

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING SECTIONS 20.100.290 AND 20.100.300 OF CHAPTER 100 OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE RELATING TO RECORDATION OF LAND USE PERMITS, AND 20.120.510 OF CHAPTER 120 OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE RELATING TO ALTERNATIVE MEANS OF COMPLIANCE WITH GENERAL DEVELOPMENT PLANS

WHEREAS, pursuant to the provisions of Title 21 of the San Jose Municipal Code, the Director of Planning, Building and Code Enforcement has determined that the provisions of this ordinance do not constitute a project under the provisions of the California Environmental Quality Act of 1970, as amended.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Section 20.100.290 of Chapter 100 of Title 20 of the San José Municipal Code is amended to read as follows:

20.100.290 Acceptance

- A. After the time for any appeal has expired and no appeal has been filed by a qualified appellant, the Permit or other approval issued shall be deemed final, subject to the provisions of Subsection 20.100.290.D below.
- B. If the applicant fails to file a timely and valid appeal of the Permit or other approval within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - 1. Acceptance of the Permit or approval by the applicant; and
 - 2. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions,

and conditions of the Permit or other approval and the provisions of this Title applicable to such Permit or other approval.

- C. If the applicant is a qualified tenant, such tenant shall, and it shall be the responsibility of such tenant to, inform the property owner(s) of the issuance of the Permit or other approval, together with the terms, conditions and provisions of such Permit or other approval, including without limitation provisions contained in such Permit or approval that require dedication of land, restrictive covenants or other commitments beyond the scope of a tenancy.
- D. No Permit or other approval shall have any force or effect prior to, and a Permit shall be deemed effective on, the date that all of the following have occurred:
1. The elapse of the appeal period applicable to that Permit; and
 2. The fulfillment of all conditions precedent to the effectiveness of that Permit as set forth in the Permit; and
 3. The payment to City in full of all fees applicable to that Permit.

SECTION 2. Section 20.100.300 of Chapter 100 of Title 20 of the San José Municipal Code is amended to read as follows:

20.100.300 Recordation

- A. Within 30 days of the Permit or other approval becoming effective, in accordance with the provisions of Section 20.100.290, fulfillment of all conditions precedent to release pursuant to this Chapter and the payment of fees, a certificate identifying the Permit or other approval shall be recorded by the City. The Permit or other approval and the rights and restrictions therein shall run with the land to the fullest extent allowed by law.
- B. If any Permit or other approval is revoked after a hearing on an Order to Show Cause pursuant to this Chapter, a Certificate of Revocation shall be recorded with the County Recorder's Office.

SECTION 3. Section 20.120.510 of Chapter 120 of Title 20 of the San José Municipal Code is amended to read as follows:

20.120.510 General development plan requirements.

- A. The planned development district shall be individually designed to meet the needs of the territory so zoned. The uses and requirements of the planned development district shall be reflected in the general development plan which is adopted as part of the planned development zoning ordinance. The general development plan shall include, when applicable:
1. All public and private use areas appropriately mapped, clearly identified, and shaded, including:
 - a. All permitted land uses, including unit type (single-family detached, single-family attached, multiple-family, etc.) and size for residential uses.
 - b. Landscape areas, common open space, private open space, and public open space.
 - c. All public streets, private streets and driveways within the proposed PD zone, labeled "public street," "private street," or "driveway" with total right-of-way width dimensioned.
 - d. All public and private streets adjacent to the proposed planned development zone, labeled "public" or "private" and showing dimension from street centerline to ultimate right-of-way edge.
 - e. All public and private easements, including parking, access, utility, and pedestrian easements showing purpose and beneficiary of each easement.
 2. Zoning regulations which include and specify:
 - a. Permitted, conditional, and special use allowances.
 - b. Development standards, including:
 - i. All setbacks,
 - ii. Building heights (stories and feet),
 - iii. Parking (number of spaces and ratios),
 - iv. Minimum lot size and dimensions, if applicable.
 - c. Where landscaping is to serve a particular function, such as a screen or buffer, the particular function and landscape concept shall be

identified. Where landscaping is proposed in the public right-of-way, the maintenance responsibility shall be specified.

- d. Clear descriptions of any required off-site work, including street and infrastructure improvements.
 - e. Noise attenuation requirements, if any.
 - f. Environmental mitigation as required by the environmental clearance.
 - g. Any other appropriate conditions of approval.
3. Additional graphic (i.e. mapped) information as applicable, including:
- a. The location of the closest buildings, both existing and approved, on adjacent properties.
 - b. All existing structures which are to be retained.
 - c. All significant existing natural features, including:
 - d. "Ordinance size" trees (18" diameter or larger) and any smaller trees which are significant by virtue of their species, location and/or significance to the site due to the limited amount of existing vegetation.
 - e. Creeks and waterways.
 - f. Rock outcroppings.
 - g. The location and required height of sound walls.
 - h. Topography shown, sufficient to describe terrain, including top of bank, where site is adjacent to creek or has an existing overall slope of more than two percent.
 - i. Proposed grading if any cut or fill slope exceeds eighteen (18) inches.
4. Building elevations which illustrate the intended architectural style and character and the size, shape, materials and general detailing of buildings.

B. The director and the planning commission may recommend and/or the city council may adopt conditions of approval that include alternative means of compliance for a specific project impact where each alternative adequately addresses the same specific project impact.

BC. Nothing herein shall preclude the director, the planning commission or the city council from requiring any additional information to be shown on the general development plan.

RD:VMT
10/16/2009

D. Any change to an adopted general development plan shall require the filing and consideration of a petition in accordance with the provisions of this chapter 20.120.

PASSED FOR PUBLICATION of title this _____ day of _____, 2009, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk