

PLANNING COMMISSION

November 16, 2022

Action Minutes

*** COVID-19 NOTICE ***

Consistent with AB 361 and City of San Jose Resolution Number 80628, 80659, 80685 and 80724, 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, Barocio, Cantrell, Casey, Garcia, Rosario, Ornelas-Wise, Young

ABSENT: Commissioner Ahluwalia

SUMMARY OF HEARING PROCEDURES

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.

No public comments

3. DEFERRALS AND REMOVALS FROM CALENDAR

ACTION: COMMISSIONER CASEY MADE A MOTION TO APPROVE DEFERRALS AND REMOVALS FROM CALENDAR ITEM 3.A.

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

- a. **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.

PROJECT MANAGER, ALEC ATIENZA

STAFF RECOMMENDATION:

1. **DEFER TO THE DECEMBER 7, 2022 PLANNING COMMISSION MEETING PER APPLICANT REQUEST.**

4. CONSENT CALENDAR

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

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

a. [Review and Approve Action Minutes from October 26, 2022.](#)

b. [CP22-018/ER22-125 \(Administrative Hearing\).](#) Conditional Use Permit to allow the demolition of an existing single-family house for the construction of a community center and attached residence, on an approximately 0.71-gross acre site located on the southwest corner of the intersection of South White Road and Markingdon Avenue (1401 & 1409 South White Road) (Holy Cross Romanian Orthodox Church, Owner). Council District: 5. **CEQA:** Exempt pursuant to CEQA Guidelines Section 15303 for New Construction of Small Structures.

PROJECT MANAGER, KORA MCNAUGHTON

- 1. CONSIDER THE CATEGORICAL EXEMPTION IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES SECTION 15303 FOR NEW CONSTRUCTION OR CONVERSION OF SMALL STRUCTURES.**
- 2. ADOPT A RESOLUTION APPROVING, SUBJECT TO CONDITIONS, A CONDITIONAL USE PERMIT TO ALLOW THE DEMOLITION OF AN EXISTING 1,433-SQUARE FOOT SINGLE-FAMILY HOUSE, 657-SQUARE FOOT DETACHED GARAGE, THREE SHEDS TOTALING 625 SQUARE FEET AND A MASONRY WALL; FOR THE CONSTRUCTION OF AN APPROXIMATELY 6,893-SQUARE FOOT, TWO-STORY COMMUNITY CENTER WITH ATTACHED RESIDENCE (E.G., CLERGY HOUSE), ; ON AN APPROXIMATELY 0.71-GROSS ACRE SITE.**

c. [CP22-027/ER22-236 \(Administrative Hearing\).](#) Conditional Use Permit to allow the construction of a new 65-foot high stealth wireless telecommunications facility (monopine) on an approximately 0.90-gross acre site for T-Mobile located at Southwest lot at the intersection of Oakland Road and McKay Drive (1717 Oakland Road) (Kenneth Wong, Owner). Council District: 4. **CEQA:** Exempt pursuant to CEQA Guidelines Section 15303 for New Construction.

PROJECT MANAGER, DAVID FONG

- 1. CONSIDER THE CATEGORICAL EXEMPTION IN ACCORDANCE WITH CEQA GUIDELINES SECTION 15303 FOR NEW CONSTRUCTION; AND**
- 2. ADOPT A RESOLUTION APPROVING, SUBJECT TO CONDITIONS, A CONDITIONAL USE PERMIT TO ALLOW THE CONSTRUCTION OF A NEW 65-FOOT HIGH STEALTH WIRELESS TELECOMMUNICATIONS FACILITY (MONOPINE) ON AN APPROXIMATELY 0.90-GROSS ACRE SITE.**

- d. [PDC21-017, PD21-004, & ER21-079](#). Planned Development Rezoning to allow the 10.6-gross acre site to be rezoned from the IP Industrial Park Zoning District to the IP(PD) Planned Development Zoning District and a Planned Development Permit to allow the construction of an approximately 6,000-square foot fleet maintenance and repair facility located on the West side of Piercy Road, approximately 2,070 feet northerly of Tennant Avenue (500 Piercy Road) (Lone Oak Santa Clara LLC, Owner). Council District: 2. **CEQA:** Exempt pursuant to CEQA Guidelines Section 15303(c) and (d) for New Construction of Small Structures.

PROJECT MANAGER, JASON LEE

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

- 1. CONSIDER A CATEGORICAL EXEMPTION IN ACCORDANCE WITH CEQA GUIDELINES SECTION 15303(C) AND (D) FOR NEW CONSTRUCTION OF SMALL STRUCTURES; AND**
- 2. APPROVE AN ORDINANCE REZONING THE PROJECT SITE FROM THE IP INDUSTRIAL PARK ZONING DISTRICT TO THE IP(PD) PLANNED DEVELOPMENT ZONING DISTRICT ON AN APPROXIMATELY 10.6-GROSS ACRE SITE.**
- 3. ADOPT A RESOLUTION APPROVING, SUBJECT TO CONDITIONS, A PLANNED DEVELOPMENT PERMIT TO ALLOW THE CONSTRUCTION OF A FLEET MAINTENANCE AND REPAIR FACILITY INCIDENTAL TO THE EXISTING WAREHOUSE DISTRIBUTION USE, ON THE APPROXIMATELY 10.6-GROSS ACRE PROJECT SITE.**

5. PUBLIC HEARING

- a. [H20-037/ER20-242](#). Site Development Permit to allow the removal of two ordinance-size trees and 10 non-ordinance-size trees, and the construction of a 21-story mixed residential and commercial building with a total of approximately 721,286 square feet, including 30,790 gross square feet of commercial retail space, 368,093 square feet of office space, and 194 residential units, and one level of below-grade loading area and three levels of below grade parking, with extended construction hours from 7 AM to 10 PM, Monday to Friday, and 7 AM to 7 PM on Saturdays over a period of approximately 34 months on an approximately 1.25-gross acre site located on the South corner of Fountain Alley and South 2nd Street (35 South 2nd Street) (Project Fountain Alley LLC., Owner). Council District: 3. **CEQA:** Fountain Alley Mixed Use Project Final Supplemental Environmental Impact Report (SCH No. 2003042127) to the Downtown Strategy 2040 Environmental Impact Report (Resolution No. 78942).

PROJECT MANAGER, ANGELA WANG

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

- 1. ADOPT A RESOLUTION CERTIFYING THE FOUNTAIN ALLEY MIXED USE PROJECT SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT (SCH NO. 2003042127) TO THE DOWNTOWN STRATEGY 2040 ENVIRONMENTAL IMPACT REPORT (RESOLUTION NO. 78942), AND**

MAKING CERTAIN FINDINGS CONCERNING SIGNIFICANT IMPACTS, MITIGATION MEASURES, ALTERNATIVES, STATEMENT OF OVERRIDING CONSIDERATIONS, AND ADOPTING A RELATED MITIGATION MONITORING AND REPORTING PLAN, IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).

- 2. ADOPT A RESOLUTION APPROVING, SUBJECT TO CONDITIONS, A SITE DEVELOPMENT PERMIT, TO ALLOW THE REMOVAL OF TWO ORDINANCE-SIZE TREES AND 10 NON-ORDINANCE-SIZE TREES, AND THE CONSTRUCTION OF A 21-STORY MIXED RESIDENTIAL AND COMMERCIAL BUILDING WITH A TOTAL OF APPROXIMATELY 721,286 SQUARE FEET, INCLUDING 30,790 GROSS SQUARE FEET OF COMMERCIAL/RETAIL SPACE ON THE GROUND FLOOR AND SECOND FLOOR, 194 RESIDENTIAL UNITS, 368,093 SQUARE FEET OF OFFICE SPACE, AND ONE LEVEL OF BELOW-GRADE LOADING AREA AND THREE LEVELS OF BELOW GRADE PARKING, WITH EXTENDED CONSTRUCTION HOURS FROM 7 AM TO 10 PM, MONDAY TO FRIDAY, AND 7 AM TO 7 PM ON SATURDAYS OVER A PERIOD OF APPROXIMATELY 34 MONTHS ON AN APPROXIMATELY 1.25-GROSS ACRE SITE.**

COMMISSIONER CASEY SECONDED THE MOTION (6-3-1; BAROCIO, CANTRELL & ORNELAS-WISE OPPOSED; AHLUWALIA ABSENT).

- b. [PP22-015](#). An ordinance of the City of San José amending Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code to: Add Part 9 Transportation Demand Management (TDM) to the retitled Chapter 20.90 Parking, Loading and Transportation Demand Management; Revise tables and text for in Chapter 20.90 to remove parking minimums, modify parking space design standards, and modify parking requirements for bicycle and two-wheeled motorized vehicle parking and remove parking reduction exceptions; Revise tables and text in 20.70 Downtown Zoning Regulations to remove requirements and references to mandatory minimum off-street parking; Remove references to parking requirements in Chapters 20.55, 20.80, 20.150, 20.180, 20.190 and 20.195; Revise and add text to expand/modify processes for issuing outdoor event permits, outdoor vending permits and conversion of existing parking to outdoor use in Chapter 20.80 Specific Use Regulations; And make other technical, non-substantive, or formatting changes within those section of Title 20 of the San José Municipal Code. (City of San Jose, Owner). Council District: Citywide. **CEQA:** Determination of Consistency with the Envision San José 2040 General Plan EIR (Resolution No. 76041), and Supplemental EIR to Envision San Jose 2040 General Plan EIR (Resolution No. 77617), and Addenda thereto.

PROJECT MANAGER, EDWARD SCHREINER

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

- 1. CONSIDER THE DETERMINATION OF CONSISTENCY WITH THE ENVISION SAN JOSÉ 2040 GENERAL PLAN FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT, SUPPLEMENTAL EIR , AND ADDENDA THERETO IN ACCORDANCE WITH CEQA; AND**
- 2. ADOPT AN ORDINANCE TO:**

- A. MAKE MODIFICATIONS TO CHAPTER 20.90 IN THE TITLE 20 FOR PARKING, LOADING AND TRANSPORTATION DEMAND MANAGEMENT,**
- **ADD PART 9 – TRANSPORTATION DEMAND MANAGEMENT TO ESTABLISH REQUIREMENTS FOR TDM IN NEW DEVELOPMENT**
 - **REVISE TABLES AND TEXT FOR IN CHAPTER 20.90 TO EXPAND THE CHAPTER PURPOSE AND DEFINITIONS, REMOVE PARKING MINIMUMS, MODIFY PARKING SPACE DESIGN STANDARDS, MAKE MODIFICATIONS TO PARKING REQUIREMENTS FOR BICYCLE AND TWO-WHEELED MOTORIZED VEHICLE PARKING AND REMOVE PARKING REDUCTION EXCEPTIONS**
- B. REMOVE REFERENCES TO PARKING REQUIREMENTS IN VARIOUS SECTIONS OF TITLE 20. REMOVE REFERENCES TO MINIMUM PARKING REQUIREMENTS FROM THE FOLLOWING CHAPTERS:**
- **CHAPTERS 20.55 – URBAN VILLAGE AND MIXED-USE ZONING DISTRICTS**
 - **CHAPTER 20.70 – DOWNTOWN ZONING REGULATIONS**
 - **CHAPTER 20.80 – SPECIFIC USE REGULATIONS**
 - **CHAPTER 20.150 – NONCONFORMING USES**
 - **CHAPTER 20.180 – MOBILEHOME PARK CONVERSIONS TO RESIDENT OWNERSHIP OR TO ANY OTHER USE**
 - **CHAPTER 20.190 – AFFORDABLE HOUSING DENSITY BONUSES AND INCENTIVES**
 - **CHAPTER 20.195 – MINISTERIAL APPROVALS**
- C. REVISE TEXT AND ADD TEXT IN CHAPTER 20.180 – SPECIFIC USE REGULATIONS. ADD AND MODIFY EXISTING TEXT TO ALLOW/EXPAND USES IN EXISTING PARKING LOTS AND ALLOW EXISTING BUILDINGS TO CHANGE TO DIFFERENT TDM USES**
- **ADD PART 8.75 - CONVERSIONS OF AN EXISTING USE TO ANOTHER USE WITH A DIFFERENT TDM USE DESIGNATION**
 - **ESTABLISH A PROCESS FOR WHEN AN EXISTING BUILDING IS CONVERTED TO A NEW USE THAT TRIGGERS THE REQUIREMENT FOR A TDM PLAN**
 - **MODIFY PART 10 – OUTDOOR VENDING FACILITIES**
 - **MAKE MODIFICATIONS TO STANDARDS/REQUIREMENTS FOR OUTDOOR VENDING FACILITIES (E.G. FOOD TRUCKS), INCLUDING ALLOWING MULTIPLE ON ONE LOT**
 - **ADD PART 10.5 – CONVERSION OF PARKING TO OTHER OUTDOOR USES**
 - **ESTABLISH PERMITTING PROCESS, REQUIREMENTS FOR THE CONVERSION OF PARKING TO OTHER OUTDOOR USES**

- **MODIFY PART 16 – TEMPORARY OUTDOOR USE OF PRIVATE PROPERTY**
 - **MODIFY REQUIREMENTS TO BE BASED ON EXISTING PARKING RATHER THAN MANDATORY PARKING**

D. MINOR CHANGES, AND OTHER TECHNICAL, NON-SUBSTANTIVE, OR FORMATTING CHANGES WITHIN THESE SECTIONS.

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

- c. [GPT22-006](#). Amend City Council Transportation Analysis Policy 5-1 to streamline environmental review under Vehicle Miles Traveled (VMT) for affordable housing projects , and to allow a process for City Council consideration of housing projects, including those in high VMT areas, meeting the land use policies of the General Plan to have access to the Policy's Significant and Unavoidable VMT Impacts program (City of San Jose, Owner). Council District: Citywide. **CEQA:** General Procedure & Policy Making resulting in no changes to the physical environment. Public Project number PP17-008.

PROJECT MANAGER, RAMSES MADOU

ACTION: COMMISSIONER CANTRELL MADE A MOTION TO RECOMMEND TO THE CITY COUNCIL STAFF RECOMMENDATION BELOW AND TO SPECIFICALLY REJECT THE ALTERNATIVE MENTIONED ON PAGE 12:

- 1. ADOPT A RESOLUTION AMENDING CITY COUNCIL POLICY 5-1 TITLED “TRANSPORTATION ANALYSIS POLICY” TO STREAMLINE ENVIRONMENTAL REVIEW UNDER VEHICLE MILES TRAVELED (VMT) FOR AFFORDABLE HOUSING PROJECTS AND MARKET RATE PROJECTS IN DESIGNATED CITY PLANED GROWTH AREAS, AND TO PROVIDE A PROCESS FOR CITY COUNCIL TO CONSIDER ADOPTING A STATEMENT OF OVERRIDING CONSIDERATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FOR HOUSING PROJECTS MEETING THE LAND USE POLICIES OF THE GENERAL PLAN WITH SIGNIFICANT AND UNAVOIDABLE IMPACTS IN HIGH VMT AREAS.**

COMMISSIONER LARDINOIS SECONDED THE MOTION (7-2-1; CASEY & ORNELAS-WISE OPPOSED; AHLUWALIA ABSENT).

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

No items

7. GOOD AND WELFARE

a. Report from City Council

The Commission Secretary reported on City Council actions taken on November 8, 2022 and November 15, 2022.

b. Subcommittee Formation, Reports, and Outstanding Business

No items

c. Commission Calendar and Study Sessions

No items

d. The Public Record

Chair Oliverio wished City Attorney, Mark Vanni, the very best as this meeting is his last meeting with the Planning Commission.

City Attorney, Mark Vanni, bid the Commission farewell and indicated that this was his last meeting with the Commission because he has accepted a position with the City of Palo Alto.

8. ADJOURNMENT

Meeting adjourned at 11:25 p.m.