



COUNCIL AGENDA: 05-17-05
ITEM: 11.3

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Stephen M. Haase

SUBJECT: SEE BELOW

DATE: May 5, 2005

COUNCIL DISTRICT: 3

SUBJECT: AN ORDINANCE AMENDING CHAPTERS 20.70 AND 20.80 OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE TO STREAMLINE THE PERMITTING PROCESS FOR TEMPORARY OUTDOOR EVENTS IN THE DOWNTOWN CORE; ALLOW LIVE/WORK USES AS OF RIGHT IN THE DOWNTOWN CORE; AMEND THE BOUNDARIES OF THE DG DOWNTOWN GROUND-FLOOR SPACE OVERLAY AREA; AND AMEND THE DOWNTOWN OFF-STREET LOADING REQUIREMENTS.

TRANSMITTAL MEMO

The Planning Commission will hear this project on May 11, 2005. The memorandum containing the Planning Commission recommendations will be submitted under different cover. We hope the submittal of this report is of assistance in your review of this project.


for **STEPHEN M. HAASE, SECRETARY**
Planning Commission



Memorandum

TO: PLANNING COMMISSION

FROM: Stephen M. Haase

SUBJECT: SEE BELOW

DATE: May 4, 2005

COUNCIL DISTRICT: 3

SNI AREA: Market-Almaden

SUBJECT: AN ORDINANCE OF THE CITY OF SAN JOSÉ AMENDING CHAPTERS 20.70 AND 20.80 OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE TO: STREAMLINE THE PERMITTING PROCESS FOR TEMPORARY OUTDOOR EVENTS IN THE DOWNTOWN CORE; ALLOW LIVE/WORK USES AS OF RIGHT IN THE DOWNTOWN CORE; AMEND THE BOUNDARIES OF THE DG DOWNTOWN GROUND-FLOOR SPACE OVERLAY AREA; AND AMEND THE DOWNTOWN OFF-STREET LOADING REQUIREMENTS.

RECOMMENDATION

Planning staff recommends that the Planning Commission forward a recommendation that the City Council adopt the proposed ordinance amending Chapters 20.70 and 20.80 of Title 20, the Zoning Code, of the San Jose Municipal Code to streamline the permitting process for temporary outdoor events in the downtown core, to permit live/work uses as of right in the DC Downtown Core zoning district, to amend the boundaries of the DG downtown ground-floor space overlay area, and to amend off-street loading requirements for residential uses.

BACKGROUND

Last year, the City Council approved a revamped zoning category for the Downtown Core area, which is a part of the City's Zoning Code (Title 20 of the San Jose Municipal Code).

The ordinance amendment included an overlay district, the DG downtown ground floor overlay district, which restricts the ground floor uses to those that are retail in character.

In a separate chapter, the Zoning Ordinance delineates the process for temporary events on private property.

The proposed amendment would make minor corrections to the DC zoning district, modify the DG Downtown Ground-floor overlay district, and streamline the permitting process for temporary events on private property in the downtown core.

ANALYSIS

Zoning Code Chapter 20.70 sets out the development standards, permitted uses, and parking ratios in the Downtown Core area.

The proposed ordinance amendment would allow live/work uses as of right in the DC Downtown Core district. In the DC Downtown Core district, both residential and commercial uses are allowed within the same building as of right. However, combining residential and commercial uses within the same tenant space requires a special use permit, approved by the Director of Planning. This change makes live/work uses subject to the same level of review as residential and commercial uses separately, and making the review of live/work uses more parallel to its component uses. Live/work uses will still be subject to specific use criteria, under Code Section 20.70.120.

The proposed ordinance amendment reworks the way that off-street loading spaces are calculated for residential uses in the DC Downtown Core district. Under the current Zoning Ordinance, the requirement for off-street loading spaces is calculated the same way as for hotels, by gross floor area of the building. This is inconsistent with the way that parking and loading for residential uses is normally calculated, as a ratio related to the number of units. The proposed ordinance amendment would change the way that off-street loading spaces are calculated for residential uses. The proposed ordinance change would not change the parking requirements for residential uses in the Downtown Core.

The proposed ordinance amendment also modifies the boundaries of the DG Downtown Ground-floor overlay district. The purpose of the overlay district is to restrict the types of uses in ground-floor tenant spaces to those uses that are fundamentally retail in character. The proposed ordinance change would reduce the overall area of the DC Downtown Core district subject to the ground-floor overlay district. The idea is to focus the restriction on those streets that are most amenable to retail uses, and to encourage retail along those corridors. Without the ground-floor overlay district, the other areas of downtown would be more able to respond to market demands. Figure 1 shows the current boundaries of the DG overlay, while Figure 2 shows the proposed boundaries.

Zoning Code Chapter 20.80 deals with specific use regulations, including provisions for permitting temporary outdoor uses on private property. One oversight in this section is that the DC Downtown Core district is not addressed.

Most special events held in the Downtown Core are held on public property, as opposed to private property. For events on public property, the Office of Cultural Affairs (OCA) handles permitting through the special event permit process. For private property events throughout the City, short-term events are also permitted by OCA. Longer events are permitted through the

PLANNING COMMISSION

May 4, 2005

SUBJECT: Proposed Ordinance Amending Title 20 Related to Downtown Provisions

Page 3

Planning Division, either through the Special Use Permit or the Conditional Use Permit process. In the Downtown Core, staff is proposing that OCA handle permitting for all events, regardless of length. This would create a streamlined process for events on public and private property in the Downtown Core eliminating potential duplicate permitting processes.

PUBLIC OUTREACH

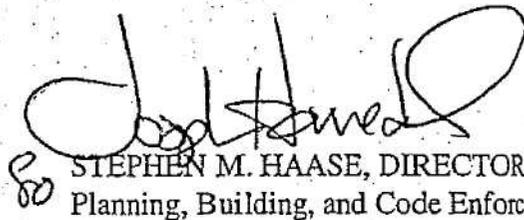
On April 26, 2005, a hearing notice for the proposed ordinance change and for the hearings for the permanent ordinance change was sent to the San Jose Post-Record for publishing. As standard practice, staff posted the staff report and draft ordinance as well as the hearing dates on the Department's pending ordinances web page.

COORDINATION

Preparation of the proposed ordinance has been coordinated with the City Attorney's Office.

CEQA

Exempt, PP05-088.


STEPHEN M. HAASE, DIRECTOR
Planning, Building, and Code Enforcement

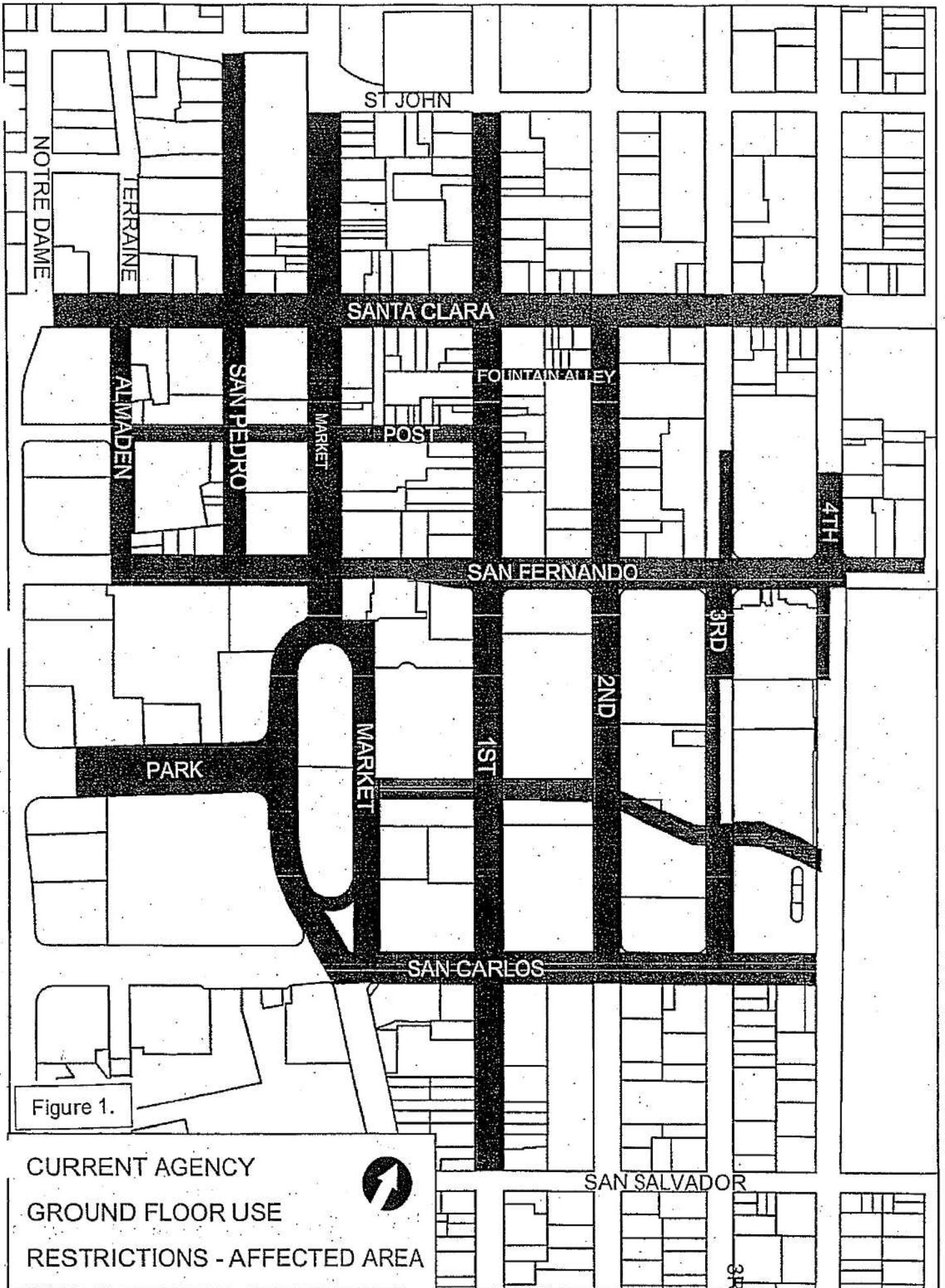


Figure 1.

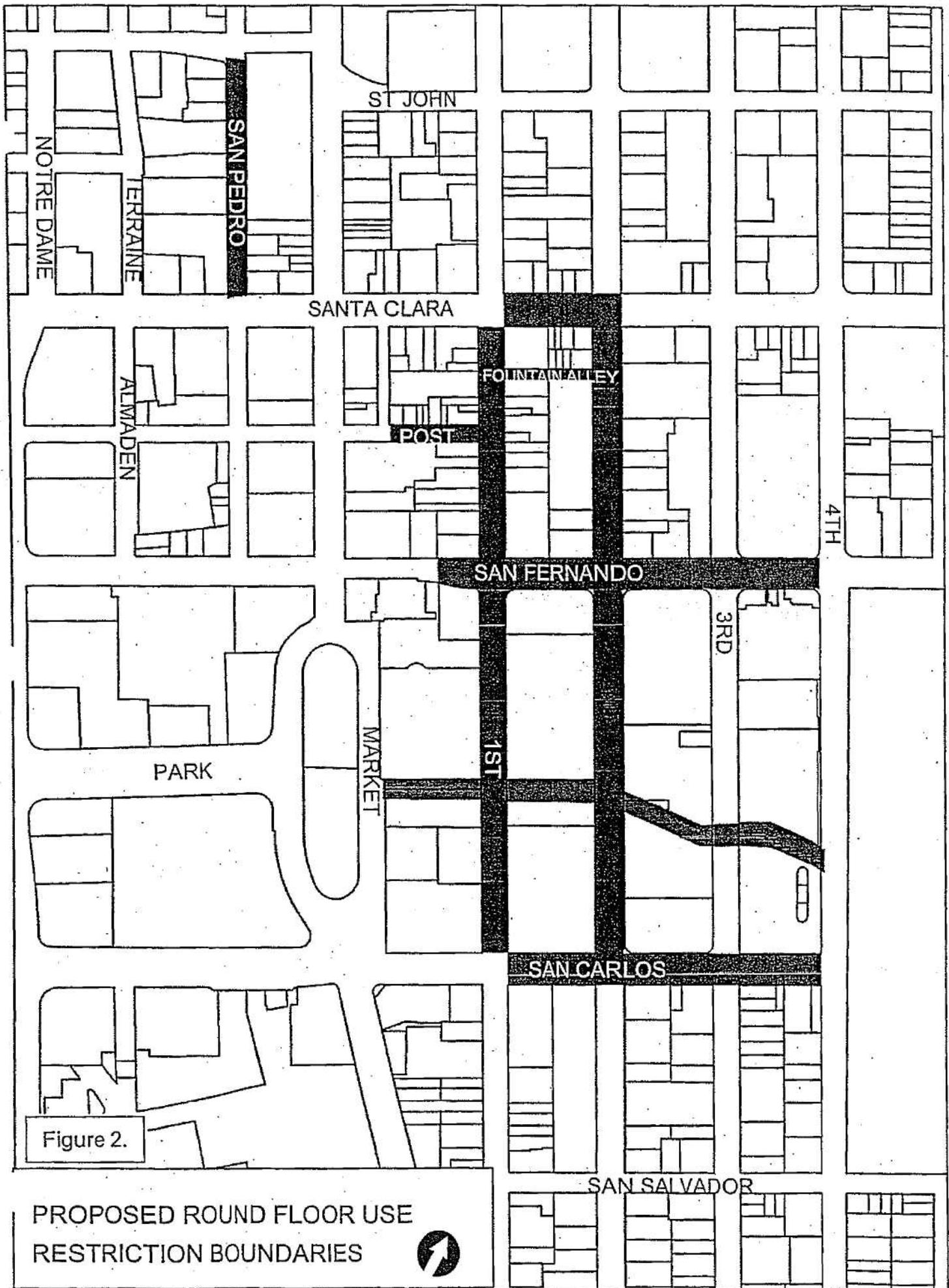
CURRENT AGENCY

GROUND FLOOR USE

RESTRICTIONS - AFFECTED AREA



SAN SALVADOR



**CITY OF SAN JOSÉ, CALIFORNIA
DEPARTMENT OF PLANNING, BUILDING AND CODE ENFORCEMENT
STATEMENT OF EXEMPTION**

FILE NO.

PP05-088

LOCATION OF PROPERTY

Downtown Core

PROJECT DESCRIPTION

Environmental Exemption for a proposed ordinance amending Chapters 20.70 and 20.80 of Title 20 of the San Jose Municipal Code to: streamline the permitting process for temporary outdoor events in the Downtown Core; allow live/work uses as of right in the Downtown Core; to amend the boundaries of the DG Downtown ground-floor space overlay area; and to amend the downtown off-street loading requirements.

CERTIFICATION

Under the provisions of Section 15305 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) as stated below, this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.

Class 5 consists of minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement



Deputy

Date: May 03, 2005

Project Manager: John Davidson

(Rev. 10/23/02)

DRAFT

Part 2 Uses Allowed

20.70.100 Allowed Uses and Permit Requirements

- A. "Permitted" land uses are indicated by a "P" on Table 20-140.
- B. "Conditional" uses are indicated by a "C" on Table 20-140. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a conditional use permit as set forth in Chapter 20.100.
- C. "Special" uses are indicated by a "S" on Table 20-140. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a special use permit as set forth in Chapter 20.100.
- D. "Administrative" uses are indicated by an "A" on Table 20-140. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with an administrative permit as set forth in Chapter 20.100.
- E. Land uses not permitted are indicated by a "-" on Table 20-140. Land uses not listed on Table 20-140 are not permitted.
- F. The column of Table 20-140, under the heading Additional Use Regulations for the DG Area, identifies further regulations on the uses of ground-floor building space within a portion of the DC Zoning District. The portion of the DC District included in the DG Area is described in Section 20.70.520. These regulations apply to ground-floor building space, defined as Downtown Ground-Floor Space ("DG Area"), in Section 20.70.520 of this Chapter. If there are no additional regulations on properties located in the DG Area noted in this column, the use regulations for the DG Area remain those regulations of the DC Zoning District.
- G. The "Parking" column of Table 20-140 establishes the required parking. The amount of parking may not be increased or decreased unless modified by the Director as set forth in Sections 20.70.320 and 20.70.330 of this Chapter.
- H. When the right column of Table 20-140 includes a reference to a section number or a footnote, the regulations cited in the section number or footnote apply 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.

**Table 20-140
Downtown Districts
Land Use Regulations**

Use	Zoning Districts		Applicable Notes & Sections		
	DC	DC-NTI	Additional Use Regulations for the DG Area	Parking	Applicable to All Downtown Districts
Offices and Financial Services					
Automatic Teller Machine	P	P		No parking	Section 20.80.200
Business Support	P	P	-, Note l	No parking	-
Financial institution	P	P	S, Note i	1 per 360 sq. ft.*	
Financial Services	P	P	S, Note n	No parking	
Offices, business and administrative	P	P	-, Note j	1 per 360 sq. ft.*	Section 20.70.110
Research and development	P	P	-	1 per 360 sq. ft.*	Note l
General Retail					
Alcohol, off-site sales	C	C		No parking	Section 20.80.900
Auction	S	-	-	No parking	
Food, beverage, groceries	P	P		No parking	
Open air sales establishments and areas	S	S		No parking	
Outdoor vending	S	S		No parking	Part 10, Chapter 20.80
Pawn Shop, Pawn Broker	C	C	Note b	No parking	
Retail sales, goods and merchandise	P	P	Note a	No parking	
Seasonal sales	P	P		No parking	Part 14, Chapter 20.80
Education and Training					
Day care center	P	P	S, Note c	No parking	
Post-secondary School	P	P	-	1 per 360 sq. ft.	
Trade School	P	P	-	1 per 360 sq. ft.	
Personal enrichment, Instructional Art	P	P	-, Note d	1 per 360 sq. ft.	
School, elementary (grades K-8)	C	C	-	1 per teacher and employee	
High School (grades 9-12)	C	C	-	.75 per teacher and employee and 1 per each 10 students	
Entertainment and Recreation Related					
Amusement arcade	C	-	Note e	No parking	
Entertainment establishment	C	-		No parking	
Movie Theater	P	P		No parking	
Recreation Commercial/Indoor	P	P		No parking	

**Table 20-140
Downtown Districts
Land Use Regulations**

Use	Zoning Districts		Applicable Notes & Sections		
	DC	DC-NT1	Additional Use Regulations for the DG Area	Parking	Applicable to All Downtown Districts
Poolroom	S	-		No parking	
Private club or lodge	P	P	-	1 per 360 sq. ft.	
Food Services					
Banquet facility	P	P	Note f	No parking required	
Caterer	P	P	C, Note f	No parking	
Drinking establishments	C	C		No parking	
Entertainment as an incidental use to any General Retail or Food Services Use permitted in the Downtown Zoning Districts	P	P		No parking	Note 7
Public eating establishments	P	P		No parking	
Health and Veterinary Services					
Animal grooming	S	S	-	No parking	Note 2
Animal Boarding, indoor	P	P	-	No parking	
Emergency ambulance service	C	-	-	No parking	
Hospital/ in-patient medical facility	C	-	-	1.5 per doctor	
Medical or Dental Clinic/Out-patient facility	P	P	-	1.5 per doctor	
Veterinarian	P	P	-	1.5 per doctor	
General Services					
Bed and breakfast	P	P	S, Note m	.35 per room	Part 2, Chapter 20.80
Hotel/motel	P	P	-, Note m	.35 per room	
Maintenance and repair of household appliances	P	P	-	No parking	
Mortuary and funeral services	C	C	-	.75 per employee and vehicle	
Personal Services	P	P	Note g	No parking	-
Printing and Publishing	P	P	Note h	No parking	
Public, Quasi-Public and Assembly Uses					
Auditorium	C	-	-	No parking	
Cemetery	C	C	-	No parking	
Church/religious assembly	P	P		No parking	
Information Center	P	P		No parking	
Museums, libraries	P	-	P	No parking	
Parks, playgrounds, or community centers	P	P	Note k	No parking	
Residential					
Residential Shelter	C	-	-	1 per 4 beds, 1 per 360 sq.ft.*	

**Table 20-140
Downtown Districts
Land Use Regulations**

Use	Zoning Districts		Applicable Notes & Sections		
	DC	DC-NT1	Additional Use Regulations for the DG Area	Parking	Applicable to All Downtown Districts
Live/work	SP	S		1 per unit	Section 20.70.120
Residential multiple dwelling	P	P	-	1 per unit	
Residential Care Facility for 7 or more persons	C	C	-	.75 per employee	
Residential Services Facility for 7 or more persons	C	C	-	.75 per employee	
Single room occupancy living unit	S	S	-	.6 per room	Part 15, Chapter 20.80
Single room occupancy hotel	S	S	-	.6 per room	Part 15, Chapter 20.80
Residential Accessory Uses					
Accessory buildings and structures	P	P	-	No parking	
Recycling Uses					
Reverse vending	S	S	-	No parking	Note 4
Small collection facility	S	S	-	No parking	Note 4
Transportation and Communication					
Community television antenna systems	C	-	-	No parking	
Off-site and alternating use parking arrangements	P	P	-	N/A	Section 20.90.200
Parking establishment, off-street	P	P	-	N/A	
Private Electrical Power Generation Facility	C	C	-	1 for each vehicle used in the operation of such facility	
Standby Generators that do not exceed noise or air standards	S	S	-	N/A	
Short term parking lot for uses or events other than on-site	S	S	-	N/A	
Radio & Television Studios	S	-	C	No parking	
Wireless communication antenna	S	-	-	No parking	Section 20.80.1900
Wireless communication antenna, building mounted	P	-	-	No parking	Section 20.80.1900
Vehicle Related Uses					
Accessory installation for cars and passenger trucks	P	-	-	No parking	
Car wash, detailing	P	-	-	No parking	
Gas or charge station	P	-	-	No parking	Note 4
Gas or charge station with incidental service and repair	P	-	-	No parking	Note 4
Sale and lease, vehicles and equipment (less than one ton)	P	-	-	1.5 per employee	Note 5

Table 20-140 Downtown Districts Land Use Regulations					
Use	Zoning Districts		Applicable Notes & Sections		
	DC	DC-NTI	Additional Use Regulations for the DG Area	Parking	Applicable to All Downtown Districts
Tires, batteries, accessories, lube, oil change, smog check station, air conditioning	P	-	-	2 per bay or .75 per employee	Note 6
Sale, vehicle parts, new	P	-	-	No parking required	

Notes:

Notes applicable to the DG Area only:

- (a) Excluding second-hand stores not dealing primarily in antiques, artworks, or vintage clothing.
- (b) Only as a use incidental to a retail jewelry store, otherwise, not permitted.
- (c) Only as a use incidental to existing on-site office use, otherwise not permitted.
- (d) Culinary/Art School with public classes and public demonstrations allowed, includes such areas as dance, music, martial arts, and fine arts.
- (e) Allowed only as an incidental use to other allowed recreation uses.
- (f) Only as a use incidental to restaurant, grocery or bakery uses for primarily on site sales, otherwise not permitted.
- (g) Excludes check-cashing services, photography studios, weight loss centers, interior decorating, and bail bond services.
- (h) Only if dedicated primarily to on-site retail customer copy services, otherwise not permitted.
- (i) Only if dedicated primarily to on-site retail customer services, otherwise not permitted.
- (j) Exception for travel agencies and real estate agencies which are the only permitted uses.
- (k) Community centers are not allowed.
- (l) Exception for copy shops and mail centers which are the only permitted uses.
- (m) Use of ground floor to be primarily dedicated to customer-related public services.
- (n) Includes financial retail services such as payroll advances, foreign currency exchange, debt card services and related financial services products but excludes check cashing except as an ancillary use.

Notes applicable to Downtown Core (DC) Zoning District, including DG Area:

- (1) Excludes manufacturing uses.
- (2) Boarding not permitted.
- (3) No lot may be used solely for an accessory structure or building.
- (4) Incidental repair includes air conditioning service, carburetor & fuel injection service, electrical service, radiator service, and tune-up, lube, oil change, and smog check, as well as tires, batteries and accessories installation. Does not allow body repair or painting. No retail sale of food, grocery items or alcoholic beverages may be approved. See Section 20.80.550.
- (5) All activity must be conducted indoors.
- (6) Non-engine and exhaust related service and repair allowed as incidental use.
- (7) Limited to instrumental and vocal music and readings. Also, notwithstanding the provisions of Section 20.200.940(2), incidental instrumental and vocal music shall be allowed between the hours of 6:00 a.m. and 12:00 a.m.

* Under the Parking Management Plan, October 2001, the Code may be changed to reduce the parking allotments for these uses. The reduction would be to 2.6 spaces per 1,000 square feet when the Downtown East Valley Light Rail Line is opened, and would be further reduced to 2.5 spaces per 1,000 square feet when BART is opened.

Fifteen percent (15%) of total parking requirement must be provided off-site.

20.70.110 Development Within or Adjacent to Historic Landmarks or Districts

- A. Any project within a Historic District shall conform to applicable guidelines adopted, and as amended, by the City Council.
- B. 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.
- C. New structures exceeding 150 feet and an FAR of 6:1 which are constructed within one hundred (100) 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.

20.70.120 Live/work Units

~~Any special use permit issued for~~ All live-work uses in the Downtown Zoning Districts shall be subject to the following criteria:

~~A. Live/work uses shall be consistent with Section 20.200.630 of this Title. No live/work uses shall operate in the Downtown Zoning Districts except pursuant to and in compliance with a Special Use Permit and in accordance with the following Standards and Conditions specified in sub-section B, below.~~

~~BA. Standards and Conditions:~~

~~1. General Conditions:~~

~~Work activities shall be limited to the Permitted Uses of the Downtown Zoning Districts, specified in Table 20-140, unless otherwise noted in this Chapter.~~

~~B.~~

~~All work activities and storage shall take place in fully enclosed areas.~~

~~C.~~

~~2. Prohibited Uses:~~

~~1. Any use not permitted within the Downtown Zoning Districts, as specified in Table 20-140 or under Section 20.80.720 for home occupation uses.~~

- ~~2.~~ Entertainment, Drinking and Public Eating Establishments.
 - ~~3.~~ The sale of food and/or beverages.
 - ~~4.~~ Veterinary services, including grooming and boarding, and the breeding or care of animals for hire or for sale.
 - ~~5.~~ Storage or recycling, ~~except in support of uses as incidental to a permitted use~~ in the Downtown Zoning Districts.
 - ~~6.~~ Activities involving biological or chemical substances that require a controlled environment or may pose a health hazard.
 - ~~7.~~ 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.
- ~~D.3.~~ Only occupants of the dwelling may be employees or unpaid volunteers of the business or commercial activity.
- ~~4.~~ The live/work unit must comply with the Uniform Building Code requirements.

20.70.435 Residential Uses

- A. Multiple dwelling residential uses greater than 50 units and less than 200 units shall provide one (1) loading space.
- B. Multiple dwelling residential uses greater than 200 units and less than 500 units shall provide two (2) loading spaces.
- C. Multiple dwelling residential uses greater than ~~than~~ 500 units shall provide three (3) loading spaces.

20.70.440 Hotel, Residential and Other Uses

- A. Hotels, ~~multiple residential dwelling units and all other uses~~ greater than one hundred thousand (100,000) GFA and less than two hundred thousand one (200,001) shall provide one (1) loading space.

- B. ~~Hotels, multiple residential dwelling units and all other uses greater than two hundred thousand (200,000 GFA) and less than five hundred thousand one (500,001) shall provide two (2) loading spaces.~~
- C. ~~Hotels, multiple residential dwelling units and all other uses greater than five hundred thousand one (500,001) GFA shall provide two (2) loading spaces plus one (1) loading space for each four hundred thousand (400,000) GFA greater than five hundred thousand (500,000) GFA.~~

20.70.520 Definitions of DG Overlay Area

- A. "Downtown ground-floor space" ("DG") means ground-floor, street frontage, building space that is located within the areas described as follows:
- Both sides of Santa Clara Street, between ~~Notre Dame Avenue~~San Pedro Street and ~~Fourth~~Second Street;
 - Both sides of Fountain Alley, between First Street and Second Street;
 - Both sides of Post Street, between ~~Almaden Avenue~~Lightson Street and ~~Fourth~~First Street;
 - Both sides of San Fernando Street, between ~~Almaden Avenue~~Market Street and Fourth Street;
 - ~~North side of San Fernando Street, between Fourth and Fifth Streets;~~
 - Both sides of Park Avenue from Market Street, continuing westerly for 540-500 feet;
 - Both sides of Paseo de San Antonio, between Market Street and Fourth Street;
 - Both sides of San Carlos Street, between Market Street and Fourth Street;
 - ~~Both sides of Almaden Avenue, between Santa Clara Street and San Fernando Street;~~
 - Both sides of San Pedro Street, between St. John Street and San Fernando Street;
 - Both sides of Market Street, between St. John Street and ~~San Carlos~~Santa Clara Street;
 - Both sides of First Street, between ~~St. John~~Santa Clara Street and San ~~Salvador~~Carlos Street;
 - Both sides of Second Street, between Santa Clara Street and San Carlos Street;
 - ~~Both sides of Third Street, between Paseo de San Antonio and Santa Clara Street;~~
 - East side of Third Street, from 463 feet north of San Fernando Street to the north side of San Fernando Street; between San Fernando Street and Santa Clara Street;
 - ~~West side~~Both sides of Third Street, from 463 feet north of San Fernando Street to 270 feet south of San Fernando Street;
 - Both sides of Fourth Street, from 463 feet north of San Fernando Street to the north side of San Fernando Street; and

- West side of Fourth Street, from the south side of San Fernando Street to 270 feet south of San Fernando Street.

B. Tenant spaces in the DG overlay district shall ~~not~~ include ground-floor space that can be segregated from the street frontage portion of the space, in a manner consistent with all applicable codes (as is required by existing law and practice) and that leaves a viable store front space. The clear-height for the ground-floor uses and the available depth of such space ~~should~~ shall be adequate to accommodate retail uses consistent with the predominant character of retail uses in the immediate vicinity, or to promote a theme or identity of the larger area in which it is located.

20.80.1420 Permit Required

- A. No person shall operate or allow or suffer the operation of an Outdoor Private Property Special Event except in compliance with an Event Permit issued pursuant to this Part, or a Special Use Permit, or a Conditional Use Permit issued pursuant to Chapter 20.100.
- B. An Outdoor Private Property Special Event outside of the Downtown Core that will not exceed thirty (30) days but does not meet the requirements for an Event Permit may apply for a Special Use Permit issued pursuant to Chapter 20.100.
- C. An Outdoor Private Property Special Event outside of the Downtown Core that will exceed thirty (30) days but does not meet the requirements for an Event Permit may apply for a Conditional Use Permit issued pursuant to Chapter 20.100.
- D. Outdoor Private Property Special Events of any length in the Downtown Core are required to obtain an Event Permit issued pursuant to this Part.