CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: PLANNING COMMISSION

FROM: Christopher Burton, Director of the Planning, Building, and Code Enforcement Department

SUBJECT: PP26-006

DATE: November 6, 2026

COUNCIL DISTRICT: Citywide

Project	Amendments to Chapters 20.50, 20.100 and 20.200 of the Zoning Ordinance to (i) designate the City Council as the appeal hearing body for Large Energy Projects, (ii) amend definitions for "Data Centers" and "Research and Development", and to add definitions for "Large Energy Project," "Large Load Data Center," "Large Load Research and Development Facility," and "Power Demand", (iii) amend Table 20-110 of Chapter 20.50 to include Large Energy Project as a new enumerated use; and (iv) adoption of new Council Policy 6-39, "Data Center and Large Energy Projects Uniform Development Standards," establishing uniform development standards for Large Energy Projects with a Power Demand of 20 megawatts or greater.
Project Description	An ordinance of the City of San José (i) amending Section 20.100.220 of Chapter 20.100 of Title 20 (Zoning Ordinance) of the San José Municipal Code to designate the City Council as the appeal hearing body for special use permits and site development permits for Large Energy Projects; (ii) amending Sections 20.200.265 and 20.200.1000 to include Large Load Facility, and adding new Sections 20.200.603 and 20.200.892 to include definitions for Large Energy Project and Power Demand in Chapter 20.200 of Title 20 of the San José Municipal Code; (iii) amending Section 20.50.100, Table 20-110, of Chapter 20.50 of Title 20 of the San José Municipal Code to include Large Energy Project as a new enumerated use; and (iv) adoption of new Council Policy 6-39, "Data Center and Large Energy Projects Uniform Development Standards," establishing uniform architecture and design, labor, water, clean energy, backup generator and air quality, sanitary sewer discharge, noise, and community engagement standards, along with related fee, community benefit, transparency, and enforcement provisions, for Large Energy Projects with a Power Demand of 20 megawatts or greater.

CEQA Clearance	Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment; Alternatively, CEQA Guidelines § 15061(b)(3) — Common Sense Exemption; CEQA Guidelines § 15308 — Class 8, Actions by Regulatory Agencies for Protection of the Environment; CEQA Guidelines § 15307 — Class 7, Actions by Regulatory Agencies for Protection of Natural Resources
Project Manager	Erica Garaffo

RECOMMENDATION

Staff recommends that the Planning Commission recommend that the City Council take all of the following actions:

1. Approve an ordinance amending Chapters 20.50, 20.100 and 20.200 of Title 20 (Zoning Code) of the San José Municipal Code to:
   a. Amend the definitions of "Data Center" and "Research and Development" and add definitions for "Large Load Data Center," "Large Load Research and Development Facility," and "Large Energy Project," defined as a Large Load Data Center or Large Load Research and Development Facility with a power demand of 20 megawatts or greater;
   b. Designate the Director of Planning, Building and Code Enforcement as the initial decision-maker, and the City Council as the appeal body, for Special Use Permits and Site Development Permits for Large Energy Projects; and
   c. Amend Table 20-110 of Chapter 20.50 to include Large Energy Project as a new enumerated use.
2. Adopt a resolution approving Council Policy 6-39, "Large Energy Projects Uniform Development Standards," establishing uniform development standards for Large Energy Projects.

PROJECT BACKGROUND

As communities across the country grapple with the rapid expansion of data center development, cities are being forced to confront a new generation of infrastructure challenges tied to the digital economy. The explosive growth of cloud computing, artificial intelligence (AI), and digital services has dramatically increased demand for large-scale data centers that store, process, and transmit the data powering modern life.

San José, as the Capital of Silicon Valley and one of the world's leading technology hubs, is uniquely positioned to shape the planning and integration of the next generation of digital infrastructure into urban communities. These facilities can provide substantial economic benefits, including significant General Fund revenue, while also supporting digital services that residents and businesses rely on daily. At the same time, San José residents have raised legitimate concerns about their operations including energy demand on the electrical grid, water consumption, air-quality and backup generators, and noise.

Council Direction

On May 27, 2026, the Rules and Open Government Committee approved a memorandum from Mayor Mahan and Councilmembers Candelas, Cohen, and Ortiz (Item C.1) directing the City Manager to return to the City Council for consideration of uniform standards and best practices for data center projects addressing energy consumption and sourcing, water usage, air quality

and backup generators, noise, water quality, and community notification, building upon Council Policy 6-30.

On August 12, 2026, the Rules and Open Government Committee approved a follow-up memorandum from Mayor Mahan and Councilmembers Candelas, Cohen, Ortiz, and Campos (Item C.2) directing the City Manager to further evaluate community benefits, tax revenue reinvestment mechanisms, and architectural and site design standards associated with Data Center and Large Energy Projects for City Council consideration.

Together, the two memoranda directed staff to return with a proposed policy that addresses:

- Energy consumption and energy sourcing, including greenhouse gas emissions;
- Water usage and water quality protection;
- Air quality and the use of backup power generators;
- Noise and other environmental factors;
- A clear and consistent process for community notification and engagement;
- Options for requiring community benefits associated with these projects;
- A possible mechanism for reinvesting a portion of the tax revenue these projects generate; and
- Architectural and site design standards.

Staff committed to returning to the City Council before the end of December 2026 with a proposed policy. Over the following months, an interdepartmental team led by the City Manager's Office, including the Departments of Planning, Building and Code Enforcement (PBCE), Environmental Services (ESD), and Energy, researched best practices, coordinated with partner regulatory agencies, and developed the standards through an iterative community engagement process, described in the Public Outreach section of this report.

This staff report responds to the direction provided in those referral memoranda. It recommends amendments to Title 20 of the San José Municipal Code to define Large Energy Projects, which are data centers and research and development facilities with a power demand of 20 megawatts or greater, and to establish a clear discretionary review and appeal framework for them. It also recommends approval of a new Council Policy 6-39 establishing uniform standards and best practices for Large Energy Project. Lastly, the staff report summarizes the companion actions going to the City Council for consideration: expansion of the Commercial Linkage Fee to cover Large Energy Projects; a new Energy Reliability Fee; and amendments to the Building Performance Ordinance. Although the Planning Commission's review and recommendation is limited to the Title 20 amendments and Council Policy, the full package is described here so that the Commission has the complete context for its recommendation.

Why Data Centers in San José?

San José has experienced significant interest in data center development in recent years, positioning the City among the fastest-growing markets on the West Coast. These facilities support a range of functions relied on across the economy, including cloud computing, online retail, artificial intelligence, banking, and global communications, and their presence reflects San José's broader role as the Capital of Silicon Valley.

Several factors contribute to San José's attractiveness as a data center location. The City, through San José Clean Energy, offers access to power that is approximately 93 percent carbon-free, along with more than 100 miles of recycled-water pipeline infrastructure to support facility cooling needs. The City's Implementation Agreement with PG&E provides a framework intended to support timeline certainty for large energy users seeking power connections. More than 2,000 megawatts of additional transmission capacity that has been planned/analyzed since 2020 is anticipated to come online to the South Bay by mid-2028. San José also has more than 9,000 acres of commercially and industrially zoned land where data centers are an allowed use, supported by an extensive existing fiber network. Proximity to other technology companies can reduce latency for customers and business partners, and the region maintains a large technology workforce.

Data Centers Play a Critical Role in Our Economy and Lives

Data centers play a major role in everyday life, even if residents never see them directly. Data centers are an important part of the infrastructure that supports many of the services we rely on every day, such as:

- Support critical services, from hospitals to banking to public safety
- Protect and manage business and data
- Support cloud storage, streaming, and e-commerce
- Generate revenue that helps fund City services
- Power AI and machine learning technologies
- Enable secure financial transactions

Current Regulatory Framework for Data Centers

Under the current Zoning Ordinance, data centers are allowed with a Special Use Permit in the Combined Industrial/Commercial (CIC), Heavy Industrial (HI), Industrial Park (IP), and Light Industrial (LI) zoning districts. The Director of Planning is the initial decision-making body for these permits. These permits include environmental review under the California Environmental Quality Act (CEQA), which requires disclosures of and mitigation for any potentially significant environmental impacts. Appeals of the land use decision are currently heard by the Planning Commission, while appeals of the environmental (CEQA) determination are heard by the City Council.

Beyond the planning permit, a data center must obtain a series of approvals from City departments and outside agencies before it can be built and energized, including:

- **City of San José:** building, electrical, mechanical, and plumbing permits and Title 24 energy compliance; grading, stormwater, and public improvement permits; fire plan review and hazardous materials permits for diesel fuel and battery energy storage, including large-scale fire testing for battery systems; and sewer, industrial wastewater discharge, and recycled water connection approvals.
- **Bay Area Air District:** an Authority to Construct and Permit to Operate for each generator and other stationary source, including a health risk assessment, emission limits, offsets, and engine standards.
- **California Energy Commission:** a Small Power Plant Exemption and associated CEQA review for backup generation of 50 megawatts or more.

- **San Francisco Bay Regional Water Quality Control Board:** a construction general permit with a stormwater pollution prevention plan, along with any dewatering and discharge permits.
- **Water suppliers and utilities:** a water supply assessment for large projects, and PG&E and California Independent System Operator (CAISO) review and interconnection approval before power is delivered to the site.

Many of these approvals are issued by other agencies under their own regulatory authority. Within the City's process, the planning permit is the primary point at which project-specific requirements can be reviewed and applied. For that reason, the proposed standards would be incorporated into each project's planning permit either as part of project design or as conditions of approval.

Balancing Economic Development with Community Concerns

Data centers are expected to generate $3.5 to $7 million annually to the City in combined utility user tax and property tax revenue, supporting the General Fund and job creation. As an illustration, staff estimates that a single 99-megawatt data center would generate approximately $7 million per year in utility user tax and property tax revenue, plus approximately $20+ million in one-time revenue from construction taxes and the proposed Commercial Linkage Fee and Energy Reliability Fee. At the same time, San José residents have raised legitimate concerns about data center operations, including energy demand on the electrical grid, water consumption, air quality, backup generators, and noise. The proposed standards described in this report reflect an effort to balance these interests.

Raising environmental standards. The proposed standards do not operate in isolation, they sit atop an already stringent regulatory framework, including regulations imposed under CEQA, California Energy Commission, Bay Area Air District, and the City's existing land-use policies and restrictions.

Regulatory Framework. When the City reviews a private project on private land, it acts as a regulator, and the law limits what it can require. Most data center sites are already zoned for the use, so these projects do not need a rezoning or other legislative approval, where the City would have more flexibility. Acting as a regulatory, the City can require measures directly tied to a project's impacts, such as limits on noise, water use, and air emissions, and fees supported by a study. Where a project does require a legislative approval, a development agreement, or a City property transaction, the City has greater latitude to negotiate additional community benefits, and the proposed Policy identifies those opportunities. The standards proposed in this report set the baseline the City can require of every Large Energy Project given these limitations.

Competitiveness. While San José is currently attracting data center investment and stands to realize the economic benefits described above, imposing overly restrictive requirements or an excessive cost burden could lead developers to pursue other markets with lower construction and electricity costs, including neighboring jurisdictions actively competing to attract this type of investment and associated economic returns.

The City must strike a balance between securing economic development and ensuring that growth is responsibly built. While the proposed standards do not address every concern raised through the community engagement process, they represent that balance.

ANALYSIS

The proposed amendments to Title 20 of the Zoning Ordinance and the accompanying Council Policy respond to increasing development interest in Data Centers and Large Energy Projects — facilities with a Power Demand of 20 megawatts or greater — and to City Council direction to establish a clear, predictable review process and uniform development standards for these projects.

Many of the standards described below were shaped directly by feedback staff received during the dozens of community meetings held since August. In response to that feedback, staff strengthened the standards related to clean energy, potable water use, backup generator run time and emissions, noise and sewer discharge monitoring and enforcement, notification, labor standards and transparency in the City's review of these projects. The Public Outreach section of this report summarizes how specific feedback is reflected in the proposed standards.

Zoning Ordinance Amendments

The proposed amendments to Title 20 of the San José Municipal Code establish a discretionary review and appeal framework specific to Large Energy Projects, and revise existing and add new definitions, and add a new enumerated use:

- **Section 20.100.220, "Appeal – Hearing Body":** This section is amended to add two entries to Table 20-260: "Site development permit for Large Energy Projects" and "Special use permits for Large Energy Projects." For both, the Director of Planning is the initial decision-making body and the City Council is the appeal decision-making body.
- **Section 20.200.265, "Data center"**: The definition is amended to read: a facility used primarily to house networked computer servers for remote storage, remote computing, or distribution of data. Examples include cloud services, customer data storage, internet services, and enterprise computing infrastructure. A data center with a Power Demand of 20 megawatts or greater is a "Large Load Data Center," as is a research and development facility described in Section 20.200.1000(B) below.
- **Section 20.200.1000, "Research and development"**: The existing definition stays the same: an establishment engaged in industrial or scientific research, product design, development and testing, and limited manufacturing needed to produce prototypes. New language adds that a research and development facility is a "Large Load Research and Development Facility" if it has a Power Demand of 20 megawatts or greater and houses networked computer servers that meet both of these conditions:
    - (a) they support the owner's or operator's own industrial, research, design, engineering, or product development work, such as chip design, hardware development, and prototype testing, and are not used to sell computing, storage, or data services to others; and
    - (b) the facility has no backup generation, or its backup generation capacity, not counting battery energy storage systems, is less than 40 percent of its Power Demand.

    If the facility's backup generation capacity is 40 percent or more of its Power Demand, it is instead a Large Load Data Center and not a research and development facility. A use that meets the definition of manufacturing in Sections 20.200.710, 20.200.720, or 20.200.730 is classified as manufacturing, not as a Large Load Research and Development Facility

- **Section 20.200.603, "Large Energy Project**": This new section defines a "Large Energy Project" as a Large Load Data Center or a Large Load Research and Development Facility, as defined in Sections 20.200.265 and 20.200.1000, with a Power Demand of 20 megawatts or greater.
- **Section 20.200.892, "Power Demand":** This new section defines "Power Demand" as a project's maximum electrical load in megawatts, using the greater of the figure in the project's electrical utility service request or the figure in its interconnection agreement. Power Demand includes all buildings and phases of a project on the same site or on contiguous sites.
- **Table 20-110, "Industrial Zoning District Use Regulations" (Section 20.50.100):** "Large Energy Project" is added as a new use under Transportation and Utilities. It is allowed with a Special Use Permit in all industrial zoning districts: Combined Industrial/Commercial (CIC), Transit Employment Center (TEC), Industrial Park (IP), Light Industrial (LI), and Heavy Industrial (HI). The existing "Data center" use does not change: it still requires a Special Use Permit in all five districts, subject to Note 2 in TEC.

Under the current Zoning Ordinance, land use appeals of the Director's decision on a data center permit are heard by the Planning Commission, while CEQA appeals are heard by the City Council. The proposed amendment consolidates both before the City Council, so that the elected officials hear all appeals of Large Energy Projects. Land use appeals may continue to be filed by the applicant or by owners of property within 1,000 feet of the project, and CEQA determinations may continue to be appealed by any member of the public. Where a project requires certification of an environmental impact report with significant and unavoidable impacts, the City Council remains the decision-making body unless the project as proposed includes all mitigation measures identified in the draft environmental impact report as necessary to reduce impacts to a less-than-significant level.

Council Policy 6-39 — Data Center and Large Energy Projects Uniform Development Standards

In conjunction with the Title 20 amendments, staff recommends adoption of new Council Policy 6-39, which establishes uniform development standards for Large Energy Projects with a Power Demand of 20 megawatts or greater. The Policy is designed to ensure that these projects are reviewed through a predictable discretionary process with enhanced community outreach; minimize impacts on the City's water supply and wastewater infrastructure; support the City's clean energy and carbon-neutrality goals; limit air quality and noise impacts with transparent reporting; contribute fairly to affordable housing, infrastructure, and clean energy programs; and meet the City's standards for high-quality design.

The Policy supplements, and does not supersede, applicable local, state, and federal law, including CEQA and Title 20. Where the Policy and another applicable requirement address the same issue, the more stringent requirement applies on a provision-by-provision basis. The key components of the Policy are summarized below; the full Policy is provided as Exhibit B.

- **Applicability:** The Policy takes effect on the same date as the Title 20 ordinance (February 14, 2027). It applies to any Large Energy Project application that the initial decision-making body has not approved by that date. It also applies to the entire project when an amendment to an already-approved project that is not yet built would either make it a Large Energy Project or increase its Power Demand. At existing facilities, it applies to a change that raises Power Demand by the lesser of 20 megawatts or 25 percent, counted

cumulatively, and leaves the facility at 20 megawatts or more. In those cases it covers only the incremental change. All requirements are included in the planning permit as conditions of approval, which makes them enforceable through the permit.

- **Discretionary Review and Appeal Process:** Consistent with the proposed Title 20 amendments, Special Use Permits and Site Development Permits for Large Energy Projects are decided by the Director of Planning or designee, with appeals heard directly by the City Council. Any other approvals a project requires, such as a General Plan Amendment, Rezoning, or Development Agreement, follow their own procedures under the Municipal Code and Council Policy.
- **Architecture and Design Standards:** Large Energy Projects must comply with the Citywide Design Standards and Guidelines, along with supplemental standards that respond to concerns heard during the community process:
  - Each street-facing façade must include at least two design elements, such as changes in height, step-backs or recesses, fenestration, or changes in material, texture, or color, to avoid large undifferentiated surfaces.
  - All exterior lighting must use full cutoff, fully shielded fixtures that direct light downward and away from adjacent roads and properties, consistent with the City's industrial lighting standards; projects within 300 feet of a riparian corridor must also meet the lighting provisions of Council Policy 6-34.
  - Structural noise reduction measures, such as baffles or acoustic louvers, are required for exterior cooling fans and mechanical equipment, even if a project would otherwise meet applicable noise standards.
  - Backup generators must be located as far from sensitive receptors, such as homes, schools, parks, and health care facilities, as feasible.
- **Labor Standards:** The Policy addresses construction labor through both state and local requirements:
  - Recently enacted state legislation (Senate Bill 886 and Assembly Bill 2383, effective January 1, 2027) establishes prevailing wage and skilled and trained workforce requirements for certain data center projects, and Senate Bill 887 allows qualifying data centers to seek certification as environmental leadership development projects, which requires a community benefits agreement. Projects subject to either must provide the City with a copy of their state submittal.
  - Large Energy Projects not already subject to these state requirements must pay prevailing wage and use a skilled and trained workforce for construction, consistent with Public Contract Code Sections 2600–2603 and Public Resources Code Sections 25545.3.3 and 25545.3.5, reflecting the specialized electrical, mechanical, and control systems these facilities depend on. Projects must provide an enforceable commitment before construction begins and submit periodic compliance reports. A qualifying project labor agreement may satisfy the requirement, and noncompliance is a violation of the project approval.
- **Recycled Water and Low-Water Cooling:** All cooling systems must use either 100 percent recycled water supplied by South Bay Water Recycling, with the project paying for all necessary connection improvements, or low-water cooling technology, such as closed-loop or air-cooled systems, with annual water loss limited to 10 percent of total cooling system water use. Open-loop cooling systems that use potable water are prohibited.

- **Clean Energy:** Large Energy Projects must be supplied with 100 percent renewable electricity, measured annually. Projects are encouraged to remain enrolled with San José Clean Energy (SJCE), and enrollment in SJCE's Total Green service satisfies the requirement. Projects that opt out of SJCE may comply through 100% renewable electricity from another provider, supplemented as needed by Portfolio Content Category 1 renewable energy credits retired on the project's behalf, and must submit an annual compliance report to the City by April 30 of each year, beginning with the first full calendar year after occupancy.
- **Backup Generator Restrictions and Air Quality:** Diesel backup generators remain subject to Bay Area Air District permitting, with the following additional requirements:
  - Generators must be EPA Tier 4 emission standards and use advanced emissions after treatment.
  - Testing and maintenance is limited to 25 hours per generator per year, half of the 50 hours allowed under current Air District and state rules. The limit is a condition of the City's planning permit regardless of whether the Air District includes it in its permit.
  - Emergency backup use: Per Regulation 9-8, the Air District defines an emergency as an "unforeseeable failure of regular electric power supply," meaning generators permitted exclusively for emergency standby may run only during unplanned power failures.
  - Testing is limited to weekdays between 8:00 a.m. and 5:00 p.m.
  - Projects must certify compliance before occupancy, provide any Air District notice of violation to the City within 30 days, and provide operating and testing records within 15 days of the City's request.
- **Sanitary Sewer Discharge Monitoring:** Large Energy Projects must comply with Chapter 15.14 of the Municipal Code, including local discharge limits for metals, cyanide, and phenols, and must monitor sanitary sewer discharge and submit annual monitoring reports to ESD. Chapter 15.14 is performance-based, so chemicals not individually listed in the Code, such as cooling tower treatment chemicals, remain subject to regulation if they could affect the sewer system or the Regional Wastewater Facility. The City may conduct its own monitoring at any time. The Municipal Code, the City's existing programs, and other requirements, provides an established regulatory framework to identify, monitor, permit, and sanitary sewer discharges. After five consecutive years with no exceedances or verified complaints, the Director may reduce the monitoring frequency, and may restore it if a later exceedance or complaint occurs.

  Closed Loop Systems will not be connected to the Sanitary Sewer system and will not be monitored. Closed Loop Systems will be required to have the following:
  - Physical Plumbing Isolation
  - City Certification & Zero Discharge Compliance
  - Mandatory Off-Site Manifested Disposal
- **Noise Monitoring:** Where residential uses are located within 1000 feet of the project boundary, projects must conduct noise monitoring at least annually at the boundary nearest the residential use and submit an annual report, plus a report within 30 days of a City request following a complaint. Noise may not exceed the thresholds in the project's environmental documents or conditions of approval; for reference, Title 20 limits noise from industrial uses at the property line to 55 decibels adjacent to residential uses. If monitoring

shows an exceedance, the project must implement additional noise reduction measures within a timeframe approved by the Director.

- **Energy and Water Audits:** Chapter 17.85 of the Municipal Code (Building Performance Ordinance) is proposed to be amended to remove the industrial zoning exemptions for Large Energy Projects and to require annual submittal of energy and water use and third-party verification every five years of each project's energy and water use against the levels assumed in its environmental clearance. If actual use exceeds those levels by 10 percent or more, the project must complete an audit and make the improvements needed to bring use back within the assumed levels.
- **Community Engagement:** Large Energy Projects must follow Council Policy 6-30 (Public Outreach Policy for Pending Land Use and Development Proposals), including on-site signage, neighborhood notification, community meetings, and online posting, except that the notification radius for all required notices increases from 1,000 feet to 1,500 feet. A broader update to Council Policy 6-30 is underway and expected to be completed in mid-2027.
- **Affordable Housing Fee (Commercial Linkage Fee):** The City's 2020 Commercial Linkage Fee nexus analysis did not address data centers. An addendum to the nexus study (Exhibit C) supports applying the fee to Large Energy Data Center Projects. The fee is $5.20 per square foot of building area, or $2.6 million for a 500,000-square-foot Large Energy Data Center Project. Large Load Research and Development Facilities remain subject to the existing research and development fee.
- **Energy Reliability Fee:** Like all California electricity providers, SJCE must secure enough generating capacity, known as Resource Adequacy, to meet its customers' peak demand, and expected data center load growth increases that obligation before those customers begin paying SJCE rates. Based on a fee study (Exhibit D), Large Energy Projects would pay a new fee, initially at $50,000 per megawatt, to reimburse SJCE for Resource Adequacy cost and to help reduce Resource Adequacy demand by funding distributed energy resources such as residential batteries, smart thermostats, heat pumps, and vehicle-to-grid charging that SJCE can aggregate to meet part of that obligation. Half of the fee is due before the first building permit and half before occupancy. Thirty-five percent of each project's fee revenue is reserved for the Council District where the project is located for three years before becoming available citywide.
- **Additional Community Benefits:** The requirements of this Policy are the requirements for every Large Energy Project. The City recognizes that there could be other opportunities through: voluntary commitments and community benefits agreements; negotiated benefits where a project seeks a development agreements; Council consideration of overall community benefits where a legislative approval is required like General Plan amendment or rezoning; and community benefits agreements required for state environmental leadership certification.
- **Support for Ratepayer Protection**: The City formally supports the Pacific Gas and Electric Company (PG&E) and California Public Utilities Commission (CPUC) Electric Rule 30 framework (Application A.24-11-007 and aligns with California's new laws. These include Assembly Bill 2383 and Senate Bill 886, which ultimately protect ratepayers by requiring data center operators including Large Energy Projects to cover their infrastructure, transmission, and distribution costs.

- **Use Tax Attribution:** The City Manager's Office of Economic Development and Cultural Affairs is directed to work with each project so that sales and use tax on equipment purchased for the facility, such as servers, cooling systems, and generators that are periodically replaced, is attributed to San José rather than a countywide pool or another jurisdiction. This could generate significant ongoing General Fund revenue to support City services and reinvestment in neighborhoods near these projects.
- **Administration and Enforcement:** Projects pay fees to recover the City's costs of reviewing, monitoring, inspecting, and enforcing the Policy, and must meet the Policy requirements in effect when their planning permit is approved. The City retains all administrative, civil, and criminal remedies available under the Municipal Code and state law, including modification or revocation of the planning permit under Chapter 20.100. The City may inspect the site, review records, and conduct independent monitoring, and may recover its reasonable enforcement costs. Delay in enforcement does not waive the City's rights, and compliance with another agency's permit does not excuse compliance with the Policy.

General Plan Conformance

The Envision San José 2040 General Plan encourages the periodic review of the Zoning Ordinance and other supporting Ordinances in the Municipal Code to ensure that the document is consistent with the General Plan, and reflects its goals, policies, and implementation.

General Plan Goals and Policies: Title 20 - Zoning Ordinance

The proposed amendments to Title 20 would update certain sections of the Zoning Code to allow for conformance with the General Plan and consistency with the below General Plan policies:

LU-1.6: With new development or expansion and improvement of existing development or uses, incorporate measures to comply with current Federal, State, and local standards.

LU-1.10: Review criteria in the Zoning Ordinance and update it as appropriate to reflect Land Use goals, policies, and implementation actions in this Plan.

Analysis: The proposed amendments are for conformance with City Council directed and City-initiated changes proposed to further the City's goals, process improvements, and consistency. These changes help ensure that the Zoning Ordinance is maintained and is consistent with the General Plan.

IE-7.5 Clean Technology Diverse and Innovative Economy Policy: Facilitate strategies for clean technology businesses to bring new products and services to the marketplace. Attract and retain Clean Technology businesses by providing assistance to them.

MS-2.8 Energy Conservation and Renewable Energy Use: Develop policies which promote energy reduction for energy-intensive industries. For facilities such as data centers, which have high energy demand and indirect greenhouse gas emissions, require evaluation of operational energy efficiency and inclusion of operational design measures as part of development review consistent with benchmarks such as those in EPA's EnergyStar Program for new data centers. Also require consideration of distributed power production for these facilities to reduce energy losses from electricity transmission over long distances and energy production methods such as waste-heat reclamation or the purchase of renewable energy to reduce greenhouse gas emissions.

MS-2.9 Energy Conservation and Renewable Energy Use: Develop, implement, and utilize programs that help businesses and homeowners improve the energy efficiency of new and existing buildings and use of renewable energy sources, such as solar, through on-site generation or purchase of electricity from solar power programs in California.

Analysis: The proposed amendments support the City's economic development objectives by facilitating the establishment and growth of technology and service businesses in San José. The amendments are also consistent with the City's energy conservation and greenhouse gas reduction policies through consideration of energy efficiency, energy generation parameters, and renewable energy measures for energy-intensive facilities, such as data centers/large energy centers.

Other Agency Coordination

Staff referred the proposed ordinance amendment to the Airport Land Use Commission (ALUC) for the meeting scheduled on November 18, 2026, to determine if the amendment is consistent with the San José International Airport (SJC) and Reid-Hillview Airport (RHV) Comprehensive Land Use Plans (CLUP). An update on the ALUC's determination will be provided to the City Council.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment; Alternatively, CEQA Guidelines § 15061(b)(3) — Common Sense Exemption; CEQA Guidelines § 15308 — Class 8, Actions by Regulatory Agencies for Protection of the Environment; CEQA Guidelines § 15307 — Class 7, Actions by Regulatory Agencies for Protection of Natural Resources

PUBLIC OUTREACH

Between August and October 2026, staff conducted an extensive community engagement process to inform the development of the proposed standards. The process was designed to reach residents, neighborhood associations, environmental organizations, labor, the development community, partner agencies, and youth. It included large-format community sessions offered both in person and online, facilitated small-group working sessions, topic-specific roundtables, Council District town halls, a deliberative polling session, and individual meetings with stakeholder groups.

Staff took an iterative approach: draft standards were shared early, refined between meetings based on what staff heard, and brought back to the community in revised form. Several standards were strengthened as a direct result of this feedback, including the architectural standards, backup generator restrictions, the energy requirement, noise monitoring, energy and water audits, restrictions on potable water use, and the expanded notification radius.

Engagement Activities

The outreach and engagement activities to date include:

- **Stakeholder small-group meetings:** Staff met individually with a broad range of stakeholder groups, including:
  - Climate Advisory Commission
  - Sierra Club

- Mothers Out Front
- IBEW Local 332
- Pipefitters UA Local 393
- Silicon Valley Youth Climate Action
- AllAI Consulting
- Sheet Metal Workers Local 104
- Sprinkler Fitters UA Local 483
- South Bay Labor Council
- Working Partnerships
- Santa Clara & San Benito Counties Building & Construction Trades Council
- San José Chamber of Commerce
- National League of Cities
- Santa Clara Valley Water
- Silverleaf Neighborhood Association
- Bay Area Air District (formerly BAAQMD)
- Los Paseos Neighborhood Association
- Alviso Neighborhood Association
- Cottle to Lean Neighborhood Association

- **August 19 – Community Listening Session:** Brought together 200 in-person attendees and 130 online participants. During the event, staff actively gathered public feedback, listening to comments and insights from 90 individual speakers.
- **August 27 – Developers Roundtable:** City staff met with members of the development community to present and discuss the proposed uniform standards. The interactive session focused on explaining the new guidelines and soliciting critical feedback from industry professionals to help refine the standards moving forward.
- **August 31 – September 14 – Small Group Sessions:** City staff hosted 8 working sessions to present a draft list of proposed standards and gather community input. Of the 66 individuals who expressed interest and received invitations, 48 participants actively attended the meetings to share feedback and ask questions. Following the sessions, a video recording of each meeting was distributed to all respective attendees to support ongoing collaboration.
- **September 26:** Stanford University-led Deliberative Polling session to assess how public opinion changes after participants receive expert information and engage in collective discussion; results helped inform the draft standards.
- **September 28 – Labor Roundtable:** City staff met with labor representatives to present and discuss the proposed uniform standards.
- **September 28:** Council District 2 Neighborhood Leadership Council town hall.

- **September 30 – Environmental Roundtable:** City staff met with environmental stakeholders and interest group representatives to present and discuss the proposed uniform standards.
- **October 7 – Council District 2 Town Hall:** Staff met with District 2 residents to discuss the proposed standards.
- **October 15 – Final Community Meeting:** Staff presented the final draft standards at a large-format community meeting in the Council Chambers, offered in person and online, with presentations from the Deputy City Manager and the Directors of PBCE, ESD, and Energy. The presentation covered the Council direction, outreach to date, the existing permitting framework, legal limitations, each proposed standard, and estimated revenue, followed by public questions and comments. Roughly 300 people attended in person, with about 60 online participants.
- **October 21 – Second Climate Advisory Commission**: Staff presented an informational item on the final draft standards
- **October 22 – Second Developers Roundtable:** Staff reviewed the final draft standards with members of the development community.
- **October 26 – Youth Commission:** Staff presented the draft standards to the Youth Commission as an informational item.
- **November 5 – Council District 7 Town Hall:** Staff met with District 7 residents to discuss the proposed standards.
- **November 13 – Council District 8 Community Meeting:** Staff met with District 8 community members to discuss the proposed standards.

What We Heard

Across the community engagement sessions, community members consistently raised concerns about a moratorium or slowing the process, environmental and public health impacts, enforcement, and the pace of the standards process. Residents repeatedly questioned whether the City's enforcement of these standards would meaningfully deter large corporate operators, and many called for stronger, more transparent enforcement mechanisms — including publicly accessible reporting on generator use, water discharge, air quality, and noise monitoring. Recurring environmental themes included concerns about water usage and wastewater discharge, groundwater depletion, and the cumulative impact of multiple data centers concentrated in certain areas, particularly lower-income neighborhoods. Several participants also questioned the City's capacity to meet data center demand, sought clarification on backup generator and battery storage safety, and asked why standards would not apply retroactively to existing or in-pipeline projects.

Beyond environmental and enforcement concerns, residents pushed for greater transparency, community oversight, and financial accountability. Common requests included clearer written documentation of the standards (versus high-level presentations), transparency on proposed data center locations, minimum distance/buffer requirements from residential areas, and expanded notification radii beyond the current 1,000 feet. Participants also raised questions about local labor requirements, community benefit agreements or fees (e.g., for fire response, code enforcement, education, and affordable housing), accountability if a data center company goes

bankrupt, and whether the City could extract more value through utility user taxes or other revenue mechanisms. Overall, feedback reflected a strong desire for the highest achievable standards and more robust, enforceable protections.

Participants also emphasized the significant local job creation and economic opportunity associated with Large Energy Project construction and advocated for strong local hire and workforce training provisions, consistent with Chapter 14.10 of the Municipal Code, to ensure San José residents benefit directly from this development activity. Trades representatives also expressed support for the proposed standards' emphasis on quality construction and safety. Developers and members of the business community who participated in the developer roundtable generally expressed support for the City's effort to establish clear, predictable standards, noting that a well-defined and consistently applied review process benefits both applicants and the community. Several developers indicated a willingness to meet or exceed the proposed standards and emphasized their interest in being good neighbors to surrounding residential areas.

How Community Feedback Shaped the Standards

The table below summarizes some the principal concerns raised during engagement and how the proposed standards respond.

What We Heard	How the Proposed Standards Respond
Concern about water use, potable water, and groundwater depletion	Open-loop potable water cooling is prohibited. Projects must use 100 percent recycled water or low-water cooling with no more than 10 percent annual water loss, and water use is verified by a third party every five years.
Data centers should run on clean energy and not strain the grid	Projects must use 100 percent renewable electricity, measured annually, with annual reporting for projects outside SJCE. The Energy Reliability Fee funds distributed energy resources that support grid reliability.
Air quality and health impacts of diesel backup generators	Generators must meet Tier 4 standards, are limited to 25 hours per year of testing (half the state allowance), may run only during outages, may not be tested on evenings or weekends, and must be sited as far from sensitive receptors as feasible.
Noise from cooling equipment near homes	Structural noise reduction is always required. Projects within 1000 feet of residential uses must monitor noise annually and in response to complaints, and must add mitigation if thresholds are exceeded
Wastewater discharge and cooling chemicals	Projects must monitor sewer discharge and report annually to ESD, and the City may conduct its own monitoring at any time. Closed loop systems are not connected to the sanitary sewer.
Strong enforcement and transparency	All standards become enforceable conditions of approval backed by the City’s full range of remedies, including permit revocation. Projects must report Air District violations and provide records on request

What We Heard	How the Proposed Standards Respond
Larger notification area and a stronger community voice	The notification radius increases from 1,000 to 1,500 feet, and all appeals of Large Energy Project permits will be heard by the City Council. A review of Council policy 6-30 is underway, with an updated policy slated for release by Jun 2027.
Local jobs and quality construction	Projects must use a skilled and trained workforce for construction and provide copies of any state labor compliance submittals.
Community benefits and local reinvestment	Data centers will pay the Commercial Linkage Fee for affordable housing, and new Energy Reliability Fee with 35% of the revenue is reserved for the host Council District. The Policy also pursues use tax attribution and identifies pathways for additional community benefits.
Building design and neighborhood compatibility	Street-facing façades must be articulated, and all exterior lighting must be fully shielded and directed away from neighbors.

Some requests could not be fully accommodated within the City's regulatory authority, are being addressed through other processes, are not feasible, or do not meet balanced goals. As examples the Policy does not establish a fixed minimum distance between Large Energy Projects and residential uses; instead, proximity is addressed through generator siting, noise monitoring tied to nearby residential uses, and the expanded notification radius. The standards apply to projects not yet approved when the Policy takes effect and to significant expansions, but not retroactively to previously approved facilities. Cumulative impacts continue to be evaluated through each project's CEQA review. The Policy is not establishing new CEQA requirements related to sound and heat, but if and when the State establishes new requirements, they will be included. The Policy does not ban diesel generators, but it does require Tier 4 and limits the hours they can be use. Requests for fees to fund services such as fire response, education, and community facilities are limited by the requirement that impact fees be supported by a nexus study; the Policy instead identifies opportunities for voluntary and negotiated community benefits.

Next Steps

Following the Planning Commission's recommendation, staff will bring the full policy package to the City Council on December 8, 2026, for consideration of the Council Policy, related fee actions, and first reading of the ordinances. Second reading is tentatively scheduled for December 15, 2026, and the ordinance and Council Policy would take effect 60 days later (tentatively February 14, 2027). The Council Policy would take effect on the same date and apply to all planning applications for Large Energy Projects that have not been approved by then.

Project Manager: Erica Garaffo

Approved by: /s/ Christopher Burton, Director of Planning, Building, and Code Enforcement

Attachments	
Exhibit A:	Draft Zoning Ordinance
Exhibit B:	Draft Resolution and Council Policy 6-39
Exhibit C:	Draft Resolution, Ordinance and Commercial Linkage Fee Nexus Study
Exhibit D:	Draft Ordinance and Energy Reliability Fee Study
Exhibit E:	Draft Building Performance Ordinance
Exhibit F:	Draft Resolution Amending Schedule of Fees and Charges
Exhibit G:	Public Comment