehicles expressly specified and allowed under Title 17 of this Code, shall be kept, stored or parked for a period of time in excess of forty-eight consecutive hours in the front setback area of any lot or parcel containing a residential use. Such parking or storage is limited to paved surfaces. |

20.55.101 – Exceptions to Setback Regulations

Except as otherwise specifically provided in other sections of this title, every part of every setback area shall be kept open, unobstructed, and unoccupied by all buildings or structures above, below, and on the surface of the ground. The following setback exceptions apply to properties located in the UVC, UV, MUC, UR, and TR districts as follows:

- A. Minor architectural projections such as: sills, eaves, belt courses, cornices, canopies, awnings, bay windows, chimneys, stoops, stairs, landscape retaining walls, porches, decks, balconies, minor building faces, and wells for basement windows may project into required setback areas as follows:
 1. Canopies and awnings may project into setback areas by a maximum of 3 feet;
 2. Stoeps, stairs, and landscape retaining walls may project up to a maximum of 6 feet into the required setback areas;
 3. Balconies (covered or uncovered) may project into required setback areas if they conform to the Citywide Design Standards and Guidelines; in MUN balconies shall not project within 5 ft of property lines facing public right of way or public open space.
 4. Ground floor porches or decks (covered or uncovered) may project up to 10 feet into the required setback areas, subject to building code; in MUN groundfloor porches or decks shall not project within 5 ft of property lines facing public right of way or public open space.
 5. All other minor architectural projections may project up to a maximum of 2 feet into the setback area, by no more than 10 feet in width, for no more than 20% of the building elevation length.
- B. Short term parking facilities for bicycles or micro mobility devices (as defined by Title 11) may be placed in side or rear setbacks as long as they are in compliance with the provisions of Chapter 20.90, for additional information on placement and design refer to Citywide Design Standards and Guidelines.
- C. Mechanical equipment in setback area:
 1. Tankless water heaters, energy storage units, and power inverters may project horizontally for no more than 2 feet into either the side or rear setback area and are not permitted in front setback areas.
 2. Air conditioning units may be placed in rear or side setbacks and are not permitted in front setback areas
 3. Mechanical equipment related to pool maintenance may be placed in rear setbacks and are not permitted in front or side setbacks.

- D. A building side setback shall be required for interior lots that abut a lot with an existing single-family residence and a Residential Neighborhood General Plan land use designation as follows:
 - 1. Development built at 2.5 stories or less shall have a minimum side setback of 5 ft.
 - 2. For development built at more than 2.5 stories, no portion of the building may be developed with less than a 10 ft. side setback.
- E. Side setbacks greater than 10 ft. shall be permitted as required by Building or Fire code for public health and safety reasons.
- F. There shall be no rear setback required whenever the entire rear property line abuts property located in any commercial district or less restrictive district where the zoning designation of the site is in conformance with the General Plan land use designation of the site as determined by Table 20-270. Rear setbacks may be required by Building or Fire code.
- G. Setbacks abutting a public alley, one-half of such alley as measured from the alley centerline, may be assumed to be a portion of the rear setback area.
- H. The following projections may be placed within required setback areas as long as they comply with the Citywide Design Standards and Guidelines and Building and Fire codes:
 - 1. Walkways and driveways for pedestrian or vehicular access to the site;
 - 2. Overhead wires necessary for electrical and telephone service to a building on the lot;
 - 3. Underground lines and equipment necessary for the sewerage, drainage, plumbing, water, gas, and electrical needs of the lot or of a building on the lot;
 - 4. Underground parking facilities, subject to building code requirements.
- I. For information regarding Major or Minor Encroachments in the public right-of-way refer to Chapter 13.37 Encroachment Permits, in Title 13 of the San Jose Municipal Code.

20.55.102 - Open Space Requirements for Residential or Mixed-Use Developments

- A. The purpose and intent of these regulations is to set the standards for common open space and private open space for residential and mixed-use developments. All residential or mixed-use developments in the UV, MUC, UR, and TR districts shall provide useable common open space and private open space in conformance with all the requirements of this section.
 - 1. Development which includes 15 units or more (excluding ADUs) are required to provide both common open space and private open space.
 - 2. Development which includes less than 15 units (excluding ADUs) are only required to provide private open space.
 - 3. Projects which are exempted or otherwise not required to provide common open space must provide private open space at the amounts determined in this section.
 - 4. Refer to the Citywide Design Standards and Guidelines for specific information regarding placement and design of open spaces.

- B. **Common Open Space Requirements.** Common open space is the outdoor space provided for recreation of all residents of a project. Each residential or mixed-use development shall comply with the following common open space requirements:
1. Mixed-use projects, shall provide common open space at a minimum of 50 square feet per residential unit;
 2. 100% Residential projects shall provide common open space at a minimum of 75 square feet per residential unit;
 3. All buildings in the proposed development shall include access to at least one common open space, Privately Owned Public Open Space, hereby referred to as POPOS, or public open space.
 4. Indoor recreation space counts toward a maximum of fifty percent of the common open space requirement if the entire area of the indoor space is designed exclusively for recreational use that is available for use by residents of the development without additional use fees (including but not limited to swimming pools, exercise facilities, or multi-use recreation rooms).
- C. **Private Open Space Requirements.** Private open space is the outdoor space attached to a living unit and provided for the use of the residents of the living unit. Private open space can occur in the form of a patio, balcony, deck, or rear yard. The private open space requirement is calculated based on the total number of units and each development shall meet the following private open space requirements:
1. Mixed-use projects shall provide private open space at a minimum of 30 square feet per residential unit;
 2. 100% Residential projects shall provide private open space at a minimum of 40 square feet per residential unit.
 3. At least 50% of all dwelling units shall have direct access to private open space in the form of a balcony, patio, or roof terrace.
 4. Refer to the Citywide Design Standards and Guidelines for additional requirements for dwelling units which face public streets and open spaces.
- D. **Exceptions to open space requirements.**
1. Projects located within a quarter mile walking distance of existing public open spaces shall be exempted from Common Open Space requirements. Projects located between a quarter mile and a half mile walking distance of existing public open spaces shall have the Common Open Space requirement reduced by 50%.
 2. Up to 50% of the total private open space requirement may be fulfilled through the development of an equivalent amount of common open space in addition to the common open space requirement detailed in Section 20.55.102(B). Development projects shall not provide private open space for less than 50% of the total number of units.
 3. Development projects which are exempted from common open space requirements because of their proximity to public open space shall provide 100% of private open space requirements and may not reduce their private open space requirements in combination with any other exceptions listed in this section.

4. On site development of POPOS shall serve to fulfill common open space requirements based on the following ratio; every 1 square foot of POPOS included in a development shall fulfill 2 square feet toward the total common open space requirement.

20.55.103 – Lighting

The purpose and intent of these regulations is to ensure that adequate and appropriate lighting is provided for developments located in the UV, MUC, MUN, UR, and TR districts.

- A. All lighting or illumination shall conform to any lighting policy adopted by the city council.
- B. Any and all lighting facilities hereafter erected, constructed, or used in connection with any use conducted on any property adjacent to a site or lot used for residential purposes shall conform to the Citywide Design Standards and Guidelines for Site Lighting.
- C. Any lighting located adjacent to riparian areas shall be directed downward and away from riparian areas.
- D. Lighting adjacent to residential properties.
 - 1. Any and all lighting facilities hereafter erected, constructed, or used in connection with any use conducted on any property situate adjacent to a site or lot used for residential purposes shall be arranged and shielded that all light will be reflected away from any residential use so that there will be no glare which will cause unreasonable annoyance to occupants of such property, or otherwise interfere with the public health, safety, or welfare.

20.55.104 MUN Mixed-Use Neighborhood Development Standards

The MUN Mixed-Use Neighborhood district provides conventional development standards and alternate development standards in order to accommodate a mix of housing product types.

- A. Conventional standards: Applicable to developments where all lots have frontage on and direct access to a public street, and where all buildings provide a setback to property lines.
- B. Alternate standards: Applicable to small-lot development characterized by access to lots provided off courts, driveways, and private streets, and/or with buildings without setbacks to property lines.

Table 20-137
Mixed-Use Neighborhood Development Standards

| Regulations | MUN | |
|------------------|--|--|
| | Conventional | Alternate |
| Minimum Lot Area | 1,452 square feet per unit (excluding Accessory Dwelling Units) | No Minimum. Entire project covered by a single development permit cannot exceed 30 dwelling units/acre (excluding Accessory Dwelling Units) |

| | | | | | |
|--|-------|---|--------------|--|--|
| Lot Frontage Requirements to Public Right of Way | | At least 30 ft. of contiguous frontage on a public right of way, with vehicular and/or pedestrian access to the right of way. | | None required, provided all lots have access from a public right-of-way provided by easement | |
| | | Floor Area Ratio | | | |
| 100% Commercial FAR | | 0.25-2.0 | | N/A | |
| Mixed-Use | FAR | 0.25-2.0 | | | |
| | du/ac | Max. 30 | | | |
| 100% Residential du/ac | | Max. 30 | | | |
| FAR for Single- family Detached Residences, not including ADUs | | 3,000 sq. ft. or less | 0.6 Max FAR | Max. 2.0 across the entire development site | |
| | | 3,000 – 6,000 sq. ft. | 0.5 Max FAR | | |
| | | 6,000 or greater | 0.45 Max FAR | | |
| | | Conventional Setback Regulations | | | |
| Front Setback | | Minimum 10 ft. | | | |
| Interior Side Setback | | Minimum 3 ft. for development up to 2.5 stories; Minimum 5 ft. setback for development up to 2.5 stories for properties adjacent to property designated as Residential Neighborhood | | | |
| | | Minimum 8 ft. for development more than 2.5 stories; Minimum 10 ft. setback for development more than 2.5 stories for properties adjacent to property designated as Residential Neighborhood | | | |
| Street Side Setback | | Minimum 5 ft. for development up to 2.5 stories; Minimum 10 ft. for development more than 2.5 stories | | | |

| | | | | |
|---|---|-----------------------------------|-----------------------|--|
| Rear Setback | Minimum 10 ft. for development up to 2.5 stories; Minimum 15 ft. for development more than 2.5 stories | | | |
| Distance between structures | Garage door to garage door must have a minimum of 20 ft min. The front of structures must be at least 15 ft. Distance. | | | |
| Exceptions to Setback Regulations | Refer to Section 20.55.101 | | | |
| | Alternate Setback Regulations | | | |
| Setback to Public Right of Way | Minimum 10 ft. Minimum 18 ft. to face of garage door | | | |
| Setback to adjoining property line of property not covered by same development permit | Minimum 5 ft. side setback for development up to 2.5 stories; Minimum 10 ft. side setback for development up to 2.5 stories for properties adjacent to property designated as Residential Neighborhood. | | | |
| | Minimum 10 ft. rear setback for development more than 2.5 stories; Minimum 15 ft. rear setback for development more than 2.5 stories for properties adjacent to property designated as Residential Neighborhood. | | | |
| Setback to property line within project boundary covered by same development permit | Front to front setbacks shall be no less than 15 ft. | | | |
| | Dwelling units shall be setback a minimum of 6 ft. from accessory structures. | | | |
| Distance between structures | No side setbacks are required; subject to compliance with Building and Fire Codes | | | |
| | Garage door to garage door must have a minimum distance of 20 ft. from each other The front of structures must be developed at a minimum of 15 ft. distance from each other. | | | |
| Exceptions to Setback Regulations | Refer to Section 20.55.101 | | | |
| | Additional Development Regulations for Conventional and Alternate | | | |
| | Single-Family dwelling unit (Detached) | Two-family dwelling unit (Duplex) | Townhouse or Rowhouse | Multifamily, Mixed-use, or 100% Commercial |
| Max. Building Height | 35 ft. | 35 ft. | 40 ft. | 45 ft. |
| Max. Number of Stories | 2.5 | 2.5 | 3 | 4 |

| | | | | |
|--|---|-------------------------|-------------------------|------------------------|
| Private Open Space Requirements | 400 sq. ft. per unit | 300 sq. ft. per unit | 300 sq. ft. per unit | 60 sq. ft. per unit |
| | Minimum width for Private Open Space shall be 15 ft. | | | |
| Common Open Space Requirements | Mixed-use Development which includes 15 or more units shall provide Common Open Space at a minimum of 50 square feet per residential unit | | | |
| | 100% Residential Development which includes 15 or more units shall provide Common Open Space at a minimum of 75 square feet per residential unit | | | |
| Ground-Floor Commercial Regulations for 100% Commercial or Mixed-use | Refer to the Citywide Design Standards and Guidelines for additional information regarding minimum frontage, height, depth, and other requirements for ground-floor commercial spaces. | | | |
| Regulations for development in Urban Villages | For development in approved Urban Village areas, refer to the Urban Village Plan for additional information on development standards and requirements | | | |
| Lighting | Refer to Section 20.55.103 | | | |
| Parking | For general parking regulations, refer to Chapter 20.90 | | | |
| | Tandem Parking or parking lifts are permitted where the parking spaces serve the same unit. Uncovered parking is permitted outside of the front setback. Off-site parking is permitted under a single development permit using the alternate standards for development. | | | |
| | No unmounted camper or vehicle, other than those vehicles expressly specified and allowed under Title 17 of this Code, shall be kept, stored or parked for a period of time in excess of forty-eight consecutive hours in the front setback area of any lot or parcel containing a residential use. Such parking or storage is limited to paved surfaces. | | | |
| | Front Setback Regulations for Single-family Homes | | | |
| Floor level of ground floor | The finished floor level of the ground floor (1 st floor) must be within four vertical feet of the closest sidewalk. Finished Floor is defined as the uppermost surface of a floor once construction has been completed and all floor finishes have been applied. | | | |
| Residential Frontages facing a public right of way | Every dwelling that fronts a public street must have a door, other than a garage door, which is accessible to the street and enters a living space that is not a garage or bedroom. | | | |

| | |
|---|---|
| | A minimum 20% clear glazing per individual ground floor of a dwelling unit |
| | No more than 50% of the required front setback shall be paved with asphalt, cement or any other impervious or pervious surface. |
| Setback to garage | Minimum 20 ft. from front property line |
| | No more than one curbcut per 30 ft of frontage shall be permitted. |
| Setback to front porch, balconies, bay windows, awnings, open patios and stoops | Minimum 5 ft. from front property line |
| Setbacks from adjoining property to balconies and unenclosed stairs | Dwelling units which share property lines with property designated as Residential Neighborhood shall ensure that balconies, porches, or unenclosed stairs: Maintain minimum setback of 15 ft. from the rear and side property line measured from the projecting face of the balcony, porch, or stairs; and not be located along building walls parallel to side or rear property lines. |
| Fence Regulations | Refer to Table 20-80 in Chapter 20.30 for fence regulations. |
| Development of 5 units or more | When five or more single family dwellings are approved under one development permit, no more than three adjacent units may be constructed with the same front setback. Where this applies, front setbacks must vary by at least 5 ft. |
| | In addition, variation in roof lines, building materials, and plane changes are required when five or more units are developed under one development permit. need to provide more direction |

Part 3 - USES ALLOWED

20.55.200 - Allowed uses and permit requirements.

- A. "Permitted" land uses are indicated by a "P" on Table 20-138.
- B. "Conditional" uses are indicated by a "C" on Table 20-138. These uses may be allowed in such designated districts, but only upon issuance of and in compliance with a conditional use permit as set forth in Chapter 20.100.
- C. "Conditional" uses requiring city council approval as the initial decision-making body are indicated by a "CC" on Table 20-138. These uses may be allowed in such designated districts, but only upon issuance of and in compliance with a conditional use permit approved by the city council as set

forth in Chapter 20.100. Applications for these uses shall first be considered by the planning commission at a public hearing of the commission for the commission's report and recommendation on the application to the city council pursuant to the processes set forth in Chapter 20.100.

- D. "Special" uses are indicated by an "S" on Table 20-138. These uses may be allowed in such designated districts, but only upon issuance of and in compliance with a special use permit as set forth in Chapter 20.100. These uses may be allowed in such designated districts, as a part of mixed use residential/commercial, but only upon issuance of and in compliance with a special use permit as set forth in Chapter 20.100.
- E. "Administrative" uses are indicated by an "A" on Table 20-138. These uses may be allowed in such designated districts, but only upon issuance of and in compliance with an administrative permit as set forth in Chapter 20.100.
- F. "Restricted" land uses are indicated by an "R" on Table 20-138. These uses may occur in such designated districts, but only upon issuance of and in full compliance with a valid and effective zoning code verification certificate as set forth in Chapter 20.100.
- G. Land uses that are not permitted are indicated by a "-" on Table 20-138. Land uses not listed on Table 20-138 are not permitted.
- H. When the right column of Table 20-138 includes a reference to a section number or a footnote, the regulations cited in the section number or footnote applies to the use. In addition, all uses are subject to any other applicable provision of this Title 20 and any other title of the San José Municipal Code.

20.55.201 – General Use Regulations

- A. Permanent structure required. No use shall be deemed to be a permitted use on a site in any UVC, UV, MUC, MUN, UR, or TR district unless it is being conducted as part of a business, residence, or mixed use development which maintains on that site a permanent, fully enclosed building erected pursuant to a valid building permit issued for that site, excepting only those uses specifically permitted, under this part or this title, to operate without a permanent building on site.
- B. Late night use and activity.
 - 1. No establishment other than office uses, in any, UVC, UV, MUC, MUN, UR, or TR Zoning District shall be open between the hours of 12:00 midnight and 6:00 a.m. except pursuant to and in compliance with a special use permit as provided in Chapter 20.100.
 - 2. No outdoor activity, including loading, sweeping, landscaping or maintenance shall occur within one-hundred fifty feet of any residentially designated property between the hours of 12:00 midnight and 6:00 a.m. except pursuant to and in compliance with a conditional use permit as provided in Chapter 20.100.
- C. Incidental Uses
 - 1. Residential. In addition to the occupancy of a dwelling as a residence, the following incidental uses are permitted:
 - b. The rental of rooms in a One-Family Dwelling to up to three (3) guests; in Two-Family Dwelling to up to two (2) guests, by each Family; and in a Multiple Dwelling Unit to up

to two (2) guests per unit, if such use is clearly incidental to the occupancy of the dwelling unit by said Family as its own residence, and such rental is for a period of time longer than thirty (30) days and there are no more than six (6) persons living in the dwelling.

- c. Use of the dwelling, including a permitted Guesthouse, for Incidental Transient Occupancy in compliance with Part 2.5 of Chapter 20.80.
- d. State-licensed Family Day Care Home.
- e. The following non-commercial activities:
 - i. A garage sale consisting of the occupants' personal property;
 - ii. Sale of goods hand-produced by the occupants;
 - iii. Sales parties held for the purpose of selling goods to invited Guests. Such parties shall be held inside a permanent structure or in the rear yard of the dwelling unit.
 - iv. To qualify as a non-commercial activity:
 - I. No more than two (2) such sales are allowed in any calendar year;
 - II. No such sale can be conducted for more than four (4) consecutive days;
 - III. Such sales shall only be conducted between the hours of 9:00 a.m. and 9:00 p.m.

D. Accessory Dwelling Units (ADUs). ADUs are permitted and shall conform to Part 4.5 of Chapter 20.30

E. Guesthouses. The following restrictions apply to guesthouses:

- 1. Meals and housekeeping services may be provided with the lodging, but only to resident guests.
- 2. All cooking facilities must be in a single, common kitchen; no rooms shall have any cooking facilities.
- 3. No services may be provided to non-residents.
- 4. All required state licenses must be maintained
- 5. No more than three guest rooms may have separate external entryways.

F. Live/work units

- 1. All live/work uses in the Urban Village and Mixed-use zoning districts shall be subject to all of the following criteria:
 - a. All work activities shall be limited to the permitted uses of the Urban Village and Mixed-use zoning districts, specified in Table 20-138, unless otherwise noted in this chapter.
 - b. All work activities and storage shall take place in fully enclosed areas.
- 2. Prohibited uses:
 - a. Any use not permitted within the Urban Village and Mixed-use zoning districts, as specified in Table 20-138 or under Section 20.80.720 for home occupation uses.
 - b. Entertainment, drinking and public eating establishments.
 - c. The sale of food and/or beverages except for food or beverages prepared on-site as part of a Cottage Food Operation, in conformance with applicable public health regulations.
 - d. Veterinary services, including grooming and boarding, and the breeding or care of animals for hire or for sale.

- e. Storage or recycling, except as incidental to and in support of a permitted use in the Urban Village and Mixed-use zoning districts.
 - f. Activities involving biological or chemical substances that require a controlled environment or may pose a health hazard.
 - g. Work activities that involve hazardous material or generate odors, vibration, glare, fumes, dust, electrical interference outside the dwelling or through vertical separation between living units, greater than those generated by routine household activities.
 - 3. The living unit must be occupied by an owner, employee, or volunteer of the business associated with the live/work unit.
 - 4. All live/work units must fully comply with any and all Uniform Building Code requirements applicable to the collocation of uses at the particular site.
- G. Development adjacent to Historic Landmarks or Districts
- 1. Any project within a historic district shall conform to applicable guidelines adopted, and as amended by the city council.
 - 2. For purposes of this section, "historic district" and "historic landmark" refer to any site, building, structure, or area that has received city, state or federal landmark status.
 - 3. New structures exceeding one hundred fifty feet and an FAR of 6:1 which are constructed within one hundred feet of a city landmark or contributing structure in a designated landmark district shall be reviewed by the historic landmarks commission prior to consideration or approval of a development permit for new construction. The comments of the historic landmarks commission shall be included in any development permit staff report subsequently presented to the executive director of the redevelopment agency, director of planning, planning commission or city council.
- H. Outdoor uses within 150 feet of residentially zoned property
- 1. No use, which in whole or in part, consists of, includes, or involves any outdoor activity or sale or storage of goods, products, merchandise or food outdoors shall occur on any lands if any part of such lands or any part of the lot on which such buildings are located is situated within one hundred fifty feet of residentially zoned property situated within or outside the city except with a special use permit as provided for in Chapter 20.100, except for the following:
 - a. Seasonal sales in accordance with the provisions in Part 14, Chapter 20.80.
 - b. Service windows for pedestrians or automatic teller machines for pedestrians, both of which are associated with financial institutions.
 - c. Outdoor retail displays located in the front setback that are associated with a commercial use on the property.
 - d. Plant nursery sales.
 - e. Outdoor dining incidental to a public eating establishment or a retail establishment that conforms to all of the following criteria:
 - i. The outdoor dining area is located within one hundred feet of the main street or is completely separated from any property located in a residential zoning district by a minimum distance of fifty feet; and
 - ii. The outdoor dining area does not include any equipment to produce any amplified sound; and

- iii. The outdoor dining area does not operate between the hours of 12:00 midnight and 6:00 a.m.; and
 - iv. The outdoor dining area is operated in a manner that does not create a private or public nuisance.
 - f. Outdoor vending of whole, uncut, fresh fruits and vegetables in conformance with Part 10, Chapter 20.80.
 - g. Small certified farmers' markets that are in conformance with Part 3.5, Chapter 20.80.
- I. Screening of non-residential uses adjacent to residentially zoned properties
- 1. Any non-residential use conducted on any property shall be effectively screened at the property line from any abutting property in a residential district. The screening required hereby shall be a masonry wall or a solid wooden fence five feet in height, except that any portion thereof situate in the required setback area from abutting public streets shall be not more than four feet; and in the event such use included any outdoor activity, such screening shall also include such trees or plants as the director deems reasonable necessary to effectively screen such use from the adjoining residence district. Such screening shall at all times be maintained in good condition and be kept free at all times of signs. In addition, where a use involving outdoor activity is on a lot or parcel adjoining a residential district, such lot or parcel shall be landscaped in a manner approved by the director.
- J. Wireless Communication
- 1. Wireless communications antennae are allowed in Urban Village and Mixed-use districts pursuant to Table 20-50 only if all of the following criteria are met:
 - a. The proposed antenna is located upon a parcel with a nonresidential use; and
 - b. The proposed antenna is located either:
 - i. More than thirty-five feet away from the nearest residential use; or at least one foot away from the nearest residential use for every foot of monopole height, whichever distance is greater; or
 - ii. More than twenty feet away from the nearest residential use if the proposed antenna is mounted on an existing utility structure within a utility corridor.
 - 2. Wireless communications antennae of any type located on a property zoned for Urban Village or Mixed-use, with a residential use shall require a conditional use permit pursuant to the provisions of Chapter 20.100 of this title, except for certain modifications pursuant to Section 20.80.1915 of Chapter 20.80.

20.55.202 - Performance standards.

- A. In the UVC, UV, MUC, MUN, UR, and TR Districts no primary, secondary, incidental or conditional use or activity related thereto shall be conducted or permitted:

1. In a manner that causes or results in the harmful discharge of any waste materials into or upon the ground, into or within any sanitary or storm sewer system, into or within any water system or water, or into the atmosphere; or
 2. In a manner that constitutes a menace to persons or property or in a manner that is dangerous, obnoxious, or offensive by reason of the creation of a fire, explosion, or other physical hazard, or by reason of air pollution, odor, smoke, noise, dust vibration, radiation, or fumes; or
 3. In a manner that creates a public or private nuisance.
- B. Without limiting the generality of the preceding Section 20.55.202 (A), the following specific standards shall apply in the UVC, UV, MUC, MUN, UR and TR Districts:
1. Air Pollution. Total emissions from any use or combination of uses on a site shall not exceed the emissions and health risk thresholds as established by the director of planning.
 2. Vibration. There shall be no activity on any site that causes ground vibration that is perceptible without instruments at the property line of the site.

Table 20-138
Urban Village Zoning Districts Use Regulations

| Use | Zoning District | | | | | | Notes & Sections |
|---|-----------------|----|-----|-----|----|----|-------------------------------------|
| | UVC | UV | MUC | MUN | UR | TR | |
| Residential | | | | | | | |
| One-family dwelling | - | - | - | P | P | P | Note 6 |
| Two-family dwelling | - | - | - | P | P | P | Note 6 |
| Mixed-use development | - | P | P | P | P | P | Note 23 Chapter 20.195 |
| Multifamily dwelling | - | P | P | P | P | P | Note 23 Chapter 20.195 |
| Co-living community | - | S | C | C | S | S | |
| Guesthouse | - | S | - | S | S | S | |
| Emergency residential shelter | - | S | S | S | S | S | Section 20.80.500 |
| Hotel supportive housing | C | - | C | - | - | - | Note 18; Part 22, Chapter 20.80 |
| Live/work uses | - | S | S | S | S | S | Section 20.80.740 |
| Low barrier navigation center | - | P | P | - | P | P | Chapter 20.195 |
| Residential care facility for seven or more persons | - | C | C | C | C | C | |
| Residential service facility for seven or more persons | - | C | C | C | C | C | |
| Single room occupancy, living unit | - | - | C | - | - | - | Part 15, Chapter 20.80 |
| General Retail | | | | | | | |
| Alcohol, off-sale - beer and/or wine only | C | C | C | C | C | C | Section 20.80.900 |
| Alcohol, off-sale - full range of alcoholic beverages | C | C | C | C | C | C | Section 20.80.900 |
| Alcohol, off-sale - as incidental to a winery, brewery, or distillery | A | A | A | A | A | A | Note 1; Part 5.75, Chapter 20.80 |
| Food, beverages, and groceries | P | P | P | P | P | P | |
| Nursery, plant | P | P | P | P | P | P | Note 2 |
| Outdoor vending | A | A | A | A | A | A | Part 10, Chapter 20.80 |
| Outdoor vending, fresh fruits and vegetables | P | P | P | P | P | P | Part 10, Chapter 20.80 |
| Pawnshop/broker | C | - | C | - | - | - | See Title 6 |

| | | | | | | | |
|--|-----|-----|-----|-----|-----|-----|-------------------------|
| Retail art studio | P | P | P | P | P | P | Section 20.80.1175 |
| Retail bakery | P | P | P | P | P | P | |
| Retail sales, goods, and merchandise | P | P | P | P | P | P | |
| Seasonal sales | P | P | P | P | P | P | Part 14, Chapter 20.80 |
| Agriculture & Open Space | | | | | | | |
| Aquaculture, aquaponics, and hydroponics | S | S | S | S | S | S | |
| Certified farmers' market | S | S | S | S | S | S | Part 3.5, Chapter 20.80 |
| Certified farmers' market, small | P | P | P | P | P | P | Part 3.5, Chapter 20.80 |
| Community gardens | P | P | P | P | P | P | |
| Neighborhood agriculture | P | P | P | P | P | P | Note 16; Title 7 |
| Education and Training | | | | | | | |
| Child day care center located on an existing School Site or as an incident to a permitted on-site church/religious assembly use involving no building additions or changes to the site | P | P | P | P | P | P | Note 5 |
| Day care center | S | S | S | S | S | S | Note 5 |
| Instructional art studios | P | P | P | P | P | P | |
| Private instruction, personal enrichment | P | P | P | P | P | P | |
| School, elementary and secondary (public or private) | C | C | C | C | C | C | Note 13 |
| School, driving (class C & M license) | P | P | P | P | P | P | Note 3 |
| School, post secondary | P | P | P | P | P | P | |
| School, trade and vocational | P/S | P/S | P/S | P/S | P/S | P/S | Note 4 and Note 13 |
| Entertainment and Recreation | | | | | | | |
| Arcade, amusement game | P | P | P | P | P | P | |
| Health club, gymnasium | P | P | P | P | P | P | |
| Performing arts rehearsal space | P | P | P | P | P | P | |
| Poolroom/billiards establishment | P | P | P | P | P | P | |

| | | | | | | | |
|--|----|----|---|---|---|---|--------------------------|
| Private club or lodge | S | S | S | S | S | S | |
| Recreation, commercial indoor | P | P | P | P | P | P | |
| Recreation, commercial outdoor | - | S | - | - | - | - | |
| Stadium, 2,000 seats or fewer | C | C | - | - | - | - | |
| Stadium, more than 2,000 seats | CC | CC | - | - | - | - | Note 14 and Note 15 |
| Theater, indoor | S | S | S | - | S | S | |
| Theater, outdoor | S | S | S | - | S | S | |
| Food Services | | | | | | | |
| Banquet facility | S | S | S | S | S | S | |
| Caterer | P | P | P | P | P | P | |
| Commercial kitchen | P | P | P | - | S | S | |
| Drinking establishments | S | S | S | - | S | S | |
| Drinking establishments interior to a full-service hotel or motel that includes 75 or more guest rooms | P | P | P | P | P | P | Section 20.80.475 |
| Public eating establishments | P | P | P | P | P | P | |
| Public eating establishment or retail establishment with incidental outdoor dining | P | P | P | P | P | P | Section 20.40.520 |
| Public eating establishment in conjunction with a winery, brewery, or distillery | P | P | P | P | P | P | Part 5.75, Chapter 20.80 |
| Taproom or tasting room in conjunction with a winery, brewery, or distillery | A | A | A | A | A | A | Part 5.75, Chapter 20.80 |
| Taproom or tasting room with off-sale of alcohol | A | A | A | A | A | A | Part 5.75, Chapter 20.80 |
| General Services | | | | | | | |
| Bed and breakfast inn | P | P | P | P | P | P | Part 2, Chapter 20.80 |
| Dry cleaner | P | P | P | P | P | P | |
| Hotel or motel | P | P | P | P | P | P | |
| Single room occupancy (SRO) hotel | C | C | C | C | C | C | Part 15, Chapter 20.80 |
| Laundromat | P | P | P | P | P | P | |

| | | | | | | | |
|--|---|---|---|---|---|---|-------------------------|
| Maintenance and repair, small household appliances | P | P | P | P | P | P | |
| Messenger services | P | P | P | P | P | P | |
| Mortuary and funeral services | P | P | P | P | P | P | |
| Personal services | P | P | P | P | P | P | Section 20.200.880 |
| Printing and publishing | P | P | P | P | P | P | |
| Social service agency | S | S | S | S | S | S | |
| Health and Veterinary Services | | | | | | | |
| Animal boarding, indoor | P | P | P | P | P | P | Note 7 |
| Animal grooming | P | P | P | P | P | P | Note 7 |
| Emergency ambulance service | C | C | C | - | C | C | |
| Hospital/in-patient facility | C | C | C | - | C | C | |
| Office, medical | P | P | P | P | P | P | |
| Veterinary clinic | P | P | P | P | P | P | |
| Historic Reuse | | | | | | | |
| Historic landmark structure reuse | S | S | S | S | S | S | Part 8.5, Chapter 20.80 |
| Industry and Manufacturing | | | | | | | |
| Laboratory, processing | P | P | P | - | - | - | |
| Manufacturing and assembly, light | P | P | P | - | - | - | Note 25 |
| Office, research and development | P | P | P | - | S | S | Note 24 |
| Offices and Financial Services | | | | | | | |
| Automatic teller machine | P | P | P | P | P | P | Section 20.80.200 |
| Business support | P | P | P | P | P | P | |
| Office, general business | P | P | P | P | P | P | |
| Retail bank / Financial services | P | P | P | P | P | P | |
| Public, Quasi-Public and Assembly Uses | | | | | | | |
| Cemetery | C | C | C | C | C | C | |
| Church/religious assembly | S | S | S | S | S | S | |
| Museums, libraries, parks, playgrounds, or community centers (publicly operated) | P | P | P | P | P | P | |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Museums, libraries, parks, playgrounds, or community centers (privately operated) | S | S | S | S | S | S | |
| Recycling Uses | | | | | | | |
| Reverse vending machine | A | A | A | A | A | A | Part 13, Chapter 20.80 |
| Small collection facility | A | A | A | A | A | A | Part 13, Chapter 20.80 |
| Transportation and Utilities | | | | | | | |
| Community television antenna systems | C | C | C | C | C | C | |
| Off-site, alternating use and alternative parking arrangements | S | S | S | S | S | S | Section 20.90.200 |
| Parking establishment, off-street | S | - | S | - | - | - | Note 26 |
| Television, radio studios without antenna/dishes | C | C | C | - | - | - | |
| Utility facilities, excluding corporation yards, storage or repair yards and warehouses | C | C | - | - | - | - | |
| Utility facilities including corporation yards, storage or repair yards and warehouses | - | - | - | - | - | - | |
| Wireless communication antenna | C | C | C | C | C | C | Note 19; Sections 20.100.1300, 20.80.1915 |
| Wireless communication antenna, slimline monopole | S | S | S | S | S | S | Note 19; Sections 20.80.1900, 20.80.1915 |
| Wireless communication antenna, building mounted | P | P | P | P | P | P | Note 19; Sections 20.80.1910, 20.80.1915 |
| Utilities, Electrical Power Generation | | | | | | | |
| Co-generation facility | S | S | S | S | S | S | |
| Fuel cells | P | P | P | P | P | P | |
| Private electrical power generation facility | C | C | C | C | C | C | |
| Solar photovoltaic system | P | P | P | P | P | P | Section 20.100.610 C.7. |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Stand-by/backup facilities that do not exceed noise or air standards | A | A | A | A | A | A | |
| Stand-by/backup facilities that do exceed noise or air standards | C | C | C | - | - | - | |
| Temporary stand-by/backup | P | P | P | P | P | P | |
| Vehicle Related Uses | | | | | | | |
| Accessory installation, passenger vehicles and pick-up trucks | C | C | - | - | - | - | Note 20, Note 21, and Note 22 |
| Auto dealer, wholesale - no on-site storage | - | - | - | - | - | - | Note 20, Note 21, and Note 22 |
| Car wash, detailing | - | - | - | - | - | - | Note 20, Note 21, and Note 22 |
| Fuel service station or charge station, no incidental service or repair | - | - | - | - | - | - | Note 12, Note 20, Note 21, and Note 22 |
| Fuel service station or charge station with incidental service and repair | - | - | - | - | - | - | Note 8, Note 10, Note 12, Note 20, Note 21, and Note 22 |
| Glass sales, installation, and tinting | C | - | C | - | - | - | Note 10, Note 20, Note 21, and Note 22 |
| Leasing (rental) passenger vehicles, pick-up trucks not exceeding twenty-five feet in length, and motorcycles | - | - | - | - | - | - | Note 20, Note 21, and Note 22 |
| Sale, brokerage, or lease, commercial vehicles | - | - | - | - | - | - | Note 10, Note 20, Note 21, and Note 22 |
| Sale or brokerage, passenger vehicles, pick-up trucks not exceeding 25 feet in length, and motorcycles | - | - | - | - | - | - | Note 10, Note 20, Note 21, and Note 22 |
| Sale, vehicle parts | S | - | S | - | - | - | Note 9, Note 20, Note 21, and Note 22 |
| Tires, batteries, lube, oil change, smog check station, air conditioning servicing of passenger vehicles and pick-up trucks | C | - | - | - | - | - | Note 8, Note 20, Note 21, and Note 22 |

Notes:

1. Alcohol, off-sales are limited to products manufactured onsite for wineries, breweries, or distilleries.
2. Landscaping materials, such as rock, mulch, and sand are limited to prepackaged sales.
3. Classroom use only, no driving courses or on-site storage of vehicles permitted in UVC, UV, MUC, MUN, UR or TR Zoning Districts.
4. Indoor uses related to trade or vocational schools are Permitted, any outdoor uses will require a Special Use Permit.
5. If the Daycare use exceeds the noise standards, as set forth in Chapter 20.40 in Section 20.40.600, it will require a Special Use Permit.
6. One-family dwellings or two-family dwellings are allowed as part of a larger development which meets the minimum density requirement in the UR and TR zoning districts.
7. Except as an incidental use to neighborhood agriculture, all uses involving any type of care for animals, including but not limited to grooming, boarding, medical care, must be conducted wholly inside a building.
8. Incidental repair includes non-invasive engine service, maintenance, and repair, including but not limited to, air conditioning service, fuel system service, electrical service, coolant system service, tune-up, fluid exchanges, steering and suspension system service, brake system service, transmission adjustment and service, lube, oil change, smog check, diagnostics and vehicle inspections, stock catalytic converters and manifolds, as well as tires, batteries and accessories installation. Does not allow body repair, welding, vehicle restorations, other types of exhaust system repair, the removal of cylinder heads, engines, transmissions/transfer cases and differentials, or painting.
9. No outdoor sales areas or dismantling allowed.
10. All vehicle-related repair, service, and accessory or other installation shall be conducted within a fully enclosed building.
11. Bail bond establishments shall not be located and are prohibited uses on the ground floors of structures located within the main jail area, as that area is defined in Section 20.80.070 of Chapter 20.80 of this title. Bail bond establishments are allowed as shown on Table 20-138 on other, above-ground floors of structures. All bail bond establishments shall meet all distance requirements specified in Section 20.80.075 of Chapter 20.80 of this title.
12. Charging stations that are incidental to a separate primary use that do not impact on-site or off-site vehicular circulation, and that serve patrons of the primary use on-site are permitted in all commercial zoning districts.
13. Public schools are subject to the regulations of this title, subject to the provisions of California Government Code Section 53094 for classroom facilities.
14. Primary uses include sporting events, assembly venues, concerts, and entertainment events of similar character and intensity. Incidental support uses include offices,

- locker rooms, retail, public eating establishments, drinking establishments, outdoor vending facilities, and other commercial uses of similar character and intensity.
15. Use permit applications for stadiums that consist of more than 2,000 seats and that are in airport influence areas shall be referred to the Santa Clara Airport Land Use Commission prior to approval by the city.
 16. Neighborhood agriculture in conformance with this title is a permitted use that may operate on a site without a permanent building on that site.
 17. Hotel supportive housing may be permitted only with a conditional use permit pursuant to Part 22 of Chapter 20.80 and only until December 31, 2026.
 18. Certain modifications of existing wireless facilities may be permitted with an administrative permit in accordance with Section 20.80.1915 of Chapter 20.80.
 19. Conditional use permit required outside of Urban Villages; Special use permit in Urban Villages.
 20. Continued operation of existing use allowed with only 10% expansion of use permitted.
 21. New and expanded auto uses cannot be within 200 feet (measured from the auto use to the affected neighboring property line of real property) from any parcel with a General Plan designation of urban village, urban village commercial, neighborhood/community commercial, residential neighborhood, mixed use neighborhood, mixed use commercial, or public quasi/public.
 22. New use allowed only pursuant to the provisions of the Stevens Creek and 24th and William Urban Village Plans, as amended.
 23. Permanent Supportive Housing is allowed use in Mixed-use or multifamily development. Refer to Chapter 20.195 for more information.
 24. Research and Development is allowed through a Special Use Permit in TR and UR as long as the use on site does not involve activity that would create noxious sounds, smells, or vibrations.
 25. For the purposes of this Chapter Food and Beverage manufacturing is considered to be permitted under the Manufacturing and Assembly, light use.
 26. Surface parking which does not serve a use contained on the same site or under the same development permit is not permitted. Standalone parking structures are allowed under the following conditions:
 - a. Any and all parking spaces on the groundfloor level shall not be visible from the public right of way.
 - b. No more than one driveway entrance is permitted, ingress/egress shall be designed in a manner that does not require more than one curbcut.
 - c. One pedestrian entrance, with direct access to the street level, is allowed.
 - d. In addition, the parking facility must meet one of the following criteria:
 - i. The parking facility shall be designed as a structured aboveground parking facility with groundfloor retail spaces, along public right of ways or public open spaces, which comply with Citywide Design Standards and Guidelines for groundfloor commercial spaces.
 - ii. The parking facility shall be designed as an underground parking facility with a public open space at grade level, which is open to the public 24

hours a day, and which complies with the Citywide Design Standards and Guidelines for public open spaces.

SECTION 2. Part 4 of Chapter 20.100 of Title 20 of the San José Municipal Code is amended to read as follows:

Part 4 - ADJUSTMENTS

20.100.500 - Adjustments.

- A. The director may, at the director's sole discretion, approve an adjustment for the following elements of a previously-issued development permit, subject to and in accordance with the provisions of this section:
1. General Extensions. An extension of the term of an approved development permit for a period of up to but not exceeding one year; provided, that no more than two such term extensions may be approved for any development permit.
 2. Changes to an approved development permit, but only for minor modification of architectural elements or landscape details, (including but not limited to minor storefront alterations, relocation of doors, equipment screening, minor landscape furniture and structures, benches, small trellises, and planters) which do not affect the use, intensity, general character, architectural style, circulation or other site function of the project.
 3. Signs which conform to Title 23, minor changes to approved sign programs, and sign programs that are a condition of a development permit.
 4. Additions, accessory buildings and minor structures such as trellises, patio covers, swimming pools and decks for one-family residences which were approved and are subject to an existing planned development permit, site development permit, or a low density cluster permit issued under previously existing provisions of this title.
 5. Building mounted wireless communications antenna.
 6. Tract sales, model homes sales, or leasing offices associated with an approved housing development.
 7. Temporary construction or storage yards in connection with the construction of houses or other buildings in an adjacent subdivision or lot or parcel.
 8. Solar photovoltaic systems.
 9. The creation, on or above ground through installation, construction, or replacement, of less than one gross acre of impervious surface.
 10. The replacement, repaving, reconfiguration, or re-striping of parking spaces on existing surfaces.
 11. Building additions of less than five thousand square feet in area to nonresidential buildings, except that the maximum building addition size for a fast food restaurant, a twenty-four-hour convenience market, or a convenience market with gas pumps shall be one thousand square feet in area and the maximum building addition to a bank with a drive through shall be three thousand square feet in area.
 12. Generators meeting performance standards for noise and air pollution.

13. Above-ground storage tanks of two thousand gallons or less in zoning districts other than industrial zoning districts and an above-ground storage tank of twenty thousand gallons or less in an industrial zoning district.
 14. Building additions of less than two hundred square feet in total area or less than ten percent of the building area prior to the addition, whichever is smaller, to two-family dwellings, provided that current parking regulations are being met and would continue to be met after the completion of any addition.
- B. Adjustments may be issued only where issuance of the adjustment would be consistent and comply with all applicable local laws in effect at the time of issuance, including without limitation the city's general plan, the provisions of this title, and the provisions of Title 21 of this Code.
 - C. An application for an adjustment must be filed on the form provided by the director on or before the date that is three business days prior to the expiration of the development permit proposed for adjustment and accompanied by the fees as set forth in the schedule of fees adopted by resolution of the city council.
 - D. The decision to grant, deny or condition an adjustment is an administrative determination and requires no hearing or notice. The action of the director shall be final, and nothing herein shall be deemed or construed to confer on an applicant a right to an adjustment or to require the director to issue an adjustment. If the director denies an adjustment, nothing herein shall preclude the applicant from thereafter filing an application for an appropriate development permit.
 - E. Where property was developed prior to the requirement of a site development permit, adjustments for projects as set forth in Section 20.100.610(A) may be approved without the necessity of the issuance of a full site development permit.
 - F. If a structure or site is designated on the City of San José Historic Resources Inventory pursuant to Chapter 13.48 of Title 13 of this Code as a city landmark structure and/or a structure located in a city landmark historic district, then proposed work that is within the parameters outlined in Section 13.48.340.D of Part 3 of Chapter 13.48 of Title 13 of this Code shall be governed by and considered pursuant to the provisions of Chapter 13.48 that require issuance of a historic preservation permit or historic preservation permit adjustment. Notwithstanding the provisions of this Section 20.100.500 setting forth the requirements for development permit adjustments, no additional development permit adjustment issued pursuant to Title 20 of this Code shall be required for work performed on a site or structure that is designated as a city landmark structure, or on a structure located in a city landmark historic district, for which a historic preservation permit or historic preservation permit adjustment has been issued.

SECTION 3. Part 5 of Chapter 20.100 of Title 20 of the San José Municipal Code is amended to read as follows:

Part 5 - SITE DEVELOPMENT PERMIT

20.100.600 - Purpose.

- A. The purpose of this part is to promote orderly development, to enhance the character, stability, integrity and appearance of neighborhoods and zoning districts, to maintain and

protect the stability and integrity of land values, and to secure the general purposes of this title and of the San José General Plan.

- B. In order to accomplish the purpose, it is necessary for the city to review and regulate the aesthetic and functional aspects of structures and sites and to require, as the city determines necessary, the aesthetic and functional improvements to the site and to any structures thereon and to require off-site improvements.

20.100.610 - Site development permit required.

- A. A valid site development permit, issued under this part, is required prior to the issuance of any building permit or installation permit for the following activities:
1. Erection, construction, enlargement, placement or installation of a building or structure on any site, except for one one-family dwelling on a single lot or parcel that would ~~not~~ be subject to Part 9 of Chapter 20.100 regarding requirements for a single-family house permit; or
 2. Erection, construction, enlargement, placement or installation of a one-family dwelling on a single lot or parcel as provided for in Section 20.100.1030(A)(4) regarding single-family house permits; or
 3. Exterior alteration of a building or structure; or
 4. Use of a lot for storage purposes; or
 5. Installation of pavement on any portion of a lot; or
 6. Underground installation.
- B. No single site development permit shall be issued for more than one site. However, the removal and relocation of a building from one parcel to another separate parcel located within the city requires a single application pertaining to both parcels pursuant to Section 20.100.650.
- C. The provisions of this part shall not apply:
1. If a permit is expressly not required by Section 20.100.1030 of this title or a permit is issued under other provisions of this chapter unless procurement of a site development permit is made an express condition of such permit.
 2. If temporary structures or buildings are to be constructed on a lot situate in a CP, CN, CG commercial districts, or the downtown zoning districts, the IP, LI or HI industrial districts, or an A agricultural district and are intended to be and are used in connection with the sale of Christmas trees or Halloween pumpkins in accordance with this title, and remain on the site only for the temporary period specified for such uses in this title.
 3. If the underground installation is for the sole purpose of replacing an existing underground tank or tanks with a new tank or tanks whether or not total tank capacity on the site is increased.
 4. If skylights are installed on existing dwellings provided that the parcel has four or fewer dwellings.
 5. If the re-roof is installed on an existing building or structure which is not designated a historic landmark and does not involve any alteration to the existing roof line, provided that the material used in the re-roof meets all of the following conditions:

- a. Is of the same material or is of a replacement material(s) that is superior to or is an upgrade from the existing material in terms of quality, aesthetics or safety features as determined by the director of planning; and
 - b. Meets or exceeds all applicable fire and building code requirements.
- 6. Accessory structures on lots with one-family house, unless a permit is otherwise required by this title.
- 7. A solar photovoltaic system mounted on the surface of an existing building or structure with a building permit in a manner that conforms to the provisions of this title.

20.100.620 - Action by director.

Upon finding of an application for a site development permit completed pursuant to this chapter, the director shall review the application and shall set a public hearing on the application.

20.100.630 - Findings.

- A. In addition to any other findings required by any other section of this title, the director, the planning commission, or city council, as set forth in Table 20-260, shall grant the site development permit after review of project design, only if all of the following findings are made:
 - 1. The site development permit, as approved, is consistent with and will further the policies of the general plan and applicable specific plans and area development policies.
 - 2. The site development permit, as approved, conforms with the zoning code and all other provisions of the San José Municipal Code applicable to the project.
 - 3. The site development permit, as approved, is consistent with applicable city council policies, or counterbalancing considerations justify the inconsistency.
 - 4. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.
 - 5. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.
 - 6. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.
 - 7. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.
 - 8. Traffic access, pedestrian access and parking are adequate.

- B. The director, the planning commission, or the city council, as set forth in Table 20-260, shall deny the application where the information submitted by the applicant or presented at the public hearing fails to satisfactorily substantiate such findings.

20.100.640 - Amendment findings.

- A. Amendments to an approved site development permit may only be approved if there is a finding by the director, or planning commission on appeal, that the amendment does not negate any findings required by Section 20.100.630.
- B. Nothing in this section shall preclude the director, or the planning commission on appeal, from modifying, adding or deleting any condition in order to protect the public peace, health, safety, morals or welfare.

20.100.650 - Building relocations.

A site development permit for the relocation of a building or part thereof onto a lot or parcel within the City of San José may be conditioned upon the applicant providing a performance bond, or some equivalent means satisfactory to the director of guaranteeing that all work permitted and/or required by the site development permit be completed in a timely manner. The permit shall include time limitations for the commencement and completion of the relocation, and for the commencement and completion of any required architectural and other required improvements.

20.100.660 - Appeal.

The appeal of any action taken under this part shall be governed by the procedures set forth in Sections 20.100.220 through 20.100.280.

SECTION 4. Part 9 of Chapter 20.100 of Title 20 of the San José Municipal Code is amended to read as follows:

Part 9 - SINGLE-FAMILY HOUSE PERMIT

20.100.1000 - Purpose.

- A. The purpose of this part is to promote orderly development, to enhance the character, stability, integrity and appearance of single-family neighborhoods and zoning districts, to maintain and protect the stability and integrity of land values, and to secure the general purposes of this title and the San José General Plan.
- B. In order to accomplish the purpose, it is necessary for the city to review and regulate the aesthetic and functional aspects of single-family houses and sites and to require, as the city determines necessary, aesthetic and functional improvements to the site and to any structures thereon and to require off-site improvements.

20.100.1005 Applicability

The Single-family House Permit regulations shall only apply to single-family homes developed in the R-1, R-2 and RM zoning districts.

20.100.1010 - Single-family house defined.

For purposes of this part, "single-family house" means a structure designed and/or used as an R-3 occupancy as defined in the building code and otherwise designated a one-family dwelling elsewhere in this Code.

20.100.1020 - Floor area ratio defined.

For purposes of this part, "floor area ratio" means the gross floor area of the single-family house divided by the total lot area. Garages, basements and accessory structures are not included in the gross floor area for the purposes of this part. The floor area includes the sum of all the floors in the main structure measured to the outside surface of the exterior walls. It includes the stairwells at all floors and all areas that are greater than fifty percent enclosed with walls and covered.

20.100.1030 - Single-family house permit required.

- A. A valid single-family house permit issued under this part is required prior to the issuance of a building permit for a single-family house that is a covered activity, as the terms building permit and covered activity are defined in Sections 18.40.210 and 18.40.220 of Chapter 18.40 of Title 18 of this Code, if:
 - 1. The single-family house is located within one hundred feet of a riparian corridor as measured from top of bank or vegetative edge, whichever is greater; and
 - 2. The single-family house site is equal to or greater than one-half acre in size. Proof of payment of all applicable fees that are required under Title 18 Chapter 18.40 of this Code must be submitted to the director prior to issuance of a building permit for any project that is subject to payment of fees under Part 3 of Chapter 18.40 of Title 18 of this Code.
- B. A valid single-family house permit issued under this part is required prior to the issuance of a building permit for the following activities, unless specifically exempted by Subsection C. below:
 - 1. Erection, construction, enlargement, placement or installation of a single-family house on any site; or

2. Exterior alteration of a single-family house.
- C. No single-family house permit is required under Subsection B. above if any of the following applicable criteria and conditions is met:
1. The issuance of the building permit will result in a single-family house in any residential district with a floor area ratio equal to or less than forty-five hundredths or height equal to or less than thirty feet and/or equal to or less than two stories; or the site is not an historic resource listed on the historic resources inventory pursuant to Chapter 13.48 of Title 13 of this Code.
 2. The site is located in a planned development zoning district. All construction in a planned development zoning district shall be governed by the provisions of Part 8 of this chapter that may require issuance of a planned development permit for the review of any single-family house construction, addition, or alteration.
 3. The issuance of building permits is for exterior alterations or maintenance of an existing single-family house which alterations or maintenance:
 - a. Would not expand the exterior footprint or increase the overall square footage of the existing single-family house or result in height that is greater than thirty feet and/or greater than two stories; and
 - b. Meet the development regulations of the R-1-8 residential zoning district; and
 - c. If the house is listed as a historic resource on the city's historic resources inventory, would solely repair pieces of existing features on a single-family house that is a historic resource, but is not a city landmark or located in a city landmark historic district, with like materials of the same size, shape, pattern and substance and in a manner that fully conforms to approved design guidelines.
 4. The single-family houses are approved with a single site development permit issued pursuant to Part 5 of this chapter. A site development permit may be approved if the site is located:
 - a. In an R-1 residential zoning district; and
 - b. Includes construction of more than five new single-family houses.
 5. The issuance of building permits will result in a single-family house in any residential zoning district with a floor area ratio equal to or less than forty-five hundredths and a height greater than thirty feet and/or two stories, provided that all of the following additional criteria or conditions are met:
 - a. The proposed house will be located on a site within a flood zone with a one hundred-year flood depth that requires elevation of the first finished floor of the proposed house to a height of at least five feet above grade; and
 - b. The height of the proposed house will be equal to or less than thirty feet plus the required one hundred-year flood depth elevation or the maximum height of the residential zoning district in which the proposed house will be located, whichever height is less; and
 - c. The site is not an historic resource listed on the historic resources inventory pursuant to Chapter 13.48 of Title 13 of this Code.
 6. The issuance of building permits is for a solar photovoltaic system mounted on the surface of a single-family house in a manner that conforms with the provisions of this title.

- D. If the site is a historic resource listed on the historic resources inventory of the city pursuant to Chapter 13.48 of Title 13 of this Code and the site is a city landmark house and/or a house located in a city landmark historic district, then all work performed on a city landmark or in a city landmark historic district shall be governed by the provisions of Chapter 13.48 of Part 3 of Title 13 of this Code that require issuance of a historic preservation permit. No single-family house permit shall approve work performed on a city landmark house or a house located in a city landmark historic district.

20.100.1040 - Additional Development Requiring a Single-Family House Permit.

- A. Issuance of a single-family house permit subject to the administrative procedures set forth in this part is required if the issuance of a building permit will result in a single-family house that is a historic resource, but is not a city landmark or located in a city historic district, with a floor area ratio equal to or less than forty-five hundredths, or if the issuance of a building permit is for minor modifications involving incidental enlargement, reconstruction, replacement, repair, remodeling, rehabilitation, restoration and/or exterior alteration of a historic resource, that fully conforms to approved design guidelines, and does not affect the historic significance or character, use, intensity, architectural style, circulation or other site function of the property.
- B. Issuance of a single-family house permit is subject to the administrative procedures set forth in this part, if the issuance of the building permit will result in a single-family house with a floor area ratio greater than forty-five hundredths but equal to or less than sixty-five hundredths, and all of the following applicable criteria are met:
1. Building permit does not authorize removal of more than fifty percent of the exterior walls of an existing house;
 2. Building permit is for an addition to an existing house and the addition is for either one or both of the following:
 - a. A single story and ground floor addition; and/or
 - b. A second-story addition which results in a second story which is no larger than sixty percent of existing first floor area and which is set back ten feet from the required front setback;
 - c. A first-story or second-story infill addition into an existing space within a house constructed prior to requirement to obtain a single-family house permit for certain single family construction.
 3. Building permit does not authorize the enclosure or net loss of ten percent or more of an existing porch;
 4. Building permit authorizes an attached garage only if the houses on each side of the subject lot have existing attached garages;
 5. Building permit requires the roofline, materials, trim and decoration details of the new construction to be the same as that on the existing house;
 6. Building permit authorizes alteration to a single-family house that is a historic resource, but is not a city landmark or located in a city landmark historic district, which alterations fully conform to or exceed approved design guidelines.
- C. Subject to the provisions of Section 20.100.1030, if the issuance of a building permit will result in a single-family house with a floor area ratio greater than forty-five hundredths and

all the applicable criteria of either Subsection 20.100.1040 A or 20.100.1040 B are not met, issuance of a single-family house permit shall be subject to the director public hearing procedures set forth in this part.

20.100.1050 - Houses greater than thirty feet high and/or two stories tall.

Subject to the provisions of Section 20.100.1030.A.5, if the issuance of a building permit will authorize new construction greater than thirty feet high and/or two stories tall, the single-family house permit is subject to the director public hearing procedures set forth in this part.

20.100.1060 - Administrative procedures.

For any application for a single-family house permit which is subject to the administrative approval procedures:

1. The director may, in the director's sole discretion, approve an administrative level single-family house permit.
2. The decision is an administrative determination and requires no hearing or notice.
3. The action of the director is final. If the application is denied, nothing in this section shall preclude the applicant from filing an application for a director approval pursuant to this part.

20.100.1070 - Director public hearing procedures.

For any application for a single-family house permit which is subject to the director public hearing procedures:

1. Upon finding an application for a single-family house permit completed pursuant to Part 1 of this chapter, the director shall review the application and shall set a public hearing on the application.
2. The director shall cause notice of the time and place, at which all persons may appear before the director and be heard, to be given in accordance with Section 20.100.190.
3. The director, or planning commission on appeal, may approve, conditionally approve, or deny the application only upon making the findings set forth in this part.

20.100.1080 - Appeal of director approval.

Any action taken by the director under this part may be appealed to the planning commission by filing with the director a written notice of appeal within ten calendar days after a copy of the decision of the director has been placed in the mail to the applicant. The applicant or any property owner or tenant of property within three hundred feet of the subject site may file such a notice of appeal. When such notice has been accepted by the director for filing:

1. The director shall set a date for the public hearing before the planning commission.
2. The director shall cause notice of the time and place, at which all persons may appear before the director and be heard, to be given in accordance with Section 20.100.190.
3. The decision of the planning commission shall be mailed to the applicant, at the address shown on the application, and to all persons eligible to appeal who have requested such notice pursuant to Section 20.100.200.

20.100.1090 - Findings.

- A. The director, or planning commission on appeal, shall grant the single-family house permit only after making the following applicable findings:
 - 1. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.
 - 2. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.
 - 3. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties.
 - 4. For projects that require a single-family house permit under Section 20.100.1030.A of this part, the director, or the planning commission, as set forth in Table 20-260, shall grant the single-family house permit after review of project design, only if the director or the planning commission finds that the project complies with Title 18, Chapter 18.40 of this Code.
- B. The director, or planning commission on appeal shall deny the application where the information submitted by the applicant and/or presented at the public hearing fails to satisfactorily substantiate such findings.

20.100.1100 - Exception - Previously approved special use permit.

- A. Notwithstanding any contrary provision of this part, no single-family house permit shall be required for the construction of a single-family house if:
 - 1. A special use permit for demolition of an existing single-family house was approved prior to December 31, 2000; and
 - 2. Plans for the replacement single-family house were submitted as part of the special use permit application; and
 - 3. Building permits are obtained prior to December 31, 2000.
- B. Construction of the single-family house shall be in conformance with the plans submitted as part of the special use permit application.
- C. If an appeal of a special use permit is heard after the effective date of this part, the plans for the replacement dwelling may be evaluated and considered as part of the appeal. The planning commission on appeal shall approve the plans for the replacement single-family home.

20.100.1110 - Exception - Approved final maps.

Notwithstanding any contrary provision of this part, no single-family house permit shall be required for the construction of a single-family house(s) if:

1. The single-family house is situated on a lot created by a final map for twenty-five or more lots in an R-1 residential zoning district which was approved after January 1, 1999, and prior to the effective date of this part; and
2. Building permits for the single-family house(s) are issued prior to December 31, 2000.

SECTION 5. Part 5.75 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

Part 5.75 - TAPROOM OR TASTING ROOM AND OFF-SALE OF ALCOHOLIC BEVERAGES IN CONJUNCTION WITH A WINERY, BREWERY, OR DISTILLERY

20.80.476 - Administrative permit required.

No person shall place or operate or allow or suffer the operation of any taproom or tasting room facility which serves members of the public on any privately-owned parcel or lot except in compliance with an administrative permit issued pursuant to this title. The application for such administrative permit may be filed by the operator of the taproom or tasting room pursuant to the requirements of Chapter 20.100. Alternatively, applicants can apply for a special use permit or conditional use permit for uses which do not meet the regulations of the administrative permit.

20.80.477 - Findings.

- A. The administrative permit shall be granted only if the director makes the following findings:
 1. The taproom or tasting room facility, as designed and at the location requested, will not create adverse impacts on the health, safety, or welfare of persons residing or working in the surrounding area; and
 2. The proposed site is adequate in size and shape to accommodate the taproom or tasting room, and any manufacturing uses on site.
- B. The director shall deny the application where the information submitted by the applicant fails to satisfactorily substantiate such findings.

20.80.478 - Taproom or Tasting Room in Downtown Zoning Districts.

- A. In Downtown Zoning Districts, an Administrative Permit may be issued pursuant to the applicable provisions of this Title for the off-sale of alcohol or the addition of a tap room or tasting room, only if the applicant meets the following criteria:
 1. Use Authorization. The Administrative Permit authorizes the following uses to be implemented on the property subject to the Permit:
 - a. A drinking establishment (taproom or tasting room) in conjunction with a winery, brewery, or distillery.
 - b. Off-sale of alcohol as incidental to a winery, brewery, or distillery.
 - c. A standalone drinking establishment (taproom or tasting room) with off-sale of alcohol.

2. Alcohol Service and Sale. Alcohol service shall be conducted in full compliance with the issued ABC license.
3. Limitation on Area of Alcohol Sales. In Downtown Zoning Districts there are no restrictions on the size of retail space, including taprooms, tasting rooms, or any retail display areas. The alcohol available for retail sale shall be limited only to those alcoholic beverages manufactured and produced on-site or in the case of a duplicate license, at the ABC license holder's primary manufacturing site.
4. Vendor Delivery Parking. The permittee shall discourage vendors from parking delivery vehicles illegally on City streets and shall identify to vendors the available legal loading and unloading zones.
5. Warehousing, Storage and Bottling. In Downtown Zoning Districts the manufacturing space should not exceed 70% of the total square footage. All aspects of manufacturing should be conducted in a fully enclosed building
6. Outdoor Storage. No outdoor storage is allowed or permitted unless designated on the approved plan set.
7. Outdoor areas. Outdoor seating or dining areas shall not be located within 150 horizontal feet of any residential unit and shall be closed to the public by 10:00 p.m. Existing, previously approved, outdoor seating areas may be permitted within 150 feet of residential units. Locations within 150 from residential units may be permitted if they conform to the following criteria:
 - a. The outdoor area is completely separated from residentially zoned property by a non-residential building or by a minimum distance of one hundred feet that includes a public street with a minimum public right-of-way dimension of eighty feet; and
 - b. The outdoor area does not include any equipment to produce any noise that does not comply with Section 20.40.600 of Chapter 20.40; and
 - c. The outdoor dining area does not operate between the hours of 10:00 p.m. and 6:00 a.m.
8. Hours of Operation: Taproom or tasting room uses shall not be open to the public before 11:00 a.m. and shall not be open past 12:00 a.m.
9. Food trucks. One food truck per site may be permitted, subject to the outdoor vending regulations detailed in Part 10 of Chapter 20.80.
10. Nuisance. This use shall be operated in a manner that does not create a public or private nuisance. Any such nuisance shall be abated immediately upon notice by the City.
11. Noise and Acoustics. The permittee shall prevent disturbing or unreasonable noise which can be heard from neighboring properties. Ambient music provided for the listening enjoyment of customers is exempted.
12. Anti-Graffiti. The permittee shall remove all graffiti from buildings, fences, and wall surfaces within 48 hours of defacement.
13. Anti-Litter. The site and surrounding area shall be maintained free of litter, refuse, and debris:
 - a. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.

- b. The operator of the proposed use shall clean the public right of way immediately adjacent to the subject site before 8:00 am each day, unless it is a participant in a Property Business Improvement District which provides such sidewalk cleaning services for the neighborhood in the vicinity of the project site, including the immediately adjacent public right of way.
 - c. Mechanical equipment used for outside maintenance, including blowers and street sweepers may not be used between 10:00 p.m. and 6:00 a.m. daily.
14. Revocation, Suspension, Modification. The Administrative Permit may be revoked, suspended or modified by the Director of Planning on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code a finding is made under Section 20.100.350.

20.80.479 - Taproom or Tasting Room in Commercial Zoning Districts.

- A. In Commercial, Urban Village, and Mixed-use Zoning Districts, an Administrative Permit may be issued pursuant to the applicable provisions of this Title for the off-sale of alcohol or the addition of a tap room or tasting room, only if the applicant meets the following criteria:
- 1. Use Authorization. The Administrative Permit authorizes the following uses to be implemented on the property subject to the Permit:
 - a. A drinking establishment (taproom or tasting room) in conjunction with a winery, brewery, or distillery.
 - b. Off-sale of alcohol as incidental to a winery, brewery, or distillery.
 - c. A standalone drinking establishment (taproom or tasting room) with off-sale of alcohol.
 - 2. Alcohol Service and Sale. Alcohol service shall be conducted in full compliance with the issued ABC license.
 - 3. Limitation on Area of Alcohol Sales. In Commercial, Urban Village, and Mixed-use Zoning Districts the size of retail space, including tap rooms, tasting rooms, or any retail display areas must not exceed 5,000 square feet. The alcohol available for retail sale shall be limited only to those alcoholic beverages manufactured and produced on-site or in the case of a duplicate license, at the ABC license holder's primary manufacturing site.
 - 4. Vendor Delivery Parking. The permittee shall discourage vendors from parking delivery vehicles illegally on City streets and shall identify to vendors the available legal loading and unloading zones.
 - 5. Warehousing, Storage and Bottling. In ~~Downtown-Commercial~~, Urban Village, and Mixed-use Zoning Districts the manufacturing space should not exceed 70% of the total square footage. All aspects of manufacturing should be conducted in a fully enclosed building.
 - 6. Outdoor Storage. No outdoor storage is allowed or permitted unless designated on the approved plan set.
 - 7. Outdoor areas. Outdoor seating or dining areas shall not be located within 150 horizontal feet of any residential unit and shall be closed to the public by 10:00 p.m. Existing, previously approved, outdoor seating areas may be permitted within 150 feet of

residential units. Locations within 150 from residential units may be permitted if they conform to the following criteria:

- a. The outdoor area is completely separated from residentially zoned property by a non-residential building or by a minimum distance of one hundred feet that includes a public street with a minimum public right-of-way dimension of eighty feet; and
 - b. The outdoor area does not include any equipment to produce any noise that does not comply with Section 20.40.600 of this chapter; and
 - c. The outdoor dining area does not operate between the hours of 10:00 p.m. and 6:00 a.m.
8. Hours of Operation: Taproom or tasting room uses shall not be open to the public before 11:00 a.m. and shall not be open past 10:00 p.m.
 9. Food trucks. One food truck per site may be permitted, subject to the outdoor vending regulations detailed in Part 10 of Chapter 20.80.
 10. Nuisance. This use shall be operated in a manner that does not create a public or private nuisance. Any such nuisance shall be abated immediately upon notice by the City.
 11. Noise and Acoustics. The permittee shall prevent disturbing or unreasonable noise which can be heard from neighboring properties. Ambient music provided for the listening enjoyment of customers is exempted.
 12. Anti-Graffiti. The permittee shall remove all graffiti from buildings, fences, and wall surfaces within 48 hours of defacement.
 13. Anti-Litter. The site and surrounding area shall be maintained free of litter, refuse, and debris:
 - a. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
 - b. The operator of the proposed use shall clean the public right of way immediately adjacent to the subject site before 8:00 am each day, unless it is a participant in a Property Business Improvement District which provides such sidewalk cleaning services for the neighborhood in the vicinity of the project site, including the immediately adjacent public right of way.
 - c. Mechanical equipment used for outside maintenance, including blowers and street sweepers may not be used between 10:00 p.m. and 6:00 a.m. daily.
 14. Revocation, Suspension, Modification. The Administrative Permit may be revoked, suspended or modified by the Director of Planning on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2 , Chapter 20.100, Title 20 of the San José Municipal Code a finding is made under Section 20.100.350.

20.80.480 - Taproom or Tasting Room in Industrial Zoning Districts.

- A. In Industrial Zoning Districts, an Administrative Permit may be issued pursuant to the applicable provisions of this title for the off-sale of alcohol or the addition of a tap room or tasting room, only if the applicant meets the following criteria:

1. Use Authorization. The Administrative Permit authorizes the following uses to be implemented on the property subject to the Permit:
 - a. A drinking establishment (taproom or tasting room) in conjunction with a winery, brewery, or distillery.
 - b. Off-sale of alcohol as incidental to a winery, brewery, or distillery.
2. Alcohol Service and Sale. Alcohol service shall be conducted in full compliance with the issued ABC license.
3. Limitation on Area of Alcohol Sales. In Heavy Industrial (HI) and Light Industrial (LI) Zoning Districts the size of retail space, including tap rooms, tasting rooms, or any retail display areas must not exceed 20% of the total tenant space (inclusive of outdoor areas). There is no limit on the size of the retail space in other Industrial Zoning Districts. The alcohol available for retail sale shall be limited only to those alcoholic beverages manufactured and produced on-site.
4. Vendor Delivery Parking. The permittee shall discourage vendors from parking delivery vehicles illegally on City streets and shall identify to vendors the available legal loading and unloading zones.
5. Warehousing, Storage and Bottling. In Industrial Zoning Districts there are no limits on the size of manufacturing space. All aspects of manufacturing should be conducted in a fully enclosed building.
6. Outdoor Storage. No outdoor storage is allowed or permitted unless designated on the approved plan set.
7. Outdoor Areas. Outdoor seating or dining areas shall not be located within 150 horizontal feet of any residential unit and shall be closed to the public by 10:00 p.m. Existing, previously approved, outdoor seating areas may be permitted within 150 feet of residential units. Locations within 150 from residential units may be permitted if they conform to the following criteria:
 - a. The outdoor area is completely separated from residentially zoned property by a non-residential building or by a minimum distance of one hundred feet that includes a public street with a minimum public right-of-way dimension of eighty feet; and
 - b. The outdoor area does not include any equipment to produce any noise that does not comply with Section 20.40.600 of Chapter 20.40; and
 - c. The outdoor dining area does not operate between the hours of 10:00 p.m. and 6:00 a.m.
8. Hours of Operation: Taproom or tasting room uses shall not be open to the public before 11:00 a.m. and shall not be open past 10:00 p.m.
9. Food trucks. One food truck per site may be permitted, subject to the outdoor vending regulations detailed in Part 10 of Chapter 20.80.
10. Nuisance. This use shall be operated in a manner that does not create a public or private nuisance. Any such nuisance shall be abated immediately upon notice by the City.
11. Noise and Acoustics. The permittee shall prevent disturbing or unreasonable noise which can be heard from neighboring properties. Ambient music provided for the listening enjoyment of customers is exempted.

12. Anti-Graffiti. The permittee shall remove all graffiti from buildings fences, and wall surfaces within 48 hours of defacement.
13. Anti-Litter. The site and surrounding area shall be maintained free of litter, refuse, and debris:
 - a. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
 - b. Mechanical equipment used for outside maintenance, including blowers and street sweepers may not be used between 10:00 p.m. and 6:00 a.m. daily.
14. Revocation, Suspension, Modification. The Administrative Permit may be revoked, suspended or modified by the Director of Planning on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2 , Chapter 20.100, Title 20 of the San José Municipal Code a finding is made under Section 20.100.350.

SECTION 6. Part 8.5 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

Part 8.5 - HISTORIC LANDMARK STRUCTURE RE-USE

20.80.650 - Intent, historic landmark structure re-use.

The intent of this part is to facilitate the continued use and occupancy of historic landmark structures by allowing consideration of a wider variety of potential uses through the creation of a discretionary process for the approval of uses in a historic landmark structure that would not otherwise be allowed in a particular zoning district.

20.80.660 - Applicability and permit process.

- A. In any residential district, additional uses beyond those allowed in the applicable district are allowed in or at a historic landmark structure subject to a conditional use permit as delineated in Part 6 of Chapter 20.100 Administration and Permits. Such additional uses shall be limited to permitted and conditional uses of any other residential district and permitted or conditional uses of the CP Commercial Pedestrian District, excepting vehicle-related uses.
- B. In a commercial, Urban Village, Mixed-use, industrial or downtown district, additional, un-enumerated uses beyond those allowed by right or conditionally in the applicable district, as well as enumerated uses that are not currently allowed, may be allowed in or at a historic landmark structure subject to a special use permit, as delineated in Part 7 of Chapter 20.100, Administration and Permits.

20.80.670 - Additional findings, historic landmark structure re-use.

- A. In addition to any findings required by any other section of this title, the director, or planning commission on appeal, may issue a special use permit, and the planning commission, or city

council on appeal, may issue a conditional use permit, all pursuant to the provisions of this title, for a use of a historic landmark structure as described and allowed pursuant to the provisions of this part only if all of the following additional findings also can be made:

1. The proposed use of the historic landmark structure is compatible with and will not cause adverse impacts to the surrounding uses; and
 2. The proposed use of the historic landmark structure will not cause adverse impacts to the historic landmark structure; and
 3. Any changes proposed to the historic landmark structure, or the site on which this historic landmark structure is located, as part of a project will comply with the United States Secretary of the Interior's Standards for the Rehabilitation of Historic Buildings; and
 4. The proposed re-use of the historic landmark structure complies either with the Uniform Building Code or the State Historic Building Code; and
 5. If the historic landmark structure is located in a residential district, the proposed re-use of the historic landmark structure will not impair the integrity of the surrounding residential neighborhood or the surrounding area is not predominately residential in character.
- B. The director, or planning commission on appeal, or the planning commission, or city council on appeal, as applicable, shall deny the development permit application where the decision-maker cannot make any one of the findings set forth in Subsection A. above, or other required finding under this title, based upon substantial evidence in the record.

SECTION 7. Part 11 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

Part 11 - OFF-SALES OF ALCOHOLIC BEVERAGES

20.80.900 - Off-sale of alcoholic beverages.

- A. A conditional use permit may be issued pursuant to the applicable provisions of this title for the off-sale of any alcoholic beverages only if the decision-making body first makes the following additional findings, where applicable:
1. For such use at a location closer than five hundred feet from any other such use involving the off-sale of alcoholic beverages, situated either within or outside the city, that the proposed location of the off-sale alcohol use would not result in a total of more than four establishments that provide alcoholic beverages for off-site consumption within a one thousand foot radius from the proposed location.
 2. For such use at a location closer than five hundred feet from any other use involving the off-sale of alcoholic beverages, situated either within or outside the city, where the proposed location of the off-sale of alcoholic beverages use would result in a total of more than four establishments that provide alcoholic beverages for off-site consumption within a one thousand foot radius from the proposed location, that the resulting excess concentration of such uses will not:
 - a. Adversely affect the peace, health, safety, morals, or welfare of persons residing or working in the surrounding area; or

- b. Impair the utility or value of property of other persons located in the vicinity of the area; or
 - c. Be detrimental to public health, safety or general welfare.
- 3. For such use at a location closer than five hundred feet from any child care center, public park, social service agency, residential care facility, residential service facility, elementary school, secondary school, college or university, or one hundred fifty feet from any residentially zoned property, that the building in which the proposed use is to be located is situated and oriented in such a manner that would not adversely affect such residential, child care center, public park, social service agency, residential care facility, residential service facility and/or school use.
- B. The off-sale of alcohol as incidental sales in conjunction with the sale of gift baskets, balloons and flowers is exempt from the requirement of a conditional use permit.
- C. Where a conditional use permit application requesting the off-premises sale of alcoholic beverages also would require a determination of public convenience and necessity under the provisions of Chapter 6.84 of Title 6 of this Code, and the planning commission cannot make the required findings under Section 6.84.030 of Chapter 6.84 of Title 6 of this Code, the planning commission shall make a report and recommendation to the city council on said conditional use permit application. In this instance, the city council shall be the initial and final decision-making body on said conditional use permit application.
- D. In the Downtown Primary Commercial Zoning District (DC), an Administrative Permit or a Special Use Permit may be issued for a taproom or tasting room with off-sale of alcohol either as a standalone use or in conjunction with an alcohol manufacturing site such as a winery, brewery, or distillery, pursuant to the regulations set forth in Part 5.75 of Chapter 20.80, and are not subject to the above conditional use permit requirements.
- E. In Commercial Zoning Districts (CP, CN, and CG) . Urban Village (UV and UVC), Mixed-use (MUC, MUN, UR, and TR) and Industrial Zoning Districts (CIC, TEC, IP, HI, and LI), an Administrative Permit or a Special Use Permit may be issued for a taproom or tasting room with off-sale of alcohol in conjunction with a winery, brewery, or distillery, pursuant to the regulations set forth in Part 5.75 of Chapter 20.80, and are not subject to the above conditional use permit requirements.

SECTION 8. Part 13.7 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

Part 13.7 - RETAIL ART STUDIO

20.80.1175 - Retail art studio.

- A. Retail art studios are a permitted use in the CP ~~commercial pedestrian~~, CN ~~commercial neighborhood~~, CG ~~commercial general~~, UVC, UV, MUC, MUN, UR, TR, MS-G ~~main street ground floor commercial~~, MS-C ~~main street commercial~~, DC ~~downtown primary commercial~~ and DC-NT1 ~~downtown commercial neighborhood transition 1~~ districts only if all of the following criteria are met:
 - 1. The use is located on the ground floor of a building; and

2. A maximum of one thousand five hundred square feet of the total floor area is devoted to manufacturing of artistic items, and shall be contiguous to the area of retail sales use; and
 3. A minimum of twenty percent of the total floor area shall be devoted to retail sales; and
 4. All activities, except for activities that conform to Section 20.40.520 or Section 20.75.320, shall be conducted in a fully enclosed building; and
 5. The use shall conform to all applicable building and fire code regulations of the City of San José.
- B. A retail art studio that does not conform to all of the requirements set forth in Section 20.80.1175A. may be allowed through the approval of a special use permit.

SECTION 9. Part 14 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

Part 14 - SEASONAL SALES

20.80.1200 - Seasonal sales.

Notwithstanding anything in this title to the contrary, seasonal sales, including the sale of Halloween pumpkins and Christmas trees, may be held on lots in the CO, CP, CN, CG, UVC, UV, MUC, MUN, UR, TR, IP, LI, and HI zoning districts, as well as on lots zoned planned development where the permitted uses align with the permitted uses in the aforementioned lots. Such seasonal sales may also be held on property in any zoning district if such property is designated public/quasi-public on the land use/ transportation diagram of the general plan and the property is currently being used for uses consistent with that designation.

20.80.1210 - Regulation of use.

The following regulations shall apply to all seasonal outdoor Halloween pumpkin and Christmas tree sales lots:

- A. Seasonal outdoor Halloween pumpkin sales are allowed between October 1 and November 5, inclusive;
- B. Seasonal outdoor Christmas tree sales are allowed between November 6 and December 30, inclusive;
- C. Temporary structures and buildings one hundred twenty square feet or less in floor area are allowed if they are located at least twenty feet from any property line;
- D. Activity associated with seasonal outdoor Halloween pumpkin and Christmas tree sales may not be conducted on any portion of a lot which is closer than one hundred feet to any residentially used lot.
- E. Seasonal outdoor Halloween pumpkin and Christmas tree sales must occur in an area designated for such sale as set forth in any development permit issued for the site.

SECTION 10. Part 18 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

Part 18 - TEMPORARY TRAILERS

20.80.1700 - Use of temporary trailer.

This part is to allow temporary trailers to be used only for the following purposes:

1. The continuation of a commercial, industrial or manufacturing business while a primary structure is undergoing alteration or restoration; and
2. The temporary erection of antennas mounted on trailers for short term operation while permitted alterations of existing wireless communication antennas are being constructed or for short term testing of coverage for wireless communication systems.

20.80.1710 - Definitions.

The following definitions are for purposes of this part:

1. "Primary structure" means an existing building in which a principal permitted commercial, industrial or manufacturing use has been conducted and as to which an applicant for a permit under this part has demonstrated a need for retrofit, restoration or other such work.
2. "Temporary use trailer" means a trailer, modular unit or other moveable prefabricated structure which is 2,000 (two thousand) square feet or less in floor area.
3. "Temporary antenna trailer" means a temporary, portable antenna, along with attendant cabinets and other equipment, mounted on a trailer that is licensed by the California Department of Motor Vehicles and is capable of towing by a single axle pickup truck.

20.80.1720 - Zoning districts and permit required.

No temporary use trailer or temporary antenna trailer shall be used on any property unless:

1. The property is located in a commercial zoning district, in an urban village or mixed-use zoning district, in an industrial zoning district or those planned development zoning districts which permit uses in the commercial or industrial districts; and
2. The property owner has obtained a valid permit issued in conformance with this part.

20.80.1730 - Temporary use trailer - Permit required.

- A. A temporary use trailer for use as a replacement structure during retrofit, restoration or other such work on a primary structure requires one of the following permits:
 1. An administrative permit, as provided in Chapter 20.100 of this title, and in conformance with the requirements of this section and Section 20.80.1740; or
 2. In the event the owner cannot meet the requirements of this part or the director denies an administrative permit, a special use permit, as provided in Chapter 20.100.
- B. All applications for a permit for a temporary use trailer shall set forth facts demonstrating to the satisfaction of the director the need to use a temporary use trailer to continue to conduct a commercial, industrial, or manufacturing use, which was in compliance with this title, at a

primary structure located on the same lot for which the permit is being requested and in order to accomplish one or more of the following:

1. Retrofit for seismic safety;
 2. Restoration of the primary structure necessitated by the total or partial destruction or damage of the structure by catastrophic event or sudden cause;
 3. Modification of the primary structure, or of equipment or processes at the facility, that requires on-site workers to vacate the primary structure while work is undertaken; or
 4. Other such work determined by the director to be in the interest of public health and safety.
- C. All applications shall demonstrate that the proposed temporary use trailer shall be maintained in conformance with the provisions of Section 20.80.1740.
- D. Upon a determination that the application meets the requirements of this part, the director may issue the administrative permit.

20.80.1740 - Temporary use trailer - Conditions of issuance.

The use of any temporary use trailer shall be in accordance with all of the following conditions:

- A. The use of the temporary use trailer may be permitted for up to one year, and renewed for one additional year at the discretion of the Director.
- B. No more than one temporary use trailer per lot shall be permitted at any given time, except that in the case where temporary use trailers are being used to temporarily house on-site workers displaced from the primary structure due to temporary construction activities under the provisions of Section 20.80.1730B.3., additional temporary use trailers may be permitted as needed to temporarily house those displaced workers provided that each and all of the temporary use trailers do not conflict with applicable development standards including without limitation setback and parking requirements.
- C. Temporary use trailers shall be located a minimum of fifteen feet from the front property line.
- D. No temporary use trailer shall be used in such a manner that circulation aisles are blocked.
- E. The minimum number of required off-street parking spaces for the site shall be calculated according to the provisions of Chapter 20.90 based upon the cumulative square footage of temporary use trailers and any remaining useable space in the primary structure.
- F. Not more than one sign shall be permitted per lot. Such sign shall be attached to the trailer and shall not exceed six square feet in area.
- G. The hours of operation shall be the same as for the preexisting use in the primary structure.
- H. Nothing herein excuses full compliance with the provisions of Section 20.150.020 of this title.
- I. The temporary use trailer shall comply with all applicable building and fire safety standards.

- J. All necessary city permits, in addition to those required by this part, shall be obtained prior to installation of the temporary use trailer.
- K. The temporary use trailer shall be removed and the construction site shall be cleared of all debris upon completion of the retrofit, reconstruction or other work on the primary structure or upon revocation or expiration of the administrative or special use permit, whichever occurs first.
- L. No certificate of occupancy, as provided for in Section 307 of the building code, shall be issued for the primary structure until after the temporary use trailer has been completely removed from the lot and all utilities have been disconnected from the temporary use trailer in a safe manner.
- M. Revocation of any permit issued hereunder shall be in accordance with the provisions of this title which are applicable to the type of permit issued.

20.80.1750 - Temporary antenna trailer - Permit required.

- A. A temporary antenna trailer for the testing of a wireless communication network requires the following permit:
 - 1. An administrative permit, as provided in Chapter 20.100 of this title, and in conformance with the requirements of this section and Section 20.80.1760; or
 - 2. In the event the owner cannot meet the requirements of this part or the director denies an administrative permit, a special use permit, as provided in Chapter 20.100.
- B. All applications for permit for a temporary antenna trailer shall set forth facts demonstrating to the satisfaction of the director that the temporary antenna trailer will be used to determine if the site is necessary for a wireless communications network.
- C. All applications shall demonstrate that the proposed temporary antenna trailer shall be maintained in conformance with the provisions of Section 20.80.1760.

20.80.1760 - Temporary antenna trailer - Conditions of issuance.

The use of a temporary antenna trailer shall be in accordance with all of the following conditions:

- 1. The temporary antenna trailer shall not exceed forty-five feet in height, or the maximum height of the zoning district, whichever is less; and
- 2. The temporary antenna trailer shall operate for no more than one year at the site if for testing purposes; and
- 3. If not for testing purposes the temporary antenna trailer shall operate for no longer than the duration of constructing permitted alterations of existing wireless communication antennas; and
- 4. No temporary antenna trailer, for testing purposes, shall have operated within two thousand feet of the proposed site in the previous two years; and
- 5. The issuance of the administrative permit is intended only for the temporary operation while permitted alterations of existing wireless communication antennas are being constructed or for the temporary testing of operation or design of the wireless communications network and the approval of such a temporary antenna trailer shall not serve as a justification or basis for future approvals of wireless communication antennas on the site; and

6. No more than one temporary antenna trailer per site may be permitted at any given time; and
7. The temporary antenna trailer shall be located a minimum of fifty feet from the property line; and
8. No temporary antenna trailer shall block any circulation aisles; and
9. The temporary antenna trailer shall comply with all applicable building and fire safety standards; and
10. All necessary permits shall be obtained prior to installation of the temporary antenna trailer; and
11. Revocation of any permit issued hereunder shall be in accordance with the provisions of this title which are applicable to the type of permit issued.

SECTION 11. Section 20.10.060 of Chapter 20.10 of Title 20 of the San José Municipal Code is amended to read as follows:

20.10.060 - Zoning districts established.

- A. In order to regulate and restrict the location of residences, professions, businesses, trades, and industries, to regulate and restrict the location, height, and size of buildings and structures hereafter erected, enlarged or altered, and to regulate and determine the area, depth, and width of yards, setback areas, and other open spaces, the following classes of city zoning districts are hereby established, as set forth in Table 20-10:

Table 20-10
City Zoning Districts

| Zoning District | Zoning Map Symbol | Alternative Zoning Map Symbol |
|--|-------------------|-------------------------------|
| OS Open Space | OS | OS |
| A Agricultural | A | A |
| Rural Residential Residence District (1DU/5 Acres) | R-1-RR | None |
| R-1-1 Residence District (1DU/Acre) | R-1-1 | R-1-B-3 |
| R-1-2 Residence District (2DU/Acre) | R-1-2 | R-1-B-2 |
| R-1-5 Residence District (5DU/Acre) | R-1-5 | R-1-B-8, R-1-B-1 |

| | | |
|--|------------|--------------------------------------|
| R-1-8 Residence District (8DU/Acre) | R-1-8 | R-1, R-1-B-6 |
| R-2 Residence District (2DU/Lot) | R-2 | R-2 |
| R-M Residence District (Multiple Unit/Lot) | R-M | R-3, R-3-F, R-3-A, R-3-B, R-3-C, R-4 |
| R-MH District (mobilehome parks, travel trailer parks) | R-MH | T-M |
| CO Commercial Office District | CO | C-L, C |
| PQP Public/Quasi-Public District | PQP | None |
| CP Commercial Pedestrian District | CP | C-1 |
| CN Commercial Neighborhood District | CN | C-2 |
| CG Commercial General District | CG | C-3 |
| <u>UVC Urban Village Commercial</u> | <u>UVC</u> | <u>None</u> |
| <u>UV Urban Village</u> | <u>UV</u> | <u>None</u> |
| <u>MUC Mixed-use Commercial</u> | <u>MUC</u> | <u>None</u> |
| <u>MUN Mixed-use Neighborhood</u> | <u>MUN</u> | <u>None</u> |
| <u>UR Urban Residential</u> | <u>UR</u> | <u>None</u> |
| <u>TR Transit Residential</u> | <u>TR</u> | <u>None</u> |
| TEC Transit Employment District | TEC | None |
| IP Industrial Park District | IP | L-R, IP-a, IP-b, IP-c, IP-d, I |
| CIC Combined Industrial/Commercial | CIC | None |
| LI Light Industrial District | LI | M-1 |
| HI Heavy Industrial District | HI | M-4 |

A. The foregoing zoning districts are listed in descending order of restrictiveness, that is, with the most restrictive district listed first and the least restrictive district listed last.

B. —In addition, the following special zoning districts are established as set forth in Table 20-20. The application of these districts is limited to specific geographic areas of the city as set forth in Section 20.70.010 and Section 20.75.020.

Table 20-20
Special Zoning Districts

| Zoning District | Zoning Map Symbol |
|---|-------------------|
| DC Downtown Primary Commercial District | DC |
| DC-NT1 Downtown Commercial Neighborhood Transition 1 District | DC-NT1 |
| MS-G Main Street Ground-Floor Commercial District | MS-G |
| MS-C Main Street Commercial District | MS-C |

SECTION 12. Section 20.120.110 of Chapter 20.120 of Title 20 of the San José Municipal Code is amended to read as follows:

20.120.110 - Conformance with the general plan.

A. For the purposes of Section 20.120.100 only, the determination of conformance of zoning or rezonings to the General Plan, shall be made in the manner set forth in Table 20-270:

Table 20-270

| General Plan Designation | Conforming District |
|-----------------------------|---------------------|
| All designations | OS, A |
| Open hillside | OS |
| Lower hillside (1 du/5 ac) | R-1-RR |
| Rural residential (2 du/ac) | R-1-1, R-1-2 |
| Residential neighborhood | R-1-8, R-1-5 |

| | |
|--|------------------------------|
| Urban residential, transit residential | <u>UR</u> R-M |
| <u>Transit residential</u> | <u>TR</u> |
| <u>Mixed-use Neighborhood</u> | <u>MUN</u> |
| <u>Mixed-use Commercial</u> | <u>MUC</u> |
| Neighborhood/community commercial, CP, CN, CG | |
| Regional commercial | CG |
| Public/Quasi-Public | PQP |
| Industrial park | IP |
| Transit employment center | TEC |
| Light industrial | LI |
| Heavy industrial | HI |
| Combined industrial/commercial | CIC |
| Downtown | DC |
| Transportation and Utilities | PQP |
| Open Space, Parklands, and Habitat | OS |
| Urban Village | <u>UV</u> CP, CN |
| Urban Village Commercial | <u>UVC</u> CP, CN |

BA. A Planned Development (PD) Combining District conforms to the General Plan designation where the uses permitted by the general development plan for such proposed district conform to General Plan designation and where the base zone thereof conforms to said designation in accordance with the foregoing table.

CB. Each portion of the property to be zoned or rezoned must conform to the General Plan designation for each such portion.

CC. Notwithstanding Subsections 20.120.110.A., B., and C. above, this Section is not applicable to Parcels that are developed with Mobilehome Parks.

SECTION 13. A new section is added to Chapter 20.200 of Title 20 of the San José Municipal Code is amended to read as follows:

20.200.268 Density.

The measurement of the number of housing units in an area or located on a specific parcel or lot. Density is typically expressed through the calculation of dwelling units per acre (du/ac).

SECTION 14. A new section is added to Chapter 20.200 of Title 20 of the San José Municipal Code is amended to read as follows:

20.200.412 Floor Area.

- A. For the purpose of determining floor area ratio, the floor area of a building or buildings shall be the sum of the gross horizontal areas of the floor(s) of such buildings measured from the exterior faces of exterior walls or from the center line of party walls separating two (2) buildings and shall exclude:
1. Basement space if the basement story height is less than 6 ft. above grade;
 2. Unenclosed stairwells at each floor;
 3. Floor space used for mechanical equipment where the structural headroom is less than 7½ ft.
 4. Equipment, open or enclosed, located on the roof, such as bulkheads, water tanks and cooling towers;
 5. Attic floor space where the structural headroom is less than 7½ ft.;
 6. Underground parking structures;
 7. Accessory buildings;
- B. Areas covered by sidewalk easements shall be included in the total area square footage of the parcel or project boundary.
- C. For the purpose of determining gross floor area for single-family dwellings refer to Section 20.100.1020.
- D. For the purposes of calculating parking requirements refer to Section 20.90.050.

SECTION 15. A new section is added to Chapter 20.200 of Title 20 of the San José Municipal Code is amended to read as follows:

20.200.413 Floor Area Ratio.

The gross floor area of the building or buildings divided by the total area. For calculating the floor area ratio of a single-family home, refer to Part 10 of Chapter 20.100 – Administration and Permits.

SECTION 16. Section 20.200.760 of Chapter 20.200 of Title 20 of the San José Municipal Code is amended to read as follows:

20.200.760 - Mixed use.

~~Development that contains uses from two or more of the three major land use categories: residential, commercial, and industrial.~~ The combination of commercial and residential uses located on the same property as part of a unified development. Mixed-Use Development consists of commercial and residential uses integrated either vertically (vertical mixed-use) in the same structure or group of structures, or horizontally on the same development site (horizontal mixed-use) where parking, open spaces, and other development features are developed or grouped together in order to create a more cohesive overall design.

SECTION 17. Section 20.200.898 of Chapter 20.200 of Title 20 of the San José Municipal Code is amended to read as follows:

20.200.898 - Private open space.

~~"Private open space" means outdoor space designed for recreation that is accessible to the residents of a single residential unit.~~ A usable open space adjoining and directly accessible to a dwelling unit, reserved for the exclusive use of residents of the dwelling unit and their guests.

SECTION 18. A new section is added to Chapter 20.200 of Title 20 of the San José Municipal Code is amended to read as follows:

20.200.899 Privately Owned Public Open Space (POPOS).

Open space which is publicly accessible by easement and/or agreement and is located on privately owned land and maintained by a private property owner or business operator.

SECTION 19. A new section is added to Chapter 20.200 of Title 20 of the San José Municipal Code is amended to read as follows:

20.200.942 Public Open Space.

Publicly owned parks, plazas, and other spaces meant for repose and recreation which are accessible by members of the public.

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING TITLE 20 OF THE SAN JOSE MUNICIPAL CODE (ZONING ORDINANCE) TO: ADD CHAPTER 20.55 URBAN VILLAGE AND MIXED-USE ZONING DISTRICTS; REVISE TEXT FOR SPECIFIC USE REGULATIONS IN CHAPTER 20.80 TO ADD OR CLARIFY REFERENCES TO URBAN VILLAGE AND MIXED-USE ZONING DISTRICTS TO VARIOUS SECTIONS; REVISE TEXT TO INCORPORATE NEW ZONING DISTRICTS INTO EXISTING PERMIT REQUIREMENTS IN CHAPTER 20.100; REVISE TABLE 20-10 IN SECTION 20.10.060, ZONING DISTRICTS ESTABLISHED, AND TABLE 20-270 IN SECTION 20.120.110, CONFORMANCE WITH THE GENERAL PLAN, TO ADD URBAN VILLAGE AND MIXED-USE ZONING DISTRICTS TO THE TABLES; REVISING AND ADDING DEFINITIONS IN CHAPTER 20.200; AND MAKE OTHER TECHNICAL, NON-SUBSTANTIVE, OR FORMATTING CHANGES; ALL TO EFFECTUATE ZONING CODE AND GENERAL PLAN CONFORMANCE

WHEREAS, pursuant to Section 15168(c)(2) of the CEQA Guidelines, the City of San José has determined that this Ordinance is pursuant to, in furtherance of and within the scope of the previously approved program evaluated in the Final Program Environmental Impact Report for the Envision San José 2040 General Plan (the "FEIR"), for which findings were adopted by City Council through its Resolution No. 76041 on November 1, 2011, and Supplemental Environmental Impact Report (the "SEIR"), through Resolution No. 77617, adopted by City Council on December 15, 2015, and Addenda thereto, and does not involve new significant effects beyond those analyzed in the FEIR and SEIR; and

WHEREAS, the City Council of the City of San José is the decision-making body for this Ordinance; and

WHEREAS, this Council of the City of San José has considered and approves the information contained in the FEIR, as supplemented and addenda thereto, and related City Council Resolution Nos. 76041 and 77617 and the determination of consistency therewith prior to taking any approval actions on this Ordinance;

1. ~~Urban Village and Mixed-Use-use~~ Zoning Districts ~~City of San José~~

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NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. A new Chapter is added to Title 20 of the San José Municipal Code to be numbered, entitled and to read as follows:

Chapter 20.55 – URBAN VILLAGE AND MIXED-USE ZONING DISTRICTS

Part 1 - GENERAL

20.55.010 - Urban Village and Mixed-Use Zoning Districts.

- A. This chapter sets forth the land use and development regulations applicable to the Urban Village and Mixed-Use Zoning Districts established by Section 20.10.060.
- B. No building, structure, or land shall be used, and no building or structure shall be erected, enlarged, or structurally altered, in the UVC, UV, MUC, MUN, UR, and TR Zoning Districts except as set forth in this chapter.
- C. The Urban Village and Mixed-Use Zoning Districts are intended to support implementation of the General Plan by providing flexibility for the development of employment uses, high density housing, and mixed-use development. The purposes of the Urban Village and Mixed-Use Zoning Districts are as follows:
 1. UVC Urban Village Commercial District. The UVC Urban Village Commercial district is intended to implement the Urban Village Commercial general plan designation. Residential uses are not permitted in the UVC district.
 2. UV Urban Village District. The UV Urban Village district is intended to implement the Urban Village general plan land use designation.
 3. MUC Mixed-Use Commercial District. The MUC Mixed-Use Commercial district is intended to implement the Mixed-Use Commercial general plan land use designation.
 4. MUN Mixed-Use Neighborhood District. The MUN Mixed-Use Neighborhood district is intended to implement the Mixed-Use Neighborhood general plan land use designation.
 5. UR Urban Residential District. The UR Urban Residential district is intended to implement the Urban Residential general plan land use designation.
 6. TR Transit Residential District. The TR Transit Residential district is intended to implement the Transit Residential general plan land use designation.

20.55.020 Urban Villages as a Major Strategy for growth

- A. The General Plan establishes the concept for Urban Villages as one of the Major Strategies for achieving active, dense, and mixed-use growth areas within the city. The Urban Village and Mixed-

2. Urban Village and Mixed-Use Zoning Districts — City of San José

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Use zoning districts (UVC, UV, MUC, MUN, UR, and TR) will be applied to and conform to their respective General Plan Land Use Designations throughout the Urban Villages.

- B. Urban Village Planning Process. The Urban Village planning process (as described in General Plan Appendix 6) is an intensive community outreach process to adopt policies and standards for development in a specific area. Once the planning process is completed, the Urban Village plans are then heard by the Planning Commission which makes a recommendation to City Council before the plan is voted on and approved by the City Council. Once approved, the plans become official policy documents which are specific to their respective areas.
1. Approved Urban Village Plans. For development projects located in an approved urban village area, the standards for development provided by the urban village plan shall prevail over the standards in this Chapter. However, when a plan does not contain a regulation which is detailed in this Chapter, the zoning standard of development shall be applied.
 2. Unplanned, Urban Village Planning Areas. Urban Villages that have been designated but have not completed the Urban Village planning process are considered to be unplanned. For those Urban Villages that are unplanned, the development regulations in this Chapter shall prevail.
- C. Mixed-Use zoning outside of Urban Villages. The MUC, MUN, UR and TR zoning districts may also be applied to properties that exist outside of identified urban villages.
- D. Development in the Urban Village and Mixed-Used Zoning Districts is subject to a variety of policies and standards, the following is a list of the hierarchy of standards for development:
1. The General Plan
 2. Approved Urban Village Plans
 3. Urban Village and Mixed-Use Zoning Districts
 4. Citywide Design Standards and Guidelines

20.55.030 Citywide Design Standards and Guidelines

- A. The San José Citywide Design Standards and Guidelines provide detailed design regulations regarding placement, scale, shape, form, and intensity of design arrangement of buildings and opens spaces and their relationship to the neighborhoods and the city. Those standards and guidelines are referenced throughout this section and should be used together with the Urban Village and Mixed-Use zoning district development standards to inform future development.

20.55.040 Applying Floor Area Ratio vs. Dwelling Units per Acre

- A. To calculate density and development intensity, refer to Table 20-136 in Section 20.55.100 for information on each zoning district's standards for Floor area ratio (FAR) or dwelling units per acre (du/ac);
- B. For development projects that are 100% Commercial, the FAR standard shall apply;
1. UVC shall require an FAR of up to 8.0;

~~3. Urban Village and Mixed-Use Zoning Districts~~ ^{City of San José -} ~~City of San José~~

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2. UV shall require an FAR of up to 10.0;
 3. MUC shall require an FAR of 0.25 - 4.5;
 4. MUN shall require an FAR of 0.25 - 2.0;
 5. UR shall require an FAR of 1.0 - 4.0;
 6. TR shall require an FAR of 2.0 - 12.0;
- C. For Mixed-use development, both standards for FAR and du/ac shall apply. In addition to meeting the FAR standard, projects are required to provide a minimum du/ac, there is no maximum, except in MUC and MUN.
1. Calculating Mixed-Use FAR shall include the combined floor area of both the commercial and residential portions of the entire project.
 2. Mixed-use development du/ac and FAR standards:
 - a. The UV zoning district shall have a minimum density of 55 du/ac and maximum FAR of 10.0;
 - b. The UR zoning district shall have a minimum density of 30 du/ac and maximum FAR of 4.0;
 - c. The TR zoning district shall have a minimum density of 50 du/ac and maximum FAR of 12.0;
 - d. The MUN zoning district shall have a maximum density of 30 du/ac and an overall FAR of 0.25 - 2.0;
 - e. The MUC zoning district shall have a maximum density of 50 du/ac and an overall FAR of 0.50 - 4.5;
- D. For projects that are 100% Residential the standard for du/ac shall apply.
1. UV shall require 55 to 250 du/ac;
 2. UR shall require 30 to 95 du/ac;
 3. TR shall require 50 to 250 du/ac;
 4. MUN shall have a maximum of 30 du/ac. In addition to the standard for du/ac, Single-family home development shall conform to the FAR standards detailed in Table 20-137 in Section 20.55.104.

Part 2 - DEVELOPMENT REGULATIONS

20.55.100 - Development standards.

- A. All development in the Urban Village and Mixed-Use Zoning Districts shall conform to the development regulations set forth below in Table 20-136. For development projects located in an approved urban village area, the standards for development provided by the urban village plan shall

4. Urban Village and Mixed-Use Zoning Districts City of San José

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prevail over the standards in this Chapter. However, when a plan does not contain a regulation which is detailed in this Chapter, the zoning standard of development shall be applied.

B. The development standards set forth throughout Chapter 20.55 - Urban Village and Mixed-use zoning districts, shall not apply to those properties which are located in the Diridon Station Area Plan, and which fall under the Airport Influence Area of the San Jose International Airport.

Table 20-136
Urban Village and Mixed-Use Zoning Districts
Development Standards

| Regulations | | Zoning Districts | | | | |
|---|--|--|---------------|---------------|---------------|---------------|
| | | UVC | UV | MUC | UR | TR |
| Min. Lot Area | | 8,000 sq. ft. | 6,000 sq. ft. | 6,000 sq. ft. | 6,000 sq. ft. | 6,000 sq. ft. |
| 100% Commercial FAR | | Max. 8.0 | Max. 10.0 | 0.25 - 4.5 | 1.0 - 4.0 | 2.0 - 12.0 |
| Mixed-use | FAR | N/A | Max. 10.0 | 0.5 - 4.5 | Max. 4.0 | Max. 12.0 |
| | du/ac | N/A | Min. 55 | Max. 50 | Min. 30 | Min. 50 |
| 100% Residential du/ac | | N/A | 55 – 250 | N/A | 30 – 95 | 50 – 250 |
| Max. Building Height | Refer to Approved Urban Village Plan | | | 85 ft. | 135 ft. | 270 ft. |
| | For additional information refer to Chapter 20.85 Specific Height Restrictions. | | | | | |
| | For development located in areas with approved Urban Village Plans refer to the Urban Village Plan for height regulations. | | | | | |
| Additional regulations for Urban Villages | | For development in approved Urban Village areas, refer to the Urban Village Plan for additional information on development standards and requirements. | | | | |
| | | Setback Regulations | | | | |
| Front Setback | | Maximum 10 ft. | | | | |
| Side Setback | | Maximum 10 ft. | | | | |
| Rear Setback | | Minimum 10 ft. | | | | |

City of San José -
Urban Village and Mixed-Use Zoning Districts - City of San José

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| Public Open Space in Setback areas | No setback shall be required for areas devoted to the property line abutting public plazas, paseos, POPOS, and other public open spaces, which conform to the Citywide Design Standards and Guidelines for Building Placement and Form, Proportion, and Scale. |
| Exceptions to Setback Regulations | Refer to Section 20.55.101 |
| Additional Development Regulations | |
| Ground-Floor Commercial Regulations for 100% Commercial or Mixed-use | Refer to the Citywide Design Standards and Guidelines for additional information regarding minimum frontage, height, depth, and other requirements for ground-floor commercial spaces. |
| Open Space Regulations for 100% Residential and Mixed-use | Refer to Section 20.55.102 |
| Lighting | Refer to Section 20.55.103 |
| Parking | For general parking regulations, refer to Chapter 20.90 |
| | Tandem Parking is permitted for Residential uses. Off site parking is permitted under a single development permit using the alternate standards. No unmounted camper or vehicle, other than those vehicles expressly specified and allowed under Title 17 of this Code, shall be kept, stored or parked for a period of time in excess of forty-eight consecutive hours in the front setback area of any lot or parcel situated in a residential district or containing a residential use; such. Such parking or storage is limited to paved surfaces. |

20.55.101 – Exceptions to Setback Regulations

Except as otherwise specifically provided in other sections of this title, every part of every setback area shall be kept open, unobstructed, and unoccupied by all buildings or structures above, below, and on the surface of the ground. The following setback exceptions apply to properties located in the UVC, UV, MUC, ~~MUN~~, UR, and TR districts as follows:

- A. Minor architectural projections such as: sills, eaves, belt courses, cornices, canopies, awnings, bay windows, chimneys, stoops, stairs, landscape retaining walls, porches, decks, balconies, minor building faces, and wells for basement windows may project into required setback areas as follows:
- Canopies and awnings may project into setback areas by a maximum of 3 feet;

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2. Stoops, stairs, and landscape retaining walls may project up to a maximum of 6 feet into the required setback areas;
 3. Balconies (~~covered or uncovered~~), may project into required setback areas ~~as long as if~~ they conform to the Citywide Design Standards and Guidelines; in MUN balconies shall not project within 5 ft of property lines facing public right of way or public open space.
 4. ~~Ground floor~~ ~~Ground floor~~ porches or decks (~~covered or uncovered~~), may project up to 10 feet into the required setback areas, subject to building code; in MUN ~~ground floor~~ ~~ground floor~~ porches or decks shall not project within 5 ft of property lines facing public right of way or public open space.
 5. All other minor architectural projections may project up to a maximum of 2 feet into the setback area, by no more than 10 feet in width, for no more than 20% of the building elevation length.
- B. Short-term ~~bicycle parking facilities for bicycles~~ or micro mobility ~~parking facilities devices (as defined by Title 11)~~ may be placed in side or rear setbacks as long as they are in compliance with the provisions of Chapter 20.90, for additional information on placement and design refer to Citywide Design Standards and Guidelines.
- C. Mechanical equipment in setback area:
1. Tankless water heaters, energy storage units, and power inverters may project horizontally for no more than 2 feet into either the side or rear setback area and are not permitted in front setback areas.
 2. Air conditioning units may be placed in rear or side setbacks and are not permitted in front setback areas
 3. Mechanical equipment related to pool maintenance may be placed in rear setbacks and are not permitted in front or side setbacks.
- D. A building side setback shall be required for interior lots that abut a lot with an existing single-family residence and a Residential Neighborhood General Plan land use designation ~~as follows~~:
1. Development built at ~~2.5~~ stories or less shall have a minimum side setback of 5 ft.
 2. ~~Development~~ ~~For development~~ built at ~~3 more than 2.5~~ stories ~~or more shall have, no portion of the building may be developed with less than a minimum 10 ft.~~ side setback of 10 ft.
- E. Side setbacks greater than 10 ft. shall be permitted as required by Building or Fire code for public health and safety reasons.
- F. There shall be no rear setback required whenever the entire rear property line abuts property located in any commercial district or less restrictive district where the zoning designation of the site is in conformance with the General Plan land use designation of the site as determined by Table 20-270. Rear setbacks may be required by Building or Fire code.
- G. Setbacks abutting a public alley, one-half of such alley as measured from the alley centerline, may be assumed to be a portion of the rear setback area.
- H. The following projections may be placed within required setback areas as long as they comply with the Citywide Design Standards and Guidelines and Building and Fire codes:
1. Walkways and driveways for pedestrian or vehicular access to the site;

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2. Overhead wires necessary for electrical and telephone service to a building on the lot;
3. Underground lines and equipment necessary for the sewerage, drainage, plumbing, water, gas, and electrical needs of the lot or of a building on the lot;
4. Underground parking facilities, subject to building code requirements.

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- I. For information regarding Major or Minor Encroachments in the public right-of-way refer to Chapter 13.37 Encroachment Permits, in Title 13 of the San Jose Municipal Code.

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20.55.102 - Open Space Requirements for Residential or Mixed-Use Developments

- A. The purpose and intent of these regulations is to set the standards for common open space and private outdoor open space for residential and mixed-use developments with 15 or more residential units, not including Accessory Dwelling Units. All residential or mixed-use developments in the UV, MUC, UR, and TR districts shall provide useable common open space and private open space in conformance with all the requirements of this section.

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1. Development which includes 15 units or more (excluding ADUs) are required to provide both common open space and private open space.

2. Development which includes less than 15 units (excluding ADUs) are only required to provide private open space.

B.3. Projects which are exempted or otherwise not required to provide common open space must provide private open space at the amounts determined in this section.

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C.4. Refer to the Citywide Design Standards and Guidelines for specific information regarding placement and design of open spaces.

- D.B. Common Open Space Requirements. Common open space is the outdoor space provided for recreation of all residents of a project. Each residential or mixed-use development shall comply with the following common open space requirements:

1. Mixed-use projects, shall provide common open space at a minimum of 50 square feet per residential unit;
2. 100% Residential projects shall provide common open space at a minimum of 75 square feet per residential unit;
3. All buildings in the proposed development shall include access to at least one common open space, Privately Owned Public Open Space, hereby referred to as POPOS, or public open space.
4. Areas with amenities such as tables, benches, garden plots, pet areas, spas, pools, play areas, plazas, roof top patios, and picnic areas may be counted as common open space.
5. Indoor recreation space can count counts toward a maximum of fifty percent of the common open space requirement if the entire area of the indoor space is designed exclusively for recreational use that is available for use by residents of the development without additional use fees (including but not limited to swimming pools, exercise facilities, or multi-use recreation rooms).

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E.C. Private Open Space Requirements. Private open space is the outdoor space attached to a living unit and provided for the use of the residents of the living unit. Private open space can occur in the form of a patio, balcony, deck, or rear yard. The private open space requirement is calculated based on the total number of units and each development shall meet the following private open space requirements:

1. Mixed-use projects shall provide private open space at a minimum of 30 square feet per residential unit;
2. 100% Residential projects shall provide private open space at a minimum of 40 square feet per residential unit.
3. At least 50% of all dwelling units shall have direct access to private open space in the form of a balcony, patio, or roof terrace.
4. Refer to the Citywide Design Standards and Guidelines for additional requirements for dwelling units which face public streets and open spaces.

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F.D. Exceptions to open space requirements.

1. Projects located within a quarter mile walking distance of existing public open spaces shall be exempted from Common Open Space requirements. Projects located between a quarter mile and a half mile walking distance of existing public open spaces shall have the Common Open Space requirement reduced by 50%.
2. Up to 50% of the total private open space requirement may be fulfilled through the development of an equivalent amount of common open space in addition to the common open space requirement detailed in Section 20.55.102(D)-B). Development projects shall not provide private open space for less than 50% of the total number of units.

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a. Development projects shall provide private open space for at least 50% of the total number of units.

- b.3. Development projects which are exempted from common open space requirements because of their proximity to public open space shall provide 100% of private open space requirements and may not reduce their private open space requirements in combination with any other exceptions listed in this section.

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- 3.4. On site development of Privately Owned Public Open Space (POPOS) shall serve to fulfill common open space requirements based on the following ratio; every 1 square foot of POPOS included in a development shall fulfill 2 square feet toward the total common open space requirement.

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20.55.103 Lighting

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The purpose and intent of these regulations is to ensure that adequate and appropriate lighting is provided for developments located in the UV, MUC, MUN, UR, and TR districts.

- A. All lighting or illumination shall conform to any lighting policy adopted by the city council.
- B. Any and all lighting facilities hereafter erected, constructed, or used in connection with any use conducted on any property adjacent to a site or lot used for residential purposes shall conform to the Citywide Design Standards and Guidelines for Site Lighting.

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C. Any lighting located adjacent to riparian areas shall be directed downward and away from riparian areas.

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D. Lighting adjacent to residential properties.

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1. Any and all lighting facilities hereafter erected, constructed, or used in connection with any use conducted on any property situate adjacent to a site or lot used for residential purposes shall be arranged and shielded that all light will be reflected away from any residential use so that there will be no glare which will cause unreasonable annoyance to occupants of such property, or otherwise interfere with the public health, safety, or welfare.

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20.55.104 MUN Mixed-Use Neighborhood Development Standards

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The MUN Mixed-Use Neighborhood district provides conventional development standards and alternate development standards in order to accommodate a mix of housing product types.

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- A. Conventional standards: Applicable to developments where all lots have frontage on and direct access to a public street, and where all buildings provide a setback to property lines.
- B. Alternate standards: Applicable to small-lot development characterized by access to lots provided off courts, driveways, and private streets, and/or with buildings without setbacks to property lines.

Table 20-137
Mixed-Use Neighborhood Development Standards

| Regulations | | MUN | |
|--|-----|---|--|
| | | Conventional | Alternate |
| Minimum Lot Area | | 1,452 square feet per unit (excluding Accessory Dwelling Units) | No Minimum. Entire project covered by a single development permit cannot exceed 30 dwelling units/acre (excluding Accessory Dwelling Units) |
| Lot Frontage Requirements to Public Right of Way | | At least 30 ft. of contiguous frontage on a public right of way, with vehicular and/or pedestrian access to the right of way. | None required, provided all lots have access from a public right-of-way provided by easement |
| | | Floor Area Ratio | |
| 100% Commercial FAR | | 0.25-2.0 | N/A |
| Mixed-Use | FAR | 0.25-2.0 | |

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| | du/ac | Max. 30 | |
| 100% Residential du/ac | Max. 30 | | |
| FAR for Single- family Detached Residences, not including ADUs | 3,000 sq. ft. or less | 0.6 Max FAR | Max. 2.0 across the entire development site |
| | 3,000 – 6,000 sq. ft. | 0.5 Max FAR | |
| | 6,000 or greater | 0.45 Max FAR | |
| Conventional Setback Regulations | | | |
| Front Setback | Minimum 10 ft. | | |
| Interior Side Setback | Minimum 3 ft. <u>for development up to 2.5 stories;</u> <u>Minimum 5 ft. side setback</u> for development up to 2 stories; 5. Minimum 5 ft. side setback for development up to 2 stories for properties adjacent to property designated as Residential Neighborhood | | |
| | Minimum 8 ft. <u>for development more than 2.5 stories;</u> <u>Minimum 10 ft. side setback</u> for development more than 2 stories; 5. Minimum 10 ft. side setback for development more than 2 stories for properties adjacent to property designated as Residential Neighborhood | | |
| Street Side Setback | Minimum 5 ft. <u>side setback</u> for development up to 2.5 stories; Minimum 10 ft. <u>side setback</u> for development more than 2.5 stories | | |
| Rear Setback | Minimum 10 ft. <u>rear setback</u> for development up to 2.5 stories; Minimum 15 ft. <u>setback</u> for development more than 2.5 stories | | |
| <u>Distance between structures</u> | <u>Garage door to garage door must have a minimum of 20 ft min.</u> <u>The front of structures must be at least 15 ft. Distance.</u> | | |
| Exceptions to Setback Regulations | Refer to Section 20.55.101 | | |
| Alternate Setback Regulations | | | |

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| Setback to Public Right of Way | Minimum 10 ft. <u>Minimum 18 ft. to face of garage door.</u> | | | |
| Setback to adjoining property line of property not covered by same development permit | Minimum 5 ft. side setback for development up to 2.5 stories; Minimum 8 10 ft. side setback for development more than <u>up to</u> 2.5 stories; Minimum 10 ft. side setback for development of any height for properties adjacent to property designated as Residential Neighborhood. Minimum 10 ft. rear setback for development of any height <u>more than 2.5 stories</u> ; Minimum 15 ft. rear setback for development of any height <u>more than 2.5 stories</u> for properties adjacent to property designated as Residential Neighborhood. | | | |
| Setback to property line within project boundary covered by same development permit | Front to front setbacks shall be no less than 15 ft. <u>Garage to garage setbacks shall be no less than 25 ft.</u> Dwelling units shall be setback by a minimum of 6 ft. from accessory structures. No side setbacks are required; however, development is subject to compliance with Building and Fire Codes <u>Garage door to garage door must have a minimum distance of 20 ft. from each other</u> <u>The front of structures must be developed at a minimum of 15 ft. distance from each other.</u> | | | |
| Distance between structures | | | | |
| Exceptions to Setback Regulations | Refer to Section 20.55.101. | | | |
| | Additional Development Regulations <u>for Conventional and Alternate</u> | | | |
| | Single-Family dwelling unit (Detached) | Two-family dwelling unit (Duplex) | Townhouse or Rowhouse | Multifamily, Mixed-use, or 100% Commercial |
| Max. Building Height | 35 ft. | 35 ft. | 40 ft. | 45 ft. |
| Max. Number of Stories | 2.5 | 2.5 | 3 | 4 |
| Private Open Space Requirements | 400 sq. ft. per unit | 300 sq. ft. per unit | 300 sq. ft. per unit | 60 sq. ft. per unit |
| <u>Common Open Space Requirements</u> | Minimum width for Private Open Space shall be 15 ft. | | | |
| | <u>Mixed-use Development which includes 15 or more units shall provide Common Open Space at a minimum of 50 square feet per residential unit</u> | | | |

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| | <u>100% Residential Development which includes 15 or more units shall provide Common Open Space at a minimum of 75 square feet per residential unit</u> |
| Ground-Floor Commercial Regulations for 100% Commercial or Mixed-use | Refer to the Citywide Design Standards and Guidelines for additional information regarding minimum frontage, height, depth, and other requirements for ground-floor commercial spaces. |
| Regulations for development in Urban Villages | For development in approved Urban Village areas, refer to the Urban Village Plan for additional information on development standards and requirements |
| Lighting | Refer to Section 20.55.103 |
| Parking | For general parking regulations, refer to Chapter 20.90 |
| | <u>Tandem Parking is or parking lifts are permitted for Residential uses where the parking spaces serve the same unit. Uncovered parking is permitted outside of the front setback.</u> |
| | Off-site parking is permitted under a single development permit using the alternate standards <u>for development.</u> |
| | <u>No unmounted camper or vehicle, other than those vehicles expressly specified and allowed under Title 17 of this Code, shall be kept, stored or parked for a period of time in excess of forty-eight consecutive hours in the front setback area of any lot or parcel situated in a residential district or containing a residential use; such. Such parking or storage is limited to paved surfaces.</u> |
| | Front Setback Regulations for Single-family Homes |
| <u>Raised dwelling units</u> <u>Floor level of ground floor.</u> | <u>Raised dwelling units shall be raised by a minimum of 1 ft. and a maximum of 4 ft. Grade is measured from the sidewalk. The finished floor level of the ground floor (1st floor) must be within four vertical feet of the closest sidewalk. Finished Floor is defined as the uppermost surface of a floor once construction has been completed and all floor finishes have been applied.</u> |
| Residential Frontages facing a public right of way | <u>Primary pedestrian building entrances must be directly accessible from the public right of way. Every dwelling that fronts a public street must have a door, other than a garage door, which is accessible to the street and enters a living space that is not a garage or bedroom.</u> |
| | <u>A minimum 20% clear glazing per individual ground floor of a dwelling unit</u> |

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| <u>Paved surfaces in front setbacks</u> | No more than 50% of the required front setback shall be paved with asphalt, cement or any other impervious or pervious surface. |
| | Minimum 20 ft. from front property line |
| <u>Setback to garage</u> | No more than one curbcut per 30 ft of frontage shall be permitted. |
| <u>Setback to front porch, balconies, bay windows, awnings, open patios and stoops</u> | Minimum 5 ft. from front property line |
| <u>SetbackSetbacks from adjoining property to front porch, balconies, bay windows, awnings, open patios and stoopsunenclosed stairs</u> | <p>Architectural projections Dwelling units which share property lines with property designated as Residential Neighborhood shall be setback by aensure that balconies, porches, or unenclosed stairs:</p> <p>Maintain minimum 5 setback of 15 ft. from front the rear and side property line measured from the projecting face of the balcony, porch, or stairs; and not be located along building walls parallel to side or rear property lines.</p> |
| <u>Fence Regulations</u> | Refer to Table 20-80 in Chapter 20.30 for fence regulations. |
| <u>Fences in front setbacksDevelopment of 5 units or more</u> | <p>Fences facing a public right of way shall not exceed four feet in height. When five or more single family dwellings are approved under one development permit, no more than three adjacent units may be constructed with the same front setback. Where this applies, front setbacks must vary by at least 5 ft.</p> <p>In addition, variation in roof lines, building materials, and plane changes are required when five or more units are developed under one development permit. need to provide more direction</p> |

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Part 3 - USES ALLOWED

20.55.200 - Allowed uses and permit requirements.

- A. "Permitted" land uses are indicated by a "P" on Table 20-138.
- B. "Conditional" uses are indicated by a "C" on Table 20-138. These uses may be allowed in such designated districts, but only upon issuance of and in compliance with a conditional use permit as set forth in Chapter 20.100.
- C. "Conditional" uses requiring city council approval as the initial decision-making body are indicated by a "CC" on Table 20-138. These uses may be allowed in such designated districts, but only upon

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issuance of and in compliance with a conditional use permit approved by the city council as set forth in Chapter 20.100. Applications for these uses shall first be considered by the planning commission at a public hearing of the commission for the commission's report and recommendation on the application to the city council pursuant to the processes set forth in Chapter 20.100.

- D. "Special" uses are indicated by an "S" on Table 20-138. These uses may be allowed in such designated districts, but only upon issuance of and in compliance with a special use permit as set forth in Chapter 20.100. These uses may be allowed in such designated districts, as a part of mixed use residential/commercial, but only upon issuance of and in compliance with a special use permit as set forth in Chapter 20.100.
- E. "Administrative" uses are indicated by an "A" on Table 20-138. These uses may be allowed in such designated districts, but only upon issuance of and in compliance with an administrative permit as set forth in Chapter 20.100.
- F. "Restricted" land uses are indicated by an "R" on Table 20-138. These uses may occur in such designated districts, but only upon issuance of and in full compliance with a valid and effective zoning code verification certificate as set forth in Chapter 20.100.
- G. Land uses that are not permitted are indicated by a "-" on Table 20-138. Land uses not listed on Table 20-138 are not permitted.
- H. When the right column of Table 20-138 includes a reference to a section number or a footnote, the regulations cited in the section number or footnote applies to the use. In addition, all uses are subject to any other applicable provision of this Title 20 and any other title of the San José Municipal Code.

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20.55.201 – General Use Regulations

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- A. Permanent structure required. No use shall be deemed to be a permitted use on a site in any UVC, UV, MUC, MUN, UR, or TR district unless it is being conducted as part of a business, residence, or mixed use development which maintains on that site a permanent, fully enclosed building erected pursuant to a valid building permit issued for that site, excepting only those uses specifically permitted, under this part or this title, to operate without a permanent building on site.
- B. Late night use and activity.
 - 1. No establishment other than office uses, in any, UVC, UV, MUC, MUN, UR, or TR Zoning District shall be open between the hours of 12:00 midnight and 6:00 a.m. except pursuant to and in compliance with a special use permit as provided in Chapter 20.100.
 - 2. No outdoor activity, including loading, sweeping, landscaping or maintenance shall occur within one-hundred fifty feet of any residentially designated property between the hours of 12:00 midnight and 6:00 a.m. except pursuant to and in compliance with a conditional use permit as provided in Chapter 20.100.

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C. Incidental Uses

- 1. Residential. In addition to the occupancy of a dwelling as a residence, the following incidental uses are permitted:

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- b. The rental of rooms in a One-Family Dwelling to up to three (3) guests; in Two-Family Dwelling to up to two (2) guests, by each Family; and in a Multiple Dwelling Unit to up to two (2) guests per unit, if such use is clearly incidental to the occupancy of the dwelling unit by said Family as its own residence, and such rental is for a period of time longer than thirty (30) days and there are no more than six (6) persons living in the dwelling.
- c. Use of the dwelling, including a permitted Guesthouse, for Incidental Transient Occupancy in compliance with Part 2.5 of Chapter 20.80.
- d. State-licensed Family Day Care Home.
- e. The following non-commercial activities:
 - i. A garage sale consisting of the occupants' personal property;
 - ii. Sale of goods hand-produced by the occupants;
 - iii. Sales parties held for the purpose of selling goods to invited Guests. Such parties shall be held inside a permanent structure or in the rear yard of the dwelling unit.
 - iv. To qualify as a non-commercial activity:
 - I. No more than two (2) such sales are allowed in any calendar year;
 - II. No such sale can be conducted for more than four (4) consecutive days;
 - III. Such sales shall only be conducted between the hours of 9:00 a.m. and 9:00 p.m.

D. ~~Additional Accessory~~ Dwelling Units (ADUs). For information regarding ADUs refer are permitted and shall conform to Part 4.5 of Chapter 20.30

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E. Guesthouses. The following restrictions apply to guesthouses:

1. Meals and housekeeping services may be provided with the lodging, but only to resident guests.
2. All cooking facilities must be in a single, common kitchen; no rooms shall have any cooking facilities.
3. No services may be provided to non-residents.
4. All required state licenses must be maintained
5. No more than three guest rooms may have separate external entryways.

F. Live/work units

1. All live/work uses in the Urban Village and Mixed-use zoning districts shall be subject to all of the following criteria:
 - a. All work activities shall be limited to the permitted uses of the Urban Village and Mixed-use zoning districts, specified in Table 20-138, unless otherwise noted in this chapter.
 - b. All work activities and storage shall take place in fully enclosed areas.
2. Prohibited uses:
 - a. Any use not permitted within the Urban Village and Mixed-use zoning districts, as specified in Table 20-138 or under Section 20.80.720 for home occupation uses.
 - b. Entertainment, drinking and public eating establishments.
 - c. The sale of food and/or beverages except for food or beverages prepared on-site as part of a Cottage Food Operation, in conformance with applicable public health regulations,

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- d. Veterinary services, including grooming and boarding, and the breeding or care of animals for hire or for sale.
- e. Storage or recycling, except as incidental to and in support of a permitted use in the ~~downtown~~ Urban Village and Mixed-use zoning districts.
- f. Activities involving biological or chemical substances that require a controlled environment or may pose a health hazard.
- g. Work activities that involve hazardous material or generate odors, vibration, glare, fumes, dust, electrical interference outside the dwelling or through vertical separation between living units, greater than those generated by routine household activities.
- 3. The living unit must be occupied by an owner, employee, or volunteer of the business associated with the live/work unit.
- 4. All live/work units must fully comply with any and all Uniform Building Code requirements applicable to the collocation of uses at the particular site.

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G. Development adjacent to Historic Landmarks or Districts

- 1. Any project within a historic district shall conform to applicable guidelines adopted, and as amended by the city council.
- 2. For purposes of this section, "historic district" and "historic landmark" refer to any site, building, structure, or area that has received city, state or federal landmark status.
- 3. New structures exceeding one hundred fifty feet and an FAR of 6:1 which are constructed within one hundred feet of a city landmark or contributing structure in a designated landmark district shall be reviewed by the historic landmarks commission prior to consideration or approval of a development permit for new construction. The comments of the historic landmarks commission shall be included in any development permit staff report subsequently presented to the executive director of the redevelopment agency, director of planning, planning commission or city council.

H. Outdoor uses ~~withing~~within 150 feet of residentially zoned property

- 1. No use, which in whole or in part, consists of, includes, or involves any outdoor activity or sale or storage of goods, products, merchandise or food outdoors shall occur on any lands if any part of such lands or any part of the lot on which such buildings are located is situated within one hundred fifty feet of residentially zoned property situated within or outside the city except with a special use permit as provided for in Chapter 20.100, except for the following:
 - a. Seasonal sales in accordance with the provisions in Part 14, Chapter 20.80.
 - b. Service windows for pedestrians or automatic teller machines for pedestrians, both of which are associated with financial institutions.
 - c. Outdoor retail displays located in the front setback that are associated with a commercial use on the property.
 - d. Plant nursery sales.
 - e. Outdoor dining incidental to a public eating establishment or a retail establishment that conforms to all of the following criteria:
 - i. The outdoor dining area is located within one hundred feet of the main street or is completely separated from any property located in a residential zoning district by a minimum distance of fifty feet; and

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- ii. The outdoor dining area does not include any equipment to produce any amplified sound; and
- iii. The outdoor dining area does not operate between the hours of 12:00 midnight and 6:00 a.m.; and
- iv. The outdoor dining area is operated in a manner that does not create a private or public nuisance.
- f. Outdoor vending of whole, uncut, fresh fruits and vegetables in conformance with Part 10, Chapter 20.80.
- g. Small certified farmers' markets that are in conformance with Part 3.5, Chapter 20.80.

I. Screening of non-residential uses adjacent to residentially zoned properties

1. Any non-residential use conducted on any property shall be effectively screened at the property line from any abutting property in a residential district. The screening required hereby shall be a masonry wall or a solid wooden fence five feet in height, except that any portion thereof situate in the required setback area from abutting public streets shall be not more than four feet; and in the event such use included any outdoor activity, such screening shall also include such trees or plants as the director deems reasonable necessary to effectively screen such use from the adjoining residence district. Such screening shall at all times be maintained in good condition and be kept free of all signs. In addition, where a use involving outdoor activity is on a lot or parcel adjoining a residential district, such lot or parcel shall be landscaped in a manner approved by the director.

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J. Wireless Communication

1. Wireless communications antennae are allowed in Urban Village and Mixed-use districts pursuant to Table 20-50 only if all of the following criteria are met:
 - a. The proposed antenna is located upon a parcel with a nonresidential use; and
 - b. The proposed antenna is located either:
 - i. More than thirty-five feet away from the nearest residential use; or at least one foot away from the nearest residential use for every foot of monopole height, whichever distance is greater; or
 - ii. More than twenty feet away from the nearest residential use if the proposed antenna is mounted on an existing utility structure within a utility corridor.
2. Wireless communications antennae of any type located on a property zoned for Urban Village or Mixed-use, with a residential use shall require a conditional use permit pursuant to the provisions of Chapter 20.100 of this title, except for certain modifications pursuant to Section 20.80.1915 of Chapter 20.80.

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20.55.202 - Performance standards.

- A. In the UVC, UV, MUC, MUN, UR, and TR Districts no primary, secondary, incidental or conditional use or activity related thereto shall be conducted or permitted:
1. In a manner that causes or results in the harmful discharge of any waste materials into or upon the ground, into or within any sanitary or storm sewer system, into or within any water system or water, or into the atmosphere; or
 2. In a manner that constitutes a menace to persons or property or in a manner that is dangerous, obnoxious, or offensive by reason of the creation of a fire, explosion, or other physical hazard, or by reason of air pollution, odor, smoke, noise, dust vibration, radiation, or fumes; or
 3. In a manner that creates a public or private nuisance.
- B. Without limiting the generality of the preceding Section 20.55.202 (A), the following specific standards shall apply in the UVC, UV, MUC, MUN, UR and TR Districts:
1. Air Pollution. Total emissions from any use or combination of uses on a site shall not exceed the emissions and health risk thresholds as established by the director of planning.
 2. Vibration. There shall be no activity on any site that causes ground vibration that is perceptible without instruments at the property line of the site.

Table 20-138
Urban Village Zoning Districts Use Regulations

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| Use | Zoning District | | | | | | Notes & Sections |
|---|-----------------|----|-----|-----|----|----|-------------------------------------|
| | UVC | UV | MUC | MUN | UR | TR | |
| Residential | | | | | | | |
| One-family dwelling | P | P | P | P | P | P | Note 6 |
| Two-family dwelling | P | P | P | P | P | P | Note 6 |
| Mixed-use development | - | P | P | P | P | P | Note 23 Chapter 20.195 |
| Multifamily dwelling | - | P | P | P | P | P | Note 23 Chapter 20.195 |
| Co-living community | - | S | C | C | S | S | |
| Guesthouse | - | S | - | S | S | S | |
| Emergency residential shelter | - | S | S | S | S | S | Section 20.80.500 |
| Hotel supportive housing | C | - | C | - | - | - | Note 18; Part 22, Chapter 20.80 |
| Live/work uses | - | S | S | S | S | S | Section 20.80.740 |
| Low barrier navigation center | - | P | P | P | P | P | Chapter 20.195 |
| Residential care facility for seven or more persons | - | C | C | C | C | C | |
| Residential service facility for seven or more persons | - | C | C | C | C | C | |
| Single room occupancy, living unit | - | - | C | - | - | - | Part 15, Chapter 20.80 |
| General Retail | | | | | | | |
| Alcohol, off-sale - beer and/or wine only | C | C | C | C | C | C | Section 20.80.900 |
| Alcohol, off-sale - full range of alcoholic beverages | C | C | C | C | C | C | Section 20.80.900 |
| Alcohol, off-sale - as incidental to a winery, brewery, or distillery | SA | SA | SA | SA | SA | SA | Note 1; Part 5.75, Chapter 20.80 |
| Food, beverages, and groceries | P | P | P | P | P | P | |
| Nursery, plant | P | P | P | P | P | P | Note 2 |
| Outdoor vending | A | A | A | A | A | A | Part 10, Chapter 20.80 |
| Outdoor vending, fresh fruits and vegetables | P | P | P | P | P | P | Part 10, Chapter 20.80 |

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| Pawnshop/broker | C | = | C | = | = | = | See Title 6 | |
| Retail art studio | P | P | P | P | P | P | Section 20.80.1175 | Formatted: Font: +Body (Calibri) |
| Retail bakery | P | P | P | P | P | P | | Formatted: Font: +Body (Calibri) |
| Retail sales, goods, and merchandise | P | P | P | P | P | P | | Formatted: Font: +Body (Calibri) |
| Seasonal sales | P | P | P | P | P | P | Part 14, Chapter 20.80 | Formatted: Font: +Body (Calibri) |
| Agriculture & Open Space | | | | | | | | Formatted: Font: +Body (Calibri) |
| Aquaculture, aquaponics, and hydroponics | S | S | S | S | S | S | | Formatted: Font: +Body (Calibri) |
| Certified farmers' market | S | S | S | S | S | S | Part 3.5, Chapter 20.80 | Formatted: Font: +Body (Calibri) |
| Certified farmers' market, small | P | P | P | P | P | P | Part 3.5, Chapter 20.80 | Formatted: Font: +Body (Calibri) |
| Community gardens | P | P | P | P | P | P | | Formatted: Font: +Body (Calibri) |
| Neighborhood agriculture | P | P | P | P | P | P | Note 16; Title 7 | Formatted: Font: +Body (Calibri) |
| Education and Training | | | | | | | | Formatted: Font: +Body (Calibri) |
| Child day care center located on an existing School Site or as an incident to a permitted on-site church/religious assembly use involving no building additions or changes to the site | P | P | P | P | P | P | Note 5 | Formatted: Font: +Body (Calibri) |
| Day care center | S | S | S | S | S | S | Note 5 | Formatted: Font: +Body (Calibri) |
| Instructional art studios | P | P | P | P | P | P | | Formatted: Font: +Body (Calibri) |
| Private instruction, personal enrichment | P | P | P | P | P | P | | Formatted: Font: +Body (Calibri) |
| School, elementary and secondary (public or private) | C | C | C | C | C | C | Note 13 | Formatted: Font: +Body (Calibri) |
| School, driving (class C & M license) | P | P | P | P | P | P | Note 3 | Formatted: Font: +Body (Calibri) |
| School, post secondary | P | P | P | P | P | P | | Formatted: Font: +Body (Calibri) |
| School, trade and vocational | P/S | P/S | P/S | P/S | P/S | P/S | Note 4 and Note 13 | Formatted: Font: +Body (Calibri) |
| Entertainment and Recreation | | | | | | | | Formatted: Font: +Body (Calibri) |
| Arcade, amusement game | P | P | P | P | P | P | | Formatted: Font: +Body (Calibri) |
| Health club, gymnasium | P | P | P | P | P | P | | Formatted: Font: +Body (Calibri) |
| Performing arts rehearsal space | P | P | P | P | P | P | | Formatted: Font: +Body (Calibri) |

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| Poolroom/billiards establishment | P | P | P | P | P | P | | Formatted: Font: +Body (Calibri) |
| Private club or lodge | S | S | S | S | S | S | | Formatted: Font: +Body (Calibri) |
| Recreation, commercial indoor | P | P | P | P | P | P | | Formatted: Font: +Body (Calibri) |
| Recreation, commercial outdoor | - | S | - | - | - | - | | Formatted: Font: +Body (Calibri) |
| Stadium, 2,000 seats or fewer | C | C | C | - | - | - | | Formatted: Font: +Body (Calibri) |
| Stadium, more than 2,000 seats | CC | CC | CC | - | - | - | Note 14 and Note 15 | Formatted: Font: +Body (Calibri) |
| Theater, indoor | S | S | S | S | S | S | | Formatted: Font: +Body (Calibri) |
| Theater, outdoor | S | S | S | S | S | S | | Formatted: Font: +Body (Calibri) |
| Food Services | | | | | | | | Formatted: Font: +Body (Calibri) |
| Banquet facility | S | S | S | S | S | S | | Formatted: Font: +Body (Calibri) |
| Caterer | P | P | P | P | P | P | | Formatted: Font: +Body (Calibri) |
| Commercial kitchen | P | P | P | S | S | S | | Formatted: Font: +Body (Calibri) |
| Drinking establishments | S | S | S | S | S | S | | Formatted: Font: +Body (Calibri) |
| Drinking establishments interior to a full-service hotel or motel that includes 75 or more guest rooms | P | P | P | P | P | P | Section 20.80.475 | Formatted: Font: +Body (Calibri) |
| Public eating establishments | P | P | P | P | P | P | | Formatted: Font: +Body (Calibri) |
| Public eating establishment or retail establishment with incidental outdoor dining | P | P | P | P | P | P | Section 20.40.520 | Formatted: Font: +Body (Calibri) |
| Public eating establishment in conjunction with a winery, brewery, or distillery | P | P | P | P | P | P | Part 5.75, Chapter 20.80 | Formatted: Font: +Body (Calibri) |
| Taproom or tasting room in conjunction with a winery, brewery, or distillery | A | A | A | A | A | A | Part 5.75, Chapter 20.80 | Formatted: Font: +Body (Calibri) |
| Taproom or tasting room with off-sale of alcohol | A | A | A | A | A | A | Part 5.75, Chapter 20.80 | Formatted: Font: +Body (Calibri) |
| General Services | | | | | | | | Formatted: Font: +Body (Calibri) |
| Bed and breakfast inn | P | P | P | P | P | P | Part 2, Chapter 20.80 | Formatted: Font: +Body (Calibri) |
| Dry cleaner | P | P | P | P | P | P | | Formatted: Font: +Body (Calibri) |
| Hotel or motel | P | P | P | P | P | P | | Formatted: Font: +Body (Calibri) |
| Single room occupancy (SRO) hotel | C | C | C | C | C | C | Part 15, Chapter 20.80 | Formatted: Font: 11 pt, Font color: Auto, Not Expanded by / Condensed by |
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| Laundromat | P | P | P | P | P | P | | Formatted: Font: +Body (Calibri) |
| Maintenance and repair, small household appliances | P | P | P | P | P | P | | Formatted: Font: +Body (Calibri) |
| Messenger services | P | P | P | P | P | P | | Formatted: Font: +Body (Calibri) |
| Mortuary and funeral services | P | P | P | P | P | P | | Formatted: Font: +Body (Calibri) |
| Personal services | P | P | P | P | P | P | Section 20.200.880 | Formatted: Font: +Body (Calibri) |
| Printing and publishing | P | P | P | P | P | P | | Formatted: Font: +Body (Calibri) |
| Social service agency | S | S | S | S | S | S | | Formatted: Font: +Body (Calibri) |
| Health and Veterinary Services | | | | | | | | Formatted: Font: +Body (Calibri) |
| Animal boarding, indoor | P | P | P | P | P | P | Note 7 | Formatted: Font: +Body (Calibri) |
| Animal grooming | P | P | P | P | P | P | Note 7 | Formatted: Font: +Body (Calibri) |
| Emergency ambulance service | C | C | C | C | C | C | | Formatted: Font: +Body (Calibri) |
| Hospital/in-patient facility | C | C | C | C | C | C | | Formatted: Font: +Body (Calibri) |
| Office, medical | P | P | P | P | P | P | | Formatted: Font: +Body (Calibri) |
| Veterinary clinic | P | P | P | P | P | P | | Formatted: Font: +Body (Calibri) |
| Historic Reuse | | | | | | | | Formatted: Font: +Body (Calibri) |
| Historic landmark structure reuse | S | S | S | S | S | S | Part 8.5, Chapter 20.80 | Formatted: Font: +Body (Calibri) |
| Industry and Manufacturing | | | | | | | | Formatted: Font: +Body (Calibri) |
| Laboratory, processing | P | P | P | - | - | - | | Formatted: Font: +Body (Calibri) |
| Manufacturing and assembly, light | P | P | P | - | - | - | Note 25 | Formatted: Font: +Body (Calibri) |
| Office, research and development | P | P | P | - | -S | -S | Note 24 | Formatted: Font: +Body (Calibri) |
| Offices and Financial Services | | | | | | | | Formatted: Font: +Body (Calibri) |
| Automatic teller machine | P | P | P | P | P | P | Section 20.80.200 | Formatted: Font: +Body (Calibri) |
| Business support | P | P | P | P | P | P | | Formatted: Font: +Body (Calibri) |
| Office, general business | P | P | P | P | P | P | Section 20.40.110 | Formatted: Font: +Body (Calibri) |
| Retail bank / Financial services | P | P | P | P | P | P | | Formatted: Font: +Body (Calibri) |
| Public, Quasi-Public and Assembly Uses | | | | | | | | Formatted: Font: +Body (Calibri) |
| Cemetery | C | C | C | C | C | C | | Formatted: Font: +Body (Calibri) |
| Church/religious assembly | S | S | S | S | S | S | | Formatted: Font: +Body (Calibri) |
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| Museums, libraries, parks, playgrounds, or community centers (publicly operated) | P | P | P | P | P | P | | Formatted: Font: +Body (Calibri) |
| Museums, libraries, parks, playgrounds, or community centers (privately operated) | GS | GS | GS | GS | GS | GS | | Formatted: Font: +Body (Calibri) |
| Recycling Uses | | | | | | | | Formatted: Font: +Body (Calibri) |
| Reverse vending machine | A | A | A | A | A | A | Part 13, Chapter 20.80 | Formatted: Font: +Body (Calibri) |
| Small collection facility | A | A | A | A | A | A | Part 13, Chapter 20.80 | Formatted: Font: +Body (Calibri) |
| Transportation and Utilities | | | | | | | | Formatted: Font: +Body (Calibri) |
| Data center | - | - | - | - | - | - | | Formatted: Font: +Body (Calibri) |
| Commercial vehicle storage | - | - | - | - | - | - | | Formatted: Font: +Body (Calibri) |
| Common carrier depot | - | - | - | - | - | - | | Formatted: Font: +Body (Calibri) |
| Community television antenna systems | C | C | C | C | C | C | | Formatted: Font: +Body (Calibri) |
| Off-site, alternating use and alternative parking arrangements | S | S | S | S | S | S | Section 20.90.200 | Formatted: Font: +Body (Calibri) |
| Parking establishment, off-street | S | S | S | S | S | S | Note 26 | Formatted: Font: +Body (Calibri) |
| Television, radio studios without antenna/dishes | C | C | C | - | - | - | | Formatted: Font: +Body (Calibri) |
| Utility facilities, excluding corporation yards, storage or repair yards and warehouses | C | C | - | - | - | - | | Formatted: Font: +Body (Calibri) |
| Utility facilities including corporation yards, storage or repair yards and warehouses | - | - | - | - | - | - | | Formatted: Font: +Body (Calibri) |
| Wireless communication antenna | C | C | C | C | C | C | Note 19; Sections 20.100.1300, 20.80.1915 | Formatted: Font: +Body (Calibri) |
| Wireless communication antenna, slimline monopole | S | S | S | S | S | S | Note 19; Sections 20.80.1900, 20.80.1915 | Formatted: Font: +Body (Calibri) |
| Wireless communication antenna, building mounted | P | P | P | P | P | P | Note 19; Sections 20.80.1910, 20.80.1915 | Formatted: Font: +Body (Calibri) |
| Utilities, Electrical Power Generation | | | | | | | | Formatted: Font: 11 pt, Font color: Auto, Not Expanded by / Condensed by |
| Co-generation facility | S | S | S | S | S | S | | Formatted: Border: Top: (No border) |

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| Fuel cells | P | P | P | P | P | P | | Formatted: Font: +Body (Calibri) |
| Private electrical power generation facility | C | C | C | C | C | C | | Formatted: Font: +Body (Calibri) |
| Solar photovoltaic system | P | P | P | P | P | P | Section 20.100.610 C.7. | Formatted: Font: +Body (Calibri) |
| Stand-by/backup facilities that do not exceed noise or air standards | A | A | A | A | A | A | | Formatted: Font: +Body (Calibri) |
| Stand-by/backup facilities that do exceed noise or air standards | C | C | C | - | - | - | | Formatted: Font: +Body (Calibri) |
| Temporary stand-by/backup | P | P | P | P | P | P | | Formatted: Font: +Body (Calibri) |
| Vehicle Related Uses | | | | | | | | Formatted: Font: +Body (Calibri) |
| Accessory installation, passenger vehicles and pick-up trucks | C | C | - | - | - | - | Note 20, Note 21, and Note 22 | Formatted: Font: +Body (Calibri) |
| Auto dealer, wholesale - no on-site storage | - | - | - | - | - | - | Note 20, Note 21, and Note 22 | Formatted: Font: +Body (Calibri) |
| Car wash, detailing | - | - | - | - | - | - | Note 20, Note 21, and Note 22 | Formatted: Font: +Body (Calibri) |
| Fuel service station or charge station, no incidental service or repair | - | - | - | - | - | - | Note 12, Note 20, Note 21, and Note 22 | Formatted: Font: +Body (Calibri) |
| Fuel service station or charge station with incidental service and repair | - | - | - | - | - | - | Note 8, Note 10, Note 12, Note 20, Note 21, and Note 22 | Formatted: Font: +Body (Calibri) |
| Glass sales, installation, and tinting | C | - | C | - | - | - | Note 10, Note 20, Note 21, and Note 22 | Formatted: Font: +Body (Calibri) |
| Leasing (rental) passenger vehicles, pick-up trucks not exceeding twenty-five feet in length, and motorcycles | - | - | - | - | - | - | Note 20, Note 21, and Note 22 | Formatted: Font: +Body (Calibri) |
| Sale, brokerage, or lease, commercial vehicles | - | - | - | - | - | - | Note 10, Note 20, Note 21, and Note 22 | Formatted: Font: +Body (Calibri) |
| Sale or brokerage, passenger vehicles, pick-up trucks not exceeding 25 feet in length, and motorcycles | - | - | - | - | - | - | Note 10, Note 20, Note 21, and Note 22 | Formatted: Font: +Body (Calibri) |
| Sale, vehicle parts | ES | - | -S | - | - | - | Note 9, Note 20, Note 21, and Note 22 | Formatted: Font: +Body (Calibri) |
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| Tires, batteries, lube, oil change, smog check station, air conditioning servicing of passenger vehicles and pick-up trucks | C | - | - | - | - | - | Note 8, Note 20, Note 21, and Note 22 |
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Notes:

1. Alcohol, off-sales are limited to products manufactured onsite for wineries, breweries, or distilleries.
2. Landscaping materials, such as rock, mulch, and sand are limited to prepackaged sales.
3. Classroom use only, no driving courses or on-site storage of vehicles permitted in UVC, UV, MUC, MUN, UR or TR Zoning Districts.
4. Indoor uses related to trade or vocational schools are Permitted, any outdoor uses will require a Special Use Permit.
5. If the Daycare use exceeds the noise standards, as set forth in Chapter 20.40 in Section 20.40.600, it will require a Special Use Permit.
6. One-family dwellings or two-family dwellings are allowed as part of a larger development which meets the minimum density requirement in the UR and TR zoning districts.
7. Except as an incidental use to neighborhood agriculture, all uses involving any type of care for animals, including but not limited to grooming, boarding, medical care, must be conducted wholly inside a building.
8. Incidental repair includes non-invasive engine service, maintenance, and repair, including but not limited to, air conditioning service, fuel system service, electrical service, coolant system service, tune-up, fluid exchanges, steering and suspension system service, brake system service, transmission adjustment and service, lube, oil change, smog check, diagnostics and vehicle inspections, stock catalytic converters and manifolds, as well as tires, batteries and accessories installation. Does not allow body repair, welding, vehicle restorations, other types of exhaust system repair, the removal of cylinder heads, engines, transmissions/transfer cases and differentials, or painting.
9. No outdoor sales areas or dismantling allowed.
10. All vehicle-related repair, service, and accessory or other installation shall be conducted within a fully enclosed building.
11. Bail bond establishments shall not be located and are prohibited uses on the ground floors of structures located within the main jail area, as that area is defined in Section 20.80.070 of Chapter 20.80 of this title. Bail bond establishments are allowed as shown on Table 20-138 on other, above-ground floors of structures. All bail bond establishments shall meet all distance requirements specified in Section 20.80.075 of Chapter 20.80 of this title.

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12. Charging stations that are incidental to a separate primary use that do not impact on-site or off-site vehicular circulation, and that serve patrons of the primary use on-site are permitted in all commercial zoning districts.
13. Public schools are subject to the regulations of this title, subject to the provisions of California Government Code Section 53094 for classroom facilities.
14. Primary uses include sporting events, assembly venues, concerts, and entertainment events of similar character and intensity. Incidental support uses include offices, locker rooms, retail, public eating establishments, drinking establishments, outdoor vending facilities, and other commercial uses of similar character and intensity.
15. Use permit applications for stadiums that consist of more than 2,000 seats and that are in airport influence areas shall be referred to the Santa Clara Airport Land Use Commission prior to approval by the city.
16. Neighborhood agriculture in conformance with this title is a permitted use that may operate on a site without a permanent building on that site.
17. Hotel supportive housing may be permitted only with a conditional use permit pursuant to Part 22 of Chapter 20.80 and only until December 31, 2026.
18. Certain modifications of existing wireless facilities may be permitted with an administrative permit in accordance with Section 20.80.1915 of Chapter 20.80.
19. Conditional use permit required outside of Urban Villages; Special use permit in Urban Villages.
20. Continued operation of existing use allowed with only 10% expansion of use permitted.
21. New and expanded auto uses cannot be within 200 feet (measured from the auto use to the affected neighboring property line of real property) from any parcel with a General Plan designation of urban village, urban village commercial, neighborhood/community commercial, residential neighborhood, mixed use neighborhood, mixed use commercial, or public quasi/public.
22. New use allowed only pursuant to the provisions of the Stevens Creek and 24th and William Urban Village Plans, as amended.
23. Permanent Supportive Housing is allowed use in Mixed-use or multifamily development. Refer to Chapter 20.195 for more information.
24. Research and Development is allowed through a Special Use Permit in TR and UR as long as the use on site does not involve activity that would create noxious sounds, smells, or vibrations.
25. For the purposes of this Chapter Food and Beverage manufacturing is considered to be permitted under the Manufacturing and Assembly, light use.
26. Surface parking which does not serve a use contained on the same site or under the same development permit is not permitted. Standalone parking structures are allowed under the following conditions:
 - a. Any and all parking spaces on the groundfloor level shall not be visible from the public right of way.
 - b. No more than one driveway entrance is permitted, ingress/egress shall be designed in a manner that does not require more than one curbcut.
 - c. One pedestrian entrance, with direct access to the street level, is allowed.
 - d. In addition, the parking facility must meet one of the following criteria:

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- i. The parking facility shall be designed as a structured aboveground parking facility with groundfloor retail spaces, along public right of ways or public open spaces, which comply with Citywide Design Standards and Guidelines for groundfloor commercial spaces.
- ii. The parking facility shall be designed as an underground parking facility with a public open space at grade level, which is open to the public 24 hours a day, and which complies with the Citywide Design Standards and Guidelines for public open spaces.

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SECTION 2. Part 4 of Chapter 20.100 of Title 20 of the San José Municipal Code is amended to read as follows:

Part 4 - ADJUSTMENTS

20.100.500 - Adjustments.

- A. The director may, at the director's sole discretion, approve an adjustment for the following elements of a previously-issued development permit, subject to and in accordance with the provisions of this section:
 - 1. General Extensions. An extension of the term of an approved development permit for a period of up to but not exceeding one year; provided, that no more than two such term extensions may be approved for any development permit.
 - 2. Changes to an approved development permit, but only for minor modification of architectural elements or landscape details, (including but not limited to minor storefront alterations, relocation of doors, equipment screening, minor landscape furniture and structures, benches, small trellises, and planters) which do not affect the use, intensity, general character, architectural style, circulation or other site function of the project.
 - 3. Signs which conform to Title 23, minor changes to approved sign programs, and sign programs that are a condition of a development permit.
 - 4. Additions, accessory buildings and minor structures such as trellises, patio covers, swimming pools and decks for one-family residences which were approved and are subject to an existing planned development permit, site development permit, or a low density cluster permit issued under previously existing provisions of this title.
 - 5. Building mounted wireless communications antenna.
 - 6. Tract sales, model homes sales, or leasing offices associated with an approved housing development.
 - 7. Temporary construction or storage yards in connection with the construction of houses or other buildings in an adjacent subdivision or lot or parcel.
 - 8. Solar photovoltaic systems.
 - 9. The creation, on or above ground through installation, construction, or replacement, of less than one gross acre of impervious surface.
 - 10. The replacement, repaving, reconfiguration, or re-striping of parking spaces on existing surfaces.

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11. Building additions of less than five thousand square feet in area to nonresidential buildings, except that the maximum building addition size for a fast food restaurant, a twenty-four-hour convenience market, or a convenience market with gas pumps shall be one thousand square feet in area and the maximum building addition to a bank with a drive through shall be three thousand square feet in area.
 12. Generators meeting performance standards for noise and air pollution.
 13. Above-ground storage tanks of two thousand gallons or less in zoning districts other than industrial zoning districts and an above-ground storage tank of twenty thousand gallons or less in an industrial zoning district.
 14. Building additions of less than two hundred square feet in total area or less than ten percent of the building area prior to the addition, whichever is smaller, to two-family dwellings, provided that current parking regulations are being met and would continue to be met after the completion of any addition.
- B. Adjustments may be issued only where issuance of the adjustment would be consistent and comply with all applicable local laws in effect at the time of issuance, including without limitation the city's general plan, the provisions of this title, and the provisions of Title 21 of this Code.
- C. An application for an adjustment must be filed on the form provided by the director on or before the date that is three business days prior to the expiration of the development permit proposed for adjustment and accompanied by the fees as set forth in the schedule of fees adopted by resolution of the city council.
- D. The decision to grant, deny or condition an adjustment is an administrative determination and requires no hearing or notice. The action of the director shall be final, and nothing herein shall be deemed or construed to confer on an applicant a right to an adjustment or to require the director to issue an adjustment. If the director denies an adjustment, nothing herein shall preclude the applicant from thereafter filing an application for an appropriate development permit.
- E. Where property was developed prior to the requirement of a site development permit, adjustments for projects as set forth in Section 20.100.610(A) may be approved without the necessity of the issuance of a full site development permit.
- F. If a structure or site is designated on the City of San José Historic Resources Inventory pursuant to Chapter 13.48 of Title 13 of this Code as a city landmark structure and/or a structure located in a city landmark historic district, then proposed work that is within the parameters outlined in Section 13.48.340.D of Part 3 of Chapter 13.48 of Title 13 of this Code shall be governed by and considered pursuant to the provisions of Chapter 13.48 that require issuance of a historic preservation permit or historic preservation permit adjustment. Notwithstanding the provisions of this Section 20.100.500 setting forth the requirements for development permit adjustments, no additional development permit adjustment issued pursuant to Title 20 of this Code shall be required for work performed on a site or structure that is designated as a city landmark structure, or on a structure located in a city landmark historic district, for which a historic preservation permit or historic preservation permit adjustment has been issued.

SECTION 3. Part 5 of Chapter 20.100 of Title 20 of the San José Municipal Code is amended to read as follows:

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Part 5 - SITE DEVELOPMENT PERMIT

20.100.600 - Purpose.

- A. The purpose of this part is to promote orderly development, to enhance the character, stability, integrity and appearance of neighborhoods and zoning districts, to maintain and protect the stability and integrity of land values, and to secure the general purposes of this title and of the San José General Plan.
- B. In order to accomplish the purpose, it is necessary for the city to review and regulate the aesthetic and functional aspects of structures and sites and to require, as the city determines necessary, the aesthetic and functional improvements to the site and to any structures thereon and to require off-site improvements.

20.100.610 - Site development permit required.

- A. A valid site development permit, issued under this part, is required prior to the issuance of any building permit or installation permit for the following activities:
 - 1. Erection, construction, enlargement, placement or installation of a building or structure on any site, except for one one-family dwelling on a single lot or parcel that would be subject to Part 9 of Chapter 20.100 regarding requirements for a single-family house permit; or
 - 2. Erection, construction, enlargement, placement or installation of a one-family dwelling on a single lot or parcel as provided for in Section 20.100.1030(A)(4) regarding single-family house permits; or
 - 3. Exterior alteration of a building or structure; or
 - 4. Use of a lot for storage purposes; or
 - 5. Installation of pavement on any portion of a lot; or
 - 6. Underground installation.
- B. No single site development permit shall be issued for more than one site. However, the removal and relocation of a building from one parcel to another separate parcel located within the city requires a single application pertaining to both parcels pursuant to Section 20.100.650.
- C. The provisions of this part shall not apply:
 - 1. If a permit is expressly not required by Section 20.100.1030 of this title or a permit is issued under other provisions of this chapter unless procurement of a site development permit is made an express condition of such permit.
 - 2. If temporary structures or buildings are to be constructed on a lot situate in a CP, CN, CG commercial districts, or the downtown zoning districts, the IP, LI or HI industrial districts, or an A agricultural district and are intended to be and are used in connection with the sale of Christmas trees or Halloween pumpkins in accordance with this title, and remain on the site only for the temporary period specified for such uses in this title.
 - 3. If the underground installation is for the sole purpose of replacing an existing underground tank or tanks with a new tank or tanks whether or not total tank capacity on the site is increased.

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4. If skylights are installed on existing dwellings provided that the parcel has four or fewer dwellings.
5. If the re-roof is installed on an existing building or structure which is not designated a historic landmark and does not involve any alteration to the existing roof line, provided that the material used in the re-roof meets all of the following conditions:
 - a. Is of the same material or is of a replacement material(s) that is superior to or is an upgrade from the existing material in terms of quality, aesthetics or safety features as determined by the director of planning; and
 - b. Meets or exceeds all applicable fire and building code requirements.
6. Accessory structures on lots with one-family house, unless a permit is otherwise required by this title.
7. A solar photovoltaic system mounted on the surface of an existing building or structure with a building permit in a manner that conforms to the provisions of this title.

20.100.620 - Action by director.

Upon finding of an application for a site development permit completed pursuant to this chapter, the director shall review the application and shall set a public hearing on the application.

20.100.630 - Findings.

- A. In addition to any other findings required by any other section of this title, the director, the planning commission, or city council, as set forth in Table 20-260, shall grant the site development permit after review of project design, only if all of the following findings are made:
 1. The site development permit, as approved, is consistent with and will further the policies of the general plan and applicable specific plans and area development policies.
 2. The site development permit, as approved, conforms with the zoning code and all other provisions of the San José Municipal Code applicable to the project.
 3. The site development permit, as approved, is consistent with applicable city council policies, or counterbalancing considerations justify the inconsistency.
 4. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.
 5. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.
 6. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

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- 7. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.
 - 8. Traffic access, pedestrian access and parking are adequate.
- B. The director, the planning commission, or the city council, as set forth in Table 20-260, shall deny the application where the information submitted by the applicant or presented at the public hearing fails to satisfactorily substantiate such findings.

20.100.640 - Amendment findings.

- A. Amendments to an approved site development permit may only be approved if there is a finding by the director, or planning commission on appeal, that the amendment does not negate any findings required by Section 20.100.630.
- B. Nothing in this section shall preclude the director, or the planning commission on appeal, from modifying, adding or deleting any condition in order to protect the public peace, health, safety, morals or welfare.

20.100.650 - Building relocations.

A site development permit for the relocation of a building or part thereof onto a lot or parcel within the City of San José may be conditioned upon the applicant providing a performance bond, or some equivalent means satisfactory to the director of guaranteeing that all work permitted and/or required by the site development permit be completed in a timely manner. The permit shall include time limitations for the commencement and completion of the relocation, and for the commencement and completion of any required architectural and other required improvements.

20.100.660 - Appeal.

The appeal of any action taken under this part shall be governed by the procedures set forth in Sections 20.100.220 through 20.100.280.

SECTION 4. Part 9 of Chapter 20.100 of Title 20 of the San José Municipal Code is amended to read as follows:

Part 9 - SINGLE-FAMILY HOUSE PERMIT

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20.100.1000 - Purpose.

- A. The purpose of this part is to promote orderly development, to enhance the character, stability, integrity and appearance of single-family neighborhoods and zoning districts, to maintain and protect the stability and integrity of land values, and to secure the general purposes of this title and the San José General Plan.
- B. In order to accomplish the purpose, it is necessary for the city to review and regulate the aesthetic and functional aspects of single-family houses and sites and to require, as the city determines necessary, aesthetic and functional improvements to the site and to any structures thereon and to require off-site improvements.

20.100.1005 Applicability

The Single-family House Permit regulations shall only apply to single-family homes developed in the R-1, R-2 and RM zoning districts.

20.100.1010 - Single-family house defined.

For purposes of this part, "single-family house" means a structure designed and/or used as an R-3 occupancy as defined in the building code and otherwise designated a one-family dwelling elsewhere in this Code.

20.100.1020 - Floor area ratio defined.

For purposes of this part, "floor area ratio" means the gross floor area of the single-family house divided by the total lot area. Garages, basements and accessory structures are not included in the gross floor area for the purposes of this part. The floor area includes the sum of all the floors in the main structure measured to the outside surface of the exterior walls. It includes the stairwells at all floors and all areas that are greater than fifty percent enclosed with walls and covered.

20.100.1030 - Single-family house permit required.

- A. A valid single-family house permit issued under this part is required prior to the issuance of a building permit for a single-family house that is a covered activity, as the terms building permit and covered activity are defined in Sections 18.40.210 and 18.40.220 of Chapter 18.40 of Title 18 of this Code, if:
 1. The single-family house is located within one hundred feet of a riparian corridor as measured from top of bank or vegetative edge, whichever is greater; and
 2. The single-family house site is equal to or greater than one-half acre in size. Proof of payment of all applicable fees that are required under Title 18 Chapter 18.40 of this Code must be submitted to the director prior to issuance of a building permit for any project that is subject to payment of fees under Part 3 of Chapter 18.40 of Title 18 of this Code.
- B. A valid single-family house permit issued under this part is required prior to the issuance of a building permit for the following activities, unless specifically exempted by Subsection C. below:
 1. Erection, construction, enlargement, placement or installation of a single-family house on any site; or

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2. Exterior alteration of a single-family house.
- C. No single-family house permit is required under Subsection B. above if any of the following applicable criteria and conditions is met:
1. The issuance of the building permit will result in a single-family house in any residential district with a floor area ratio equal to or less than forty-five hundredths or height equal to or less than thirty feet and/or equal to or less than two stories; or the site is not an historic resource listed on the historic resources inventory pursuant to Chapter 13.48 of Title 13 of this Code.
 2. The site is located in a planned development zoning district. All construction in a planned development zoning district shall be governed by the provisions of Part 8 of this chapter that may require issuance of a planned development permit for the review of any single-family house construction, addition, or alteration.
 3. The issuance of building permits is for exterior alterations or maintenance of an existing single-family house which alterations or maintenance:
 - a. Would not expand the exterior footprint or increase the overall square footage of the existing single-family house or result in height that is greater than thirty feet and/or greater than two stories; and
 - b. Meet the development regulations of the R-1-8 residential zoning district; and
 - c. If the house is listed as a historic resource on the city's historic resources inventory, would solely repair pieces of existing features on a single-family house that is a historic resource, but is not a city landmark or located in a city landmark historic district, with like materials of the same size, shape, pattern and substance and in a manner that fully conforms to approved design guidelines.
 4. The single-family houses are approved with a single site development permit issued pursuant to Part 5 of this chapter. A site development permit may be approved if the site is located:
 - a. In an R-1 residential zoning district; and
 - b. Includes construction of more than five new single-family houses.
 5. The issuance of building permits will result in a single-family house in any residential zoning district with a floor area ratio equal to or less than forty-five hundredths and a height greater than thirty feet and/or two stories, provided that all of the following additional criteria or conditions are met:
 - a. The proposed house will be located on a site within a flood zone with a one hundred-year flood depth that requires elevation of the first finished floor of the proposed house to a height of at least five feet above grade; and
 - b. The height of the proposed house will be equal to or less than thirty feet plus the required one hundred-year flood depth elevation or the maximum height of the residential zoning district in which the proposed house will be located, whichever height is less; and
 - c. The site is not an historic resource listed on the historic resources inventory pursuant to Chapter 13.48 of Title 13 of this Code.
 6. The issuance of building permits is for a solar photovoltaic system mounted on the surface of a single-family house in a manner that conforms with the provisions of this title.

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- D. If the site is a historic resource listed on the historic resources inventory of the city pursuant to Chapter 13.48 of Title 13 of this Code and the site is a city landmark house and/or a house located in a city landmark historic district, then all work performed on a city landmark or in a city landmark historic district shall be governed by the provisions of Chapter 13.48 of Part 3 of Title 13 of this Code that require issuance of a historic preservation permit. No single-family house permit shall approve work performed on a city landmark house or a house located in a city landmark historic district.

20.100.1040 - Additional Development Requiring a Single-Family House Permit.

- A. Issuance of a single-family house permit subject to the administrative procedures set forth in this part is required if the issuance of a building permit will result in a single-family house that is a historic resource, but is not a city landmark or located in a city historic district, with a floor area ratio equal to or less than forty-five hundredths, or if the issuance of a building permit is for minor modifications involving incidental enlargement, reconstruction, replacement, repair, remodeling, rehabilitation, restoration and/or exterior alteration of a historic resource, that fully conforms to approved design guidelines, and does not affect the historic significance or character, use, intensity, architectural style, circulation or other site function of the property.
- B. Issuance of a single-family house permit is subject to the administrative procedures set forth in this part, if the issuance of the building permit will result in a single-family house with a floor area ratio greater than forty-five hundredths but equal to or less than sixty-five hundredths, and all of the following applicable criteria are met:
1. Building permit does not authorize removal of more than fifty percent of the exterior walls of an existing house;
 2. Building permit is for an addition to an existing house and the addition is for either one or both of the following:
 - a. A single story and ground floor addition; and/or
 - b. A second-story addition which results in a second story which is no larger than sixty percent of existing first floor area and which is set back ten feet from the required front setback;
 - c. A first-story or second-story infill addition into an existing space within a house constructed prior to requirement to obtain a single-family house permit for certain single family construction.
 3. Building permit does not authorize the enclosure or net loss of ten percent or more of an existing porch;
 4. Building permit authorizes an attached garage only if the houses on each side of the subject lot have existing attached garages;
 5. Building permit requires the roofline, materials, trim and decoration details of the new construction to be the same as that on the existing house;
 6. Building permit authorizes alteration to a single-family house that is a historic resource, but is not a city landmark or located in a city landmark historic district, which alterations fully conform to or exceed approved design guidelines.
- C. Subject to the provisions of Section 20.100.1030, if the issuance of a building permit will result in a single-family house with a floor area ratio greater than forty-five hundredths and

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all the applicable criteria of either Subsection 20.100.1040 A or 20.100.1040 B are not met, issuance of a single-family house permit shall be subject to the director public hearing procedures set forth in this part.

20.100.1050 - Houses greater than thirty feet high and/or two stories tall.

Subject to the provisions of Section 20.100.1030.A.5, if the issuance of a building permit will authorize new construction greater than thirty feet high and/or two stories tall, the single-family house permit is subject to the director public hearing procedures set forth in this part.

20.100.1060 - Administrative procedures.

For any application for a single-family house permit which is subject to the administrative approval procedures:

1. The director may, in the director's sole discretion, approve an administrative level single-family house permit.
2. The decision is an administrative determination and requires no hearing or notice.
3. The action of the director is final. If the application is denied, nothing in this section shall preclude the applicant from filing an application for a director approval pursuant to this part.

20.100.1070 - Director public hearing procedures.

For any application for a single-family house permit which is subject to the director public hearing procedures:

1. Upon finding an application for a single-family house permit completed pursuant to Part 1 of this chapter, the director shall review the application and shall set a public hearing on the application.
2. The director shall cause notice of the time and place, at which all persons may appear before the director and be heard, to be given in accordance with Section 20.100.190.
3. The director, or planning commission on appeal, may approve, conditionally approve, or deny the application only upon making the findings set forth in this part.

20.100.1080 - Appeal of director approval.

Any action taken by the director under this part may be appealed to the planning commission by filing with the director a written notice of appeal within ten calendar days after a copy of the decision of the director has been placed in the mail to the applicant. The applicant or any property owner or tenant of property within three hundred feet of the subject site may file such a notice of appeal. When such notice has been accepted by the director for filing:

1. The director shall set a date for the public hearing before the planning commission.
2. The director shall cause notice of the time and place, at which all persons may appear before the director and be heard, to be given in accordance with Section 20.100.190.
3. The decision of the planning commission shall be mailed to the applicant, at the address shown on the application, and to all persons eligible to appeal who have requested such notice pursuant to Section 20.100.200.

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20.100.1090 - Findings.

- A. The director, or planning commission on appeal, shall grant the single-family house permit only after making the following applicable findings:
1. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.
 2. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.
 3. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties.
 4. For projects that require a single-family house permit under Section 20.100.1030.A of this part, the director, or the planning commission, as set forth in Table 20-260, shall grant the single-family house permit after review of project design, only if the director or the planning commission finds that the project complies with Title 18, Chapter 18.40 of this Code.
- B. The director, or planning commission on appeal shall deny the application where the information submitted by the applicant and/or presented at the public hearing fails to satisfactorily substantiate such findings.

20.100.1100 - Exception - Previously approved special use permit.

- A. Notwithstanding any contrary provision of this part, no single-family house permit shall be required for the construction of a single-family house if:
1. A special use permit for demolition of an existing single-family house was approved prior to December 31, 2000; and
 2. Plans for the replacement single-family house were submitted as part of the special use permit application; and
 3. Building permits are obtained prior to December 31, 2000.
- B. Construction of the single-family house shall be in conformance with the plans submitted as part of the special use permit application.
- C. If an appeal of a special use permit is heard after the effective date of this part, the plans for the replacement dwelling may be evaluated and considered as part of the appeal. The planning commission on appeal shall approve the plans for the replacement single-family home.

20.100.1110 - Exception - Approved final maps.

Notwithstanding any contrary provision of this part, no single-family house permit shall be required for the construction of a single-family house(s) if:

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1. The single-family house is situated on a lot created by a final map for twenty-five or more lots in an R-1 residential zoning district which was approved after January 1, 1999, and prior to the effective date of this part; and
2. Building permits for the single-family house(s) are issued prior to December 31, 2000.

SECTION 5. Part 5.75 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

Part 5.75 - TAPROOM OR TASTING ROOM AND OFF-SALE OF ALCOHOLIC BEVERAGES IN CONJUNCTION WITH A WINERY, BREWERY, OR DISTILLERY

20.80.476 - Administrative permit required.

No person shall place or operate or allow or suffer the operation of any taproom or tasting room facility which serves members of the public on any privately-owned parcel or lot except in compliance with an administrative permit issued pursuant to this title. The application for such administrative permit may be filed by the operator of the taproom or tasting room pursuant to the requirements of Chapter 20.100. Alternatively, applicants can apply for a special use permit or conditional use permit for uses which do not meet the regulations of the administrative permit.

20.80.477 - Findings.

- A. The administrative permit shall be granted only if the director makes the following findings:
 1. The taproom or tasting room facility, as designed and at the location requested, will not create adverse impacts on the health, safety, or welfare of persons residing or working in the surrounding area; and
 2. The proposed site is adequate in size and shape to accommodate the taproom or tasting room, and any manufacturing uses on site.
- B. The director shall deny the application where the information submitted by the applicant fails to satisfactorily substantiate such findings.

20.80.478 - Taproom or Tasting Room in Downtown Zoning Districts.

- A. In Downtown Zoning Districts, an Administrative Permit may be issued pursuant to the applicable provisions of this Title for the off-sale of alcohol or the addition of a tap room or tasting room, only if the applicant meets the following criteria:
 1. Use Authorization. The Administrative Permit authorizes the following uses to be implemented on the property subject to the Permit:
 - a. A drinking establishment (taproom or tasting room) in conjunction with a winery, brewery, or distillery.
 - b. Off-sale of alcohol as incidental to a winery, brewery, or distillery.
 - c. A standalone drinking establishment (taproom or tasting room) with off-sale of alcohol.

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2. Alcohol Service and Sale. Alcohol service shall be conducted in full compliance with the issued ABC license.
3. Limitation on Area of Alcohol Sales. In Downtown Zoning Districts there are no restrictions on the size of retail space, including taprooms, tasting rooms, or any retail display areas. The alcohol available for retail sale shall be limited only to those alcoholic beverages manufactured and produced on-site or in the case of a duplicate license, at the ABC license holder's primary manufacturing site.
4. Vendor Delivery Parking. The permittee shall discourage vendors from parking delivery vehicles illegally on City streets and shall identify to vendors the available legal loading and unloading zones.
5. Warehousing, Storage and Bottling. In Downtown Zoning Districts the manufacturing space should not exceed 70% of the total square footage. All aspects of manufacturing should be conducted in a fully enclosed building
6. Outdoor Storage. No outdoor storage is allowed or permitted unless designated on the approved plan set.
7. Outdoor areas. Outdoor seating or dining areas shall not be located within 150 horizontal feet of any residential unit and shall be closed to the public by 10:00 p.m. Existing, previously approved, outdoor seating areas may be permitted within 150 feet of residential units. Locations within 150 from residential units may be permitted if they conform to the following criteria:
 - a. The outdoor area is completely separated from residentially zoned property by a non-residential building or by a minimum distance of one hundred feet that includes a public street with a minimum public right-of-way dimension of eighty feet; and
 - b. The outdoor area does not include any equipment to produce any noise that does not comply with Section 20.40.600 of Chapter 20.40; and
 - c. The outdoor dining area does not operate between the hours of 10:00 p.m. and 6:00 a.m.
8. Hours of Operation: Taproom or tasting room uses shall not be open to the public before 11:00 a.m. and shall not be open past 12:00 a.m.
9. Food trucks. One food truck per site may be permitted, subject to the outdoor vending regulations detailed in Part 10 of Chapter 20.80.
10. Nuisance. This use shall be operated in a manner that does not create a public or private nuisance. Any such nuisance shall be abated immediately upon notice by the City.
11. Noise and Acoustics. The permittee shall prevent disturbing or unreasonable noise which can be heard from neighboring properties. Ambient music provided for the listening enjoyment of customers is exempted.
12. Anti-Graffiti. The permittee shall remove all graffiti from buildings, fences, and wall surfaces within 48 hours of defacement.
13. Anti-Litter. The site and surrounding area shall be maintained free of litter, refuse, and debris:
 - a. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.

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- b. The operator of the proposed use shall clean the public right of way immediately adjacent to the subject site before 8:00 am each day, unless it is a participant in a Property Business Improvement District which provides such sidewalk cleaning services for the neighborhood in the vicinity of the project site, including the immediately adjacent public right of way.
 - c. Mechanical equipment used for outside maintenance, including blowers and street sweepers may not be used between 10:00 p.m. and 6:00 a.m. daily.
14. Revocation, Suspension, Modification. The Administrative Permit may be revoked, suspended or modified by the Director of Planning on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code a finding is made under Section 20.100.350.

20.80.479 - Taproom or Tasting Room in Commercial Zoning Districts.

- A. In Commercial, Urban Village, and Mixed-use Zoning Districts, an Administrative Permit may be issued pursuant to the applicable provisions of this Title for the off-sale of alcohol or the addition of a tap room or tasting room, only if the applicant meets the following criteria:
1. Use Authorization. The Administrative Permit authorizes the following uses to be implemented on the property subject to the Permit:
 - a. A drinking establishment (taproom or tasting room) in conjunction with a winery, brewery, or distillery.
 - b. Off-sale of alcohol as incidental to a winery, brewery, or distillery.
 - c. A standalone drinking establishment (taproom or tasting room) with off-sale of alcohol.
 2. Alcohol Service and Sale. Alcohol service shall be conducted in full compliance with the issued ABC license.
 3. Limitation on Area of Alcohol Sales. In Commercial, Urban Village, and Mixed-use Zoning Districts the size of retail space, including tap rooms, tasting rooms, or any retail display areas must not exceed 5,000 square feet. The alcohol available for retail sale shall be limited only to those alcoholic beverages manufactured and produced on-site or in the case of a duplicate license, at the ABC license holder's primary manufacturing site.
 4. Vendor Delivery Parking. The permittee shall discourage vendors from parking delivery vehicles illegally on City streets and shall identify to vendors the available legal loading and unloading zones.
 5. Warehousing, Storage and Bottling. In Commercial, Urban Village, and Mixed-use Zoning Districts the manufacturing space should not exceed 70% of the total square footage. All aspects of manufacturing should be conducted in a fully enclosed building.
 6. Outdoor Storage. No outdoor storage is allowed or permitted unless designated on the approved plan set.
 7. Outdoor areas. Outdoor seating or dining areas shall not be located within 150 horizontal feet of any residential unit and shall be closed to the public by 10:00 p.m. Existing, previously approved, outdoor seating areas may be permitted within 150 feet of

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residential units. Locations within 150 from residential units may be permitted if they conform to the following criteria:

- a. The outdoor area is completely separated from residentially zoned property by a non-residential building or by a minimum distance of one hundred feet that includes a public street with a minimum public right-of-way dimension of eighty feet; and
 - b. The outdoor area does not include any equipment to produce any noise that does not comply with Section 20.40.600 of this chapter; and
 - c. The outdoor dining area does not operate between the hours of 10:00 p.m. and 6:00 a.m.
8. Hours of Operation: Taproom or tasting room uses shall not be open to the public before 11:00 a.m. and shall not be open past 10:00 p.m.
 9. Food trucks. One food truck per site may be permitted, subject to the outdoor vending regulations detailed in Part 10 of Chapter 20.80.
 10. Nuisance. This use shall be operated in a manner that does not create a public or private nuisance. Any such nuisance shall be abated immediately upon notice by the City.
 11. Noise and Acoustics. The permittee shall prevent disturbing or unreasonable noise which can be heard from neighboring properties. Ambient music provided for the listening enjoyment of customers is exempted.
 12. Anti-Graffiti. The permittee shall remove all graffiti from buildings, fences, and wall surfaces within 48 hours of defacement.
 13. Anti-Litter. The site and surrounding area shall be maintained free of litter, refuse, and debris:
 - a. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
 - b. The operator of the proposed use shall clean the public right of way immediately adjacent to the subject site before 8:00 am each day, unless it is a participant in a Property Business Improvement District which provides such sidewalk cleaning services for the neighborhood in the vicinity of the project site, including the immediately adjacent public right of way.
 - c. Mechanical equipment used for outside maintenance, including blowers and street sweepers may not be used between 10:00 p.m. and 6:00 a.m. daily.
 14. Revocation, Suspension, Modification. The Administrative Permit may be revoked, suspended or modified by the Director of Planning on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2 , Chapter 20.100, Title 20 of the San José Municipal Code a finding is made under Section 20.100.350.

20.80.480 - Taproom or Tasting Room in Industrial Zoning Districts.

- A. In Industrial Zoning Districts, an Administrative Permit may be issued pursuant to the applicable provisions of this title for the off-sale of alcohol or the addition of a tap room or tasting room, only if the applicant meets the following criteria:

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1. Use Authorization. The Administrative Permit authorizes the following uses to be implemented on the property subject to the Permit:
 - a. A drinking establishment (taproom or tasting room) in conjunction with a winery, brewery, or distillery.
 - b. Off-sale of alcohol as incidental to a winery, brewery, or distillery.
2. Alcohol Service and Sale. Alcohol service shall be conducted in full compliance with the issued ABC license.
3. Limitation on Area of Alcohol Sales. In Heavy Industrial (HI) and Light Industrial (LI) Zoning Districts the size of retail space, including tap rooms, tasting rooms, or any retail display areas must not exceed 20% of the total tenant space (inclusive of outdoor areas). There is no limit on the size of the retail space in other Industrial Zoning Districts. The alcohol available for retail sale shall be limited only to those alcoholic beverages manufactured and produced on-site.
4. Vendor Delivery Parking. The permittee shall discourage vendors from parking delivery vehicles illegally on City streets and shall identify to vendors the available legal loading and unloading zones.
5. Warehousing, Storage and Bottling. In Industrial Zoning Districts there are no limits on the size of manufacturing space. All aspects of manufacturing should be conducted in a fully enclosed building.
6. Outdoor Storage. No outdoor storage is allowed or permitted unless designated on the approved plan set.
7. Outdoor Areas. Outdoor seating or dining areas shall not be located within 150 horizontal feet of any residential unit and shall be closed to the public by 10:00 p.m. Existing, previously approved, outdoor seating areas may be permitted within 150 feet of residential units. Locations within 150 from residential units may be permitted if they conform to the following criteria:
 - a. The outdoor area is completely separated from residentially zoned property by a non-residential building or by a minimum distance of one hundred feet that includes a public street with a minimum public right-of-way dimension of eighty feet; and
 - b. The outdoor area does not include any equipment to produce any noise that does not comply with Section 20.40.600 of Chapter 20.40; and
 - c. The outdoor dining area does not operate between the hours of 10:00 p.m. and 6:00 a.m.
8. Hours of Operation: Taproom or tasting room uses shall not be open to the public before 11:00 a.m. and shall not be open past 10:00 p.m.
9. Food trucks. One food truck per site may be permitted, subject to the outdoor vending regulations detailed in Part 10 of Chapter 20.80.
10. Nuisance. This use shall be operated in a manner that does not create a public or private nuisance. Any such nuisance shall be abated immediately upon notice by the City.
11. Noise and Acoustics. The permittee shall prevent disturbing or unreasonable noise which can be heard from neighboring properties. Ambient music provided for the listening enjoyment of customers is exempted.

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12. Anti-Graffiti. The permittee shall remove all graffiti from buildings fences, and wall surfaces within 48 hours of defacement.
13. Anti-Litter. The site and surrounding area shall be maintained free of litter, refuse, and debris:
 - a. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
 - b. Mechanical equipment used for outside maintenance, including blowers and street sweepers may not be used between 10:00 p.m. and 6:00 a.m. daily.
14. Revocation, Suspension, Modification. The Administrative Permit may be revoked, suspended or modified by the Director of Planning on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2 , Chapter 20.100, Title 20 of the San José Municipal Code a finding is made under Section 20.100.350.

SECTION 6. Part 8.5 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

Part 8.5 - HISTORIC LANDMARK STRUCTURE RE-USE

20.80.650 - Intent, historic landmark structure re-use.

The intent of this part is to facilitate the continued use and occupancy of historic landmark structures by allowing consideration of a wider variety of potential uses through the creation of a discretionary process for the approval of uses in a historic landmark structure that would not otherwise be allowed in a particular zoning district.

20.80.660 - Applicability and permit process.

- A. In any residential district, additional uses beyond those allowed in the applicable district are allowed in or at a historic landmark structure subject to a conditional use permit as delineated in Part 6 of Chapter 20.100 Administration and Permits. Such additional uses shall be limited to permitted and conditional uses of any other residential district and permitted or conditional uses of the CP Commercial Pedestrian District, excepting vehicle-related uses.
- B. In a commercial, Urban Village, Mixed-use, industrial or downtown district, additional, un-enumerated uses beyond those allowed by right or conditionally in the applicable district, as well as enumerated uses that are not currently allowed, may be allowed in or at a historic landmark structure subject to a special use permit, as delineated in Part 7 of Chapter 20.100, Administration and Permits.

20.80.670 - Additional findings, historic landmark structure re-use.

- A. In addition to any findings required by any other section of this title, the director, or planning commission on appeal, may issue a special use permit, and the planning commission, or city

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council on appeal, may issue a conditional use permit, all pursuant to the provisions of this title, for a use of a historic landmark structure as described and allowed pursuant to the provisions of this part only if all of the following additional findings also can be made:

1. The proposed use of the historic landmark structure is compatible with and will not cause adverse impacts to the surrounding uses; and
 2. The proposed use of the historic landmark structure will not cause adverse impacts to the historic landmark structure; and
 3. Any changes proposed to the historic landmark structure, or the site on which this historic landmark structure is located, as part of a project will comply with the United States Secretary of the Interior's Standards for the Rehabilitation of Historic Buildings; and
 4. The proposed re-use of the historic landmark structure complies either with the Uniform Building Code or the State Historic Building Code; and
 5. If the historic landmark structure is located in a residential district, the proposed re-use of the historic landmark structure will not impair the integrity of the surrounding residential neighborhood or the surrounding area is not predominately residential in character.
- B. The director, or planning commission on appeal, or the planning commission, or city council on appeal, as applicable, shall deny the development permit application where the decision-maker cannot make any one of the findings set forth in Subsection A. above, or other required finding under this title, based upon substantial evidence in the record.

SECTION 7. Part 11 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

Part 11 - OFF-SALES OF ALCOHOLIC BEVERAGES

20.80.900 - Off-sale of alcoholic beverages.

- A. A conditional use permit may be issued pursuant to the applicable provisions of this title for the off-sale of any alcoholic beverages only if the decision-making body first makes the following additional findings, where applicable:
1. For such use at a location closer than five hundred feet from any other such use involving the off-sale of alcoholic beverages, situated either within or outside the city, that the proposed location of the off-sale alcohol use would not result in a total of more than four establishments that provide alcoholic beverages for off-site consumption within a one thousand foot radius from the proposed location.
 2. For such use at a location closer than five hundred feet from any other use involving the off-sale of alcoholic beverages, situated either within or outside the city, where the proposed location of the off-sale of alcoholic beverages use would result in a total of more than four establishments that provide alcoholic beverages for off-site consumption within a one thousand foot radius from the proposed location, that the resulting excess concentration of such uses will not:
 - a. Adversely affect the peace, health, safety, morals, or welfare of persons residing or working in the surrounding area; or

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- b. Impair the utility or value of property of other persons located in the vicinity of the area; or
 - c. Be detrimental to public health, safety or general welfare.
- 3. For such use at a location closer than five hundred feet from any child care center, public park, social service agency, residential care facility, residential service facility, elementary school, secondary school, college or university, or one hundred fifty feet from any residentially zoned property, that the building in which the proposed use is to be located is situated and oriented in such a manner that would not adversely affect such residential, child care center, public park, social service agency, residential care facility, residential service facility and/or school use.
- B. The off-sale of alcohol as incidental sales in conjunction with the sale of gift baskets, balloons and flowers is exempt from the requirement of a conditional use permit.
- C. Where a conditional use permit application requesting the off-premises sale of alcoholic beverages also would require a determination of public convenience and necessity under the provisions of Chapter 6.84 of Title 6 of this Code, and the planning commission cannot make the required findings under Section 6.84.030 of Chapter 6.84 of Title 6 of this Code, the planning commission shall make a report and recommendation to the city council on said conditional use permit application. In this instance, the city council shall be the initial and final decision-making body on said conditional use permit application.
- D. In the Downtown Primary Commercial Zoning District (DC), an Administrative Permit or a Special Use Permit may be issued for a taproom or tasting room with off-sale of alcohol either as a standalone use or in conjunction with an alcohol manufacturing site such as a winery, brewery, or distillery, pursuant to the regulations set forth in Part 5.75 of Chapter 20.80, and are not subject to the above conditional use permit requirements.
- E. In Commercial Zoning Districts (CP, CN, and CG) , Urban Village (UV and UVC), Mixed-use (MUC, MUN, UR, and TR) and Industrial Zoning Districts (CIC, TEC, IP, HI, and LI), an Administrative Permit or a Special Use Permit may be issued for a taproom or tasting room with off-sale of alcohol in conjunction with a winery, brewery, or distillery, pursuant to the regulations set forth in Part 5.75 of Chapter 20.80, and are not subject to the above conditional use permit requirements.

SECTION 8. Part 13.7 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

Part 13.7 - RETAIL ART STUDIO

20.80.1175 - Retail art studio.

- A. Retail art studios are a permitted use in the CP, CN, CG, UVC, UV, MUC, MUN, UR, TR, MS-G, MS-C, DC I and DC-NT1 districts only if all of the following criteria are met:
 - 1. The use is located on the ground floor of a building; and
 - 2. A maximum of one thousand five hundred square feet of the total floor area is devoted to manufacturing of artistic items, and shall be contiguous to the area of retail sales use; and
 - 3. A minimum of twenty percent of the total floor area shall be devoted to retail sales; and

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4. All activities, except for activities that conform to Section 20.40.520 or Section 20.75.320, shall be conducted in a fully enclosed building; and
 5. The use shall conform to all applicable building and fire code regulations of the City of San José.
- B. A retail art studio that does not conform to all of the requirements set forth in Section 20.80.1175A. may be allowed through the approval of a special use permit.

SECTION 9. Part 14 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

Part 14 - SEASONAL SALES

20.80.1200 - Seasonal sales.

Notwithstanding anything in this title to the contrary, seasonal sales, including the sale of Halloween pumpkins and Christmas trees, may be held on lots in the CO, CP, CN, CG, UVC, UV, MUC, MUN, UR, TR, IP, LI, and HI zoning districts, as well as on lots zoned planned development where the permitted uses align with the permitted uses in the aforementioned lots. Such seasonal sales may also be held on property in any zoning district if such property is designated public/quasi-public on the land use/ transportation diagram of the general plan and the property is currently being used for uses consistent with that designation.

20.80.1210 - Regulation of use.

The following regulations shall apply to all seasonal outdoor Halloween pumpkin and Christmas tree sales lots:

- A. Seasonal outdoor Halloween pumpkin sales are allowed between October 1 and November 5, inclusive;
- B. Seasonal outdoor Christmas tree sales are allowed between November 6 and December 30, inclusive;
- C. Temporary structures and buildings one hundred twenty square feet or less in floor area are allowed if they are located at least twenty feet from any property line;
- D. Activity associated with seasonal outdoor Halloween pumpkin and Christmas tree sales may not be conducted on any portion of a lot which is closer than one hundred feet to any residentially used lot.
- E. Seasonal outdoor Halloween pumpkin and Christmas tree sales must occur in an area designated for such sale as set forth in any development permit issued for the site.

SECTION 10. Part 18 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

Part 18 - TEMPORARY TRAILERS

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20.80.1700 - Use of temporary trailer.

This part is to allow temporary trailers to be used only for the following purposes:

1. The continuation of a commercial, industrial or manufacturing business while a primary structure is undergoing alteration or restoration; and
2. The temporary erection of antennas mounted on trailers for short term operation while permitted alterations of existing wireless communication antennas are being constructed or for short term testing of coverage for wireless communication systems.

20.80.1710 - Definitions.

The following definitions are for purposes of this part:

1. "Primary structure" means an existing building in which a principal permitted commercial, industrial or manufacturing use has been conducted and as to which an applicant for a permit under this part has demonstrated a need for retrofit, restoration or other such work.
2. "Temporary use trailer" means a trailer, modular unit or other moveable prefabricated structure which is 2,000 (two thousand) square feet or less in floor area.
3. "Temporary antenna trailer" means a temporary, portable antenna, along with attendant cabinets and other equipment, mounted on a trailer that is licensed by the California Department of Motor Vehicles and is capable of towing by a single axle pickup truck.

20.80.1720 - Zoning districts and permit required.

No temporary use trailer or temporary antenna trailer shall be used on any property unless:

1. The property is located in a commercial zoning district, in an urban village or mixed-use zoning district, in an industrial zoning district or those planned development zoning districts which permit uses in the commercial or industrial districts; and
2. The property owner has obtained a valid permit issued in conformance with this part.

20.80.1730 - Temporary use trailer - Permit required.

- A. A temporary use trailer for use as a replacement structure during retrofit, restoration or other such work on a primary structure requires one of the following permits:
 1. An administrative permit, as provided in Chapter 20.100 of this title, and in conformance with the requirements of this section and Section 20.80.1740; or
 2. In the event the owner cannot meet the requirements of this part or the director denies an administrative permit, a special use permit, as provided in Chapter 20.100.
- B. All applications for a permit for a temporary use trailer shall set forth facts demonstrating to the satisfaction of the director the need to use a temporary use trailer to continue to conduct a commercial, industrial, or manufacturing use, which was in compliance with this title, at a primary structure located on the same lot for which the permit is being requested and in order to accomplish one or more of the following:
 1. Retrofit for seismic safety;
 2. Restoration of the primary structure necessitated by the total or partial destruction or damage of the structure by catastrophic event or sudden cause;

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- 3. Modification of the primary structure, or of equipment or processes at the facility, that requires on-site workers to vacate the primary structure while work is undertaken; or
 - 4. Other such work determined by the director to be in the interest of public health and safety.
- C. All applications shall demonstrate that the proposed temporary use trailer shall be maintained in conformance with the provisions of Section 20.80.1740.
- D. Upon a determination that the application meets the requirements of this part, the director may issue the administrative permit.

20.80.1740 - Temporary use trailer - Conditions of issuance.

The use of any temporary use trailer shall be in accordance with all of the following conditions:

- A. The use of the temporary use trailer may be permitted for up to one year, and renewed for one additional year at the discretion of the Director.
- B. No more than one temporary use trailer per lot shall be permitted at any given time, except that in the case where temporary use trailers are being used to temporarily house on-site workers displaced from the primary structure due to temporary construction activities under the provisions of Section 20.80.1730B.3., additional temporary use trailers may be permitted as needed to temporarily house those displaced workers provided that each and all of the temporary use trailers do not conflict with applicable development standards including without limitation setback and parking requirements.
- C. Temporary use trailers shall be located a minimum of fifteen feet from the front property line.
- D. No temporary use trailer shall be used in such a manner that circulation aisles are blocked.
- E. The minimum number of required off-street parking spaces for the site shall be calculated according to the provisions of Chapter 20.90 based upon the cumulative square footage of temporary use trailers and any remaining useable space in the primary structure.
- F. Not more than one sign shall be permitted per lot. Such sign shall be attached to the trailer and shall not exceed six square feet in area.
- G. The hours of operation shall be the same as for the preexisting use in the primary structure.
- H. Nothing herein excuses full compliance with the provisions of Section 20.150.020 of this title.
- I. The temporary use trailer shall comply with all applicable building and fire safety standards.
- J. All necessary city permits, in addition to those required by this part, shall be obtained prior to installation of the temporary use trailer.
- K. The temporary use trailer shall be removed and the construction site shall be cleared of all debris upon completion of the retrofit, reconstruction or other work on the primary structure or upon revocation or expiration of the administrative or special use permit, whichever occurs first.

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- L. No certificate of occupancy, as provided for in Section 307 of the building code, shall be issued for the primary structure until after the temporary use trailer has been completely removed from the lot and all utilities have been disconnected from the temporary use trailer in a safe manner.
- M. Revocation of any permit issued hereunder shall be in accordance with the provisions of this title which are applicable to the type of permit issued.

20.80.1750 - Temporary antenna trailer - Permit required.

- A. A temporary antenna trailer for the testing of a wireless communication network requires the following permit:
 - 1. An administrative permit, as provided in Chapter 20.100 of this title, and in conformance with the requirements of this section and Section 20.80.1760; or
 - 2. In the event the owner cannot meet the requirements of this part or the director denies an administrative permit, a special use permit, as provided in Chapter 20.100.
- B. All applications for permit for a temporary antenna trailer shall set forth facts demonstrating to the satisfaction of the director that the temporary antenna trailer will be used to determine if the site is necessary for a wireless communications network.
- C. All applications shall demonstrate that the proposed temporary antenna trailer shall be maintained in conformance with the provisions of Section 20.80.1760.

20.80.1760 - Temporary antenna trailer - Conditions of issuance.

The use of a temporary antenna trailer shall be in accordance with all of the following conditions:

- 1. The temporary antenna trailer shall not exceed forty-five feet in height, or the maximum height of the zoning district, whichever is less; and
- 2. The temporary antenna trailer shall operate for no more than one year at the site if for testing purposes; and
- 3. If not for testing purposes the temporary antenna trailer shall operate for no longer than the duration of constructing permitted alterations of existing wireless communication antennas; and
- 4. No temporary antenna trailer, for testing purposes, shall have operated within two thousand feet of the proposed site in the previous two years; and
- 5. The issuance of the administrative permit is intended only for the temporary operation while permitted alterations of existing wireless communication antennas are being constructed or for the temporary testing of operation or design of the wireless communications network and the approval of such a temporary antenna trailer shall not serve as a justification or basis for future approvals of wireless communication antennas on the site; and
- 6. No more than one temporary antenna trailer per site may be permitted at any given time; and
- 7. The temporary antenna trailer shall be located a minimum of fifty feet from the property line; and
- 8. No temporary antenna trailer shall block any circulation aisles; and

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9. The temporary antenna trailer shall comply with all applicable building and fire safety standards; and
10. All necessary permits shall be obtained prior to installation of the temporary antenna trailer; and
11. Revocation of any permit issued hereunder shall be in accordance with the provisions of this title which are applicable to the type of permit issued.

SECTION 11. Section 20.10.060 of Chapter 20.10 of Title 20 of the San José Municipal Code is amended to read as follows:

20.10.060 - Zoning districts established.

- A. In order to regulate and restrict the location of residences, professions, businesses, trades, and industries, to regulate and restrict the location, height, and size of buildings and structures hereafter erected, enlarged or altered, and to regulate and determine the area, depth, and width of yards, setback areas, and other open spaces, the following classes of city zoning districts are hereby established, as set forth in Table 20-10:

Table 20-10
City Zoning Districts

| Zoning District | Zoning Map Symbol | Alternative Zoning Map Symbol |
|--|-------------------|-------------------------------|
| OS Open Space | OS | OS |
| A Agricultural | A | A |
| Rural Residential Residence District (1DU/5 Acres) | R-1-RR | None |
| R-1-1 Residence District (1DU/Acre) | R-1-1 | R-1-B-3 |
| R-1-2 Residence District (2DU/Acre) | R-1-2 | R-1-B-2 |
| R-1-5 Residence District (5DU/Acre) | R-1-5 | R-1-B-8, R-1-B-1 |
| R-1-8 Residence District (8DU/Acre) | R-1-8 | R-1, R-1-B-6 |
| R-2 Residence District (2DU/Lot) | R-2 | R-2 |

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|--|------|--------------------------------------|
| R-M Residence District (Multiple Unit/Lot) | R-M | R-3, R-3-F, R-3-A, R-3-B, R-3-C, R-4 |
| R-MH District (mobilehome parks, travel trailer parks) | R-MH | T-M |
| CO Commercial Office District | CO | C-L, C |
| PQP Public/Quasi-Public District | PQP | None |
| CP Commercial Pedestrian District | CP | C-1 |
| CN Commercial Neighborhood District | CN | C-2 |
| CG Commercial General District | CG | C-3 |
| UVC Urban Village Commercial | UVC | None |
| UV Urban Village | UV | None |
| MUC Mixed-use Commercial | MUC | None |
| MUN Mixed-use Neighborhood | MUN | None |
| UR Urban Residential | UR | None |
| TR Transit Residential | TR | None |
| TEC Transit Employment District | TEC | None |
| IP Industrial Park District | IP | L-R, IP-a, IP-b, IP-c, IP-d, I |
| CIC Combined Industrial/Commercial | CIC | None |
| LI Light Industrial District | LI | M-1 |
| HI Heavy Industrial District | HI | M-4 |

A. The foregoing zoning districts are listed in descending order of restrictiveness, that is, with the most restrictive district listed first and the least restrictive district listed last.

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B. In addition, the following special zoning districts are established as set forth in Table 20-20. The application of these districts is limited to specific geographic areas of the city as set forth in Section 20.70.010 and Section 20.75.020.

Table 20-20
Special Zoning Districts

| Zoning District | Zoning Map Symbol |
|---|-------------------|
| DC Downtown Primary Commercial District | DC |
| DC-NT1 Downtown Commercial Neighborhood Transition 1 District | DC-NT1 |
| MS-G Main Street Ground-Floor Commercial District | MS-G |
| MS-C Main Street Commercial District | MS-C |

SECTION 12. Section 20.120.110 of Chapter 20.120 of Title 20 of the San José Municipal Code is amended to read as follows:

20.120.110 - Conformance with the general plan.

- A. For the purposes of Section 20.120.100 only, the determination of conformance of zoning or rezonings to the General Plan, shall be made in the manner set forth in Table 20-270:

Table 20-270

| General Plan Designation | Conforming District |
|-----------------------------|---------------------|
| All designations | OS, A |
| Open hillside | OS |
| Lower hillside (1 du/5 ac) | R-1-RR |
| Rural residential (2 du/ac) | R-1-1, R-1-2 |
| Residential neighborhood | R-1-8, R-1-5 |
| Urban residential | UR |

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| | |
|------------------------------------|------------|
| Transit residential | TR |
| Mixed-use Neighborhood | MUN |
| Mixed-use Commercial | MUC |
| Neighborhood/community commercial | CP, CN, CG |
| Regional commercial | CG |
| Public/Quasi-Public | PQP |
| Industrial park | IP |
| Transit employment center | TEC |
| Light industrial | LI |
| Heavy industrial | HI |
| Combined industrial/commercial | CIC |
| Downtown | DC |
| Transportation and Utilities | PQP |
| Open Space, Parklands, and Habitat | OS |
| Urban Village | UV |
| Urban Village Commercial | UVC |

- A. A Planned Development (PD) Combining District conforms to the General Plan designation where the uses permitted by the general development plan for such proposed district conform to General Plan designation and where the base zone thereof conforms to said designation in accordance with the foregoing table.
- B. Each portion of the property to be zoned or rezoned must conform to the General Plan designation for each such portion.
- C. Notwithstanding Subsections 20.120.110.A., B., and C. above, this Section is not applicable to Parcels that are developed with Mobilehome Parks.

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SECTION 13. A new section is added to Chapter 20.200 of Title 20 of the San José Municipal Code is amended to read as follows:

20.200.268 Density.

The measurement of the number of housing units in an area or located on a specific parcel or lot. Density is typically expressed through the calculation of dwelling units per acre (du/ac).

SECTION 14. A new section is added to Chapter 20.200 of Title 20 of the San José Municipal Code is amended to read as follows:

20.200.412 Floor Area.

- A. For the purpose of determining floor area ratio, the floor area of a building or buildings shall be the sum of the gross horizontal areas of the floor(s) of such buildings measured from the exterior faces of exterior walls or from the center line of party walls separating two (2) buildings and shall exclude:
 - 1. Basement space if the basement story height is less than 6 ft. above grade;
 - 2. Unenclosed stairwells at each floor;
 - 3. Floor space used for mechanical equipment where the structural headroom is less than 7½ ft.
 - 4. Equipment, open or enclosed, located on the roof, such as bulkheads, water tanks and cooling towers;
 - 5. Attic floor space where the structural headroom is less than 7½ ft.;
 - 6. Underground parking structures;
 - 7. Accessory buildings;
- B. Areas covered by sidewalk easements shall be included in the total area square footage of the parcel or project boundary.
- C. For the purpose of determining gross floor area for single-family dwellings refer to Section 20.100.1020.
- D. For the purposes of calculating parking requirements refer to Section 20.90.050.

SECTION 15. A new section is added to Chapter 20.200 of Title 20 of the San José Municipal Code is amended to read as follows:

20.200.413 Floor Area Ratio.

The gross floor area of the building or buildings divided by the total area. For calculating the floor area ratio of a single-family home, refer to Part 10 of Chapter 20.100 – Administration and Permits.

SECTION 16. Section 20.200.760 of Chapter 20.200 of Title 20 of the San José Municipal Code is amended to read as follows:

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20.200.760 - Mixed use.

The combination of commercial and residential uses located on the same property as part of a unified development. Mixed-Use Development consists of commercial and residential uses integrated either vertically (vertical mixed-use) in the same structure or group of structures, or horizontally on the same development site (horizontal mixed-use) where parking, open spaces, and other development features are ~~shared, developed or grouped together in order to create a~~ more cohesive overall design.

SECTION 17. Section 20.200.898 of Chapter 20.200 of Title 20 of the San José Municipal Code is amended to read as follows:

20.200.898 - Private open space.

A usable open space adjoining and directly accessible to a dwelling unit, reserved for the exclusive use of residents of the dwelling unit and their guests.

SECTION 18. A new section is added to Chapter 20.200 of Title 20 of the San José Municipal Code is amended to read as follows:

20.200.899 Privately Owned Public Open Space (POPOS).

Open space which is publicly accessible by easement and/or agreement and is located on privately owned land and maintained by a private property owner or business operator.

SECTION 19. A new section is added to Chapter 20.200 of Title 20 of the San José Municipal Code is amended to read as follows:

20.200.942 Public Open Space.

Publicly owned parks, plazas, and other spaces meant for repose and recreation which are accessible by members of the public.

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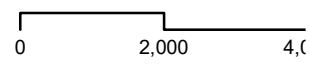
San Jose International Airport

Building heights for development located in the Rincon Urban Village are regulated by the Rincon Specific Plan/Urban Village Plan

Building heights for development located in the Diridon Urban Village are regulated by the Diridon Station Area Plan

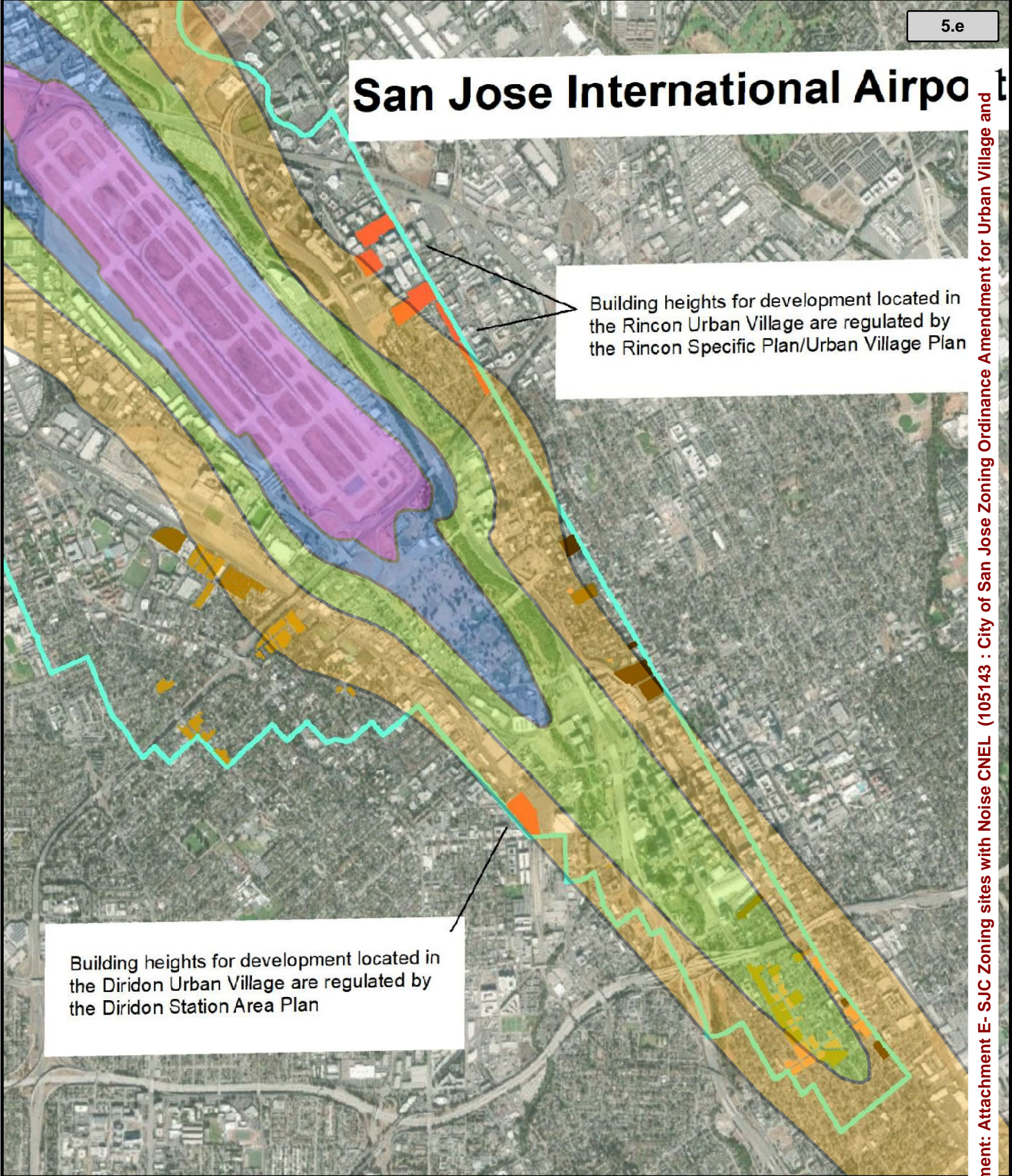
Safety Zones

- Runway
- Outer Safety Zone
- Sideline Safety Zone
- Inner Safety Zone
- Runway Protection Zone
- Turning Safety Zone



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The GIS data was compiled from various sources.
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11/30/2015 - Y

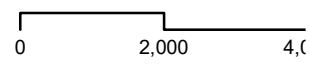
San Jose International Airport



Building heights for development located in the Rincon Urban Village are regulated by the Rincon Specific Plan/Urban Village Plan

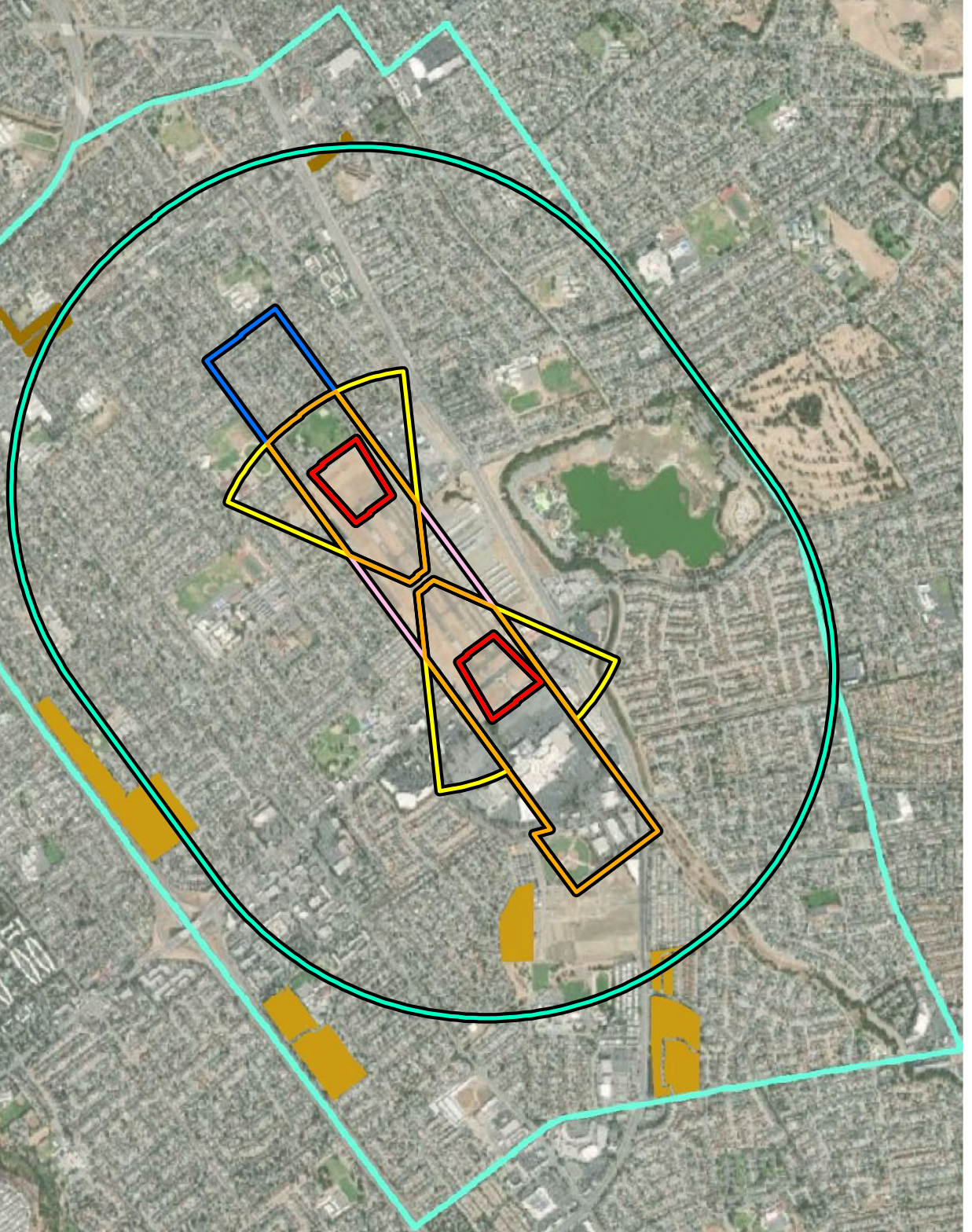
Building heights for development located in the Diridon Urban Village are regulated by the Diridon Station Area Plan

CNEL (dBs)









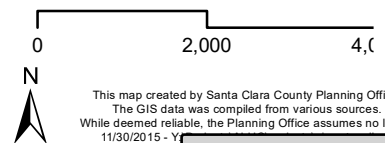
This map created by Santa Clara County Planning Office.
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While deemed reliable, the Planning Office assumes no liability.
11/30/2015 - Y

Reid-Hillview Airpo



Safety Zones

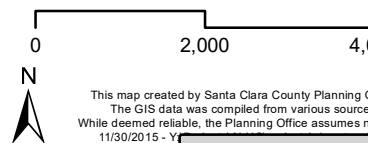
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|  Inner Safety Zone |  Runway Protection Zone |  Traffic Pattern Zone |
|  Outer Safety Zone |  Sideline Safety Zone |  Turning Safety Zone |



Reid-Hillview Airpo



CNEL (dBs)



This map created by Santa Clara County Planning Office.
The GIS data was compiled from various sources.
While deemed reliable, the Planning Office assumes no liability.
11/30/2015 - Y

County of Santa Clara
Department of Planning and Development



105155

DATE: March 24, 2021

TO: Airport Land Use Commission

FROM: Mark Connolly, Senior Planner / Deputy Zoning Administrator

SUBJECT: Override by the City of San Jose on the ALUC action on the Downtown West project

RECOMMENDED ACTION

Provide comments relating to the proposed decision and findings by the City of San Jose to override the December 16, 2020 County of Santa Clara Airport Land Use Commission (ALUC) determination for the Downtown West Mixed-Use General Plan Amendment and Rezoning project and direct County staff to forward ALUC comments to the City of San Jose.

REASONS FOR RECOMMENDATION

On December 16, 2020, the Airport Land Use Commission (Commission) reviewed the referral from the City of San Jose for the Downtown West Mixed-Use Project for the General Plan Amendment and Rezoning (City of San Jose file numbers GP19-009, PDC19-039). The Project is located within the Airport Influence Area (AIA) of San Jose International Airport (SJC). The Commission found the project inconsistent with the noise and height policies for the San Jose International Airport Comprehensive Land Use Plan (CLUP), because the General Plan Amendment and Rezoning would allow incompatible development within noise contours for SJC, as well as heights in conflict with the FAA FAR Part 77 surfaces, by using Terminal Instrument Procedures (TERP) surfaces.

The proposed General Plan Amendment and Rezoning would allow development in conflict with Table 4-1 and Noise policy N-4 of the SJC CLUP in the following ways:

Table 4-1 of SJC CLUP states: “residential uses are “Generally Unacceptable” between the 65-70 dBA CNEL Noise Contours. New construction or development should be discouraged. If new construction or development does proceed, a detailed analysis of the noise reduction requirements must be made and needed noise insulation features included in the design. Outdoor activities are likely to be adversely affected.”

Policy N-4 of the SJC CLUP states: “No residential or transient lodging construction shall be permitted within the 65 dB CNEL contour boundary unless it can be demonstrated that the

resulting interior sound levels will be less than 45 dB CNEL and there are no outdoor patios or outdoor activity areas associated with the residential portion of a mixed-use residential project or a multi-unit residential project. (Sound wall noise mitigation measures are not effective in reducing noise generated by aircraft flying overhead.) “

The proposed General Plan Amendment and Rezoning would also allow building heights in conflict with FAA Part 77 Surfaces by using TERP surfaces to define future building heights. The ALUC uses FAA Part 77 Surfaces as a height restriction boundary.

The ALUC notified the City of Santa Clara of this inconsistency determination on December 17, 2020.

The City Council intends to hold a City Council meeting to consider overruling the Commission’s determination in April 2021. In accordance with California Public Utilities Code section 21676(b), the City provided the Commission with a copy of the proposed decision and findings, which are attached hereto and incorporated herein (See Attached). The decision and findings were received on February 19, 2020, at least 45 days prior to the proposed public hearing. The Commission may provide comments to the City Council within 30 days (on or before March 20, 2020) of receiving the proposed decision and findings. If the Commission does not submit comments within 30 days, the City Council may act without them. The comments of the Commission are advisory to the City Council but must be included in the public record of any final decision to overrule, which may only be adopted by a two-thirds vote of the City Council. The Notice to overrule was received on February 19, 2021 after the February ALUC meeting was noticed, and the March Meeting is not scheduled until March 24, 2021. Therefore, although the ALUC opportunity to comment on the proposed findings is after 30-days, it is the first opportunity the ALUC has to do so.

The action before the Commission is to review and comment on the proposed decision and findings prepared by the City.

STEPS FOLLOWING APPROVAL

County staff will forward the Commission’s comments on the proposed decision and findings to the City. In accordance, with Public Utilities Code Section 21676(b), comments will be included in the final record of any final decision to overrule the Commission’s determination. The findings to overrule the Commission’s finding of inconsistency may only be adopted by a two-thirds vote of the City of Santa Clara City Council.

LINKS:

- Replaces: 103914 : Consider recommendations relating to a request from the City of San Jose for a General Plan Amendment and Rezoning for the Downtown West Project, within the Airport Influence Area of San Jose International Airport (SJC). (City of San Jose Planning File Nos. GP19-009, PDC19-039-multiple parcels)

ATTACHMENTS:

- Downtown West ALUC Override Referral letter from the City of San Jose (PDF)
- Downtown West ALUC Override Draft Resolution Feb 19 2021 (PDF)
- ALUC Final determination letter for Downtown West (DOCX)
- Replacement SCCALUC Letter 3.5.21 AC BF-2 (PDF)

February 19, 2021

Mark J. Connolly
Mark.connolly@pln.sccgov.org
Senior Planner/Staff to the ALUC
County of Santa Clara
Planning Division
70 W. Hedding Street
San José, CA 95110

RE: Override of ALUC Finding, General Plan Amendment and Planned Development Rezoning File Nos. GP19-009 and PDC19-039, area generally bounded by Lenzen Avenue and Union Pacific railroad tracks to the north; North Montgomery Street, Los Gatos Creek, The Guadalupe River, State Route 87, South Autumn Street, and Royal Avenue to the East; Auzerais Avenue to the South; and the Caltrain Rail Corridor and Cahill Street to the West.

Dear Mr. Connolly:

This letter serves as notification that the City of San José City Council intends to hold a hearing to consider an override of the Airport Land Use Commission (“ALUC”) finding that the subject project is inconsistent with the noise and height policies in the “Comprehensive Land Use Plan for San José International Airport (CLUP).” The City Council hearing to consider the override would be held in Spring 2021 or soon thereafter. Pursuant to California Public Utilities Code Section 21676(c), this correspondence has been delivered at least 45 days in advance of the hearing. For the City to consider your comments, please respond within 30 days of receipt of this letter, **on or before Monday, March 22, 2021.**

A copy of the Draft City Council Resolution containing the City’s findings for override and a description of the proposed project are attached. This advance notification letter and attachments have also been forwarded to the California Department of Transportation Division of Aeronautics.

A supplemental memorandum from the Director of Planning, Building, and Code Enforcement to the City Council describing the analysis and findings will be prepared prior to the hearing. The memo has not been prepared at this time; however, if you wish to receive a copy, please let me know in advance and I will be happy to forward one to you.

If you have any comments or questions, please feel free to contact me by e-mail at john.tu@sanjoseca.gov or on my direct line at 408-535-6818.

Sincerely,



Tong (John) Tu
Supervising Planner

Attachments
Draft Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE MAKING CERTAIN FINDINGS REQUIRED BY CALIFORNIA PUBLIC UTILITIES CODE SECTION 21676 THAT PROPOSED GENERAL PLAN AMENDMENT AND REZONING OF APPROXIMATELY 79 GROSS ACRES EXTENDING APPROXIMATELY ONE MILE FROM NORTH TO SOUTH, AND GENERALLY BOUNDED BY: LENZEN AVENUE AND THE UNION PACIFIC RAILROAD TRACKS TO THE NORTH; NORTH MONTGOMERY STREET, LOS GATOS CREEK, THE GUADALUPE RIVER, STATE ROUTE 87, BARACK OBAMA BOULEVARD, AND ROYAL AVENUE TO THE EAST; AUZERAIS AVENUE TO THE SOUTH; AND THE CALTRAIN RAIL CORRIDOR AND CAHILL STREET TO THE WEST, IS CONSISTENT WITH THE PURPOSES SET FORTH IN CALIFORNIA PUBLIC UTILITIES CODE SECTION 21670 AND OVERRULING THE SANTA CLARA COUNTY AIRPORT LAND USE COMMISSION'S (ALUC) DETERMINATION THAT THE PROPOSED PROJECT IS INCONSISTENT WITH THE ALUC NOISE AND HEIGHT POLICIES AS DEFINED BY THE "COMPREHENSIVE LAND USE PLAN FOR SAN JOSE INTERNATIONAL AIRPORT"

FILE NOS. GP19-009 AND PDC19-039

WHEREAS, pursuant to the provisions of Section 21676 of the California Public Utilities Code (Section 21676), the City made a referral of the General Plan Amendment (File No. GPA19-009) and Planned Development Rezoning (File No. PDC19-039) to the Airport Land Use Commission of Santa Clara County (ALUC) for a determination of consistency with the ALUC's plans to the extent that the area covered by the Downtown West project falls within the ALUC's Airport Influence Area surrounding Mineta San José International Airport; and

WHEREAS, the project is for a General Plan Amendment (Envision San José 2040 and Diridon Station Area Plan) and rezoning to a DC(PD) Planned Development Zoning District to bring forward a plan that reflects the objectives represented by the City, stakeholders, and residents of San Jose in an inclusive and extensive public process; and consists of up to 5,900 residential units; up to 7,300,000 gross square feet (GSF) of

1

Council Agenda: _____

Item No.: _____

DRAFT – Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

Attachment: Downtown West ALUC Override Draft Resolution Feb 19 2021 (105155 : Override by the City of San Jose on the ALUC action on

office space; up to 500,000 GSF of active uses such as retail, cultural, arts, civic etc.; up to 300 hotel rooms; up to 800 rooms of limited-term corporate accommodations; up to two event and conference centers totaling up to 100,000 GSF; up to two central utility plants totaling approximately 130,000 GSF; logistic/warehouse(s) totaling approximately 100,000 GSF and approximately 15 acres of open space, all on approximately 79-gross acres in the area generally bounded by Lenzen Avenue and the Union Pacific Railroad tracks to the north; North Montgomery Street, Los Gatos Creek, the Guadalupe River, State Route 87, Barack Obama Boulevard, and Royal Avenue to the East; Auzerais Avenue to the South; and the Caltrain Rail Corridor and Cahill Street to the West; and

WHEREAS, on December 16, 2020, the ALUC, acting pursuant to its authority under Section 21676, determined that GP19-009 and PDC19-039 were inconsistent with ALUC noise and height policies, as defined in the “Comprehensive Land Use Plan for San José International Airport” (CLUP); and

WHEREAS, ALUC found the rezoning and general plan amendment would be inconsistent with the CLUP Noise Policy N-4 and Table 4-1 because a portion of the site would permit residential outdoor patios or outdoor activity areas within the CLUP’s 65 A-weighted decibels (dBA) Community Noise Equivalent Level (CNEL) noise contour, and the ALUC CLUP discourages residential uses with outdoor patios or outdoor activity areas within the 65 dba CNEL noise contour; and

WHEREAS, ALUC found the proposed rezoning and general plan amendment were also inconsistent with the CLUP H-1 height policy, as the project may propose building heights that exceed FAR Part 77 Surfaces. The CLUP height policy references FAR Part 77 Surfaces to determine compatible land uses in the Airport Influence Area; and

WHEREAS, the ALUC made its Land Use Plan inconsistency determination prior to the FAA’s issuance of any “No Hazard” determination for the subject project; and

WHEREAS, if a project exceeds FAR Part 77 surfaces but receives an FAA “Determination of No Hazard” following an FAA aeronautical study, CLUP Policy H-1 provides that the FAA determination shall prevail; and

WHEREAS, the ALUC found the proposed project to be consistent with the CLUP except for noise and height as described above; and

WHEREAS, the ALUC determined that the subject site is located outside of the outer safety zone (OSZ) and none of the safety policies contained within the CLUP are applicable to this proposed project; and

WHEREAS, pursuant to the provisions of Section 21676 the City may after a public hearing on the matter overrule a determination by the ALUC by a two-thirds vote of the City Council so long as the City Council makes specific findings that a proposed action is consistent with the purposes set forth in Section 21670 of the California Public Utilities Code (Section 21670); and

WHEREAS, Section 21670 provides that the purpose of these sections of the California Public Utilities Code is to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public’s exposure to excessive safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses; and

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

SECTION 1. Section 21676 provides that a local governmental body may overrule the ALUC’s determination if it makes specific findings that the proposed local government body’s action is consistent with the purposes of California Public Utilities Code (CPUC)

Section 21670. The City Council hereby makes the following overriding findings with regard to the ALUC's determination of inconsistency with noise and height policies listed in the CLUP:

- A. The recitals above are incorporated herein as findings.
- B. The first purpose of Section 21670 is to provide for the orderly development of each public use airport in the state and the area surrounding these airports so as to promote the overall goals and objectives of California airport noise standards and prevent the creation of new noise and safety problems. The second purpose of Section 21670 is to protect public health, safety and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around the public airports to the extent that these areas are not already devoted to incompatible uses.
- C. With respect to safety, the subject property is not located within any of the Safety Zones for the Mineta San José International Airport. Therefore, none of the CLUP safety policies are applicable to the proposed project.
- D. Consistent with the purposes of Section 21670, the City's General Plan, development review process and methodology ensure that future development within the Airport Influence Area on the project site would minimize the public's exposure to excessive noise and that buildings will be constructed only if their heights and other characteristics result in FAA Determinations of No Hazard to Air Navigation.
- E. ALUC Policy N-4 provides no residential or transient lodging construction shall be permitted within the 65 dBA CNEL (CNEL measurement is the same as DNL but adds a 5 dB penalty between 7pm and 10pm) contour boundary unless it can be demonstrated that a) the resulting interior sound levels will be less than 45 dBA DNL (DNL is the Day-Night Average Sound Level over a 24 hour time weight energy average noise level, with a 10 dB penalty between 10pm to 7am to account for the higher sensitivity to noise at night due to lower background noise) and b) there are no outdoor patios or outdoor activity areas associated with the residential portion of a mixed-use residential project. The City's analysis shows that the Year 2027 65 dBA CNEL noise contour extends into several blocks on the project site that the Downtown West Project would designate for residential or hotel use. Although the project is proposing the above type of development in the 65 dBA CNEL noise contour, the project is consistent with Section 21670 for the reasons stated below:

1. Consistent with Goal EC-1 of the Envision San José General Plan 2040, with the California Building Code, and with ALUC Policy N-4, interior noise levels in residences and hotel rooms will not exceed 45 dBA DNL. See project EIR Mitigation NO-3, which will be a condition of approval of the project's Planned Development Permit.
2. General Plan Transportation Policy TR-14.4 requires dedication of aviation easements to protect airport operations. Such easements will be required as conditions of approval of the project's Planned Development Permit, establishing consistency with CLUP Policies G-5 and O-1, which call for aviation easements within the Airport Influence Area.
3. Consistent with CLUP's Noise Compatibility Policy N-5, "all property owners within the Airport Influence Area who rent or lease their property for residential use shall include in their rental/lease agreement with the tenant, a statement advising that they (the tenants) are living within an exterior aircraft noise exposure area designated by the ALUC as greater than the 65 dBA CNEL in a manner that is consistent with current state law including AB2776 (2002)." The policy will be enforced through a condition of approval to the project's Planned Development Permit.
4. The Envision San José 2040 General Plan identifies outdoor noise environments of 60-75 dBA DNL as "conditionally acceptable" for residential and hotel uses, as long as interior noise levels are mitigated to 45 dBA DNL. The residential outdoor activities areas at Downtown West Blocks E3 and C3 are located both in the environs of the Mineta San José International Airport and in Downtown. These areas are exempt from the 60 dBA DNL exterior noise limit the City applies in other residential areas.
5. Residential exterior spaces such as apartment balconies and ground-floor common areas within the 65 dBA DNL noise contour would be consistent with orderly development of the Mineta San José International Airport. These spaces would be consistent with the recently adopted Airport Master Plan, whose noise analysis provides that residential uses within the 65 dBA DNL contour are considered compatible with airport operations because interiors are sound insulated. Exterior spaces do not preclude such residences from being considered compatible with airport operations.
6. Existing noise conditions in portions of Block E3 and C3 exceed 65 dBA CNEL, but these conditions are primarily due to highway, rail and street noise rather than aircraft. (Downtown West Mixed Use Project DEIR Table 3.10-1).

7. The benefits of access to outdoor spaces, including for multifamily residents, are well documented. The City encourages private outdoor space in multifamily developments. With the required notice, future residents will have the option of living in less urban areas further from the flight path; but in choosing to live in an urban area, they may have the option of spending time in their private balconies and communal outdoor spaces despite the potential annoyance of aircraft overflights. The purpose of the State Aeronautics Act would not be violated by allowing these options.
 8. The Mineta San Jose International Airport maintains a webpage, <https://www.flysanjose.com/noise/noise-complaint>, through which it collects written noise complaints. Both the airport website and the County of Santa Clara website refer readers to this page. The City has examined the resulting records of noise complaints for a 10-year period and found that of 445,000 complaints received through the webpage, 1,505 (0.34 percent), originated in a ZIP code that includes any portion of Downtown San Jose (95110, 95112, 95113, 95126, and 95192). This ratio reflects a longstanding pattern of more frequent airport noise complaints from less urbanized areas and fewer from downtown areas. To explore specifically whether construction of multifamily residential buildings with outdoor patios and/or outdoor activity areas results in significant noise complaints, the City identified six such existing buildings in Downtown within the 65 dBA CNEL airport noise. The addresses were reviewed against the Airport's database. The review shows that in the last ten years, five of these multifamily residential buildings reported no noise complaints and one building nearer to the airport reported a total of twelve complaints. This level of complaint is not considered significant and is consistent with the pattern that Downtown San Jose generates few airport noise complaints compared to less urbanized neighborhoods, even from residential buildings that include outdoor activity areas.
- F. ALUC CLUP Policy H-1 provides: "Any structure or object that penetrates the Federal Aviation Regulations Part 77, *Objects Affecting Navigable Airspace* (FAR Part 77) surfaces, as illustrated in Figure 6, is presumed to be a hazard to air navigation and will be considered an incompatible land use, except in the following circumstance. If the structure or object is above the FAR Part 77 surface, the proponent may submit the project data to the FAA for evaluation and air navigation hazard determination, in which case the FAA's determination shall prevail." General Plan Transportation Policy TR14.2 requires project proponents to submit this data to the FAA.

The project is in compliance with General Plan Transportation Policy TR14.2 in that if the City Council approves the proposed rezoning and general plan amendment, a condition of approval will be included in the Planned

Development Permit requiring a “Determination of No Hazard” to Air Navigation be issued by the FAA for all buildings prior to issuance of any building permits.

SECTION 2. Therefore, based upon the findings set forth above, the City Council hereby finds that the development proposed under Planned Development Rezoning File No. PDC19-039 and General Plan Amendment GP19-009 is not in conflict with and would be consistent with the purposes set forth in California Public Utilities Code Section 21670, regarding protection of public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports, to the extent that these areas are not already devoted to incompatible uses.

SECTION 3. Based upon all of the foregoing findings and conclusions, the City Council hereby overrules the ALUC determination of nonconformance of Planned Development Rezoning File No. PDC19-039 and GP19-009 with the noise and height polices within the CLUP.

ADOPTED on this ____ day of _____, 2021 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

ALUCSANTA CLARA
COUNTY AIRPORT LAND
USE COMMISSION**Airport Land Use Commission**County Government Center, 70 W. Hedding Street, East Wing, 7th Fl., San Jose, CA
95110
(408) 299-5786 FAX (408) 288-9198

December 17, 2020

James Han

Planner | Planning Division | PBCE

City of San José | 200 E. Santa Clara St. 3rd Floor San José, CA 95113

RE: ALUC consistency determination for a referral from the City of San Jose for the Downtown West General Plan Amendment and Rezoning (City of San Jose file numbers GP19-009, PDC19-039), affecting lands within the San Jose International Airport Influence Area (AIA).

Dear Mr. Han:

The ALUC considered the above referral for consistency with the policies of safety, height and noise contained within the San Jose International Airport Comprehensive Land Use Plan (SJC CLUP), at their December 16, 2020 Meeting.

The proposed General Plan Amendment and Rezoning would allow development in conflict with Table 4-1 and Noise policy N-4 of the SJC CLUP.

Table 4-1 of SJC CLUP states: “residential uses are “Generally Unacceptable” between the 65-70 dBA CNEL Noise Contours. New construction or development should be discouraged. If new construction or development does proceed, a detailed analysis of the noise reduction requirements must be made and needed noise insulation features included in the design. Outdoor activities are likely to be adversely affected.”

Policy N-4 of the SJC CLUP states: “No residential or transient lodging construction shall be permitted within the 65 dB CNEL contour boundary unless it can be demonstrated that the resulting interior sound levels will be less than 45 dB CNEL and there are no outdoor patios or outdoor activity areas associated with the residential portion of a mixed-use residential project or a multi-unit residential project. (Sound wall noise mitigation measures are not effective in reducing noise generated by aircraft flying overhead.) “

The proposed General Plan Amendment and Rezoning would also allow building heights in conflict with FAA Part 77 Surfaces by using TERP surfaces to define future building heights. The ALUC uses FAA Part 77 Surfaces as a height restriction boundary.

The ALUC found the referral ***Inconsistent*** with the noise and height policies as defined in the San Jose International Airport Comprehensive Land Use Plan (SJC CLUP).

Attachment: ALUC Final determination letter for Downtown West (105155 : Overrule by the City of San Jose on the ALUC action on the

ALUCSANTA CLARA
COUNTY AIRPORT LAND
USE COMMISSION**Airport Land Use Commission**County Government Center, 70 W. Hedding Street, East Wing, 7th Fl., San Jose, CA
95110
(408) 299-5786 FAX (408) 288-9198

Please note that pursuant to the Public Resources Code 21670, the City of San Jose has the option of overruling the ALUC's determination. Overrules require a 2/3 vote of the entire body of the City of San Jose City Council. The notification process to the ALUC and Cal Trans Division of Aeronautics shall also be complied with.

If you have any questions, please feel free to contact ALUC staff, Mark Connolly, at 408-299-5786, or via e-mail at mark.connolly@pln.sccgov.org.

Sincerely,



Mark J. Connolly
Senior Planner / ALUC Program Manager

Attachment: ALUC Final determination letter for Downtown West (105155 : Overrule by the City of San Jose on the ALUC action on the

DEPARTMENT OF TRANSPORTATION

DIVISION OF AERONAUTICS – M.S. #40

1120 N STREET

P. O. BOX 942874

SACRAMENTO, CA 94274-0001

PHONE (916) 654-4959

FAX (916) 653-9531

TTY 711

www.dot.ca.gov



Making Conservation
a California Way of Life.

March 5, 2021 (Replacing Retracted Letter Dated February 24, 2021)

Mr. Mark J. Connolly, Senior Planner
Airport Land Use Commission
Planning Program Manager
Department of Planning and Development
County of Santa Clara
70 West Hedding Street, East Wing, 7th Floor
San José, CA 95110-1705

Electronically Sent

Mark.Connolly@PLN.SCCGOV.ORG

Dear Mr. Connolly:

Thank you for requesting assistance from the California Department of Transportation (Caltrans), Division of Aeronautics (Division). According to your email dated January 14, 2021, the Santa Clara County Airport Land Use Commission (SCCALUC) is concerned about a February 2018 study known as the Downtown Airspace Development Capacity Study (DADCS), initiated by the city of San Jose (City). According to information provided to the Division, it appears that the City approved a new policy regarding airspace surface protection heights on March 12, 2019. The City's new airspace surface protection heights policy establishes Federal Aviation Administration (FAA) Terminal Instrument Procedures (TERPs) as the building height development standard for two large-scale specific plans, Google Village, and the Diridon Station Area Plan (Plans). Consequently, SCCALUC is concerned about structure heights within the airport influence area of Norman Y. Mineta San Jose International Airport (SJC).

It is the Division's understanding that the City referred the Plans to the SCCALUC for advisory reviewⁱ. The Comprehensive Land Use Plan (CLUP) adopted Title 14, Code of Federal Regulations (CFR) Part 77, "Safe, Efficient Use and Preservation of the Navigable Airspace" (Part 77), as its airspace protection policy. The SCCALUC determined that the building height development standards and

ⁱ PUC section 21676(b): Prior to the amendment of a general plan or specific plan, or the adoption or approval of a zoning ordinance or building regulation within the planning boundary established by the airport land use commission pursuant to Section 21675, the local agency shall first refer the proposed action to the commission. If the commission determines that the proposed action is inconsistent with the commission's plan, the referring agency shall be notified.

Mr. Mark Connolly
 March 5, 2021
 Page 2

airspace protection policies for the Plans to be inconsistent with the CLUP's airspace protection policies. The Division concurs with the SCCALUC inconsistency determination.

The CLUP policies are based on solid airport land use compatibility planning principles and practices. The California State Legislature (Legislature) enacted PUC sections 21402ⁱⁱ and 21659(a)ⁱⁱⁱ for airspace protection purposes. In addition, the Division prepared the California Airport Land Use Planning Handbook (Handbook)^{iv} as a resource for Airport Land Use Commissions (ALUC) in their responsibilities regarding airport land use compatibility planning. The provisions of PUC section 21670 (inclusive) reference CFR Part 77 for ALUC use in airport land use compatibility planning and policy formation. Additionally, CFR Part 77 is incorporated as part of the SJC Airport Master Plan, on which ALUC policies must be based (PUC Section 21675(a)^v). The Handbook also provides the "height, use, noise, safety, and density criteria compatible with airport operations" for which ALUCs are to develop airport land use compatibility policies.

The California State Aeronautics Act uses CFR Part 77 as the primary airspace protection standard for the State. CFR Part 77 provides a static, evenly applied, and "mappable" basis for determining height compatibility of structures or objects near an airport. The Federal Aviation Administration (FAA) regulates navigable airspace and established the CFR Part 77 process that requires project sponsors to inform FAA about proposed construction that could affect navigable airspace. An FAA Determination on an Airspace Study does not constitute as approval of a proposed project. Rather, it is a finding relative to CFR Part 77 surfaces surrounding an airport. Consider that the Handbook states:

TERPs, as described in FAA Order 8260.3B, June 2009, establishes clearance requirements for all enroute and terminal (airport)

ⁱⁱThe ownership of the space above the land and waters of this State is vested in the several owners of the surface beneath, subject to the right of flight described in Section 21403. No use shall be made of such airspace which would interfere with such right of flight; provided, that any use of property in conformity with an original zone of approach of an airport shall not be rendered unlawful by reason of a change in such zone of approach.

ⁱⁱⁱNo person shall construct or alter any structure or permit any natural growth to grow at a height which exceeds the obstruction standards set forth in the regulations of the Federal Aviation Administration relating to objects affecting navigable airspace contained in Title 14 of the Code of Federal Regulations, Part 77, Subpart C, unless the Federal Aviation Administration has determined that the construction, alteration, or growth does not constitute a hazard to air navigation or would not create an unsafe condition for air navigation.

^{iv}PUC section 21674.7

^vThe commission's airport land use compatibility plan shall include and shall be based on a long-range master plan or an airport layout plan, as determined by the Division of Aeronautics of the Department of Transportation, that reflects the anticipated growth of the airport during at least the next 20 years.

Mr. Mark Connolly

March 5, 2021

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instrument procedures to avoid obstructions for the sake of approaches and departures to and from an airport. If an obstacle penetrates TERPs clearances, it is considered a hazard to flight and can dictate that minimum flight visibility and altitudes be raised or the instrument course be realigned or cancelled. **These consequences reduce the operating utility of the airport.**

The Legislature values airports and, pursuant to PUC section 21670 et. seq., created ALUCs as multi-jurisdictional agencies to ensure proper airport land use compatibility planning within the vicinity of airports. SJC has a regional affect and influence beyond the jurisdictional boundaries of the City. Therefore, it is the responsibility of the member county, cities, and local agencies of the SCCALUC to adopt and adhere to policies pursuant to PUC section 21670:

PUC section 21670(1) It is in the public interest to provide for the orderly development of each public use airport in this state and the area surrounding these airports so as to promote the overall goals and objectives of the California airport noise standards adopted pursuant to Section 21669 and to prevent the creation of new noise and safety problems.

(2) It is the purpose of this article to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses.

Development encroachment upon airports is likely to constrain an airport's vital contribution to the community, region, and State, and expose people to safety hazards and excessive noise. Caltrans concurs with SCCALUC because SJC is important to the California Aviation System Plan. SJC provides economic stimulus, generates on and off airport jobs, and is a hub for domestic and international commerce and tourism. According to a December 2015 report^{vi} prepared by Martin Associates for the City of San Jose, SJC provides more than 3,000 on-airport and 32,000 off-airport jobs, and \$3.4 billion business revenue and \$118 million in local and State taxes. The City's Policy is inconsistent with the CLUP, and conflicts with PUC section 21670 because it does not provide for the orderly growth of SJC and may create new noise impacts to areas not currently experiencing safety hazards and excessive noise.

^{vi} <https://www.flysanjose.com/sites/default/files/financial/Economic%20Impact%20Study%20Report%20-%20FY13-14.pdf>

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The Division comments are provided to support the SCCALUC in its policy formation and adherence to CLUP policies. The following are the next steps as discussed between SCCALUC staff and the Division on January 21, 2021:

1. Teleconference with SCCALUC to discuss Division's response
2. Teleconference between SCCALUC, the FAA, the SJC, and the Division to discuss the details associated with airspace protection more specifically with the FAA
3. Coordination between the Metropolitan Transportation Commission and Caltrans District 4 and the SCCALUC

If you have questions or need further assistance, please contact me at (916) 654-5314 or via email at robert.fiore@dot.ca.gov.

Sincerely,

Original signed by

ROBERT FIORE
Aviation Planner

c: Ryan Sheelen, C.M., Airport Planner III, Planning and Development Division
San José International Airport; rsheelen@sjc.org

Laurie Suttmeier, FAA, SFO; laurie.suttmeier@faa.gov

**County of Santa Clara
Airport Land Use Commission**



105213

DATE: March 24, 2021

TO: Airport Land Use Commission

FROM: Jean Anton, Deputy Clerk

SUBJECT: Override by the City of San Jose on the ALUC action on the Diridon Station Area Plan

RECOMMENDED ACTION

Provide comments relating to the proposed decision and findings by the City of San Jose to overrule the December 16, 2020 County of Santa Clara Airport Land Use Commission (ALUC) determination for the Diridon Station Area Plan Amendment and Rezoning project and direct County staff to forward ALUC comments to the City of San Jose.

ATTACHMENTS:

- DSAP ALUC Override Letter (PDF)
- DSAP ALUC Draft Override Resolution (PDF)

March 16, 2021

Mark J. Connolly
Mark.connolly@pln.sccgov.org
Senior Planner/Staff to the ALUC
County of Santa Clara
Planning Division
70 W. Hedding Street
San José, CA 95110

RE: Override of ALUC Finding, General Plan Amendment and Conforming Rezoning File Nos. GP20-007 and C20-002, area generally bounded by Lenzen Avenue and Union Pacific railroad tracks to the north; the Guadalupe River and State Route 87 to the east; Interstate 280 to the south; and Sunol Street and the Diridon Station Commuter Rail to the west.

Dear Mr. Connolly:

This letter serves as notification that the City of San José City Council intends to hold a hearing to consider an override of the Airport Land Use Commission (“ALUC”) finding that the subject General Plan Amendment and Conforming Rezoning is inconsistent with the noise and height policies in the “Comprehensive Land Use Plan for San José International Airport (CLUP).” The City Council hearing to consider the override would be held in Spring of 2021 or soon thereafter. Pursuant to California Public Utilities Code Section 21676(c), this correspondence has been delivered at least 45 days in advance of the hearing. For the City to consider your comments, please respond within 30 days of receipt of this letter, **on or before Wednesday, April 15, 2021.**

A copy of the Draft City Council Resolution containing the City’s findings for override and a description of the proposed project are attached. This advance notification letter and attachments have also been emailed and mailed to the California Department of Transportation Division of Aeronautics.

A memorandum from the Director of Planning, Building, and Code Enforcement to the City Council describing the analysis and findings will be prepared prior to the hearing. The memo has not been prepared at this time, however, if you wish to receive a copy, please let me know in advance and I will be happy to forward one to you.

If you have any comments or questions, please feel free to contact me by e-mail at jose.ruano@sanjoseca.gov or on my direct line at 408-535-3803.

Sincerely,



Jose Ruano
Planner II

Attachments
Draft Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE MAKING CERTAIN FINDINGS REQUIRED BY CALIFORNIA PUBLIC UTILITIES CODE SECTION 21676 THAT PROPOSED GENERAL PLAN AMENDMENT AND CONFORMING REZONING OF PROPERTIES WITHIN APPROXIMATELY 262 GROSS ACRES EXTENDING APPROXIMATELY ONE MILE FROM NORTH TO SOUTH, AND GENERALLY BOUNDED BY: LENZEN AVENUE AND THE UNION PACIFIC RAILROAD TRACKS TO THE NORTH; THE GUADALUPE RIVER AND STATE ROUTE 87 TO THE EAST; INTERSTATE 280 TO THE SOUTH; SUNOL STREET AND THE DIRIDON STATION COMMUTER RAIL TO THE WEST, IS CONSISTENT WITH THE PURPOSES SET FORTH IN CALIFORNIA PUBLIC UTILITIES CODE SECTION 21670 AND OVERRULING THE SANTA CLARA COUNTY AIRPORT LAND USE COMMISSION'S (ALUC) DETERMINATION THAT THE PROPOSED GENERAL PLAN AMENDMENT AND CONFORMING REZONING IS INCONSISTENT WITH THE ALUC NOISE AND HEIGHT POLICIES AS DEFINED BY THE "COMPREHENSIVE LAND USE PLAN FOR SAN JOSE INTERNATIONAL AIRPORT"

FILE NOS. GP20-007 AND C20-002

WHEREAS, pursuant to the provisions of Section 21676 of the California Public Utilities Code ("Section 21676"), the City made a referral of the General Plan Amendment (File No. GP20-007) and Conforming Rezoning (File No. C20-002) to the Airport Land Use Commission of Santa Clara County ("ALUC") for a determination of consistency with the ALUC's plans to the extent that the area covered by the amended Diridon Station Area Plan falls within the ALUC's Airport Influence Area surrounding Mineta San José International Airport ("SJC"); and

WHEREAS, the proposed City-initiated General Plan Amendment amending the Diridon Station Area Plan, is to add development capacity and update sections on land use, design, transportation, and public spaces, and the Conforming Rezoning is in response to Senate Bill (SB) 1333 to bring the existing site's Zoning Districts into conformance with

the existing and amended Diridon Station Area Plan on approximately 262 gross acres in the area generally bounded by Lenzen Avenue and the Union Pacific Railroad tracks to the north; the Guadalupe River and State Route 87 to the east; Interstate 280 to the south; and Sunol Street and the Diridon Station Commuter Rail to the west; and

WHEREAS, on December 16, 2020, the ALUC, acting pursuant to its authority under Section 21676, determined that the General Plan Amendment (File No. GP20-007) was inconsistent with ALUC noise and height policies, as defined in the “Comprehensive Land Use Plan for San José International Airport” (“CLUP”); and

WHEREAS, the ALUC found the General Plan Amendment would potentially allow development to exceed 300 people per acre as prescribed within the Outer Safety Zone; and

WHEREAS, according to Table 4-2 of the SJC CLUP, the Outer Safety Zone allows non-residential uses to a maximum density of 300 people per acre with 20% of the gross area required as Open Space and provides that if non-residential uses are not feasible in the Outer Safety Zone, residential infill is allowed up to the existing density, and no regional shopping centers, theaters, meeting halls, stadiums, schools, large day care centers, hospitals, nursing homes or similar activities are allowed; and

WHEREAS, the ALUC requested the General Plan Amendment to include language limiting development in the area covered by the amended Diridon Station Area Plan within the Outer Safety Zone, such as to a maximum density of 300 people per acre with 20 percent of the gross area required as Open Space or the Open Space requirement could also be achieved on the adjacent park land, Guadalupe River Park and Gardens, as well as State Route 87, so the General Plan Amendment may not conflict with the Safety Compatibility policies contained in the CLUP; and

WHEREAS, as part of this override, the General Plan Amendment will include an Outer Safety Zone Overlay with language limiting development in the area covered by the amended Diridon Station Area Plan within the Outer Safety Zone to a maximum density of 300 people per acre with 20 percent of the gross area required as Open Space; and

WHEREAS, the Open Space requirement could also be achieved on the adjacent park land, Guadalupe River Park and Gardens, as well as State Route 87; and

WHEREAS, the Outer Safety Zone overlay is both applicable to and enforced in the amended Diridon Station Area Plan and Zoning Districts, and therefore the General Plan Amendment and Conforming Rezoning would not conflict with any of the Safety Compatibility policies contained in the CLUP; and

WHEREAS, on February 24, 2021, the ALUC, acting pursuant to its authority under Section 21676, determined that the Conforming Rezoning (File No. C20-002) was inconsistent with ALUC noise and height policies, as defined in the CLUP; and

WHEREAS, in both referral determinations, the ALUC found the General Plan Amendment and Conforming Rezoning would be inconsistent with the CLUP Noise Policy N-4 and Table 4-1 because a portion of the area covered by the amended Diridon Station Area Plan would permit residential outdoor patios or outdoor activity areas within the ALUC CLUP's 65 A-weighted decibels (dBA) Community Noise Equivalent Level (CNEL) noise contour, and the ALUC CLUP discourages residential uses with outdoor patios or outdoor activity areas within the 65 dBA CNEL noise contour; and

WHEREAS, in both referral determinations, the ALUC found the General Plan Amendment and Conforming Rezoning would also be inconsistent with the CLUP H-1 height policy, as development in the area covered by the amended Diridon Station Area Plan would allow building heights that exceed FAR Part 77 Surfaces. The CLUP height

policy references FAR Part 77 Surfaces to determine compatible land uses in the Airport Influence Area; and

WHEREAS, the ALUC made its Land Use Plan inconsistency determination prior to the FAA's issuance of any "No Hazard" determination for future development in the area covered by the amended Diridon Station Area Plan; and

WHEREAS, if future development exceeds FAR Part 77 Surfaces but receives an FAA "Determination of No Hazard" following, an FAA aeronautical study, CLUP Policy H-1 provides that the FAA determination shall prevail; and

WHEREAS, the ALUC found the proposed General Plan Amendment and Conforming Rezoning to be consistent with the CLUP except for noise and height as described above; and

WHEREAS, pursuant to the provisions of Section 21676 the City may after a public hearing on the matter overrule a determination by the ALUC by a two-thirds vote of the City Council so long as the City Council makes specific findings that a proposed action is consistent with the purposes set forth in Section 21670 of the California Public Utilities Code ("Section 21670"); and

WHEREAS, Section 21670 provides that the purpose of these sections of the California Public Utilities Code is to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

SECTION 1. Section 21676 provides that a local governmental body may overrule the ALUC's determination if it makes specific findings that the proposed local government body's action is consistent with the purposes of California Public Utilities Code ("CPUC") Section 21670. The City Council hereby makes the following overriding findings with regard to the ALUC's determination of inconsistency with noise and height policies listed in the CLUP:

- A. The recitals above are incorporated herein as findings.
- B. The first purpose of Section 21670 is to provide for the orderly development of each public use airport in the state and the area surrounding these airports so as to promote the overall goals and objectives of California airport noise standards and prevent the creation of new noise and safety problems. The second purpose of Section 21670 is to protect public health, safety and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around the public airports to the extent that these areas are not already devoted to incompatible uses.
- C. With respect to safety, the amended Diridon Station Area Plan (DSAP) will include an Outer Safety Zone overlay with language limiting new developments in the area covered by the DSAP within the outer safety zone overlay to a maximum density of 300 people per acre with 20 percent of the gross area required as Open Space. The Open Space requirement could also be achieved on the adjacent park land, Guadalupe River Park and Gardens, as well as State Route 87. The Outer Safety Zone overlay is both applicable to and enforced in the DSAP and Zoning Districts. Therefore, the General Plan Amendment and Conforming Rezoning would not conflict with any of the safety compatibility policies contained in the CLUP.
- D. Consistent with the purposes of Section 21670, the City's General Plan, development review process and methodology ensure that future development within the Airport Influence Area in the area covered by the DSAP would minimize the public's exposure to excessive noise and that buildings will be constructed only if their heights and other characteristics result in FAA Determinations of No Hazard to Air Navigation.
- E. ALUC Policy N-4 provides no residential or transient lodging construction shall be permitted within the 65 dBA CNEL (CNEL measurement is the same as

DNL but adds a 5 dB penalty between 7pm and 10pm) contour boundary unless it can be demonstrated that a) the resulting interior sound levels will be less than 45 dBA DNL (DNL is the Day-Night Average Sound Level over a 24 hour time weight energy average noise level, with a 10 dB penalty between 10pm to 7am to account for the higher sensitivity to noise at night due to lower background noise) and b) there are no outdoor patios or outdoor activity areas associated with the residential portion of a mixed-use residential project. The City's analysis shows that the Year 2027 65 dBA CNEL noise contour extends into several blocks in the area covered by the DSAP that the DSAP would allow for residential or hotel use (see Figure 11 of the Initial Study/Addendum to the Downtown Strategy 2040 EIR for the DSAP Amendment). Although the DSAP would allow the above type of development in the 65 dBA CNEL noise contour, the DSAP is consistent with Section 21670 for the reasons stated below:

1. Consistent with Goal EC-1 of the Envision San José General Plan 2040, with the California Building Code, and with ALUC Policy N-4, interior noise levels in residences and hotel rooms will not exceed 45 dBA DNL. Future entitlements in the area covered by the DSAP would be conditioned to conform to the California Building Code, and with ALUC N-4 interior noise level requirements.
2. General Plan Transportation Policy TR-14.4 requires dedication of aviation easements to protect airport operations. Such easements will be required as conditions of approval for development in the area covered by the DSAP that falls within the ALUC's Airport Influence Area surrounding Mineta San José International Airport, establishing consistency with CLUP Policies G-5 and O-1, which call for aviation easements within the Airport Influence Area.
3. Consistent with CLUP's Noise Compatibility Policy N-5, "all property owners within the Airport Influence Area who rent or lease their property for residential use shall include in their rental/lease agreement with the tenant, a statement advising that they (the tenants) are living within an exterior aircraft noise exposure area designated by the ALUC as greater than the 65 dBA CNEL in a manner that is consistent with current state law including AB2776 (2002)." The policy will be enforced through a condition of approval for future development in the area covered by the DSAP that falls within an exterior aircraft noise exposure area of greater than 65 dBA CNEL.
4. The Envision San José 2040 General Plan identifies outdoor noise environments of 60-75 dBA DNL as "conditionally acceptable" for residential and hotel uses, as long as interior noise levels are mitigated to 45 dBA DNL.

The residential outdoor activities areas in the area covered by the DSAP are located both in the environs of the Mineta San José International Airport and in Downtown. These areas are exempt from the 60 dBA DNL exterior noise limit the City applies in other residential areas.

5. Residential exterior spaces such as apartment balconies and ground-floor common areas within the 65 dBA DNL noise contour would be consistent with orderly development of the Mineta San José International Airport. These spaces would be consistent with the recently adopted Airport Master Plan, whose noise analysis provides that residential uses within the 65 dBA DNL contour are considered compatible with airport operations because interiors are sound insulated. Exterior spaces do not preclude such residences from being considered compatible with airport operations.
6. Existing noise conditions in portions of the DSAP exceed 65 dBA CNEL, but these conditions are primarily due to highway, rail and street noise rather than aircraft. Vehicle traffic along I-280 and State Route 87 are the primary contributors to ambient noise levels in the DSAP area.
7. The benefits of access to outdoor spaces, including for multifamily residents, are well documented. The City encourages private outdoor space in multifamily developments. With the required notice, future residents will have the option of living in less urban areas further from the flight path; but in choosing to live in an urban area, they may have the option of spending time in their private balconies and communal outdoor spaces despite the potential annoyance of aircraft overflights. The purpose of the State Aeronautics Act would not be violated by allowing these options.
8. The Mineta San José International Airport maintains a webpage, <https://www.flysanjose.com/noise/noise-complaint>, through which it collects written noise complaints. Both the airport website and the County of Santa Clara website refer readers to this page. The City has examined the resulting records of noise complaints for a 10-year period and found that of 445,000 complaints received through the webpage, 1,505 (0.34 percent), originated in a ZIP code that includes any portion of Downtown San Jose (95110, 95112, 95113, 95126, and 95192). This ratio reflects a longstanding pattern of more frequent airport noise complaints from less urbanized areas and fewer from downtown areas. To explore specifically whether construction of multifamily residential buildings with outdoor patios and/or outdoor activity areas results in significant noise complaints, the City identified six such existing buildings in Downtown within the 65 dBA CNEL airport noise. The addresses were reviewed against the Airport's database. The review shows that in the last ten years, five of these multifamily

residential buildings reported no noise complaints and one building nearer to the airport reported a total of twelve complaints. This level of complaint is not considered significant and is consistent with the pattern that Downtown San José generates few airport noise complaints compared to less urbanized neighborhoods, even from residential buildings that include outdoor activity areas.

- F. ALUC CLUP Policy H-1 provides: “Any structure or object that penetrates the Federal Aviation Regulations Part 77, *Objects Affecting Navigable Airspace* (FAR Part 77) surfaces, as illustrated in Figure 6, is presumed to be a hazard to air navigation and will be considered an incompatible land use, except in the following circumstance. If the structure or object is above the FAR Part 77 surface, the proponent may submit the project data to the FAA for evaluation and air navigation hazard determination, in which case the FAA’s determination shall prevail.” General Plan Transportation Policy TR14.2 requires project proponents to submit this data to the FAA.

The DSAP and Conforming Rezoning is in compliance with General Plan Transportation Policy TR14.2 in that if the City Council approves the General Plan Amendment and Conforming Rezoning, future development will require a “Determination of No Hazard” to Air Navigation be issued by the FAA for all buildings prior to issuance of any building permits.

SECTION 2. Therefore, based upon the findings set forth above, the City Council hereby finds that the General Plan Amendment (File No. GP20-007) and Conforming Rezoning (File No. C20-002) are not in conflict with and would be consistent with the purposes set forth in California Public Utilities Code Section 21670, regarding protection of public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports, to the extent that these areas are not already devoted to incompatible uses.

SECTION 3. Based upon all of the foregoing findings and conclusions, the City Council hereby overrules the ALUC determination of nonconformance of General Plan

NVF:JVP:JMD
3/16/2021

Amendment (File No. GP20-007) and Conforming Rezoning (File No. C20-002) with the noise and height polices within the CLUP.

ADOPTED on this ____ day of _____, 2021 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

County of Santa Clara
Airport Land Use Commission



105171

DATE: March 24, 2021
TO: Airport Land Use Commission
FROM: Jean Anton, Deputy Clerk
Mark Connolly, Senior Planner / Deputy Zoning Administrator
SUBJECT: ALUC FY 2022 Workplan

RECOMMENDED ACTION

Discuss and approve Airport Land Use Commission Work Plan for Fiscal Year July 1, 2021 through June 30, 2022 (FY 2021-2022) and Accomplishments for FY 2020-2021, to be submitted to the Clerk of the Board by April 1, 2021, and subsequently forwarded to the Board of Supervisors through the Housing, Land Use, Environment, and Transportation Committee.

OVERVIEW

The ALUC work plan is the business organizing tool for the Commission. The work plan gives the ALUC Commissioners a way to review and amend Ongoing ALUC projects, propose projects and review how well the previous fiscal year accomplishments were met.

Staff suggests the ALUC review the attached Work Plan, provide staff any edits and motion to approve the work plan.

The ALUC approved work plan will be forwarded to the Housing, Land Use Environment and Transportation Committee (HLUET) in March and then to the Board of Supervisors for final approval in May of 2018.