



PLANNING COMMISSION AGENDA

Wednesday, September 27, 2023

Regular

Commencing at 6:30 p.m.

Council Chambers

First Floor, City Hall Wing

200 East Santa Clara Street

San José, California

Virtual Meeting: <https://sanjoseca.zoom.us/j/84325178536>

Justin Lardinois, Chair

Sylvia Ornelas-Wise, Vice Chair

Louis Barocio Melissa Bickford

Charles Cantrell George Casey

Jorge A. Garcia Pierluigi Oliverio

Carlos Rosario Anthony Tordillos

Michael Young

Christopher Burton, Director

Planning, Building & Code Enforcement

How to submit written Public Comment before the Planning Commission meeting:

Send email to planningsupportstaff@sanjoseca.gov by 1:00 p.m. the day of the meeting. Those emails will be attached to the item on the Agenda. Please identify the Agenda Item Number in the subject line of your email. Public correspondence received after 1:00 p.m. may not be considered by the Commission due to time constraints. Public comments received after 1:00 p.m. should be presented during the hearing.

How to provide spoken Public Comment during the Planning Commission Meeting:

1. By Phone: (888) 475 4499. Webinar ID is 843 2517 8536. Click *9 to raise a hand to speak. Click *6 to unmute when called. Alternative phone numbers are: US: +1 (213) 338-8477 or +1 (408) 638-0968 or (877) 853-5257 (Toll Free)
2. Online at: <https://sanjoseca.zoom.us/j/84325178536>
 - a. Use a current, up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers including Internet Explorer. Mute all other audio before speaking. Using multiple devices can cause an audio feedback.
 - b. Enter an email address and name. The name will be visible online and will be used to notify you that it is your turn to speak.
 - c. When the Commission calls for the item on which you wish to speak, click on “raise hand.” Speakers will be notified shortly before they are called to speak.
 - d. When called, please limit your remarks to the time limit allotted.

How to request ADA accommodations or interpretation for the meeting

To request an alternative format agenda under the Americans with Disabilities Act for City-sponsored meetings, events or printed materials, please call Support Staff at 408-535-3505 or 1-800-735-2992 (TTY), as soon as possible, but at least three business days before any meeting or event. Accommodations: Any member of the public who needs accommodations should email the ADA Coordinator at ADA@sanjoseca.gov or by calling (408) 535-8430. Language interpretation services are available at no cost for community members. Spanish interpretation will be available on Zoom for this meeting Please contact planningsupportstaff@sanjoseca.gov or call 408-535-3505 no less than one week prior to the meeting to request an interpreter for other languages.

Nhu cầu cho người khuyết tật được cung cấp theo yêu cầu. Email ADA@sanjoseca.gov. Gọi (408) 535-8430. Các dịch vụ thông dịch ngôn ngữ được cung cấp miễn phí cho các thành viên trong cộng đồng. Vui lòng liên lạc tới QuyHoach@sanjoseca.gov hoặc gọi số 408-793-4174 ít nhất một tuần trước cuộc họp để yêu cầu có thông dịch viên.

Adaptaciones para discapacitados serán proporcionadas a pedido. Mande correo electrónico ADA@sanjoseca.gov. Llame (408) 535-8430. Los servicios de interpretación de idiomas están disponibles para los miembros de la comunidad. Servicios de interpretacion estaran disponibles en espanol por Zoom.

應要求提供殘疾人便利設施。電子郵件 ADA@sanjoseca.gov。致電 (408) 535-8430。社區成員可以獲得免費的口譯服務。請至少在會議前一周聯繫 planningsupportstaff@sanjoseca.gov 或致電 408-535-3505 申請口譯服務

SUMMARY OF HEARING PROCEDURES

If you want to address the Commission, please fill out a speaker card located on the table near the Audio Visual Technician and deposit the completed card in the basket. There are also speaker cards in the back of the Chambers and at the side entrance.

The procedure for this hearing is as follows:

- After staff's presentation, applicants and/or appellants may make up to a 5-minute presentation.
- During the public comment period, the chair will call out names on the submitted speaker cards in the order received for those members of the public who attend in person. As your name is called, line up in front of the microphone at the front of the Chamber.
- For members of the public who attend by teleconference: The meeting technician will connect those persons who desire to speak to the commission so they may be heard.
- Generally, each speaker will be given up to two minutes for public testimony, and speakers using a translator will have up to four minutes. At the discretion of the Chair, the time allotted to each speaker may be changed depending on the number of items on the agenda, number of speakers, and other factors. Speakers using a translator will have double the time allotted.
- After the public testimony, the applicant and/or appellant may make closing remarks for up to an additional five minutes.
- Planning Commissioners may ask questions of the speakers. Response to Commissioner questions will not reduce the speaker's time allowance.
- The public hearing will then be closed, and the Planning Commission will take action on the item. The Planning Commission may request staff to respond to the public testimony, ask staff questions, and discuss the item.

If you challenge these land use decisions in court, you may be limited to raising only those issues you or someone else raised at this public hearing or in written correspondence delivered to the City at, or prior to, the public hearing.

The Planning Commission's action on re-zonings, pre-zonings, General Plan Amendments and Code Amendments is only advisory to the City Council. The City Council will hold public hearings on these items. Section 20.120.400 of the Municipal Code provides the procedures for legal protests to the City Council on re-zonings and pre-zonings. The Planning Commission's action on Conditional Use Permits is appealable to the City Council in accordance with Section 20.100.220 of the Municipal Code. Agendas and all staff reports for this meeting may be accessed at: <https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/commissions-hearings-and-developers-roundtable/planning-commission/planning-commission-agendas-minutes>.

AGENDA
ORDER OF BUSINESS

WELCOME

Welcome to the Planning Commission Meeting. Please remember to turn off your cell phones. The parking validation machine for the garage under City Hall is located at the rear of the Chambers.

SALUTE TO THE FLAG

ROLL CALL

SUMMARY OF HEARING PROCEDURES

1. CALL TO ORDER & ORDERS OF THE DAY

2. PUBLIC COMMENT

Public comments to the Planning Commission on non-agendized items. For members of the public who attended in person, please fill out a speaker's card and give it to the technician. For members of the public who joined by teleconference, please use the 'raise hand' feature in Zoom or press *9 on your phone to raise a hand 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.

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, you should say so at this time. For members of the public who joined by teleconference, please use the 'raise hand' feature in Zoom or press *9 on your phone to raise a hand to speak.

No items

4. CONSENT CALENDAR

Notice to the public: There will be no separate discussion of individual Consent Calendar items as they are considered to be routine and will be adopted by one motion. If a member of the Commission requests debate, separate vote or recusal on a particular item, that item may be removed from the Consent Calendar by the Chair and considered separately. The public may comment on the entire Consent Calendar and any items removed from the Consent Calendar by the Chair.

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. For members of the public who joined by teleconference and wish to speak on one of these items individually, please use the 'raise hand' feature in Zoom or press *9 on your phone to raise a hand to speak.

- a. [Review and Approve Action Minutes from September 13, 2023.](#)

- b. [CPA15-064-01 & ER23-072 \(Administrative Hearing\):](#) Conditional Use Permit Amendment to modify the conditions of Conditional Use Permit No. CP15-064 to allow a 2,746-square-foot drinking establishment to expand existing service into a 540-square-foot, rear outdoor patio with 36 additional seats on an approximately 0.30-gross-acre site located on approximately 115 feet northeasterly of the West Santa Clara Street and Almaden Avenue intersection (169 West Santa Clara Street) (Lyndon Partners LLC, Owner). Council District: 3. **CEQA:** Exempt pursuant to CEQA Guidelines Section 15301(a) for Existing Facilities.
PROJECT MANAGER, KORA MCNAUGHTON

Staff recommends that the Planning Commission take all of the following actions:

1. Consider the exemption in accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15301(a) for Existing Facilities; and
2. Adopt a Resolution approving, subject to conditions, a Conditional Use Permit Amendment to modify the conditions of Conditional Use Permit No. CP15-064 to allow a 2,746-square-foot drinking establishment to expand existing service into a 540-square-foot, rear outdoor patio with 36 additional seats on an approximately 0.30-gross-acre site.

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. [CP22-024 & ER22-187 \(Administrative Hearing\):](#) Conditional Use Permit to allow the off-sale of alcohol (full range of alcoholic beverages) under a Type 21 ABC license within an existing approximately 2,767-square-foot tenant space (Fast Mart) on an approximately 0.43-gross-acre site located at 1484 South White Road (Dao Alex and Trinh Nancy Trustee, Owner). Council District: 5. **CEQA:** Exempt pursuant to CEQA Guidelines Section 15301(a) for Existing Facilities.
PROJECT MANAGER, CAMERON GEE

Staff recommends that the Planning Commission take all of the following actions:

1. Consider the exemption in accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15301(a) for Existing Facilities; and
2. Adopt a Resolution approving, subject to conditions, a Conditional Use Permit to allow the off-sale of alcohol (Type 21 – full range of alcoholic beverages) at an existing approximately 1,537-square-foot tenant space (Fast Mart) on an approximately 0.43-gross-acre site.

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

7. GOOD AND WELFARE

- a. Report from City Council
- b. Subcommittee Formation, Reports, and Outstanding Business
 - i. Staff will provide a verbal report on the Housing Element Update process
- c. Commission Calendar and Study Sessions.
- d. The Public Record

8. ADJOURNMENT

2023 PLANNING COMMISSION MEETING SCHEDULE

<u>Date</u>	<u>Time</u>	<u>Type of Meeting</u>	<u>Location</u>
January 11	6:30 p.m.	Regular	Virtual Meeting
January 25	6:30 p.m.	Regular	Virtual Meeting
February 8	6:30 p.m.	Regular	Virtual Meeting
February 22	6:30 p.m.	Regular	Virtual Meeting
March 8	6:30 p.m.	Cancelled: Regular	
March 22	6:30 p.m.	Regular & General Plan	Hybrid
April 12	6:30 p.m.	Regular	Hybrid
April 26	6:30 p.m.	Regular	Hybrid
May 10	5:00 p.m.	<i>Special Meeting</i>	<i>Hybrid</i>
<i><u>2023-2024 Capital Budget & 2024-2028 Capital Improvement Program Special Meeting</u></i>			
May 10	6:30 p.m.	Regular	Hybrid
May 24	6:30 p.m.	Regular & General Plan	Hybrid
June 14	6:30 p.m.	Regular	Hybrid
June 28	6:30 p.m.	Cancelled: Regular	
July 12	6:30 p.m.	Regular	Hybrid
July 26	6:30 p.m.	Cancelled: Regular	
August 9	6:30 p.m.	Regular	Hybrid
August 23	6:30 p.m.	Cancelled: Regular	
September 13	6:30 p.m.	Regular	Hybrid
September 27	6:30 p.m.	Regular	Hybrid
October 11	6:30 p.m.	Regular	TBD
October 25	6:30 p.m.	Regular	TBD
November 8	6:30 p.m.	Regular	TBD
November 15	6:30 p.m.	Regular	TBD
December 6	6:30 p.m.	Regular	TBD
December 13	6:30 p.m.	Regular	TBD

ABOUT THE PLANNING COMMISSION

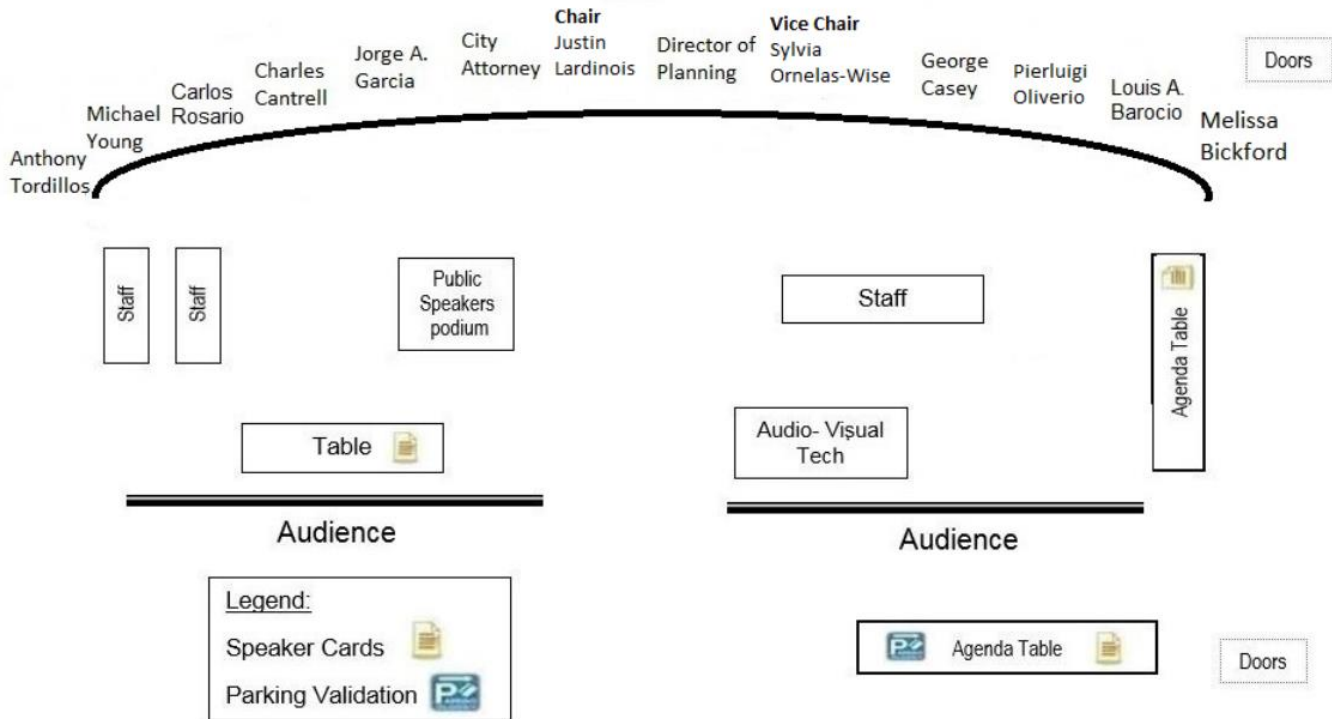
The Planning Commission is a eleven-member body, appointed by the City Council, which performs two types of actions:

- One type is “Quasi-Legislative” in nature in which the Planning Commission makes recommendations to the City Council regarding the adoption, amendment, or repeal of general or specific plans, Zoning Code provisions, or regulations related to the land use development, redevelopment, rehabilitation or renewal of the City, including its Capital Improvement Programs.
- The second type of action is “Quasi-Judicial” in nature in which the Planning Commission applies previously adopted legislation to particular applications and acts as a decision-making or appellate body. Examples of these types of actions include Commission decisions on Conditional Use Permits, appeals of the Planning Director’s decisions on certain land use permits, and the certification of Environmental Impact Reports.

A notation of “Administrative Hearing” for an agenda item indicates that the item is a Quasi-Judicial action of the Commission in order to assist the public in understanding the role of the Planning Commission on a particular item.

To effectively manage the Planning Commission Agenda, and to be sensitive to concerns regarding the length of public hearing, the Planning Commission may determine to proceed with remaining agendized items past 11:00 p.m., or to continue this hearing to a later date, or to defer remaining items to the next regularly scheduled Planning Commission meeting date. The decision on how to proceed will be heard by the Planning Commission no later than 11:00 p.m.

Seating Chart within the City Council Chambers:



The San José Planning Commission generally meets every 2nd and 4th Wednesday at 6:30 p.m., unless otherwise noted. Agendas and Staff Reports for Planning Commission items may be viewed on the Internet at <https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/commissions-and-hearings/planning-commission>

The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public. The City Code of Ethics may be viewed on-line at <https://www.sanjoseca.gov/home/showdocument?id=11915>

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public view by clicking the link associated specifically to documents on this agenda, at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for the final document. City Hall is currently closed due to the COVID-19 shelter-in-place and records are not available for in-person inspection.

Planning Commission hearings are video recorded and broadcasted live. To view the live broadcast or past hearing recordings go to the Internet website: https://sanjose.granicus.com/ViewPublisher.php?view_id=51

If you have any agenda questions, please contact Support Staff at (408) 535-3505 or email PlanningSupportStaff@sanjoseca.gov. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

FREQUENTLY USED ABBREVIATIONS

CEQA	California Environmental Quality Act
CP	Conditional Use Permit
DA	Development Agreement
PD	Planned Development Permit
PDC	Planned Development Zoning

CITY OF SAN JOSÉ CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, Redevelopment Agency Board, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

1. Public Meeting Decorum:

- a) Persons in the audience will refrain from behavior, which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

2. Signs, Objects or Symbolic Material:

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions:
 - No objects will be larger than 2 feet by 3 feet.
 - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
 - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**CITY OF SAN JOSÉ CODE OF CONDUCT FOR PUBLIC MEETINGS IN
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D)**

3. Addressing the Council, Redevelopment Agency Board, Committee, Board or Commission:
- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
 - b) Meeting attendees are usually given two (2) minutes to speak on any agenda item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak.
 - c) Speakers should discuss topics related to City business on the agenda, unless they are speaking during open forum.
 - d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners, or Staff in conversation will not be honored. Abusive language is inappropriate.
 - e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
 - f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
 - g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.