



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT:** SEE BELOW

**DATE:** November 30, 2007

**COUNCIL DISTRICT:** Citywide  
**SNI AREA:** All

**SUBJECT: GP07-T-07. STAFF INITIATED GENERAL PLAN TEXT AMENDMENT TO ALLOW SOLAR PANELS AND OTHER STRUCTURES, WHERE HEIGHT IS AN INTRINSIC PART OF THE STRUCTURE'S FUNCTION, TO HAVE A MAXIMUM ALLOWABLE HEIGHT NOT TO EXCEED 100 FEET OR THE MAXIMUM ALLOWABLE BUILDING HEIGHT IN THE SAN JOSÉ 2020 GENERAL PLAN, WHICHEVER IS GREATER.**

## RECOMMENDATION

The Planning Commission voted 6-0-1 (Platten absent) to recommend approval of the subject General Plan text amendment request.

## OUTCOME

If approved, the proposed General Plan text amendment would allow solar panels and other structures, where height is an intrinsic part of the structure's function, to have a maximum allowable height not to exceed 100 feet or the maximum allowable building height in the *San José 2020 General Plan*, whichever is greater.

## BACKGROUND

On November 28, 2007, the Planning Commission held a public hearing to consider the proposed General Plan text amendment.

The Planning Commission voted 6-0-1 (Platten absent) to recommend to the City Council approval of the subject General Plan text amendment request. The proposal was on the consent calendar portion of the agenda, and was recommended for approval without discussion or public testimony.

## ANALYSIS

See original staff report for analysis of the proposed General Plan text amendment.

## EVALUATION AND FOLLOW-UP

Approval of the proposed General Plan text amendment facilitates implementation of the General Plan's Sustainable City Major Strategy, the City of San José's Green Building Policy, and San José's Green Vision.

## POLICY ALTERNATIVES

*Alternative 1: Denial of the proposed General Plan text amendment.*

**Pros:** Solar panels and other structures meeting the criteria described above would achieve a greater degree of scrutiny in that many proposals would be required to apply for site specific General Plan text amendments to allow additional height for the structures. The City Council would consider all such proposals during General Plan hearings.

**Cons:** Denial would constrain the ability to install solar panels on top of buildings and would hinder the implementation of other technologies that create or conserve energy.

**Reason for not recommending:** This alternative is not recommended because it does not facilitate the implementation of the General Plan's Sustainable City Major Strategy, the City of San José's Green Building Policy, or San José's Green Vision.

## PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet any of the above criteria, staff followed Council Policy 6-30: Public Outreach Policy. Notice of the Fall 2007 hearings on the General Plan was published in the San José Post-Record. The proposed General Plan text amendment was posted on the Planning Division website <http://www.sanjoseca.gov/planning/> in the section entitled "What's New". The draft text amendment was presented at the Neighborhood Roundtable on October 17, 2007 and at the Developers Roundtable on November 2, 2007 for review and comment. One member of the public expressed concern that a 100-foot high windmill could be built adjacent to a single-family residence. Staff has addressed this comment in the analysis section of the staff report for this proposal. Staff has also been available to answer questions.

HONORABLE MAYOR AND CITY COUNCIL

November 30, 2007

Subject: GP07-T-07

Page 3

### **COORDINATION**

This project was coordinated with the Department of Public Works, Fire Department, Police Department, Environmental Services Department, Housing Department, City Attorney, the Airport Land Use Commission, the Santa Clara Valley Transportation Authority, and the County of Santa Clara Roads and Airports Department.

### **FISCAL/POLICY ALIGNMENT**

This project is consistent with applicable General Plan goals and policies as further discussed in the staff report.

### **COST SUMMARY/IMPLICATIONS**

Not applicable.

### **BUDGET REFERENCE**

Not applicable.

### **CEQA**

The proposed text amendment is covered by Reuse of the San Jose 2020 General Plan Final Environmental Impact Report, certified by the City Council on August 16, 1994, Resolution No. 65459.

  
fjs JOSEPH HORWEDEL, SECRETARY  
Planning Commission

For questions please contact Jenny Nusbaum, Department of Planning, Building and Code Enforcement at 535-7872.





Department of Planning, Building and Code Enforcement  
200 E. Santa Clara Street  
San José, California 95113-1905

Hearing Date/Agenda Number:  
P.C. 11/28/07 Item: 5.c.  
C.C. 12/18/07 Item:

File Number:  
GP07-T-07

Council District and SNI Area:  
Citywide

Major Thoroughfares Map Number:  
N/A

Assessor's Parcel Number(s):  
N/A

Project Manager:  
Rachel Roberts

## GENERAL PLAN REPORT 2007 Fall Hearing

**TEXT REFERENCE:**

Chapter IV. Goals and Policies, Community Development, Urban Design Policy No. 11, page 75

**PROJECT DESCRIPTION:**

Amend the *San José 2020 General Plan* text to allow solar panels and other structures, where height is an intrinsic part of the structure's function, to have a maximum allowable height not to exceed 100 feet or the maximum allowable building height in the General Plan, whichever is greater.

**LOCATION:**  
Citywide

**ACREAGE:** N/A

**APPLICANT/OWNER:**

Staff / City of San José

**ENVIRONMENTAL REVIEW STATUS:**

Reuse of the San José 2020 General Plan Final Environmental Impact Report, certified by the City Council on August 16, 1994, Resolution No. 65459.

**PLANNING STAFF RECOMMENDATION:**

Approve the General Plan text amendment.

**APPROVED BY:**

*Andrew Crabtree*

**DATE:**

*11-15-07*

**PLANNING COMMISSION RECOMMENDATION:**

**CITY COUNCIL ACTION:**

**CITY DEPARTMENT AND PUBLIC AGENCY COMMENTS RECEIVED:**

- Santa Clara Valley Transportation Authority (VTA) - VTA staff reviewed the General Plan amendment and has no comments at this time.
- County of Santa Clara Roads and Airports Department - The Department received and reviewed the proposed General Plan text amendment and they have no comments at this time.
- Santa Clara County Airport Land Use Commission (ALUC) - The proposed General Plan text amendment will be heard at the November 28, 2007 ALUC public hearing. Prior correspondence has included two phone conversations between Planning staff and Mr. Mark Connolly (ALUC) to clarify that the maximum allowable height may not exceed 100 feet or the maximum allowable building height in the General Plan whichever is greater and confirm that the existing maximum allowable building height in the General Plan would not change as a result of this amendment. In addition, staff sent an e-mail to Mr. Connolly that included a summary of the phone conversation, a draft of the language of the proposed text amendment, and examples of how the amendment would be implemented.

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**GENERAL CORRESPONDENCE:**

- Neighborhood Roundtable (October 17, 2007) – Attendees expressed that some structures, such as windmills, may be inherently incompatible with surrounding uses. Planning staff has addressed these concerns in the analysis section of this staff report.

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**ANALYSIS AND RECOMMENDATIONS:****PROJECT DESCRIPTION**

Amend the *San José 2020 General Plan* text to allow solar panels and other structures, where height is an intrinsic part of the structure's function, to have a maximum allowable height not to exceed 100 feet or the maximum allowable building height in the General Plan, whichever is greater.

**BACKGROUND**

In accordance with the Major Strategies, goals, and policies of the *San José 2020 General Plan*, the City's Green Building Policy (Council Policy 8-13) adopted by City Council in 2001, last revised in March, 2007, and the City's Green Vision adopted in October of this year, the proposed staff-initiated text amendment to the *San José 2020 General Plan* would encourage utilization of renewable energy resources in the physical development of the City of San José and facilitate the implementation of these policies by making the incorporation of renewable energy resources into development more feasible to developers and property owners.

The City of San José Zoning Ordinance, Title 20, Section 20.100.1300 allows minor height development exceptions for Church steeples, Church bell towers, and Church roofs as well as wireless communication antennae and associated structures. By amending the text of the General Plan to include these structures, as well as solar panels, other energy-saving devices, and roof landscaping, the proposed text amendment would better align the General Plan Urban Design Policy No. 11 with the existing language of the Zoning Ordinance and streamline efforts to implement green building measures in proposed development projects.

**ANALYSIS**

The standard maximum allowable building height in the General Plan is 50 feet. However, depending on location and type of structure, the General Plan stipulates maximum heights ranging from less than 50 feet to more than 300 feet. Currently, Urban Design Policy No. 11 states:

For structures, other than buildings, where substantial height is intrinsic to the function of the structures and where such structures are located to avoid significant adverse effects on adjacent properties, height limits may be established in the context of project review. For communication structures (such as towers, antennae, and monopoles, but not buildings) located outside the Downtown Core Area and regulated by the Public Utilities Commission, maximum height may be 100 feet on sites with non-residential or non-urban land use designations, and 160 feet on sites with an existing PG&E substation or high tension line corridor exceeding 200 KV, if all the following criteria are met:

- The site and structure are located to minimize public visibility.
- The project provides visual amenities, such as landscaping, to offset the potential visual impacts associated with the project.
- There is adequate evidence that technical necessity requires greater height and, in the case of cellular facilities, the increase height will result in a reduction in the number of future freestanding monopoles.

The proposed General Plan text amendment would clarify the range and type of structures allowed by the General Plan Urban Design Policy, No. 11 to have maximum allowable heights appropriate to their functions, provided that the structures are constructed to be compatible with their surrounding neighborhood. The allowed height would be established through discretionary review of projects and would be based on neighborhood compatibility with existing uses and development. The text amendment would not allow structures intended to accommodate human occupancy.

The following scenarios in the table below illustrate how the proposed text amendment could be implemented in future development proposals.

Proposal	Analysis	Would this proposal be allowed per the text amendment?
Scenario #1 Construction of a new church equipped with solar panels and a steeple.	The church is 45 feet in height. Addition of the solar panels would add seven feet in height, and the steeple would add 10 feet in height for a maximum total of 55 feet. The maximum allowable building height for the site, per the General Plan, is 50 feet.	<b>Potentially yes.</b> The proposed height is less than 100 feet and, after project review, planning staff may determine that the proposed church is consistent with the City's design guidelines and is compatible with the neighborhood and surrounding land use.
Scenario #2 Construction of a new office building equipped with solar panels.	The office building is proposed at a height of 50 feet. Addition of the solar panels would add seven feet in height for a total height of 57 feet. The maximum allowable building height, per the general plan, is 50 feet.	<b>Potentially yes.</b> Although the proposed total height (57 feet) exceeds the maximum allowable building height of 50 feet, the proposed height is less than 100 feet and, after project review, planning staff may determine that the proposed height is consistent with the City's design guidelines and is compatible with the neighborhood and surrounding land use.
Scenario #3 Construction of a new residential tower with solar panels.	The building is proposed at a height of 200 feet. Addition of the solar panels would bring the height to 210 feet. The maximum allowable height for the site, per the General Plan, is 200 feet.	<b>No.</b> As proposed, the height with the addition of the solar panels would exceed the General Plan maximum allowable height. An option would be to bring the height of the proposed building with the solar panels to 200 feet in height.
Scenario #4 Construction of a 100-foot high windmill in the R-1 Residential Zoning District on a 6,000 square-foot lot.	Per the Zoning Ordinance, the maximum allowable building height for the site is 35 feet. The proposed windmill, on a 6,000 square-foot lot, would not be compatible with the existing neighborhood.	<b>No.</b> Although the height proposed is equal to the maximum allowable height of 100 feet in the General Plan, after project review, planning staff would likely determine the height is incompatible with the neighborhood and surrounding land use.

### Sustainable City Major Strategy

The San José 2020 General Plan addresses the need and benefit of renewable energy resources as part of its Sustainable City Major Strategy. The Sustainable City Major Strategy embodies San José's desire to be an environmentally and economically sustainable city designed, constructed, and operated to minimize waste, efficiently use its natural resources, and conserve them for the use of present and future generations. The successful creation of a more sustainable urban form will also help ensure that the City is able to maintain the infrastructure and services necessary to sustain San José's economy and quality of

life. The proposed text amendment furthers the intent of this Major Strategy, by allowing appropriate height to accommodate solar panels and other structures, the General Plan will better facilitate the implementation of solar panels and other energy-saving devices expanding and improving energy efficiency, reducing energy consumption, and decreasing dependence on non-sustainable energy resources.

### **Green Building Policies and Guidelines**

The City of San José's Green Building Policy establishes sustainability as a City priority and further demonstrates the City's commitment to the environment by providing leadership and guidance to encourage the application of Green Building principles. As an integral part of that commitment, the proposed text amendment supports the City's effort to encourage property owners, architects, developers, and contractors to incorporate Green Building measures in building construction to facilitate the use of renewable energy.

### **San José's Green Vision**

San José's Green Vision, adopted by the City Council on October 30, 2007, identified ten goals as part of a comprehensive strategy toward environmental responsibility to be achieved within the next fifteen years. Reducing per capita energy use by 50% and harnessing 100% of our electrical power from clean renewable sources are two of these goals. The proposed text amendment contributes to achieving these goals by streamlining the process and providing greater feasibility by which solar panels may be incorporated into the design of new or existing buildings.

### **Housing and Energy Goals and Policies**

By facilitating energy conservation and generation, the proposed text amendment helps to implement the affordable housing and energy goals and policies in the General Plan. Policies, goals, and development standards that facilitate energy conservation provide opportunities to reduce energy costs and consumption. According to the State of California Department of Housing and Community Development, the following examples of policies, plans, and development standards have been successful in reducing local energy costs or consumption:

- a. Establishing programs that encourage conservation of non-renewable energy resources;
- b. Providing incentives to encourage green building techniques and materials in new or resale homes and apartments; and
- c. Promoting the use of passive solar devices (and other renewable energy technologies such as biomass, wind and geo-thermal where feasible) as an alternative form of energy.

The proposed text amendment combined with the Major Strategies, goals and policies of the *San José 2020 General Plan*, the Council adopted Green Building Policies and Guidelines, and San José's Green Vision, exemplify the type of policies, plans, and development standards noted by the State of California to be successful in achieving energy efficiency and reducing local energy costs or consumption.

### **ENVIRONMENTAL REVIEW**

The proposed text amendment is covered by Reuse of the San José 2020 General Plan Final Environmental Impact Report, certified by the City Council on August 16, 1994, Resolution No. 65459.

## **PUBLIC OUTREACH**

Notice of the Fall 2007 hearings on the General Plan was published in the San José Post-Record. The proposed General Plan text amendment was posted on the Planning Division website <http://www.sanJoseca.gov/planning/> in the section entitled "What's New". The draft text amendment was presented at the Neighborhood Roundtable on October 17, 2007 and at the Developers Roundtable on November 2, 2007 for review and comment. One member of the public expressed concern that a 100-foot high windmill could be built adjacent to a single-family residence. Staff has addressed this comment in the analysis section of this staff report. Staff has been available to answer questions.

### Attachments:

- Attachment 1 - Proposed text amendment
- Attachment 2 - Zoning Ordinance excerpt on Development Exceptions
- Attachment 3 - San José's Green Vision adopted by City Council on October 30, 2007
- Attachment 4 - Santa Clara Valley Transportation Authority Memo, dated November 5, 2007
- Attachment 5 - County of Santa Clara Roads and Airports Department, dated November 14, 2007

# Attachment 1

## Proposed General Plan Text Amendment

### GP07-T-07

Description: Amend the General Plan, Chapter IV. Goals and Policies, Community Development, Urban Design Policy No. 11, page 75

#### **Chapter IV. Goals and Policies**

#### **Community Development**

#### **Urban Design Policy No. 11, page 75**

#### Urban Design Policy No. 11, page 75

11. For structures, other than buildings, and including structures on top of buildings, such as solar panels, other energy-saving devices, roof landscaping, steeples, bell towers, wireless communication antennae, and associated structures, where substantial height is intrinsic to the function of the structures and where such structures are located to avoid significant adverse effects on adjacent properties, and where such structures are not to accommodate human occupancy, and are in conformance with the City of San José Zoning Ordinance and compatible with the surrounding neighborhood, height limits may be established in the context of project review; however, the maximum height of the structures as measured from the ground level to the top of the structures may not exceed 100 feet or the maximum allowable building height in the General Plan, whichever is greater. For communication structures (such as towers, antennae, and monopoles, but not buildings) located outside the Downtown Core Area and regulated by the Public Utilities Commission, maximum height may be 100 feet on sites with non-residential or non-urban land use designations, and 160 feet on sites with an existing PG&E substation or high tension line corridor exceeding 200 KV, if all the following criteria are met:
- The site and structure are located to minimize public visibility.
  - The project provides visual amenities, such as landscaping, to offset the potential visual impacts associated with the project.
  - There is adequate evidence that technical necessity requires greater height and, in the case of cellular facilities, the increase height will result in a reduction in the number of future freestanding monopoles.

## Attachment 2

### City of San José Zoning Ordinance, Section 20.100.1300

Description: Existing language of the City of San José Zoning Ordinance, Part 11 Development Variances and Development Exceptions, Section 20.100.1300.

#### City of San José Zoning Ordinance

#### Part 11: Development Variances and Development Exceptions

#### Section 20.100.1300 General

##### 20.100.1300 General

Pursuant to and in accordance with the provisions hereinafter set forth in this Part, the Director or the Planning Commission on appeal may, but shall not under any circumstances be required to, grant the following variances and exceptions:

1. Development Variance\
  - a. Variances hereinafter referred to as "Development Variances," to the height, number of stories, frontage, setback, coverage, density, area, off-street parking, fencing, loading and landscaping requirements and regulations of this Title.
2. Development Exception
  - a. Certain exceptions, hereinafter referred to as "Development Exceptions" as follows:
    1. Exceptions permitting an incursion by buildings or structures of up to, but not more than, five feet into the rear setback area prescribed by this Title, provided, however, that no exception granted hereunder shall permit the vertical projection of any building or structure to be closer than fifteen feet, measured horizontally, to the rear property line.
    2. Exceptions permitting Church steeples, Church bell towers, Church roofs, wireless communication antenna and associated structures which exceed in height the height limitations prescribed this Title; provided, however, that the following exception from these provisions shall apply:
      - i. Wireless Communication Antennae that meet the height limitations of Section 20.80.1900 or 20.80.1910, as applicable, shall not be subject to the Development Exception requirements set forth in this Part.
    3. Exceptions from the area requirements for a lot or parcel in any Residential District having an area of less than three thousand square feet, provided such area is not less than the area of such lot or parcel on March 1, 1977 (or, if the lot was created after March 1, 1977, then as approved by the City) and that no such exception shall permit any diminution in such area and provided further that if such lot or parcel has or is to have a structure or structures thereon, no such exception shall be issued for such lot or parcel unless all such structures are dwelling structures or structures accessory thereto, and all such structures comply with the height and setback requirements of this Title. An exception permitted by this Subsection may be issued at the same time as an exception provided for in Subsection 1 above.

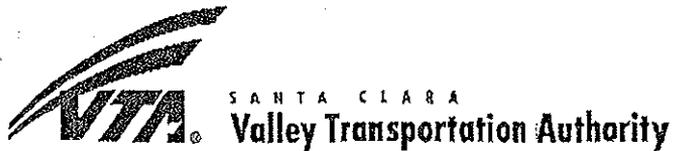
### Attachment 3

## San José's Green Vision

### Green Vision Goals

**Within 15 years, the City of San José in tandem with its residents and businesses will:**

- Create 25,000 Clean Tech jobs as the World Center of Clean Tech Innovation
- Reduce per capita energy use by 50 percent
- Receive 100 percent of our electrical power from clean renewable sources
- Build or retrofit 50 million square feet of green buildings
- Divert 100 percent of the waste from our landfill and convert waste to energy
- Recycle or beneficially reuse 100 percent of our wastewater (100 million gallons per day)
- Adopt a General Plan with measurable standards for sustainable development
- Ensure that 100 percent of public fleet vehicles run on alternative fuels
- Plant 100,000 new trees and replace 100 percent of our streetlights with smart zero-emission lighting
- Create 100 miles of interconnected trails



November 5, 2007

City of San Jose  
Department of Planning and Building  
200 East Santa Clara Street  
San Jose, CA 95113

Attention: Rachel Roberts

Subject: City File No. GP07-T-07 / Urban Design Policies

Dear Ms. Roberts:

Santa Clara Valley Transportation Authority (VTA) staff have reviewed the General Plan amendment to allow solar panels to exceed the maximum allowable height in the General Plan. We have no comments at this time.

Thank you for the opportunity to review this project. If you have any questions, please call me at (408) 321-5784.

Sincerely,

A handwritten signature in black ink, appearing to read "Roy Molseed", written over a faint, larger version of the same signature.

Roy Molseed  
Senior Environmental Planner

RM:kh

cc: Ebrahim Sohrabi, San Jose Development Services

# County of Santa Clara

Roads and Airports Department



101 Skyport Drive  
San Jose, California 95110-1302  
(408) 573-2400

November 14, 2007

Ms. Rachel Roberts  
City of San Jose  
Department of Planning, Building and Code Enforcement  
200 East Santa Clara Street  
San Jose, CA 95113

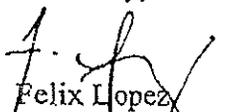
Subj: Draft Text Amendment to the San Jose 2020 General Plan  
City File No: GP07-T-07

Dear Ms. Roberts:

We have received and reviewed your Draft Text Amendment to the San Jose 2020 General Plan intended to allow solar panels and other structures where height is an intrinsic part of the structure's function to exceed the maximum allowed building height in the General Plan. We have no comments.

Thank you for the opportunity to review and comment on this project. If you have questions, please call me at (408) 573-2462.

Sincerely,

  
Felix Lopez  
Project Engineer

Cc: WRL, RN, file