

PLANNED DEVELOPMENT PERMIT AMENDMENT

FILE NO. PDA91-006-82

LOCATION OF PROPERTY Project entrance at: a)corner of Hollow Lake Drive and Quail Crest Way, (b) corner of Hollow Lake Way and Glen View Drive, and (c) the start of the private street at the cul-de-sac of Glenview Drive, approximately 550 feet southerly of Echo Valley Drive.

ZONING DISTRICT A(PD) Planned Development

ZONING FILE NUMBER PDC85-109

GENERAL PLAN DESIGNATION Very Low Density Residential (2 DU/AC)

PROPOSED USE Planned Development Permit Amendment for Country View Custom Estates to allow decorative entry monumentation at the entrance to existing private streets at three (3) separate locations.

ENVIRONMENTAL STATUS Exempt

OWNER/ADDRESS Country View Custom Estates
Homeowners Association
7227 Glenview Drive
San Jose, CA 95120

FACTS

The Director of Planning, Building, and Code Enforcement finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Very Low Density Residential (2 DU/AC) on the adopted San Jose 2020 General Plan Land Use/Transportation Diagram.
2. The project is located in the A(PD) Planned Development Zoning District.
3. Under the provisions of Section 15303 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), the Director of Planning has determined that this project is 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.
4. On November 10, 2009 the applicant filed a Planned Development Permit Amendment application to allow the installation of three entry gates with decorative pilasters across private streets at three separate locations in a single-family residential development.

5. The subject 71.29 gross-acre site is located on a hillside and is accessed by two private roads, Glenview Drive and Hollow Lake Way, which are 34 feet in width. The site is predominantly built out with large lot single-family detached residences.
6. The applicant has proposed gates that would span across private streets at the northern terminus of Glenview Drive; Glenview Drive where it intersects Hollow Lake Way; and Quail Crest Way where it intersects at Hollow Lake Way. The placement of the gates would restrict public access, truck deliveries visitor access through the residential development.
7. The subject residential development backs up to the Almaden Quicksilver County Park.
8. The San Jose 2020 General Plan Urban Design, Neighborhood Identity and Residential Land Use Policies are intended to (1) enhance the sense of neighborhood identity by discouraging public and private development that cause instability or creates urban barriers, (2) create a pedestrian friendly environment by connecting residential development with adjoining neighborhoods, and (3) provide residential subdivisions with internal circulation within neighborhoods.
9. Development standards contained in the approved Planned Development Zoning File No. PDC85-109 and Planned Development Permit File No. PD91-006 do not provide for gating the development.
10. The Residential Design Guidelines state that security fences and gates are discouraged in any residential project but are particularly inappropriate on existing residential streets with open front yards, including those with maximum 3- foot high fences.
11. The Residential Design Guidelines also state that security gates should be placed well within the project or parking garage to avoid vehicle stacking problems on adjacent streets and to allow for ample visitor parking in front of the gated area. Gates and fences should be well integrated into the landscape component of a project rather than appearing to be arbitrarily placed in a parking lot as the result of an afterthought. The project proposes gates near street intersections and not well within the project, therefore, the gates are inconsistent with this guideline.
12. On December 7, 2009, Planning staff informed the applicant in writing that the proposed project had been reviewed for compliance with the San Jose 2020 General Plan, Zoning regulations, and Planned Development Permit and noted that the proposed security gates is inconsistent with the City of San Jose's 2020 General Plan policies because it does not support gated neighborhoods. Specifically, Urban Design Policy #3, which states that residential subdivisions should be designed to provide for internal circulation within neighborhoods. In addition, the letter also stated that the project with security gates is inconsistent with Residential Design Guidelines, which states that new streets should connect with adjacent streets to form a continuous network of neighborhood streets.
13. On April 6, 2010, Planning staff mailed a public hearing notice to owners and occupants within 500 feet of the subject site regarding a Directors Hearing on April 21, 2010.

14. Staff has included a condition in the permit to allow the decorative entry drive monumentation (pilasters) without security gates to highlight a change in the street hierarchy from public streets to private streets.

FINDINGS

The Director of Planning, Building, and Code Enforcement finds, based on the analysis of the above facts, that:

1. The Planned Development Permit, as conditioned, furthers the policies of the General Plan; in that allowing for the construction of the pilasters as entry monuments at each proposed street intersection without any gates would be consistent with the Urban Design, Neighborhood Identity and Residential Land Use Policies of the San Jose 2020 General Plan and the Residential Design Guidelines.
2. The Planned Development Permit, as conditioned, for decorative pilasters without security gates, conforms in all respects to the Planned Development Zoning. The use of security gates would be inconsistent with the development standards contained in the approved Planned Development Zoning File No. PDC85-109 because there are no provisions for allowing the neighborhood to be gated.
3. The interrelationship between the orientation, location, 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 decorative pilasters will enhance the aesthetic qualities of the entrance to the private drive without restricting authorized guest traffic and parcel deliveries. Further, the proposed project with security gates is inconsistent with the Residential Design Guidelines, which state that new streets should connect with adjacent streets to form a continuous network of neighborhood streets.
4. The environmental impacts of the project, including, but not limited to noise, vibration, dust, drainage, erosion, 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.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Revised Plans.** Within 30 days of the approval of this permit, the applicant shall submit revised plans showing the gates removed and leaving only the pilaster entry monuments to the satisfaction of the Director of Planning. The pilasters may include appropriate signage to discourage unauthorized vehicles.
2. **Acceptance of Permit.** Per 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.

3. **Permit Expiration.** This Planned Development Permit shall automatically expire thirty (30) months from and after the date of issuance hereof by said Director, if within such thirty month period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Planned Development Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit in accordance with Title 20 of the San José Municipal Code. The Permit Adjustment 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. **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 José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
6. **Conformance to Plans.** Except as noted under Condition #1 of the permit, development of the site shall conform to approved Planned Development plans entitled "Country View Custom Estates Security Entry Gates" dated November 10, 2009, 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), with the exception of any subsequently approved changes.
7. **Discretionary Review.** The Director of Planning, Building and Code Enforcement 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 Chapter 20.100 of the San José Municipal Code.
8. **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.
9. **Revocation.** This Planned Development Permit is subject to revocation for violation of any of its provisions or conditions.
10. **Recycling.** Scrap construction and demolition material should be recycled. Integrated Waste Management staff at (408) 535-3515 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.

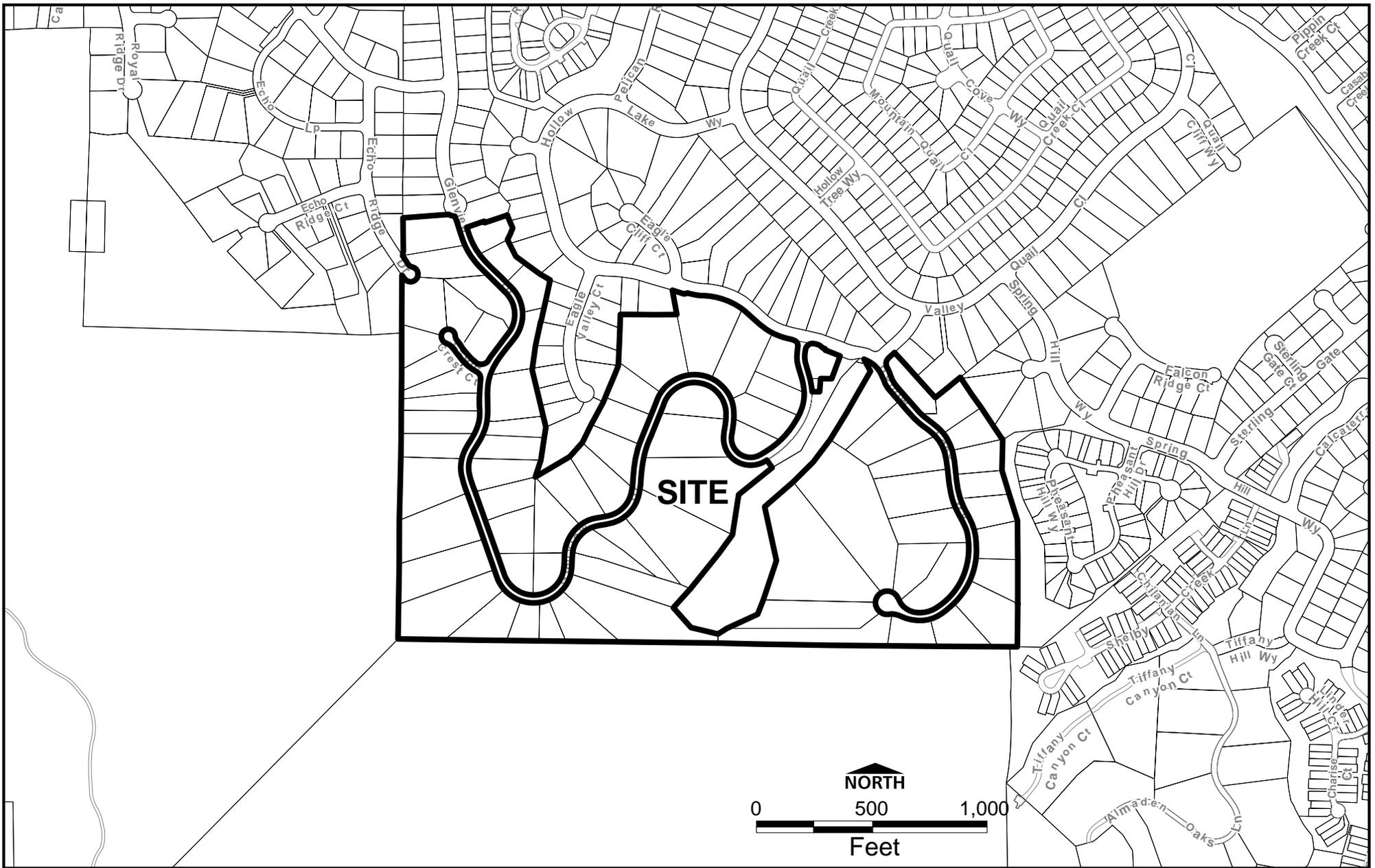
11. **Construction Impact Mitigation Measures.** The applicant is responsible for notifying all contractors of the conditions of this permit and that they shall perform construction activities in compliance with these conditions, or be subject to enforcement action.
- a. *Compliance.* The applicant shall ensure that the following construction impact mitigation measures are fully complied with throughout the duration of all construction activities associated with this project and related off-site construction work. Failure to comply with these conditions by the applicant, their contractors or subcontractors shall be cause for shutdown of the project site until compliance with the following conditions can be ensured by the City. These construction impact mitigation measures shall be included in all contract documents for the project to ensure full disclosure to contractors and subcontractors.
 - b. *Construction Hours.* Construction and grading activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday. This includes the staging of equipment and construction personnel. The construction hours shall be printed on all plans for the project used to construct the project. Interior construction activities that do not generate any audible noise impacts at residential properties are allowed on Saturdays between 9:00 a.m. and 5:00 p.m. Any deviation from these hours must be approved through a Planned Development Amendment or Planned development Adjustment; subject to the discretion of the Director of Planning, Building, and Code Enforcement.
 - c. *Enforcement.* The Director of Planning, Building and Code Enforcement may order an immediate halt to construction activities on the project site any time that the Director determines that the project is not in substantial conformance with the requirements of this Permit. Within seven days of ordering such a halt to construction, the Director of Planning, Building and Code Enforcement shall issue a Notice of Noncompliance in conformance with Section 20.100.320 of Title 20 of the San José Municipal Code indicating the specific area(s) of noncompliance and providing notice that the Director may issue an Order to Show Cause why the development permit shall not be revoked, suspended, or modified if the noncompliance is not corrected.
 - d. *Construction Deliveries.* Deliveries shall not occur outside the above construction hours. All deliveries shall be coordinated to ensure that no delivery vehicles arrive prior to the opening of the gates to prevent the disruption of nearby residents.
12. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the issuance of Building permits, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.
- a. Remove and replace broken or uplifted curb, gutter, and sidewalk along project frontage.
 - b. Obtain a Geologic Hazard Clearance.
13. **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.* This permit file number, PDA91-006-82, shall be printed on all construction plans submitted to the Building Division.
 - b. *Americans with Disabilities Act.* The applicant shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
 - c. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.

- d. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
14. **Fire Clearance for Issuing Permits.** The Fire Department's review was limited to verifying compliance of the project to Article 9, Appendix III-A, and Appendix III-B of the 2001 California Fire Code with City of San José Amendments (SJFC). Compliance with all other applicable fire and building codes and standards relating to fire and panic safety shall be verified by the Fire Department during the Building Permit process.
15. **Signage.** No signs are approved at this time. All proposed signs shall conform to Title 23 of the San Jose Municipal Code, Sign Ordinance and may be subject to approval by the Director of Planning.
16. **Landscaping.** Planting and irrigation are to be provided as indicated on the approved plans. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced. Permanent 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.
17. **Irrigation Standards.** The applicant shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms to the Zonal Irrigation Plan in the Approved Plan Set and is consistent with the City of San José Landscape and Irrigation Guidelines. The design of the system shall be approved and stamped by a California Registered Landscape Architect prior to Certificate of Occupancy.
18. **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.
19. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.

APPROVED and issued on this **21st day of April, 2010.**

Joseph Horwedel, Director
Planning, Building, and Code Enforcement

Deputy



File No.: PDA91-006-82
District: 10

LOCATION MAP



Prepared by the Department of Planning,
Building and Code Enforcement

11/12/2009