

Item 10.2

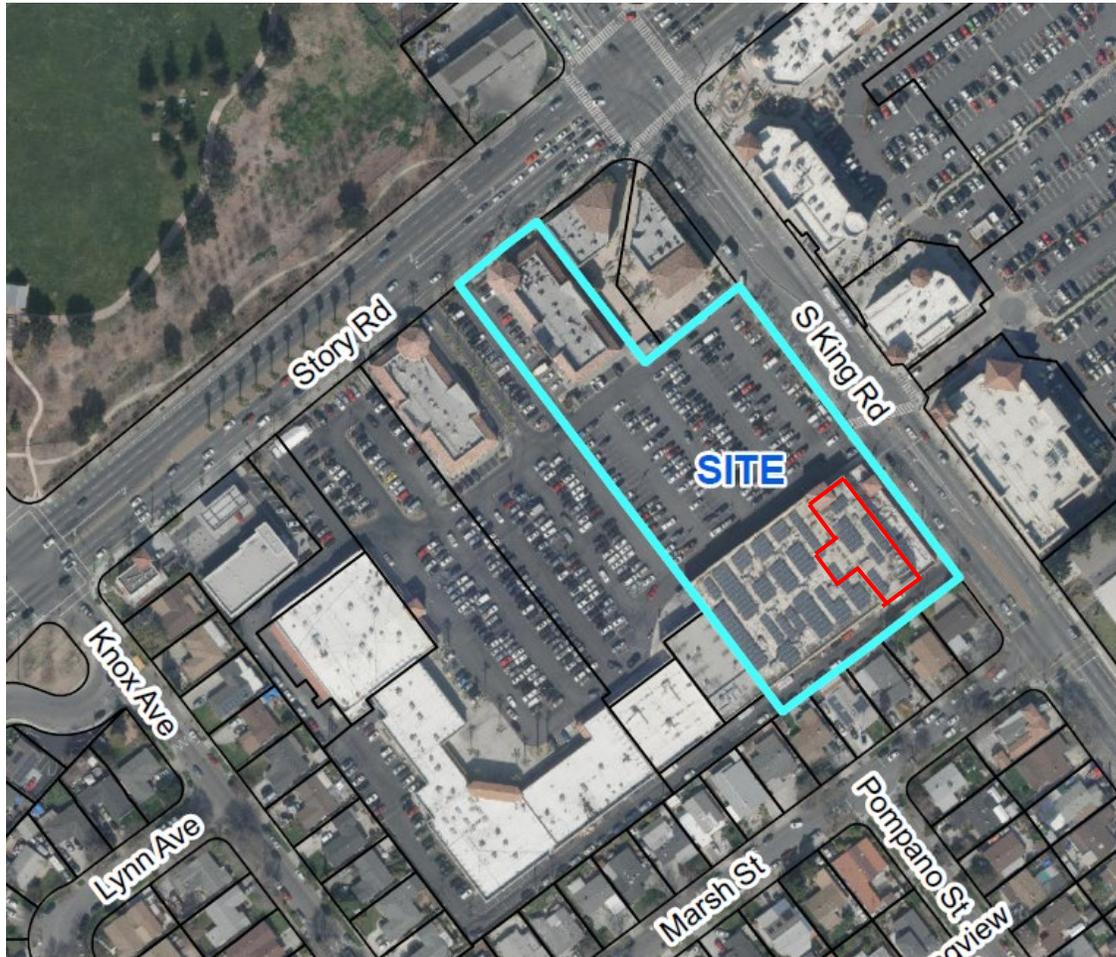
Permit Appeal on the Planning Commission's Decision on the Tropicana Late-Night Use Project

File Nos. CP24-036 & ER24-304

February 10, 2026

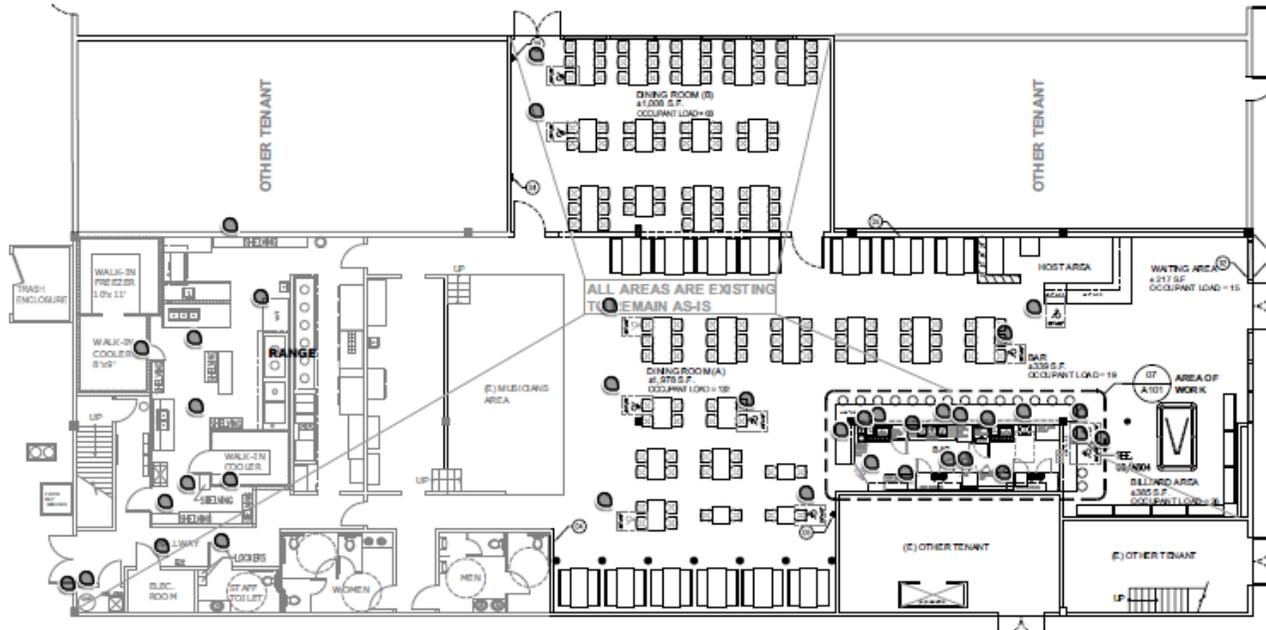
Presenter: Manira Sandhir, Deputy Director, Planning, Building and Code Enforcement

Site Description



- **Site Address:** 1692 Story Road Suite #100
- **Site Area:** 3.34 gross acres
- **Existing Use:** Public Eating Establishment
- **General Plan Land Use Designation:** Neighborhood/Community Commercial
- **Zoning District:** CN Commercial Neighborhood

Project Description



- Conditional Use Permit to allow late-night use (until 2:00 a.m. Friday through Sunday) for an existing public eating establishment within an existing approximately 7,442-square-foot tenant space at 1962 Story Road Suite #100.
- The project does not include any external modifications to the existing commercial building or site.
- The establishment currently operates with a Type 47 ABC License (on-sale general eating place). Includes sale of beer, wine, and distilled spirits for on-site consumption.

Project Review

- Project was reviewed for consistency with:
 - Envision San José 2040 General Plan
 - San José Municipal Code
 - California Environmental Quality Act (CEQA)
 - Council Policy 6-27: Evaluation of 24-Hour Use
 - Council Policy 6-30: Public Outreach Policy
- San José Police Department is opposed to the project and will not allow entertainment uses.

Project Review

- Staff found that the project is inconsistent with:
 - Council Policy 6-27 Area Use Compatibility: *“Twenty-four-hour uses should not be approved unless the facility can operate without detriment to nearby residential uses or the general welfare of the surrounding area.”*
 - Conditional Use Permit finding 20.100.720.A.4. The proposed use at the location requested will not:
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - c. Be detrimental to public health, safety or general welfare;”

Project has:

- Documented history of non-compliance with state and local laws.
- Despite warnings and opportunity to achieve compliance business has continued to operate out of compliance with public eating establishment requirements.
- Police Department Opposition.

Planning Commission Action and Appeal

- Heard by Planning Commission on November 19, 2025
- Planning Commission offered the applicant an opportunity to defer the item for 6 months for PD coordination and resolution of issues; applicant declined
- The Planning Commission voted unanimously, 9-0, to deny the proposed Conditional Use Permit for late-night use
- The applicant appealed the Planning Commission's decision on November 20, 2025.

Staff Recommendations

- Staff recommends denial of the Conditional Use Permit

If denied, the existing public eating establishment can continue operating between the hours of 6:00 a.m. and 12:00 a.m. (midnight).

- The project is exempt pursuant to Section 15270 if denied.