Planning in San José

A Community Guide

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PROJECT TEAM

City of San José, Department of Planning, Building, and Code Enforcement
Britta Buys *Senior Planner, Planning Services*

San José State University, Department of Urban and Regional Planning
Matthew Paoni *Teaching Associate* | Karen Babbitt *Graduate Assistant* | Debbie Chan | Dieckmann Cogill | Darcy Forsell | Tiffin Goodman | Sarah Kirchgessner | Jason Naess | Shruti Namjoshi | Ellen Ofori | Jeremiah Pitakwong | Erin Walters

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Section 1 Planning Basics *p. 1*

1-1. Background (p. 2)
History of Development Patterns; The Planning Process; Decision Makers; Community Participation; Relevant Departments and Government Agencies; Planning-Related Legislation; California Environmental Quality Act (CEQA)

1-2. The General Plan (p. 7)

1-3. Tools for implementing the General Plan (p. 10)
Zoning; Specific Plans; Other Tools

Section 2 Land Use and Development *p. 15*

2-1. Major Permits (p. 17)
Major Land Use or Development Permit Process; Permit Appeal; Examples of Major Permits and Processes

2-2. Minor Permits (p. 23)
Minor Permit and Service Process; Examples of Minor Permits and Services

2-3. Subdivisions (p. 26)
Parcel Map Approval Process; Tentative Map Approval Process; Final (Tract) Map Approval Process

2-4. Building Permits (p. 29)
Building Plan Review; Permit Issuance; Building Inspections

2-5. Public Works (p. 31)
Public Works' Role in the Development Process; Permits, Processes, and Fees; Additional Fees

2-6. Code Enforcement (p. 33)
Areas of Responsibility; Enforcement Method; Citizen Reporting

2-7. Public Facilities (p. 35)

Section 3 Additional Resources *p. 37*

3-1. Planning Pointers (p. 37)
How to Be an Effective Meeting or Public Hearing Participant; Site Plans; Elevations and Floor Plans; Tips for Obtaining Timely Site Development Permits

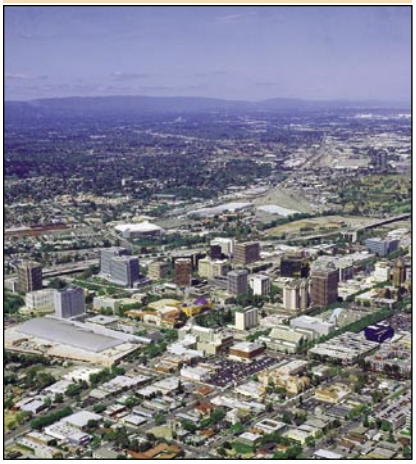
3-2. Sources of Further Information (p. 39)
City Council, Neighborhood Organizations, Municipal Code, etc.

3-3. Glossary of Planning Terms (p. 42)

Planning Basics

1 Policies, Codes, Guidelines and Regulations

Planning in San José



Planning in San José offers an introduction to land use planning and development for people unfamiliar with the process in the City, as well as for those already acquainted with the practice who want to learn more. It is a resource for residents, business owners and property owners, as well as for developers interested in building in San José. Emphasized throughout this *Guide* is the opportunity to make a significant difference in the community by becoming actively involved in the planning process. San José's planning process is designed to encourage input from the public through a variety of forums, such as at community meetings and public hearings—and in doing so, to enable individuals to make a genuine contribution to the future of San José.

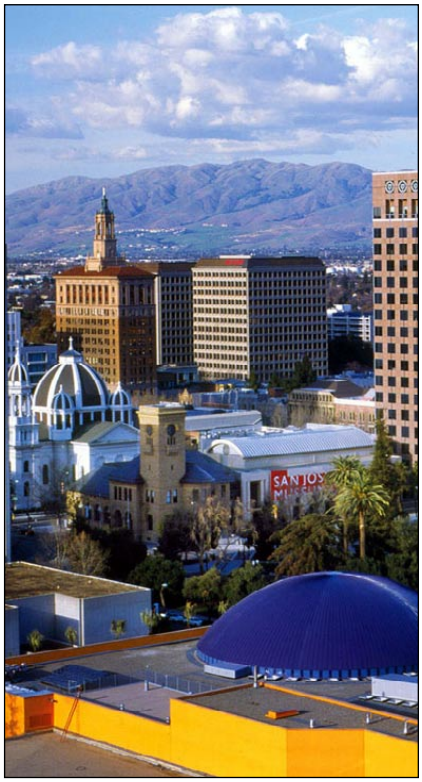
While this *Guide* provides an overview of the planning process in San José, it is by no means comprehensive. Additional resources are available for individuals interested in learning more about a specific policy, initiative, or project. The City maintains an active website (http://www.sanjoseca.gov/planning) with information on a variety of planning topics, and a staff member at the Public Information Counter is available in the Department of Planning, Building, and Code Enforcement to answer questions from the public. An "Additional Resources" section is located at the end of this publication with contact information for some frequently-requested services.

Planning in San José is an extension of the City's commitment to involve the public as much as possible when undertaking land use planning and development activities. As articulated in the City's *Public Outreach Policy*, residents and other stakeholders are encouraged to utilize this publication, in conjunction with other resources, as a starting point for obtaining information concerning proposed projects and policies of interest. The City is committed to ensuring the ability of residents and other community stakeholders to follow development activity in their neighborhoods. Members of the San José community should not hesitate to take advantage of the opportunities available for public participation: by attending community meetings, by obtaining and reading relevant City records, by communicating in person and otherwise with elected officials and City staff, and by attending Planning Commission and City Council hearings.

The *Guide* is divided into three sections. Section 1, "Planning Basics," describes the development history of San José and provides an overview of the planning process as well as the people, organizations, and laws involved. Section 2, "Land Use and Development," explains the permitting and subdivision process, including the roles of the Department of Public Works and the Code Enforcement Division.

Section 2 concludes with an explanation of how public facilities are constructed in San José. Section 3, "Additional Resources," includes pointers for participating in the planning process. It also includes a glossary of commonly used planning terms and contact information for departments and agencies that can provide additional information on planning issues.

The Guide also includes helpful sidebar tips for the reader, in addition to the sidebar captions, that are indicated with "*i*".



i What is Land Use Planning?
The term *land use planning* is commonly used among planning professionals. The phrase "land use" describes the type of buildings on the land, as well as the activities that take place on it. Some land use examples are housing, commercial activities, industrial uses, and parkland. Land use planning establishes where specific uses are and should be located.

1-1. Background

History of Development Patterns

San José was established as an agricultural community in 1777, and it continued to exhibit a largely rural development pattern until the mid-20th century. By the 1940s, San José's economic base had begun to move from agriculture to technology. This shift spurred a change in the traditional development pattern, in which the majority of residents lived in a concentrated area near the downtown while farm homes dotted the rural landscape. Beginning in the 1950s, San José experienced a tremendous increase in residential development, often focused along the periphery of the City. The sporadic development patterns made it difficult and costly to provide such basic services as utility lines, street maintenance, and schools. In reaction to this trend, San José began implementing growth management measures in the 1970s. Instead of permitting development in remote areas, San José encouraged building adjacent to or within already developed areas.

In 1996, San José adopted an Urban Growth Boundary (UGB) in an effort to further the growth management policies of the previous three decades. The Urban Growth Boundary delineates the parts of San José that are suitable for development. It contains the downtown, already-established residential, commercial, and office areas, and pockets of land that will be developed in the future. It excludes farmland and lands not safe for development. The Urban Growth Boundary serves two primary goals. It helps to concentrate development, ensuring the City can provide basic services to all residents, and it preserves open space.

The Smart Growth era in San José began in the 1970s; its principles are embodied in the City's policies for future development. Smart

Growth is simply a set of principles that helps a place grow in a lively and sustainable manner. These principles aim to foster economic development, revitalize the downtown, protect and improve neighborhoods, provide a range of housing options, preserve open space, improve the transportation network, and direct growth to appropriate areas.

The Planning Process

Cities, along with their neighborhoods and districts, utilize the planning process to create and implement a vision. The vision, and their resulting goals and policies, are documented in a plan. Plans can be legally binding, and they offer the public and the city a way to protect their interests. However, for a plan to be effective, it needs to have broad-based support and be flexible, yet also be straightforward.

There are several types of plans in San José. The *San José 2020 General Plan* is the most comprehensive in terms of the geographic area covered. It contains policies for the entire City. Specific Plans, sometimes called "master plans," contain greater detail because they concern a much smaller area, usually a neighborhood. While general plans and specific plans are the most common plan types, other plans are developed for specialized purposes, such as the *San José Public Library Branch Facilities Plan* and the Strong Neighborhoods Initiative Improvement Plans.

Decision Makers

The development of a plan involves a partnership between City staff, the public, and elected officials. However, decision makers actually adopt the plans; and in doing so, the plans take legal effect. Decision makers are also responsible for implementing, then enforcing plans through the adoption of codes and the issuance of development permits. The City Council is the highest decision-making authority within City government; it adopts plans, sets policy direction, and reviews all legislative items (such as the rezoning of property and General Plan amendments, as discussed in Sections 1-2 and 1-3) after City staff and the Planning Commission have made recommendations.

The Planning Commission, a seven-member body appointed by the City Council, meets twice a month to review proposed development projects, Zoning Ordinance changes, and new plans or plan amendments. The Planning Commission makes recommendations on most items to the City Council. However, it is authorized to approve

certain types of permits without Council approval. The City Council is the final decision maker on appeals of Planning Commission decisions.

The Director of Planning, Building and Code Enforcement oversees the planning process in San José. The Director is a City staff member and received authority from the City Council to issue certain types of development permits, generally for smaller scale, routine projects.

City Council, Planning Commission, and Director's hearings are open to the public. An agenda is available at least 72 hours prior to the meeting that informs the public of the issues under consideration. The public is welcome to attend and comment on any of the issues under discussion. Agendas are posted on the City's website and on the information board at City Hall.

San José has other specialized commissions that function in a manner and serve a purpose similar to the Planning Commission. These include the Parks and Recreation Commission, the Historic Landmarks Commission, the Library Commission, and the Airport Commission. The actual scope of responsibilities varies for each commission, but they function primarily in an advisory capacity. The San José city website (http://www.sanjoseca.gov) has a complete list of commissions and their descriptions.

Community Participation

There are many opportunities for community members to be involved in the planning process in San José. (Recently-submitted and pending projects are posted on the Planning website, and project files are available for review at the Public Information Counter.) For example, community meetings are one opportunity for residents to participate in planning efforts, such as General Plan amendments and updates. In addition, public hearings are held during the later stages of the project review process. Residents and other stakeholders are encouraged to attend and provide input at these hearings, held mostly before the Planning Commission and the City Council.

Residents can take a proactive approach to participation by checking the Department of Planning, Building, and Code Enforcement website for information on current projects and by calling the Public Information Counter with questions. Joining neighborhood groups is another way for residents to stay informed about planning issues that affect their communities.

Relevant Departments and Government Agencies

The Department of Planning, Building, and Code Enforcement (PBCE) is comprised of five divisions. The Planning Services Division administers long-range planning projects, such as the *San José 2020 General Plan*. The Plan Implementation Division processes land development applications in conformance with the City's long-range planning goals. The Building Division reviews new construction projects to ensure they meet health and safety requirements. The Code Enforcement Division enforces various ordinances that promote the health, safety and appearance of existing buildings and neighborhoods. The Administrative Division manages the budgetary and technology systems for the entire Department.

Several other City departments perform planning-related functions and collaborate with PBCE during the planning process. These include the Redevelopment Agency, the Department of Housing, the Department of Parks, Recreation, and Neighborhood Services, the Department of Transportation, the Department of Public Works, the Police and Fire departments, the Office of Economic Development, and the Airport. A complete list of departments and divisions can be found on the City website (http://www.sanjoseca.gov). While the City of San José is responsible for most of the land use decisions within its boundaries, other government agencies have the authority to make decisions that affect the City and its residents. These consist of regional agencies such as the Valley Transportation Authority (VTA), state-level agencies such as Caltrans, and special districts. Special districts perform specialized government functions, often at the regional level, and include school districts, water districts and public utility districts.

Planning-Related Legislation

The California state government has passed several acts of legislation influencing the planning process throughout California. Some of the most influential legislation includes the General Plan requirement, the Zoning Ordinance requirement, the Subdivision Map Act, and the California Environmental Quality Act.

Every city and county is required to have a general plan and a zoning ordinance. The zoning ordinance implements general plan policies because it specifies the land uses permitted on each parcel of property. Furthermore, it details the development requirements and restrictions associated with each zoning designation. These requirements and

restrictions include such details as the maximum height of a building and how far it must be set back from the street.

The Subdivision Map Act, passed in 1907, regulates the subdivision of land. It ensures that only parcels large enough and safe for development are created, and that adequate public services will be provided for new developments.

The protection of environmental resources is essential to the planning process. The National Environmental Policy Act (NEPA) was passed in 1969, and the California Environmental Quality Act (CEQA) was passed the following year. NEPA pertains to projects proposed on federally owned or regulated lands, or funded through federal subsidies. CEQA is applied to all lands in California that are not federally owned.

Under CEQA, discretionary projects require the exercise of judgment or deliberation when a project decision is made. They are distinct from ministerial projects, which involve decisions applying fixed, objective standards with little or no judgment required. Ministerial projects are statutorily exempt from CEQA review.

Most development projects are subject to CEQA review. To determine if your project is categorically or statutorily exempt or if it requires the preparation of an initial study, please contact the Plan Implementation Division.

California Environmental Quality Act (CEQA)

CEQA requires developers to disclose the potential environmental impacts resulting from the construction of a project. This knowledge helps local officials to make informed decisions about whether to permit discretionary projects and, if so, with what conditions and or mitigation measures. A project can take one of three routes:

- It is categorically or statutorily exempt, or it is determined that there is no possibility that the project would have a significant effect on the environment. The California legislature has designated certain types of projects as exempt. This means they are not subject to the CEQA process.

- An initial study is conducted, and a negative declaration or mitigated negative declaration is adopted. This indicates that the study found no significant environmental impacts, or that the impacts can be reduced with mitigation measures. Mitigation measures require that the project be changed in some way to ensure that significant environmental impacts are reduced to a less-than-significant level.

- An initial study is prepared and determines that the project, without mitigation, may have a significant effect on the environment, and preparation of an environmental impact report (EIR) is required. This is the least common outcome and typically required for large-scale projects with potentially significant adverse impacts. An EIR is a comprehensive document, disclosing possible environmental impacts in great

i An **EIR** is a detailed informational document that analyzes a project's potentially significant environmental effects and identifies mitigation measures and reasonable alternatives to avoid the significant effects.

A **negative declaration** is a written statement that explains why a project will not have a significant environmental effect.

A **mitigated negative declaration** is a written statement that explains why a project will not have a significant environmental effect upon completion of specified mitigating measures.

detail. It covers environmental topics such as air pollution, noise pollution, traffic impacts, and the destruction of natural habitats. The EIR also must include alternatives to the original project, as well as mitigation measures that will minimize the environmental effects of the project. Even if there are significant adverse environmental impacts created by a project, the City Council may adopt a statement of overriding considerations if economic or other benefits outweigh the negative impacts.

i The ***San José 2020 General Plan*** is a comprehensive, long-term plan to guide future development and growth in San José. It is the City's single most important planning document.

The CEQA process is designed to encourage input from the public. Before final approval of a planning application, every CEQA project goes through a comment period, during which members of the public can express their opinions about the project's potential environmental impacts. These comments become part of the public record, and decision makers consider them when reviewing a project. In addition, EIR scoping meetings will be held for projects with statewide, regional, or areawide significance.

When the City reviews a project for CEQA compliance, it is determining if the project will or will not have significant environmental effects in the following subject areas: aesthetics, agricultural resources, air quality, biological resources, cultural resources, geology/soils, hazards and hazardous materials, hydrology/water quality, population/housing, public services, recreation, transportation/traffic, and utilities/service systems.

1-2. The General Plan

Overview and Legal Basis

All cities and counties in California are required under state law to prepare and adopt a General Plan that contains a set of broad policy statements for future development. The General Plan must address specific requirements and cover certain subject areas contained in state law. The strength of the General Plan is such that the California Supreme Court held that the General Plan is the "constitution for all future developments," to which any local decision affecting land use and development must conform. The *San José 2020 General Plan* is a comprehensive, long-term plan to guide future development and growth in San José through 2020. It is the City's single most important planning document.

A Community Guide

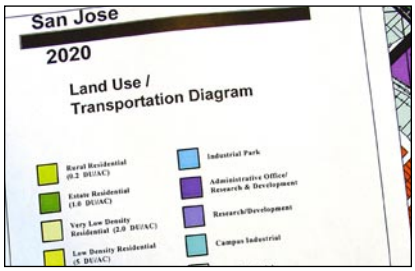
Purpose

The *San José 2020 General Plan* is the City's official policy statement concerning its future character, land use patterns, and quality of development. The *General Plan* describes the amount, type, and phasing of development needed to achieve the City's social, economic, and environmental goals. It addresses a wide variety of development issues, including housing, traffic, natural resources, land uses, and public safety. The *General Plan* functions as a valuable decision-making tool by providing the policy framework for all land use and capital expenditure decisions made by the City. City staff, the Planning Commission, and the City Council use it on a daily basis to evaluate every development project that is submitted for approval.

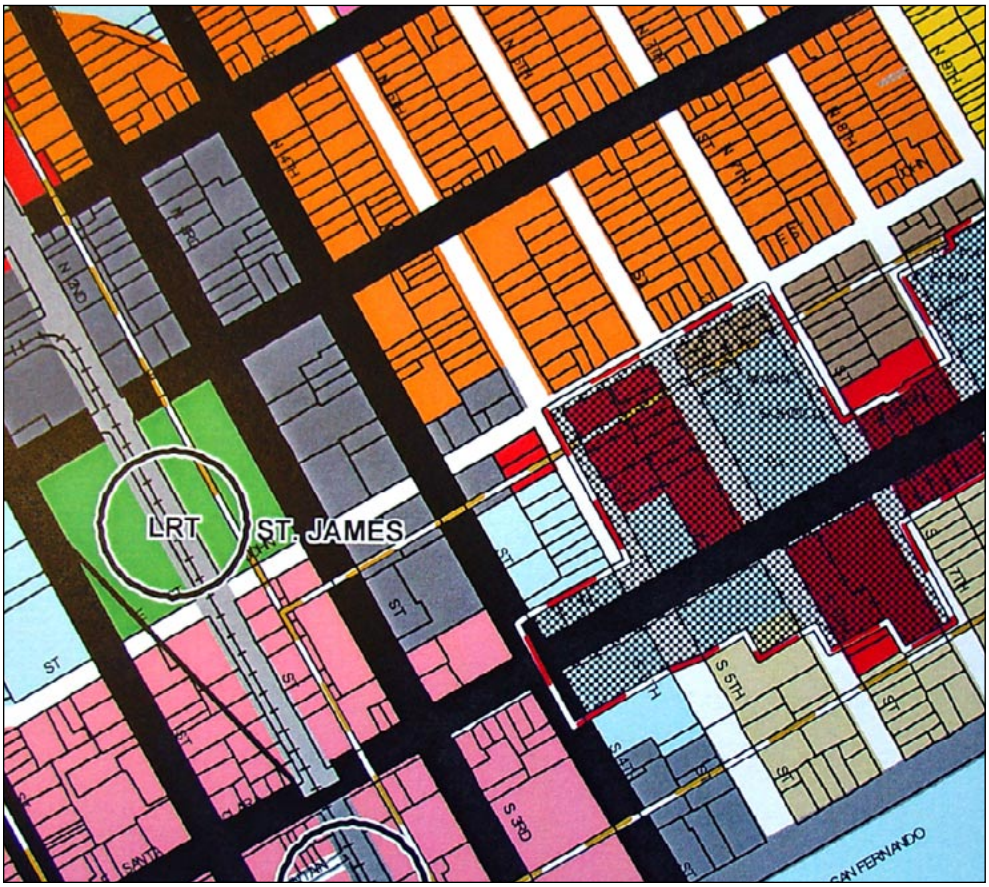
Urban services *refer to services such as police and fire protection, sewage treatment, water supply, and road maintenance.*

The *San José 2020 General Plan* was adopted in 1994; it is a comprehensive update to previous General Plans and looks out to the year 2020. Although there is no requirement that the *General Plan* be updated at a specific time (except for the housing element), the City is required to periodically review and revise the *General Plan* as necessary to keep it current. Previous plans include *General Plan 1990*, adopted in 1975, and *Horizon 2000*, adopted in 1984.

The close-up view of the General Plan's *Land Use/Transportation Diagram shows the land use designations of individual parcels. Each designation has a unique color that is described in the legend (above and below).*



The ***Land Use/Transportation Diagram*** *is available for viewing on the San José city website. The official copy of the Diagram is available for viewing at the Department of Planning, Building, and Code Enforcement.*



Planning in San José

The *General Plan* is intended to be used by all community members and to serve as a valuable community resource. It gives City staff, developers, property owners, the public, and decision makers an idea of what is important to the people of San José and how and where development should or should not occur.

The Land Use/Transportation Diagram, a key component of the *General Plan,* provides a geographic reference and spatial context to the *General Plan's* major strategies, goals, and policies. It shows designated land uses, such as general commercial and low-density residential, and illustrates the strong link between land uses and the transportation network.

Components

The three major components of the *General Plan* are the major strategies that establish the basic structure for planning, the Land Use/Transportation Diagram, and the goals and policies. The seven strategies, which establish the basic structure for planning in San José, are listed below:

- ***Economic Development:*** Maximizes the economic potential of the City's land resources and employment opportunities for San José's residents.
- ***Growth Management:*** Addresses the need to balance the urban-services demand of new development with the need to balance the City's budget.
- ***Downtown Revitalization:*** Emphasizes the importance of a prominent and attractive downtown as a catalyst that brings new investment, residents, businesses, and visitors to the heart of the City.
- ***Urban Conservation and Preservation:*** Underscores the importance of protecting and enhancing San José's neighborhoods and historic resources to promote community identity and pride.
- ***Greenline:*** Seeks to preserve land that protects water, habitat, and agricultural resources and/or offers recreational opportunities, as well as to preserve the scenic backdrop of the hillsides surrounding San José.
- ***Housing:*** Strives to provide a variety of housing opportunities to meet the needs of all segments of the community.
- ***Sustainable City:*** Promotes the identification, management and conservation of resources for present and future

generations.

Amendment Process

Periodic amendments to the *General Plan* are necessary to keep it relevant and reflective of current conditions and needs. Amendments must follow specific procedures set forth in state law, and they may be approved by the City Council up to four times per year.

The Planning Services Division processes applications for *General Plan* amendments, which generally require several months each. Amendments must undergo environmental review as required by the California Environmental Quality Act (CEQA). If preparation of an environmental impact report (EIR) is required, the review process potentially could take several more months. Applications for amendments are scheduled for the next available *General Plan* public hearing cycle for which the amendment would qualify, based on completion of environmental review and all other required aspects of City review.

The majority of *General Plan* amendments are initiated to allow a change in the land use designation that supports a proposed development project. Proposed land use designation changes (e.g. from commercial to residential or *vice versa*) are evaluated for their compatibility with surrounding land uses and their consistency with the major strategies, goals, and policies of the *General Plan*.

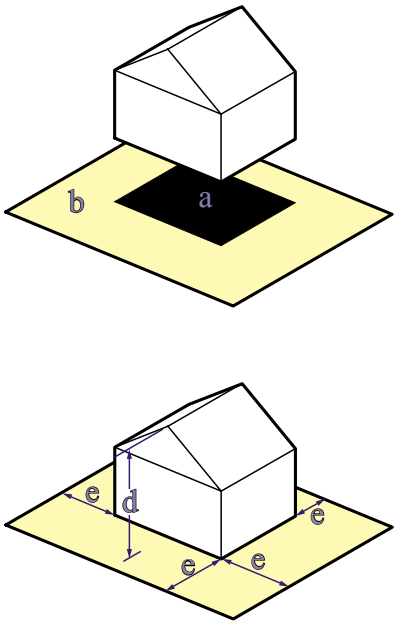
Community meetings for the proposed amendments typically are held near the project site. Taking community input into consideration, City staff forwards a recommendation to the Planning Commission, which holds a public hearing and listens to public comments before making its own recommendation on the proposed amendment to the City Council. The Council also conducts a public hearing and considers public testimony before making its final decision concerning the amendment.

1-3. Tools for Implementing the General Plan

Zoning

Overview and Legal Basis

While the *General Plan* sets the broad parameters for growth and



The building envelope specifies height limits (d), and setbacks (e), as well as the percentage of a site that may be covered by buildings (a/b).

establishes future land use patterns, zoning is the way in which the City establishes the use and development standards of property. A Zoning Ordinance is the local law that defines the allowable uses and development standards for each property within the community. Zoning provides the legal and enforceable land use regulations to carry out the policies set forth in the City's *General Plan*. State law permits the City to regulate the height, location, or size of buildings and the uses to which buildings and land may be put.

Purpose

Zoning ensures that land is used in a manner that best serves the health, safety, and general welfare of the entire community. Zoning separates land uses that are incompatible with each other. It does this by limiting industrial, commercial, and residential development to specified areas or zones; these zoning districts (e.g. single-family residential, multi-family residential, commercial, industrial) indicate the type of development that may be built on all parcels within each district. Zoning also regulates the intensity of such uses, the setbacks of structures from property lines, the height, and the bulk of buildings permitted on a site.

Amendment Process

In order to permit a project that conforms to the *General Plan* land use designation, but not to the zoning district, the City must change the zoning classification on the parcel of land in question. There are two types of amendments to Zoning Ordinances: (1) reclassification of the zoning of a specific property, commonly called "rezoning"; and (2) changes in the permitted uses or regulations on property within

*The **Zoning Diagram** is available for viewing on the City website (http://www.sanjoseca.gov). The official copy of the diagram can be viewed by the public at the Public Information Counter.*

particular zones or citywide, commonly called "Zoning Ordinance changes." Each proposed rezoning is reviewed for consistency with the property's *General Plan* designation. All zone changes must be approved by the City Council after a public hearing and are subject to initiative and referendum.

The Specific Plan brochures are available for viewing on the San José website (http://www.sanjoseca.gov/planning). Paper copies of the brochures are also available at the Department of Planning, Building, and Code Enforcement.

Specific Plans

Overview and Legal Basis

Because the *General Plan* is a broad policy document that applies to the entire City, more detailed plans for small geographic areas often are needed to help further the goals of the *General Plan*. These plans are known as "Specific Plans." While a range of issues may be addressed in Specific Plans, they must comply with explicit requirements imposed by state law and be consistent with the major strategies, goals, and policies of the *General Plan*. Specific Plans also must be developed in compliance with an adopted City Council policy and the ordinance on Specific Plans.

Purpose

The purpose of a Specific Plan is to provide detailed direction for development in a defined geographic area, from the type, location, and intensity of uses to the design and capacity of infrastructure. The plan addresses future public facilities needed to support development, standards, and criteria for future development, as well as a program of implementation measures. Like the *General Plan*, all development projects, Public Works projects, and zoning designations must be consistent with an adopted Specific Plan.

Community involvement is very important in the development of the plan. The preparation, adoption, and amendment process for Specific Plans is similar to that for the *General Plan,* with community outreach and public hearings to allow the public to provide comments to the Planning Commission and the City Council.

Current Adopted Specific Plans

San José currently has eight adopted Specific Plans. These plans all define housing development opportunities in strategic locations throughout San José:

- Evergreen Specific Plan
- Communications Hill Specific Plan
- Midtown Specific Plan
- Jackson-Taylor Residential Strategy

- Tamien Station Area Specific Plan
- Rincon South Specific Plan
- Alviso Master Plan
- Martha Gardens Specific Plan

Amendment Process

Amendments to Specific Plans are necessary to keep the plans current and to respond to changing conditions or issues that were not anticipated at the time of preparation. Specific Plans may be amended through a process similar to the *General Plan* amendment process. Because changes to Specific Plans typically require corresponding changes to the *General Plan* text and the Land Use/Transportation Diagram, they are processed four times a year, along with other *General Plan* amendments. Most amendments consist of changes in conjunction with proposed development projects.

Before amendments are adopted, community meetings are held to gather public input. The Planning Commission reviews the applications at a public hearing and makes a recommendation to the City Council. A final decision on the amendment is made by the City Council at a public hearing.

The restored historic Jose Theater with its new signage

Financial incentives are available to an owner of a City Landmark.
The owner of a City Landmark can receive a reduced property tax rate for agreeing to maintain its landmark status. Property owners of individual City Landmarks may apply for a Historic Property Contract with the Historic Preservation Officer.

Other Tools

In addition to the Zoning Ordinance, the City uses other tools to implement the *General Plan;* these tools are discussed below:

Council Policies

The City Council is authorized by the San José City Charter and the California Constitution to formulate citywide policies. Policies provide further guidance for land use and development, but allow for more flexibility in their implementation than ordinances. The City Council can adopt policies concerning land use issues after a public hearing.

Historic Preservation Ordinance

Historic preservation is a tool to conserve structures, sites, and objects from San José's past. The *San José 2020 General Plan* contains policies that encourage historic preservation. The City's Historic Preservation Ordinance, adopted in 1975, helps to create a unique environment and a sense of place in San José. The ordinance establishes a Historic Landmarks Commission and details specific procedures for the review of historic sites.

The Historic Landmarks Commission is a seven-member advisory

body appointed by the City Council. This Commission maintains the Historic Resources Inventory, adding and deleting properties as appropriate. The Historic Resources Inventory lists structures, sites, and districts that have varying degrees of historic significance. The Commission also makes a number of recommendations: to the City Council on proposed City Landmarks, and to the Planning Director on Historic Preservation Permits and other proposals that may affect historic structures, sites, or objects.

Subdivision Ordinance

California's Subdivision Map Act governs any subdivision of land for the purpose of sale, lease or finance. All cities must adopt an ordinance regulating and controlling subdivisions. All subdivisions must conform to the Zoning Ordinance and the *General Plan*. No new lot line may create a violation of setbacks, minimum lot size, frontage requirements, or other Zoning Ordinance or *General Plan* standard.

The Alameda retail corridor

Sign Ordinance

San José's Sign Ordinance, Title 23 of the Municipal Code, promotes attractive signage, facilitates traffic safety, promotes commerce, and addresses aesthetic concerns about visual clutter and blight in the environment. The regulation of signs in the City is intended to promote an aesthetically pleasing environment with these concerns in mind. Signs must be consistent with land use patterns and building design, be well maintained and cannot create safety hazards.

Amendments to the Sign Ordinance must be approved by the City Council following a public hearing.

Park Ordinances

The Park Impact Ordinance and the Parkland Dedication Ordinance are laws enacted by the City Council to help provide neighborhood park and recreation facilities to meet the needs generated by residents of new housing units. Copies of the current ordinances and park fee schedule are available at the office of the Department of Parks, Recreation, and Neighborhood Services' Community Development Division (telephone: 408-277-4661).

The ordinances require all residential developers and residential subdivisions to dedicate land or pay in-lieu fees for a net increase in residential units. The standard for land dedication or payment of in-lieu fees is intended to provide three acres of parkland (or an equivalent value of improvements to existing parks) per 1,000 new residents.

Land Use and Development

San José's land use planning and development approval process encourages development or improvement of land and structures in accordance with the major strategies, goals, and policies of the *General Plan*. It also ensures that projects conform to all relevant state and local regulations and policies. Finally, it provides opportunities for community participation in land use and development decisions.

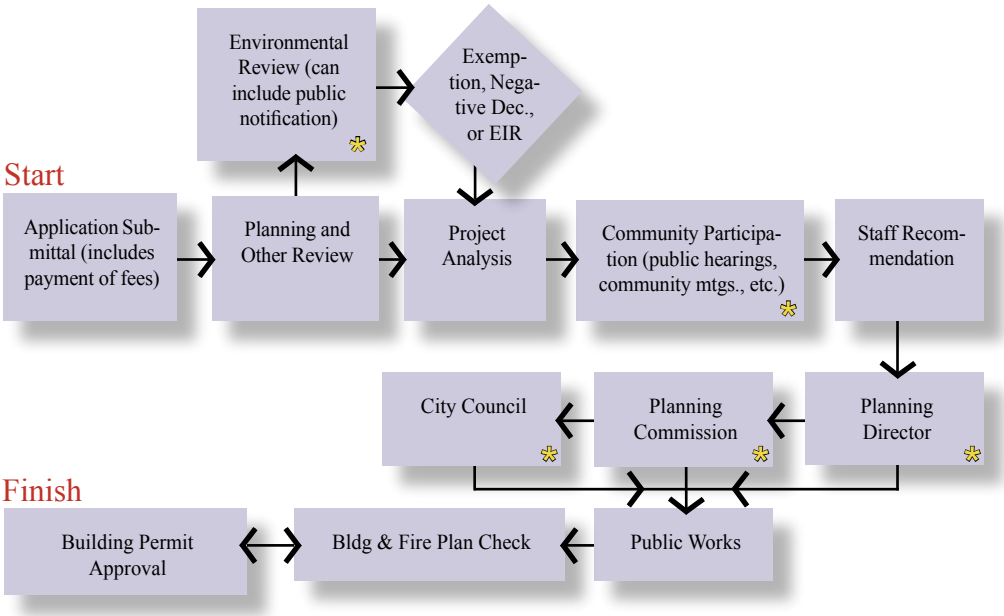
A wide range of both private and public projects are included in this process. Examples include smaller projects, such as improvements to the exterior of a house, and larger projects, such as the development of a new housing tract, a shopping center, an industrial area, a public facility, or a park.

This section of the *Guide* provides an overview of the land use planning and development process. It is intended for use by those working on their own projects, as well as for those who are interested in participating in planinng decisions in their community.

Process Steps

Project review is an essential part of the land use and development process. The chart below gives a basic description of the steps involved. It is important to note that not every project will involve all of the

i Please also refer to the "Additional Resources" section of this guide (Section 3) for information on neighborhood groups, Planning Commission and City Council meetings, and steps for effective meeting participation.



* *Opportunity for community participation*

Land Use and Development Review Process Overview

steps.

For More Information

This section of the *Guide* is intended to give only a broad overview of the land use and development process; always check with those staffing the Public Information Counter if you have questions about a specific project or are considering any changes to your property (telephone: 408-277-4576). Before visiting the Counter in person, one can call to confirm location and hours of operation.

i For more information on the planning process, specific projects, or property information, contact the Public Information Counter (telephone: 408-277-4576).

In addition to responding to in-person and telephone inquires, the Department of Planning, Building, and Code Enforcement maintains a website that includes information about the land use and development process (http://www.sanjoseca.gov/planning). Some of the information available on the website includes:

- Lists of recently submitted and pending project applications;
- *General Plan* and zoning information for parcels;
- Downloadable versions of application forms; and
- The fee schedule for application filing fees and Public Works review.

Land Use and Development Permits

There are several dozen applications processed by the Department of Planning, Building, and Code Enforcement for various types of land use and development requests. Generally these requests fall within three different land use action categories: ministerial permits, discretionary minor permits and discretionary major permits.

i It is also wise, when buying property or a building, to review the permit history with staff at the Planning Public Information Counter.

A ***ministerial action*** is when a decision maker, such as a City staff member or a public official, applies the law to the facts as presented, but uses little or no personal judgment in the decision process. Ministerial actions include the review of building permits and business licenses.

A ***discretionary action*** is when a decision maker, such as a City staff member or a public official, can use his or her judgment in deciding whether and how to carry out or approve a project. Only discretionary actions (decisions) can be appealed. Discretionary actions can be divided into two types of permits:

- *Minor permits* are often issued for smaller projects or projects located in developed areas. Typically, these applications require no public hearing.

The new San José Civic Center on Santa Clara Street is an example of a project requiring a major permit and CEQA review.

ℹ Depending on the level and extent of environmental review, the application may have to go to a higher hearing body for consideration. Discuss the required level of public hearing with a planner for each project.

ℹ A copy of City Council Policy 6-30, the *Public Outreach Policy*, can be found on the City's website, or a copy can be obtained from the City Clerk's office.

- *Major permits* are for more complex projects with a broader geographic interest to the public. These permit applications involve a more extensive level of analysis and require a public hearing.

2-1. Major Permits

The following is a summary of the typical major permit application process. Most of the steps are applicable to each type of major application; however, both the CEQA process and the public hearing process may vary a little, depending upon project type. Consult with the Planning staff to determine which process would be applicable to your project.

1. Preliminary Review (Optional)

Before the applicant files the application, a preliminary review is recommended for most projects. A project manager will review the proposal and can point out many of the potential problems that may affect or delay the application, as well as provide other useful information to the applicant. Preliminary review is a voluntary step that allows a proposed project to be reviewed prior to going through the formal application process. A preliminary review allows the applicant to become familiar with the City's codes, policies and development review processes and how they will affect the project. Preliminary review also can help reduce the time and money spent on revising plans to meet City standards before going to a public hearing.

2. Application Filed by Applicant

The applicant files a formal application and pays the necessary fees. For most applications, a well-drawn set of plans is necessary as part of the application submittal in order for the formal review process to

	Preliminary Review (Optional)	Application Filed by Applicant	City Staff Review	Environmental Review (CEQA)	Notice of Public Hearing	Director's Public Hearing	Planning Commission Public Hearing	City Council Public Hearing	Building, Public Works or Other Permits
Annexation & Pre-Zoning	X	X	X	X	X	N/A	X	X	May Be Required
Rezoning	X	X	X	X	X	N/A	X	X	May Be Required
Zoning Protest	N/A	X	X	X	X	N/A	N/A	X	May Be Required
Planned Development Permit	X	X	X	X	X	X	Decision May Be Appealed to Planning Commission	N/A	May Be Required
Site Development Permit	X	X	X	X	X	X	Decision May Be Appealed to Planing Commission	N/A	May Be Required
Conditional Use Permit	X	X	X	X	X	N/A	X	Decision May Be Appealed to City Council	May Be Required
Development Variance	X	X	X	X	X	X	Decision May Be Appealed to Planning Commission	N/A	May Be Required

Major Permits Matrix

begin. All newly-filed applications are posted on the Department's website and are available for public review

3. City Staff Review
The application is reviewed by the Department of Planning, Building, and Code Enforcement. Other City departments (which may include Police, Fire, Public Works, and Transportation) and outside agencies (e.g. Caltrans, the Valley Transportation Authority, and the Santa Clara Valley Water District) also review the project application for compliance with health and safety standards.

4. Environmental Review (CEQA)
Besides meeting *General Plan* policies and development standards, most projects must receive an environmental clearance. State law requires a separate assessment of every project's environmental impacts through the environmental review process. Applications for environmental review must therefore accompany each major application request. Both forms can be obtained from the Department of Planning, Building, and Code Enforcement.

5. Notice of Public Hearing/Public Input
Once the review process is completed, the applications are set for hearing. All major permits require an open hearing that allows the public to provide input. Please refer to City Council Policy 6-30, the *Public Outreach Policy*, for a full description of the City's public notification procedures. Generally, a notice of the public hearing is sent to all property owners and residents within 500 feet of the project site. (A smaller or larger radius may be used, depending upon the project type and/or scale.) The public notice will provide a brief description of the project, the project address, the project contact, and the date of the public hearing. This provides the public an opportunity to learn about the project, to provide input, and to participate in the public hearing process.

6. Director's Public Hearing (Decision Maker)
Some major permit applications are forwarded with recommendations from City staff to the Director of Planning, Building, and Code Enforcement for a decision. The Director conducts a public hearing to receive input from members of the community prior to issuing a decision. The Director's decision is subject to appeal to the Planning Commission.

7. Planning Commission Public Hearing (Decision Maker)
For some major permits, the Department of Planning, Building,

and Code Enforcement forwards a recommendation to the Planning Commission that is based upon a review of the project for conformance to the *General Plan* and other related laws and regulations. The Planning Commission's public hearing provides the applicant and neighboring residents an additional opportunity to voice their opinions. The Commission acts upon conditional use permits, environmental impact reports, and appeals of Planning Director decisions. The Commission also provides a recommendation on rezoning and *General Plan* amendment applications to the City Council, as well as on proposed Zoning Ordinance changes.

8. City Council Public Hearing (Decision Maker)
The City Council makes the final decision on legislative acts such as rezoning or *General Plan* amendments. The City Council's public hearing provides the applicant and neighboring residents an opportunity to voice further opinions. The City Council approves the project with conditions of approval or denies the project.

9. Other Permits and Fees
The Department of Planning, Building, and Code Enforcement may require additional permits and fees, including improvement fees and any required by Public Works and the Building Division.

Permit Appeal

Once a decision has been made by a decision maker, it may be appealed to the next hearing body level. Only discretionary actions (decisions) can be appealed. If the final decision is made at the City Council level, there is no appeal process.

i For more information on the permit appeal process, contact the Public Information Counter (telephone: 408-277-4576).

1. Qualifications for Appeal: The applicant, or any property owner or tenant of a property within 1,000 feet of the subject site, may appeal a development permit, development variance, use permit, or a development exception. For a Tree Removal Permit, property owners or tenants/occupants of the subject site, or property owners or tenants/occupants of properties immediately adjacent or across the street from the subject site, may appeal. For tentative subdivision maps, the subdivider or any interested party may appeal.

2. Notice of Permit Appeal Submitted by Appellant to the City: A complete Notice of Permit Appeal must be filed on or before ten calendar days after a copy of the initial decision by the Planning Director or the Planning Commission has been mailed to the applicant.

3. Planning Staff Review: The Permit appeal is reviewed for completeness, and a public hearing date is set. City staff prepare a recommendation for the appropriate decision-making body.

4. Planning Commission Public Hearing (Decision Maker): If a decision by the Planning Director is appealed, the Planning Commission would consider and act upon the appeal. The Planning Commission's public hearing provides the applicant and neighboring residents an opportunity to voice their opinions. If the appeal is denied, the decision is final. If the appeal is granted, the decision shall be effective immediately.

5. City Council Public Hearing (Decision Maker): If a decision by the Planning Commission is appealed, the City Council would consider and act upon the appeal. The City Council's public hearing provides the applicant and neighboring residents an opportunity to voice their opinions. If the appeal is denied, the decision is final. If the appeal is granted, the decision shall be effective immediately.

Examples of Major Permits and Processes

Depending on the project type, one or more of the following permits and/or processes may be required:

Annexation and Pre-Zoning: Annexation is the process of incorporating land from other jurisdictions (typically, the County of Santa Clara) into the City of San José. Land may be annexed to the City if it is inside the Urban Service Area and within 300 feet of City boundaries, as measured along a public right-of-way. When land is annexed to the City, it is detached from special districts, such as fire or sanitation districts. Approval for the annexation of unincorporated property outside the Urban Service Area must first receive approval from the Local Agency Formation Commission (LAFCO). A reorganization (annexation) petition, which includes a grant deed, a legal description and an associated map is required.

__LAFCO__ is the Local Agency Formation Commission, which state legislation empowers to govern changes in the boundaries and organization of cities and special districts.

The __Urban Service Area__ is the area in the City where urban services are, or will be, available to serve urban development.

Typically a pre-zoning application is also required. Pre-zoning is a procedure that establishes zoning for a parcel prior to its annexation. A prezone does not become effective until the property is annexed to the City of San José.

Staff at Public Information Counter are able to disclose a property's present *General Plan* designation by looking up the property address

or the county Assessor's Parcel Number (APN).

Rezoning: A property's zoning designation can be changed to an established, conventional zoning district or through the Planned Development (PD) rezoning process. Frequently, proposals for rezoning involve projects that are complex or that require specific land use controls to ensure compatible development. In these cases, a Planned Development zoning may be required. Each PD zoning district is separate and unique. This allows the zoning to be fine-tuned to the particular characteristics of each property and neighborhood.

The rezoning process requires several public hearings that include input from the community. A typical rezoning that already conforms to the *General Plan* does not have to go to the Planning Commission for consideration, only to the City Council. Planned Development zonings are required to go to both the Planning Commission and the City Council. Before an applicant considers rezoning a property, he or she should contact the Department of Planning, Building and Code Enforcement to see if the zoning request is consistent with the property's *General Plan* designation. If it is inconsistent, the City will not approve the zoning application unless the *General Plan* designation first is amended.

Property normally is zoned upon petition to Planning, Building, and Code Enforcement by private property owners. Occasionally, the City Council or the Planning Director will initiate a rezoning of property when a zoning district is out of context with the neighborhood land use pattern and the *General Plan* land use designation.

Zoning Protest: The Zoning Ordinance establishes procedures for zoning protests. Any property owner within the protest line (the boundaries of the site that is being rezoned) can protest a rezoning. However, a majority of property owners along the protest line must file a protest for it to proceed. Please see the application for filing a zoning protest on the City's website and check the zoning ordinance for more details.

Site Development Permits: The San José Municipal Code specifies land development requirements for each zoning district. Site Development Permits are land development permits issued for all zoning districts other than a Planned Development (PD). Their purpose is to make sure that each project conforms to the Zoning Ordinance and City policy. There are separate design guidelines for industrial, commercial and residential developments.

A Site Development Permit is required to construct, enlarge, or install a building or a structure. Any exterior alteration, pavement of a lot, or underground installation requires a permit. A Site Development Permit amendment allows for the amendment of an existing Site Development Permit.

The Site Development Permit process, including a public hearing by the Director of Planning, Building, and Code Enforcement, allows the City to review the proposed project and ensure that the proposed project is functionally and architecturally compatible with adjacent structures, as well as to place conditions on the permit that would enhance the project and reduce any effects on surrounding properties. The permit process also allows the public an opportunity to voice their opinions about the proposed project.

Planned Development Permits: For development within a Planned Development zoning district, a Planned Development Permit is necessary to implement the zoning and to allow the issuance of Public Works clearance and Building Permits. The Planned Development Permit application process, similar to the Site Development Permit process, reviews the proposed project's site planning, building design, landscaping, circulation, signage, and other development requirements. Planned Development Permit applications require a public hearing by the Director of Planning, Building, and Code Enforcement.

Conditional Use Permit: San José is divided into three basic types of zoning districts: residential, commercial and industrial. The Municipal Code specifies uses and conditional uses allowed in each zoning district. Conditionally-allowed uses require a property owner to obtain a Conditional Use Permit from the City before that use can occur on the property.

The Conditional Use Permit process allows the City to review the proposed use and determine whether the site is appropriate for that type of activity, as well as to place conditions on the use that would enhance the project and reduce any possible negative effects on surrounding properties. It also allows members of the public an opportunity to voice their opinions about the proposed use. Conditional Use Permits require a public hearing by the Planning Commission.

Check the City's zoning under specific zoning districts or contact the Public Information Counter of the Department of Planning, Building,

The main objective of Site Development Permits is to ensure that the proposed project is functionally and architecturally compatible with adjacent structures.

Site Design: *Addresses yard size, garages, parking, circulation, driveways, building setbacks, and landscaping*

Building Design: *Addresses architecture, materials, building height, bulk, and size*

Public Improvements: *Addresses public sidewalks, curbs, gutters, and sewers*

Minor alterations to a detached single-family home does not require issuance of a Site Development Permit, but may require a Single-Family House Permit.

Conditional uses are only allowed with the approval of a Conditional Use Permit. Typical examples include:

- *Churches/religious assembly*
- *Drinking establishments*
- *Drive-up businesses*
- *Emergency shelters*
- *Entertainment establishments*
- *Operations past midnight*
- *Residential service/care facilities*
- *Utilities*
- *Wrecking yards*

A project site must be able to accommodate both the proposed use and the proposed facility. The Conditional Use Permit process will review the adequacy of the following:

- *Parking*
- *Building size*
- *Noise level*
- *Landscaping*
- *Hours of operation*
- *Building placement*
- *Access to streets and utilities*
- *Traffic generation*
- *Expiration date of permit*

and Code Enforcement to find out if a project requires a Conditional Use Permit.

i Properties located within Planned Development zoning districts (PD) are not eligible for development variances. The PD zoning allows for certain deviations from the Municipal Code requirements.

Development Variances: A development variance allows for an exception when the strict application of the zoning standards would result in a hardship because of the unique characteristics of the property that are not present on the surrounding properties within the same zoning district. The development variance procedure allows the City to review the unusual or unique circumstances of a property, such as an irregular lot shape, that may justify granting the variance. It also gives members of the public an opportunity to voice their opinions on the project at a public hearing. Variance applications require a public hearing by the Director of Planning, Building, and Code Enforcement.

2-2. Minor Permits

A number of minor land use permits are routinely handled at staff level, although some do require public hearings. Minor development applications do not require an appointment for submittal.

Minor Permit and Service Process

1. Application Filed by Applicant
An applicant may apply by submitting the appropriate applications and fees at the Public Information Counter.

2. City Staff Review (Decision Maker)
The application is reviewed by Department of Planning, Building, and Code Enforcement. Other City departments also review the application for compliance with health and safety standards. The Planning Director makes the decision and can approve, conditionally approve, or deny the permit.

3. Appeal Process
While there is no appeal process for most of these permits and services, the decision of the Planning Director occasionally may be appealed to the Planning Commission. Check with the Department for exceptions.

4. Other Permits and Fees

Other permits and fees may be required; check with the Department of Planning, Building, and Code Enforcement.

Examples of Minor Permits and Services

Depending on the project type, one or more of the following types of permits and processes may be required:

Alcoholic Beverage Control (ABC) License Verification: This application is a zoning affidavit for properties requiring proof of zoning to the California Department of Alcoholic Beverage Control in order to sell liquor.

Basic Zoning and* General Plan*/Massage/Reconstruction of Legal Nonconforming Use Letter Application: This application is used for several purposes. An applicant can request a letter that verifies the zoning and *General Plan* designations for a property or confirms that a special use is legally nonconforming. This verification often is required by lenders. This application also is necessary in determining whether massage uses are permitted on a particular property.

Comprehensive Research Letters (CRL): This application is to request comprehensive planning research for a specific property or properties.

Department of Motor Vehicles (DMV) Verification: This application provides conformation of zoning status for the California Department of Motor Vehicles as to what type of auto use (sales, type of vehicle, etc.) is allowed on a specific property.

Historic Landmark Nomination Form: This application requests the nomination of a property for Historic Landmark status.

Historic Preservation Permit: This application is a request for any exterior work to be performed either on a designated City Landmark or in a City Historic District.

Legal Nonconforming (LNC) Verification: This application is to provide a letter of proof by PBCE of legal nonconforming verification.

Liquor License Exception Permit: An Exception Permit is required for liquor license applicants that have been denied or that may be denied by the Department of Alcoholic Beverage Control (ABC). If

the applicant wishes to request an exception for a determiniation of "public convenience or necessity" by the City, a Liquor License Exception Permit must be submitted, and a public hearing also is required.

Lot Combining: This application requests the combination of two or more properties (lots). This request requires a public hearing.

Lot Line Adjustment: This application requests the adjustment of a property lot line.

Permit Adjustment: This application requests the adjustment of an existing permit for minor changes to the site, building, or conditions.

Power Generation Facility Administrative Permit: This application requests stand-by or backup power generation facilites.

Reasonable Accommodation Process and Request: In conformance with state law, the City strives to provide reasonable accommodation for persons with disabilites in the application of its zoning, laws, polices and processes. An accomodation request will require assessing the reasonableness of the requested accommodation.

Research Request Form: This application is to request research of four or more project files.

Sidewalk Café Permit: This application is a request to allow a sidewalk café in the public right-of-way. Sidewalk regulations are established in the San José Municipal Code to encourage sidewalk cafés and to provide the creation of a more urban pedestrian environment. This request requires a public hearing.

Sign Permit Adjustment: This application is a request to allow an adjustment of an existing sign permit.

Single-Family House Permit: A Single-Family House Permit may be required for new construction or the remodel of a single-family house.

A Single-Family House Permit is required if the house (new construction, remodeling or new addition) meets any of the following criteria:

- If it exceeds 30 feet or two stories in height; or

- If the floor area ratio (FAR) of the house exceeds .45; or
- If the house or site is a designated City Landmark; or
- If it is listed on the City's Historic Resources Inventory; or
- If it is in a Historic District; or
- If it is in a Historic Conservation Area.

If a Single-Family House Permit is not required, the applicant may proceed to the Building Division for Building Permits.

Temporary Trailer Administrative Permit: This application is to allow a trailer, modular unit or other mobile, prefabricated structure of 2,000 square feet or less in floor area for a temporary period up to one year.

Tree Removal Permit: This application is a request to remove a tree on private property having a main stem or trunk which measures fifty-six (56) inches or more in circumference at a height of twenty-four (24) inches above natural grade slope, or to request the removal of a multi-trunk tree with the sum of the circumference of the trunks totaling fifty-six (56) inches or more at a height of twenty-four (24) inches above natural grade slope. This permit application requires a public hearing. This permit does not apply to trees in the public right-of-way (e.g. trees planted between the curbs and the back of the sidewalk). For trees located in the public right-of-way, contact the Department of Transportation (telephone: 408-277-2756).

Utility Structure Administrative Permit: This application is a request to allow a utility structure on a property. A "utility structure" shall mean anything except an antenna or utilitiy pole, which a provider constructs or places at a site, and is attached or affixed to something having a permanent location on or under the ground which is used to provide its services to customers.

Single-Family design guidelines *have been developed for use by homeowners, builders, architects, and other designers to address issues specifically related to neighborhood character and compatibility. These guidelines are available for purchase at the Department of Planning, Building, and Code Enforcement.*

2-3. Subdivisions

Most subdivisions of property require approval from the Department of Planning, Building, and Code Enforcement and/or the Department of Public Works. Subdividers may be required to file one of three maps, depending on the type of subdivision:

Parcel Map: For a simple subdivision into two, three, or four lots; processed by Public Works when a tentative map is not required.

Condominium projects normally are considered subdivisions.

i Check with the Department of Planning, Building, and Code Enforcement to find out which map(s) are required for your project.

Certain subdivisions, such as lot line adjustments and conveyances to and from public entities and public utilities, are exempted from the subdivision map approval requirements.

*A **tentative map** is a map that shows the design and improvement of a proposed subdivision and the existing conditions in and around it.*

Parcel maps, tentative maps, and final maps must be prepared by a licensed land surveyor or a registered civil engineer.

Tentative Map and Parcel Map: For a subdivision into two, three, or four lots when a tentative map is deemed necessary to protect or preserve the public health, safety and welfare. Some examples include:

- A residential condominium project
- A project in a geologic hazard zone or in a state seismic landslide hazard zone
- A project in a Planned Development zone that did not anticipate this subdivision
- A project requiring the preparation of a traffic report

Tentative Map and Final (Tract) Map: For a subdivision into five or more lots.

Parcel Map Approval Process

Parcel map approval is handled by the Department of Public Works and approved by the Director of Public Works.

1. Application Filed by Applicant: An appointment is recommended for a parcel map application submittal. For an application that has not undergone a tentative map approval process, a site plan and a completed Exemption from Environmental Review Application are necessary, in addition to other required documents. Please check http://www.sanjoseca.gov/depts.html under "Public Works" for more information.

2. Technical Review: A City project engineer reviews maps for compliance with tentative map conditions (where applicable), the *General Plan,* the current zoning ordinance, and other planning requirements.

3. City Engineer Approval: Within 20 days of receiving the application, the Director of Public Works will:

- Review the map for conformance with the Map Act, City ordinances, and the tentative map (if required);
- Approve the map; or
- Return the map to the applicant for revision. The applicant returns the revised map to the City Engineer for approval. When acceptable, the City Engineer will approve the map and have it recorded.

Tentative Map Approval Process

Tentative map approval is handled by the Department of Planning, Building, and Code Enforcement and approved by the Planning Director. Processing consists of the following steps (also see the Major Permits Subsection of this guide):

1. Preliminary Review (Optional)
2. Application Filed by Applicant
3. City Staff Review
4. Environmental Review (CEQA)
5. Noticing of Public Hearing/Public Input
6. Planning Director's Public Hearing (Decision Maker)
7. City Council Appeal (If Needed)

i Plan ahead for a tentative map extension. It takes up to eight weeks to process. An expired map cannot be renewed without filing a new tentative map and paying all applicable fees again.

Before submitting the application, the applicant should ensure that the proposed subdivision conforms to existing or proposed *General Plan* and zoning designations and meets the setbacks, minimum lot size, access, frontage and other design requirements. It is also important to obtain necessary approvals and clearance, such as the parkland requirement and geologic hazard clearance.

i For further information on subdivisions, please refer to San José Municipal Code Title 19 or contact the Public Information Counter.

The subdivider can choose to file a vesting tentative map, which is a type of tentative map that grants the right to develop the project based on the regulations and policies in effect when the complete application is accepted. The applicant should consult with the Department for further information.

The Director of Planning, Building, and Code Enforcement approves, conditionally approves, or denies the tentative map based on staff recommendations and input from the public. The Director may deny a tentative map application for the following reasons:

- The tentative map is prohibited by any ordinance, statute, law or other valid regulations;
- The subdivision is likely to cause environmental damage or create serious health and safety problems;
- The site does not provide adequate access, water supply, fire protection, or sewage or drainage facilities;
- The design does not conform to the Zoning Ordinance and the *General Plan* or violates the setbacks, minimum lot size, or frontage requirements,
- The site conflicts with public easements; or
- The tentative map fails to comply with the requirements of San José Subdivision Ordinance or California's Subdivision Map Act.

Tentative Map Validity and Extension: An approved tentative map is valid for 30 months, within which the subdivider must file a parcel map or a final (tract) map with Public Works after the stated conditions are satisfied. An expired map is automatically terminated. The Planning Director may grant a two-year extension that can be extended once for an additional one year. An extension denial may be appealed to the City Council within 15 days.

Final (Tract) Map Approval Process

Final map approval is handled by Public Works and approved by the City Council. Information on the final map approval process is available through the Department of Public Works.

2-4. Building Permits

The Building Division of the Department of Planning, Building, and Code Enforcement oversees private construction for the purpose of protecting the safety of San José's citizens and facilitating the City's economic development objectives. It issues building, plumbing, mechanical, and electrical permits for all private development in the City and makes all related inspections. All permits can be obtained at the Building Division's One-Stop Permit Center.

Most projects require permits before work can begin. However, works that are cosmetic in nature, such as painting and trim work, do not require building permits. Permits or clearance from other departments or agencies may be required.

Although the permit approval process may vary for each project, it generally consists of the following steps:

i To make an appointment for Building Division submittal or plan review, call (408) 277-4541.

1. Building Plan Review
2. Permit Issuance
3. Inspections

Building Plan Review

Applicants can obtain some permits for residential projects with four or fewer units without plan reviews. If no other departmental approvals are necessary, these permits are available:

- Over the Internet, through the Building Division's Permit Online website (http://www.sjpermits.org);

- Through the mail; or
- In person at the Building Division Permit Center. No appointment is necessary.

Appointments are required for most permit application submittals and plan reviews. Some projects may qualify for Express Plan Check. This process is reserved for less complex residential, commercial, and industrial projects. The review takes approximately one hour. At the end of the review, the applicant may receive a permit or a list of required revisions.

There is no statute of limitations on illegal construction. Contact the Building Division to legalize work done without permits.

The Building Division recognizes that it might not always be able to meet applicants' required time demands; therefore, the City allows third-party plan reviews. This service does not substitute for the Division's plan check, but it could expedite the approval process. Applicants must pay plan check fees and submit required plans and documents to the Building Division before submittal to the third-party consultants.

Plan Check Validity and Extension: Plan check applications are valid for 180 days following the date of application and may be extended for an additional 180 days. If a plan is approved, the extension is valid for an additional 180 days from the date of plan approval. If a plan check or plan approval is expired, new sets of plans must be resubmitted and reviewed.

Approvals and Clearance: As part of the review, Building Division staff will coordinate and ensure that applicants have obtained the necessary clearances from Planning, Public Works, Fire, and outside agencies.

Permit Issuance

The Building Division's plan review process results in a set of comments with required corrections. Once all corrections are made, the plans are approved for permit issuance. A permit authorizes the applicant to request the inspection services required to obtain a final approval.

Permit Validity and Extension: A permit is considered expired if no inspection has occurred within 180 days from permit issuance or 180 days from the last inspection approval of any permit associated with the project. The applicant may request a one-time extension of 180 days.

New building construction requires building permits.

i Always call to find out if you need a permit.

Permits that do not require plan review are listed on Handout No. 1-2, "To Obtain a Permit," available from the Permit Center or on the Building Division's website.

i Most plans must be signed by a California registered engineer or architect. Consult the Building Division for exceptions to this regulation.

An authorized representative of the design professional who prepared the plans must be present at the Express Plan Check appointment.

Building Inspections

Applicants must have a valid permit before requesting inspection services. Inspections are necessary to ensure that all of the appropriate codes and structural, zoning, health, safety, and access regulations are met. The Building Division has produced a number of inspection checklists that identify the most common code violations for a variety of projects. Some building projects may require the issuance of a Certificate of Occupancy before the building can be occupied.

2-5. Public Works

Most construction in the City of San José requires approval from the Plan Implementation Division of the Department of Planning, Building, and Code Enforcement. During this approval process, the Department of Public Works reviews all aspects of a project that involve public facilities and affect the public right-of-way (i.e. traffic signals, streets, sewers, overhead utilities, streetlights, backup and median island landscaping). In addition to public facilities, Public Works also reviews on-site grading, erosion control, and conformance with flood and geologic hazard zone requirements. After reviewing the project, Public Works will recommend conditions that should be placed on the Planning permit. Any conditions that are placed on a permit by Public Works must be met before a Building permit will be issued.

Public Works' Role in the Development Process

Development applications are first submitted to the Planning Division, which will automatically forward those applications to Public Works' Development Services Division for review. Development Services Division staff then will review and analyze projects for compliance with, or impacts on, the following list of subject areas:

- Traffic impact analysis (conformance to the City's level of service policy, VTA, and area-wide development policies)
- Geology, grading and drainage, and erosion control requirements
- Flood zone regulations
- Street improvements (such as surface improvements, storm and sanitation, street lights, traffic signals, street trees, and landscaped median islands)
- Private streets (conformance to the Common Interest Development Ordinance)

- Street and easement dedications
- Sewage and land area fees
- Undergrounding of overhead utilities
- Assessment districts
- Roadway geometry

Those aspects of a development application reviewed by Public Works primarily are focused on the existing and proposed public infrastructure necessary to support a proposed project, as well as any grading necessary to develop the site.

i To ensure a quick and effective review of an application, it is important that plans detail all of the public improvements adjacent to the project, as well as the on-site grading needed to develop the site. Generally, the more detailed a plan is, the easier and quicker it is to review.

Permits, Processes, and Fees

Depending on the project and/or the conditions set in the approved Planning permit, the following types of permits, processes, and fees may be needed in order to fulfill Public Works requirements:

i For information on how these regulations, fees, and processes affect a specific project, please contact the Building Division's One-Stop Counter.

Public Improvement Plans and Agreements (also known as major or minor plans): For the construction of public street improvements, including any mitigation identified in the traffic impact analysis report.
Private Street Improvement Plans: For construction of streets/driveways that will be privately maintained by a homeowner's association.
Tract/Parcel Map: Used to subdivide property.
Grading Permit/Erosion Control Plan: Regulates the on-site grading of the project and ensures that the site is protected from erosion during the winter months.
Geologic Hazard Clearance and State's Seismic Hazard Conformance: Ensures that all geologic hazard mitigation requirements are addressed.
Revocable Encroachment Permit: Allows temporary use of, and construction in, public streets.
Public Street or Easement Vacation: Used to abandon public streets or easements.
Private Utility/Trench Permit: Allows private contractors to install facilities on behalf of franchised utility companies, such as cable providers, telephone companies, etc.
Lateral Permit: Allows private contractors to install storm or sanitary sewer lateral connections to a public storm or sanitary sewer main.
Parkland Agreement: Allows the applicant to delay the payment of park fees for up to one year or until the first building permit is issued, whichever comes first.
Notice of Park Fee Payment: Used to notify the Building Division of

the amount of park fees to collect for new residential development.
Flood Elevation Certificate: Ensures buildings/structures constructed in flood hazard zones meet Federal Emergency Management Agency (FEMA) requirements.
Assessment District Creation: Allows a group of private landowners to jointly construct significant public street improvements and infrastructure.

Additional Fees

Public Works also may require the payment of fees for the situations described below:

Arterial Reimbursement Fee: Due if the City used public funds to improve a property's frontage prior to development of the property.
Undergrounding Fee: An in-lieu fee that contributes towards the undergrounding of overhead utilities at a later date.
Sewer Area Fees: Fees collected for the development of storm and sanitary sewer infrastructure.
Sewage Treatment Plant Fee: Collected to purchase capacity at the City's sewage treatment plant. Fee is based on the proposed use of the site.
North San José Deficiency Plan Fee: Due if the project is located in the North San José Deficiency Plan area.
Traffic Signal/Street Improvement Contribution: Collected as a contribution towards the construction of future traffic signals or street improvements (i.e. median islands, road widening).

2-6. Code Enforcement

The Code Enforcement Division of the Department of Planning, Building, and Code Enforcement exists to work with San José residents in regulating and enforcing the City's Municipal Code and land use requirements. By working with residents, the Code Enforcement Division seeks to promote and maintain a safe and desirable living and working environment throughout the City.

Areas of Responsibility

To fulfill its mission of promoting and maintaining a safe and desirable city, the Code Enforcement Division enforces regulations related to the following:

- Conditions of an existing structure that constitute a clear and present danger to the public;
- Building code violations (building, plumbing, electrical, mechanical, etc.), including construction or change of occupancy without permits;
- The San José Municipal Code, Title 17, relating to housing (minimum standards for safe and sanitary housing);
- Zoning Ordinance (Title 20) requirements relating to land use, conformance with Planning permits, removal of unpermitted structures and uses, home occupations, and garage sales;
- Weeds on private or developed property;
- Required swimming pool fences;
- Graffiti;
- Signs, including signs in the public right-of-way, failure to have required permits, illegal inflatable displays, balloons, and pennants;
- Inoperable and abandoned vehicles on public streets and private property;
- Impermissible home auto repairs;
- Abandoned or unsightly personal property on private and public lots (old furniture, car parts, appliances, etc.);
- Lawn parking;
- Early set out of yard trimmings;
- Illegal dumping;
- Smoking in enclosed public places; and
- Water waste.

Enforcement Method

While the Code Enforcement Division seeks to enforce regulations dealing with the above outlined issues in many ways, in most cases the person responsible for a violation is first given an opportunity to voluntarily comply with the law and correct the situation. Other methods of enforcement are outlined below:

Administrative Citation: This remedy is designed to address minor violations. Fines increase with each additional offense.
Administrative Remedies: This remedy is used for major violations. Fines can be as much as $2,500 per day. Administrative fees also may be assessed.
Abatement: This remedy is used where the City needs to take action to abate a nuisance. Typically, the City will hire a private contractor to either demolish or board and secure a structure, or to clean a property of junk and debris.

i If unsure of whether a neighborhood association exists in a neighborhood, a resident may call the San José Neighborhood Development Center (telephone: 408-277-4528) for the name of a neighborhood contact person.

Judicial Remedies: These remedies are used where it is determined that other remedies will not succeed. The two judicial remedies used most often by the City are criminal prosecution and civil injunctions (court orders). The City occasionally will forward a Code Enforcement case for mediation to the Santa Clara County Office of Human Relations at (408) 299-2206.

Citizen Reporting

A resident of San José seeking relief from conditions of a property in the community has the following options:

i To file a complaint, call (408) 277-4528. For abandoned vehicles, call (408) 277-5305.

1. Make contact with the responsible person. First, if he or she feels comfortable doing so, a resident should attempt to reconcile the situation by contacting the responsible person and describing his or her perception of the problem. In addition to describing how the situation is perceived, a discussion of how the problem affects the neighborhood, and possible solutions, should be conducted.
2. Attend neighborhood association meetings. This allows residents to get involved with solving recurring neighborhood problems.
3. File a complaint with the Code Enforcement Division. All information is kept confidential, though anonymous complaints are not accepted. Appropriate action will be taken on all complaints.

Typically, those cases that affect the public at large and constitute a health and safety problem will be handled first. Other cases may remain open for 30 or more days.

For more information on the above listed code enforcement options, or to file a complaint, call the Code Enforcement Division at (408) 277-4528).

2-7. Public Facilities

All public facilities that are to be constructed within the City of San José are first identified in the Capital Improvement Program (CIP) plan. CIP projects either directly or indirectly result in the construction of capital improvements and can be classified in two general categories:

Construction Projects: Projects that lead to the construction of capital improvements. These projects are funded by the City and

are typically awarded to a contractor through a competitive bidding process. However, projects can also be built by other jurisdictions or entities through an agreement.
Non-Construction Projects: Projects that indirectly lead to the construction of capital improvements, such as feasibility studies and master planning efforts.

The City develops, or contracts to develop, capital improvements in seven main categories known as City Service Areas (CSA). The development process for each type of CSA varies, depending on the CSA and the type of project being developed. Community involvement, however, is encouraged for all project types. To find more information on current or upcoming CIP projects, including information on community meetings or other opportunities for public involvement, a resident may contact the Department of Public Works or visit the Department's website (http://www.sanjoseca.gov).

City Service Areas (CSAs)

For more information on CSAs, please visit http://www.sanjoseca.gov/csa.html.

3-1. Planning Pointers

How to Be an Effective Meeting or Public Hearing Participant

1. ***Stay Informed of City and Neighborhood Developments***
   - Be aware of construction activities in the neighborhood.
   - Join neighborhood associations, community groups, or advocacy groups and consult their newsletters and websites to learn relevant city and neighborhood news.
   - Keep abreast of local news through the media (newspapers, radio, and television).
   - Read official notices of application hearings.
   - Consult the City website for recently-filed applications and upcoming meeting agendas.

2. ***Do Your Research:***
   - Always read the meeting agenda and all relevant agenda reports before the meeting.
   - Call the meeting organizer with any questions you may have before the meeting. The meeting organizer for a City Council or Planning Commission meeting would be City staff.
   - Understand what decisions are being made at the meeting
   - Determine the most effective way to influence those decisions

3. ***Submit Comments in Writing:***
   - Check for any deadlines to be sure your comments are submitted on time.
   - Address your correspondence to a specific person or group if possible.

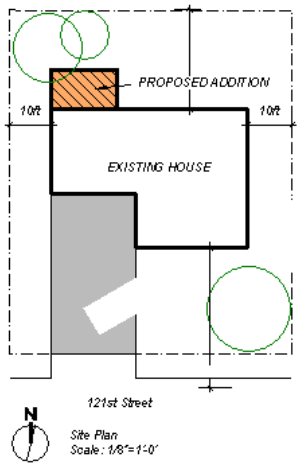
4. ***Speak to Your Item:***
   - Find out what the speaking time limit will be and do not exceed it (typically two minutes).
   - Submit a speaker request card if necessary
   - Know what you want to say. Outline your ideas before you speak.
   - Be sure of your facts.
   - Be as brief as possible.
   - Refrain from making personal attacks. Be civil and courteous at all times.
   - Provide solutions and ideas for solving problems.

- Refrain from repeating ideas that have already been stated. Supply new ideas. If you are in agreement with a previous speaker, simply state that fact.

Site Plans, Elevations and Floor Plans

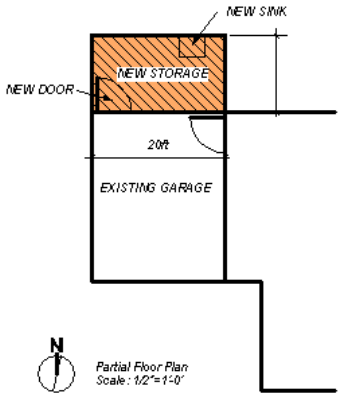
What is a Site Plan? A site plan is a top view ("bird's eye") of a property that is drawn to scale. A site plan shows:

- Property lines
- Outline of existing and proposed buildings and structures
- Distance between buildings
- Distance between buildings and property lines (setbacks)
- Parking lots, indicating parking spaces
- Driveways
- Surrounding streets
- Landscaped areas
- Easements
- Ground sign location



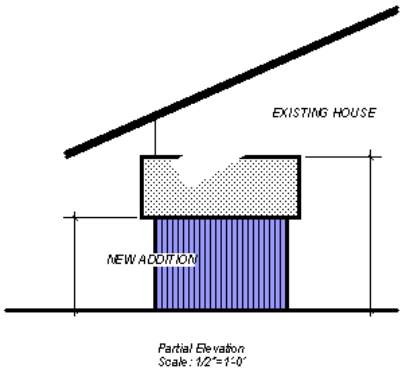
What is an Elevation? An elevation is a front, side or rear view of a building (or a facade) drawn to scale. An elevation should show:

- Height of building
- Exterior building materials and colors
- Windows and doors (location, size, shape, and materials indicated)
- Roof (materials indicated)
- Roof screens and or/parapets (materials indicated)
- All existing and proposed equipment
- The architecture of the building
- All four sides of the building
- Architectural details



What is a Floor Plan? A floor plan is a top view ("birds eye") drawing of the interior of a building. A floor plan should show:

- Interior walls and hallways
- Restrooms
- Windows and doors
- Appliances such as stoves, refrigerators, water heater etc.
- Interior features such as fireplaces, saunas and whirlpools
- The use of all rooms shall be indicated



All site plans, elevations and floor plans must be drawn to scale. Dimensions of important features must also be called out on site plans,

elevations and floor plans. All plans should also include north arrow, date, scale indicator, and drawing title (including address of property.

Tips for Obtaining Timely Permits

- Make sure your application is correctly and thoroughly completed.
- Submit the project for preliminary review.
- Submit professionally drawn plans. Enlisting the services of an experienced professional can increase your project's likelihood of approval by ensuring that your project is done correctly. To find an architect that will meet your needs, contact the American Institute of Architects' Santa Clara Valley Chapter at *www.aiascv.org* or call (408) 298-0611 for list of local architects.

3-2. Sources of Further Information

San José City Council:

Contact Information
Mail: 801 North First Street, Rm. 600, San José, CA 95110
Phone: (408) 277-4241
Email: check website for Council Members' email addresses
Web Site: *www.sanjoseca.gov/council.html*

Agenda and Meeting information:

The Council meets Tuesdays at 1:30 p.m., and on the 1st and 3rd Tuesday of each month at 7:00 p.m. Council agenda packets are available for review in a number of ways.

- Visit the bulletin board outside of City Hall
- Call (408) 277-4427 to request a copy;
- Visit the City Clerk's Office in room 116 of City Hall during business hours; or
- On the web at *www.sanjoseca.gov/clerk/agenda.htm*
- To watch or hear council meetings online, see the council calendar, and learn about the different council committees go to *www.sanjoseca.gov/meetings.html*

San José Boards and Commissions:

General Contact Information
Phone: (408) 277-4424
Website: *www.sanjoseca.gov/boards.html*

Planning Commission Contact Information:

Phone: (408) 277-4576
Website: www.sanjoseca.gov/planning
Meets second and fourth Wednesdays of every month, at 6 p.m. in the Council Chambers

Neighborhood Organizations:
Phone: (408) 277-4528
Web Site: www.sanjoseca.gov/planning

Permits:
Building
Phone: (408) 277-4541
Web Site: www.sanjoseca.gov/building/
Online Permitting: www.sjpermits.org/permits/permits/

Planning
Phone: (408) 277-4576
Web Site: www.sanjoseca.gov/planning
Online Permitting: www.sjpermits.org/permits/permits/

Public Works
Phone: (408) 277-5161
Web Site: www.sanjoseca.gov
Online Permitting: www.sjpermits.org/permits/permits/

California Environmental Quality Act (CEQA) Information:
For detailed information about the CEQA go to www.ceres.ca.gov/ceqa/ or call the California Office of Planning and Research at (916) 322-2318.

San José 2020 General Plan:
The General Plan can be viewed at www.sanjoseca.gov/planning.
You may also go to 801 N. First St, Rm 400, San Jose, CA 95110 or call the Planning Department at (408) 277-4576

San José Municipal Code (including Zoning and Sign Ordinances):
To view a copy of the Municipal Code, contact the City Clerk at (408) 277-4424. It can also be viewed online at www.amlegal.com/sanjose_ca/. Title 20 of the Municipal Code is the Zoning Ordinance; Title 23 is the Sign Ordinance.

Zoning Map:
The San José Zoning Maps are available for viewing at www.sanjoseca.gov/planning.

The official copy of the Zoning Map can also be viewed at the Planning, Building, and Code Enforcement Department.

San José Info Line:
Recorded information about City programs and services (408) 277-4000. Some information items include: City Council, Boards and Commissions, City Contact Information, and Building.

Outside Agencies

San José Redevelopment Agency: The San Jose agency with the mission to revitalize and enliven San Jose's Downtown, neighborhoods, and industrial areas.
Website: www.sjredevelopment.org
Phone: (408) 794-1000

Santa Clara Valley Transportation Authority: An independent special district responsible for bus and light rail operations, congestion management, specific highway improvement projects, and countywide transportation planning.
Website: www.vta.org
Phone: (408) 321-2300

Santa Clara Valley Water District: The primary water resources agency for Santa Clara County.
Website: www.valleywater.org
Phone: (408) 265-2600

California Department of Transportation, District 4: The State's manager of interregional transportation services including all state and interstate highways.
Website: www.dot.ca.gov/dist4/
Phone: (510) 286-4444

Bay Area Air Quality Management District: The agency committed to achieving clean air to protect the public's health and the environment.
Website: www.baaqmd.gov
Phone: (415) 749-5000

Metropolitan Transportation Commission: The transportation planning, coordinating and financing agency for the nine-county San Francisco Bay Area.

Website: www.mtc.ca.gov
Phone: (510) 464-7700

Association of Bay Area Governments: the regional planning agency working to help solve problems in areas such as land use, housing, environmental quality, and economic development.
Website: www.abag.ca.gov
Phone: (510) 464-7900

Local Agency Formation Commission: A State mandated local agency set up to oversee the boundaries of cities and special districts.
Website: www.santaclara.lafco.ca.gov/
Phone: (408) 299-2011

3-1. Glossary of Planning Terms

Appeal: After a land use decision is made, a citizen can request that a higher authority review the item in order to achieve a different result. This request is called an appeal. Planning Commission decisions are appealed to the City Council.

CEQA: The California Environmental Quality Act. In general, CEQA requires that all private and public projects be reviewed prior to approval for their potential adverse effects upon the environment.**

City Council: A city's legislative body. The City Council is comprised of the Mayor, who is elected by the community at-large, and ten councilmembers who are elected by districts. They are responsible for enacting ordinances, imposing taxes, making appropriations, establishing policy, and hiring some city officials. The council adopts the local general plan, zoning, and subdivision ordinance.

Conditional Use Permit (CUP): Pursuant to the Zoning Ordinance, a CUP may authorize uses not routinely allowed on a particular site. CUPs require a public hearing and if approval is granted, are usually subject to the fulfillment of certain conditions by the developer. Approval of a CUP is not a change in zoning.**

Discretionary: When a decision maker such as a City staff member or a public official can use his or her judgment in deciding whether and how to carry out or approve a project.

EIR: Environmental Impact Report. A detailed review of a proposed project, its potential adverse impacts upon the environment, measures that may avoid or reduce those impacts, and alternatives to the project.**

General Plan: A statement of policies, including text and diagrams setting forth objectives, principles, standards, and plan proposals, for the future physical development of the city.**

Initiative: Proposed legislation or constitutional changes that are placed on the ballot by a citizen petition, to be approved or rejected by popular vote. This allows citizens to enact their own laws, independent of the state legislature or local legislative body.*

Land Use: Description of what physical structures are actually on a piece of land, as well as what types of activities commonly take place on it. Some land use examples are housing, commercial activities, industrial uses, and parkland. Land use planning determines where specific structures/activities should be located.

Ministerial: When a decision maker such as a City staff member or a public official applies the law to the facts as presented, but uses little or no personal judgment in the decision process.

Planning: The process by which public agencies, mostly local governments, determine the intensity and geographical arrangements of various land uses in a community.*

Planning Commission: A group of seven residents appointed by the city council to consider land use planning matters. The commission's duties and powers are established by the City Council and might include hearing proposals to amend the general plan or rezone land, initiating planning studies (road alignments, identification of seismic hazards, etc.), and taking action on proposed subdivisions.**

Public Hearing: A chance for the public to voice their opinions on a particular issue to a decision making body, usually the Planning Commission or the City Council. A public hearing must be opened for all items placed on a City Council, Planning Commission, or any other City board or commission agenda.

Referendum: The process by which citizens vote to approve or disapprove a decision made by a governing body.*

Specific Plan: A plan addressing land use distribution, open space availability, infrastructure, and infrastructure financing for a portion of the community. Specific plans put the provisions of the general plan into action.**

Subdivision: The division of one piece of property into more than one piece of property. The primary purpose of subdividing land is to be able to sell one piece of land to multiple people.

Urban Service Area: The area in the City where urban services are, or will be, available to serve urban development.

Variance: A limited waiver from the property development standards of the zoning ordinance. Variance requests are subject to public hearing, usually before the Director of Planning, Building, and Code Enforcement, but sometimes also by the Planning Commission and/or City Council. Variances do not allow a change in land use.**

Zoning: Local codes regulating the use and development of property. The zoning ordinance divides the city or county into land use districts or "zones" represented on zoning maps, and specifies the allowable uses within each of those zones. It establishes development standards for each zone, such as minimum lot size, maximum height of structures, building setbacks, and yard size.

*William Fulton, *Guide to California Planning*, second edition (Point Arena: Solano Press Books, 1999).
**State of California, Governor's Office of Planning and Research, "A Citizens Guide to Planning," <http://ceres.ca.gov/planning/planning_guide/plan_index.html>.