

PLANNING COMMISSION

August 25, 2021

Action Minutes

WELCOME

ROLL CALL

PRESENT: Commissioners Bonilla, Casey, Cantrell, Garcia, Lardinois, Montañez, Oliverio
(left at 8:23 p.m.), Ornelas-Wise, Torrens, Young

ABSENT: Commissioner Caballero

1. CALL TO ORDER & ORDERS OF THE DAY

Meeting called to order at: 6:30 p.m.

Chair Bonilla stated that he was changing the order of the items on the agenda to hear Item 5.a first and then the consent calendar, Item 4. Item 2, Public Comment, would follow those items.

Access the video, agenda, and related reports for this meeting by visiting the City's website at:
<https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/commissions-and-hearings/planning-commission>

2. PUBLIC COMMENT

Public comments to the Planning Commission on non-agendized items. Please use the 'raise hand' feature in Zoom or click *9 to raise a hand to speak or contact 408-535-3505 to request to speak. Each member of the public may address the Commission for up to two minutes. The commission cannot take any formal action without the item being properly noticed and placed on an agenda. In response to public comment, the Planning Commission is limited to the following options:

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

No Comments

3. DEFERRALS AND REMOVALS FROM CALENDAR

Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral or removal.

Staff will provide an update on the items for which deferral and removal is being requested. If you want to change any of the deferral dates recommended, or speak to the question of deferring or removing these or any other items, please use the 'raise hand' feature in Zoom or click *9 to raise a hand to speak or contact 408-535-3505 to request to speak.

No Items

4. CONSENT CALENDAR

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

Staff will provide an update on the consent calendar. If you wish to speak on one of these items, please use the 'raise hand' feature in Zoom or click *9 to raise a hand to speak or contact 408-535-3505 to request to speak.

ITEM 4.B.III AND ITEM 4.B.VI WERE PULLED AND TAKEN OUT OF ORDER BY CHAIR. ITEMS 4.B.III AND 4.B.VI WERE HEARD FIRST. ONCE THOSE ITEMS WERE HEARD, THE REMAINDER OF THE CONSENT CALENDAR ITEMS WERE HEARD. SEE BELOW ACTION SUMMARIES.

ACTION: COMMISSIONER TORRENS MADE A MOTION TO APPROVE ITEMS 4.A, 4.B.I, 4.B.II, 4.B.IV, 4.B.V, AND ITEM 4.C.

COMMISSIONER LARDINOIS SECONDED THE MOTION (9-0-2; CABALLERO & OLIVERIO ABSENT).

- a. Review and Approve Action Minutes from [August 11, 2021](#).

- b. **Annual Compliance Review of Development Agreements (Administrative Hearing)**. This is an annual compliance review hearing of active development agreements pursuant to California Government Code Section 65865.1 and San José Municipal Code Section 18.02.300. The purpose of the hearing is for the Planning Commission to determine if the developers or their successor-in-interests are in compliance with the terms and conditions of the development agreements with the City of San José. *Deferred from 8/11/21*
 - i. **DA10-001**. Cisco Technology Development Agreement, entered into by the City and Cisco Technology, Inc. in 2010, which allows the development of 150,000-2.5 million square feet of office/R&D space over the term of the agreement, for the 137-acre site. (Cisco Technology Inc., Owner). Council District 4.
 - ii. **DA14-003, DA16-001, and DA17-001**. Jackson-Taylor Partners Development Agreement, entered into by the City and Jackson-Taylor Partners, LLC in December 2014, and assigned by Jackson-Taylor Partners, LLC to and assumed by Shea Properties in 2017, providing for the development of 435-600 dwelling units, a site for a performance center and a public park on the 5.25-acre site. (City of San José and Shea Properties, Owners). Council District 2.
 - iii. **DA15-002**. Apple, Inc. Development Agreement, entered into by the City and Apple, Inc. in March 2016, which allows the development of up to 4,151,530 square feet of office/R&D and manufacturing development on the 86-acre site. (Apple Inc., Owner). Council District 2.
 - iv. **DA-eBay**. eBay Development Agreement entered into by the City and eBay, Inc. in 2003, which allows the development of two million square feet of research and development office space on a 48-acre site. (eBay Inc., Owner). Council District 4.
 - v. **DA-Hitachi**. Hitachi Global Storage Technologies (HGST)/Western Digital Development Agreement entered into by the City and HGST in 2005, which bound the developer to construct several public improvements to support up to 3.6 million square feet of industrial development, 460,000 square feet of commercial development, and 2,930 residential units on a 332-acre site. (Hitachi Global Storage Techs Inc., Owner). Council District 2.
 - vi. **DA-Novellus and DA11-001**. Novellus Development Agreement entered into by the City and Novellus Systems Inc. in 2007, and subsequently with Vista Montana Park Homes LLC and Equity Tasman Apartments LLC, through the first amendment to the agreement in November 2009, which bound the developers to construct two public parks and allows up to 870,000 square feet of industrial space and 998 multi-family residential units on the 46-acre site. (Novellus Systems Inc., Owner). Council District 4.

CEQA: The annual Development Agreement compliance review involves no new physical development or new uses on the property, and is therefore not considered a “Project” under the California Environmental Quality Act.

PROJECT MANAGER, PATRICK KELLY

1. **ADOPT A RESOLUTION PURSUANT TO SAN JOSÉ MUNICIPAL CODE SECTION 18.02.300.E CERTIFYING THE DEVELOPER IS IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SAN JOSÉ AND CISCO TECHNOLOGY, INC. DATED SEPTEMBER 2, 2010 (FILE NO. DA10-001) FOR THE ANNUAL COMPLIANCE REVIEW PERIOD OF JULY 1, 2020 THROUGH JUNE 30, 2021, FOR THE UP TO 2.5 MILLION-SQUARE FOOT RESEARCH AND DEVELOPMENT OFFICE PROJECT ON THE 137-GROSS ACRE SITE LOCATED ON THE NORTH AND SOUTH SIDES OF EAST TASMAN DRIVE, EAST OF ZANKER ROAD.**
2. **ADOPT A RESOLUTION PURSUANT TO SAN JOSÉ MUNICIPAL CODE SECTION 18.02.300.E CERTIFYING THE DEVELOPER IS IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SAN JOSÉ AND JACKSON-TAYLOR PARTNERS, LLC ENTERED INTO DECEMBER 16, 2014 (FILE NO. DA14-003, AND AMENDMENTS DATED JANUARY 1, 2016 AND NOVEMBER 17, 2017 (FILE NOS DA16-001 AND DA17-001, RESPECTIVELY), AND ASSIGNED BY JACKSON-TAYLOR PARTNERS, LLC TO AND ASSUMED BY SHEA PROPERTIES IN 2017, FOR THE ANNUAL COMPLIANCE REVIEW PERIOD OF JULY 1, 2020 THROUGH JUNE 30, 2021, FOR THE PROJECT WITH 435 TO 600 DWELLING UNITS, 16,000 TO 25,000 SQUARE FEET OF RETAIL, A SITE FOR A PERFORMANCE CENTER FOR SAN JOSÉ TAIKO AND CENTER FOR THE CREATIVE ARTS (CCA), AND A PUBLIC PARK LOCATED ON AT THE SOUTHEAST CORNER OF EAST TAYLOR STREET AND NORTH 6TH STREET.**
3. **ADOPT A RESOLUTION PURSUANT TO SAN JOSÉ MUNICIPAL CODE SECTION 18.02.300.E CERTIFYING THE DEVELOPER IS IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SAN JOSÉ AND APPLE, INC. DATED MARCH 4, 2016 (FILE NO. DA15-002) FOR THE ANNUAL COMPLIANCE REVIEW PERIOD OF JULY 1, 2020 THROUGH JUNE 30, 2021, FOR A 4,151,530-SQUARE FOOT RESEARCH AND DEVELOPMENT OFFICE AND MANUFACTURING PROJECT ON THE 86-GROSS ACRE SITE LOCATED ON THE EAST AND WEST SIDES OF ORCHARD PARKWAY, APPROXIMATELY ONE QUARTER MILE SOUTH OF TRIMBLE ROAD.**

COMMISSIONERS CANTRELL, TORRENS, AND YOUNG STATED THEIR CONFLICT OF INTEREST IN PARTICIPATING IN THE DECISION-MAKING ON ITEM 4.B.III, WERE MOVED TO THE WAITING ROOM, AND DID NOT PARTICIPATE IN THE DECISION-MAKING ON ITEM 4.B.III.

ACTION: COMMISSIONER LARDINOIS MADE A MOTION TO APPROVE STAFF RECOMMENDATION 3. COMMISSIONER MONTAÑEZ SECONDED THE MOTION (6-0-2-3; CABALLERO & OLIVERIO ABSENT; CANTRELL, TORRENS, & YOUNG ABSTAINED).

4. **ADOPT A RESOLUTION PURSUANT TO SAN JOSÉ MUNICIPAL CODE SECTION 18.02.300.E CERTIFYING THE DEVELOPER IS IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SAN JOSÉ AND EBAY, INC. DATED JANUARY 16, 2004 (FILE NO. DA-EBAY) FOR THE ANNUAL COMPLIANCE REVIEW PERIOD OF JULY 1, 2020 THROUGH JUNE 30, 2021, FOR THE TWO MILLION-SQUARE FOOT RESEARCH AND DEVELOPMENT OFFICE PROJECT ON THE 48-GROSS ACRE SITE**

LOCATED ON THE WEST SIDE OF NORTH FIRST STREET, BETWEEN GUADALUPE PARKWAY AND KARINA COURT.

5. ADOPT A RESOLUTION PURSUANT TO SAN JOSÉ MUNICIPAL CODE SECTION 18.02.300.E CERTIFYING THE DEVELOPER IS IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SAN JOSÉ AND HITACHI GLOBAL STORAGE TECHNOLOGIES (HGST) DATED SEPTEMBER 23, 2005 (FILE NO. DA-HITACHI) FOR THE ANNUAL COMPLIANCE REVIEW PERIOD OF JULY 1, 2020 THROUGH JUNE 30, 2021, FOR THE PROJECT INCLUDING UP TO 3.6 MILLION SQUARE FEET OF INDUSTRIAL DEVELOPMENT, 460,000 SQUARE FEET OF COMMERCIAL RETAIL DEVELOPMENT, AND 2,930 RESIDENTIAL UNITS ON THE 332-GROSS ACRE SITE BOUNDED BY MONTEREY ROAD TO THE NORTH, HIGHWAY 85 TO THE SOUTH, MANASSAS ROAD TO THE EAST AND COTTLE ROAD TO THE WEST.
6. ADOPT A RESOLUTION PURSUANT TO SAN JOSÉ MUNICIPAL CODE SECTION 18.02.300.E CERTIFYING THE DEVELOPERS ARE IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SAN JOSÉ AND NOVELLUS SYSTEMS, INC., DATED DECEMBER 20, 2007 (FILE NO. DA-NOVELLUS), AND VISTA MONTANA PARK HOMES LLC AND EQUITY TASMAN APARTMENTS LLC THROUGH A SUBSEQUENT AMENDMENT DATED NOVEMBER 3, 2009, AND SECOND AMENDMENT DATED AUGUST 2, 2011 INCORPORATING PLANNED DEVELOPMENT ZONINGS PDC11-006 AND PDC11-007 (FILE NO. DA11-001) FOR THE ANNUAL COMPLIANCE REVIEW PERIOD OF JULY 1, 2020 THROUGH JUNE 30, 2021, FOR THE PROJECT OF UP TO 870,000 SQUARE FEET OF INDUSTRIAL SPACE AND 998 MULTI-FAMILY RESIDENTIAL UNITS ON THE 46-GROSS ACRE SITE LOCATED AT THE WEST CORNER OF NORTH FIRST STREET AND HEADQUARTERS DRIVE; THE SOUTH AND EAST CORNERS OF NORTH FIRST STREET AND VISTA MONTANA; AND THE NORTHWEST CORNER OF VISTA MONTANA AND WEST TASMAN DRIVE.

COMMISSIONER MONTAÑEZ STATED HER CONFLICT OF INTEREST IN PARTICIPATING IN THE DECISION-MAKING, WAS MOVED TO THE WAITING ROOM, AND DID NOT PARTICIPATE IN THE DECISION-MAKING ON ITEM 4.B.VI.

ACTION ON ITEM 4.B.VI: COMMISSIONER LARDINOIS MADE A MOTION TO APPROVE STAFF RECOMMENDATION 6. COMMISSIONER TORRENS SECONDED THE MOTION (8-0-2-1; CABALLERO & OLIVERIO ABSENT; MONTAÑEZ ABSTAINED).

- c. [CP21-006 \(Administrative Hearing\)](#). Conditional Use Permit and Determination of Public Convenience or Necessity to allow the off-sale of alcohol (Type 20 Beer and Wine) at an approximately 3,000-square foot grocery store on an approximately 0.63-gross acre site located at 4160 Stevens Creek Boulevard. (FT & LO LLC, Owner). Council District 1. **CEQA:** Exempt pursuant to CEQA Guidelines Section 15301(a) for Existing Facilities.

PROJECT MANAGER, MATIAS EUSTERBROCK

1. **CONSIDER THE CATEGORICAL EXEMPTION IN ACCORDANCE WITH SECTION 15301(A) OF THE STATE CEQA GUIDELINES; AND**

2. **ADOPT A RESOLUTION APPROVING, SUBJECT TO CONDITIONS, A CONDITIONAL USE PERMIT AND DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY TO ALLOW THE OFF-SALE OF BEER AND WINE AT AN APPROXIMATELY 3,000-SQUARE FOOT GROCERY STORE ON AN APPROXIMATELY 0.63-GROSS ACRE SITE.**

STAFF RECOMMEND THAT ITEM 4.C. BE DROPPED AND RENOTICED FOR THE SEPTEMBER 22, 2021 MEETING. THE ITEM WILL BE RENOTICED TO READ THE ACCURATE PROJECT DESCRIPTION AS THE APPLICANT IS PROPOSING OFF-SALE FOR A FULL RANGE OF ALCOHOL.

ACTION: COMMISSIONER BONILLA MADE A MOTION TO RECONSIDER THE ORIGINAL MOTION AND APPROVE STAFF RECOMMENDATION WHICH IS TO DROP AND RENOTICE THE ITEM.

COMMISSIONER TORRENS SECONDED THE MOTION (9-0-2; CABALLERO & OLIVERIO ABSENT).

5. PUBLIC HEARING

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

- a. **[SP20-005 & T21-015](#)**. SP20-005: Special Use Permit to allow the construction of a 16-story office building with two towers totaling approximately 2.05 million square feet, including 37,603 gross square feet of ground floor retail and amenity space and 1,416,717 gross square feet of commercial office space with an alternative parking design (tandem and valet parking, parking stackers) and to allow up to 15 commercial condominium units and extended construction hours to include Saturday work from 7:00 AM to 7:00 PM and 24-hour concrete pours for up to 12 days per year over the course of construction (approximately 51 months), on a 3.57-gross acre site. T21-015: Vesting Tentative Map to resubdivide five parcels into one parcel and allow up to 15 commercial condominium units on a 3.57-acre site located on the northwest corner of Almaden Boulevard and Woz Way (BXP Almaden Associates LP, Owner). Council District: 3. CEQA: Supplemental Environmental Impact Report (SEIR) to the Downtown Strategy 2040 EIR. *Deferred from 7/14/21. Dropped and renoticed from 7/28/21.*

PROJECT MANAGER, ANGELA WANG

Staff Recommendation:

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

1. **ADOPT A RESOLUTION CERTIFYING THE SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT (SCH NO. 2003042127) TO THE DOWNTOWN STRATEGY 2040 ENVIRONMENTAL IMPACT REPORT (RESOLUTION NO. 78942), AND MAKING CERTAIN FINDINGS CONCERNING SIGNIFICANT IMPACTS, MITIGATION MEASURES, ALTERNATIVES, STATEMENT OF OVERRIDING CONSIDERATIONS, AND ADOPTING A RELATED MITIGATION MONITORING AND REPORTING PLAN, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).**

2. **ADOPT A RESOLUTION APPROVING, SUBJECT TO CONDITIONS, A VESTING TENTATIVE MAP, TO RESUBDIVIDE FIVE PARCELS TO ONE PARCEL AND ALLOW UP TO 15-COMMERCIAL CONDOMINIUM UNITS ON THIS 3.57-GROSS ACRE SITE.**
3. **ADOPT A RESOLUTION APPROVING, SUBJECT TO CONDITIONS, A SPECIAL USE PERMIT, TO ALLOW THE CONSTRUCTION OF A 16-STORY OFFICE BUILDING WITH TWO TOWERS TOTALING APPROXIMATELY 2.05 MILLION SQUARE FEET, INCLUDING 37,603 GROSS SQUARE FEET OF GROUND FLOOR RETAIL AND AMENITY SPACE AND 1,416,717 GROSS SQUARE FEET OF COMMERCIAL OFFICE SPACE WITH AN ALTERNATIVE PARKING DESIGN (THREE LEVELS OF UNDERGROUND PARKING INCLUDING STACKERS, TANDEM AND VALET PARKING) ON A 3.57-GROSS ACRE SITE; AND TO ALLOW UP TO 15 COMMERCIAL CONDOMINIUM UNITS AND EXTENDED CONSTRUCTION HOURS TO INCLUDE SATURDAY WORK FROM 7:00 AM TO 7:00 PM AND 24-HOUR CONCRETE POURS FOR UP TO 12 DAYS PER YEAR OVER THE COURSE OF CONSTRUCTION (APPROXIMATELY 51 MONTHS).**

COMMISSIONER TORRENS SECONDED THE MOTION.

ACTION: COMMISSIONER YOUNG MADE A SUBSTITUTE MOTION TO CONTINUE ITEM 5.A TO THE SEPTEMBER 8 2021 PLANNING COMMISSION MEETING. COMMISSIONER CANTRELL SECONDED (3-6-2; BONILLA, CASEY, GARCIA, LARDINOIS, ORNELAS-WISE, & TORRENS OPPOSED; CABALLERO & OLIVERIO ABSENT).

MOTION FAILED.

ACTION: COMMISSIONER OLIVERIO'S MOTION TO APPROVE THE STAFF RECOMMENDATION APPROVED (6-3-2; CANTRELL, MONTAÑEZ, YOUNG OPPOSED; CABALLERO & OLIVERIO ABSENT).

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

No Items

7. GOOD AND WELFARE

a. Report from City Council

The Commission secretary reported on City Council actions taken on August 17, 2021 and August 24, 2021.

b. Subcommittee Formation, Reports, and Outstanding Business

No items

c. Commission Calendar and Study Sessions

- i. 2021 Planning Commission Retreat to be held in September/October. Discuss topics to be covered during retreat.

Staff recommended that Commissioner should provide their Retreat topics of interest to Jennifer Provedor. Chair Bonilla provided Commissioners a deadline of close of business, next Friday, September 3, 2021.

d. The Public Record

No items

8. ADJOURNMENT

Meeting adjourned at 8:48 p.m.