

RESOLUTION NO. 73111

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSÉ, GRANTING, SUBJECT TO CONDITIONS, A PLANNED DEVELOPMENT PERMIT TO USE CERTAIN REAL PROPERTY DESCRIBED HEREIN TO ALLOW THE DEVELOPMENT OF FIVE (5) SINGLE FAMILY DETACHED RESIDENCES ON FIVE (5) EXISTING LOTS IN THE VICINITY OF 6664 BROADACRES DRIVE, SAN JOSE, CALIFORNIA

FILE NO. PD05-091

WHEREAS, pursuant to the provisions of Chapter 20.100.900 of Title 20 of the San José Municipal Code, on December 2, 2005, an application (File No. PD05-091) was filed for a Planned Development Permit for the development of five (5) single family detached residences on five (5) existing lots, situate in the A(PD) Planned Development Zoning District, located on the northwest corner of Broadacres and Skyfarm Drives, within the City of San José, County of Santa Clara, State of California; and

WHEREAS, the subject property is all that real property described in Exhibit "A," attached hereto and made a part hereof by this reference as if fully set forth herein; and

WHEREAS, pursuant to and in accordance with Chapter 20.100.900 of Title 20 of the San José Municipal Code, this City Council conducted a hearing on said application, notice of which was duly given; and

WHEREAS, at said hearing, this City Council gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing this City Council received and considered the reports and recommendation of the Director of Planning, Building and Code Enforcement; and

WHEREAS, at said hearing, this City Council received in evidence a development plan for the subject property entitled, "Specific Development Plan Lands of Summerhill Homes," dated January 19, 2006, and said development plan is on file in the Department of Planning, Building and Code Enforcement, is available for inspection by anyone interested therein, and is incorporated herein by this reference the same as if it were fully set forth herein; and

WHEREAS, said hearing was conducted in all respects as required by the San José Municipal Code and the rules of this City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSE AS FOLLOWS:

After considering evidence presented at the Public Hearing, the City Council finds that the following are the relevant facts and findings regarding this proposed project:

FACTS

1. The 0.82 gross acre site is located on the northwest corner of Broadacres and Skyfarm Drives.
2. The site has a designation of Low Density Residential (5 DU/AC) on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
3. The project site is located in the A(PD) Planned Development Zoning District.
4. In accordance with Section 20.100.010 of the San José Municipal Code, a Planned Development Permit is required to develop the site in accordance with the A(PD) Planned Development Zoning District.
5. This Planned Development Permit allows for the development of 5 single-family detached residences.
6. The subject site is bounded by existing single-family residences to the north and east, and an approved single-family residential project that is under construction to the south and west. McAbee Creek and the Almaden Quicksilver Park Trail and open hillside are located just beyond the adjacent approved single-family residential development to the south and west, respectively.
7. The site is currently undeveloped.

FINDINGS

The City Council concludes and finds, based upon an analysis of the above facts that the following are the relevant findings regarding this proposed project:

1. The Planned Development Permit, as issued, furthers the policies of the General Plan in that:
 - a. The proposed project furthers the General Plan Growth Management Strategy which seeks to maximize housing opportunities on infill parcels already served by City services.

- b. The project furthers the General Plan's Housing Major Strategies by providing housing opportunities on infill property that is already served by existing urban services.
2. The Planned Development Permit, as issued, conforms in all respects to the Planned Development Zoning of the property in that:
 - a. This Planned Development Permit will allow 5 single-family detached residences, parking, and landscaping consistent with the permitted uses on the General Development Plan.
 - b. Sufficient maneuvering room will be provided on site to allow smooth circulation to minimize interference with traffic on Skyfarm Drive.
 - c. Parking spaces are conveniently located in relation to the uses they support.
3. The interrelationship between the orientation, location and mass and scale of building volumes, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious in that the project is surrounded by single-family detached residential units and open space. The project responds to these different interfaces through building and site design. The project provides setbacks that are consistent with the residences in the adjacent neighborhood.
4. The environmental impacts of the project, including, but not limited to noise, vibration, dust, drainage, erosion, storm water run off, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties because the project would construct five single family residences on existing on five existing lots consistent with the residences in the surrounding neighborhood.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per San Jose Municipal Code Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Permit by the applicant; and
 - b. 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 this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or

contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the "Building Code" shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San Jose Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.

3. **Permit Term.** This permit shall become effective no earlier than the effective date of that certain Rezoning Ordinance, File No. PDC05-118, considered and passed for publication by the City Council on March 21, 2006 under Item No. 11.7(a) of the City Council Meeting Agenda of March 21, 2006. This Planned Development Permit shall automatically expire two (2) years from and after its effective date, if within such two-year period, the proposed construction on this site has not commenced, pursuant to and in accordance with the provisions of this Planned Development Permit. The Director of Planning may approve a **Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20.** The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
4. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
5. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
6. **Revocation.** This Planned Development Permit is subject to revocation for violation of any of its provisions or conditions.
7. **Conformance with Plans.** Development shall conform to approve Planned Development plans entitled, "Specific Development Plan Lands of SummerHill Homes," dated January 19, 2006, on file with the Department of Planning, Building and Code Enforcement and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04).
8. **Planned Development District Effectuated.** Once this Planned Development Permit is accepted, the use of territory not covered by the permit shall only be land uses consistent with the Planned Development Zoning District and only upon issuance of a Planned Development Permit for those uses.

9. **Discretionary Review.** The Director of Planning maintains the right of discretionary review of requests to alter or amend structures, conditions or restrictions of this Planned Development Permit incorporated by reference in this Permit in accordance with Section 20.44.200 of the San José Municipal Code.
10. **Fire Safety.** The applicant shall meet all requirements of the Fire Department at the Building Permit plan review stage.
11. **Building Clearance for Issuing Permits.** Prior to the issuance of a building permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* The permit file number, PD05-091, shall be printed on all construction plans submitted to the Building Division.
 - b. *American With Disabilities Act.* The applicant shall provide appropriate access as required by the American With Disabilities Act (ADA).
12. **Construction Hours.** Construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit, except that interior construction may occur on Saturday from 8:00 a.m. to 5:00 p.m. if such activities are inaudible at the property lines of the site upon which the unit is located.
13. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
14. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
15. **Roof Equipment.** All rooftop equipment shall not be visible from public streets or neighboring properties.
16. **Colors and Materials.** All building colors and materials are to be specified on the approved plan set.
17. **Walls/Fence Height/Location.** Walls and fencing for the project shall conform to the design standards shown in the approved Planned Development Permit plans.

18. **Signage.** No signage is approved with this permit. Signs will require approval of a Permit Adjustment, subject to the discretion of the Director of Planning, Building, and Code Enforcement.

19. **Entry Monument Pilasters.** If approved with a Permit Adjustment, as stated in condition number 18, entry monument pilasters shall be located on private property unless they are specifically authorized to be located in the public right-of-way by the Director of Public Works.

ADOPTED and issued this 21st day of March, 2006, by the following vote:

AYES: CAMPOS, CHAVEZ, CHIRCO, CORTESE, LeZOTTE,
NGUYEN, PYLE, REED, WILLIAMS, YEAGER;
GONZALES

NOES: NONE

ABSENT: NONE

DISQUALIFIED: NONE

RON GONZALES
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk

NOTICE TO PARTIES

The time within which judicial review must be sought to review this decision is governed by the provisions of the California Code of Civil Procedure Section 1094.6.