CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

PLANNING COMMISSION AGENDA

Wednesday, June 8, 2022

Regular Hearing
Commencing at 6:30 p.m.
Virtual Meeting: https://sanjoseca.zoom.us/j/96140212594

Rolando Bonilla, Chair
George Casey, Vice Chair
Mariel Caballero Charles Cantrell
Jorge A. Garcia Justin Lardinois
Maribel Montañez Pierluigi Oliverio
Sylvia Ornelas-Wise Deborah Torrens
Michael Young

Christopher Burton, Director
Planning, Building & Code Enforcement

*** COVID-19 NOTICE ***

Consistent with AB 361 and City of San Jose Resolution Nos. 79485, 80237, 80266, 80290, 80323, 80343, 80363, 80400, 80445, 80481 and 80507, this meeting will not be physically open to the public and the Planning Commission Members will be teleconferencing from remote locations.

The Planning Commission is meeting via teleconference from remote locations in accordance with state and local orders and measures taken as a result of the Covid-19 pandemic.

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 961 4021 2594. 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/96140212594
    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.

Before or during the Planning Commission meeting, if you have any questions or trouble logging into the Zoom meeting please email PlanningSupportStaff@sanjoseca.gov or call Support Staff at 408-535-3505 for assistance.

NOTICE

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.

SUMMARY OF HEARING PROCEDURES

The procedure for this hearing is as follows:

- After the staff report, applicants, and appellants may make a 5-minute presentation.
- The meeting technician will connect persons who desire to speak to the commission to the meeting so they can be heard.
- Each speaker will have two minutes. Speakers using a translator will have four minutes.
- After the public testimony, the applicant and appellant may make closing remarks for 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-and-hearings/planning-commission/agendas-minutes-2020

AGENDA
ORDER OF BUSINESS

WELCOME

Welcome to the Planning Commission Meeting**.** This meeting is being held via Zoom Conference Call due to the COVID-19 crisis. Members of the public may participate by following the instructions listed on the Agenda. You may also view and listen to the meeting on live stream Cable TV, Granicus, and YouTube.

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. Please use the 'raise hand' feature in Zoom or click *9 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, please use the 'raise hand' feature in Zoom or click *9 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 use the 'raise hand' feature in Zoom or click *9 to raise a hand to speak.

a. Review and Approve Action Minutes from **May 25, 2022.**

b. **CP22-004/ER22-029 (Administrative Hearing).** Conditional Use Permit and Determination of Public Convenience or Necessity to allow the off-sale of a full-range of alcoholic beverages at a proposed retail/grocery store (Eataly) occupying an existing 47,322 square foot commercial tenant space at Valley Fair Mall located on an approximately 22.15-gross acre site located at 2855 Stevens Creek Boulevard (VF Mall LLC, Owner). Council District 6. CEQA: Exempt Pursuant to CEQA Guidelines Section 15301 for Existing Facilities.
***PROJECT MANAGER**, RINA SHAH*

Staff Recommendation:

1. Consider the exemption in accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15301(a) for Existing Facilities.
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 alcohol (Type 21 ABC License – Full Range of Alcoholic Beverages) for a proposed retail/grocery store (Eataly) occupying an existing 47,322 square foot commercial tenant space at Valley Fair Mall on an approximately 22.15-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. **CP17-010/ER20-205 (Administrative Hearing).** Conditional Use Permit to allow the construction of an approximately 4,464-square foot single-family residence with attached approximately 1,441-square foot garage, driveway construction and improvements, and removal of one ordinance-size tree on a 16.87-gross acre site located on the south side of Santa Teresa Boulevard, approximately 1,100 feet easterly of Bayliss Drive (Gschwend Marcus S and Chelsea J, Owner). Council District 10. CEQA: Gschwend Residence Project Initial Study and Mitigated Negative Declaration.
***PROJECT MANAGER**, PATRICK KELLY*

Staff Recommendation:

1. Adopt a resolution adopting the Gschwend Residence Project 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, a Conditional Use Permit, to allow the construction of a two-story, 4,464-square foot single-family residence with an attached 1,441-square foot garage, and vehicular driveway and removal of one California Buckeye tree (112 inches in circumference) on a 16.87-gross acre site.

b. **Parking/Transportation Demand Management (TDM) Ordinance Update Policy Direction.**
***PROJECT MANAGERS**, EDWARD SCHREINER AND WILSON TAM*

Staff Recommendation:

The Planning Commission accepts the staff report and provides comments to City staff and City Council on proposals to amend Title 20 (Zoning Code) that:

1. Removes mandatory minimum off-street parking requirements (except in areas where the City has defined contractual agreements regarding parking) and implements a market-based parking approach; and
2. Revises the City's Transportation Demand Management (TDM) requirements for new developments (except for small projects); and

3. Develops a TDM program for ongoing monitoring and compliance of new developments citywide.

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

No items

7. GOOD AND WELFARE

a. Report from City Council

b. Subcommittee Formation, Reports, and Outstanding Business

c. Election of Chair and Vice Chair for Fiscal Year 2022-2023

d. Commission Calendar and Study Sessions

e. The Public Record

8. ADJOURNMENT

2022 PLANNING COMMISSION MEETING SCHEDULE

Date	Time	Type of Meeting	Location
January 12	*5:00 p.m.*	*Special Meeting: Study Session*	*Virtual Meeting*
		2021 General Plan Annual Performance Review	
January 12	6:30 p.m.	Regular & General Plan	Virtual Meeting
January 26	6:30 p.m.	Regular	Virtual Meeting
February 9	6:30 p.m.	Regular & General Plan	Virtual Meeting
February 23 - Cancelled			
March 9	6:30 p.m.	Regular & General Plan	Virtual Meeting
March 23	6:30 p.m.	Regular & General Plan	Virtual Meeting
April 13	6:30 p.m.	Regular	Virtual Meeting
April 27	6:30 p.m.	Regular	Virtual Meeting
May 11	*5:00 p.m.*	*Special Meeting*	*Virtual Meeting*
		2022/2023 Capital Budget & 2023/2027 Capital Improvement Program Study Session	
May 11	6:30 p.m.	Regular	Virtual Meeting
May 25	6:30 p.m.	Regular	Virtual Meeting
June 8	6:30 p.m.	Regular	Virtual Meeting
June 22	6:30 p.m.	Regular	TBD
July 13	6:30 p.m.	Regular	TBD
July 27	6:30 p.m.	Regular	TBD
August 10	6:30 p.m.	Regular	TBD
August 24	6:30 p.m.	Regular	TBD
September 11	6:30 p.m.	Regular	TBD
September 28	6:30 p.m.	Regular	TBD
October 12	6:30 p.m.	Regular	TBD
October 26	6:30 p.m.	Regular	TBD
November 9	6:30 p.m.	Regular	TBD
November 16	6:30 p.m.	Regular	TBD
December 7	6:30 p.m.	Regular	TBD
December 14	6:30 p.m.	Regular	TBD

ABOUT THE PLANNING COMMISSION

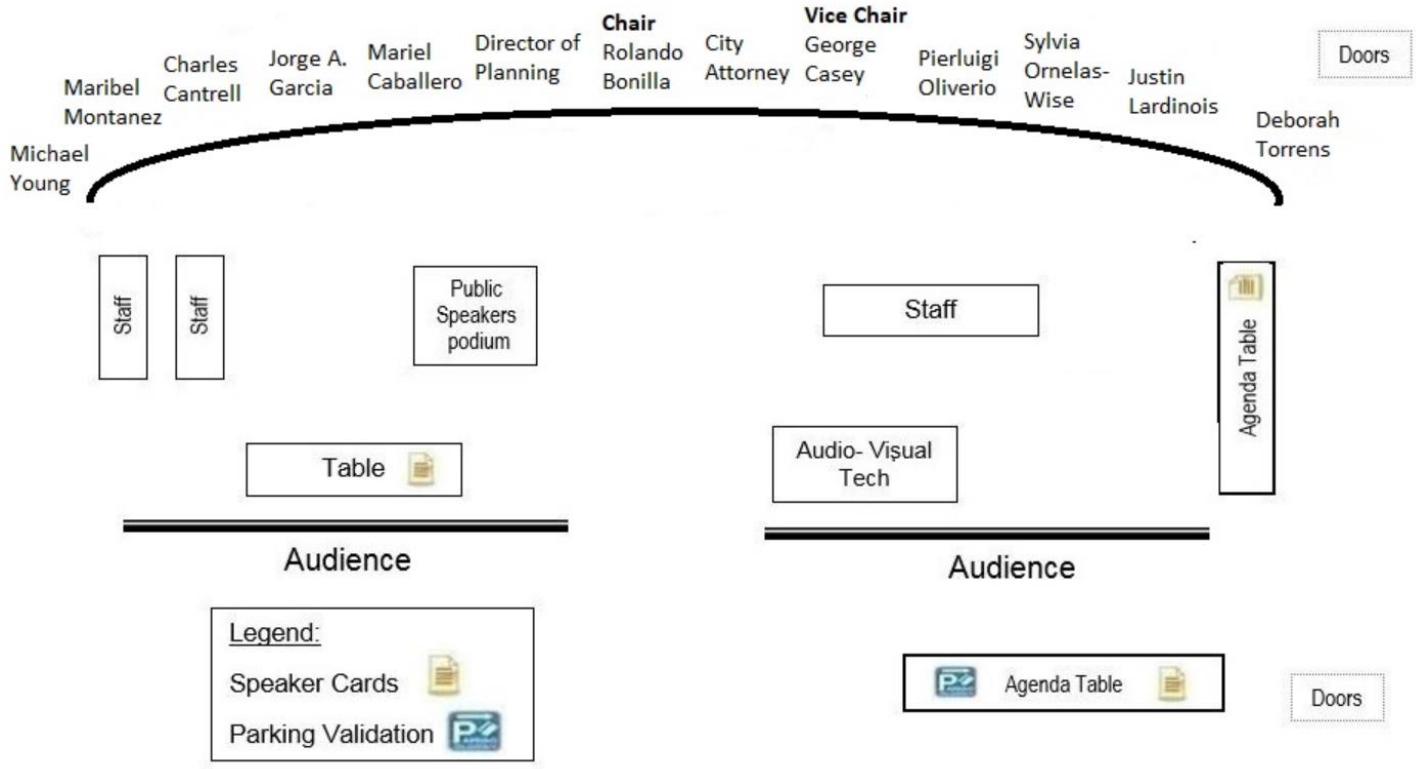
The Planning Commission is a eleven-member body, appointed by the City Council, which performs two types of actions:

- 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.