

## **SPECIAL USE PERMIT**

<b>FILE NO.</b>	SP12-006
<b>LOCATION OF PROPERTY</b>	West side of the intersection of Canyon View Drive and Outlook Court (1623 Canyon View Drive)
<b>ZONING DISTRICT</b>	R-1-5 Single-Family Residence
<b>GENERAL PLAN DESIGNATION</b>	Residential Neighborhood
<b>PROPOSED USE</b>	Special Use Permit to allow a retaining wall with a maximum height of five feet in the rear yard of an existing single-family residence on a 0.23 gross acre site
<b>ENVIRONMENTAL STATUS</b>	Exempt
<b>OWNER/ADDRESS</b>	Philip Ouimett 1623 Canyon View Drive San Jose, CA 95132
<b>CONTACT/ADDRESS</b>	Armando Cruz 210 San Jose Avenue, #20 San Jose, CA 95125

### **FACTS**

The Director of Planning finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Residential Neighborhood on the adopted Envision San José 2040 General Plan Land Use/Transportation Diagram.
2. The subject site is located in the R-1-5 Single-Family Residence Zoning District.
3. The subject site is 0.23 acres in size and is sloped from the east down to the west.
4. This Special Use Permit is to replace an existing retaining wall a new retaining wall with a maximum height of five feet in the rear yard of an existing single-family residence.
5. Under the provisions of Section 20.30.500 of the San Jose Municipal Code, retaining walls over two feet in height may be built only under a Special Use Permit.
6. The subject site is developed with one single-family detached residence.
7. The proposed retaining wall is located along the westerly rear property line, adjacent to a developed single-family residential lot (APN 595-12-020).
8. A Geologic Hazard Clearance was issued on October 22, 2012 by the Department of Public Works.
9. Under the provisions of Section 15303(e) of CEQA, this project is exempt from the environment 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.

10. The surrounding area is characterized by single-family detached residences to the north, south east, and west.

## FINDINGS

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

1. The proposed project is consistent with the Envision San José 2040 General Plan Land Use Transportation Diagram in that the retaining wall does not impact the existing residential density or character of the neighborhood, and the existing single-family residential use of the site is consistent with the subject land use designation.
2. The proposed project conforms in all respects to the provisions of Title 20 of the San José Municipal Code.
3. The proposed project is in conformance with the California Environmental Quality Act.

Finally, the Director of Planning concludes and finds, based on the analysis of the above facts and findings, that:

1. The proposed use at the location requested will not:
  - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
  - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
  - c. Be detrimental to public health, safety, or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this Title, or as is otherwise required in order to integrate the use with existing and planned uses in the surrounding area; and
3. The proposed site is adequately served:
  - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate; or by other forms of transit adequate to carry the kind and quantity of individuals such use would generate; and
  - b. By other public or private service facilities as are required.

Based upon the above-stated findings and subject to the conditions set forth below, the Director of Planning approves, pursuant to Part 7 of Chapter 20.100 of the San José Municipal Code, the subject proposal to allow the construction of a new retaining wall, five feet in height at an existing single-family residence.

## APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

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 of the applicant to be bound by, to comply with, and 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 Special Use Permit shall automatically expire 24 months 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 24-month period, the construction of the retaining wall has not commenced, pursuant to and in accordance with the provisions of this Special Use 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. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, 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. **Grading/Geology:**
    - i. A Geologic Clearance was issued on 10/22/12 for the proposed retaining structure. The applicant must adhere to all requirements and conditions stated in the clearance letter.
    - ii. A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
    - iii. The retaining wall details and structural calculations shall be submitted for review and approval as part of the grading and drainage permit prior to issuance of building permit.
  - b. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
4. **Conformance with Plans.** Construction and development shall conform to approved Site Development plans entitled, "Grading & Structural Plans, Replacement Retaining Wall, Tract 3463, Lot 2," dated September 28, 2012, on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04).
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. **Construction Hours.** Construction 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. Interior work not audible at the property line is permitted on Saturday and Sunday between the hours of 9:00 a.m. and 6:00 p.m.
7. **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.

8. **Revocation.** This Special Use Permit is subject to revocation for violation of any of its provisions or conditions.

APPROVED and issued this **7<sup>th</sup> day of December, 2012.**

JOSEPH HORWEDEL, DIRECTOR  
Planning, Building and Code Enforcement

---

Deputy

DRAFT