



PLANNING COMMISSION SYNOPSIS

Wednesday, August 8, 2007

5:00 p.m. STUDY SESSION
Street and Easement Vacation Process
Tower Room # 332

6:30 p.m. Regular Meeting

Council Chambers
First Floor, City Hall Wing

200 East Santa Clara Street
San José, California

Xavier Campos, Chair
James Zito, Vice-Chair

Lisa Jensen Ash Kalra
Matt Kamkar Randi Kinman
Christopher Platten

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, August 8, 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:

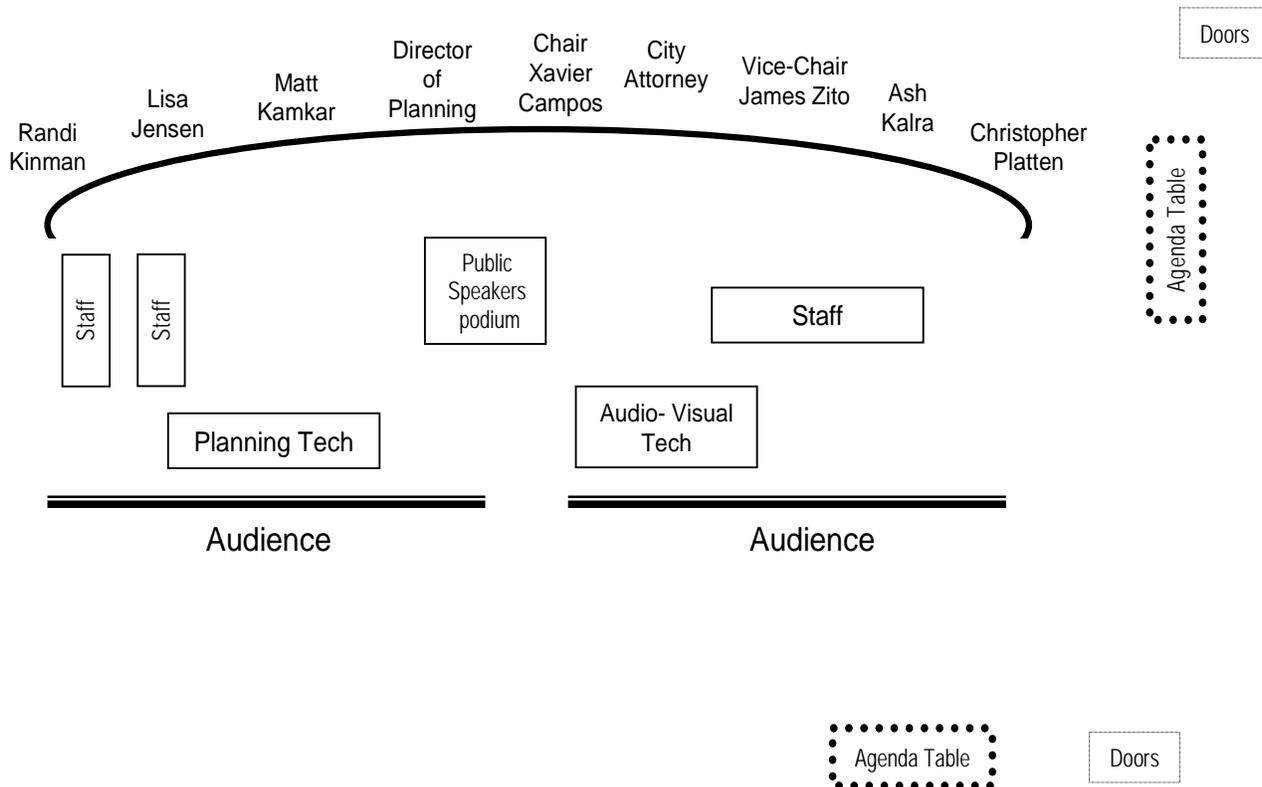
- After the staff report, applicants and appellants may make a 5-minute presentation.
- The chair will call out names on the submitted speaker cards in the order received.
- As your name is called, line up in front of the microphone at the front of the Chamber. Each speaker will have two minutes.
- After 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 Carmen Stanley at Carmen.Stanley@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 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 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 except Kinman.

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.
- b. **PDC05-114**. Planned Development Rezoning from CO(PD) Commercial Office Planned Development, LI Light Industrial, and CG Commercial General Zoning Districts to A(PD) Planned Development Zoning District to allow up to 460 single-family attached residences and 20,000 square feet for retail commercial uses on a 2.4 gross acres site, located on the southwest corner of North 1st Street and Century Center (1733 N 1ST ST) (James Schmidt Et Al, Owner). Council District 3. SNI: None. CEQA: NSJ EIR Resolution No.72768, and Addenda thereto.

DEFERRED TO 8/22/07 (6-0-1; KINMAN ABSENT)

- c. **PDC06-094**. Planned Development Rezoning from LI Light Industrial Zoning District to A(PD) Planned Development Zoning District to allow up to 250 single-family attached residences in three-story buildings constructed on a podium on a 4.4 gross acre site, located at the southwest corner of Cinnabar Street and Stockton Avenue (345 Stockton Avenue) (381 Stockton LLC, Owner; Morrison Park Homes LLC, Developer). Council District: 6. SNI: None. CEQA: Draft Mitigated Negative Declaration. Deferred from 6/27/07 and 7/18/07.

DEFERRED TO 8/22/07 (6-0-1; KINMAN ABSENT)

- d. **CP07-025**. Conditional Use Permit Renewal to allow an existing public eating, drinking, and entertainment establishment and late night use until 2:00 a.m. daily in the DC Downtown Primary Commercial Zoning District. Britannia Arms, located at 173 W. Santa Clara Street. (The Farmers Union, owner). Council District 3. SNI: None. CEQA: Exempt. Deferred from 6-27-07.

DEFERRED TO 8/22/07 (6-0-1; KINMAN ABSENT)

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. **CP06-058.** Conditional Use Permit to allow childcare use to accommodate up to 12 children at an existing 2,073 square-foot single-family residence on a 0.21 gross acre site in the R-1-8 Single Family Residence Zoning District, located on the west side of Spar Avenue, approximately 130 feet northerly of Olin Avenue (383 SPAR AVENUE) (Mr. Ali Zahabi, Owner). Council District: 1. SNI: None. CEQA: Exempt.

APPROVED (6-0-1; KINMAN ABSENT)

Commissioner Jensen requested that item 3.c (CP07-037) be pulled from consent.

- b. **CP07-006.** Conditional Use Permit to allow installation of a wireless communication antennas atop an existing 127-foot PG&E lattice tower and 256-square foot enclosure for associated equipment cabinets on a 9.1 gross acre site in the R-M Multiple Residence Zoning District, located on the southeast corner of Kooser Road and Camden Avenue (1580 KOOSER ROAD) (Arbor Apartments Associates, Owner). Council District: 9. SNI: None. CEQA: Exempt.

APPROVED (6-0-1; KINMAN ABSENT)

- c. **CP07-037.** Conditional Use permit to allow a residential sorority in the existing University Club on a 0.32 gross acre site in the R-M Zoning District, located at the southeast corner of E. San Salvador Street, (DELTA SIGMA Of ALPHA OMICRON PI, Tracy Bills). Council District: 3. SNI: University. CEQA: Exempt.

APPROVED (5-0-2; KINMAN ABSENT AND JENSEN ABSTAINED)

This item was pulled from consent by Commissioner Jensen to be heard separately. Staff clarified that requirement for purchasing parking rights in the SJSU parking structure are based on 1 per room, not per person. The applicant's representative, Jeffery Hare, spoke in behalf of the project and provided a brief historical background for the proposal. Commissioner Jensen indicated that she lived in the neighborhood and had concerns about the proposal. The City Attorney noted that if a commissioner lived within 500 feet of a project proposal, that they should recuse themselves of participating in the public hearing. Upon an evaluation of the proximity to the project, Commissioner Jensen recused herself from the proceedings. Commissioner Zito asked for clarification about how the sorority use would not cause impacts to the neighborhood. Mr. Hare noted that the 35 fraternities and sororities at SJSU abide by an agreed management plan/code of conduct in order to maintain recognized status by the university. The subject sorority has a good track record for not

causing problems. The public hearing was then closed and the Planning Commission approved the project on a vote of 5-0-2 (Kinman, Jensen absent).

- d. **CP07-015.** Conditional Use Permit to allow a wireless communications monopole and associated ancillary equipment cabinets, to continue to operate with no change proposed on a 0.06 gross acre site in the IP Industrial Park Zoning District, located approximately 640 feet from the northwesterly terminus of Olinder Court (Stephen Dypvik, Owner). Council District: 7. SNI: None. CEQA: Exempt.

APPROVED (6-0-1; KINMAN ABSENT)

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. **SP04-044.** Appeal of the Planning Director's Decision to Approve a Special Use Permit for reinstatement of a legal non-conforming residential use in an existing multi-family attached residential building containing eight dwelling units on a 0.16 gross acre site in the A(PD) Planned Development Zoning District, located on the east side of North 15th Street approximately 200 feet north of E. St. John Street (140 N. 15th Street) (Carlos and Lidia Bernardo, Et Al, Owner). Council District: 3. SNI: 13th Street. CEQA: Exempt.

UPHELD DIRECTOR'S DECISION TO APPROVE (5-1-1; JENSEN OPPOSED AND KINMAN ABSENT)

Staff provide a brief report and clarified a few minor changes to the draft resolution related the condition for a subsequent permit adjustment. The appellant, Joe Pambianco, expressed concerns about the additional population on the site, but was generally satisfied with the new permit conditions as proposed by staff. Carlos Bernardo, the applicant noted that he agreed to comply with the revised conditions as noted by staff. In response to Commissioner Zito comment about the condition related to pet ownership, the applicant responded that this is a standard condition used in the industry. Commissioner Jensen asked whether there was a history of code or police issues with either the original residential use or more recent use as an office. Staff responded that while this was not specifically reviewed as part of this proposal, the previous office use was technically an illegal use since a Planned Development Permit to effectuate the Planned Development Zoning was never approved. Commissioner Jensen questioned the usefulness of the 400 square foot open space since it was partially hidden by the parking area. Staff responded that there is no other location that could provide an opportunity for open space. Commissioner Zito questioned whether the trash facility would need to be placed in the same open space area. Staff noted that smaller portable units could be provided instead of a larger central trash bin. The public hearing was then closed and the Planning Commission approved the project on a vote of 5-1-1 (Jensen opposed, Kinman absent).

- b. **C07-005.** Conventional Rezoning from R-2 Two-Family Residence Zoning District to R-M Multiple Residence District on a 0.2 gross acre site, located on the southeast corner of Highway 280 and South 11th Street (868 South 11th Street) (Margarita O. Delgado et al, Tamara Alabastro, Owners; Bruce Williams, Developer). Council District: 3. SNI: Spartan/Keyes. CEQA: San José 2020 General Plan EIR Resolution No. 65459. Continued from 6-11-07 and deferred from 6/27/07.

**RECOMMENDED APPROVAL (4-2-1; KALRA AND JENSEN
OPPOSED, KINMAN ABSENT)**

Staff summarized comments and concerns from the recent NAC meeting and noted correspondence from NAC about the proposal. Guillermo Gonzalez, the applicant, spoke in behalf of the project and acknowledged concerns from the neighborhood about parking. He noted that he plans to propose a 4 unit project with 8 parking spaces that meets the City's parking requirements. Sandra Lamoy, an area resident, spoke in favor of the project provided that the eventual project proposal was an ownership rather than rental project. Diego Barragan, an area resident spoke against the proposal citing that the developer has not yet shared specific development plans with the neighborhood. He added that tall buildings would impact the privacy of adjacent units. Aurelia Sanchez, president of the Spartan/Keyes NAC spoke in opposition to the rezoning noting that key action items in the SNI plan for additional schools, parks and retail should be provided in advance of development on the project site. She noted that there are problems with congregation of homeless persons in the immediate area. As part of his closing remarks, the applicant indicated that a new project would improve the visual appearance of the subject property. He responded to Commissioner Jensen's concern that it is his intent to provide individual ownership units rather than rental units. The Deputy Director noted that the subject proposal is for a conventional rezoning only and does not include a specific development proposal and cannot be conditioned to reflect special development standards. The City cannot regulate whether future units are rental or ownership units. Issues related to school fees, traffic, safety and historical impacts are most appropriately addressed at the Site Development Permit stage upon review of a specific development proposal. In response to Commissioner Zito question about the maximum allowable building height, staff responded that the R-M Zoning District establishes 45 feet as the maximum height. The public hearing was then closed and the Planning Commission approved the project on a vote of 4-2-1 (Kalra and Jensen opposed, Kinman absent).

- c. **CP07-007.** Conditional Use Permit to allow the operation of a private daycare center and a private school (kindergarten through sixth grade) and a shared parking agreement with an existing church on a 2.96 gross acre site in the R-1-8 Single Family Residence Zoning District located on the south side of Foxworthy Avenue, approximately 320 feet west of Almaden Expressway (Central Church of Christ of San José: Owner). Council District: 6. SNI: None. CEQA: Exempt.

APPROVED (6-0-1; KINMAN ABSENT)

Staff provided a brief report to highlight a few special conditions noted in the draft resolution including changes to the perimeter fence location and design. Further, a memorandum was received by the Department of Public Works that noted that there are no LOS impacts as part of this proposal. The applicant's representative, Rebecca Keith provided a brief history of the school and explained the difficulties in finding a suitable site for the school. Commissioner Kalra expressed some concern about the location of the play area and the student drop-off operations. The applicant noted that the play area is located about 20 feet back from the street and that parents are required to park their car and walk their child into

the building. Curbside drop off is not permitted. Commissioner Jensen noted that the applicant expressed interest in providing one overnight slumber party event each year, but the draft conditions as noted preclude such an activity. Two parents of students at the school, Lindsay Cunningham and Vaji Dharmasene expressed support of the project citing the value of the programs at the school. The public hearing was then closed and the Planning Commission approved the project on a vote of 6-0-1 (Kinman absent).

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.

Dennis Lowe, a Willow Glen resident, expressed concerns about loud, late night truck unloading operations at the Burger King Restaurant located at 1712 Meridian Avenue near Lenn Avenue. He requested that the Planning Commission determine whether this activity was in compliance with their permits. Staff noted that the since the use is part of a conventionally zoned commercial property, and closes before midnight, such activities are not subject to a Conditional Use Permit. Staff exchanged contact information with Mr. Lowe and pursuant to Commissioner Kalra's request, offered to follow-up and provides a copy of the permit to Mr. Lowe. Staff will also contact Burger King to let them know of this problem.

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

None.

7. **GOOD AND WELFARE**

- a. Report from City Council

No Report.

- b. Commissioners' report from Committees:

- 1) Norman Y. Mineta San José International Airport Noise Advisory Committee (Campos).
Chair Campos noted that next meeting is on 8/27
- 2) Coyote Valley Specific Plan (Platten).
Commissioner Platten noted that plan project will not come forward this year. Next meeting is on 8/13/07.
- 3) Parks Funding Subcommittee (Zito).
Vice Chair Zito noted that next meeting will be either 8/22/07 or 9/14/07.

- c. Discussion of Envision San José 2040 General Plan Update Process.
Report by Stan Ketchum. Noted that memorandum about work plan was distributed and list of task force members. The first task force meeting will be on 8/28/07 in room W-118 at City Hall.
- d. Review of synopsis.
Copy of synopsis for 7/18/07 meeting was not provided in packet. Review to be considered at next Planning Commission meeting.
- e. Consider study session dates and/or topics.
Should consider a basic "CEQA 101" class and provide good outreach to encourage public to attend. Staff should identify a date. The Commission will consider the scheduling of a retreat in September. The Planning Commissioner's Handbook (binder) should be updated and redistributed.
- f. Election of Planning Commission Officers.
 - 1. Election of Planning Commission Chair
 - 2. Election of Planning Commission Vice Chair*Three separate motions failed to elect a new chair and vice chair. Motions were either tied 3-3 or withdrawn. The Planning Commission decided to defer this decision to the next meeting on 8/22/07 and requested that this be placed as the first item on the agenda.*

8. **ADJOURNMENT**

Meeting adjourned at 8:35 p.m.

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> <i>Coyote Valley Specific Plan EIR</i>	T-332
March 14	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
March 28	5:00 p.m.	<i>Study Session</i> <i>Meeting Procedures and Commission Role</i>	T-332
March 28	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
April 11	5:00 p.m.	<i>Study Session</i> <i>Early Public Outreach for General Plan Update</i>	T-332
April 11	6:30 p.m.	Regular Meeting	Council Chambers
April 25	5:00 p.m.	<i>Study Session</i> <i>Level of Service Policy</i>	T-332
April 25	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
May 2	5:00 p.m.	<i>Study Session</i> <i>Review Capital Improvement Program</i>	T-1654
May 2	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
May 16	6:00 p.m.	<i>Study Session</i> <i>Sunshine Reform Task Force Recommendations</i>	T-332
May 16	6:30 p.m.	Regular Meeting	Council Chambers
May 30	5:00 p.m.	<i>Study Session</i> <i>Economic Development/Retail Strategy</i>	T-332
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> <i>Riparian Corridor issues</i>	W-120
June 27	6:30 p.m.	Regular Meeting	Council Chambers
July 18	6:30 p.m.	Regular Meeting	Council Chambers
August 8	5:00 p.m.	<i>Study Session</i> <i>Street and Easement Vacation Process</i>	T-332
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