

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Stephen M. Haase

SUBJECT: SEE BELOW

DATE: October 21, 2004

COUNCIL DISTRICT: Citywide
SNI AREAS: All

SUBJECT: AN ORDINANCE AMENDING SECTION 20.100 OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE TO ALLOW EXEMPTIONS FROM SINGLE FAMILY HOUSE PERMIT REQUIREMENTS FOR BUILDING HEIGHT FOR CONSTRUCTION OF AND ADDITIONS TO HOUSES LOCATED IN FLOOD ZONES.

RECOMMENDATION

The Planning Commission voted 7-0-0 to recommend that the City Council adopt the proposed ordinance amending Title 20, the Zoning Code, of the San Jose Municipal Code allowing for exemptions from the Single Family House permit requirements for building height for construction in flood zones.

BACKGROUND

On September 22, 2004, the Planning Commission held a public hearing to consider the proposed Zoning Code amendment to allow exemptions from the Single Family House permit process for construction in flood zones.

At the hearing, staff briefly explained the proposed amendment and provided two clarifications to the staff report. The first clarification is that the requirement to elevate the first finished floor of a residence should be considered a flood protection measure, and not floodproofing. The first finished floor is normally required to be elevated to the 100-year flood level. Floodproofing measures are specific construction techniques required by the Federal Emergency Management Agency (FEMA).

The second clarification is that the typical 100-year flood level in Alviso is nine feet above mean sea level, but determining flood depths also involves taking the elevation of the property into account, which ranges between one and four feet. So, typical flood depths in Alviso, and

HONORABLE MAYOR AND CITY COUNCIL

October 21, 2004

**SUBJECT: Title 20 Ordinance exemptions from the Single Family House permit
process for construction in flood zones**

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therefore also elevation requirements, range from five to nine feet, based on the elevation of the parcel above sea level.

There was no discussion by the Planning Commission on the proposed ordinance change.

No one spoke in favor of or in opposition to the proposed Ordinance amendment.

PUBLIC OUTREACH

On September 3, 2004, a public hearing notice was sent to the San Jose Post Record for publishing in the September 10, 2004 edition. This notice included the Planning Commission and City Council hearing dates for the proposed ordinance revision. As standard practice, staff posted the staff report and draft ordinance as well as the hearing dates on the Department's website.

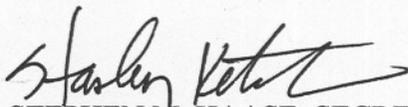
This item was also discussed at a community meeting at the Alviso Community Center on August 4, 2004. The public response to the proposal was generally favorable.

COORDINATION

Preparation of the proposed ordinance has been coordinated with the City Attorney's Office. Transmittal of the draft ordinance language is being sent by the City Attorney's Office under separate cover.

CEQA

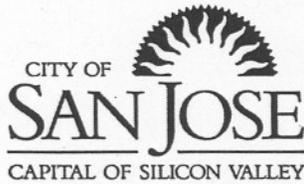
The proposed ordinance, PP04-08-227, was found exempt from CEQA per Section 15305.


to STEPHEN M. HAASE, SECRETARY
Planning Commission

Attachment

N:\Zoning\New Code Ordinance Rev\2004-06 SFHP height exception\2004-06_CC_Transmittal_Memo.doc





Memorandum

TO: PLANNING COMMISSION

FROM: Stephen M. Haase

SUBJECT: SEE BELOW

DATE: September 16, 2004

COUNCIL DISTRICT: Citywide

SNI AREAS: All

SUBJECT: AN ORDINANCE AMENDING SECTION 20.100 OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE TO ALLOW EXEMPTIONS FROM SINGLE FAMILY HOUSE PERMIT REQUIREMENTS FOR BUILDING HEIGHT FOR CONSTRUCTION OF AND ADDITIONS TO HOUSES LOCATED IN FLOOD ZONES.

RECOMMENDATION

Planning staff recommends that the Planning Commission recommend that the City Council approve the proposed ordinance amending Title 20, the Zoning Code, of the San Jose Municipal Code pertaining to allowing exemptions from the Single Family House Permit (SFHP) process for additional building height in flood zones.

BACKGROUND

Under the current Zoning Code, a Single Family House Permit is required for all projects that propose a building height greater than 30 feet or two (2) stories in height. The project applicant must obtain a Single Family House Permit approved by the Director of Planning after a noticed public hearing.

The proposed ordinance change would allow an exemption from the Single Family House permit process for additions or new construction in certain flood zone areas. Under the proposed ordinance change, projects located in a flood zone with a 100-year flood depth greater than or equal to five (5) feet, would be allowed without a Single Family House Permit, provided that the project has a Floor Area Ratio (FAR) of less than 0.45, and meets the expanded height requirements of the proposed amendment. Floor Area Ratio is defined as the gross floor area of the lot divided by the lot area.

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Single Family House Permit process for projects in flood zones.**

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ANALYSIS

The proposed ordinance change is meant to streamline the Zoning Code by allowing typical single-family home construction otherwise allowed in flood zone areas to occur without the requirement of a Single-Family House Permit.

As a part of the building permit process, applicants proposing new construction in flood zones are normally required to elevate the first finished floor of a house to one foot above the 100-year flood level as a flood-proofing measure. The effect of the floodproofing requirement is to make houses taller, and in areas with the deepest flood zones, have more stories. The floodproofing requirement in turn forces property owners to go through the Single Family House Permit process for projects that are of a similar scale with the surrounding neighborhood, which is usually also subject to floodproofing requirements.

The Single Family House Permit process was adopted in the year 2000, with the intent of providing a review process for the largest houses, in order to ensure their compatibility with existing neighborhoods. Projects that involve exterior changes to single family homes are required to obtain a Single Family House Permit if the proposed project has an FAR greater than 0.45, is greater than 30 feet or two stories in height, or is listed on the City's Historic Resources Inventory.

The floodproofing requirement can mean that single-family projects exceed the threshold for SFHP review expressed in terms of height. Projects are required to obtain a Single Family House Permit for buildings taller than 30 feet, and each foot of height dedicated to floodproofing means a smaller overall building envelope for habitable space.

Property owners attempting to develop in flood zones also run up against a maximum height threshold expressed in terms of number of stories. Under the Zoning Code, a basement of a house is considered a story if it extends more than 6 feet above grade (Zoning Code Section 20.200.120). In the areas with the deepest 100-year floods (e.g. Alviso), the first story of the house is required to be non-habitable, and effectively limits the property owner to a single habitable story without obtaining a SFHP.

The proposed ordinance would allow exemptions to the Single Family House Permit process, for projects in flood zone areas with a 100-year flood depth of five (5) feet or greater. This figure was chosen because the first finished floor must normally be elevated to one foot above the 100-year flood depth. In these cases, property owners are for all intents and purposes required to build a non-habitable first story for floodproofing purposes. Use of non-habitable space is limited to parking and storage.

The proposed ordinance change would allow projects without a Single-Family House Permit up to 30 feet in height plus the 100-year flood depth, or the maximum height of the zoning district,

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whichever is less. The maximum number of stories allowed without a SFHP would be the maximum allowed in the district.

In Alviso for example, the predominant Zoning District is R-M Multiple Residence, which allows buildings up to 45 feet and three stories in height. The typical 100-year flood depth in Alviso is nine (9) feet. Under the proposed ordinance, a property owner could propose a house up to 39 feet and three stories in height without having to obtain a SFHP. If the property owner wanted to propose a taller house, then they would have to obtain a SFHP, approved by the Director of Planning.

PUBLIC OUTREACH

On September 3, 2004, a public hearing notice was sent to the San Jose Post Record for publishing in the September 10, 2004 edition. This notice included the Planning Commission and City Council hearing dates for the proposed ordinance revision. As standard practice, staff posted the staff report and draft ordinance as well as the hearing dates on the Department's website.

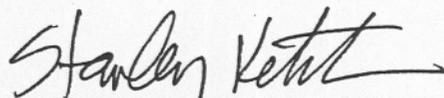
This item was also discussed at a community meeting at the Alviso Community Center on August 4, 2004. The public response to the proposal was generally favorable.

COORDINATION

Preparation of the proposed ordinance and this memorandum have been coordinated with the City Attorney's Office.

CEQA

The proposed ordinance, PP04-08-227, was found exempt from CEQA per Section 15305.


for STEPHEN M. HAASE, DIRECTOR
Planning, Building, and Code Enforcement

CITY OF SAN JOSÉ, CALIFORNIA
DEPARTMENT OF PLANNING, BUILDING AND CODE ENFORCEMENT
STATEMENT OF EXEMPTION

FILE NO. PP04-227

LOCATION OF PROPERTY Citywide

PROJECT DESCRIPTION An ordinance amending Section 20.100 of Title 20 of the San Jose Municipal Code to allow exemptions from the Single Family House Permit requirements for building height for construction of and additions to houses located in flood zones.

CERTIFICATION

Under the provisions of Section 15305 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) as stated below, this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.

Class 5 consists of minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Date September 16, 2004

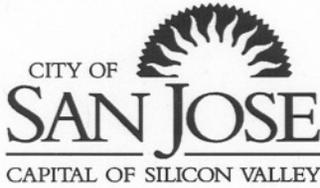


Deputy

Project Manager: John Davidson

(Rev. 10/23/02)

~~10/19/04~~ 11/9/04
~~11.1~~ 11.2



Department of Planning, Building and Code Enforcement

STEPHEN M. HAASE, AICP, DIRECTOR

NOTICE OF THE PUBLIC HEARING ON AN ORDINANCE TO AMEND

THE ZONING CODE OF THE CITY OF SAN JOSE

NOTICE IS HEREBY GIVEN that public hearings will be held by:

The Planning Commission of the City of San Jose on **Wednesday, September 22, 2004, at 6:00 p.m.** and

The Council of the City of San Jose on **Tuesday, October 19, 2004, at 7:00 p.m.**

in the City Council Chambers at City Hall, 801 North First Street for the purpose of considering the proposal to amend the Zoning Code of the City of San Jose as follows:

Citywide

AN ORDINANCE OF THE CITY OF SAN JOSÉ AMENDING CHAPTER 20.100 OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE TO ALLOW EXEMPTIONS FROM SINGLE FAMILY HOUSE PERMIT REQUIREMENTS FOR BUILDING HEIGHT FOR CONSTRUCTION OF AND ADDITIONS TO HOUSES LOCATED IN FLOOD ZONES. CEQA: Exempt, PP04-08-227.

If you challenge these land use decisions in court, you may be limited to raising only those issues you or someone else raised at the public hearing or in written correspondence delivered to the City at, or prior, the public hearing. Comments and questions are welcome and should be referred to **John Davidson** of the Department of Planning, Building, and Code Enforcement at (408) 277-8831.

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408)277-4576 (VOICE) or (408)998-5299 (TTY) at least 48 hours before the meeting.

Stephen M. Haase, Secretary
San Jose Planning Commission

| | |
|--------------------|----------------|
| PAPER PR | SENT 9-7-04 |
| PUBLISH 9-10-04 | |
| AGENDA 10-19-04 | PROOF |

Stan Ketchum, Deputy

Lee Price, City Clerk

Dated: September 3, 2004

SAN JOSE POST-RECORD

~ SINCE 1910 ~

90 N. First Street, Suite 100, San Jose, California 95113-1225
Telephone (408) 287-4866 • Fax (408) 287-2544

FLEUR KETTMANN
SAN JOSE CITY CLERK
801 N FIRST ST
SAN JOSE, CA 95110

PROOF OF PUBLICATION

(2015.5 C.C.P.)

State of California)
County of Santa Clara) ss

Notice Type: GPHSJ SAN JOSE CITY PUBLIC HEARING

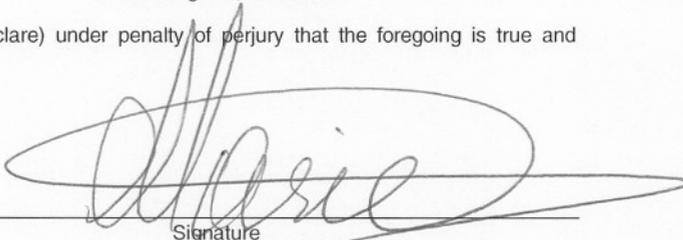
Ad Description: ORD. TO AMEND MUNICIPAL CODE TO ALLOW EXEMPTIONS FROM SINGLE FAMILY HOUSE PERMIT REQUIREMENTS FOR BUILDING HEIGHT IN FLOOD ZONES

I am a citizen of the United States; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of the printer and publisher of the SAN JOSE POST-RECORD, a newspaper published in the English language in the City of San Jose, and adjudged a newspaper of general circulation as defined by the laws of the State of California by the Superior Court of the County of Santa Clara, State of California, under date of February 3, 1922, Case No. 27,844. That the notice, of which the annexed is a printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

09/10/04

Executed on: 09/10/2004
At Los Angeles, California

I certify (or declare) under penalty of perjury that the foregoing is true and correct.


Signature

RECEIVED
This space for filing stamp only
San Jose City Clerk

2004 SEP 16 P 3: 03

4''

SJ#: 722647

NOTICE OF THE PUBLIC HEARING ON
AN ORDINANCE TO AMEND
THE ZONING CODE OF THE CITY OF
SAN JOSE

NOTICE IS HEREBY GIVEN that public hearings will be held by:
The Planning Commission of the City of San Jose on Wednesday, September 22, 2004, at 6:00 p.m. and
The Council of the City of San Jose on Tuesday, October 19, 2004, at 7:00 p.m. in the City Council Chambers at City Hall, 801 North First Street for the purpose of considering the proposal to amend the Zoning Code of the City of San Jose as follows:

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AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING CHAPTER 20.100 OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE TO ALLOW EXEMPTIONS FROM SINGLE FAMILY HOUSE PERMIT REQUIREMENTS FOR BUILDING HEIGHT FOR CONSTRUCTION OF AND ADDITIONS TO HOUSES LOCATED IN FLOOD ZONES. CEQA: Exempt, PP04-08-227.
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Stephen M. Haase, Secretary
San Jose Planning Commission
Stan Ketchum, Deputy
Lee Price, City Clerk
Dated: September 3, 2004
09/10/04

SJ- 722647#