

**ORDINANCE NO. 29690**

**AN ORDINANCE OF THE CITY OF SAN JOSE  
AMENDING TITLE 20 (ZONING) OF THE SAN JOSE  
MUNICIPAL CODE TO AMEND SECTIONS 20.100.220,  
20.100.720 AND 20.100.940 OF CHAPTER 20.100**

**WHEREAS**, pursuant to the provisions of the California Environmental Quality Act, together with related state and local implementation guidelines, including Title 21 of the San Jose Municipal Code (collectively, "CEQA"), the provisions of this Ordinance have been found to not constitute a project under CEQA pursuant to File No. PP10-068, General Procedure and Policy Making that involve no changes to the physical environment; and

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

**WHEREAS**, this Council has considered and hereby approves the evaluation and clearance performed pursuant to CEQA;

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

SECTION 1. Section 20.100. 220 of Chapter 20.100 of Title 20 of the San José Municipal Code is amended to read as follows:

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**20.100.220 - Appeal – Hearing body.**

Decisions on permits or approvals pursuant to this chapter are subject to appeal as set forth in Table 20-260 which lists the initial decision maker and the decision making body which will hear any appeal.

| Table 20-260<br>Appeal Hearing Body  |                                |                               |
|--|--------------------------------|-------------------------------|
| Application  | Initial Decision Making Body 1 | Appeal Decision Making Body 2 |
| Administrative permit  | Director of Planning           | No Appeal                     |
| Site development permit  | Director of Planning           | Planning Commission           |
| Site development permit - projects within downtown districts and exceeding 150 feet and FAR of 6:1           | Director of Planning           | City Council                  |
| Single-family house permit   | Director of Planning           |                               |
| Administrative decision  | Director of Planning           | No Appeal                     |
| Director's hearing   | Director of Planning           | Planning Commission           |
| Planned development permit   | Director of Planning           | Planning Commission           |
| Special use permit   | Director of Planning           | Planning Commission           |
| Special use permit - for schools that are elementary or secondary (public or private), post secondary, trade | Director of                    | City Council                  |

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|---|----------------------|---------------------|
| and vocational, or driving (class C & M license) in the PQP public/quasi-public zoning district   | Planning             |                     |
| Special use permit - for church/religious assembly in the PQP public/quasi-public zoning district   | Director of Planning | City Council        |
| Special use permit - for privately-operated museums, libraries, parks, playgrounds, or community centers in the PQP public/quasi-public zoning district   | Director of Planning | City Council        |
| Conditional use permit  | Planning Commission  | City Council        |
| Conditional use permit - stadium, more than 2,000 seats including incidental support uses   | City Council         | No Appeal           |
| Conditional use permit - drinking establishments with an approved maximum occupancy load of over 250 persons that operate between 12:00 midnight and 6:00 a.m.  | City Council         | No Appeal           |
| Conditional use permit involving off-premises sale of alcoholic beverages requiring a determination under Chapter 6.84 where findings required by planning commission under Section 6.84.030.B.1. through 4. cannot be made | City Council         | No Appeal           |
| Conditional Use Permit or Planned Development Permit for Mobilehome Park Conversion of Use  | City Council         | No Appeal           |
| Variance  | Director of Planning | Planning Commission |
| Exception   | Director of Planning | Planning Commission |
| Sidewalk café permit  | Director of Planning | City Council        |

|                                      |                      |                     |
|--------------------------------------|----------------------|---------------------|
| Tree removal permit                  | Director of Planning |                     |
| Administrative decision              | Director of Planning | No Appeal           |
| Director's hearing                   | Director of Planning | Planning Commission |
| Zoning code verification certificate | Director of Planning | No Appeal           |

1. The City Council is the Initial Decision Making Body for a project that requires certification of an environmental impact report for environmental clearance unless the project as proposed includes all mitigation measures identified in the draft environmental impact report for the project as necessary to reduce the impacts of the project to a less than significant level.
2. The City Council is the Appeal Decision Making Body for all projects in which appeals have been filed for both approval of the project under this chapter and environmental clearance for the project under Title 21 of this Code.

**SECTION 2.** Section 20.100.720 of Chapter 20.100 of Title 20 of the San José Municipal Code is amended to read as follows:

**20.100.720 – Findings.**

- A. The Planning Commission, or the City Council, may issue a Conditional Use Permit only after finding that:
  1. The proposed use at the location requested 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 site; or
  - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding area; and
  3. The proposed site is adequately served:
    - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate; or by other forms of transit adequate to carry the kind and quantity of individuals such use would generate; and
    - b. By other public or private service facilities as are required.
  4. The Conditional Use Permit, as issued, is consistent with and will further the policies of the General Plan.
- B. The Planning Commission, or the City Council, shall deny the application where the information submitted by the applicant and/or presented at the public hearing fails to satisfactorily substantiate such findings.

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**SECTION 3.** Section 20.100.940 of Chapter 20.100 of Title 20 of the San José Municipal Code is amended to read as follows:

**20.100.940 - Findings.**

- A. The Director, the Planning Commission on appeal, or the City Council as appropriate, may issue a Planned Development Permit only if all of the following findings are made:

1. The Planned Development Permit, as issued, is consistent with and furthers the policies of the General Plan;
  2. The Planned Development Permit, as issued, conforms in all respects to the Planned Development zoning of the property;
  3. The interrelationship between the orientation, location, mass and scale of building volumes, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious;
  4. 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 effect on adjacent property or properties.
- B. The Director, the Planning Commission on appeal or the City Council as appropriate shall deny the application where the information submitted by the applicant and/or presented at the public hearing fails to satisfactorily substantiate such findings.

PASSED FOR PUBLICATION of title this 23<sup>rd</sup> day of February, 2016, by the following vote:

AYES: CARRASCO, HERRERA, JONES, KALRA, KHAMIS, M.  
NGUYEN, T. NGUYEN, OLIVERIO, PERALEZ, ROCHA;  
LICCARDO.

NOES: NONE.

ABSENT: NONE.

DISQUALIFIED: NONE.



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SAM LICCARDO  
Mayor

ATTEST



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TONI J. TABER, CMC  
City Clerk