



PLANNING COMMISSION SYNOPSIS

Wednesday, May 16, 2007

6:00 p.m. STUDY SESSION
Sunshine Reform Task Force Recommendations
Room # T-332

6:30 p.m. Regular Meeting

Council Chambers
City Hall Wing

200 East Santa Clara Street
San Jose, California

Xavier Campos, Chair
James Zito, Vice-Chair

Christopher Platten **Ash Kalra**
 Vacant
Matt Kamkar **Lisa Jensen**

Joseph Horwedel, Director
Planning, Building and Code Enforcement

NOTE

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, we ask that you call (408) 535-7800 (VOICE) or (408) 998-5299 (TTY) at least two business days before the meeting. 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 evening, my name is **Xavier Campos** and I am the Chair of the Planning Commission. On behalf of the entire Planning Commission, I would like to welcome you to the Planning Commission Public Hearing of **Wednesday, May 16, 2007**. Please remember to turn off your cell phones and pagers. Parking ticket validation machines for the garage under City Hall are located at the rear of the Chambers. If you want to address the Commission, **fill out a speaker card (located on the table by the door, on the parking validation table at the back, and at the bottom of the stairs near the Audio-Visual Technician. Deposit the completed card in the basket near the Planning Technician. Please include the agenda item number (not the file number) for reference. Example: 4a, not PD06-023.**

The procedure for this hearing is as follows:

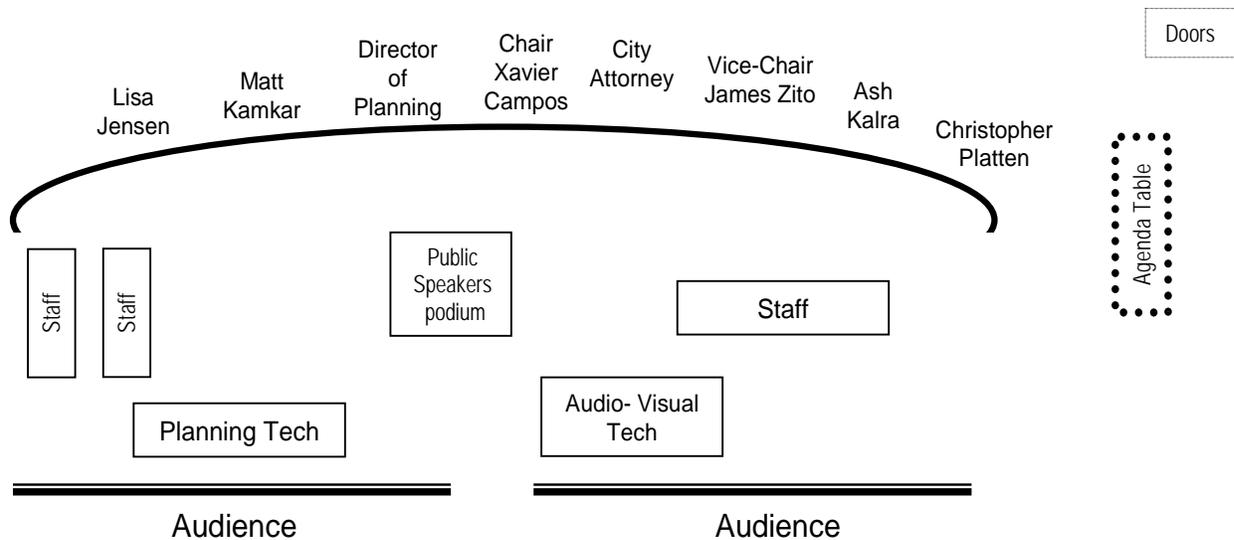
- After the staff report, applicants and appellants may make a 5-minute presentation.
- The chair will call out names on the submitted speaker cards in the order received.
- As your name is called, line up in front of the microphone at the front of the Chamber. Each speaker will have two minutes.
- After the public testimony, the applicant and appellant may make closing remarks for an additional five minutes.
- Planning Commissioners may ask questions of the speakers. These 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 rezoning, prezonings, General Plan Amendments and Code Amendments is advisory only 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 rezonings and prezonings. The Planning Commission's action on Conditional Use Permit's is appealable to the City Council in accordance with Section 20.100.220 of the Municipal Code. Agendas and a binder of all staff reports have been placed on the table near the door for your convenience.

Note: If you have any agenda questions, please contact Olga Guzman at olga.guzman@sanjoseca.gov

The Planning Commission is a seven member body, appointed by the City Council, which makes recommendations to the City Council regarding the adoption, amendment, or repeal of general or specific plans, and regulation of the future physical land use development, redevelopment, rehabilitation or renewal of the City, including its Capital Improvement Programs. The recommendations to the Council regarding land use development regulations include, but are not limited to, zoning and subdivision recommendations. The Commission may make the ultimate decision on Conditional Use Permits, and acts as an appellate body for those persons dissatisfied with the Planning Director's decisions on land use and development matters. The Commission certifies the adequacy of Environmental Impact Reports.



The San Jose 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 www.sanjoseca.gov/planning/hearings/planning_com.asp.

Audio for the Planning Commission hearings are recorded and broadcast live. To listen to live audio broadcast or to listen to past hearing recordings go to the Internet website:

http://sanjose.granicus.com/ViewPublisher.php?view_id=17#planningCommission.

If you have any questions, please direct them to the Planning staff at (408) 535-7800. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

AGENDA
ORDER OF BUSINESS

1. ROLL CALL

All present

2. DEFERRALS

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. A list of staff-recommended deferrals is available on the Press Table.

Staff will provide an update on the items for which deferral is being requested. 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.

- a. Consideration of Planning Commission Agenda management and length of public hearing concerns and determination on whether to proceed with remaining agenda items past 11:00 p.m., continue this hearing to a later date certain, or defer remaining items to the next regularly scheduled Planning Commission meeting date.

TO BE HEARD BY THE PLANNING COMMISSION NO LATER THAN 11:00 P.M.

3. CONSENT CALENDAR

NOTICE TO THE PUBLIC

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

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.

- a. **CP07-014**. Wireless - Conditional Use Permit to allow renewal of wireless communications antennas on a monopole and associated ancillary equipment to operate on a 0.02 gross acre site in the HI Heavy Industrial Zoning District, located at/on Easterly side of O'Toole Avenue approximately 200 feet southerly of Rincon Circle (2170 O'TOOLE AV) (DCG Investors 1993 LP, Owner). Council District 4. SNI: None. CEQA: Exempt.

APPROVED (6-0-0)

- b. **CP06-037**. Conditional Use Permit to allow (1) the demolition of an existing gasoline service station and the construction of a 2,945-square-foot sales building, canopy, fuel dispensers, underground fuel tanks, and (2) the off-sale of alcoholic beverages on a 0.69 gross acre site located in the CP Commercial Pedestrian Zoning District, located at the northeast corner of Santa Teresa Boulevard and Blossom Hill Road (Chevron Products Company/Owner). Council District 10. SNI: None. CEQA: Exempt.

APPROVED (4-2-0; CAMPOS AND PLATTEN OPPOSED) WITH A LIMIT OF 5 PERCENT OF FLOOR SPACE FOR OFF-SALE OF ALCOHOL

Staff clarified permit language and in response to Commissioner Jensen, the Commission recommended 5% limit on floor space for alcohol sales. Chair Campos cited concern about alcohol sales in mini mart as not true grocery store.

- c. **CP07-004**. Conditional Use Permit to allow an indoor recreation use in an existing industrial park building in the HI-Heavy Industrial Zoning District located at the south end of Crane Court, near the northwesterly corner of Zanker Road and US 101 (Limar Realty Corp. # 18). Council District 4. SNI: N/A. CEQA: Pending. Deferred from 5-2-07.

APPROVED (6-0-0) WITH CONDITION REFLECTING REVIEW OF CUP, NOT RENEWAL OF CUP, IN 5 YEARS

Item was pulled from Consent calendar by applicant with concern about condition requiring “renewal.” In response to Commissioner Zito, applicant stated 7 years would be better than 5, but concern is over “renewal”, not “review” in language, and explained results of parking analysis. Several speakers for the applicant stated needed 15 year guarantee due to lease, and renewal not possible to live with. Commission discussion included that site near hotel and card club appropriate for health club, that a 5 year “check-in” could be appropriate to confirm parking working, that up to 300 employees could be at facility, and asked for information on other similar scale health clubs in other locations.

The applicant stated renewal requirement not needed as “nuisance” provisions would allow city review of permit at any time. City Attorney confirmed ability to revoke for cause, but Deputy Director explained city staff need for proactive action by applicant for review since insufficient staff to monitor all permits.

Commissioner Platten stated important project of significant size and asked City Attorney to devise appropriate language and City Attorney offered a revision. Commissioner Zito moved approval with revised language for “review” in 5 years, although acknowledging city staff would use Renewal process, and Commissioner Platten seconded. Commissioner Jensen stated concerns about parking would likely be raised by adjacent property owners.

- d. **STREET VACATION** of Holger Way, between North First Street and Headquarters Drive. Council District 4. CEQA: Exempt.

APPROVED (6-0-0)

In response to Commissioner Zito, applicant indicated area to be enhanced with landscaping and in response to Commissioner Kamkar, road would stay as wide. Commissioner Zito stated City should consider bid process to increase funds for street vacations.

The following items are considered individually.

4. **PUBLIC HEARINGS**

NOTICE TO THE PUBLIC

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. **CP07-020**. Conditional Use Permit to pave a driveway from Little Orchard Street to Almaden Expressway to allow a corporation yard with outdoor storage and truck circulation resulting in noise which exceeds Zoning Ordinance standards in the LI Light Industrial Zoning District, located on the east and west sides of Little Orchard Street, approximately 150 feet northerly of San Jose Avenue, between Pomona Avenue and Almaden Expressway (1601 LITTLE ORCHARD ST). This item was opened for public testimony on April 25, 2007, and continued to May 16, 2007 (Dsw Family Part, Owner; Stucco Supply Co, Robert Amos, Developer). Council District 7. SNI: Washington. CEQA: Mitigated Negative Declaration. Deferred from 4-11-07 and continued from 4-25-07.

APPROVED (5-1-0; CAMPOS OPPOSED) WITH RESTRICTED TRUCK ACCESS TO POMONA AVENUE WITH EMERGENCY ACCESS PERMITTED.

Following staff's report, neighbors expressed concern about San Jose/Pomona Avenues intersection, late night noise, trucks at Sunnyvale Seafood on Pomona Avenue. Applicant stated new driveway will alleviate trucks in residential to east. Commissioner Jensen stated she was pleased billboard to be removed. Commissioner Kalra expressed concern about property use between Little Orchard and Pomona and applicant stated agreement for limited access for trucks, and Commissioner Kamkar stated area should be used for storage. Commissioner Kalra asked if San Jose/Pomona should be 4-way stop and applicant stated stop sign not issue, but constricted intersection needs widening and applicant doesn't own needed right-of-way.

- b. **CA07-001**. Conservation Area Designation request to designate as a Conservation Area the area generally bounded on the north by Interstate 280, on the east by the property lines of the abandoned Southern Pacific Railroad alignment (approximately a continuation of South Fourth Street), on the west by the alley between South First and Second Streets, and on the south by Martha Street on an approximately 13.5 acre site (Various Owners/City of San Jose, Applicant). CEQA: Exempt. Council District 3. SNI: Spartan Keyes.

APPROVED (6-0-0)

Staff made a brief presentation followed by public testimony in support by president of Spartan Keyes NAC. One property owner expressed difficulty in returning any industrial or commercial uses to residential and staff responded new district would minimize further changes and existing uses, if they are legal non-conforming, can remain, and would have limits on expansion in the code.

- c. [PDC06-122](#). Planned Development Rezoning from CP Commercial Pedestrian Zoning District and A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow approximately 57 single-family attached residences and one (1) single-family detached residence and approximately 8,000 sq.ft. of commercial uses on a 4.2 gross acre site, located at the area generally bounded by Kentwood Avenue, Highway 85 and properties fronting S. De Anza Blvd (Sue Dillon % Braddock & Logan Group, Owner/Developer). Council District: 1. SNI: None. CEQA: Mitigated Negative Declaration.

**RECOMMENDED APPROVAL (6-0-0) PER STAFF
RECOMMENDATION**

A presentation by the applicant clarified request for slight additional height and provided history of neighborhood concerns about impacts to schools and traffic, and that key disagreement with staff is orientation of retail. Commissioner Kalra expressed concern about parking distribution which staff indicated could be addressed at PD Permit stage, and Commissioner Zito expressed concern about noise. Commissioner Kalra moved approval and stated staff should work at PD permit stage to evaluate orientation of retail, distribute parking appropriately, and orient units to better address noise issues.

- d. [PDC07-001](#). Planned Development Rezoning from the R-1-8 Residential District to the A(PD) Residential District to allow 12 single-family detached residences, located on the west side of Dent Avenue approximately 500 feet north of Kooser Road (5331 Dent Ave.) (RWL Group LLC, Owner). Council District: 9. SNI: None. CEQA: Negative Declaration

RECOMMENDED APPROVAL (6-0-0)

The applicant spoke in support of the project and then there were no other speakers. Staff clarified for Commissioner Zito how project conformed to 2 acre rule.

5. PETITIONS AND COMMUNICATIONS

- a. Public comments to the Planning Commission on nonagendized items. Please fill out a speaker's card and give it to the technician. Each member of the public may address the Commission for up to three 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:
1. Responding to statements made or questions posed by members of the public; or
 2. Requesting staff to report back on a matter at a subsequent meeting; or
 3. Directing staff to place the item on a future agenda.

Mr. Eric Kadding spoke with regard to a project (File No. PDC06-038) that is scheduled for the upcoming Planning Commission Hearing on 5-30-07. He provided a handout advocating an alternative use of the site different from the developer's proposal.

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

7. GOOD AND WELFARE

a. Report from City Council

A new City Manager was appointed this week. EEHVS not supported by City Council. Lowes was continued to 6-5-07 to consider support of applicant's proposal.

b. Commissioners' reports from Committees:

- Norman Y. Mineta San Jose International Airport Noise Advisory Committee (Campos).

There is a meeting scheduled for Monday, May 21, 2007.

- Coyote Valley Specific Plan (Platten)

A meeting is scheduled for May 21, 2007 and all were encouraged to attend.

- Parks Funding Subcommittee (Zito)

There was a meeting on May 9, 2007. Key issue discussed included maintenance issues. The next meeting is on June 11, 2007.

c. Review of synopsis

Two corrections to the synopsis were noted including:

- 1) *Commissioner Zito voted in opposition to item 8.d. (agenda for 4-25-07) therefore the final vote was 4-1-1 (Zito opposed and Platten absent).*
- 2) *Commissioners Jensen noted that with respect to item 8.b. (agenda for 5-2-07). She clarified that it was staff's intention was to put a wall between the YMCA and residences.*

d. Consider study session dates and/or topics

Staff should identify dates for upcoming retreat and a potential study session about items that are outside the purview of the Planning Commission.

8. ADJOURNMENT

2007 PLANNING COMMISSION MEETING SCHEDULE

Date	Time	Type of Meeting	Location
January 31	6:30 p.m.	Regular Meeting	Council Chambers
Mon. February 12	6:30 p.m.	Regular Meeting	Council Chambers
February 28	6:30 p.m.	Regular Meeting	Council Chambers
March 14	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Coyote Valley Specific Plan EIR</i>	
March 14	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
March 28	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Meeting Procedures and Commission Role</i>	
March 28	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
April 11	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Early Public Outreach for General Plan Update</i>	
April 11	6:30 p.m.	Regular Meeting	Council Chambers
April 25	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Level of Service Policy</i>	
April 25	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
May 2	5:00 p.m.	<i>Study Session</i>	T-1654
		<i>Review Capital Improvement Program</i>	
May 2	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
May 16	6:00 p.m.	<i>Study Session</i>	T-332
		<i>Sunshine Reform Task Force Recommendations</i>	
May 16	6:30 p.m.	Regular Meeting	Council Chambers
May 30	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Economic Development/Retail Strategy</i>	
May 30	6:30 p.m.	Regular Meeting	Council Chambers
Mon., June 11	6:30 p.m.	Regular Meeting	W-118 / 119 / 120
June 27	5:00 p.m.	<i>Joint Study Session w/Parks Commission</i>	T-332
		<i>Riparian Corridor issues</i>	
June 27	6:30 p.m.	Regular Meeting	Council Chambers
July 18	6:30 p.m.	Regular Meeting	Council Chambers
August 8	6:30 p.m.	Regular Meeting	Council Chambers
August 22	6:30 p.m.	Regular Meeting	Council Chambers
September 12	6:30 p.m.	Regular Meeting	Council Chambers
September 26	6:30 p.m.	Regular Meeting	Council Chambers
October 10	6:30 p.m.	Regular Meeting	Council Chambers
October 24	6:30 p.m.	Regular Meeting	Council Chambers
November 7	6:30 p.m.	Regular Meeting	Council Chambers
November 14	6:30 p.m.	Regular Meeting	Council Chambers
November 28	6:30 p.m.	Regular Meeting	Council Chambers
December 5	6:30 p.m.	Regular Meeting	Council Chambers