

DEVELOPMENT VARIANCES AND EXCEPTION

INSTRUCTIONS

Please prepare the plans, forms and other required information listed below and return them, by appointment, to the Department of Planning, Building and Code Enforcement. Applications will only be accepted for processing if they are complete.

1. **Completed Application Forms.** A separate application shall be filed for each site. Each application shall be signed by all owners of the real property included in the site or by a person having the lawful power of attorney or by a qualified tenant. The application may designate an agent who has full authority to act on behalf of the applicant, except that the agent may not sign the application, acceptance or withdrawal. Original signatures are required. A qualified tenant means the exclusive tenant of the entire site and parcel subject to the application, under a recorded lease, which has a remaining term of five or more years at the time of application. A copy of the recorded lease must be included with this application.
2. **Description of Parcel Property.** A legible, separate legal metes and bounds description on a 8 1/2" x 11" page(s) covering the area of this application, or lot and tract numbers on a 8 1/2" x 11" page(s) with a copy of the recorded tract map attached, and a plot map delineating the permit area.
3. **County Assessor's Map.** One copy of an APN map showing the subject property. This map can be obtained from the County Assessor's Office at 70 West Hedding, 5th floor or from the Development Services Center, City Hall.
4. **Noticing the Neighborhood.** Refer to the Public Outreach Policy for a full description of the City's public notification procedures. Public Hearing notices will be mailed for development proposals at least 10 calendar days before the date set for hearing for a project. Notices will be sent to all property owners and residents within 300 feet for Very Small projects, 500 feet for Standard Development Proposals and a minimum of 1,000 feet for large or controversial projects as detailed in the Public Outreach Policy.
5. **Development Plan Sets.** Eleven (11) plan sets (24" x 36") drawn to scale that include:
 - a. Site Plan: Include all property lines, existing and proposed buildings, landscaping, trees, parking, circulation and adjacent uses.
 - b. Building Elevations: dimensioned elevations of all exterior walls and/or signs applicable to the Variance request (i.e. height variance, sign variance).
 - c. **plus** Two legible black line plan sets, reduced to 11" x 17", must be submitted with your application.
7. **Environmental Review.** A complete application for the appropriate environmental document or some evidence that environmental review has been completed for this project.
8. **Stormwater Control Plan.** (*A Stormwater Control Plan is required for all projects creating, replacing or expanding impervious surface by 10,000 square feet or more*)
 - a. Complete the Pervious and Impervious Surfaces Comparison Table located on page 2.
 - b. All existing natural hydrologic features (depressions, names of watercourses, etc.) and significant natural resources.
 - c. Specify soil type(s).
 - d. Specify depth to groundwater.
 - e. 100-year flood elevation.
 - f. All existing and proposed topographic contours with drainage areas and sub areas delineated and arrows showing flow direction.
 - g. Separate drainage areas depending on complexity of drainage network.
 - h. For each drainage areas, specify types of impervious area (roof, plaza, sidewalk, streets, parking, etc) and area of each.
 - i. Show location, size, and identification (including description), of Source Control Measures (SCMs) and Water Quality Treatment Control Measures (TCMs) such as swales, detention basins, infiltration trenches, etc.
 - j. Details of all proposed water quality treatment control measures.
 - k. Location, size and identification of proposed landscaping/plant material.
 - l. Ensure consistency with Grading and Drainage Plan and Landscape Plan.
 - m. Supplemental Report :
 1. Calculations illustrating water quality treatment control measures meet numerical standards set forth in Post-Construction Urban Runoff Management Policy No. 6-29.
 2. Name and location of receiving water body.

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3. Identify pollutants and pollutant source areas, including loading docks, food service areas, refuse areas, outdoor processes and storage, vehicle cleaning, repair or maintenance, fuel dispensing.
4. Water quality Treatment Control Measure maintenance requirements.
5. Licensed certification that the specified Treatment Control Measures meet the requirements in Post-Construction Urban Runoff Management Policy No. 6-29.

9. Fees. An application fee (see fee schedule), plus a fee for the appropriate environmental application.

Please call our Appointment Desk at (408) 535-3555 for an application appointment.

PERVIOUS AND IMPERVIOUS SURFACES COMPARISON						
	Existing Condition (sq. ft.)	%	Proposed Condition (sq. ft.)	%	Difference (sq. ft.)	%
Site (acres)	Site (sq. ft.)					
Building Footprint(s)						
Parking						
Sidewalks, Patios, Paths, etc.						
Streets (Public/Private)						
Landscaping						
Total						
Impervious Surfaces						
Pervious Surfaces						
Total						

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INDEMNIFICATION AGREEMENT
FOR DEVELOPMENT APPLICATIONS

Applicant submitted an application to the City of San José Planning Division on _____, 200____ for the following development approval(s): _____

(the "Project"). For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Applicant hereby expressly agrees in connection with the processing of Applicant's Project application(s) to each and every one of the following terms and conditions:

1. Applicant agrees, as part of and in connection with each and any of the application(s), to defend, indemnify, and hold harmless the City of San José ("City") and its officers, contractors, consultants, attorneys, employees and agents from any and all claim(s), action(s), or proceeding(s) (collectively referred to as "proceeding") brought against City or its officers, contractors, consultants, attorneys, employees, or agents to challenge, attack, set aside, void, or annul:
 - a. Any approvals issued in connection with any of the above described application(s) by City; and/or
 - b. Any action taken to provide related environmental clearance under the California Environmental Quality Act of 1970, as amended ("CEQA") by City's advisory agencies, boards or commissions; appeals boards or commissions; Planning Commission, or City Council.

Applicant's indemnification is intended to include, but not be limited to, damages, fees and/or costs awarded against or incurred by City, if any, and costs of suit, claim or litigation, including without limitation attorneys' fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by Applicant, City, and/or parties initiating or involved in such proceeding.

2. Applicant agrees to indemnify City for all of City's costs, fees, and damages incurred in enforcing the indemnification provisions of this Agreement.

3. Applicant agrees to defend, indemnify and hold harmless City, its officers, contractors, consultants, attorneys, employees and agents from and for all costs and fees incurred in additional investigation or study of, or for supplementing, redrafting, revising, or amending, any document (such as an environmental impact report, negative declaration, specific plan, or general plan amendment) if made necessary by said proceeding and if Applicant desires to pursue such City approvals and/or clearances, after initiation of the proceeding and that are conditioned on the approval of these documents.

4. In the event that Applicant is required to defend City in connection with such proceeding, City shall have and retain the right to approve:
 - a. The counsel to so defend City; and
 - b. All significant decisions concerning the manner in which the defense is conducted; and
 - c. Any and all settlements, which approval shall not be unreasonably withheld.

City shall also have and retain the right to not participate in the defense, except that City agrees to reasonably cooperate with Applicant in the defense of the proceeding. If City chooses to have counsel of its own defend any proceeding where Applicant has already retained counsel to defend City in such matters, the fees and expenses of the additional counsel selected by City shall be paid by City. Notwithstanding the immediately preceding sentence, if City's Attorney's Office participates in the defense, all City Attorney fees and costs shall be paid by Applicant.

5. Applicant's defense and indemnification of City set forth herein shall remain in full force and effect throughout all stages of litigation including any and all appeals of any lower court judgments rendered in the proceeding.

After review and consideration of all of the foregoing terms and conditions, Applicant, by its signature below, hereby agrees to be bound by and to fully and timely comply with all of the foregoing terms and conditions.

APPLICANT:

By: _____
(Signature)

Date: _____

(Print)

Its: _____
(Title, if any)

AFFIDAVIT OF OWNERSHIP

1. The undersigned are all the owners of all the property described in Exhibit A - Legal Description of Subject Property, or tenants of the entire subject site with a recorded lease and a term remaining of at least five years.
2. The development plans a part of this application show the exact location, size, and use of all easements on the subject site and all easement on surrounding properties benefiting the subject property.
3. If there are any existing active or deactivated water wells on your property, they must be shown on your plans. The property which is the subject of this application:

_____ does contain existing active or deactivated water wells and they are shown on the plans accompanying this application

_____ does not contain existing active or deactivated water wells.

4. In conformance with Section 65962.5 of the California Government Code, and as owner(s) of the property referenced below, I(we) hereby certify that I(we) have reviewed the list of Hazardous Waste and Substance Sites within the City of San Jose, as compiled by the State Office of Planning and Research. The property which is the subject of the above-referenced application is _____ is not _____ included on said list.
If included on the List, the listed item reads as follows:

THE UNDERSIGNED HEREBY DECLARE THAT THEY UNDERSTAND THE FOLLOWING APPLIES TO THEIR PROJECT:

5. **Notice to Applicants regarding effect of Wastewater treatment capacity on land development approvals.** Part 2.75 of Chapter 15.12 of the San Jose Municipal Codes requires that an applicant acknowledge the effect of Wastewater treatment capacity on Land development approvals at the time of application. As owner (s) of the property subject to this development application, I(we) hereby acknowledge the requirements of the Municipal Code, as stated below, and understand that these requirements will apply to the development permit for which I(we) am(are) applying.

Pursuant to Part 2.75 of Chapter 15.12 of the San Jose Municipal Code, no vested right to a building permit shall accrue as the result of the granting of any land development approvals and applications when and if the City Manager makes a determination that the cumulative sewage treatment demand on the San Jose-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 the San Jose-Santa Clara Water Pollution Control 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 approving authority.

PRINT NAME OF PROPERTY OWNER		DAYTIME TELEPHONE # ()	FAX TELEPHONE # ()
ADDRESS	CITY	STATE	ZIP CODE
NAME OF FIRM, IF APPLICABLE		TITLE OR OTHER OFFICIAL CAPACITY]	
SIGNATURE (PRINT NAME IF DIFFERENT THAN THE ABOVE PROPERTY OWNER)		DATE	
] PLEASE STATE IF YOU ARE A PARTNER, PRESIDENT, VICE-PRESIDENT, ETC...			
IF THERE ARE ADDITIONAL PROPERTY OWNERS, PLEASE USE THE FOLLOWING PAGE TO PROVIDE THE ABOVE INFORMATION.			

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AFFIDAVIT OF OWNERSHIP

(ONLY FOR ADDITIONAL PROPERTY OWNERS)

THE UNDERSIGNED HEREBY DECLARE THAT ITEMS 1 THROUGH 4 ON PAGE 2 OF THIS APPLICATION ARE TRUE AND CORRECT, AND DECLARE THAT THEY UNDERSTAND THAT ITEM 5 ON PAGE 2 OF THIS APPLICATION APPLIES TO THEIR PROJECT:

PRINT NAME OF PROPERTY OWNER				DAYTIME TELEPHONE #	FAX TELEPHONE #
				()	()
ADDRESS	CITY	STATE	ZIP CODE		
NAME OF FIRM, IF APPLICABLE			TITLE OR OTHER OFFICIAL CAPACITY]		
SIGNATURE				DATE	
PRINT NAME OF PROPERTY OWNER				DAYTIME TELEPHONE #	FAX TELEPHONE #
				()	()
ADDRESS	CITY	STATE	ZIP CODE		
NAME OF FIRM, IF APPLICABLE			TITLE OR OTHER OFFICIAL CAPACITY]		
SIGNATURE				DATE	
PRINT NAME OF PROPERTY OWNER				DAYTIME TELEPHONE #	FAX TELEPHONE #
				()	()
ADDRESS	CITY	STATE	ZIP CODE		
NAME OF FIRM, IF APPLICABLE			TITLE OR OTHER OFFICIAL CAPACITY]		
SIGNATURE				DATE	
PRINT NAME OF PROPERTY OWNER				DAYTIME TELEPHONE #	FAX TELEPHONE #
				()	()
ADDRESS	CITY	STATE	ZIP CODE		
NAME OF FIRM, IF APPLICABLE			TITLE OR OTHER OFFICIAL CAPACITY]		
SIGNATURE				DATE	
] PLEASE STATE IF YOU ARE A PARTNER, PRESIDENT, VICE-PRESIDENT, ETC...					
IF THERE ARE ADDITIONAL PROPERTY OWNERS, PLEASE ATTACH A SEPARATE COPIES OF THIS PAGE TO PROVIDE THE ABOVE INFORMATION.					

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CONTACT PERSON			
That for the purpose of processing and coordination of this application, the following person is my (our) designated representative/contact person:			
PRINT NAME OF CONTACT PERSON		NAME OF FIRM, IF APPLICABLE	
ADDRESS		CITY	STATE ZIP CODE
DAYTIME TELEPHONE # ()	FAX TELEPHONE # ()	E-MAIL ADDRESS	
PROJECT DEVELOPER			
PRINT NAME OF PROJECT DEVELOPER (IF DIFFERENT THAN OWNER)		NAME OF FIRM, IF APPLICABLE	
ADDRESS		CITY	STATE ZIP CODE
DAYTIME TELEPHONE # ()	FAX TELEPHONE # ()	E-MAIL ADDRESS	
ARCHITECT and ENGINEER			
PRINT NAME OF ARCHITECT		NAME OF FIRM, IF APPLICABLE	
ADDRESS		CITY	STATE ZIP CODE
DAYTIME TELEPHONE # ()	FAX TELEPHONE # ()	E-MAIL ADDRESS	
PRINT NAME OF ENGINEER		NAME OF FIRM, IF APPLICABLE	
ADDRESS		CITY	STATE ZIP CODE
DAYTIME TELEPHONE # ()	FAX TELEPHONE # ()	E-MAIL ADDRESS	

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DEVELOPMENT APPLICATION CHECK SHEET

NOTICE TO APPLICANT: Do not complete this form. Present at time of application. Your application will be accepted only if all items are included in correct form and numbers. Please be advised, however, that the items on this check sheet do not necessarily constitute a complete application. Additional items may be required to complete the review of your project.		
FILE NUMBER	STAFF	DATE RECEIVED
REQUIRED COPIES	Signature(s) of owner(s) listed above DOCUMENTS	
1	APPLICATION FORM correctly filled out <input type="checkbox"/> Applicant(s) - listed as owner(s) or agent <input type="checkbox"/> <input type="checkbox"/> Architects, Engineers, Developers and Contact Person identified <input type="checkbox"/> Affidavit Page signed by owner(s)	
1	LEGAL DESCRIPTION <input type="checkbox"/> Single metes and bounds description of entire property or <input type="checkbox"/> Lot and tract number from recorded subdivision map, and copy of said tract map	
1	<input type="checkbox"/> COUNTY ASSESSOR'S MAP	
11 sets	DEVELOPMENT PLAN (consult application instructions for specific requirements) <input type="checkbox"/> Attached in sets in correct order <input type="checkbox"/> Title Sheet <input type="checkbox"/> Site Plan <input type="checkbox"/> Grading and drainage <input type="checkbox"/> Floor Plans <input type="checkbox"/> Building Elevations <input type="checkbox"/> Landscape plan <input type="checkbox"/> Details <input type="checkbox"/> Reduced Plan Set to 11" x 17"	FEE CALCULATION:
2		
5 1 1	ENVIRONMENTAL REVIEW <input type="checkbox"/> Draft EIR or <input type="checkbox"/> Completed Application for Environmental Clearance which includes: 300' Mailing List & envelopes Photographs Vicinity and location maps Signed disclosure forms or <input type="checkbox"/> Request for Environmental Exemption or <input type="checkbox"/> Some evidence that environmental review has been completed	
FEES <input type="checkbox"/> Application Fees <input type="checkbox"/> Surcharges <input type="checkbox"/> Environmental Fees		

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