

PLANNING COMMISSION

October 27, 2021

Action Minutes

WELCOME

ROLL CALL

PRESENT: Commissioners Bonilla, Casey, Caballero, Cantrell, Garcia, Lardinois, Oliverio (arrived at 6:41p.m.), Ornelas-Wise, Torrens, Young

ABSENT: Commissioner Montañez

1. CALL TO ORDER & ORDERS OF THE DAY

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

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.

Brian Darby said that the Planning Commission has a lot of power in its decision making but that there is a perception that the Commission is not listening to the public speakers and they are ignored. He said this may no longer be the case because he has not attended Planning Commission for a while, and this is a new Commission. He added the public speakers are not questioning the integrity of the Commissioners; they just care deeply about what happens in San Jose.

Unidentified speaker told the Commissioners that he hopes they make the right decisions for the City. Even with the existing amount of development in the City, the City cannot adequately provide infrastructure and services. How can it then provide adequate services and infrastructure if it going to grow.

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.

ACTION: COMMISSIONER BONILLA MADE A MOTION TO APPROVE THE STAFF RECOMMENDATIONS FOR CONSENT CALENDAR ITEMS 4.A. AND 4.B.

COMMISSIONER OLIVERIO SECONDED THE MOTION (10-0-1, MONTAÑEZ ABSENT).

- a. [Review and Approve Action Minutes from October 13, 2021.](#)

- b. [CPA03-020-01 \(Administrative Hearing\).](#) Conditional Use Permit Amendment to allow late night operation for delivery only sales, from 12:00 am to 6:00 am, with off-sale alcohol deliveries stopping at 2:00 am, at an approximately 10,050-square foot commercial tenant space (BevMo) located on the northwest corner of Prospect Road and Saratoga Avenue (5205 Prospect Road). (West Valley Shopping Center Inc, Owner). Council District 1. **CEQA:** Exempt pursuant to CEQA Guidelines Section 15301 for Existing Facilities.

PROJECT MANAGER, ALEC ATIENZA

- 1. CONSIDER THE EXEMPTION IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES SECTION 15301(A): CLASS 1, FOR EXISTING FACILITIES**

- 2. ADOPT A RESOLUTION APPROVING, SUBJECT TO CONDITIONS, A CONDITIONAL USE PERMIT AMENDMENT TO ALLOW LATE NIGHT OPERATIONS FOR DELIVERIES ONLY FROM 12:00 MIDNIGHT TO 6:00 AM WITH ALCOHOL DELIVERIES STOPPING AT 2:00 AM, IN AN EXISTING APPROXIMATELY 10,050-SQUARE FOOT TENANT SPACE (BEVMO).**

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.

ITEM 5.B. WAS PULLED AND TAKEN OUT OF ORDER BY CHAIR. ITEM 5.A. WAS HEARD AFTER ITEM 5.B.

- a. [PP21-011](#). An ordinance of the City of San José amending Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code to: (a) amend Chapter 20.30, Section 20.30.100 to include minor text alteration to Table 20-50, and clarifying changes to Section 20.30.270, ‘Corner lot- Rear setback-Exception for attached garage’, Section 20.30.500, ‘Development standards’, and Section 20.30.530, ‘Height exceptions – Accessory Buildings’; (b) Amend Chapter 20.40, Section 20.40.100 to rectify Table 20-90 to add prior approved text; (c) Amend Chapter 20.50, Section 20.50.100 to rectify Table 20-110 to add prior approved text; (d) amend Chapter 20.70, Section 20.70.100 to include minor correction to Table 20-140 to incorporate indoor theater use; (e) amend Chapter 20.90, Section 20.90.220 to correct a reference to Table 20-190; and to make other technical, non-substantive, or formatting changes within those sections of Title 20 of the San José Municipal Code. Council District: Citywide. **CEQA**: Determination of Consistency with the Envision San Jose 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041), Supplemental Environmental Impact Report (Resolution No. 77617), and addenda thereto. *Deferred from 10/13/21.*

PROJECT MANAGER, APARNA ANKOLA

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

- 1. CONSIDER THE DETERMINATION OF CONSISTENCY WITH THE ENVISION SAN JOSE 2040 GENERAL PLAN FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT (RESOLUTION NO. 76041), SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT (RESOLUTION NO. 77617), AND ADDENDA THERETO .; AND**
- 2. ADOPT AN ORDINANCE OF THE CITY OF SAN JOSÉ AMENDING TITLE 20 (ZONING ORDINANCE OR ZONING CODE) OF THE SAN JOSÉ MUNICIPAL CODE TO: (A) AMEND CHAPTER 20.30, SECTION 20.30.100 TO INCLUDE MINOR TEXT ALTERATION TO TABLE 20-50, AND CLARIFYING CHANGES TO SECTION 20.30.270, ‘CORNER LOT- REAR SETBACK-EXCEPTION FOR ATTACHED GARAGE’, SECTION 20.30.500, ‘DEVELOPMENT STANDARDS’, AND SECTION 20.30.530, ‘HEIGHT EXCEPTIONS – ACCESSORY BUILDINGS’; (B) AMEND CHAPTER 20.40, SECTION 20.40.100 TO RECTIFY TABLE 20-90 TO ADD PRIOR APPROVED TEXT; (C) AMEND CHAPTER 20.50, SECTION 20.50.100 TO RECTIFY TABLE 20-110 TO ADD PRIOR APPROVED TEXT; (D) AMEND CHAPTER 20.70, SECTION 20.70.100 TO INCLUDE MINOR CORRECTION TO TABLE 20-140 TO INCORPORATE INDOOR THEATER USE; (E) AMEND CHAPTER 20.90, SECTION 20.90.220 TO CORRECT A REFERENCE TO TABLE 20-190; AND TO MAKE OTHER TECHNICAL, NON-SUBSTANTIVE, OR FORMATTING CHANGES WITHIN THOSE SECTIONS OF TITLE 20 OF THE SAN JOSÉ MUNICIPAL CODE.**

COMMISSIONER TORRENS SECONDED THE MOTION (10-0-1, MONTAÑEZ ABSENT).

- b. **CP20-025 (Administrative Hearing)**. Conditional Use Permit to allow the demolition of a vacant 8,200 square foot commercial building, the removal of three ordinance-size trees and two non-ordinance trees, and the construction of two six-story buildings, including a mixed-use building with 7,000 square feet of commercial space and 119 units of 100% affordable multifamily residences, and one building with 45 units of 100% affordable multifamily residences, with podium parking on the ground floor of both buildings and associated landscaping and site improvements on a 1.32 gross acre site located on the south side of Alum Rock Avenue, approximately 1070 feet easterly of Capitol Avenue (2880 Alum Rock Avenue) (Callahan Cornelius P and Sandra M, Owner). Council District 5. **CEQA:** Mitigated Negative Declaration for 2880 Alum Rock Mixed-Use Project.

PROJECT MANAGER, LAURA MEINERS

ACTION: COMMISSIONER TORRENS MADE A MOTION TO ADOPT THE STAFF RECOMMENDATIONS WITH THE ADDITION OF A CONDITION OF APPROVAL TO THE CONDITIONAL USE PERMIT RESOLUTION THAT THE ROOF TOP DECK OPTION SHOWN ON SHEET 2.1.A OF THE PLAN SET SHALL BE IMPLEMENTED BY THE PERMITTEE:

- 1. ADOPT A RESOLUTION ADOPTING THE MITIGATED NEGATIVE DECLARATION (MND) AND ASSOCIATED MITIGATION MONITORING AND REPORTING PROGRAM IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).**
- 2. ADOPT A RESOLUTION APPROVING, SUBJECT TO CONDITIONS INCLUDING THE ADDITIONAL CONDITION SPECIFIED ABOVE IN COMMISSIONER TORRENS' MOTION, A CONDITIONAL USE PERMIT TO ALLOW THE DEMOLITION OF AN 8,200 SQUARE FOOT COMMERCIAL BUILDING, THE REMOVAL OF THREE ORDINANCE-SIZE TREES AND TWO NON-ORDINANCE SIZE TREES, AND THE CONSTRUCTION AND OPERATION OF TWO SIX-STORY BUILDINGS, INCLUDING A MIXED-USE BUILDING WITH 7,000 SQUARE FEET OF COMMERCIAL SPACE AND 119 UNITS OF 100% AFFORDABLE MULTIFAMILY RESIDENCES, AND ONE BUILDING WITH 45 UNITS OF 100% AFFORDABLE MULTIFAMILY RESIDENCES, WITH PODIUM PARKING ON THE GROUND FLOOR OF BOTH BUILDINGS AND ASSOCIATED LANDSCAPING AND SITE IMPROVEMENTS.**

COMMISSIONER OLIVERIO SECONDED THE MOTION (9-1-1, BONILLA OPPOSED; MONTAÑEZ ABSENT).

6. OPEN THE GENERAL PLAN HEARING (2021 CYCLE 2)

7. GENERAL PLAN CONSENT CALENDAR

No Items

8. GENERAL PLAN PUBLIC HEARING

COMMISSIONER ORNELAS-WISE STATED THAT SHE IS ABSTAINING FROM PARTICIPATING IN THE DECISION-MAKING ON ITEM 8.A. TO AVOID AN APPEARANCE OF BIAS BECAUSE HER FATHER-IN-LAW OWNS PROPERTY IN THE AREA AFFECTED BY THIS PROJECT. COMMISSIONER ORNELAS-WISE LEFT THE ZOOM MEETING.

- a. [GP21-012, GPT21-002, C21-031, PDC21-033 & PP21-012](#). Changes to the General Plan Land Use Transportation Diagram, Zoning Map and Municipal Code for properties within North, Mid- and South Coyote Valley associated with the Envision San Jose 2040 General Plan Four-Year Review. Project includes Rezoning of specified parcels located within North, Mid and South Coyote Valley from Zoning Districts that include Agriculture, R-1-5, R-1-1 Single Family Residence, Planned Development, Mobile home Park and Heavy Industrial Zoning Districts to Planned Development, Agriculture, Combined Industrial/Commercial, Industrial Park, and Public/Quasi Public Zoning District. Council District: Citywide. **CEQA:** Addendum to the Envision San Jose 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041), Supplemental Environmental Impact Report (Resolution No. 77617), and addenda thereto. .
PROJECT MANAGER, ROBERT RIVERA

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

- 1. ADOPT A RESOLUTION ADOPTING THE ADDENDUM TO THE ENVISION SAN JOSÉ 2040 GENERAL PLAN FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT (RESOLUTION NO. 76041) AND SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT TO THE ENVISION SAN JOSE GENERAL PLAN FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT (RESOLUTION NO. 77617), AND ADDENDA THERETO IN CONFORMANCE WITH CEQA; AND**
- 2. ADOPT A RESOLUTION APPROVING THE GENERAL PLAN LAND USE/TRANSPORTATION DIAGRAM AMENDMENT (GP21-012) FOR PROPERTIES WITHIN NORTH, MID- AND SOUTH COYOTE VALLEY AND THE GENERAL PLAN TEXT AMENDMENT (GPT21-002) ASSOCIATED WITH THE ENVISION SAN JOSÉ 2040 GENERAL PLAN FOUR-YEAR REVIEW.**
- 3. APPROVE AN ORDINANCE OF THE CITY OF SAN JOSÉ AMENDING TITLE 20 (ZONING ORDINANCE) OF THE SAN JOSÉ MUNICIPAL CODE TO AMEND TABLE 20-40 TO INCORPORATE THE COYOTE VALLEY AGRICULTURE GENERAL PLAN OVERLAY.**

4. **APPROVE AN ORDINANCE REZONING SPECIFIED PARCELS LOCATED WITHIN NORTH, MID- AND SOUTH COYOTE VALLEY FROM ZONING DISTRICTS THAT INCLUDE AGRICULTURE, R-1-1 SINGLE FAMILY RESIDENCE, R-1-5 SINGLE FAMILY RESIDENCE, PLANNED DEVELOPMENT, MOBILEHOME PARK, AND HEAVY INDUSTRIAL TO ZONING DISTRICTS THAT INCLUDE OPEN SPACE, AGRICULTURE, COMBINED INDUSTRIAL/COMMERCIAL, INDUSTRIAL PARK, AND PUBLIC/QUASI PUBLIC ZONING DISTRICT.**
5. **APPROVE AN ORDINANCE REZONING SPECIFIED PARCELS LOCATED WITH NORTH, MID- AND SOUTH COYOTE VALLEY FROM AN AGRICULTURE ZONING DISTRICT TO A PD PLANNED DEVELOPMENT ZONING DISTRICT WHERE ALL AGRICULTURAL USES SHALL CONFORM TO THOSE USES IDENTIFIED IN THE A AGRICULTURE ZONING DISTRICT SET FORTH IN THE CURRENT TITLE 20 OF THE SAN JOSE MUNICIPAL CODE, AND CERTAIN PRIVATE RECREATION AND OPEN SPACE USES.**

COMMISSIONER CABALLERO SECONDED THE MOTION (4-5-1-1, BONILLA, CASEY, GARCIA, OLIVERIO & YOUNG OPPOSED; MONTAÑEZ ABSENT; ORNELAS-WISE ABSTAINED)

MOTION TO APPROVE THE STAFF RECOMMENDATION FAILED.

ACTION: COMMISSIONER YOUNG MADE A MOTION TO DENY THE STAFF RECOMMENDATION. COMMISSIONER OLIVERIO SECONDED THE MOTION.

MOTION TO DENY THE STAFF RECOMMENDATION APPROVED (5-4-1-1, CABALLERO, CANTRELL, LARDINOIS, & TORRENS OPPOSED; MONTAÑEZ ABSENT; ORNELAS-WISE ABSTAINED)

9. CONTINUE THE GENERAL PLAN HEARING (2021 CYCLE 2) TO NOVEMBER 10, 2021

ACTION: COMMISSIONER OLIVERIO MADE A MOTION TO CONTINUE THE GENERAL PLAN HEARING (2021 CYCLE 2) TO NOVEMBER 10, 2021. COMMISSIONER LARDINOIS SECONDED THE MOTION (10-0-1, MONTAÑEZ ABSENT)

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

11. GOOD AND WELFARE

- a. Report from City Council
No items
- b. Subcommittee Formation, Reports, and Outstanding Business
No items
- c. Commission Calendar and Study Sessions
No items
- d. The Public Record
No comments

12. ADJOURNMENT

Meeting adjourned at 11:00 p.m.