

**DETERMINATION OF CONSISTENCY WITH THE  
ENVISION SAN JOSÉ 2040 GENERAL PLAN FINAL ENVIRONMENTAL IMPACT  
REPORT AND SUPPLEMENTAL PROGRAM ENVIRONMENTAL IMPACT REPORT  
(SCH# 2009072096) AND ADDENDA THERETO**

Pursuant to Section 15168(c)(2) of the CEQA Guidelines, the City of San José has determined that the project described below is pursuant to or in furtherance of the Final Environmental Impact Report (Final EIR) and Supplemental Program Environmental Impact Report (Supplemental Program EIR) for the Envision San José 2040 General Plan and addenda thereto and does not involve new significant effects beyond those analyzed in the EIRs. Therefore, the City of San José may take action on the project as being within the scope of both the Final and Supplemental Program EIRs.

**File Number and Project Name: PP20-013 Urban Village and Mixed-Use Zoning Districts**

**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.

**Location:** Citywide

**Council District:** All Council Districts

The environmental impacts of this project were addressed by a Final EIR entitled, "Envision San José 2040 General Plan Final EIR," adopted by City Council Resolution No. 76041 on November 1, 2011, and addenda thereto; and Supplemental Program EIR entitled, "Envision San José 2040 General Plan Supplemental EIR," adopted by City Council Resolution No. 77617 on December 15, 2015, and addenda thereto. The Final EIR and Supplemental Program EIR were prepared for the comprehensive update and revision of all elements of the City of San José General Plan, including an extension of the planning timeframe to the year 2035. The following impacts were reviewed and found to be adequately considered by the EIRs:

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|---|---|--|
| <input checked="" type="checkbox"/> Transportation            | <input checked="" type="checkbox"/> Land Use                        | <input checked="" type="checkbox"/> Noise and Vibration          |
| <input checked="" type="checkbox"/> Air Quality               | <input checked="" type="checkbox"/> Biological Resources            | <input checked="" type="checkbox"/> Geology and Soils            |
| <input checked="" type="checkbox"/> Hydrology & Water Quality | <input checked="" type="checkbox"/> Hazardous Materials and Hazards | <input checked="" type="checkbox"/> Public Facilities & Services |
| <input checked="" type="checkbox"/> Cultural Resources        | <input checked="" type="checkbox"/> Aesthetics                      | <input checked="" type="checkbox"/> Energy                       |
| <input checked="" type="checkbox"/> Population and Housing    | <input checked="" type="checkbox"/> Greenhouse Gas Emissions        | <input checked="" type="checkbox"/> Public Facilities & Services |
| <input checked="" type="checkbox"/> Cumulative Impacts        | <input checked="" type="checkbox"/> Growth Inducing Impacts         | <input checked="" type="checkbox"/> Agriculture                  |
| <input checked="" type="checkbox"/> Mineral Resources         | <input checked="" type="checkbox"/> Hazardous Materials and Hazards | <input checked="" type="checkbox"/> Public Facilities & Services |

## BACKGROUND

The proposed ordinance 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 25<sup>th</sup>, 2019, to begin the process to align the zoning ordinance with the General Plan. As a charter city, the City of San José 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 José 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:

1. Urban Village Commercial District. The Urban Village Commercial (UVC) district is intended to implement the Urban Village Commercial general plan designation. The Urban Village Commercial district supports commercial activity consistent with the Urban Village Commercial general plan designation and the commercial goals and policies of the general plan in relation to Urban Villages; residential uses are not permitted in this district.
2. Urban Village District. The Urban Village (UV) district is intended to implement the Urban Village general plan land use designation. The Urban Village district supports a wide variety of commercial, residential, mixed use, institutional, or other land uses with an emphasis on establishing an attractive urban form.
3. Mixed Use Commercial District. The Mixed Use Commercial (MUC) district is intended to implement the Mixed Use Commercial general plan land use designation. The Mixed Use Commercial district supports a mix of commercial and residential uses with an emphasis on commercial activity. Appropriate commercial uses include neighborhood retail and mid-rise office; low impact industrial uses are appropriate if they are compatible and do not pose a hazard to other nearby uses.
4. Mixed Use Neighborhood District. The Mixed Use Neighborhood (MUN) district is intended to implement the Mixed Use Neighborhood general plan land use designation. The Mixed Use Neighborhood district supports development primarily with townhouse or small lot single-family residences and also supports infill development and medium density residential uses or small stand-alone commercial uses.

5. Urban Residential District. The Urban Residential (UR) district is intended to implement the Urban Residential general plan land use designation. The Urban Residential district supports medium density residential development and a broad range of commercial uses, including retail, offices, and private community gathering facilities.
6. Transit Residential District. The Transit Residential (TR) district is intended to implement the Transit Residential general plan land use designation. The Transit Residential district supports new high-density residential or mixed use development located in close proximity to transit. The Transit Residential district also supports stand-alone intensive commercial employment uses, such as office, retail, hotels, and private community gathering facilities.

General Plan Land Use Designations and Proposed Conforming Zoning Districts								
Land Use Designation	FAR		du/ac	Proposed Zoning District	FAR		du/ac	Max. height
	Commercial	Mixed-use			Commercial	Mixed-use		
<b>Urban Village Commercial (UVC)</b>	Max. 8.0	N/A	N/A	<b>Urban Village Commercial (UVC)</b>	Max. 8.0	N/A	N/A	120 ft.*
<b>Urban Village (UV)</b>	Max. 10.0	Max. 10.0	55 - 250	<b>Urban Village (UV)</b>	Max. 10.0	Max. 10.0; du/ac Min. 55	55 - 250	
<b>Transit Residential (TR)</b>	2.0 - 12.0	Max. 12.0	50 - 250	<b>Transit Residential (TR)</b>	2.0 - 12.0	Max. 12.0; du/ac Min. 50	50 - 250	200 ft.
<b>Urban Residential (UR)</b>	1.0 - 4.0	Max. 4.0	30 - 95	<b>Urban Residential (UR)</b>	1.0 - 4.0	Max. 4.0; du/ac Min. 30	30 - 95	135 ft.
<b>Mixed Use Commercial (MUC)</b>	0.25 - 4.5	0.5 - 4.5; du/ac Max. 50	N/A	<b>Mixed Use Commercial (MUC)</b>	0.25 - 4.5	0.5 - 4.5; **du/ac Max. 50	N/A	85 ft.
<b>Mixed Use Neighborhood (MUN)</b>	0.25-2.0	0.25-2.0	Max. 30	<b>Mixed Use Neighborhood (MUN)</b>	0.25-2.0	0.25-2.0; du/ac Max. 30	Max. 30	40 ft.

\* Building height in Urban Village Commercial and Urban Village zoning districts can vary and is determined through the Urban Village Plan.

\*\* Mixed-use Commercial does not permit 100% residential development; however, residential units may be developed as part of a mixed-use development.

## PROPOSED PROJECT

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 established by the Envision San José 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;**
  - Revise definitions for: Mixed use and Private Open Space.
  - Add definitions for: Density, Floor Area, Floor Area Ratio (FAR), Privately Owned Public Open Space (POPOS), Public Open Space, and Townhouse or Rowhouse.
6. **Minor Changes.** Other technical, non-substantive, or formatting changes within these sections.

## ANALYSIS

The Envision San José 2040 General Plan provides the framework for decision-making related to the City's land uses and has been called the "constitution" for land use development to emphasize its importance to land use decisions. Any new development is subject to review through the City's development permit process and must conform to the goals and policies of the General Plan, including those related to traffic, noise, air quality, and employment and housing capacity. Various General Plan Policies are incorporated into the General Plan EIR and SEIR as mitigation measures, therefore compliance with the policies would not result in new environmental impacts.

The proposed Zoning Code Amendment to Title 20 to facilitate approval of high density commercial, residential, and Mixed-use development in growth areas and commercial areas, and is consistent with the following Envision San José 2040 General Plan policies:

- Implementation – Land Use / Transportation Diagram Policy - IP-1.6: Maintain a Zoning Ordinance and Subdivision Ordinance that aligns with and supports the Land Use / Transportation Diagram and Envision General Plan goals and policies. Develop new Zoning Districts which enumerate uses and establish development standards, including heights, to achieve vital mixed use complete communities and facilitate their implementation.
- Implementation – Zoning Policy IP-8.6: Update the Zoning Ordinance to provide Zoning Districts that:
  - Provide a greater level of detail for the desirable physical form of a district, including building heights, setbacks, interfaces with adjoining uses, and streetscape treatment, thereby establishing a relationship between building form and land use with street typology.
  - Further implement land use concepts and the goals and policies established within the Envision General Plan, including those for Urban Design.
  - Support higher density land uses consistent with the City's transition to a more urban environment.
  - Facilitate the intensification of Villages and other Growth Areas consistent with the goal of creating walkable, mixed use communities.
  - Address height limits, setbacks, land use interfaces and other design standards so as to provide for the intensification of land uses adjacent to already developed areas.
- Vibrant Neighborhoods - Private Community Gathering Facilities Policy VN-5.1: Promote Private Community Gathering Facilities within Urban Villages and other areas near residents to serve neighborhoods and to contribute toward the development of vibrant, walkable places.
- Community Design - Attractive City Policy CD-1.5: Encourage incorporation of publicly accessible spaces, such as plazas or squares, into new and existing commercial and mixed use developments.
- Community Design Attractive City Policy CD-1.9: Give the greatest priority to developing high-quality pedestrian facilities in areas that will most promote transit use and bicycle and pedestrian activity. In pedestrian-oriented areas such as Downtown, Urban Villages, or along Main Streets, place commercial and mixed use building frontages at or near the street-facing property line with entrances directly to the public sidewalk, provide high-quality pedestrian facilities that promote pedestrian activity, including adequate sidewalk dimensions for both circulation and outdoor activities related to adjacent land uses, a continuous tree canopy, and other pedestrian amenities. In these areas, strongly discourage parking areas located between the front of buildings and the street to promote a safe and attractive street facade and pedestrian access to buildings.

- Community Design Urban Villages Design Policy CD-7.1: Support intensive development and uses within Urban Villages, while ensuring an appropriate interface with lower-intensity development in surrounding areas and the protection of appropriate historic resources.
- Land Use - Neighborhood Serving Commercial Policy: LU-5.3 Encourage new and intensification of existing commercial development, including stand-alone, vertical mixed use, or integrated horizontal mixed use projects, consistent with the Land Use / Transportation Diagram.
- Land Use - Commercial Policy LU-4.4: Allow limited industrial uses in commercially designated areas if such uses are of a scale, design, or intensity that creates less than significant negative impacts to surrounding uses.
- Land Use - High Quality Living Environments Policy LU-9.2: Facilitate the development of complete neighborhoods by allowing appropriate commercial uses within or adjacent to residential and mixed use neighborhoods.
- Land Use - High Quality Living Environments Policy LU-9.6: Require residential developments to include adequate open spaces in either private or common areas to partially provide for residents' open space and recreation needs.
- Land Use Goal LU-10 – Efficient Use of Residential and Mixed use Lands: Meet the housing needs of existing and future residents by fully and efficiently utilizing lands planned for residential and mixed use and by maximizing housing opportunities in locations within a half mile of transit, with good access to employment areas, neighborhood services, and public facilities.
- Land Use - Efficient Use of Residential and Mixed use Lands Policy LU-10.1: Develop land use plans and implementation tools that result in the construction of mixed use development in appropriate places throughout the City as a means to establish walkable, complete communities.
- Land Use - Efficient Use of Residential and Mixed use Lands Policy LU-10.2: Distribute higher residential densities throughout our city in identified growth areas and facilitate the development of residences in mixed use development within these growth areas.
- Land Use - Efficient Use of Residential and Mixed use Lands Policy LU-10.3: Develop residentially- and mixed use-designated lands adjacent to major transit facilities at high densities to reduce motor vehicle travel by encouraging the use of public transit.
- Land Use - Efficient Use of Residential and Mixed use Lands Policy LU-10.4: Within identified growth areas, develop residential projects at densities sufficient to support neighborhood retail in walkable, main street type development.
- Land Use - Efficient Use of Residential and Mixed use Lands Policy LU-10.5: Facilitate the development of housing close to jobs to provide residents with the opportunity to live and work in the same community.

#### Other Miscellaneous Changes for Clarity and Consistency

The ordinance includes other technical, non-substantive changes intended for clarity and consistency such as updating definitions to use more common and clear language and updating the table of zoning districts considered to be automatically in conformance with the General Plan therefore expediting rezoning of these properties.

## ENVIRONMENTAL IMPACTS AND CONSISTENCY

The Municipal Code changes would only result in changes to procedures of project approval and authorities within the City to review and approve future individual projects. No specific development proposal is part of the amendment to Title 20. Future development proposals will be subject to project specific review for conformance with development standards, applicable design guidelines, General Plan Policies, and adopted City policies. The proposed project is to amend the existing Municipal Code to align with goals and policies of the General Plan. For the reasons discussed above, the project is within the scope of the General Plan FEIR, General Plan Supplemental EIR, and addenda thereto pursuant to CEQA, and CEQA Guidelines Section 15168(c)(2), and adoption of the Guidelines does not result in new significant impacts beyond those identified in the General Plan Final and Supplemental EIRs. Any further actions, such as actions to approve individual development projects based on the amended Zoning Code, will require project-level environmental review at the time such actions are proposed.

Chu Chang, Acting Director  
Planning, Building and Code Enforcement

4/29/21  
Date

/S/  
Deputy

Martina Davis  
Supervising Planner