

PLANNED DEVELOPMENT AMENDMENT

FILE NO. PDA95-009-01

LOCATION OF PROPERTY West side of Montelena Drive, approximately 180 feet south of Aborn Drive (3213 Montelena Drive).

ZONING DISTRICT A(PD) Planned Development Zoning

ZONING FILE PDC91-027

GENERAL PLAN DESIGNATION Residential Neighborhood / Evergreen Planned Residential Community General Development Plan

PROPOSED USE A Planned Development Permit to allow a 397 square foot addition to the first floor and a 343 square foot addition to the second floor to an existing single-family detached residence, resulting in a total of 3,397 square feet, and a floor area ratio (FAR) of 48.87% on a 6,950 square foot lot.

ENVIRONMENTAL STATUS Exempt

OWNER/ADDRESS Murty Kurella & Rama Kurella, Trustee
3213 Montelena Drive
San Jose, CA 95135

FINDINGS

1. The project site has a designation of Residential Neighborhood on the adopted *San José 2040 General Plan Land Use/Transportation Diagram*.
2. The project site is located within the Evergreen Planned Residential Community General Development Plan, Planning Area "T" (5,000 square foot lots).
3. The project site at, 3213 Montelena Drive, is located in A(PD) Planned Development Zoning District.
4. Under the provisions of Section 15303(a) 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.
5. The project consists of a 397 square foot addition to the first floor, and a 343 square foot addition to the second floor of an existing single-family residence on a 6,950 square foot lot.

6. A Planned Development Amendment is required, in accordance with Section 20.100.910 of the San José Municipal Code, because the project proposes a single-family house with a Floor Area Ratio (FAR) of 48.87%.
7. The Single-family Design Guidelines recommend that floor area ratio of most single-family houses to be less than 0.45. The existing dwelling with the proposed addition will have a floor area ratio of 0.4887.
8. The Planned Development Permit Amendment, as issued, conforms in all respects to the Planned Development zoning of the property in that this Amendment is for floor plan and elevation changes only, and does not affect zoning conformance, density, or conditions in any way.
9. The scale, form and character of the proposed project are compatible with the surrounding neighborhood which is characterized as having two story houses.
10. The proposed project conforms to the setback requirements in the Evergreen Planned Residential Community General Development Plan. The minimum side setback requires 4 feet, and the minimum rear setback requires 20 feet for any structure exceeding 12 feet in height. The proposed project meets these standards with a 5 foot side setback and a 27 foot rear setback.
11. The proposed project will meet all of the development regulations set forth in the Zoning Code.

FINDING

The Director concludes and finds, based upon an analysis of the above facts that:

1. The project is consistent with the *General Plan/Transportation Land Use Diagram* designation of Residential Neighborhood.
2. The project is consistent with the Evergreen Planned Residential Community General Development Plan.
3. The project complies with the applicable provisions of the *Zoning Ordinance*, Title 20 of the Municipal Code.
4. The proposed project is in compliance with the California Environmental Quality Act (CEQA).
5. The proposed project is consistent with San Jose's *Single-Family Design Guidelines*.

Further, based upon the above-stated findings and subject to the conditions set forth below, the Director finds that:

1. The planned development permit, as issued, furthers the policies of the general plan and the Evergreen Planned Residential Community General Development Plan.
2. The planned development permit, as issued, conforms in all respects to the planned development zoning of the property.
3. The interrelationship between the orientation, location and elevations of the proposed building and structure and other uses on-site are mutually compatible and aesthetically

harmonious in that the architectural elements of the proposed structure are comparable in terms of mass, scale and height, as set forth by the *Single-Family Design Guidelines*.

4. The orientation, location and elevations of the proposed building and structure and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood in that the scale, form and character of the proposed project are compatible with the surrounding neighborhood.
5. 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 the adjacent property or properties.

Finally, based upon the above-state findings and subject to the conditions set forth below, the Director of Planning, Building, and Code Enforcement approves, pursuant to 20.80.440 and 20.100.1030, of the San José Municipal Code, the construction, enlargement, placement or installation, or exterior alterations of a single-family house.

THIS PLANNED DEVELOPMENT AMENDMENT IS APPROVED SUBJECT TO THE FOLLOWING CONDITONS:

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 Planned Development Amendment shall automatically expire two (2) years from and after the date of issuance hereof by said Director, if within such two (2) 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 Amendment. 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 Jose Municipal Code. The Permit Adjustment must be approved prior to the expiration of this Permit.
3. **Approved Planned Development Permit.** This Planned Development Amendment can only be implemented in conjunction with the full and complete implementation of the previously approved Planned Development Permit, File No. PD 95-009.
4. **Previous Conditions.** All of the conditions of the previously approved Planned Development Amendment shall remain unchanged and in full force and effect unless such conditions are specifically modified or deleted by this Amendment.
5. **Demolition/Construction.** No construction on the site may proceed unless and until this Planned Development Amendment is released to the Building Division.

6. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Grading Permit as 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.
7. **Conformance to Plans.** Development of the site shall conform to approved Single-Family House plans entitled "Proposed Additions and Remodel to the Residence of the Kurella Family, 3213 Montelena Drive", 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.
8. **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.
9. **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.
10. **Revocation.** This Planned Development Amendment is subject to revocation for violation of any of its provisions or conditions.
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.* This permit file number, **PDA95-009-01**, shall be printed on all construction plans submitted to the Building Division.
 - b. *Street Number Visibility.* Street numbers of the buildings shall be easily visible at all times, day and night.
 - c. *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.
 - d. *Sprinklers.* The total building area will exceed 3,600 square feet, with an addition over 500 square feet. The entire building shall be provided with fire sprinklers, per Municipal Code 24.09.240 amendment to R313.2.

12. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday and to the hours of 8:00 a.m. to 7:00 p.m. on Saturdays, Sundays and legal holidays, except that construction may occur at any hour within a totally enclosed building if such construction is not audible at the property line and does not result in a public or private nuisance.
13. **Archaeology.** Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
14. **Street Cleaning and Dust Control.** During construction, the developer shall damp sweep the public and private streets within and adjoining the project site each working day sufficient to remove all visible debris and soil. 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.
14. **Protection of Storm Drains.** No hazardous materials, paint, rinse water, or construction sediments or debris shall be allowed to enter the public right-of-way or any storm drain inlet. The storm drain system flows to the Bay.
15. **Recycling.** Scrap construction and demolition material should be recycled. Integrated Waste Management staff can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
16. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.

APPROVED and issued on this 25th day of January, 2013.

Joseph Horwedel, Director
Planning, Building, and Code Enforcement

Deputy