

## **PLANNING COMMISSION**

December 7, 2022

Action Minutes

### **\* COVID-19 NOTICE \***

Consistent with AB 361 and City of San Jose Resolution Number 80628, 80659, 80685, 80724 and 80758, this meeting will not be physically open to the public and the Planning Commission Members will be teleconferencing from remote locations.

### **WELCOME**

### **ROLL CALL**

PRESENT: Commissioners Oliverio, Lardinois, Ahluwalia, Barocio, Cantrell (arrived at 6:38 p.m.), Casey, Rosario, Ornelas-Wise, Young

ABSENT: Commissioner Garcia

### **SUMMARY OF HEARING PROCEDURES**

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

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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

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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.

*Paul Soto from the Horse Shoe commented on lack of Equity considerations in Planning Commission deliberations.*

## 3. DEFERRALS AND REMOVALS FROM CALENDAR

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No items

## 4. CONSENT CALENDAR

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**ACTION: COMMISSIONER CASEY MADE A MOTION TO APPROVE CONSENT CALENDAR ITEM 4.A. THROUGH 4.D.**

**COMMISSIONER ORNELAS-WISE SECONDED THE MOTION (9-0-1; GARCIA ABSENT).**

- a. [Review and Approve Action Minutes from November 16, 2022.](#)
- b. [CP21-015 & ER21-114 \(Administrative Hearing\).](#) Conditional Use Permit to allow the demolition of an approximately 5,486-square foot vacant commercial building and the removal of 36 trees (two ordinance-size, 34 non-ordinance size) for the construction of an approximately 3,565-square foot drive-through restaurant (Chick-Fil-A) and the reconfiguration of an existing parking area on an approximately 9.90-gross acre site located on the Westside of Silver Creek Road between Lexann Avenue and East Capitol Expressway (3155 Silver Creek Road) (4G Development & Consulting, Inc., Owner). Council District: 7. **CEQA:** Initial Study/Mitigated Negative Declaration for the Silver Creek Capitol Chick-Fil-A Project. *Deferred from 11/16/22.*  
**PROJECT MANAGER, ALEC ATIENZA**

1. **ADOPT A RESOLUTION ADOPTING THE INITIAL STUDY/MITIGATED NEGATIVE DECLARATION FOR THE SILVER CREEK AND CAPITOL CHICK FIL-A PROJECT AND THE ASSOCIATED MITIGATION MONITORING AND REPORTING PLAN, IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).**
  2. **ADOPT A RESOLUTION APPROVING, SUBJECT TO CONDITIONS, A CONDITIONAL USE PERMIT TO ALLOW THE DEMOLITION OF AN APPROXIMATELY 5,486-SQUARE FOOT VACANT COMMERCIAL BUILDING AND THE REMOVAL OF 36 TREES (TWO ORDINANCE-SIZE, 34 NON-ORDINANCE-SIZE) FOR THE CONSTRUCTION OF AN APPROXIMATELY 3,565-SQUARE FOOT DRIVE-THROUGH RESTAURANT AND RECONFIGURATION OF AN EXISTING PARKING AREA ON AN APPROXIMATELY 9.90-GROSS ACRE SITE.**
- c. [CP22-002 & ER22-011 \(Administrative Hearing\)](#). Conditional Use Permit to allow the conversion of the existing 18,505-square foot office building located at 480 North 1st Street into a middle school with 13 classrooms, up to 14 employees and 236 students, and to reconfigure the parking lot at both 480 and 490 North 1st Street and add bicycle parking facilities in the parking lot at 480 North 1st Street located on the East corner of East Empire Street and North 1st Street (480 and 490 North 1st Street) (Frontier World LLC and Axcelerate Networks, Owners). Council District: 3. **CEQA:** Exempt pursuant to CEQA Guidelines Section 15332 for In-Fill Development Projects.  
*PROJECT MANAGER, ANGELA WANG*
1. **CONSIDER THE CATEGORICAL EXEMPTION UNDER THE PROVISIONS OF SECTION 15332 FOR IN-FILL DEVELOPMENT PROJECTS PURSUANT TO THE STATE GUIDELINES FOR IMPLEMENTATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).**
  2. **ADOPT A RESOLUTION APPROVING, SUBJECT TO CONDITIONS, A CONDITIONAL USE PERMIT TO ALLOW THE CONVERSION OF THE EXISTING 18,505-SQUARE FOOT OFFICE BUILDING LOCATED AT 480 NORTH 1ST STREET INTO A MIDDLE SCHOOL WITH 13 CLASSROOMS, UP TO 14 EMPLOYEES AND 236 STUDENTS, AND TO RECONFIGURE THE PARKING LOT AT BOTH 480 AND 490 NORTH 1ST STREET AT 480 NORTH 1ST STREET.**
- d. [PDC21-019, PD21-006, PT21-002 & ER21-086](#). Planned Development Rezoning to rezone the vacant 1.0-gross acre site from the R-2 Two Family Residence Zoning District to the R-2(PD) Planned Development Zoning District; and Planned Development Permit to allow the construction of seven single-family detached residences and private streets. Vesting Tentative Map to subdivide 1.0-gross acre lot to nine lots, including two lots for two private streets, located on the east side of Camden Avenue, between Malpas Drive and Canna Lane (Kelsey Family Trust, Owner). Council District: 10. **CEQA:** Initial Study and Mitigated Negative Declaration (IS/MND) for the Camden Avenue Residential Project.  
*PROJECT MANAGER, RINA SHAH*

**THE PLANNING COMMISSION RECOMMENDS THAT THE CITY COUNCIL TAKE ALL OF THE FOLLOWING ACTIONS:**

- 1. ADOPT A RESOLUTION ADOPTING THE INITIAL STUDY/MITIGATED NEGATIVE DECLARATION FOR THE CAMDEN AVENUE RESIDENTIAL PROJECT AND THE ASSOCIATED MITIGATION MONITORING AND REPORTING PLAN, IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).**
- 2. APPROVE AN ORDINANCE REZONING THE PROJECT SITE FROM THE R-2 TWO FAMILY RESIDENCE ZONING DISTRICT TO THE R-2(PD) PLANNED DEVELOPMENT ZONING DISTRICT ON A 1.0-GROSS ACRE SITE.**
- 3. ADOPT A RESOLUTION APPROVING, SUBJECT TO CONDITIONS, A VESTING TENTATIVE MAP TO SUBDIVIDE THE 1.0-GROSS ACRE LOT TO NINE LOTS, INCLUDING SEVEN SINGLE-FAMILY LOTS AND TWO PRIVATE STREET LOTS.**
- 4. ADOPT A RESOLUTION APPROVING, SUBJECT TO CONDITIONS, A PLANNED DEVELOPMENT PERMIT TO ALLOW THE CONSTRUCTION OF SEVEN SINGLE-FAMILY DETACHED RESIDENCES AND TWO PRIVATE STREETS ON THE APPROXIMATELY 1.0-GROSS ACRE SITE.**

## **5. PUBLIC HEARING**

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- a. [SP22-023 & ER22-206](#), Special Use Permit and Determination of Public Convenience or Necessity to reinstate a legal nonconforming use for off-sale of alcohol (Type 21 ABC License – full range of alcoholic beverages) at an existing commercial building on an approximately 0.74-gross acre site located on the South side of Blossom Hill Road east of Snell Avenue (430 Blossom Hill Road) (Downer Square LLC, Owner). Council District: 2. **CEQA:** Exempt pursuant to CEQA Guidelines Section 15301 for Existing Facilities.

*PROJECT MANAGER, JONATHAN FOX*

**ACTION: COMMISSIONER YOUNG MADE A MOTION TO RECOMMEND TO THE CITY COUNCIL THE FOLLOWING:**

- 1. CONSIDER A CATEGORICAL EXEMPTION IN ACCORDANCE WITH CEQA GUIDELINES SECTION 15303 FOR EXISTING FACILITIES; AND**
- 2. RECOMMEND THAT THE CITY COUNCIL ADOPT A RESOLUTION APPROVING, SUBJECT TO CONDITIONS, A SPECIAL USE PERMIT AND DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY TO REINSTATE A LEGAL NONCONFORMING USE FOR OFF-SALE OF ALCOHOL (TYPE 21 ABC LICENSE – FULL RANGE OF ALCOHOLIC BEVERAGES) AT AN EXISTING COMMERCIAL BUILDING ON AN APPROXIMATELY 0.74-GROSS ACRE SITE.**

**COMMISSIONER LARDINOIS SECONDED THE MOTION (9-0-1; GARCIA ABSENT).**

## 6. OPEN THE GENERAL PLAN HEARING (2022 CYCLE 3)

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## 7. GENERAL PLAN CONSENT CALENDAR

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**ACTION: COMMISSIONER ROSARIO MADE A MOTION TO APPROVE CONSENT CALENDAR ITEM 7.A.**

**COMMISSIONER ORNELAS-WISE SECONDED THE MOTION (9-0-1; GARCIA ABSENT).**

- a. [GPT22-003 & ER22-269](#). City-initiated General Plan Text Amendment to amend the Envision San Jose 2040 General Plan to 1) state that any commercial space requirements intended to create a mixed-use development will no longer apply to 100% deed-restricted affordable housing citywide, and 2) related minor clarifying revisions to sections of the General Plan, approved Urban Village Plans, and Specific Plans. (City of San Jose, Owner). Council District: Citywide. **CEQA:** Determination of Consistency with the Envision San Jose 2040 General Plan Final Program Environmental Impact Report (FEIR), adopted through Resolution No. 76041, and Supplemental EIR Resolution No. 77617, adopted on December 15, 2015, and Addenda thereto.

*PROJECT MANAGER, LAURA MAURER*

**THE PLANNING COMMISSION RECOMMENDS THAT THE CITY COUNCIL TAKE ALL OF THE FOLLOWING ACTIONS:**

- 1. CONSIDER THE DETERMINATION OF CONSISTENCY WITH 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 ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AS AMENDED; AND**
- 2. ADOPT A RESOLUTION APPROVING THE GENERAL PLAN TEXT AMENDMENT TO NOT APPLY ANY COMMERCIAL REQUIREMENTS TO 100% AFFORDABLE HOUSING DEVELOPMENT CITYWIDE AND OTHER RELATED TEXT CHANGES TO COMMERCIAL REQUIREMENTS IN THE GENERAL PLAN, APPROVED URBAN VILLAGE AND SPECIFIC PLANS, AND ZONING ORDINANCE.**

## 8. GENERAL PLAN PUBLIC HEARING

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- a. [GPT22-004](#). A City-initiated General Plan Text Amendment to amend the Envision San José 2040 General Plan: to require privately-initiated general plan amendment applications to be reviewed concurrently with a development permit application and associated minor revisions in the General Plan. (City of San Jose, Owner). Council District: Citywide. **CEQA:** Not a Project. File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.

*PROJECT MANAGER, SANHITA GHOSAL*

**ACTION: COMMISSIONER ORNELAS-WISE MADE A MOTION TO RECOMMEND TO THE CITY COUNCIL THE FOLLOWING:**

- 1. ADOPT A RESOLUTION APPROVING THE GENERAL PLAN TEXT AMENDMENT TO ADD POLICY IP-3.11 TO REQUIRE PRIVATELY INITIATED GENERAL PLAN AMENDMENT APPLICATIONS TO BE CONSIDERED CONCURRENTLY WITH PERMIT APPLICATIONS.**

**COMMISSIONER AHLUWALIA SECONDED THE MOTION (9-0-1; GARCIA ABSENT).**

## 9. CLOSE THE GENERAL PLAN HEARING (2022 CYCLE 3)

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

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**No items**

## 11. GOOD AND WELFARE

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- a. Report from City Council

*The Commission Secretary reported on City Council actions taken on November 29, 2022 and December 6, 2022.*

- 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**

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Meeting adjourned at 7:19 p.m.