

## **PLANNING COMMISSION**

September 11, 2019

Action Minutes

### **WELCOME**

### **SALUTE TO THE FLAG**

### **ROLL CALL**

PRESENT: Commissioners Ballard, Leyba, Allen, Griswold, Oliverio (arrived at 6:47),  
Yesney

ABSENT: None

### **1. CALL TO ORDER & ORDERS OF THE DAY**

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Meeting called to order at 6:32 p.m.

### **2. PUBLIC COMMENT**

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*No comments*

### **3. DEFERRALS AND REMOVALS FROM CALENDAR**

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

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

**No Items**

Access the video, agenda, and related reports for this meeting by visiting the City's website at:

<http://sanjoseca.gov/index.aspx?NID=1763>

## 4. CONSENT CALENDAR

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

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

No Items

## 5. PUBLIC HEARING

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

- a. [PP17-081](#). An ordinance of the City of San Jose amending various sections of the San Jose Municipal Code to: Amend Part 12 (Sidewalk Café) in Chapter 20.100 to repeal the provisions for a sidewalk café permit issued by the Director of Planning and add a reference to the Minor Encroachment Permit process set forth in Chapter 13.37; Amend Section 20.100.140 (Concurrent review) in Chapter 20.100 (Administration and Permits) to remove Sidewalk Café and add Major Encroachment Permits regulated by Chapter 13.37, Development Agreements regulated by Chapter 18.02, and Street and Easement Vacations governed by the Government Code State of California Streets and Highways Code Section 8300 concurrent review process; Amend Section 20.100.220 in Chapter 20.100 (Administration and Permits) to remove Sidewalk Café Permit from the Appeal - Hearing Body list, Amend Section 20.200.270 to no longer include Sidewalk Café Permit in the definition of Development Permit; Amend Section 9.44.019 of Chapter 9.44 (Regulation of Smoking) to add a reference to sidewalk seating authorized through a Minor Encroachment Permit; and, Amend Section 10.10.030 of Chapter 10.10 (Pedestrian Facilitation Ordinance) to add a reference to sidewalk seating authorized through a Minor Encroachment Permit. CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (FEIR) (Resolution No. 76041), and Envision San Jose 2040 General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto. Pursuant to Section 15168 of the CEQA Guidelines, the City of San José has determined that this activity is within the scope of the earlier approved programs and the Final Program EIRs adequately describe the activity for purposes of CEQA. The project does not involve new significant effects beyond those analyzed in the Final Program EIRs.

*PROJECT MANAGER, BRENT CARVALHO*

**ACTION: COMMISSIONER LEYBA MADE A MOTION TO RECOMMEND THAT THE CITY COUNCIL TAKE THE FOLLOWING ACTIONS:**

- 1. CONSIDER THE DETERMINATION OF CONSISTENCY WITH THE ENVISION SAN JOSÉ 2040 GENERAL PLAN FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT (FEIR), RESOLUTION NO. 76041, AND ENVISION SAN JOSE 2040 GENERAL PLAN SUPPLEMENTAL EIR RESOLUTION NO. 77617, AND ADDENDA THERETO. PURSUANT TO SECTION 15168 OF THE CEQA GUIDELINES, THE CITY OF SAN JOSÉ HAS DETERMINED THAT THIS ACTIVITY IS WITHIN THE SCOPE OF THE EARLIER APPROVED PROGRAMS AND THE FINAL PROGRAM EIRS ADEQUATELY DESCRIBE THE ACTIVITY FOR PURPOSES OF CEQA. THE**

**PROJECT DOES NOT INVOLVE NEW SIGNIFICANT EFFECTS BEYOND THOSE ANALYZED IN THE FINAL PROGRAM EIRS IN ACCORDANCE WITH CEQA; AND**

2. **ADOPT AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE SAN JOSE MUNICIPAL CODE TO: PART 12 (SIDEWALK CAFÉ) IN CHAPTER 20.100 TO REPEAL THE PROVISIONS FOR A SIDEWALK CAFÉ PERMIT ISSUED BY THE DIRECTOR OF PLANNING AND ADD A REFERENCE TO THE MINOR ENCROACHMENT PERMIT PROCESS SET FORTH IN CHAPTER 13.37; AMEND SECTION 20.100.140 (CONCURRENT REVIEW) IN CHAPTER 20.100 (ADMINISTRATION AND PERMITS) TO REMOVE SIDEWALK CAFÉ AND ADD MAJOR ENCROACHMENT PERMITS REGULATED BY CHAPTER 13.37, DEVELOPMENT AGREEMENTS REGULATED BY CHAPTER 18.02, AND STREET AND EASEMENT VACATIONS GOVERNED BY THE GOVERNMENT CODE STATE OF CALIFORNIA STREETS AND HIGHWAYS CODE SECTION 8300 CONCURRENT REVIEW PROCESS; AMEND SECTION 20.100.220 IN CHAPTER 20.100 (ADMINISTRATION AND PERMITS) TO REMOVE SIDEWALK CAFÉ PERMIT FROM THE APPEAL - HEARING BODY LIST, AMEND SECTION 20.200.270 TO NO LONGER INCLUDE SIDEWALK CAFÉ PERMIT IN THE DEFINITION OF DEVELOPMENT PERMIT; AMEND SECTION 9.44.019 OF CHAPTER 9.44 (REGULATION OF SMOKING) TO ADD A REFERENCE TO SIDEWALK SEATING AUTHORIZED THROUGH A MINOR ENCROACHMENT PERMIT; AND, AMEND SECTION 10.10.030 OF CHAPTER 10.10 (PEDESTRIAN FACILITATION ORDINANCE) TO ADD A REFERENCE TO SIDEWALK SEATING AUTHORIZED THROUGH A MINOR ENCROACHMENT PERMIT, INCLUDING THE FOLLOWING CHANGE RECOMMENDED BY THE COMMISSION: THE WORDS “PURSUANT TO” IN THE FIRST SENTENCE OF SECTION 20.100.140 ENTITLED “SIDEWALK SEATING AND PARKLETS” SHALL BE CHANGED TO “SET FORTH IN.”**

**COMMISSIONER ALLEN SECONDED THE MOTION (5-1-0-0, YESNEY OPPOSED)**

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

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## **7. GOOD AND WELFARE**

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- a. Report from City Council

*On September 10, 2019, City Council approved the following: 1) Planned Development Rezoning and Planned Development Permit for Real Property Located at 960 West Hedding Street (PDC19-001 & PD19-001) and; 2) Planned Development Zoning and Planned Development Permit for Real Property Located at 1330, 1388 and 1410 South Bascom Avenue (PDC17-047 & PD18-015).*

- b. Review and Approve Action Minutes from [8/28/19](#)

*Commissioner Leyba made a motion to approve the 8/28/19 minutes. Commissioner Oliverio seconded the motion. (6-0-0)*

c. Subcommittee Formation, Reports, and Outstanding Business

*No Reports*

d. Commission Calendar and Study Sessions

*No Items*

e. The Public Record

*No Items*

**8. ADJOURNMENT**

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Meeting adjourned at 7:25 p.m.