



AMENDED

PLANNING COMMISSION AGENDA

Wednesday, December 13, 2017

Regular Hearing

Commencing at 6:30 p.m.

Council Chambers

First Floor, City Hall Wing
200 East Santa Clara Street
San José, California

Nick Pham, Chair

Peter Allen, Vice Chair

Ed Abelite

Edesa Bit-Badal

Shiloh Ballard

Namrata Vora

Michelle Yesney

**Rosalynn Hughey, Interim Director
Planning, Building & Code Enforcement**

NOTE

To request an accommodation for City-sponsored meetings or events or an alternative format for printed materials, please call Support Staff at 408-535-3505 or 408-294-9337 (TTY) as soon as possible, but at least three business days before any meeting or event. If you requested such an accommodation, please identify yourself to the technician seated at the staff table. If you did not call in advance and do now need assistance, please see the technician.

SUMMARY OF HEARING PROCEDURES

If you want to address the Commission, please fill out a speaker card located on the table near the Audio Visual Technician and deposit the completed card in the basket. There are also speaker cards in the back of the Chambers and at the side entrance.

The procedure for this hearing is as follows:

- After the staff report, applicants, and appellants may make a 5-minute presentation.
- The chair will call out names on the submitted speaker cards in the order received.
- As your name is called, line up in front of the microphone at the front of the Chamber. Each speaker will have two minutes. Speakers using a translator will have four minutes.
- After the public testimony, the applicant and appellant may make closing remarks for an additional five minutes.
- Planning Commissioners may ask questions of the speakers. Response to Commissioner questions will not reduce the speaker's time allowance.
- The public hearing will then be closed and the Planning Commission will take action on the item. The Planning Commission may request staff to respond to the public testimony, ask staff questions, and discuss the item.

If you challenge these land use decisions in court, you may be limited to raising only those issues you or someone else raised at this public hearing or in written correspondence delivered to the City at, or prior to, the public hearing.

The Planning Commission's action on rezonings, prezonings, General Plan Amendments and Code Amendments is only advisory to the City Council. The City Council will hold public hearings on these items. Section 20.120.400 of the Municipal Code provides the procedures for legal protests to the City Council on rezonings and prezonings. The Planning Commission's action on Conditional Use Permits is appealable to the City Council in accordance with Section 20.100.220 of the Municipal Code. Agendas and a binder of all staff reports have been placed on the table near the door for your convenience.

AGENDA
ORDER OF BUSINESS

WELCOME

Welcome to the Planning Commission Meeting. Please remember to turn off your cell phones. The parking validation machine for the garage under City Hall is located at the rear of the Chambers.

SALUTE TO THE FLAG

ROLL CALL

SUMMARY OF HEARING PROCEDURES

1. CALL TO ORDER & ORDERS OF THE DAY

2. PUBLIC COMMENT

Public comments to the Planning Commission on nonagendized items. Please fill out a speaker's card and give it to the technician. Each member of the public may address the Commission for up to three minutes. The commission cannot take any formal action without the item being properly noticed and placed on an agenda. In response to public comment, the Planning Commission is limited to the following options:

- Responding to statements made or questions posed by members of the public; or
- Requesting staff to report back on a matter at a subsequent meeting; or
- Directing staff to place the item on a future agenda.

3. DEFERRALS AND REMOVALS FROM CALENDAR

Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral or removal. A list of staff-recommended deferrals is available on the Press Table.

Staff will provide an update on the items for which deferral and removal is being requested. If you want to change any of the deferral dates recommended, or speak to the question of deferring or removing these or any other items, you should say so at this time.

No items

4. CONSENT CALENDAR

The consent calendar items are considered to be routine and will be adopted by one motion. There will be no separate discussion of these items unless a request is made by a member of the Planning Commission, staff, or the public to have an item removed from the consent calendar and considered separately.

Staff will provide an update on the consent calendar. If you wish to speak on one of these items individually, please come to the podium at this time.

- a. **CP17-006 (Administrative)**. Conditional Use Permit to allow the demolition of the existing 7,148-square foot building, and construction of a new 4,648-square foot drive-through restaurant and removal of one Shamel Ash tree, 84 inches in circumference, on a 0.63-gross acre site in the CG Commercial General Zoning District located at south side of Blossom Hill Road, approximately 190 feet easterly of Gallup Drive (1156 Blossom Hill Road) (Pueblo Plaza Partnership, Owner). Council District 10. CEQA: Exempt per CEQA Guidelines Section 15303 (c) for New Construction or Conversion of Small Structures.

PROJECT MANAGER, ROBERT RIVERA

Staff Recommendation:

1. Consider the Exemption in accordance with CEQA.
2. Approve the Conditional Use Permit Resolution as described above.

5. PUBLIC HEARING

Generally, the Public Hearing items are considered by the Planning Commission in the order in which they appear on the agenda. However, please be advised that the Commission may take items out of order to facilitate the agenda, such as to accommodate significant public testimony, or may defer discussion of items to later agendas for public hearing time management purposes.

- a. **PP17-072**. Adoption of an ordinance of the City of San José amending Chapter 13.32 of the San José Municipal Code to revise and add provisions pertaining to tree removal controls on private property, including amending Section 13.32.020 to add a definition of the term “Invasive Tree,” revise how height, tree diameter and circumference are measured to trigger application of tree removal controls, and expand the definition of “Unsuitable Tree” to include certain trees on land use types beyond single family dwellings, amending Sections 13.32.090 to and 13.32.120 to streamline the process for review of applications for removal of all trees that are not Unsuitable Trees, amending Sections 13.32.041, 13.32.110 and 13.32.130 to clarify tree removal permit requirements included as part of another Planning permit, requirements for tree replacement as a condition of approval for tree removal and provisions for safeguarding trees during construction, and making other technical, non-substantive, or formatting changes within Sections of Title 13 to add and amend regulations pertaining to Tree Removal Controls. Citywide. CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Environmental Impact Report (Resolution No. 76041), Envision San Jose 2040 General Plan Final Supplemental Environmental Impact Report (Resolution No. 77617), and Addenda thereto. *Continued from 12/6/17.*

PROJECT MANAGER, ARTHUR HENRIQUES

Staff Recommendation:

1. Recommend to the City Council to approve an Ordinance of the City of San José amending Chapter 13.32 of Title 13 of the San José Municipal Code, pertaining to tree removal controls on private property, including amending Section 13.32.020 to add a definition of the term “invasive tree,” revise how height, tree diameter and

circumference are measured to trigger application of tree removal controls, and expand the definition of “unsuitable tree” to include inherently hazardous trees and certain trees on land use types beyond one family dwelling, amending Sections 13.32.090 and 13.32.120 to streamline the process for review of applications for removal of all trees that are not unsuitable trees, so that a Director’s hearing will only be held upon request and allowing an appeal to be filed only where a Director’s hearing has been requested, amending Sections 13.32.041, 13.32.110 and 13.32.130 to clarify Tree Removal Permit requirements included as part of another planning permit, requirements for tree replacement as a condition of approval for tree removal and provisions for safeguarding trees during construction, and making other technical, non-substantive, or formatting changes within Chapter 13.32 of title 13 to add and amend regulations pertaining to tree removal control.

6. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS, OR OTHER AGENCIES

7. GOOD AND WELFARE

- a. Report from City Council
- b. Review and Approve Action Minutes from [12/6/17](#)
- c. Subcommittee Formation, Reports, and Outstanding Business
- d. Commission Calendar and Study Sessions
- e. The Public Record

8. ADJOURNMENT

2017 PLANNING COMMISSION MEETING SCHEDULE

<u>Date</u>	<u>Time</u>	<u>Type of Meeting</u>	<u>Location</u>
January 11	6:30 p.m.	<u>Cancelled:</u> Regular	Council Chambers
January 25	6:30 p.m.	<u>Cancelled:</u> Regular	Council Chambers
February 8	6:30 p.m.	Regular	Council Chambers
February 15	6:30 p.m.	Regular & General Plan	Council Chambers
March 8	6:30 p.m.	Regular	Council Chambers
March 22	6:30 p.m.	Regular	Council Chambers
April 12	6:30 p.m.	Regular	Council Chambers
April 26	6:30 p.m.	Regular	Council Chambers
May 3	6:30 p.m.	<u>Cancelled:</u> Regular	Council Chambers
May 10	5:00 p.m.	<i>Study Session/Public Hearing:</i>	<i>Council Chambers</i>
		<i>2017/2018 Capital Budget & 2018/2022 Capital Improvement Program</i>	
May 10	6:30 p.m.	Regular & General Plan	Council Chambers
May 24	6:30 p.m.	Regular & General Plan	Council Chambers
June 14	5:00 p.m.	<i>Study Session/Public Hearing:</i>	<i>City Hall, 3rd Fl, T-332</i>
		<i>Stevens Creek Urban Village Plan/GP17-009</i>	
June 14	6:30 p.m.	Regular	Council Chambers
June 28	6:30 p.m.	Regular	Council Chambers
July 12	6:30 p.m.	Regular	Council Chambers
July 26	6:30 p.m.	<u>Cancelled:</u> Regular	Council Chambers
August 9	6:30 p.m.	Regular	Council Chambers
August 23	4:30 p.m.	<i>Study Session/Public Hearing:</i>	<i>City Hall, 3rd Fl, T-332</i>
		<i>VMT Study Session</i>	
August 23	6:30 p.m.	Regular	Council Chambers
September 13	6:30 p.m.	Regular	Council Chambers
September 22	8:00 a.m.	<i>Planning Commission Retreat</i>	<i>City Hall, 3rd Fl, T-332</i>
September 27	6:30 p.m.	Regular	Council Chambers
October 11	5:00 p.m.	<i>Study Session/Public Hearing</i>	<i>Council Chambers</i>
		<i>General Plan Performance Review</i>	
October 11	6:30 p.m.	Regular & General Plan	Council Chambers
October 25	6:30 p.m.	General Plan	Council Chambers
November 8	6:30 p.m.	Regular & General Plan	Council Chambers
November 15	6:30 p.m.	Regular & General Plan	Council Chambers
December 6	6:30 p.m.	Regular & General Plan	Council Chambers
December 13	6:30 p.m.	Regular	Council Chambers

ABOUT THE PLANNING COMMISSION

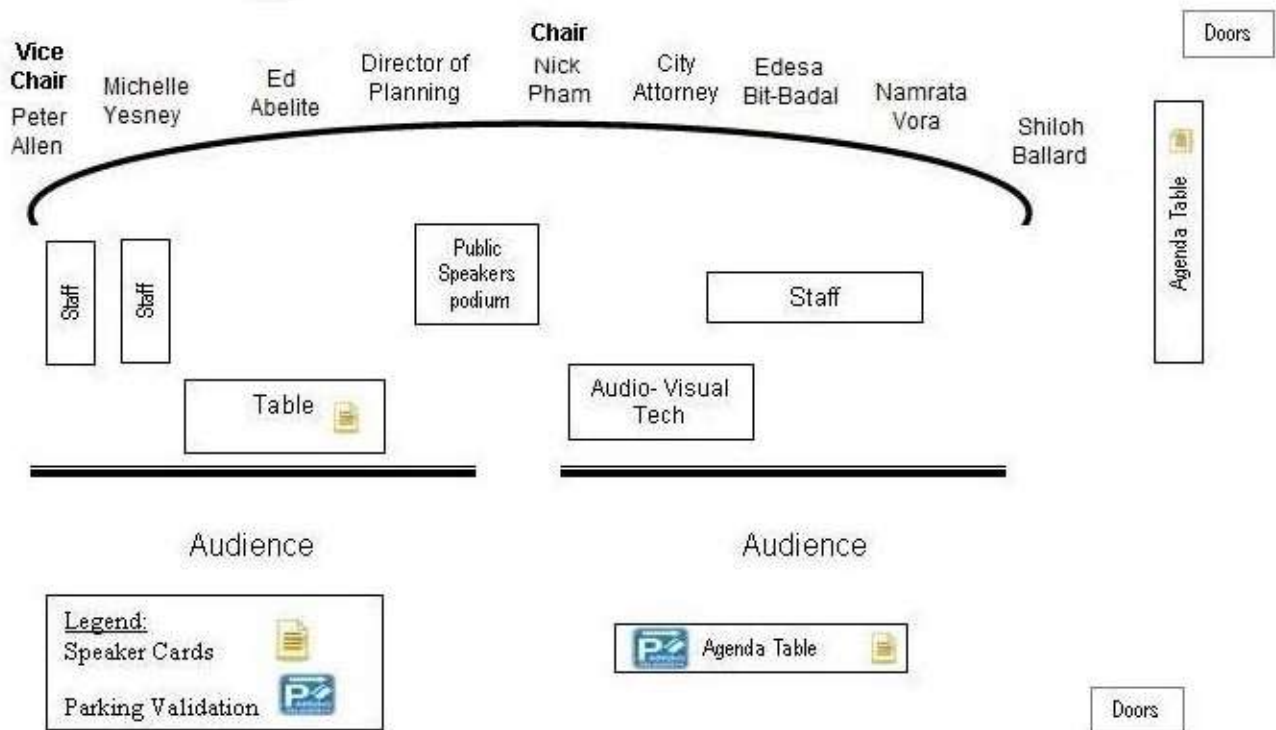
The Planning Commission is a seven-member body, appointed by the City Council, which performs two types of actions:

- One type is “Quasi-Legislative” in nature in which the Planning Commission makes recommendations to the City Council regarding the adoption, amendment, or repeal of general or specific plans, Zoning Code provisions, or regulations related to the land use development, redevelopment, rehabilitation or renewal of the City, including its Capital Improvement Programs.
- The second type of action is “Quasi-Judicial” in nature in which the Planning Commission applies previously adopted legislation to particular applications and acts as a decision-making or appellate body. Examples of these types of actions include Commission decisions on Conditional Use Permits, appeals of the Planning Director’s decisions on certain land use permits, and the certification of Environmental Impact Reports.

A notation of “Administrative Hearing” for an agenda item indicates that the item is a Quasi-Judicial action of the Commission in order to assist the public in understanding the role of the Planning Commission on a particular item.

To effectively manage the Planning Commission Agenda, and to be sensitive to concerns regarding the length of public hearing, the Planning Commission may determine to proceed with remaining agendized items past 11:00 p.m., or to continue this hearing to a later date, or to defer remaining items to the next regularly scheduled Planning Commission meeting date. The decision on how to proceed will be heard by the Planning Commission no later than 11:00 p.m.

Seating Chart within the City Council Chambers:



The San José Planning Commission generally meets every 2nd and 4th Wednesday at 6:30 p.m., unless otherwise noted. Agendas and Staff Reports for Planning Commission items may be viewed on the Internet at <http://www.sanjoseca.gov/index.aspx?nid=1764>

The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public. The City Code of Ethics may be viewed on-line at <http://www.sanjoseca.gov/DocumentCenter/View/3818>

All public records relating to an open session item on this agenda, which are not exempt from disclosure, pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Planning, Building and Code Enforcement at San José City Hall, 200 E. Santa Clara Street, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body.

Planning Commission hearings are video recorded and broadcasted live. To view the live broadcast or past hearing recordings go to the Internet website: <http://www.sanjoseca.gov/index.aspx?nid=3431>

If you have any agenda questions, please contact Support Staff at (408) 535-5695 or email. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

FREQUENTLY USED ABBREVIATIONS

CEQA	California Environmental Quality Act
CP	Conditional Use Permit
DA	Development Agreement
PD	Planned Development Permit
PDC	Planned Development Zoning

CITY OF SAN JOSÉ CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, Redevelopment Agency Board, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

1. Public Meeting Decorum:

- a) Persons in the audience will refrain from behavior, which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

2. Signs, Objects or Symbolic Material:

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions:
 - No objects will be larger than 2 feet by 3 feet.
 - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
 - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**CITY OF SAN JOSÉ CODE OF CONDUCT FOR PUBLIC MEETINGS IN
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D)**

3. Addressing the Council, Redevelopment Agency Board, Committee, Board or Commission:
- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
 - b) Meeting attendees are usually given two (2) minutes to speak on any agenda item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak.
 - c) Speakers should discuss topics related to City business on the agenda, unless they are speaking during open forum.
 - d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners, or Staff in conversation will not be honored. Abusive language is inappropriate.
 - e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
 - f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
 - g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.