

## PLANNED DEVELOPMENT PERMIT AMENDMENT

**FILE NO.** PDA81-048-02

**LOCATION OF PROPERTY** North of Silverland Drive, approximately 130 feet westerly of Terra Cotta Drive (2995 Silverland Drive)

**ZONING DISTRICT** A(PD) Planned Development

**ZONING FILE NUMBER** PDC77-222

**GENERAL PLAN DESIGNATION** Low Density Residential (5 DU/AC)

**PROPOSED USE** Construction of a 1st and 2nd story addition to an existing single-family detached residence on a 0.16 gross acre site.

**ENVIRONMENTAL STATUS** Exempt

**OWNER/ADDRESS** Gurdev S. Cherra  
2995 Silverland Drive  
San Jose, CA 95135

### 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 Low Density Residential (5 DU/AC) on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The site is zoned A(PD) Planned Development, zoning file number PDC77-222.
3. The subject lot is approximately 64 feet wide by approximately 112 feet deep, and having a rectangular shape. It contains approximately 0.16 acres.
4. The site is currently developed with a two-story single-family residence.
5. This is a Planned Development Permit Amendment to allow for the construction of a 1<sup>st</sup> and 2<sup>nd</sup> story addition to an existing single-family detached residence, where the second floor is more than 60% of the first floor.
6. The proposed project will meet all of the development regulations set forth in Planned Development Zoning, PDC77-222, including but not limited to heights, setbacks, densities, etc.
7. Under the provisions of Section 15301(e)(1) 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, in that

there is no possibility that the activity in question may have a significant effect on the environment.

## **FINDINGS**

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

1. The Planned Development Permit, as issued, furthers the policies of the General Plan, in that the proposed project conforms to the site's General Plan Land Use/Transportation Diagram designation of Low Density Residential (5 DU/AC). The proposed use is consistent with those called for by the designation and are compatible with the surrounding area.
2. The Planned Development Permit, as issued, conforms in all respects to the Planned Development Zoning of the property in that:
  - a. The proposed project conforms to the approved General Development Plan and associated notes.
3. The orientation, location and elevation of the proposed building(s), structure(s) and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood in that:
  - a. The exterior wall and roof materials of the proposed structure(s) on site match or are compatible with the materials of existing adjacent or nearby structures.
  - b. The structure(s) proposed on site are comparable in terms of mass, scale and height with existing adjacent or nearby structures.
  - c. The proposed structure(s) do not unreasonably interfere with the light and air available to adjacent sites.
  - d. The privacy of adjacent sites will be protected by adequate screening of, or orientation of activities away from, privacy sensitive areas adjacent to the site.
4. The environmental impacts of the project will not have an unacceptable negative effect on adjacent property or properties in that:
  - a. Under the provisions of Section 15301(e)(1) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), 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. The project will not have a significant adverse effect on the environment.
  - b. The proposed project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the California Department of Fish and Game Code.

## **APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **Acceptance of Permit Amendment.** 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.
2. **Permit Amendment Expiration.** This Planned Development Permit Amendment shall automatically expire two (2) years from and after the date of issuance hereof by said Director, if within such two year 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.
  3. **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.
  4. **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.
  5. **Conformance to Plans.** Development of the site shall conform to approved Planned Development Permit Amendment plans entitled "Narinder & Gurdev Cherra, 2995 Silverland Drive, San Jose, CA 95135" dated May 25, 2010, last revised April 15, 2010 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.
  6. **Previously Approved Planned Development Permit.** All permit conditions of the Planned Development Permit, File No. PD81-048, remain in effect, unless otherwise amended by this Permit.
  7. **Revocation.** This Planned Development Permit Amendment is subject to revocation for violation of any of its provisions or conditions.

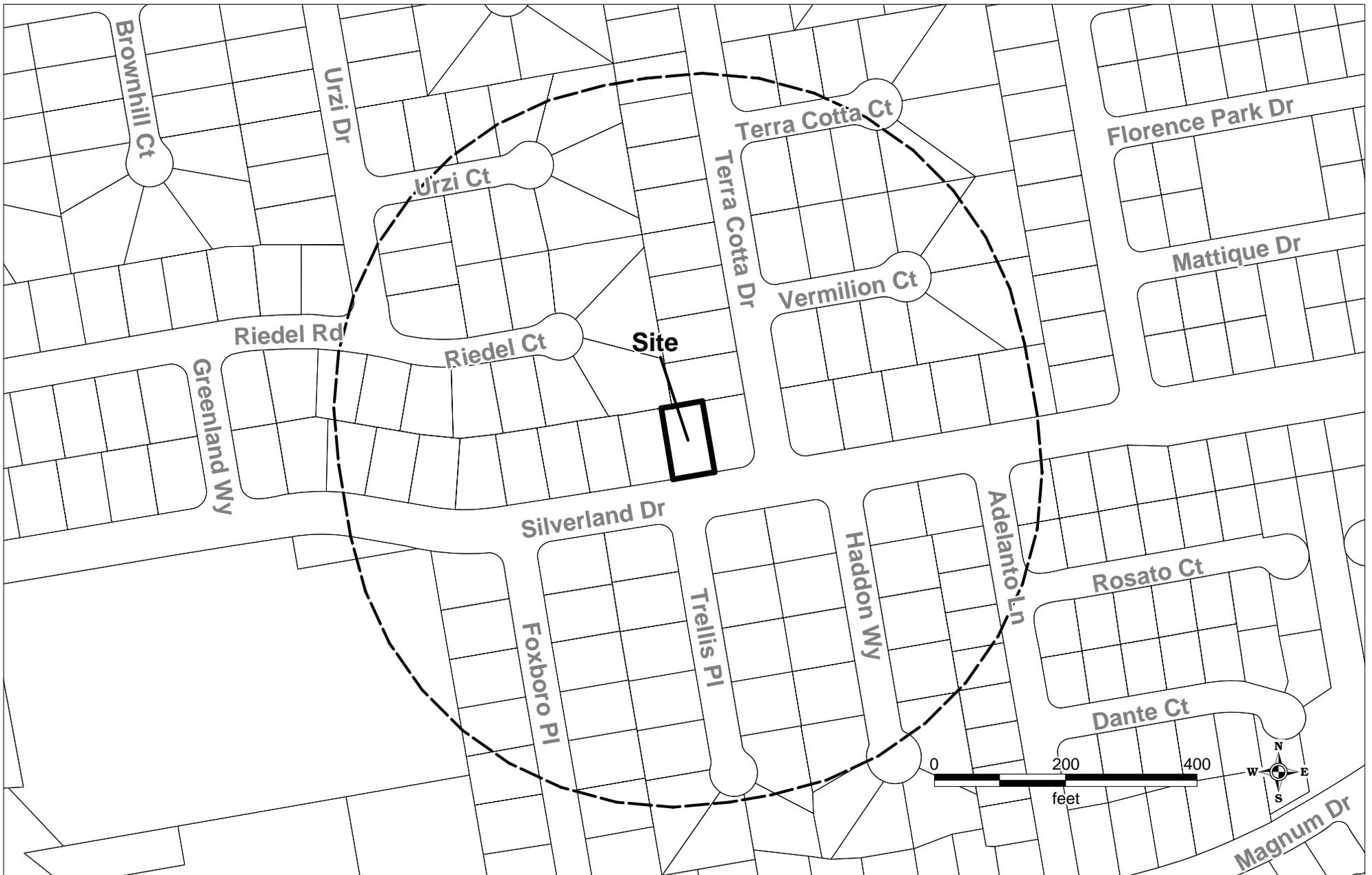
8. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
9. **Construction Impact Mitigation Measures.** The applicant is responsible for notifying all contractors of the conditions of this permit and that they 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.
  - e. *Dust Control.* On-site areas visible to the public from the public right-of-way shall be cleaned of debris, rubbish, and trash at least once a week. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site
10. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit/Demolition Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
  - a. *Construction Plans.* This permit file number, PDA81-048-02, shall be printed on all plans submitted to the Building Division.

- b. *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.
11. **Fire Clearance for Issuing Permits.** Compliance with all 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.
12. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.

**APPROVED** and issued on this **4<sup>th</sup> day of August 2010.**

Joseph Horwedel, Director  
Planning, Building, and Code Enforcement

Deputy



File No: PDA81-048-02

District: 8

Noticing Radius: 500 Feet



Prepared by the Department of Planning,  
Building, and Code Enforcement  
6/30/2010