



PLANNING DIRECTOR'S HEARING AGENDA

Wednesday, December 5, 2012

**9:00 a.m.
City Council Chambers
City Hall**

**200 East Santa Clara Street
San José, California 95113-1905**

Hearing Officer

**Salifu Yakubu, Division Manager
On Behalf of**

**Joseph Horwedel, Director
Planning, Building, and Code Enforcement**

NOTICE

To request an accommodation for City-sponsored meetings or events or an alternative format for printed materials, please call Support Staff at 408-535-7811 or 408-294-9337 (TTY) as soon as possible, but at least three business days before any meeting or event. If you requested such an accommodation, please identify yourself to the technician seated at the staff table. If you did not call in advance and do now need assistance, please see the technician.

NOTICE TO THE PUBLIC

Good morning, this is the Planning Director's Hearing of **December 5, 2012**. My name is ***Rich Buikema*** and I am the Hearing Officer for today's agenda. On behalf of and delegated by the Planning Director, I would like to welcome you to this Public Hearing. Please remember to turn off your cell phones and pagers as we are broadcasting and recording this meeting. A copy of the agenda is available on the tables by the doors for your convenience. A validation machine is available at the top of the stairs at the rear of these chambers for parking tickets for the garage underneath City Hall.

The procedure for this hearing is as follows:

- I will identify the project as described on the agenda
- Staff will provide a brief report
- After the staff report, applicant and/or representative will have up to 5 minutes to speak and should make themselves known as their item comes up by approaching the microphone and identifying themselves and stating their home address, or just wave from the audience if you do not wish to speak
- Public testimony of up to 2 minutes, either for or against the project. Please state name and home address for the record
- After the public testimony, the applicant may make closing remarks of up to 5 minutes
- The public hearing will then be closed and I will take action on the item. The Hearing Officer 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 Director's action on these agenda items is final when the permit is signed and mailed, unless the permit is appealed. The Planning Director's actions are appealable in accordance with the requirements of Title 20 of the Municipal Zoning Code.

The City of San Jose 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 http://www.sanjoseca.gov/clerk/cp_manual/CPM_0_15.pdf.

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 inspection at the Planning, Building and Code Enforcement at San José City Hall, 200 E. Santa Clara Street, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body.

Note: If you have any questions regarding the agenda, please contact Support Staff at 408-535-7811

AGENDA
ORDER OF BUSINESS

1. DEFERRALS

Any item scheduled for hearing this morning for which deferral is being requested will be taken out of order, to be heard first on the matter of deferral. A list of staff recommended deferrals is available on the table. I will identify the items to be deferred and then ask for comments from the audience. If you want to change any of the deferral dates recommended or speak to the question of deferring these or any other items, you should say so at this time. I will now open the public hearing. The following items are proposed to be deferred.

- a. **PDA12-007-01**. Tree Removal Permit to allow the removal of four (4) Coast Redwood trees with circumferences ranging from 91 to 107 inches and located in the IP(PD) Planned Development Zoning District on a 8.1 gross acre site on the north side of River Oaks Parkway, approximately 200 ft east of Research Place (10150 TRACT) (River Oaks S J Grp LLC, Owner). Council District 4. CEQA: Exempt. Deferred to 12/12/12 per applicant's request. *Project Manager, Emily Lipoma*

The matter of Deferrals is now closed.

2. CONSENT CALENDAR

NOTICE TO THE PUBLIC

The consent calendar items are considered to be routine and will be considered together. There will be no separate discussion of these items unless a request is made by the staff or the public to have an item removed from the consent calendar and considered separately.

- a. **HA78-060-01**. Tree Removal Permit to allow removal of two Ash trees approximately 89 and 75 inches in circumference on a 1.79 parcel in the HI Heavy Industrial Zoning District, located at 1805 Little Orchard Street (Dzf Properties Llc, Owner). Council District 7. CEQA: Exempt. *Project Manager, Emily Lipoma*

Staff Recommendation: Consider the exemption in accordance with CEQA. Approve a Tree Removal Permit to allow removal of two Ash trees approximately 89 and 75 inches in circumference on a 1.79 parcel in the HI Heavy Industrial Zoning District.

b. The projects being considered are located on west side of Masonic Drive, approximately 520 feet southerly of Canoas Garden Avenue (9713 TRACT), in the A(PD) Planned Development Zoning District (VITOIL-SCOTTISH LLC, Owner). Council District 6. SNI: None. CEQA: Use of Mitigated Negative Declaration (PDC04-010). *Project Manager, Aparna Ankola*

1. **PT12-037**. A Tentative Map to subdivide one parcel into two (2) lots on a 4.30 gross acre site in the A(PD) Planned Development Zoning District.
2. **PDA04-024-03**. Planned Development Amendment to allow associated site and sidewalk improvements on subject site.

Staff Recommendation: Consider the exemption in accordance with CEQA. Approve a Planned Development Amendment to allow a Tentative Map to reconfigure 2 lots on a 4.30 gross acre site in the A(PD) Planned Development Zoning District.

c. **SP12-006**. Special Use Permit to allow a retaining wall with a maximum height of five feet in the rear yard of an existing single-family residence on a 0.23 gross acre site in the R-1-5 Single-Family Residence Zoning District, located on the west side of the intersection of Canyon View Drive and Outlook Court (1623 Canyon View Drive) (Philip I. and Betty R. Ouimett, owner). Council District 4. SNI: None. CEQA: Exempt. *Project Manager, Sylvia Do*

Staff Recommendation: Consider the exemption in accordance with CEQA. Approve a Special Use Permit to allow a retaining wall with a maximum height of five feet in the rear yard of an existing single-family residence on a 0.23 gross acre site in the R-1-5 Single-Family Residence Zoning District.

d. **SP12-032**. Special Use Permit for the reconstruction of a fire damaged legal nonconforming duplex with a new 500 square foot addition in the CG Commercial General Zoning District on .10 gross acre site, located on the East side of N. 4th Street between E. St. James and E. St. John Streets (160 N 4TH ST) (Sunding Brothers LLC, Owner). Council District 3. SNI: 13th Street. CEQA: Exempt. *Project Manager, Aparna Ankola*

Staff Recommendation: Consider the exemption in accordance with CEQA. Approve a Special Use Permit for the reconstruction of a fire damaged legal nonconforming duplex with a new 500 square foot addition in the CG Commercial General Zoning District on .10 gross acre site.

e. **SP12-036**. Special Use Permit to reinstate a legal nonconforming auto repair use in the CN Commercial Neighborhood Zoning District on .25 gross acre site, located on the southwest corner of E. Empire Street and N. 13th Street (580 E EMPIRE ST) (Echeverria Manuel And Guadalupe P Trustee, Owner). Council District 3. SNI: 13th Street. CEQA: Exempt. *Project Manager, Aparna Ankola*

Staff Recommendation: Consider the exemption in accordance with CEQA. Approve a Special Use Permit to reinstate a legal nonconforming auto repair use in the CN Commercial Neighborhood Zoning District on .25 gross acre site.

- f. **TR12-237.** Tree Removal Permit to allow the removal of two (2) Camphor trees with circumferences of 97 and 148 inches located on the side yard and rear yard of a single-family lot on .22 acres in the R-1-8 Single-Family Residence Zoning District, located at 1690 Mulberry Lane (Kier, Richard T And Judy L Trustee, Owner). Council District 6. CEQA: Exempt. *Project Manager, Emily Lipoma*

Staff Recommendation: Consider the exemption in accordance with CEQA. Approve a Tree Removal Permit to allow the removal of two (2) Camphor trees with circumferences of 97 and 148 inches located on the side yard and rear yard of a single-family lot on .22 acres in the R-1-8 Single-Family Residence Zoning District.

- g. **TR12-238.** Tree Removal Permit to allow the removal of three Black Walnut trees ranging in size from 124 to 154 inches in circumference located on a single-family lot next to the driveway and house in the R-1-8 Single-Family Residence Zoning District, located at 968 Edenbury Lane (Hatley, Ralph A, Owner). Council District 9. CEQA: Exempt. *Project Manager, Emily Lipoma*

Staff Recommendation: Consider the exemption in accordance with CEQA. Approve a Tree Removal Permit to allow the removal of three Black Walnut trees ranging in size from 124 to 154 inches in circumference located on a single-family lot next to the driveway and house in the R-1-8 Single-Family Residence Zoning District.

- h. **TR12-239.** Tree Removal Permit to allow the removal of an Ailanthus tree 57 inches in circumference and a Privit tree 122 inches in circumference on a two-family lot on a 0.13 gross acre site in the R-2 Two-Family Residence Zoning District, located at 688 North 15th Street (Zamira, Barry E Trustee, Owner). Council District 3. CEQA: Exempt. *Project Manager, Emily Lipoma*

Staff Recommendation: Consider the exemption in accordance with CEQA. Approve a Tree Removal Permit to allow the removal of an Ailanthus tree 57 inches in circumference and a Privit tree 122 inches in circumference on a two-family lot on a 0.13 gross acre site in the R-2 Two-Family Residence Zoning District.

- i. **TR12-240.** Tree Removal Permit to allow the removal of one Monterey Pine tree with a circumference of 88 inches located in the front yard of a single family residence in the R-1-5 Single-Family Residence Zoning District, located at 6797 Bret Harte Drive (Blodgett, Jeffery A Et Al, Owner). Council District 10. CEQA: Exempt. *Project Manager, Emily Lipoma*

Staff Recommendation: Consider the exemption in accordance with CEQA. Approve a Tree Removal Permit to allow the removal of one Monterey Pine tree with a circumference of 88 inches located in the front yard of a single family residence in the R-1-5 Single-Family Residence Zoning District.

- j. **TR12-241.** Tree Removal Permit to allow removal of one Tree of Heaven 75 inches in circumference on a 0.13 gross acre site in the R-2 Two-Family Residence Zoning District, located at 442 North 17th Street (Engfer, Douglas And Robin Trustee, Owner). Council District 3. CEQA: Exempt. *Project Manager, Emily Lipoma*
- Staff Recommendation:** Consider the exemption in accordance with CEQA. Approve a Tree Removal Permit to allow removal of one Tree of Heaven 75 inches in circumference on a 0.13 gross acre site in the R-2 Two-Family Residence Zoning District.
- k. **TR12-242.** Tree Removal Permit to allow the removal of one Bay Laurel tree that is 160" in circumference from a single family lot in the R-1-8 Single-Family Residence Zoning District, located at 1174 Garfield Avenue (Harrett Mannina, Owner). Council District 6. CEQA: Exempt. *Project Manager, Emily Lipoma*
- Staff Recommendation:** Consider the exemption in accordance with CEQA. Approve a Tree Removal Permit to allow the removal of one Bay Laurel tree that is 160" in circumference from a single family lot in the R-1-8 Single-Family Residence Zoning District.
- l. **TR12-243.** Tree Removal Permit to allow the removal of one Monterey Pine tree with circumference of 87 inches located in the backyard of a single family home on .17 acres in the R-1-8 Single-Family Residence Zoning District, located at 1706 Grizilo Drive (Burns, Lloyd S Jr And Marjorie A Trustee, Owner). Council District 9. CEQA: Exempt. *Project Manager, Emily Lipoma*
- Staff Recommendation:** Consider the exemption in accordance with CEQA. Approve a Tree Removal Permit to allow the removal of one Monterey Pine tree with circumference of 87 inches located in the backyard of a single family home on .17 acres in the R-1-8 Single-Family Residence Zoning District.
- m. **TR12-245.** Tree Removal Permit to allow the removal of two trees, one Monterey pine 67 inches in circumference, and one multi-trunk tree of unknown species 125 inches in circumference from a single family yard in the R-1-5 Single-Family Residence Zoning District, located at 6559 Tam O'Shanter Driver (Pikaar, Leon Marinus A And Kemps Wendelina, Owner). Council District 10. CEQA: Exempt. *Project Manager, Emily Lipoma*
- Staff Recommendation:** Consider the exemption in accordance with CEQA. Approve a Tree Removal Permit to allow the removal of two trees, one Monterey pine 67 inches in circumference, and one multi-trunk tree of unknown species 125 inches in circumference from a single family yard in the R-1-5 Single-Family Residence Zoning District.
- n. **TR12-248.** Tree Removal Permit to allow removal of one (1) Ash tree approximately 84 inches in circumference located in the back yard of a single family residence on a .14 acre lot in the R-1-8 Single-Family Residence Zoning District, located at 2654 Hill Park Drive (Dennis Macbain, Owner). Council District 9. CEQA: Exempt. *Project Manager, Emily Lipoma*

Staff Recommendation: Consider the exemption in accordance with CEQA. Approve a Tree Removal Permit to allow removal of one (1) Ash tree approximately 84 inches in circumference located in the back yard of a single family residence on a .14 acre lot in the R-1-8 Single-Family Residence Zoning District.

The consent calendar is now closed.

3. PUBLIC HEARING

- a. **PDA08-025-01**. Planned Development Permit Amendment to allow for the removal of 83 ordinance size trees with circumferences ranging from 56 to 144 inches, in conjunction with the development of the North Village of the Flea market and the Berryessa Road street improvements as approved in the Master PD Permit PD08-025 in the A(PD) Planned Development Zoning District, located on the north and south sides of Berryessa Road between the Union Pacific Railroad tracks to the west and Coyote Creek to the east (Flea Market) (1590 Berryessa Road) (Bumb & Associates, John Garcia, Owner). Council District 4. CEQA: Use of San Jose Flea Market EIR (File PDC03-108). *Project Manager, Emily Lipoma*

Staff Recommendation: Consider the Use of San Jose Flea Market EIR (File PDC03-108) in accordance with CEQA. Approve a Planned Development Permit Amendment to allow for the removal of 83 ordinance size trees with circumferences ranging from 56 to 144 inches, in conjunction with the development of the North Village of the Flea market and the Berryessa Road street improvements as approved in the Master PD Permit PD08-025 in the A(PD) Planned Development Zoning District.

- b. **PD12-011**. Planned Development Permit to legalize an outdoor seating area for a café along Seacliff Way and a new 270 square feet canopy addition within 150 feet of residential uses for an existing cafe in the R-1-8(PD) Zoning District on 4.87 gross site, located on the northeast corner of Tully Road and Seacliff Way (1657 TULLY RD). Council District 7. SNI: K.O.N.A. CEQA: Exempt. *Project Manager, Aparna Ankola*

Staff Recommendation: Consider the exemption in accordance with CEQA. Deny a Planned Development Permit to legalize an outdoor seating area for a café along Seacliff Way and a new 270 square feet canopy addition within 150 feet of residential uses for an existing cafe in the R-1-8(PD) Zoning District on 4.87 gross site.

This concludes the Planning Director's Hearing for December 5, 2012. Thank you.

PLANNING DIRECTOR'S AGENDA ON THE WEB:

<http://www.sanjoseca.gov/planning/hearings/DefaultDH.asp>

PUBLIC INFORMATION COUNTER
CITY OF SAN JOSÉ (408) 535-3555

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.