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REGULAR MEETING AGENDA

September 16, 2020

6:00-8:00 p.m.

Zoom webinar

Link: <https://sanjoseca.zoom.us/j/98102483859>

Webinar ID: 981 0248 3859

Phone numbers: 1-408-638-0968, 1-213-338-8477, 1-888-475-4499 (Toll Free), 1- 877-853-5257 (Toll Free), International numbers available: <https://sanjoseca.zoom.us/u/acKaHznRtG>

Please visit here to view the meeting: <https://www.sanjoseca.gov/your-government/watch-a-meeting>. Refer to the [SAAG webpage](#) to register for the webinar and to view materials sent to the SAAG prior to this meeting. Visit [www.diridonsj.org](http://www.diridonsj.org) for additional background information on the projects affecting the Diridon Station Area.

### **Meeting Purpose**

- Provide updates on Google's proposed project (Downtown West Mixed-use Plan), the City's process to amend the Diridon Station Area Plan (DSAP), and the Draft Diridon Station Area Affordable Housing Implementation Plan.
- Discuss the potential height limits under consideration as part of the DSAP Amendment process.
- Share the key analytical findings and initial recommendations on strategies for affordable housing production, preservation, and renter protection in and around the Diridon Station Area.
- Take questions and feedback from the SAAG and public.

### **I. Welcome and Introductions**

### **II. Meeting Minutes for SAAG Meeting on June 17, 2020**

Recommendation: Approve the [meeting minutes from the June 17, 2020 meeting](#).

### **III. Project and Community Engagement Updates**

City staff will present updates on Google's proposed project (Downtown West Mixed-use Plan) and the City's process to amend the Diridon Station Area Plan, including the tentative timelines and upcoming community engagement opportunities. City staff will also share information about potential height limits under consideration for the Diridon Station Area Plan amendment, in response to questions and comments raised by SAAG members since staff

shared initial concepts in April 2020. Following the presentation, the SAAG will have opportunity to ask questions and provide feedback.

#### **IV. Progress on the Draft Diridon Station Area Affordable Housing Implementation Plan**

Staff and its consultants will present progress on the Draft Diridon Station Area Affordable Housing Implementation Plan, including the key analytical findings and initial recommendations related to affordable housing production, preservation, and protection strategies. A discussion with the SAAG will follow the presentation.

#### **V. Public Comment**

Members of the Public are invited to speak on any item that is within the subject matter jurisdiction of the Advisory Group. Meeting attendees are usually given two (2) minutes to speak on any discussion item and/or during open forum; the time limit is in the discretion of the Chair of the meeting (City staff and its consultants) and may be limited when appropriate. Speakers using a translator will be given twice the time allotted to ensure non-English speakers receive the same opportunity to directly address the Advisory Group.

#### **VI. Adjournment**

**\* COVID 19 NOTICE \***

**Consistent with the California Governor's Executive Order No. N-29-20, Resolution No. 79485 from the City of San José and the Santa Clara County Health Officer's March 16, 2020 Shelter in Place Order, the SAAG Meeting will not be physically open to the public and the SAAG Members will teleconference from remote locations.**

**Members of the public may view, participate, and listen to the meeting by following the instructions listed on the top of the first page of this agenda.**

#### **Electronic device instructions:**

For participants who would like to join electronically from a PC, Mac, Ipad, iPhone or Android device, please click this URL: <https://sanjoseca.zoom.us/j/98102483859>. Please ensure your device has audio input and output capabilities. During the session, if you would like to comment, please use the 'raise hand' feature in Zoom conference call.

1. Use 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. Mute all other audio before speaking. Using multiple devices can cause an audio feedback.
2. Enter an email address and name. The name will be visible online and will be used to notify you that it is your turn to speak.
3. When the Chair calls for the item on which you wish to speak, click on "raise hand." Speakers will be notified shortly before they are called to speak.
4. When called, please limit your remarks to the time limit allotted.

**Telephone device instructions:**

For participants who would like to join by phone, please dial +1-408-638-0968 or 888-475-4499 (Toll Free) and when prompted, enter meeting ID: 981 0248 3859. Click \*9 to raise a hand to speak.

**Public Comments prior to meeting:**

If you would like to submit your comments prior to or during the meeting, please e-mail them to [diridonsj@sanjoseca.gov](mailto:diridonsj@sanjoseca.gov). Comments received will be included as a part of the meeting record but will not be read aloud during the meeting.

*The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.*

You may speak to the SAAG about any discussion item that is on the agenda, and you may also speak during Public Comments on items that are not on the agenda and are within the subject matter jurisdiction of the SAAG. Please be advised that, by law, the SAAG is unable to discuss or take action on issues presented during Public Comments. Pursuant to Government Code Section 54954.2, no matter shall be acted upon by the SAAG unless listed on the agenda, which has been posted not less than 72 hours prior to meeting.

Agendas, Staff Reports, and some associated documents for the SAAG items may be viewed on the Internet at [www.diridonsj.org/saag](http://www.diridonsj.org/saag).

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Manager, 200 East Santa Clara Street, 17<sup>th</sup> Floor, San José, California 95113, at the same time that the public records are distributed or made available to the legislative body. Any draft resolutions or other items posted on the Internet site or distributed in advance of the commission meeting may not be the final documents approved by the commission. Contact the Office of the City Manager for the final document. On occasion the SAAG may consider agenda items out of order.

The SAAG meets occasionally at 6:00 or 6:30 p.m., with special meetings as necessary. If you have any questions, please direct them to the SAAG staff. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

**To request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events or printed materials, please call (408) 294-9337 (TTY) as soon as possible, but at least three business days before the meeting.**

**Please direct correspondence and questions to:**

City of San José  
Attn: Lori Severino  
200 East Santa Clara Street  
San José, California 95113  
Email: [lori.severino@sanjoseca.gov](mailto:lori.severino@sanjoseca.gov)  
Tel: 408-599-9567 (Attn: Elisabeth Handler)

# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Kim Welsh

**SUBJECT: UPDATE ON AB 900 AND  
PROPOSED GOOGLE MIXED-USE  
DEVELOPMENT**

**DATE:** September 11, 2020

Approved



Date

9/11/20

## INFORMATION

This memorandum provides information about the failure of the State Legislature to pass Senate Bill (SB) 995, and implications for the Google Mixed-Use Development – an approved participant in the State Assembly Bill (AB) 900 program that expires January 1, 2021.

### **Background on State AB 900 Program**

As described in the Information Memo, *Update on Planning and Community Engagement Process for Diridon Station Area and Proposed Google Mixed-Use Development*, dated August 19, 2019<sup>1</sup>, the California Governor signed AB 900 in 2011 (codified in California Public Resources Code Sections 21178-21189.3) to encourage large development projects that create jobs and meet a high standard of public benefits by streamlining the judicial review process under the California Environmental Quality Act (CEQA).

AB 900 facilitates timely delivery of project benefits to the community by streamlining CEQA and project approval litigations. Under AB 900, any legal challenges get filed in the Court of Appeal, and the Court issues its decision *within nine months to the extent feasible*.

For development projects to qualify for AB 900, they must be large, privately financed projects that create significant numbers of construction jobs and permanent jobs, pay prevailing wages, and meet high-threshold State environmental requirements (e.g., innovative measures to significantly reduce traffic, air quality, and other important environmental impacts, and full mitigation of greenhouse gas emissions).

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<sup>1</sup> Memorandum: <https://myemail.constantcontact.com/Update-on-Planning-and-Community-Engagement-Process-for-Diridon-Station-Area-and-Proposed-Google-Mixed-Use-Development.html?soid=1126946575015&aid=DCCa2okFWoQ>

The AB 900 program does not affect requirements for the environmental impact analysis or reduce requirements for public engagement under CEQA; in fact, the program comes with enhanced transparency requirements for timely posting of all documents and materials related to the project Environmental Impact Report (EIR) on a public website once the draft EIR is circulated for public review.

The Governor certified the San Jose Downtown West Mixed-Use Plan as an AB 900 project on December 30, 2019.

Streamlining under AB 900 would aid timely implementation of the mixed-use development following Council approval. “Timely implementation” was identified as a shared goal in the City’s Memorandum of Understanding (MOU) with Google in order to maximize integration with planned transit projects and achieve the benefits of implementing the Diridon Station Area Plan.

In San José, the benefits of timely development of the Downtown West project include:

- 4,000-5,000 residential units, with an affordability goal of 25%,
- 7.3 million square feet of office space,
- 500,000 square feet of retail, cultural arts, education, hotel, and other active uses,
- Significantly increased ridership for BART, Caltrain, VTA light rail, high-speed rail, and buses,
- 15 acres of parks, plazas, and green spaces,
- Tens of thousands of permanent jobs across a range of skill and income levels,
- Community benefit funds for affordable housing, anti-displacement, educational opportunity, job training, and other Council- and community-identified priorities,
- Deep environmental sustainability: LEED Gold for all 7.3 million square feet of office space, highly efficient shared utility systems, and net zero greenhouse gas emissions, and
- Up to 5,700 construction jobs with prevailing wage

In addition, prolonged uncertainty (2, 5, 10 years) regarding the start of Google-related construction would significantly complicate coordinated planning for BART, rail, and station construction, and the integration needed between the new transportation infrastructure and Google’s mixed-use development for a good customer experience.

### **AB 900 Deadline and SB 995**

The challenge is that to benefit from streamlining under AB 900, the City Council must consider and take action on the Google mixed-use development project application, including the EIR and entitlements, by January 1, 2021 — the date the program expires.

Before the COVID-19 pandemic, this timeline was consistent with the anticipated timeline for the City's review and community engagement process. The original target for Council consideration of the Downtown West project proposal (including a Development Agreement) and amendments to the Diridon Station Area Plan was November 2020.

Due to the need for City staff to perform emergency response services and the need for all organizations involved with the project to transition to remote work and the shelter-in-place restrictions, the original project timeline was revised in April 2020 to anticipate bringing the staff recommendation to Council in Spring of 2021. The City did not anticipate meeting the December 31, 2020 deadline for AB 900 because the pandemic would delay production of the EIR and other project documents, slow the project review process, and make meaningful public involvement more challenging.

The City then lent support to SB 995 (Atkins), which a) extended the AB 900 program for projects already approved under AB 900 but delayed due to COVID-19, and b) expanded the program to include more projects, because the program is a proven economic recovery tool to accelerate investment.

SB 995 enjoyed widespread support; versions of the bill passed the California Senate in late June and passed the Assembly Natural Resource Committee and the Assembly Appropriations Committee in August. However, it passed the Assembly in the final minutes of the session on August 31, 2020 with a 62-4 vote but without adequate time to get the bill back to the Senate for a concurrence vote.

The Administration and Mayor's Office is working with the President Pro Tempore Atkins, the City's state legislative advocates, and other affected cities (including San Diego and Los Angeles) to encourage consideration of AB 995 in a Special Legislative Session that could be held this fall or as an urgency bill considered when the Legislature convenes in January 2021, applied retroactively.

Google and the Administration considered, but rejected, trying to accelerate the project schedule to meet the January 1, 2021 AB 900 deadline. Although the required project documents and statutorily required hearings conceivably could be completed this calendar year, there would not be sufficient time for the community to participate meaningfully in the review process. Continuous striving for meaningful participation, community trust, and long-term relationships are core values for the City and Google that should not be put at risk to meet the State deadline.

By not driving to meet the January 1, 2021 deadline, there is risk that the Google project may end up not covered by AB 900. Any EIR-related lawsuits could take years to resolve, risking lost momentum for implementing the mixed-use project, complications with transit planning coordination, and delay in realizing the benefits to the community and our economic recovery.

HONORABLE MAYOR AND CITY COUNCIL

September 11, 2020

**Subject: Update on AB 900 and Proposed Google Mixed-Use Development**

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## **Community Engagement**

This fall, the City will host a series of virtual events and online tools to share information and gather feedback on the Downtown West project and Diridon Station Area Plan (DSAP) amendment process. These include but are not limited to: a regular meeting of the Station Area Advisory Group (SAAG) on September 16, 2020, a Community Meeting on the Downtown West project tentatively scheduled for October 15, 2020, and a comprehensive City Council Study Session on November 16, 2020. In addition, the City is partnering with seven community-based organizations to host additional events and expand our outreach capacity. Please visit [www.diridonsj.org](http://www.diridonsj.org) for more information.

/s/

KIM WALESH

Deputy City Manager

For questions, please contact Kim Welsh, Deputy City Manager, at (408) 535-8177.