

SITE DEVELOPMENT PERMIT

FILE NO. H11-023

LOCATION OF PROPERTY West side of Ringwood Avenue, approximately 660 feet southerly of Montague Expressway (2305 Ringwood Avenue)

ZONING DISTRICT IP Industrial Park

GENERAL PLAN DESIGNATION Industrial Park as designated in the San Jose 2020 General Plan Land Use/Transportation Diagram

PROPOSED USE Site Development Permit to allow the installation of an electric-security fence on a 5.36-gross-acre site

ENVIRONMENTAL STATUS Exempt

OWNER/ADDRESS NATMI National FX Properties, LLC
201 West Street, Suite 200
Annapolis, MD 21401

FACTS

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

1. The subject application was submitted on September 6, 2011, when the San Jose 2020 General Plan was in effect.
2. This site has a designation of Industrial Park on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
3. The site is zoned IP Industrial Park.
4. The Site Development Permit proposal is for the installation of an electric-security fence located at least 12 inches behind an existing 8-foot tall chain-link fence on the subject site, and set back at least 12 inches from the subject site's property lines.
5. The subject site is 5.36 gross acres in size.
6. The proposed electric-security fence will not exceed 10 feet in height.
7. The proposed electric-security fence is located at least 71 feet away from existing buildings on the subject site.
8. The proposal includes the installation of a knox box at the existing gated entry to the subject site.
9. No parking spaces will be eliminated as part of this proposal.

FINDINGS

1. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious, in that:
 - a. The subject improvements are for minor exterior structures and will not alter the appearance of the building.
 - b. Said improvements will be set back at least 30 feet from the existing public right-of-way.
 - c. There is an existing landscaped area that is at least 30 feet in width between the existing fence and the public right-of-way.
 - d. Sufficient open space separates all structure(s) and uses.
 - e. Sufficient maneuvering room will be provided on site to allow smooth circulation and minimize interference with other uses.
2. The orientation, location and elevation of the proposed buildings and structures 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 proposed project conforms to the City of San Jose's Industrial Design Guidelines in that there is no prohibition of an electric-security fence in the Guidelines.
3. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties, in that:
 - a. Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), which allows for the construction and location of limited numbers of new, small facilities or structures, this project is found to be exempt from the environmental review requirements.
 - 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.
4. Traffic access, pedestrian access and parking are adequate in that:
 - a. Sufficient parking and traffic capacity are available for the minimal traffic this project will create.
5. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior hearing, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood in that:
 - a. The new fence will be behind an existing fence and there is an existing landscaped area in the front setback of the subject site that buffers the existing fence from the public right-of-way.
 - b. Existing perimeter landscaping helps the site blend with the surroundings.

6. The Site Development Permit, as issued, furthers the policies of the General Plan, in that:
 - a. The project is consistent with the site's General Plan Land Use/Transportation Diagram designation of Industrial Park in that potential hazards resulting from the installation of the electric-security fence are mitigated through site design controls.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

This Site Development Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this permit has been recorded with the County Recorder.

1. **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.
2. **Permit Expiration.** This Site Development Permit shall automatically expire two years from and after the date of approval by the Director of Planning, or by the Planning Commission on appeal, granting this Permit, if within such two-year period, the proposed use of this site has not commenced, pursuant to and in accordance with the provisions of this Site 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.
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 to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water 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 with Plans.** Construction and development shall conform to the approved Site Permit plans entitled, "Request to Authorize an Electrically-Charged Security Fence, 2305 Ringwood Avenue, San Jose, CA, Site Plan", received November 7, 2011, 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).
6. **Revocation.** This Site Development Permit is subject to revocation for violation of any of its provisions or conditions.
7. **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.
8. **Nuisance.** This use shall be operated in a manner that does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
9. **Site Maintenance.** The applicant shall maintain the site in a safe and clean manner.
10. **Refuse.** All trash areas as shown on the approved plans shall be covered and maintained in an orderly state to prevent water from entering into the garbage container. All trash containers shall be stored in the enclosure/service yard when not being serviced for disposal. Trash areas shall be maintained in a manner to discourage illegal dumping.
11. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
12. **Lighting.** No additional lighting is approved at this time. All proposed lighting shall be subject to approval by the Director of Planning.
13. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements shall be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, H11-023, shall be printed on all construction plans submitted to the Building Division.
 - b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - c. *Americans with Disabilities Act.* The applicant shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
14. **Fire Code Compliance.** 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.
 - a. Applicant shall provide warning signs around the perimeter of the electric fencing in

conformance with the San Jose Sign Ordinance.

- b. Applicant shall provide a knox box at the existing gate.
- c. Applicant shall provide a means of shutting off the power to the electric-security fence to the satisfaction of the Fire Chief.

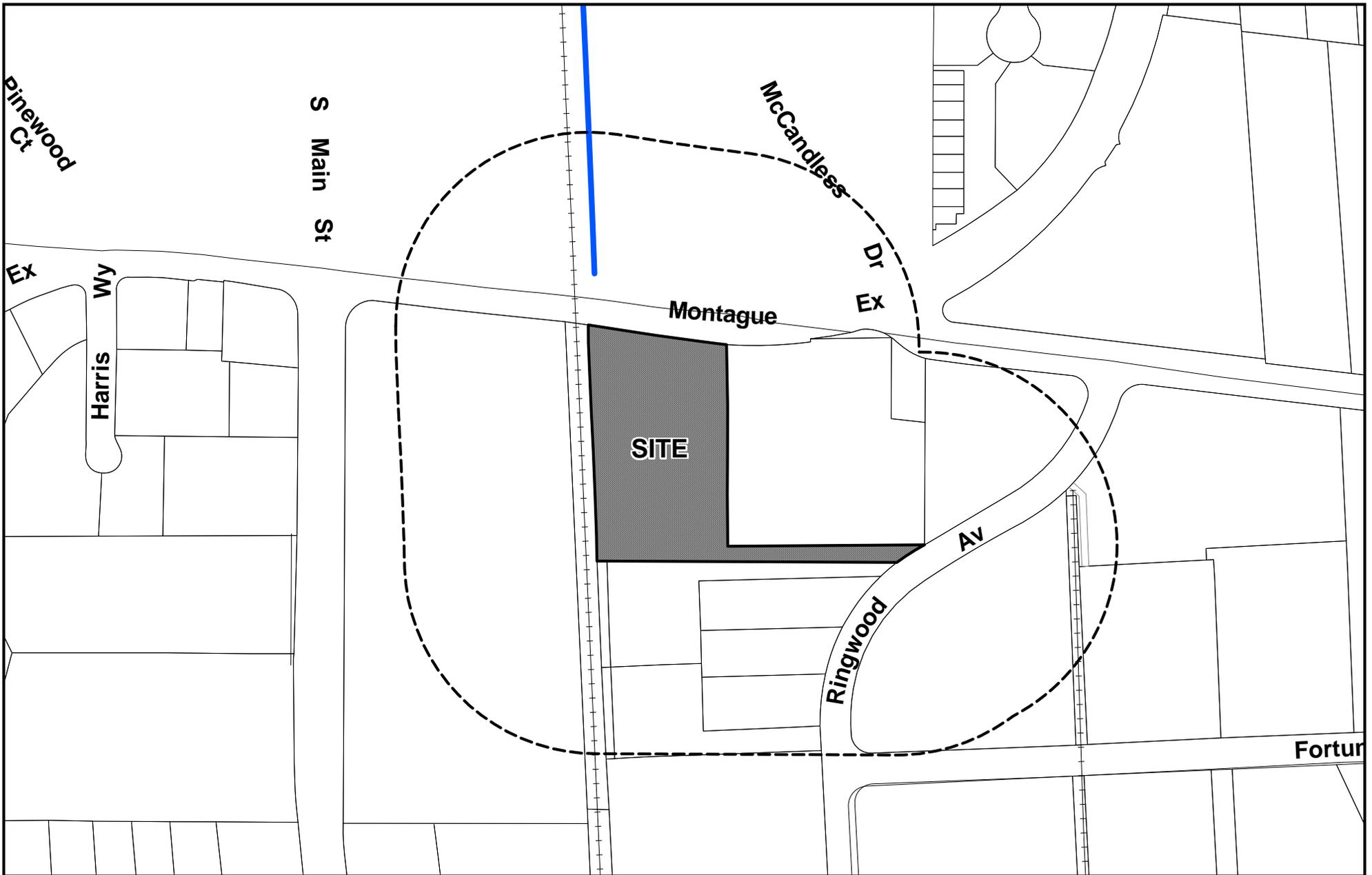
15. **Hazardous Materials.** Any hazardous materials regulated by Chapter 17.68 of the San José Municipal Code on the site must be used and stored within approved buildings and/or within areas specified on the approved plan set, if any, in full compliance with the City's Hazardous Material Ordinance and the Hazardous Materials Management Plan for the site approved by the San José Fire Prevention Bureau.

16. **Industrial Waste.** If industrial waste, as defined by Section 15.12 of the San Jose Municipal Code, is to be discharged into the sanitary sewer system, a clearance shall be obtained from the Water Pollution Control Plant, Industrial Waste Section.

APPROVED and issued this 11th day of January 2012.

Joseph Horwedel, Director
Planning, Building, and Code Enforcement

Deputy



File No: H11-023

District: 4

Noticing Radius: 500 Feet



Prepared by the Department of Planning,
Building and Code Enforcement
09/06/2011