

# *Memorandum*

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**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Nora Frimann  
City Attorney

**SUBJECT:** Planning Commission  
Applicants

**DATE:** September 2, 2025

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## **BACKGROUND**

The Office of the City Attorney routinely reviews applications to City Boards and Commissions. The applications do not provide complete information regarding potential conflicts of interest; however, they do occasionally disclose potential conflicts of interest or incompatible offices. The purpose of this memorandum is to highlight major areas of potential conflict that are disclosed by the applications. To analyze potential conflicts, it is necessary to consider the duties of the particular commission for which the applicant is seeking appointment. This review is limited to the information provided on the applications and is not intended to be a comprehensive investigation of potential conflicts involving the applicants.

## **COMMISSION DUTIES**

The Planning Commission has two major responsibilities under the City Charter and the San José Municipal Code (SJMC):

1. To serve as a quasi-judicial body with respect to the consideration of issuance of certain land use permits and appeals; and
2. To serve in an advisory capacity to the City Council with respect to specific proposals for or affecting zoning, the general plan, a specific plan, and zoning ordinance (SJMC Title 20) amendments.

Pursuant to state law and the City Charter, the Planning Commission is also required to review capital improvement programs. Additionally, under SJMC requirements, the Planning Commission has responsibilities related to considering and certifying the adequacy of many environmental impact reports under the California Environmental Quality Act for projects within the Planning Commission's jurisdiction and for making recommendations to the City Council for projects within the Council's jurisdiction. In addition, the Commission serves in an advisory capacity with respect to other City activities related to land use and development, such as park master plans.

## **LEGAL CONFLICTS THAT MAY PRECLUDE VOTE OR PARTICIPATION**

Certain positions and other financial interests may preclude a commissioner from participating in a Commission discussion and voting if a matter involving the entity comes before the Commission. While this list is not complete, these types of conflicts generally fall within one or more of the following situations:

- An application shows entities that are “sources of income” to a potential commissioner within the 12 months preceding the start of the Commission term, as defined under the Political Reform Act.
- An application shows sources of income to a spouse or domestic partner of a potential commissioner within the 12 months preceding the start of the Commission term.
- An applicant of the spouse or domestic partner of an applicant is an officer or board member of an entity, and it is foreseeable that the entity could be involved in a matter coming before the Commission.
- An applicant has an interest (including community property interest) in real property, such as their place of residence or any other real property in San José, that may be affected by a matter coming before the Commission.

## **APPEARANCE OF BIAS**

There may be facts which would not amount to a legal conflict of interest under the Political Reform Act requiring a commissioner to abstain from a commission vote or discussion, but the relationship could indicate a bias or the appearance of bias on the part of the commissioner. City Council policy requires commissioners to be free from bias in their decision making and may require a commissioner to abstain if the facts could reasonably lead one to conclude that the commissioner would be biased for or against an applicant or application.

## **REVIEW OF APPLICANTS**

One application from the applicant listed below was reviewed by our office. The applicant is identified by Council District to be considered in accordance with the November 8, 2022 amendments to Section 1000 of the City Charter. Unless otherwise indicated, the application does not disclose incompatible offices or apparent conflicts of interest that would substantially impair the functioning of the Commission.

**PLANNING COMMISSION APPLICANT:**

**Council District 1**

**Daniel Cao** applied on August 27, 2025. Mr. Cao is a policy aide for Santa Clara County Supervisor Otto Lee. His spouse is an occupational therapist for the County of Santa Clara. He does not own real property in San José. If appointed, Mr. Cao may need to abstain from participating in decisions that potentially involve or affect the County of Santa Clara.

**CONCLUSION**

If the applicant is compensated for a given activity, there may be occasions when he may have to abstain from participation in matters before the Commission which concern the County of Santa Clara. The application does not reveal any pervasive conflicts of interest which would prevent the applicant from serving on the Planning Commission. You may wish to consider the above comments in making your recommendation on appointments to the Planning Commission.

NORA FRIMANN  
City Attorney

By   
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Senior Deputy City Attorney

cc: Jennifer Maguire, City Manager  
Toni Taber, City Clerk