



## **PLANNING COMMISSION AGENDA**

**Wednesday, July 25, 2012**

**Regular Hearing**

**Commencing at 6:30 p.m.**

**Council Chambers**

First Floor, City Hall Wing

200 East Santa Clara Street  
San Jose, California

**Edesa Bit-Badal, Chair**

**Matt Kamkar, Vice Chair**

**Ed Abelite**

**Hope Cahan**

**Norman Kline**

**Brian O'Halloran**

**Dori Yob**

**Joseph Horwedel, 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 408-535-7811 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.

## NOTICE TO THE PUBLIC

Good evening, my name is **Edesa Bit-Badal** and I am the Chair of the Planning Commission. On behalf of the entire Planning Commission, I would like to welcome you to the Planning Commission Public Hearing of **Wednesday, July 25, 2012**. Please remember to turn off your cell phones. Parking ticket validation machine for the garage under City Hall is located at the rear of the Chambers.

If you want to address the Commission, **fill out a speaker card (located on the table by the door, on the parking validation table at the back, and at the bottom of the stairs near the Audio-Visual Technician. Deposit the completed card in the basket near the Planning Technician. Please include the agenda item number (not the file number) for reference. Example: 4.a., not PD06-023.**

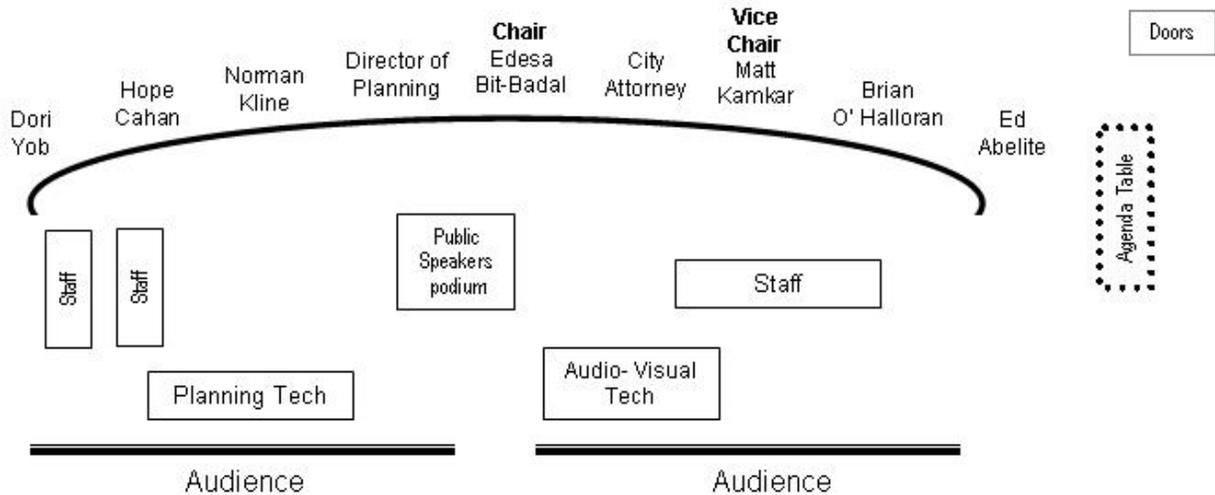
The procedure for this hearing is as follows:

- 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.
- 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 rezoning, 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 rezoning and prezonings. The Planning Commission's action on Conditional Use Permit's 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.

The Planning Commission is a seven-member body, appointed by the City Council, which makes recommendations to the City Council regarding the adoption, amendment, or repeal of general or specific plans, and regulation of the future physical land use development, redevelopment, rehabilitation or renewal of the City, including its Capital Improvement Programs. The recommendations to the Council regarding land use development regulations include, but are not limited to, zoning and subdivision recommendations. The Commission may make the ultimate decision on Conditional Use Permits, and acts as an appellate body for those persons dissatisfied with the Planning Director's decisions on land use and development matters. The Commission certifies the adequacy of Environmental Impact Reports.



The San José Planning Commission generally meets every 2<sup>nd</sup> and 4<sup>th</sup> 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/planning/hearings/DefaultPC.asp>

**The City of San Jose 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/clerk/cp\\_manual/CPM\\_0\\_15.pdf](http://www.sanjoseca.gov/clerk/cp_manual/CPM_0_15.pdf)**

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.

Audio for the Planning Commission hearings are recorded and broadcasted live. To listen to live audio broadcast or to listen to past hearing recordings go to the Internet website: [http://sanjose.granicus.com/ViewPublisher.php?view\\_id=17](http://sanjose.granicus.com/ViewPublisher.php?view_id=17).

If you have any agenda questions, please contact Support Staff at (408) 535-7811 or email. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

**AGENDA**  
**ORDER OF BUSINESS**

**ROLL CALL**

**1. DEFERRALS**

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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. A list of staff-recommended deferrals is available on the Press Table.

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

To effectively manage the Planning Commission Agenda, and to be sensitive to concerns regarding the length of public hearing, the Planning Commission may determine either:

- To proceed with remaining agendized items past 11:00 p.m.;
- To continue this hearing to a later date;
- Or to defer remaining items to the next regularly scheduled Planning Commission meeting date.

Decision on how to proceed will be heard by the Planning Commission no later than 11:00 p.m.

*No items.*

**2. CONSENT CALENDAR**

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**NOTICE TO THE PUBLIC**

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. [CPA08-051-02](#). Conditional Use Permit Amendment to eliminate the current restriction on simultaneous use of other assembly areas when the main sanctuary is in use at Westgate Church in the CP – Commercial Pedestrian Zoning District, located on the west side of Saratoga Avenue 350 feet northerly of Lawrence Expressway (1735 Saratoga Av)(Westgate Community Bible Ch, Owner). Council District 1. SNI: None. CEQA: Exempt. *PROJECT MANAGER, JOHN BATY*

**Staff Recommendation:** Consider the exemption in accordance with CEQA. Approve a Conditional Use Permit Amendment to eliminate the current restriction on simultaneous use of other assembly areas when the main sanctuary is in use at Westgate Church in the CP – Commercial Pedestrian Zoning District, for the reasons stated in the staff report

### 3. Public Hearing

#### NOTICE TO THE PUBLIC

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. **CP12-013 & ABC12-003.** Conditional Use Permit and Determination of Public Convenience or Necessity to allow the on-sale and off-sale of alcohol at a drinking establishment with outdoor seating area on a 0.83 gross acre site in the DC Downtown Primary Commercial Zoning District, located at the northeast corner of E. Santa Clara Street and N. 2nd Street (75 E. Santa Clara Street) (Legacy Partners I San Jose North Second, LLC, owner). Council District: 3. SNI: None. CEQA: Exempt. *PROJECT MANAGER, SYLVIA DO*
- Staff Recommendation:** Consider the exemption in accordance with CEQA. Approve a Conditional Use Permit and Determination of Public Convenience or Necessity to allow the on-sale and off-sale of alcohol at a drinking establishment with outdoor seating area on a 0.83 gross acre site in the DC Downtown Primary Commercial Zoning District, for the reasons stated in the staff report.
- b. **PD12-012 & ABC12-002.** Planned Development Permit and Determination of Public Convenience or Necessity to add a drinking establishment to an existing hotel on 2.67 gross acre site in the A(PD) Planned Development Zoning District, located at the southeast corner of Seaboard and Channing Avenues (2585 Seaboard Avenue) (Chic Hospitality, LLC, owner). Council District: 4. SNI: None. CEQA: Exempt. *PROJECT MANAGER, SYLVIA DO*
- Staff Recommendation:** Consider the exemption in accordance with CEQA. Approve a Planned Development Permit and Determination of Public Convenience or Necessity to add a drinking establishment to an existing hotel on 2.67 gross acre site in the A(PD) Planned Development Zoning District, for the reasons stated in the staff report
- c. **PDC12-009.** A Planned Development Rezoning request to the A(PD) Planned Development Zoning District to allow for the full build out of the entire development site, commonly known as Santana Row, to include an additional 228,200 square feet of office space, 46,458 square feet of restaurant space, 35,139 of retail space, and 456 residential units over the current built condition, on a 40.78 gross acre site, located at the southeast corner of Winchester and Stevens Creek Boulevards (3090 Olsen Drive) (FRIT/ San Jose Town & Country Village LLC, Owner). Council District 6. CEQA: Mitigated Negative Declaration. *PROJECT MANAGER, LESLEY XAVIER*
- Staff Recommendation:** Consider the Mitigated Negative Declaration in accordance with CEQA. Recommend to the City Council the approval of a Planned Development Rezoning request to the A(PD) Planned Development Zoning District to allow for the full build out of the entire development site, commonly known as Santana Row, to include an additional 228,200 square feet of office space, 46,458 square feet of restaurant space, 35,139 of retail space, and 456 residential units over the current built condition, on a 40.78 gross acre site, for the reasons stated in the staff report.
- d. **TR12-006.** APPEAL of the Planning Director's decision to approve a Tree Removal Permit to require tree replacements for the removal of two (2) ordinance size trees, previously located in the front and rear yards of a single-family residence, in the R-1-8 Single-Family Residence Zoning District, located at 1460 LUPTON AVENUE (Bartels David Trustee, et al., Owner). Council District 6. SNI: None. CEQA: Exempt. *PROJECT MANAGER, LORI MONIZ*

**Staff Recommendation:** Consider the exemption in accordance with CEQA Uphold the Director’s Decision to approve a Tree Removal Permit to require tree replacements for the removal of two (2) ordinance size trees, previously located in the front and rear yards of a single-family residence, in the R-1-8 Single-Family Residence Zoning District, for the reasons stated in the staff report.

- e. **Ordinance Amendment.** Amendments to Section 20.30.100 of Chapter 20.30 (Residential Zoning Districts), Section 20.40.100 of Chapter 20.40 (Commercial Zoning Districts), Section 20.50.100 of Chapter 20.50 (Industrial Zoning Districts), and Section 20.70.100 of Chapter 20.70 (Downtown Zoning Regulations), the addition of a new Part 3.5 entitled “Certified Farmers’ Markets” to Chapter 20.80 (Specific Use Regulations), and the addition of a new Section 20.200.185 to Chapter 20.200 (Definitions), all to establish land use regulations pertaining to Certified Farmers’ Markets, amendments to Part 16 of Chapter 20.80 (Temporary Outdoor Uses of Private Property) to facilitate a more streamlined process for certain Certified Farmers’ Markets and minor amendments to these sections to make other technical, nonsubstantive, clarifying changes to Title 20. CEQA: Envision San Jose 2040 General Plan Environment Impact Report, Resolution No. 76041. *PROJECT MANAGER, RICH BUIKEMA*

**Staff Recommendation:** Consider the Envision San Jose 2040 General Plan Environment Impact Report in accordance with CEQA. Recommend to the City Council approval of Amendments to Section 20.30.100 of Chapter 20.30 (Residential Zoning Districts), Section 20.40.100 of Chapter 20.40 (Commercial Zoning Districts), Section 20.50.100 of Chapter 20.50 (Industrial Zoning Districts), and Section 20.70.100 of Chapter 20.70 (Downtown Zoning Regulations), the addition of a new Part 3.5 entitled “Certified Farmers’ Markets” to Chapter 20.80 (Specific Use Regulations), and the addition of a new Section 20.200.185 to Chapter 20.200 (Definitions), all to establish land use regulations pertaining to Certified Farmers’ Markets, amendments to Part 16 of Chapter 20.80 (Temporary Outdoor Uses of Private Property) to facilitate a more streamlined process for certain Certified Farmers’ Markets and minor amendments to these sections to make other technical, nonsubstantive, clarifying changes to Title 20, for the reasons stated in the staff report.

#### **4. PETITIONS AND COMMUNICATIONS**

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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.

## **5. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS, OR OTHER AGENCIES**

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## **6. GOOD AND WELFARE**

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- a. Report from City Council
- b. Commissioners' Report from Committees:
  - 1. Norman Y. Mineta San José International Airport Noise Advisory Committee (Cahan)
- c. Review and Approve Synopsis from 7-11-12
- d. Subcommittee Formation, Reports, and Outstanding Business
- e. Commission Calendar and Study Sessions

## **ADJOURNMENT**

## 2012 PLANNING COMMISSION MEETING SCHEDULE

<u>Date</u>	<u>Time</u>	<u>Type of Meeting</u>	<u>Location</u>
January 11	6:30 p.m.	Regular	Council Chambers
<i>January 25</i>	<i>5:00 p.m.</i>	<i>Study Session</i>	<i>Room T-332</i>
<i>Implementing the General Plan through the Capital Improvement Program</i>			
January 25	6:30 p.m.	Regular	Council Chambers
February 8	6:30 p.m.	Regular	Council Chambers
February 22	6:30 p.m.	Regular	Council Chambers
March 7	6:30 p.m.	Regular	Council Chambers
March 21	6:30 p.m.	Regular	Council Chambers
<i>April 11</i>	<i>5:00 p.m.</i>	<i>Study Session</i>	<i>Council Chambers</i>
<i>Capital Improvement Program</i>			
April 11	6:30 p.m.	Regular	Council Chambers
April 25	6:30 p.m.	Regular	Council Chambers
<i>May 2</i>	<i>5:00 p.m.</i>	<i>CANCELLED Study Session</i>	<i>Room T-1734</i>
<i>Capital Improvement Program</i>			
May 2	5:30 p.m.	Regular	Council Chambers
May 9	6:30 p.m.	Regular	Council Chambers
May 23	6:30 p.m.	Regular	Council Chambers
June 6	6:30 p.m.	Regular	Council Chambers
June 20	6:30 p.m.	Regular	Council Chambers
July 11	6:30 p.m.	Regular	Council Chambers
July 25	6:30 p.m.	Regular	Council Chambers
August 8	6:30 p.m.	Regular	Council Chambers
August 22	6:30 p.m.	Regular	Council Chambers
September 12	6:30 p.m.	Regular	Council Chambers
September 26	6:30 p.m.	Regular	Council Chambers
<i>September 27</i>	<i>8:30 a.m.</i>	<i>Retreat</i>	<i>Room T-1254</i>
October 10	6:30 p.m.	Regular	Council Chambers
October 24	6:30 p.m.	Regular	Council Chambers
November 7	6:30 p.m.	Regular	Council Chambers
November 14	6:30 p.m.	Regular	Council Chambers
December 5	6:30 p.m.	Regular	Council Chambers
December 12	6:30 p.m.	Regular	Council Chambers

## **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.