



**PLANNING COMMISSION AGENDA**

***AMENDED***

**Wednesday, February 27, 2013**

**Regular Hearing**

**Commencing at 6:30 p.m.**

**Council Chambers**

First Floor, City Hall Wing  
200 East Santa Clara Street  
San Jose, California

**Edesa Bit-Badal, Chair**

**Matt Kamkar, Vice Chair**

**Ed Abelite**

**Hope Cahan**

**Norman Kline**

**Brian O'Halloran**

**Dori Yob**

**Joseph Horwedel, Director**

**Planning, Building & Code Enforcement**

## NOTE

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 evening, my name is **Edesa Bit-Badal** 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, February 27, 2013**. Please remember to turn off your cell phones. Parking ticket validation machine for the garage under City Hall is 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: 4.a., 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. Speakers using a translator will have four 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. Response to Commissioner 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.**

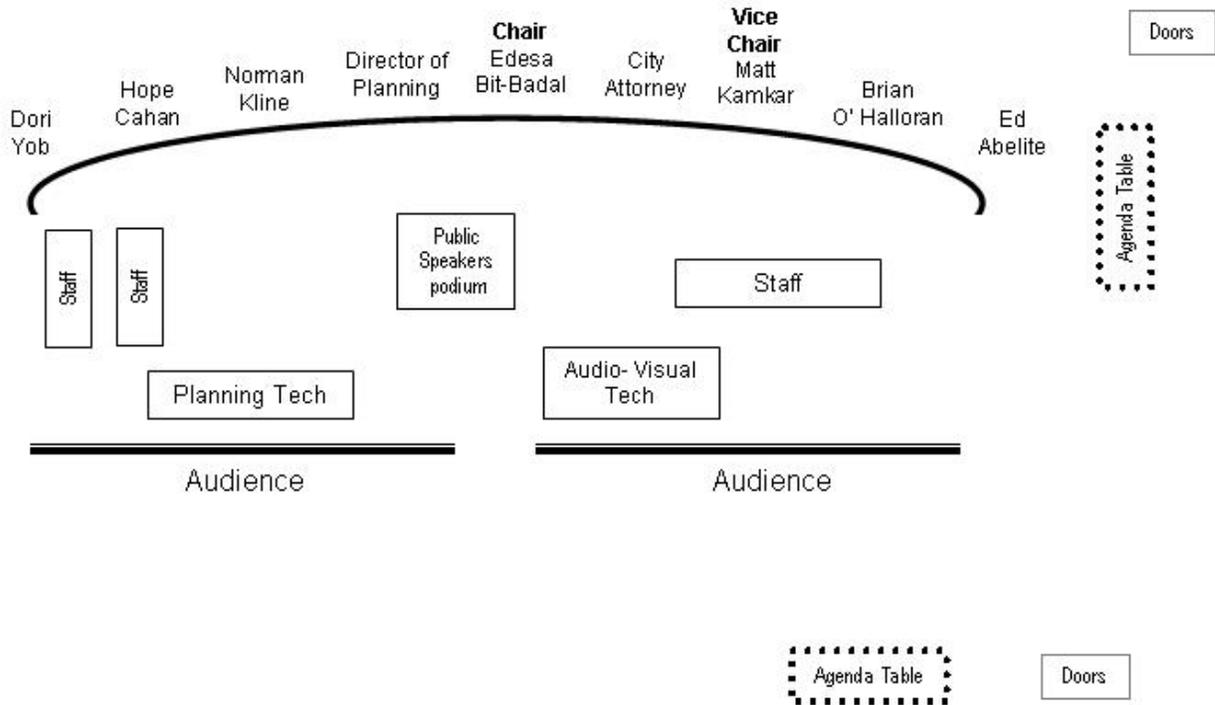
**The Planning Commission's action on rezoning, prezonings, General Plan Amendments and Code Amendments is only advisory to the City Council. The City Council will hold public hearings on these items.** Section 20.120.400 of the Municipal Code provides the procedures for legal protests to the City Council on rezoning 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.

The Planning Commission is a seven-member body, appointed by the City Council, which performs two types of actions:

- One type is “Quasi-Legislative” in nature in which the Planning Commission makes recommendations to the City Council regarding the adoption, amendment, or repeal of general or specific plans, Zoning Code provisions, or regulations related to the land use development, redevelopment, rehabilitation or renewal of the City, including its Capital Improvement Programs.
- The second type of action is “Quasi-Judicial” in nature in which the Planning Commission applies previously adopted legislation to particular applications and acts as a decision-making or appellate body. Examples of these types of actions include Commission decisions on Conditional Use Permits, appeals of the Planning Director’s decisions on certain land use permits, and the certification of Environmental Impact Reports.

A notation of “Administrative Hearing” for an agenda item indicates that the item is a Quasi-Judicial action of the Commission in order to assist the public in understanding the role of the Planning Commission on a particular item.

Seating Chart within the City Council Chambers:



The San José Planning Commission generally meets every 2<sup>nd</sup> and 4<sup>th</sup> Wednesday at 6:30 p.m., unless otherwise noted. Agendas and Staff Reports for Planning Commission items may be viewed on the Internet at <http://www.sanjoseca.gov/planning/hearings/DefaultPC.asp>

**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](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.

Audio for the Planning Commission hearings are recorded and broadcasted 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](http://sanjose.granicus.com/ViewPublisher.php?view_id=17).

If you have any agenda questions, please contact Support Staff at (408) 535-7811 or email. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

**AGENDA**  
**ORDER OF BUSINESS**

**ROLL CALL**

**1. DEFERRALS**

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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.

To effectively manage the Planning Commission Agenda, and to be sensitive to concerns regarding the length of public hearing, the Planning Commission may determine either:

1. To proceed with remaining agendized items past 11:00 p.m.;
2. To continue this hearing to a later date;
3. Or to defer remaining items to the next regularly scheduled Planning Commission meeting date.

Decision on how to proceed will be heard by the Planning Commission no later than 11:00 p.m.

- a. **CP12-045. (Administrative Hearing)** Conditional Use Permit to demolish an existing restaurant building and construct a new 7,660 square foot full-service restaurant in the CG Commercial General Zoning District on a .58 gross acre site located on the north side of Eastridge Loop 800 feet westerly of Capitol Expressway (2226 Eastridge Loop) (General Growth Properties, Owner/Olive Garden, Developer). Council District 8. CEQA: Exempt. *Continued from 2/13/13.*  
*PROJECT MANAGER, MEGAN SHRUBSOLE*

**Staff Recommendation:** Defer to 3/13/13 per applicant's request.

**2. CONSENT CALENDAR**

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**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. **CP13-006. (Administrative Hearing)** Conditional Use Permit to allow after midnight use to a public eating and drinking establishment (Buffalo Wild Wings) until 2:00 a.m., and an addition of an 804 square-foot outdoor patio on a 1.2 gross-acre site in the CP Pedestrian Commercial Zoning District, located on the north side of Blossom Hill Road, approximately 610 feet easterly of Santa Teresa Boulevard (859 BLOSSOM HILL RD) (Facchino Labarbera Bh Pad 1, LLC, Owner). Council District 10. CEQA: Exempt. *PROJECT MANAGER, KRISTINAE TOOMIANS*

**Staff Recommendation:** Consider the Exemption in accordance with CEQA. Approve a Conditional Use Permit to allow after midnight use to a public eating and drinking establishment (Buffalo Wild Wings) until 2:00 a.m., and an addition of an 804 square-foot outdoor patio on a 1.2 gross-acre site in the CP Pedestrian Commercial Zoning District, for the reasons stated in the staff report.

- b. **CP13-001. (Administrative Hearing)** Conditional Use Permit for the timely renewal of an existing eating and drinking establishment (Milano Restaurant) with late night use until 2:00 a.m. in the DC Downtown Primary Commercial Zoning District, on a 0.32 gross acres site located on the northeast corner of South 2<sup>nd</sup> Street and East San Salvador Street. (394 South 2<sup>nd</sup> Street) (Le Julia Trustee, Owner). Council District 3. CEQA: Exempt. *PROJECT MANAGER, APARNA ANKOLA*

**Staff Recommendation:** Consider the Exemption in accordance with CEQA. Approve a Conditional Use Permit for the timely renewal of an existing eating and drinking establishment (Milano Restaurant) with late night use until 2:00 a.m. in the DC Downtown Primary Commercial Zoning District, on a 0.32 gross acres site, for the reasons stated in the staff report.

- c. **WATER EFFICIENT LANDSCAPE ORDINANCE** An Ordinance of the City of San José amending the San José Municipal Code to amend Section 15.10.290 of Chapter 15.10 of Title 15 (Public Utilities), Chapter 15.11 of Title 15 in its entirety, and Section 20.100.440 of Chapter 20.100 of Title 20 (the Zoning Ordinance), all to modify the Water Efficient Landscape Standards for New and Rehabilitated Landscaping and to establish Water Efficient Landscape Regulations Pursuant to State Law and to make other technical, formatting or other nonsubstantive changes within those Chapters of Title 15 and Title 20. CEQA: Final Program Environmental Impact Report (EIR) for the Envision San José 2040 General Plan, EIR Resolution No. 76041 (File No. PP12-100). Pursuant to Section 15168 of the CEQA Guidelines, the City of San José has determined that this activity is within the scope of the Envision San José 2040 General Plan Program approved previously. The Final Program Environmental Impact Report (EIR) for the Envision San José 2040 General Plan entitled, “Envision San José 2040 General Plan,” for which findings were adopted by City Council Resolution No. 76041 on November 1, 2011, adequately describes the activity for the purposes of CEQA. The project does not involve new significant effects beyond those analyzed in this Final EIR. Therefore, the City of San José may take action on the project as being within the scope of the Final EIR, File No. PP12-100. *PROJECT MANAGER, JENNY NUSBAUM*

**Staff Recommendation:** Consider the Final Program Environmental Impact Report (EIR) for the Envision San José 2040 General Plan, EIR Resolution No. 76041 (File No. PP12-100). Pursuant to Section 15168 of the CEQA Guidelines, the City of San José has determined that this activity is within the scope of the Envision San José 2040 General Plan Program approved previously. The Final Program Environmental Impact Report (EIR) for the Envision San José 2040 General Plan entitled, “Envision San José 2040 General Plan,” for which findings were adopted by City Council Resolution No. 76041 on November 1, 2011, adequately describes the activity for the purposes of CEQA. The project does not involve new significant effects beyond those analyzed in this Final EIR. Therefore, the City of San José may take action on the project as being within the scope of the Final EIR, File No. PP12-100. Recommend to the City Council the approval an Ordinance of the City of San José amending the San José Municipal Code to amend Section 15.10.290 of Chapter 15.10 of Title 15 (Public Utilities), Chapter 15.11 of Title 15 in its entirety, and Section 20.100.440 of Chapter 20.100 of Title 20 (the Zoning Ordinance), all to modify the Water Efficient Landscape Standards

for New and Rehabilitated Landscaping and to establish Water Efficient Landscape Regulations Pursuant to State Law and to make other technical, formatting or other nonsubstantive changes within those Chapters of Title 15 and Title 20, for the reasons stated in the staff report.

### 3. Public Hearing

#### 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. **CP12-030. (Administrative Hearing)** Conditional Use Permit to allow the demolition and reconstruction of an approximately 2,600 square foot restaurant with drive-through use, including 24-hour use of the drive-through, on a 0.73 gross acre site in the CN Commercial Neighborhood Zoning District, located on the north side of Story Road, approximately 150 feet westerly of McCreery Avenue (1841 Story Road) (Anderson Richard R Trustee & Et Al, Owner). Council District 5. CEQA: Exempt. *PROJECT MANAGER, REBECCA BUSTOS*

**Staff Recommendation:** Consider the Exemption in accordance with CEQA. Approve a Conditional Use Permit to allow the demolition and reconstruction of an approximately 2,600 square foot restaurant with drive-through use, including 24-hour use of the drive-through, on a 0.73 gross acre site in the CN Commercial Neighborhood Zoning District, for the reasons stated in the staff report.

### 4. PETITIONS AND COMMUNICATIONS

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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:

- 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.

### 5. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS, OR OTHER AGENCIES

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## **6. GOOD AND WELFARE**

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- a. Report from City Council
- b. Commissioners' Report from Committees:
  - 1. Norman Y. Mineta San José International Airport Noise Advisory Committee (Cahan)
- c. Review and Approve Synopsis from [2-13-13](#).
- d. Subcommittee Formation, Reports, and Outstanding Business
  - 1. Urban Design/Shopping Center Retrofit Subcommittee (Bit-Badal and Abelite)
  - 2. Riparian Subcommittee (Kamkar and Cahan)
  - 3. By Laws Subcommittee (Yob and Bit-Badal)
- e. Commission Calendar and Study Sessions

## **ADJOURNMENT**

## 2013 PLANNING COMMISSION MEETING SCHEDULE

<u>Date</u>	<u>Time</u>	<u>Type of Meeting</u>	<u>Location</u>
January 9	6:30 p.m.	Regular	Council Chambers
January 23	5:00 p.m.	Study Session	T-332
<i>Review of Development Projects in the light of Title 20, General Plan and Council Policies</i>			
January 23	6:30 p.m.	Regular	Council Chambers
February 13	5:00 p.m.	Study Session	T-332
<i>Urban Village</i>			
February 13	6:30 p.m.	Regular	Council Chambers
February 27	6:30 p.m.	Regular	Council Chambers
March 13	5:00 p.m.	Study Session	T-332
<i>Urban Village</i>			
March 13	6:30 p.m.	Regular	Council Chambers
March 27	6:30 p.m.	Regular	Council Chambers
April 10	5:00 p.m.	Study Session	T-332
<i>Off-Sale of Alcoholic Beverages/Bars and Nightclubs/Late Night Hours</i>			
April 10	6:30 p.m.	Regular	Council Chambers
April 24	6:30 p.m.	Regular	Council Chambers
May 1	5:30 p.m.	Study Session	Council Chambers
<i>Capital Improvement Program</i>			
May 1	6:30 p.m.	Regular	Council Chambers
May 8	5:00 p.m.	Study Session	Council Chambers
<i>Diridon Station Area Plan</i>			
May 8	6:30 p.m.	Regular	Council Chambers
May 22	6:30 p.m.	Regular	Council Chambers
June 12	5:00 p.m.	Study Session	T-332
<i>Riparian Corridor Policy</i>			
June 12	6:30 p.m.	Regular	Council Chambers
June 26	6:30 p.m.	Regular	Council Chambers
July 10	5:00 p.m.	Study Session	T-332
<i>North San Jose</i>			
July 10	6:30 p.m.	Regular	Council Chambers
July 24	6:30 p.m.	Regular	Council Chambers
August 14	6:30 p.m.	Regular	Council Chambers
August 28	6:30 p.m.	Regular	Council Chambers
September 11	6:30 p.m.	Regular	Council Chambers
September 25	6:30 p.m.	Regular	Council Chambers
September 26	8:30 a.m.	Retreat	T-1254
October 9	6:30 p.m.	Regular	Council Chambers
October 23	6:30 p.m.	Regular	Council Chambers
November 6	6:30 p.m.	Regular	Council Chambers
November 20	6:30 p.m.	Regular	Council Chambers
December 4	6:30 p.m.	Regular	Council Chambers
December 11	6:30 p.m.	Regular	Council Chambers

## **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.