

Santa Clara



City of Santa Clara, California



**Date:** June 21, 2010

**To:** City Manager for Council Action

**From:** Director of Planning and Inspection

**Subject:** Council Adoption of Ordinances for Amendments to Title 18 of the Santa Clara City Code to:

1. Amend Chapter 18.54, "Regulations for PD – Planned Development and Combined Zoning Districts" to provide more flexibility in landscaping, building lot coverage, circulation and on-site parking requirements; and,
2. Add Chapter 18.86, "Off-site Parking Provisions" to provide a mechanism to facilitate the provision of required on-site parking in off-site parking lots.

**EXECUTIVE SUMMARY:**

Staff is proposing to amend Chapter 18.54, "Regulations for PD – Planned Development and Combined Zoning Districts" to provide more flexibility in landscaping, building lot coverage, circulation and on-site parking requirements, and to add Chapter 18.86, "Off-site Parking Provisions" to provide a mechanism to facilitate the provision of required on-site parking in off-site parking lots. These changes are intended to address development proposals that include parking reductions and/or utilize alternative means to address parking requirements. In addition, the amendment to the PD District will provide flexibility with respect to design standards for landscaping, circulation and building coverage in order to deal with unique development projects when appropriate for both the project site and the community. While the proposed ordinance amendments are being undertaken now to respond to the significant and complex parking needs related to the proposed 49er's Stadium Project, they would be applicable city-wide. These amendments would facilitate innovative land use planning, promote efficient use of land, and be beneficial for other future projects proposed in the City.

The proposed PD amendment is intended to provide more flexibility in land use regulations pertaining to site landscaping, building lot coverage, circulation and parking requirements. Currently, the PD ordinance does not include the ability to deviate from established code requirements for these standards, resulting in the need for variance approval for any PD zoned project that cannot meet these requirements. While adequate site landscaping, building lot coverage, safe and efficient circulation and sufficient parking are necessary to ensure an aesthetically pleasing, safe and efficient development that is harmonious with neighboring development, for certain projects and sites, compliance with standard code requirements may not be necessary to facilitate the creation of an aesthetically pleasing development that is compatible with neighboring development.

The City Zoning Ordinance, Chapter 18 of the Santa Clara City Code (SCCC), currently does not provide a mechanism to reduce the amount of on-site parking required without the issuance of a variance, and this process does not address any alternate means to meet parking requirements. In addition, making the required findings for such a variance can be challenging. For these reasons, a variance is often not the most appropriate tool for parking challenges. The Code also does not provide a mechanism to allow alternative

parking arrangements as a means to meet on-site parking requirements. The proposed Zoning Ordinance amendments offer a solution when parking cannot be provided on site, or when alternative parking arrangements would better serve the site and the community, such as in transit oriented projects.

In order to have a mechanism to provide required on-site parking in an off-site parking lot, staff is recommending an amendment of Title 18 of the Code to add Chapter 18.86, Off-site Parking Provisions. This new Chapter establishes an administrative permitting process for the issuance of Off-site Parking Permits. Land use entitlements associated with any use needing off-site parking to meet parking requirements would include a condition of approval requiring that an Off-site Parking Permit be approved in a timely manner to support the operation of the permitted use generating the demand. The property owner, or agent for the property owner of the property providing the off-site parking, would be responsible for obtaining the Off-site Parking Permit. Off-site Parking Permits would provide the City with a mechanism to regulate off-site parking uses rather than relying on private party agreements without City involvement, resulting in challenges with respect to meeting project conditions of approval. The provisions are city-wide with an additional requirement for the area north of Highway 101 for sports and entertainment venues that would not be appropriate for other uses elsewhere in the City, but that address the unique needs in the Bayshore North area.

The proposed change to the PD Zoning District will also allow consideration and justification of any parking reductions in the context of the legislative zoning approval, without the need for a separate variance action. Both the Planning Commission, in its recommendation, and the City Council, in its final action, would address whether or not a parking reduction is warranted. The proposed companion amendment of the new chapter in the Zoning Ordinance, entitled Off-site Parking Provisions, will provide a mechanism for projects to efficiently share parking within a reasonable distance and include conditions of approval that are subject to enforcement by the City. These provisions can be utilized with, or applied to PD zonings, or other land use entitlements granted by the City.

**ADVANTAGES AND DISADVANTAGES OF ISSUE:**

Adoption of ordinance amendments to the PD zoning district will provide more flexibility in landscaping, building lot coverage, circulation, and on-site parking requirements that will facilitate innovative and creative approaches to land use and development, reduce development costs through the promotion of improved and integrated design and land planning techniques, optimize landscape placement for maximum aesthetic benefit, and provide flexibility in design and development of parcels and/or sites in a manner that is consistent with City objectives, as provided in the General Plan.

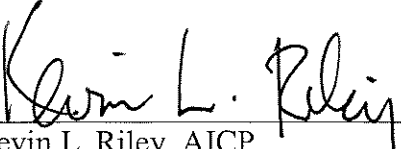
Adoption of ordinance amendments to add Chapter 18.86, Off-site Parking Provisions will facilitate parking consolidation, which will decrease the amount of impervious surfaces, increase space available for landscaping and optimize land use efficiency. In addition, this new chapter will facilitate more efficient use of existing parking spaces, in concert with enabling property owners and tenants to meet required and varying peak parking demands.

**ECONOMIC/FISCAL IMPACT:**


There is no cost to the City other than administrative staff time and expense.

**RECOMMENDATION:**

That the Council, pursuant to the Recommendation of the Planning Commission, Adopt Ordinances Amending Title 18 of the Santa Clara City Code to: 1. Amend Chapter 18.54, "Regulations for PD – Planned Development and Combined Zoning Districts" to provide more flexibility in landscaping, building lot coverage, circulation and on-site parking requirements; and, 2. Add Chapter 18.86, "Off-site Parking Provisions" to provide a mechanism to facilitate the provision of required on-site parking in off-site parking lots.

  
\_\_\_\_\_  
Kevin L. Riley, AICP  
Director of Planning and Inspection

APPROVED:

  
\_\_\_\_\_  
Jennifer Sparacino  
City Manager

***Documents Related to this Report:***

- 1) ***Ordinance Amending Regulations for Planned Development and Combined Zoning District***
- 2) ***Ordinance Amending Title 18 of SCCC by Adding Chapter 18.86, Off-site Parking Provisions***
- 3) ***Planning Commission materials from the Public Hearing of June 23, 2010***
  - a) ***Planning Commission Resolution Recommending Council Approve Amendments for Planned Development and Combined Districts***
  - b) ***Planning Commission Resolution Recommending Council Approval for Amendment of Chapter 18 of SCCC by Adding Chapter 18.86, Off-site Parking Provisions***
  - c) ***Excerpt of Draft Planning Commission Meeting Minutes from June 23, 2010***
  - d) ***Planning Commission Staff Report for the Meeting of June 23, 2010***

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF SANTA CLARA,  
CALIFORNIA, AMENDING CHAPTER 18.54 (ENTITLED  
REGULATIONS FOR PD – PLANNED DEVELOPMENT AND  
COMBINED ZONING DISTRICTS) OF “THE CODE OF THE  
CITY OF SANTA CLARA, CALIFORNIA”**

**BE IT ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:**

**WHEREAS**, in order to allow for innovative planning and design concepts that would be restricted in other zoning districts, the City Council enacted Chapter 18.54 of “The Code of the City of Santa Clara, California” (“SCCC” or “Santa Clara City Code”) to facilitate development that is compatible with the existing community, while allowing for deviations from standard zoning ordinance requirements;

**WHEREAS**, SCCC 18.54.050 provides that all PD zoned properties shall comply with open space, building lot coverage, circulation, and on-site parking standards specified within the City’s zoning ordinance;

**WHEREAS**, many projects that receive approvals for PD rezones are also required to obtain variance approvals for site design challenges relating to open space, building lot coverage, circulation and on-site parking;

**WHEREAS**, the City has been supportive of deviations from open space, building lot coverage, circulation, and off-street parking requirements when justified, and appropriate for the project site and neighboring development;

**WHEREAS**, in some cases, a variance is not the most appropriate mechanism to grant deviations from open space, building lot coverage, circulation, and off-street parking standards;

**WHEREAS**, the provision of increased flexibility within the PD zoning district would provide another mechanism to allow deviation from standard code requirements, when said code

requirements are not appropriate for that project site, and when the resulting development would be consistent with neighboring development;

**WHEREAS**, in order to permit increased flexibility in PD zonings and limit the number of variances required, City staff recommends that the Santa Clara City Code be amended; and,

**WHEREAS**, under its powers to preserve the health, safety, and welfare of its residents through zoning and planning regulations, the City Council hereby amends the Santa Clara City Code as follows.

**NOW THEREFORE, BE IT FURTHER ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:**

**SECTION 1:** That Section 18.54.050 (entitled “Design Standards”) of Chapter 18.54 (entitled “Regulations for PD – Planned Development and Combined Zoning Districts”) of Title 18 (entitled “Zoning”) of “The Code of the City of Santa Clara, California” (“SCCC”) is hereby amended to read as follows:

**“18.54.050 Design standards**

The proposed development plan must be designed to provide an environment of a stable, desirable character not out of harmony with its surrounding neighborhood. It must meet the most restrictive standards of this title and the corresponding existing or proposed General Plan Land Use designation with respect to residential density, non-residential intensity of uses, and other conditions pertinent to the proposed use in such a way as to form a harmonious, integrated project of sufficient unity and architectural quality to justify the mixture of normally separated uses or to justify certain exceptions to the normal regulations of this title. These standards include, but are not limited to the following: on-site parking, landscaping, building lot coverage,

height limits, setback requirements, required distances, and buffering between residential and commercial development.

(a) The number of dwelling units which are proposed shall not exceed the number of dwelling units which would normally be permitted in the area under consideration as indicated on the General Plan.”

**SECTION 2:** That Paragraph (5) of Subsection (b) of Section 18.54.060 (entitled “Development Plan”) of Title 18 (entitled “Zoning”) of “The Code of the City of Santa Clara, California” (“SCCC”) is hereby amended to read as follows:

“(b) (5) An on-site parking and loading plan drawn to scale shall be submitted. The number of required on-site parking spaces shall be the same as required for the particular uses in the zones in which they are otherwise permitted, and required parking spaces shall conform to all the City of Santa Clara on-site parking standards unless exceptions are granted under the PD rezone, as discussed below. The number and size of on-site parking spaces may be altered as part of the development plan when found to be instrumental in achieving the objectives of the PD zoning plan, and the overall objectives of the City as provided in the General Plan. Required parking may also be provided off-site, consistent with the requirements of Chapter 18.86, Off-Site Parking Provisions.”

**SECTION 3:** That Paragraphs (1) and (2) of Subsection (a) of Section 18.54.080 (entitled “Community Ownership Projects”) of Title 18 (entitled “Zoning”) of “The Code of the City of Santa Clara, California” (“SCCC”) is hereby amended to read as follows:

“(a) (1)The density of the proposed project shall determine the corresponding zone.

(a) (2) On-site parking shall be provided as required in the corresponding residential (R) zone district and by City Council policy, except as permitted by Section 18.54.060 (b) (5). At

least ten percent of these spaces shall be conveniently arranged and assigned to visitors and the general use of the residents.”

**SECTION 4:** That Paragraph (4) of Subsection (a) of Section 18.54.090 (entitled “Community Ownership Projects”) of Title 18 (entitled “Zoning”) of “The Code of the City of Santa Clara, California” (“SCCC”) is hereby amended to read as follows:

“(a) (4) Adequacy of on-site parking spaces in relation to unit size and potential occupancy. There shall be a requirement that two parking spaces for each dwelling unit be maintained, except as permitted by Section 18.54.060 (b) (5). Tandem parking may be considered as justification for a parking reduction in certain cases.”

**SECTION 5:** That Subsection (g) of Section 18.54.150 (entitled “Investment apartments – Development standards – Minimum contents of the CC&Rs”) of Title 18 (entitled “Zoning”) of “The Code of the City of Santa Clara, California” (“SCCC”) is hereby amended to read as follows:

“(g) For conversions, parking shall be provided in the amount of no less than one and one-half parking spaces per unit, except as permitted by Section 18.54.060(b)(5).”

**SECTION 6:** Savings clause.

The changes provided for in this ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any right established or accruing before the effective date of this ordinance; nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this ordinance. All fee schedules shall remain in force until superseded by the fee schedules adopted by the City Council.

///

**SECTION 7: Constitutionality, severability.**

If any section, subsection, sentence, clause, phrase, or word of this ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

**SECTION 7: Effective date.**

This ordinance shall take effect thirty (30) days after its final adoption; however, prior to its final adoption it shall be published in accordance with the requirements of Section 808 and 812 of “The Charter of the City of Santa Clara, California.”

**PASSED FOR THE PURPOSE OF PUBLICATION** this \_\_\_\_ day of \_\_\_\_\_, 2010, by the following vote:

AYES:	COUNCILORS:
NOES:	COUNCILORS:
ABSENT:	COUNCILORS:
ABSTAINED:	COUNCILORS:

ATTEST:

\_\_\_\_\_  
 ROD DIRIDON, JR.  
 CITY CLERK  
 CITY OF SANTA CLARA

Attachments Incorporated by Reference:  
None



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF SANTA CLARA,  
CALIFORNIA, AMENDING TITLE 18 OF THE SANTA  
CLARA CITY CODE BY ADDING A NEW CHAPTER 18.86  
(ENTITLED OFF-SITE PARKING PROVISIONS)

**BE IT ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:**

**WHEREAS**, in order to allow the utilization of off-site parking lots to satisfy on-site parking demands, City staff is recommending that a new section be added to Title 18 of “The Code of the City of Santa Clara, California” (“SCCC” or “Santa Clara City Code”);

**WHEREAS**, Chapter 18.86 SCCC, Off-Site Parking Provisions, would provide a procedural framework for approval of off-site parking lots to satisfy on-site parking demand generated by any non-residential use, inclusive of mixed use developments;

**WHEREAS**, the use of off-site parking lots to meet on-site parking demand facilitates parking consolidation, thereby decreasing the amount of impervious surfaces, increasing space available for landscaping, and optimizing land use efficiency;

**WHEREAS**, allowing the flexibility to provide required parking off-site enables more efficient use of existing parking spaces, in concert with enabling non-residential land uses, inclusive of mixed use developments to meet required peak parking demands;

**WHEREAS**, in some cases, it is not feasible, or desirable for project sites to provide all required parking on-site due to land use constraints, including, but not limited to, landscaping requirements, stormwater requirements, existing structures, and substandard lot sizes;

**WHEREAS**, the provision of increased flexibility in the locating of required parking would provide a mechanism to allow deviation from standard code requirements, when such code requirements are not appropriate for that project site and subject use, and when the resulting development and/or redevelopment would be compatible with neighboring development;

**WHEREAS**, in order to permit the use of off-site parking to satisfy peak on-site parking demand, in a manner that optimizes land use efficiency, City staff recommends that the Santa Clara City Code be amended by adding a new Chapter 18.86, Off-Site Parking Provisions; and,

**WHEREAS**, under its powers to preserve the health, safety, and welfare of its residents through zoning and planning regulations, the City Council hereby amends the Santa Clara City Code as follows.

**NOW THEREFORE, BE IT FURTHER ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:**

**SECTION 1:** That Title 18 (entitled “Zoning”) of “The Code of the City of Santa Clara, California” (“SCCC”) be amended by adding a new Chapter 18.86 (entitled “Off-Site Parking Provisions”) that shall read as follows:

**“18.86.010 Off-Site parking provisions**

Parking requirements for uses in all non-residential and mixed use zoning districts may be satisfied on other parcels or sites through approval of an Off-Site Parking Permit in compliance with the provisions in this title. The Off-Site Parking Permit shall be obtained by the owner of the property providing the off-site parking, subject to satisfying the specific parking demands on his/her own site. It is a violation of this Code to operate a parking lot for off-site uses without first obtaining an Off-Site Parking Permit and violators will be subject to code enforcement.

**18.86.020 Intent**

The purpose of this chapter is to establish a process for conditionally allowing off-site parking as a means to satisfy on-site parking requirements for any use in non-residential and mixed use zoning districts. Off-site parking facilitates parking consolidation, and thereby may

decrease the amount of impervious surfaces, increase space available for landscaping, and optimize land use efficiency. By allowing the flexibility to provide required parking off-site, this title enables more efficient use of existing parking spaces, in concert with enabling non-residential and mixed-use land uses to meet required peak parking demands.

**18.86.030 Administrative Off-Site Parking Permit required**

All property owners, except the City and Redevelopment Agency, who seek to provide parking on their parcel or site for a project or use elsewhere, shall first obtain an administrative Off-Site Parking Permit. Applications for Off-Site Parking Permits shall include the following:

(a) Aerial photo(s) illustrating the boundaries of the parcel or site generating the parking demand and the parcel or site providing the off-site parking. Aerial photo(s) shall clearly indicate the distance between the project site and the off-site parking locations. A pedestrian path of travel between the parcels or sites shall also be illustrated on the aerial photo(s).

(b) A site plan for the site or parcel where the off-site parking will be provided. The site plan shall clearly illustrate all parking spaces, the dimensions of parking spaces, a parking space count, any parking spaces reserved for on-site use(s), driveways, curb cuts, drive aisles, landscaping, signage and light standards.

(c) A written description of the off-site parking, which shall include, but not be limited to:

1. Days/hours of availability for off-site parking;
2. The term of the off-site parking availability (e.g. annual, until sale of property, etc);
3. Responsible party for off-site parking management;

4. A written statement acknowledging that designated off-site parking spaces are exclusively for the benefit of off-site uses, and are not available for concurrent use to meet on-site parking demand;
5. Description/count of stalls available under the Off-Site Parking Permit; and,
6. Existing uses on the parcels or sites providing the off-site parking, and the associated parking requirement.

(d) Application submittal fees as indicated in the City's adopted Planning Application Fee Schedule for Zoning Administrator Actions.

**18.86.040 Procedure for granting Off-Site Parking Permits by the Zoning Administrator**

The procedure for granting Off-Site Parking Permits by the Zoning Administrator shall be administrative, provided that all of the requirements of this title are met, and all of the following findings can be made by the Zoning Administrator:

- (a) That the establishment or operation of the off-site parking, under the circumstances of the particular case, are essential or desirable to the public convenience or welfare;
- (b) That the off-site parking will not be detrimental to any of the following:
  - (1) The health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood of such proposed off-site parking;
  - (2) Property or improvements in the neighborhood of such proposed off-site parking; or
  - (3) The general welfare of the City;
- (c) That the off-site parking will not impair the integrity and character of the zoning district;

(d) That the off-site parking is in keeping with the purposes and intent of this title; and

(e) That those sites providing parking for events at sports or entertainment venues located north of State Highway 101, are in compliance with the requirements of any City adopted parking program for this area.

The Zoning Administrator may designate such conditions in connection with the Off-Site Parking Permit as deemed necessary to secure the purposes of this title, and may require guarantees and evidence of compliance with conditions.

#### **18.86.050 Appeals**

In the event the applicant or others affected by the decision are not satisfied with the decision of the Zoning Administrator, within seven calendar days following such decision, a written appeal may be made to the Planning Commission. In the event that there is any dissatisfaction with the action of the Planning Commission, the applicant, others affected, or the City Council may appeal the action to the City Council, in accordance with the appeal provisions for Use Permits set forth in Section 18.110.070 of the Santa Clara City Code.

#### **18.86.060 Off-Site Parking Permit requirements**

Off-Site Parking Permits shall be managed by the owner of the property providing the off-site parking. The property owner responsible for the Off-Site Parking Permit shall ensure compliance with the following requirements:

(a) Conditions of Approval

(b) Adopted Parking Program: Off-Site Parking Permits for sites providing parking for events at sports and entertainment venues located north of State Highway 101 shall comply with all requirements of any City Council adopted parking program for this area, including payment of any fees necessary to mitigate the costs affiliated with the parking program.

(c) Waste and Recycling Receptacles: Waste and recycling receptacles shall be provided for use by individuals utilizing the off-site parking lot. Any waste or recyclables blown or thrown into the public right-of-way, or onto adjacent properties by individuals utilizing the off-site parking lot, shall be picked up in a timely manner.

(d) Lighting: Adequate lighting facilities shall be provided and maintained on the off-site parking lot, consistent with the site plan approved with the Off-Site Parking Permit application. Any such lighting shall be directed and maintained so as not to interfere with persons using any public street or improvement, or unnecessarily with the use and enjoyment of any adjacent property.

(e) Signage: The off-site parking lot shall not be used for advertising, unless otherwise permitted in an adopted parking program. A sign or signs may be installed to indicate the name of the business, activity or event that the parking lot serves. Necessary traffic-control and disclaimer signs are also permitted and not included in the maximum permissible sign area. All signs shall be shown on the site plan. The area of all signs shall be calculated in accordance with Chapter 18 of the Santa Clara City Code. The maximum permissible signage shall be one sign per each entrance to the parking lot, with the maximum size of each sign not exceeding twelve (12) square feet, excluding the temporary and permanent signage otherwise allowed for the primary use on the property and any temporary signage permitted as a component of an adopted parking program.

(f) Security: For special event parking, security may be required for the duration of the event.

(g) Parking lot surfacing: The area reserved for parking and all vehicular and pedestrian access ways shall be appropriately surfaced to the satisfaction of the Zoning Administrator.

(h) Landscaping: Existing site landscaping and landscape features, such as water features and sculptures, shall be maintained consistent with the requirements of Title 18 of the Santa Clara City Code.

(i) Existing nonconforming conditions: For purposes of this chapter, physical conditions on the site that are legal nonconforming with respect to current standards of the applicable zoning district shall not be required to be rectified as a condition of permit approval.

**18.86.070 Revocation**

Any Off-Site Parking Permit granted in accordance with the terms of this title may be revoked if the basis for approval is found to be invalid or if any of the conditions of approval of such permit are violated, or if any law or ordinance is violated in connection therewith, or if the Zoning Administrator, in concurrence with the Planning Commission and the City Council, finds that the continuance of the Off-Site Parking Permit will endanger the public health, safety or welfare.

At the initiation of the Zoning Administrator, the Planning Commission shall hold a hearing on any proposed revocation after giving written notice to the permittee at least ten (10) days prior to the hearing. Following the hearing, the Planning Commission shall submit its recommendations to the City Council. The City Council shall act on the revocation within forty-five (45) days after receipt of the recommendations of the Planning Commission.”

**SECTION 2: Savings clause.**

The changes provided for in this ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any right established or accruing before the effective date of this ordinance; nor shall it affect any prosecution, suit or proceeding pending or any judgment

rendered prior to the effective date of this ordinance. All fee schedules shall remain in force until superseded by the fee schedules adopted by the City Council.

**SECTION 3: Constitutionality, severability.**

If any section, subsection, sentence, clause, phrase, or word of this ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

**SECTION 4: Effective date.**

This ordinance shall take effect thirty (30) days after its final adoption; however, prior to its final adoption it shall be published in accordance with the requirements of Section 808 and 812 of "The Charter of the City of Santa Clara, California."

**PASSED FOR THE PURPOSE OF PUBLICATION** this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by the following vote:

AYES:                    COUNCILORS:  
NOES:                    COUNCILORS:  
ABSENT:                COUNCILORS:  
ABSTAINED:            COUNCILORS:

ATTEST:

\_\_\_\_\_  
ROD DIRIDON, JR.  
CITY CLERK  
CITY OF SANTA CLARA

Attachments Incorporated by Reference:  
None

I:\PLANNING\2010\Project Files Active\PLN2008-06947 4900 Centennial - 49ers Stadium\Ordinance Amendments\City Council\Ordinances\CC ORD OSPP Amends.doc



Draft Planning Commission Excerpt Minutes  
June 23, 2010

10. File No:	<b>Zoning Code Amendment</b>
Address/APN:	City Wide
Applicant/Owner:	City of Santa Clara
Request:	<b>City Initiated Zoning Amendments</b> to Chapter 18, Zoning Ordinance, to change provisions for the Planned Development Zoning District and add provisions for Off-Site Parking Permits
CEQA Determination:	Exempt per Section 15061 (b) (3), General Rule exemption, of the California Environmental Quality Act (CEQA) Guidelines.
Project Planner:	Rachel Grossman, Assistant Planner II
<b>Staff Recommendation:</b>	<b>Recommend City Council Approval</b>

Kevin Riley and Rachel Grossman gave a brief presentation on the proposed changes to the Zoning Code.

Commissioner Marine inquired why some of the proposed amendment applied to only certain areas of the city. Ms. Grossman replied that the amendments are city-wide with an additional requirement for the area north of Highway 101 for sports and entertainment venues that would not be appropriate for other uses elsewhere in the City. Mr. Riley added that the intent was to capture the uniqueness of needs in the North-of-Bayshore area. Mr. Abbe clarified that the City's Zoning Code does not currently have a mechanism for approval and monitoring of shared parking arrangements and that the Ordinance Amendment provides this.

Commissioner Stattenfield inquired how traffic studies would be completed if new developments cannot identify parking arrangements prior to construction. Mr. Riley stated that without prearranged parking arrangements, the project approval will have to be made with confidence in the ability to obtain sufficient parking for the project.

Commissioner Mayer inquired what would happen if parking arrangements fall through or come to an end. Mr. Riley stated that the project approval should consider factors such as this and that a project is not likely to be approved with significant or unrealistic reliance on off-site parking.

Commissioner Marine stated that there is a potential problem in that when a use is granted, if the parking arrangements dissolve sometime in the future, the use will still exist with or without sufficient parking arrangements. He further stated that because of this, use of the shared parking arrangements should be used with great discretion.

Commissioner Stattenfield expressed concern for the ability of projects to be approved with shared parking agreements that are very likely to become problematic in the future.

A motion to recommend that the City Council approve the city initiated zoning amendments was brought forward by Commissioner Marine, seconded by Commissioner Mayer and unanimously carried.

**RESOLUTION NO. 10-029**

**A RESOLUTION OF THE PLANNING COMMISSION OF  
THE CITY OF SANTA CLARA, CALIFORNIA  
RECOMMENDING APPROVAL OF AN ORDINANCE  
AMENDING CHAPTER 18.54 (ENTITLED REGULATIONS  
FOR PD – PLANNED DEVELOPMENT AND COMBINED  
ZONING DISTRICTS) OF THE CODE OF THE CITY OF  
SANTA CLARA**

**BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SANTA  
CLARA AS FOLLOWS:**

**WHEREAS**, in order to allow for innovative planning and design concepts that would be restricted in other zoning districts, the City Council enacted Chapter 18.54 of the Code of the City of Santa Clara to facilitate development that is compatible with the existing community, while allowing for deviations from standard zoning ordinance requirements;

**WHEREAS**, Section 18.54.050 of Chapter 18.54 provides that all PD zoned properties shall comply with open space, building lot coverage, circulation, and on-site parking standards specified within the City's zoning ordinance;

**WHEREAS**, many projects that receive approvals for PD rezones are also required to obtain variance approvals for site design challenges relating to open space, building lot coverage, circulation and on-site parking;

**WHEREAS**, staff is supportive of deviations from open space, building lot coverage, circulation, and off-street parking requirements when justified, and appropriate for the project site and neighboring development;

**WHEREAS**, in some cases, a variance is not the most appropriate mechanism to grant deviations from open space, building lot coverage, circulation, and off-street parking standards;

WHEREAS, the provision of increased the flexibility within the PD zoning district would provide another mechanism to allow deviation from standard code requirements, when said code requirements are not appropriate for that project site, and when the resulting development would be consistent with neighboring development;

WHEREAS, in order to permit increased flexibility in PD zonings and limit the number of variances required, City staff recommends that the Santa Clara City Code be amended; and,

WHEREAS, on the basis of all evidence, oral and written, before it, and under its powers to preserve the health, safety, and welfare of its residents through zoning and planning regulations, the Planning Commission hereby recommends to City Council that the Code of the City of Santa Clara be amended as follows.

**NOW THEREFORE, BE IT FURTHER RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SANTA CLARA AS FOLLOWS:**

1. That Section 18.54.050 (“Design Standards”) of Chapter 18.54 (“Regulations for PD – Planned Development and Combined Zoning Districts”) of Title 18 (“Zoning”) of “The Code of the City of Santa Clara, California” (“SCCC”) is hereby amended to read as follows:

“18.54.050 Design standards.

The proposed development plan must be designed to provide an environment of a stable, desirable character not out of harmony with its surrounding neighborhood. It must meet the most restrictive standards of this title and the corresponding existing or proposed General Plan Land Use designation with respect to residential density, non-residential intensity of uses, and other conditions pertinent to the proposed use in such a way as to form a harmonious, integrated project of sufficient unity and architectural quality to justify the mixture of normally separated uses or to justify certain exceptions to the normal regulations of this title. These regulations

include, but are not limited to the following: on-site parking, landscaping, building lot coverage, height limits, setback requirements, required distances, and buffering between residential and commercial development.

(a) The number of dwelling units which are proposed shall not exceed the number of dwelling units which would normally be permitted in the area under consideration as indicated on the general plan.”

2. That Section 18.54.060 (“Development Plan”) of Title 18 (“Zoning”) of “The Code of the City of Santa Clara, California” (“SCCC”) is hereby amended to read as follows:

“(5) An on-site parking and loading plan drawn to scale shall be submitted. The number of required on-site parking spaces shall be the same as required for the particular uses in the zones in which they are otherwise permitted, unless exceptions are granted under the PD rezone, as discussed below. Required parking spaces shall conform to all the City of Santa Clara on-site parking standards. The number and size of on-site parking spaces may be altered as part of the development plan when found to be instrumental in achieving the objectives of the PD zoning plan, and the overall objectives of the City as provided in the General Plan. Required parking may also be provided off-site, consistent with the requirements of Chapter 18.86, Off-Site Parking Provisions.”

3. That Section 18.54.080 (“Community Ownership Projects”) of Title 18 (“Zoning”) of “The Code of the City of Santa Clara, California” (“SCCC”) is hereby amended to read as follows:

“(a) (1) The density of the proposed project shall determine the corresponding zone.

(a) (2) On-site parking shall be provided as required in the corresponding residential (R) zone district and by City Council policy, except as permitted by Section 18.54.060 (b) (5). At least ten

percent of these spaces shall be conveniently arranged and assigned to visitors and the general use of the residents.”

4. That Section 18.54.090 (“Community Ownership Projects”) of Title 18 (“Zoning”) of “The Code of the City of Santa Clara, California” (“SCCC”) is hereby amended to read as follows:

“(a) (4) Adequacy of on-site parking spaces in relation to unit size and potential occupancy. There shall be a requirement that two parking spaces for each dwelling unit be maintained, except as permitted by Section 18.54.060 (b) (5). Tandem parking may be considered as justification for a parking reduction in certain cases.”

5. That Section 18.54.150 (“Investment apartments – Development standards – Minimum contents of the CC&Rs”) of Title 18 (“Zoning”) of “The Code of the City of Santa Clara, California” (“SCCC”) is hereby amended to read as follows:

“(g) For conversions, parking shall be provided in the amount of no less than one and one-half parking spaces per unit, except as permitted by Section 18.54.060(b)(5).”

6. Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The City of Santa Clara, California, hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

///

6. Effective date. This resolution shall become effective immediately.


I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE 23<sup>rd</sup> DAY OF JUNE, 2010, BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS: O'Neill, Stattenfield, Marine, Champeny, Costa,  
Fitch, Mayer

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ABSTAINED: COMMISSIONERS:

ATTEST:   
\_\_\_\_\_  
KEVIN L. RILEY, AICP  
DIRECTOR OF PLANNING & INSPECTION  
CITY OF SANTA CLARA

Attachments Incorporated by Reference: None

RESOLUTION NO. 10-030

A RESOLUTION OF THE PLANNING COMMISSION OF  
THE CITY OF SANTA CLARA, CALIFORNIA  
RECOMMENDING APPROVAL OF AN ORDINANCE  
AMENDING TITLE 18 OF THE SANTA CLARA CITY  
CODE BY ADDING A NEW CHAPTER 18.86 (ENTITLED  
OFF-SITE PARKING PROVISIONS)

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SANTA  
CLARA AS FOLLOWS:

WHEREAS, in order to allow the utilization of off-site parking lots to satisfy on-site parking demands, City staff is recommending that a new section be added to Title 18 of the Santa Clara City Code;

WHEREAS, Chapter 18.86, Off-Site Parking Provisions, would provide a procedural framework for approval of off-site parking lots to satisfy on-site parking demand generated by any non-residential use, including mixed use developments;

WHEREAS, the use of off-site parking lots to meet on-site parking demand facilitates parking lot consolidation, thereby decreasing the amount of impervious surfaces, increasing space available for landscaping, and optimizing land use efficiency;

WHEREAS, allowing the flexibility to provide required parking off-site enables more efficient use of existing parking spaces, in concert with enabling non-residential land uses, including mixed use developments to meet required peak parking demands;

WHEREAS, in some cases, it is not feasible for project sites to provide all required parking on-site due to land use constraints, including, but not limited to, landscaping requirements, stormwater requirements, existing structures, and substandard lot sizes;

WHEREAS, the provision of increased flexibility in the locating of required parking would provide a mechanism to allow deviation from standard code requirements, when such code

requirements are not appropriate for that project site and subject use, and when the resulting development and/or redevelopment would be compatible with neighboring development;

**WHEREAS**, in order to permit the use of off-site parking lots to satisfy peak on-site parking demand, in a manner that optimizes land use efficiency, City staff recommends that the Santa Clara City Code be amended by adding a new Chapter 18.86, Off-site Parking Provisions; and,

**WHEREAS**, under its powers to preserve the health, safety, and welfare of its residents through zoning and planning regulations, the Planning Commission hereby recommends to City Council that the Code of the City of Santa Clara be amended as follows.

**NOW THEREFORE, BE IT FURTHER RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SANTA CLARA AS FOLLOWS:**

1. That Title 18 (“Zoning”) of “The Code of the City of Santa Clara, California” (“SCCC”) be amended by adding a new Chapter 18.86 (“Off-Site Parking Provisions”) that shall read as follows:

“18.86.010 Off-site parking provisions.

Parking requirements for uses in all non-residential and mixed use zoning districts may be satisfied on other parcels or sites through approval of an Off-Site Parking Permit in compliance with the provisions in this title. The Off-Site Parking Permit shall be obtained by the owner of the property providing the off-site parking, subject to satisfying the specific parking demands on his/her own site. It is a violation of this Code to operate a parking lot for off-site uses without first obtaining an Off-Site Parking Permit and violators will be subject to code enforcement.

18.86.020 Intent.

The purpose of this chapter is to establish a process for conditionally allowing off-site parking as a means to satisfy on-site parking requirements for any use in non-residential and mixed use



zoning districts. Off-site parking facilitates parking lot consolidation, and thereby may decrease the amount of impervious surfaces, increase space available for landscaping, and optimize land use efficiency. By allowing the flexibility to provide required parking off-site, this title enables more efficient use of existing parking spaces, in concert with enabling non-residential and mixed-use land uses to meet required peak parking demands.

18.86.030 Administrative Off-Site Parking Permit required.

Private property owners who seek to provide parking on their parcel or site for a project or use elsewhere, shall first obtain an administrative Off-Site Parking Permit. Applications for Off-Site Parking Permits shall include the following:

- (a) Aerial photo(s) illustrating the boundaries of the parcel or site generating the parking demand and the parcel or site providing the off-site parking. Aerial photo(s) shall clearly indicate the distance between the project site and the off-site parking locations. A pedestrian path of travel between the parcels or sites shall also be illustrated on the aerial photo(s).
- (b) A site plan for the site or parcel where the off-site parking will be provided. The site plan shall clearly illustrate all parking spaces, the dimensions of parking spaces, a parking space count, any parking spaces reserved for on-site use(s), driveways, curb cuts, drive aisles, landscaping, signage and light standards.
- (c) A written description of the off-site parking, which shall include, but not be limited to:
  - 1. Days/hours of availability for off-site parking;
  - 2. The term of the off-site parking availability (e.g. annual, until sale of property, etc);
  - 3. Responsible party for off-site parking management;

4. A written statement acknowledging that designated off-site parking spaces are exclusively for the benefit of off-site uses, and are not available for concurrent use to meet on-site parking demand;
5. Description/count of stalls available under the Off-Site Parking Permit; and,
6. Existing uses on the parcels or sites providing the off-site parking, and the associated parking requirement.

(d) Application submittal fees as indicated in the City's adopted Planning Application Fee Schedule for Zoning Administrator Actions.

18.86.040 Procedure for granting Off-Site Parking Permits by the Zoning Administrator.

The procedure for granting Off-Site Parking Permits by the Zoning Administrator shall be administrative, provided that all of the requirements of this title are met, and all of the following findings can be made by the Zoning Administrator:

- (a) That the establishment or operation of the off-site parking, under the circumstances of the particular case, are essential or desirable to the public convenience or welfare;
- (b) That the off-site parking will not be detrimental to any of the following:
  - (1) The health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood of such proposed off-site parking;
  - (2) Property or improvements in the neighborhood of such proposed off-site parking; or
  - (3) The general welfare of the City;
- (c) That the off-site parking will not impair the integrity and character of the zoning district;
- (d) That the off-site parking is in keeping with the purposes and intent of this title; and

(e) That those sites providing parking for events at sports or entertainment venues located north of State Highway 101, are in compliance with the requirements of any City adopted parking program for this area.

The Zoning Administrator may designate such conditions in connection with the Off-Site Parking Permit as deemed necessary to secure the purposes of this title, and may require guarantees and evidence of compliance with conditions.

18.86.050 Appeals.

In the event the applicant or others affected by the decision are not satisfied with the decision of the Zoning Administrator, within seven calendar days following such decision, a written appeal may be made to the Planning Commission. In the event that there is any dissatisfaction with the action of the Planning Commission, the applicant, others affected, or the City Council may appeal the action to the City Council, in accordance with the appeal provisions for Use Permits set forth in Section 18.110.070 of the Santa Clara City Code.

18.86.060 Off-Site Parking Permit requirements.

Off-Site Parking Permits shall be managed by the owner of the property providing the off-site parking. The property owner responsible for the Off-Site Parking Permit shall ensure compliance with the following requirements:

(a) Conditions of Approval

(b) Adopted Parking Program: Off-Site Parking Permits for sites providing parking for events at sports and entertainment venues located north of State Highway 101 shall comply with all requirements of any City Council adopted parking program for this area, including payment of any fees necessary to mitigate the costs affiliated with the parking program.

(c) Waste and Recycling Receptacles: Waste and recycling receptacles shall be provided for use by individuals utilizing the off-site parking lot. Any waste or recyclables blown or thrown into the public right-of-way, or onto adjacent properties by individuals utilizing the off-site parking lot, shall be picked up in a timely manner.

(d) Lighting: Adequate lighting facilities shall be provided and maintained on the off-site parking lot, consistent with the site plan approved with the Off-Site Parking Permit application. Any such lighting shall be directed and maintained so as not to interfere with persons using any public street or improvement, or unnecessarily with the use and enjoyment of any adjacent property.

(e) Signage: The off-site parking lot shall not be used for advertising, unless otherwise permitted in an adopted parking program. A sign or signs may be installed to indicate the name of the business, activity or event that the parking lot serves. Necessary traffic-control and disclaimer signs are also permitted and not included in the maximum permissible sign area. All signs shall be shown on the site plan. The area of all signs shall be calculated in accordance with Chapter 18 of the Santa Clara City Code. The maximum permissible signage shall be one sign per each entrance to the parking lot, with the maximum size of each sign not exceeding twelve (12) square feet, excluding the temporary and permanent signage otherwise allowed for the primary use on the property and any temporary signage permitted as a component of an adopted parking program.

(f) Security: For special event parking, security may be required for the duration of the event.

(g) Parking lot surfacing: The area reserved for parking and all vehicular and pedestrian access ways shall be appropriately surfaced to the satisfaction of the Zoning Administrator.

(h) Landscaping: Existing site landscaping and landscape features, such as water features and sculptures, shall be maintained consistent with the requirements of Title 18 of the Santa Clara City Code.

(i) Existing nonconforming conditions: For purposes of this chapter, physical conditions on the site that are legal nonconforming with respect to current standards of the applicable zoning district shall not be required to be rectified as a condition of permit approval.

18.86.070 Revocation.

Any Off-Site Parking Permit granted in accordance with the terms of this title may be revoked if the basis for approval is found to be invalid or if any of the conditions of approval of such permit are violated, or if any law or ordinance is violated in connection therewith, or if the Zoning Administrator, in concurrence with the Planning Commission and the City Council, finds that the continuance of the Off-Site Parking Permit will endanger the public health, safety or welfare.

At the initiation of the Zoning Administrator, the Planning Commission shall hold a hearing on any proposed revocation after giving written notice to the permittee at least ten (10) days prior to the hearing. Following the hearing, the Planning Commission shall submit its recommendations to the City Council. The City Council shall act on the revocation within forty-five (45) days after receipt of the recommendations of the Planning Commission.”

///

///

///

2. Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The City of Santa Clara, California, hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

3. Effective date. This resolution shall become effective immediately.


I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE 23<sup>rd</sup> DAY OF JUNE, 2010, BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS: O'Neill, Stattenfield, Marine, Champeny, Costa,  
Fitch, Mayer

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ABSTAINED: COMMISSIONERS:

ATTEST:   
\_\_\_\_\_  
KEVIN L. RILEY, AICP  
DIRECTOR OF PLANNING & INSPECTION  
CITY OF SANTA CLARA

Attachments Incorporated by Reference: None



**CITY OF SANTA CLARA  
PLANNING COMMISSION  
STAFF REPORT**



**Agenda Item # 10  
Date: June 23, 2010**

**PROJECT NAME: Zoning Ordinance Amendments for Planned Development and Off-Site Parking Provisions**

**PROPOSAL:** Amendment to Santa Clara City Code (SCCC) Title 18, Chapter 18.54, Regulations for PD – Planned Development and Combined Zoning Districts in order to provide a mechanism to reduce Zoning Code required on-site parking without the need for a variance, and a corresponding amendment to add Chapter 18.86, Off-site Parking Provisions (OSPP), to provide an alternative mechanism to meet parking requirements.

**RECOMMENDATION:** Recommend that the Planning Commission:

1. Recommend that the City Council consider and adopt the draft ordinance amendments consistent with staff's recommendation.

**EXECUTIVE SUMMARY:**

The City Zoning Ordinance, Chapter 18 of the Santa Clara City Code (SCCC), currently does not provide a mechanism to reduce the amount of on-site parking required without the issuance of a variance, and this process does not address any alternate means to meet parking requirements. In addition, making the required findings for such a variance can be challenging. For these reasons, a variance is often not the most appropriate tool for parking challenges. The Code also does not provide a mechanism to allow alternative parking arrangements as a means to meet on-site parking requirements. The proposed Zoning Ordinance amendments offer a solution when parking cannot be provided on site, or when alternative parking arrangements would better serve the site and the community, such as those considered in transit oriented projects. City staff is recommending an amendment to the Planned Development (PD) zoning designation, in concert with a new Chapter in the Zoning Ordinance, entitled Off-site Parking Provisions (OSPP), to allow some flexibility in the provision of required parking when appropriate for both the project site and the community.

**PROJECT SUMMARY:**

**Project Location:** The proposed ordinance amendments would apply City-wide

**Environmental Determination:** Exempt per Section 15061 (b) (3), General Rule exemption, of the California Environmental Quality Act (CEQA) Guidelines.

**Notification Radius:** The notice of public hearing for this item was published in the Santa Clara Weekly Newspaper, and posted in six public locations within the City of Santa Clara.

**Project Planner:** Rachel Grossman, Assistant Planner II

## **SITE LOCATION AND CONTEXT:**

Over the years, staff has had extensive in-depth discussions related to suitable regulatory procedures to address projects with insufficient on-site parking, and projects seeking flexibility in the provision of required parking. While the proposed ordinance amendments are being undertaken now to respond to the significant and complex parking needs related to the proposed 49er's Stadium Project, they would be applicable city-wide, and would address existing deficiencies in the City's Code. Whether or not the Stadium project is approved, these amendments would facilitate innovative land use planning, promote efficient use of land, and be beneficial for other future projects proposed in the City.

## **ORDINANCE AMENDMENTS:**

### **Background**

Chapter 18.74, Parking Regulations, of the Zoning Ordinance establishes minimum requirements for the on-site parking and loading of motor vehicles, in accordance with the specific use. These Parking Regulations currently include no mechanism to allow alternative parking arrangements when parking requirements cannot be met on site, or when alternative arrangements would better serve the site and the community. Though a variance can be granted to reduce the parking provided on-site below minimum standards, it does not provide a means to meet that parking demand elsewhere, when that is appropriate. In addition, making the required findings for a variance can often be challenging. For these reasons, a variance is not the most appropriate tool to provide flexibility in zoning regulations.

Chapter 18.54, Regulations for PD, was originally developed in order to provide flexibility to facilitate imaginative planning and design concepts that could be accommodated in other zone districts. The PD zone currently provides flexibility in regulations pertaining to height limits, setback requirements, required distances, and buffering between residential and commercial development. It does not provide flexibility for regulations pertaining to open space, circulation, density and on-site parking. Providing a mechanism within the PD to allow reduced or alternative parking when warranted, provides a tool for approval of a reduction in parking or flexible parking arrangement. In addition, enhancing the flexibility of other development standards will allow the City to consider the whole of the project with a single legislative action on a project.

The provision of off-site parking to meet on-site parking requirements is currently only permissible within the City's Central Business District. Per Chapter 18.84, Special Provisions for Central Business Area – Parking Requirements, the parking requirements for any commercial-downtown zoning district land use within the Central Business District can be provided off-site, subject to the provisions contained within the chapter. These provisions include requirements pertaining to proximity of off-site parking lots, parking lot ownership, parking lot design, landscaping, lighting and signage. The proposed amendments provide a similar mechanism that can be applied City-wide, and do not conflict with existing provisions for Central Business District.

Numerous projects outside of the City's Central Business have exhibited the need to provide required parking at off-site locations, and some are currently providing these parking spaces off-site in accordance with conditions of approval. These off-site arrangements are accomplished with private parking agreements without City involvement, making enforcement challenging and raising issues with respect to adequately meeting City Code requirements. In order to rectify this deficiency within the Code, staff is recommending a Code amendment to include a new



Chapter, entitled Off-site Parking Provisions (OSPP), as well as associated amendments to the Planned Development Zoning District. Together, these amendments offer a formal mechanism to reduce on-site parking without a variance, and provide an alternative for off-site parking to meet the on-site parking demand. These amendments would serve numerous projects within the City, including the proposed 49ers Stadium Project.

### **Proposed Planned Development Amendment**

The proposed PD amendment is intended to provide more flexibility in land use regulations pertaining to site landscaping, building lot coverage, circulation and parking requirements. Currently, the PD ordinance does not include the ability to deviate from established code requirements for these standards, resulting in the need for variance approval for any PD zoned project that cannot meet these requirements. While adequate site landscaping, building lot coverage, safe and efficient circulation and sufficient parking are necessary to ensure an aesthetically pleasing, safe and efficient development that is harmonious with neighboring development, for certain projects and sites, compliance with standard code requirements may not be necessary to facilitate the creation of an aesthetically pleasing development that is compatible with neighboring development.

Providing more flexibility in landscaping, building lot coverage, circulation and on-site parking would facilitate:

- Innovative and creative approaches to land use and development;
- A reduction in development costs through the promotion of improved and integrated design and land planning techniques
- Optimization of landscape placement for maximum aesthetic benefit
- Flexibility in design and development of parcels and/or sites in a manner that is consistent with the City objectives, as provided in the General Plan

Exceptions to standard landscaping, building lot coverage, circulation and parking requirements would be reviewed on a case-by-case basis by the decision-making bodies in the context of the proposed rezoning without the need for an additional procedural step. By negating the need for a variance, the proposed amendments would allow the City to consider the whole of the project with a single legislative action on a project, thus streamlining the land use entitlement process. Similar to a request for a variance, applicants would be required to justify any requested deviations for the project site.

### **Proposed Off-site Parking Provisions Amendment**

Aside from the Central Business District, the Zoning Code provides no mechanism to meet on-site parking requirements through the use of off-site parking lots. Off-site parking lots offer numerous advantages and opportunities for both private property owners and the community. For example, off-site parking allows for parking consolidation, thereby decreasing the amount of impervious surfaces, increasing space available for landscaping, and optimizing land use efficiency. Off-site, parking can also enable more efficient use of existing parking spaces, in concert with meeting required and varying peak parking demands.

In order to have a mechanism to provide required on-site parking in an off-site parking lot, staff is recommending an amendment of Title 18 of the Code to add Chapter 18.86, Off-site Parking Provisions (OSPP). This new Chapter establishes an administrative permitting process for the issuance of Off-site Parking Permits. Land use entitlements associated with any use needing off-site parking to meet parking requirements would include a condition of approval requiring that an Off-site Parking Permit be approved in a timely manner to support the operation of the permitted use generating the demand. The property owner, or agent for the property owner of

the property providing the off-site parking, would be responsible for obtaining the Off-site Parking Permit. Off-site Parking Permits would provide the City with a mechanism to regulate off-site parking uses rather than relying on private party agreements without City involvement, resulting in challenges with respect to meeting project conditions of approval.

All permits would be subject to standard requirements, including the need to provide waste and recycling receptacles, adequate lighting, signage consistent with code requirements, appropriate security, adequate site paving, landscaping, and pedestrian access from the site demanding the parking, to the site providing the parking. Approval of an Off-site Parking Permit would be subject to conditions of approval and would require that the Zoning Administrator be able to make required findings, similar to the findings required for Conditional Use Permits.

Chapter 18.86 would allow properties in non-residential zoning districts, including mixed use districts, to provide off-site parking for nearby uses after securing an Off-site Parking Permit. These permits would define the rights, responsibilities and limitations for off-site parking arrangements, including the fact that the use of off-site parking shall not conflict with the parking requirements for the primary use of the property. Though the 49ers Stadium project was the impetus for the development of the Off-site Parking Provisions, the proposed zoning code amendments are applicable City-wide and address an existing deficiency in the City's Zoning Ordinance. In addition to the proposed Off-site Parking Provisions, the 49er's Stadium Project would be subject to the requirements of any subsequently adopted parking program, consistent with the project proposal contained in the EIR for the project.

The 49ers Stadium Project is required to provide approximately 20,000 parking spaces in off-site parking lots to meet the on-site parking demand of the facility during peak usage periods. If the requested land use entitlements for the 49ers Stadium Project are granted, a condition of approval would be included requiring the development, City Council adoption, and implementation of a Stadium Parking Program prior to commencement of business operations at the Stadium. The framework for this Stadium Parking Program would include the provision of off-site parking to serve the Stadium, as well as define the requirements for events relying upon off-site parking to meet the parking demands. The Parking Program will include the following:

1. Definition of a geographic area (or "overlay" area) where off-site parking could be provided within a reasonable radius of the stadium based on approximate walking distance, or farther away, with potential for the implementation of shuttle services;
2. Annual count of spaces available within the "overlay" area;
3. Annual calendar of events and associated off-site parking demand, as well as exhibited ability to secure off-site parking to meet the demands of these events;
4. Ingress/egress plan for accessing off-site parking lots;
5. Contractual arrangements related to off-site parking lots;
6. Public safety obligations for the Stadium Authority and Off-site Parking providers; and
7. Temporary signage regulations.

Detailed development of the Stadium Parking Program would commence following the approval of land use entitlements for the Stadium.

#### **ENVIRONMENTAL REVIEW:**

The proposed amendments to the zoning ordinance are exempt from the California Environmental Quality Act (CEQA) per Section 15061 (b) (3), General Rule exemption, because there is no possibility the changes will have a significant adverse effect on the environment. Individual development projects utilizing the ordinance amendments will be subject to the

requirements of CEQA as a component of the land use entitlement process.

**PUBLIC NOTICES AND COMMENTS:**

The notice of public hearing for this item was published in the Santa Clara Weekly Newspaper, and posted at the City Clerk's bulletin board, Council Chambers bulletin board, Santa Clara Central Park Library, Santa Clara Mission Library, City of Santa Clara City Manager's Office, and in the affidavit posting file.

**RECOMMENDATION:**

Find that adoption of the proposed amendment of the PD Zoning Ordinance and the proposed amendment to Title 18 of the SCCC to include Chapter 18.86, Off-site Parking Provisions, and predicated on City Council findings, would support the intent of the PD Ordinance and objectives of the General Plan to allow flexibility in land use regulations to facilitate innovative development that is consistent with neighboring uses.

**ATTACHMENTS RELATED TO THIS REPORT:**

- Planning Commission Resolution recommending approval of an ordinance amending Chapter 18.54, PD – Planned Development and Combined Zoning Districts (Exhibit "PC Reso PD Ord Amend")
- Planning Commission Resolution recommending approval of an ordinance amending Chapter 18 of SCCC adding Chapter 18.86, Off-site Parking Provisions (Exhibit "PC Reso Off-site Park Prov Ord Amend")
- Draft PD Zoning Ordinance Revisions (Exhibit "Draft PD Ord Rev Ord")
- Draft Off-site Parking Provision Regulations (Exhibit "Draft Off-site Parking Provisions Ord")
- Current PD Zoning Ordinance Regulations (Exhibit "Current PD Zoning Ord")
- Correspondence as of June 17, 2010 (Exhibit "Corresp-6/17/10")

\\PLANNING\2010\Project Files Active\PLN2008-06947 4900 Centennial - 49ers Stadium\Ordinance Amendments\Planning Commission\Staff Report\6.14.10 Draft PD and OSPP Amendment PC Staff Report 062310.doc

**EXHIBIT "PC Reso PD Ord Amend"**

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE PLANNING COMMISSION OF  
THE CITY OF SANTA CLARA, CALIFORNIA  
RECOMMENDING APPROVAL OF AN ORDINANCE  
AMENDING CHAPTER 18.54 (ENTITLED REGULATIONS  
FOR PD – PLANNED DEVELOPMENT AND COMBINED  
ZONING DISTRICTS) OF THE CODE OF THE CITY OF  
SANTA CLARA**

**BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SANTA  
CLARA AS FOLLOWS:**

**WHEREAS**, in order to allow for innovative planning and design concepts that would be restricted in other zoning districts, the City Council enacted Chapter 18.54 of the Code of the City of Santa Clara to facilitate development that is compatible with the existing community, while allowing for deviations from standard zoning ordinance requirements;

**WHEREAS**, Section 18.54.050 of Chapter 18.54 provides that all PD zoned properties shall comply with open space, building lot coverage, circulation, and on-site parking standards specified within the City's zoning ordinance;

**WHEREAS**, many projects that receive approvals for PD rezones are also required to obtain variance approvals for site design challenges relating to open space, building lot coverage, circulation and on-site parking;

**WHEREAS**, staff is supportive of deviations from open space, building lot coverage, circulation, and off-street parking requirements when justified, and appropriate for the project site and neighboring development;

**WHEREAS**, in some cases, a variance is not the most appropriate mechanism to grant deviations from open space, building lot coverage, circulation, and off-street parking standards;

**WHEREAS**, the provision of increased the flexibility within the PD zoning district would provide another mechanism to allow deviation from standard code requirements, when said code requirements are not appropriate for that project site, and when the resulting development would be consistent with neighboring development;

**WHEREAS**, in order to permit increased flexibility in PD zonings and limit the number of variances required, City staff recommends that the Santa Clara City Code be amended; and,

**WHEREAS**, on the basis of all evidence, oral and written, before it, and under its powers to preserve the health, safety, and welfare of its residents through zoning and planning regulations, the Planning Commission hereby recommends to City Council that the Code of the City of Santa Clara be amended as follows.

**NOW THEREFORE, BE IT FURTHER RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SANTA CLARA AS FOLLOWS:**

1. That Section 18.54.050 (“Design Standards”) of Chapter 18.54 (“Regulations for PD – Planned Development and Combined Zoning Districts”) of Title 18 (“Zoning”) of “The Code of the City of Santa Clara, California” (“SCCC”) is hereby amended to read as follows:

18.54.050 Design standards.

The proposed development plan must be designed to provide an environment of a stable, desirable character not out of harmony with its surrounding neighborhood. It must meet the most restrictive standards of this title and the corresponding existing or proposed General Plan Land Use designation with respect to residential density, non-residential intensity of uses, and other conditions pertinent to the proposed use in such a way as to form a harmonious, integrated project of sufficient unity and architectural quality to justify the mixture of normally separated uses or to justify certain exceptions to the normal regulations of this title. These regulations

include, but are not limited to the following: on-site parking, landscaping, building lot coverage, height limits, setback requirements, required distances, and buffering between residential and commercial development.

(a) The number of dwelling units which are proposed shall not exceed the number of dwelling units which would normally be permitted in the area under consideration as indicated on the general plan.

2. That Section 18.54.060 (“Development Plan”) of Title 18 (“Zoning”) of “The Code of the City of Santa Clara, California” (“SCCC”) is hereby amended to read as follows:

(5) An on-site parking and loading plan drawn to scale shall be submitted. The number of required on-site parking spaces shall be the same as required for the particular uses in the zones in which they are otherwise permitted, unless exceptions are granted under the PD rezone, as discussed below. Required parking spaces shall conform to all the City of Santa Clara on-site parking standards. The number and size of on-site parking spaces may be altered as part of the development plan when found to be instrumental in achieving the objectives of the PD zoning plan, and the overall objectives of the City as provided in the General Plan. Required parking may also be provided off-site, consistent with the requirements of Chapter 18.86, Off-Site Parking Provisions.

3. That Section 18.54.080 (“Community Ownership Projects”) of Title 18 (“Zoning”) of “The Code of the City of Santa Clara, California” (“SCCC”) is hereby amended to read as follows:

(a) (1) The density of the proposed project shall determine the corresponding zone.

(a) (2) On-site parking shall be provided as required in the corresponding residential (R) zone district and by City Council policy, except as permitted by Section 18.54.060 (b) (5). At least ten

percent of these spaces shall be conveniently arranged and assigned to visitors and the general use of the residents.

4. That Section 18.54.090 (“Community Ownership Projects”) of Title 18 (“Zoning”) of “The Code of the City of Santa Clara, California” (“SCCC”) is hereby amended to read as follows:

(a) (4) Adequacy of on-site parking spaces in relation to unit size and potential occupancy. There shall be a requirement that two parking spaces for each dwelling unit be maintained, except as permitted by Section 18.54.060 (b) (5). Tandem parking may be considered as justification for a parking reduction in certain cases.

5. That Section 18.54.150 (“Investment apartments – Development standards – Minimum contents of the CC&Rs”) of Title 18 (“Zoning”) of “The Code of the City of Santa Clara, California” (“SCCC”) is hereby amended to read as follows:

(g) For conversions, parking shall be provided in the amount of no less than one and one-half parking spaces per unit, except as permitted by Section 18.54.060(b)(5).

6. Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The City of Santa Clara, California, hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

6. Effective date. This resolution shall become effective immediately.

\\



I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2010, BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ABSTAINED: COMMISSIONERS:

ATTEST: \_\_\_\_\_  
KEVIN L. RILEY, AICP  
DIRECTOR OF PLANNING & INSPECTION  
CITY OF SANTA CLARA

Attachments Incorporated by Reference: None

**EXHIBIT "PC Reso Off-site Park Prov Ord Amend"**

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE PLANNING COMMISSION OF  
THE CITY OF SANTA CLARA, CALIFORNIA  
RECOMMENDING APPROVAL OF AN ORDINANCE  
AMENDING TITLE 18 OF THE SANTA CLARA CITY  
CODE BY ADDING A NEW CHAPTER 18.86 (ENTITLED  
OFF-SITE PARKING PROVISIONS)**

**BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SANTA  
CLARA AS FOLLOWS:**

**WHEREAS**, in order to allow the utilization of off-site parking lots to satisfy on-site parking demands, City staff is recommending that a new section be added to Title 18 of the Santa Clara City Code;

**WHEREAS**, Chapter 18.86, Off-Site Parking Provisions, would provide a procedural framework for approval of off-site parking lots to satisfy on-site parking demand generated by any non-residential use, including mixed use developments;

**WHEREAS**, the use of off-site parking lots to meet on-site parking demand facilitates parking lot consolidation, thereby decreasing the amount of impervious surfaces, increasing space available for landscaping, and optimizing land use efficiency;

**WHEREAS**, allowing the flexibility to provide required parking off-site enables more efficient use of existing parking spaces, in concert with enabling non-residential land uses, including mixed use developments to meet required peak parking demands;

**WHEREAS**, in some cases, it is not feasible for project sites to provide all required parking on-site due to land use constraints, including, but not limited to, landscaping requirements, stormwater requirements, existing structures, and substandard lot sizes;

**WHEREAS**, the provision of increased flexibility in the locating of required parking would provide a mechanism to allow deviation from standard code requirements, when such code

requirements are not appropriate for that project site and subject use, and when the resulting development and/or redevelopment would be compatible with neighboring development;

**WHEREAS**, in order to permit the use of off-site parking lots to satisfy peak on-site parking demand, in a manner that optimizes land use efficiency, City staff recommends that the Santa Clara City Code be amended by adding a new Chapter 18.86, Off-site Parking Provisions; and,

**WHEREAS**, under its powers to preserve the health, safety, and welfare of its residents through zoning and planning regulations, the Planning Commission hereby recommends to City Council that the Code of the City of Santa Clara be amended as follows.

**NOW THEREFORE, BE IT FURTHER RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SANTA CLARA AS FOLLOWS:**

1. That Title 18 (“Zoning”) of “The Code of the City of Santa Clara, California” (“SCCC”) be amended by adding a new Chapter 18.86 (“Off-Site Parking Provisions”) that shall read as follows:

18.86.010 Off-site parking provisions.

Parking requirements for uses in all non-residential and mixed use zoning districts may be satisfied on other parcels or sites through approval of an Off-Site Parking Permit in compliance with the provisions in this title. The Off-Site Parking Permit shall be obtained by the owner of the property providing the off-site parking, subject to satisfying the specific parking demands on his/her own site. It is a violation of this Code to operate a parking lot for off-site uses without first obtaining an Off-Site Parking Permit and violators will be subject to code enforcement.

18.86.020 Intent.

The purpose of this chapter is to establish a process for conditionally allowing off-site parking as a means to satisfy on-site parking requirements for any use in non-residential and mixed use

zoning districts. Off-site parking facilitates parking lot consolidation, and thereby may decrease the amount of impervious surfaces, increase space available for landscaping, and optimize land use efficiency. By allowing the flexibility to provide required parking off-site, this title enables more efficient use of existing parking spaces, in concert with enabling non-residential and mixed-use land uses to meet required peak parking demands.

18.86.030 Administrative Off-Site Parking Permit required.

Private property owners who seek to provide parking on their parcel or site for a project or use elsewhere, shall first obtain an administrative Off-Site Parking Permit. Applications for Off-Site Parking Permits shall include the following:

- (a) Aerial photo(s) illustrating the boundaries of the parcel or site generating the parking demand and the parcel or site providing the off-site parking. Aerial photo(s) shall clearly indicate the distance between the project site and the off-site parking locations. A pedestrian path of travel between the parcels or sites shall also be illustrated on the aerial photo(s).
- (b) A site plan for the site or parcel where the off-site parking will be provided. The site plan shall clearly illustrate all parking spaces, the dimensions of parking spaces, a parking space count, any parking spaces reserved for on-site use(s), driveways, curb cuts, drive aisles, landscaping, signage and light standards.
- (c) A written description of the off-site parking, which shall include, but not be limited to:
  - 1. Days/hours of availability for off-site parking;
  - 2. The term of the off-site parking availability (e.g. annual, until sale of property, etc);
  - 3. Responsible party for off-site parking management;

4. A written statement acknowledging that designated off-site parking spaces are exclusively for the benefit of off-site uses, and are not available for concurrent use to meet on-site parking demand;
5. Description/count of stalls available under the Off-Site Parking Permit; and,
6. Existing uses on the parcels or sites providing the off-site parking, and the associated parking requirement.

(d) Application submittal fees as indicated in the City's adopted Planning Application Fee Schedule for Zoning Administrator Actions.

18.86.040 Procedure for granting Off-Site Parking Permits by the Zoning Administrator.

The procedure for granting Off-Site Parking Permits by the Zoning Administrator shall be administrative, provided that all of the requirements of this title are met, and all of the following findings can be made by the Zoning Administrator:

- (a) That the establishment or operation of the off-site parking, under the circumstances of the particular case, are essential or desirable to the public convenience or welfare;
- (b) That the off-site parking will not be detrimental to any of the following:
  - (1) The health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood of such proposed off-site parking;
  - (2) Property or improvements in the neighborhood of such proposed off-site parking; or
  - (3) The general welfare of the City;
- (c) That the off-site parking will not impair the integrity and character of the zoning district;
- (d) That the off-site parking is in keeping with the purposes and intent of this title; and

(e) That those sites providing parking for events at sports or entertainment venues located north of State Highway 101, are in compliance with the requirements of any City adopted parking program for this area.

The Zoning Administrator may designate such conditions in connection with the Off-Site Parking Permit as deemed necessary to secure the purposes of this title, and may require guarantees and evidence of compliance with conditions.

18.86.050 Appeals.

In the event the applicant or others affected by the decision are not satisfied with the decision of the Zoning Administrator, within seven calendar days following such decision, a written appeal may be made to the Planning Commission. In the event that there is any dissatisfaction with the action of the Planning Commission, the applicant, others affected, or the City Council may appeal the action to the City Council, in accordance with the appeal provisions for Use Permits set forth in Section 18.110.070 of the Santa Clara City Code.

18.86.060 Off-Site Parking Permit requirements.

Off-Site Parking Permits shall be managed by the owner of the property providing the off-site parking. The property owner responsible for the Off-Site Parking Permit shall ensure compliance with the following requirements:

(a) Conditions of Approval

(b) Adopted Parking Program: Off-Site Parking Permits for sites providing parking for events at sports and entertainment venues located north of State Highway 101 shall comply with all requirements of any City Council adopted parking program for this area, including payment of any fees necessary to mitigate the costs affiliated with the parking program.

(c) Waste and Recycling Receptacles: Waste and recycling receptacles shall be provided for use by individuals utilizing the off-site parking lot. Any waste or recyclables blown or thrown into the public right-of-way, or onto adjacent properties by individuals utilizing the off-site parking lot, shall be picked up in a timely manner.

(d) Lighting: Adequate lighting facilities shall be provided and maintained on the off-site parking lot, consistent with the site plan approved with the Off-Site Parking Permit application. Any such lighting shall be directed and maintained so as not to interfere with persons using any public street or improvement, or unnecessarily with the use and enjoyment of any adjacent property.

(e) Signage: The off-site parking lot shall not be used for advertising, unless otherwise permitted in an adopted parking program. A sign or signs may be installed to indicate the name of the business, activity or event that the parking lot serves. Necessary traffic-control and disclaimer signs are also permitted and not included in the maximum permissible sign area. All signs shall be shown on the site plan. The area of all signs shall be calculated in accordance with Chapter 18 of the Santa Clara City Code. The maximum permissible signage shall be one sign per each entrance to the parking lot, with the maximum size of each sign not exceeding twelve (12) square feet, excluding the temporary and permanent signage otherwise allowed for the primary use on the property and any temporary signage permitted as a component of an adopted parking program.

(f) Security: For special event parking, security may be required for the duration of the event.

(g) Parking lot surfacing: The area reserved for parking and all vehicular and pedestrian access ways shall be appropriately surfaced to the satisfaction of the Zoning Administrator.



(h) Landscaping: Existing site landscaping and landscape features, such as water features and sculptures, shall be maintained consistent with the requirements of Title 18 of the Santa Clara City Code.

(i) Existing nonconforming conditions: For purposes of this chapter, physical conditions on the site that are legal nonconforming with respect to current standards of the applicable zoning district shall not be required to be rectified as a condition of permit approval.

18.86.070 Revocation.

Any Off-Site Parking Permit granted in accordance with the terms of this title may be revoked if the basis for approval is found to be invalid or if any of the conditions of approval of such permit are violated, or if any law or ordinance is violated in connection therewith, or if the Zoning Administrator, in concurrence with the Planning Commission and the City Council, finds that the continuance of the Off-Site Parking Permit will endanger the public health, safety or welfare.

At the initiation of the Zoning Administrator, the Planning Commission shall hold a hearing on any proposed revocation after giving written notice to the permittee at least ten (10) days prior to the hearing. Following the hearing, the Planning Commission shall submit its recommendations to the City Council. The City Council shall act on the revocation within forty-five (45) days after receipt of the recommendations of the Planning Commission.

2. Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The City of Santa Clara, California, hereby declares that it

would have passed this resolution and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

3. Effective date. This resolution shall become effective immediately.

\\

\\

\\

\\

\\

\\

\\

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2010, BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ABSTAINED: COMMISSIONERS:

ATTEST: \_\_\_\_\_  
KEVIN L. RILEY, AICP  
DIRECTOR OF PLANNING & INSPECTION  
CITY OF SANTA CLARA

Attachments Incorporated by Reference: None

EXHIBIT "Draft PD Ord Rev"

**Chapter 18.54**  
**Regulations for PD –**  
**Planned Development and Combined Zoning Districts**

**Sections:**

- 18.54.010 Application.
- 18.54.020 Intent.
- 18.54.030 Permitted uses.
- 18.54.040 Uses not permitted.
- 18.54.050 Design standards.
- 18.54.060 Development plan.
- 18.54.070 Development schedule.
- 18.54.080 Community ownership projects.
- 18.54.090 Community ownership conversion.
- 18.54.100 Investment apartments – Application and purpose.
- 18.54.110 Investment apartments – Definitions.
- 18.54.120 Investment apartments – Application of the general plan.
- 18.54.130 Investment apartments – Subdivision.
- 18.54.140 Investment apartments – Tentative map requirements.
- 18.54.150 Investment apartments – Development standards – Minimum contents of the CC&Rs.
- 18.54.160 Investment apartments – Improvement plan.
- 18.54.170 Investment apartments – Inspections.

**18.54.010 Application.**

The regulations set forth in this chapter shall apply to all PD zoning districts. (Zoning Ord. § 27-1).

**18.54.020 Intent.**

This district is intended to accommodate development that is compatible with the existing community and that:

- (a) Integrates uses that are not permitted to be combined in other zone districts; or
- (b) Utilizes imaginative planning and design concepts that would be restricted in other zone districts; or
- (c) Subdivides land or air space in a manner that results in units not having the required frontage on a dedicated public street; or
- (d) Creates a community ownership project. (See definition of "community ownership project" in SCCC 18.06.010.)

Residential community ownership projects require that each household, with a common ownership interest in its project, coupled with a right of ownership or occupancy in its own dwelling unit, be bound together in an owner's association which is responsible for

the maintenance and management of the common area and the improvements within the common area of the project. This mix of individual and common ownership is different from conventional and familiar patterns of housing in the City of Santa Clara. Community ownership in residential projects can provide new opportunities of home ownership at a lower cost than single-family units, and provide housing for people who prefer not to have the responsibility of maintaining a separate lot and building. There are also potential problems associated with residential community ownership, such as owner expectations, maintenance expenses for the entire common area, and the conversion of unsuitable apartments.

To insure that such problems are avoided in both the short and long term, it is the express intent of the City of Santa Clara to treat community ownership projects differently from rentals and to establish rules and standards thereto regulating the construction and conversion to community ownership projects in the City of Santa Clara. (Zoning Ord. § 27-2).

**18.54.030 Permitted uses.**

Any and all uses are permitted in this district except those excluded in SCCC 18.54.040; provided further, that such use or uses and their location shall be shown in the development plan of the applicant for the particular planned development zoning district as approved. Any change in use requires a rezoning. (Zoning Ord. § 27-3).

**18.54.040 Uses not permitted.**

Those industrial uses limited to MH zoning districts or involving outdoor storage on more than ten percent of the lot area shall not be allowed in planned developments. (Zoning Ord. § 27-4).

**18.54.050 Design standards.**

The proposed development plan must be designed to provide an environment of a stable, desirable character not out of harmony with its surrounding neighborhood. It must meet the most restrictive standards of this title and the corresponding existing or proposed General Plan Land Use designation with respect to ~~open space, circulation, residential density, non-residential intensity of uses, off-street parking~~ and other conditions pertinent to the proposed use in such a way as to form a harmonious, integrated project of sufficient unity and architectural quality to justify the mixture of normally separated uses or to justify certain exceptions to the normal regulations of this title. These regulations include, but are not limited to the following: on-site parking, landscaping, building lot coverage, height limits, setback requirements, required distances, and buffering between residential and commercial development.

(a) The number of dwelling units which are proposed shall not exceed the number of dwelling units which would normally be permitted in the area under consideration as indicated on the general plan.

~~(b) The general plan indicates the density (number of dwelling units) permitted. This title then indicates the zoning district which would permit a particular density. The maximum~~

~~building coverage for each proposed use within the planned development shall not exceed the maximum coverage allowed for the particular use or uses in the appropriate zoning district. (Zoning Ord. § 27-5).~~

#### **18.54.060 Development plan.**

An application for a planned development zoning district shall include and be accompanied by a development plan which, if approved by the City Council, shall become a part of the zoning map of the City of Santa Clara as provided for by SCCC 18.04.030.

(a) Changes in the development plan shall be considered as changes in the zoning map and shall be made in accordance with the procedures set forth in Chapter 18.112 SCCC.

(b) The development plan shall include:

- (1) A map showing any and all street systems and lot designs within the proposed planned development zoning district, any area proposed to be dedicated or reserved for public open space, parkways, common open space, playground, school sites, public buildings and other such uses. Compliance with this requirement shall not be construed to relieve the applicant from compliance with the subdivision ordinance or any other applicable ordinance of the City of Santa Clara.
- (2) If required by the Zoning Administrator of the City of Santa Clara, a map showing the topography of the proposed district at one-foot contour intervals shall be submitted.
- (3) A general land use plan for the proposed district delimiting the area of each of the proposed uses.
- (4) A fully dimensioned plot plan for each building site or sites in the proposed planned development zoning district. The required plot plan shall show the exact location of all existing and/or proposed buildings, indicating maximum and minimum distances between buildings, and between buildings and property or building sites, and the location of outdoor storage areas.
- (5) An ~~off-street~~ on-site parking and loading plan drawn to scale shall be submitted. The number of required ~~off-street~~ on-site parking spaces shall be the same as required for the particular uses in the zones in which they are otherwise permitted unless exceptions are granted under the PD rezone, as discussed below. Required parking spaces shall conform to all the City of Santa Clara off-street on-site parking standards. The number and size of on-site parking spaces may be altered as part of the development plan when found to be instrumental in achieving the objectives of the PD zoning plan, and the overall objectives of the City as provided in the General Plan. Required parking may also be provided off-site, consistent with the requirements of Chapter 18.86, Off-Site Parking Provisions.
- (6) Elevations and/or perspective drawings of all proposed structures drawn to scale. The purpose of such drawings is to indicate the height of

- proposed buildings, materials to be used, and the general appearance of the existing and/or proposed structures so that the entire development will have architectural unity and be in harmony with surrounding developments.
- (7) When the project involves the conversion of an existing structure to a community housing project, complete as-built drawings may be required by the Zoning Administrator. (Zoning Ord. § 27-6).

#### **18.54.070 Development schedule.**

(a) Construction of the planned development must begin within two years of final approval of the City Council.

(b) Extension of Time Limits. For good cause shown by the property developer, extensions of time may be granted for a period not to exceed two years for each extension. A request for an extension of time shall be made in writing prior to the expiration of the original time schedule or subsequent extensions granted for the development. The Planning Commission may, with or without a public hearing, recommend for or against an extension of time. Upon receipt of the recommendation of the Planning Commission, the City Council may change or extend the time limits imposed by the development schedule, or leave the schedule unchanged as it deems necessary to secure the purposes of this title. (Zoning Ord. § 27-7).

#### **18.54.080 Community ownership projects.**

In addition to the requirements of SCCC 18.54.050 and 18.54.060, the following shall apply to community ownership projects (both new and conversions). In the event of a conflict in requirements, the requirements set forth in this section shall control over SCCC 18.54.050 and 18.54.060.

(a) Physical Standards.

- (1) ~~Maximum building coverage, landscaped area, and lot area per dwelling unit for new residential projects shall all be the same as those required in the corresponding residential (R) zone district.~~ The density of the proposed project shall determine the corresponding zone.
- (2) ~~Off street~~ On-site parking shall be provided as required in the corresponding residential (R) zone district and by City Council policy, except as permitted by Section 18.54.060(b)(5). At least ten percent of these spaces shall be conveniently arranged and assigned to visitors and the general use of the residents.
- (3) Each dwelling unit must have a separate circuit breaker panel and shut-off valves for all plumbing fixtures and gas supply. In addition, all newly constructed projects shall have individual-dwelling-unit meters for all utilities except water. Individual-unit meters for water may be installed at the option of the developer.
- (4) All permanent mechanical equipment and major domestic appliances including, but not limited to, dishwashers, washing machines, and air conditioning units, determined by the Building Official to be a potential



- source of vibration or noise, shall be shock-mounted, isolated from the floor and ceiling, or otherwise installed in a manner approved by the Building Official to lessen the transmission of vibration and noise.
- (5) The walls and floor/ceilings separating dwelling units must meet the applicable fire wall and sound transmission criteria found in the Uniform Building Code, as adopted and amended by the City of Santa Clara, in effect at the time of approval of PD zoning. If architectural plans are available and sufficient in detail, the Building Official may determine the sound transmission class based on laboratory tests of similar designs. If, for any reason, the Building Official is unable to make such a determination, field testing of an existing building shall be made by an acoustical engineer (or professional acoustician) acceptable to the Building Official, and said testing shall be based on a representative sample of walls and ceiling/floors.
  - (6) The Life Safety System, as adopted in Chapter 15.60 SCCC, and the applicable fire safety requirements found in the Uniform Building and Fire Codes, as adopted and amended by the City of Santa Clara, in effect at the time of approval of PD zoning shall be provided.

(b) Maintenance. In order to protect the public health, safety, and welfare, and in order to avoid disproportionate public expense, the owners' association shall be responsible for property maintenance of the common area (including, but not limited to, property and facilities) and for the activities necessary to maintain operation for the community ownership project as approved. Said maintenance is dependent on the payment by the unit owners of assessments imposed by the owners' association.

It is imperative that the unit owner in a community ownership project be held strictly accountable for his/her share of the costs expended by the owners' association for the health, safety, and welfare of the project. To the extent permitted by law, to accomplish said objective of accountability for health, safety, and welfare matters, the unit owner shall be subject to having a lien placed against his/her unit by the owners' association. Said imposition of a lien may occur in the event that the unit owner fails to pay for his/her share of expenses incurred by the owners' association in providing for the health, safety, and welfare of the project. The City encourages the developer to give notice of said authority of the owners' association to impose said lien on the individual unit in the organizational documents. Said authority to impose a lien is necessary to assure the owners' association that a unit owner cannot refuse to accept his/her responsibility to pay for expenditures pertaining to the health, safety, and welfare of the community ownership project by refusing to pay assessments imposed by the owners' association for said purposes.

(c) Organizational Documents.

- (1) Prior to approval of final map, the organizational documents shall be reviewed and approved by the City Attorney. Absent exigent circumstances and if no action is taken by the City Attorney within forty-five (45) days after a complete set of documents has been duly filed with him, the organizational documents shall be deemed approved. For

purposes of this section, the phrase "action by the City Attorney" may include any of the following: providing preliminary comments and review, requiring modifications to the organizational documents or meeting with the drafter of the organizational documents.

- (2) The organizational documents shall provide that the City, at its option, has the right and authority to veto any amendment to the organizational documents that would adversely affect the long-term maintenance of the project structure or its common areas. To enable the City to exercise said optional veto, the organizational documents shall provide that any amendment shall not become effective until sixty (60) days after notice of such proposed action is filed with the City Council and the Council has not vetoed the amendment. (Ord. 1832 § 1, 3-4-08; Zoning Ord. § 27-8).

#### **18.54.090 Community ownership conversion.**

In addition to those requirements set forth in SCCC 18.54.070 and 18.54.080, the following requirements shall apply to conversion of a residential rental project to a community ownership project.

(a) The conversion of a rental project to a community ownership project presents potential problems due to the fact that the structure may not have been originally designed and constructed for community ownership use. In reviewing applications for conversions, the City of Santa Clara may consider not only the specific standards required of all community ownership projects, but also the following considerations, as applicable, to the type of project.

- (1) The condition of the structure and major mechanical facilities.
- (2) Size of units.
- (3) Open space and recreational facilities.
- (4) Adequacy of on-site parking spaces in relation to unit size and potential occupancy. There shall be a requirement that two parking spaces for each dwelling unit be maintained, except as permitted by Section 18.54.060(b)(5). Tandem parking may be considered as justification for a parking variance reduction in certain cases.
- (5) The impact of conversion on existing tenants and proposed tenant protection agreements. Ability of residential tenants to find equivalent housing in the City for equivalent rent.
- (6) The impact on the City's rental housing market.
- (7) The impact on the public school system.
- (8) Where there are significant open spaces, recreational facilities, and/or maintenance responsibilities, a conversion request shall be evaluated only if the apartment complex has over twenty-five (25) units.
- (9) Existing roofs less than two years of age are exempted from required fire-resistive material.

If, in reviewing these considerations, the City finds that the proposed conversion is unsuitable for community ownership, the City shall deny the rezoning application and not approve the tentative map.

(b) The conversion of a rental project to a community project presents potential problems for long-term tenant rental accommodations in the City. It is the City Council policy and determination that if the number of rental dwellings in the City drops to forty percent (40%) or less of the total dwellings according to results of hereinafter described tracking system, while such condition persists further conversion of a rental project to a community ownership project is disallowed. Subject to the approval of the City Council, the City Manager or designee shall create and maintain a tracking system that will provide their best available estimates of the tenure of both the existing dwellings in the City and of the approved but not yet converted condominiums and projections of new construction. For all conversion approvals after May 31, 1983, the converter shall report in writing to the City staff every six months on the status of the number of units sold, the number of units available for rental, and the number of existing tenants purchasing units. The report shall continue until it is reported that the final unit was sold. The tracking system is to be implemented administratively.

(c) Under circumstances where conversions are not disallowed, the applicant shall submit proposed leases and other agreements, to be enforceable by the owners and tenants, containing at least the following minimum tenant protection requirements in order that the City Council may make a determination and be assured that the appropriate requirements, including the following minimum requirements, have been or will be complied with.

- (1) Each tenant has been or will be given one hundred eighty (180) days' written notice of the applicant's intention to convert prior to termination of tenancy due to the conversion or proposed conversion. This provision shall not alter or abridge the rights or obligations of the parties in performance of their covenants, including, but not limited to, the provision of services, payment of rent, or the obligations imposed by Sections 1941, 1941.1 and 1941.2 of the California Civil Code.
- (2) Each tenant has been or will be given notice of an exclusive right to contract for the purchase of his/her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than ninety (90) days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the California Business and Professions Code, unless the tenant has given prior written notice of his/her intention not to exercise the right.
- (3) Each tenant has been or will be given notice of an exclusive right to lease tenant's present unit in the conversion project. The right shall run for a period of not less than sixty (60) days following City Council approval of PD zoning. Except as otherwise agreed by tenant, each lease document shall be consistent with this subsection (c) and City Council approved conditions, and shall so provide.
- (4) Each tenant at the time of City Council approval of PD zoning shall be offered such a lease at the same initial rent and on similar terms and

conditions as tenant's then existing lease except that duration shall be at least one year.

- (5) Each tenant at the time of City Council approval of PD zoning who is age sixty-two (62) or older shall be offered such a lease of at least five years.
- (6) Each tenant at the time of City Council approval of PD zoning who has a child or children living with the tenant and enrolled in grades first through sixth shall be offered a lease long enough to allow those children to complete sixth grade. No such lease need exceed six years.
- (7) The above lease shall contain a provision limiting rent increases to no more than the percentage increase in the San Francisco – Oakland Consumer Price Index for all Urban Consumers (July 1st to June 30th) or its successor index.
- (8) Each tenant at the time of City Council approval of PD zoning who does not purchase a unit will be paid a moving allowance prior to relocation. The allowance shall be based on the average of bids obtained by the converter from California-Public-Utility-regulated moving companies for moving possessions of tenants from at least three units which are typical in features with others in the conversion project (such as three-bedroom, two-bedroom, one-bedroom) and with the moves to be for a distance of up to twenty (20) miles and not less than fifteen (15) miles. The bids shall be obtained by the converter within six months of the move.
- (9) Each tenant, at the time of City Council approval of PD zoning, who purchases a unit will be given at least a seven percent price discount plus an optional three percent "as is" discount for accepting existing appliances, floor coverings, and draperies.

(d) The applicant shall submit a schedule of conversion timing designed to reduce the number of displaced tenants at any one time to a level that can be assimilated by available rental housing within a radius of ten miles of the conversion project.

(e) A report on the physical condition of the planned conversion and estimated unit owner payments for capital improvements, repairs and maintenance for both the common area and the individual units shall be given by the applicant to potential unit purchasers. The report shall be based on a structural analysis which describes the condition of the following major physical elements of the project: foundations, walls and roofs, mechanical equipment, recreation facilities, parking facilities, and any appliance.

- (1) The report shall estimate, to the best knowledge of the applicant, the approximate date when each element will require replacement and the cost of such replacement. In addition, the applicant's report shall estimate the ongoing maintenance and repair costs to the buyer of the common area, the cost of utility payments that will be billed to the buyer as an individual, and other costs necessary for normal occupancy.
- (2) Said report requirement is expressly intended to realistically apprise a potential buyer of costs he/she may reasonably anticipate with respect to the purchase and maintenance of a unit in community ownership project.

(f) The City shall complete, at the applicant's expense, a pre-sale inspection of a planned conversion project for compliance with the Housing Codes, and all corrective actions must be made, agreements executed, and/or bonds posted to cover such actions, prior to sale.

(g) The applicant shall include a list of all known tenants' names and addresses with submission of the request for rezoning. Subsequently, the City may notify through mailing all known tenants of the proposed rezoning at least ten days prior to the rezoning hearing. This notification may also inform the tenants of their future rights and alternatives if the conversion is approved. The failure to mail such notice to all of said persons shall not operate to divest the City of jurisdiction to conduct any hearing required to be held.

(h) Commencement of construction for purposes of SCCC 18.54.070 to a community ownership conversion shall mean the completion of the conversion of at least fifteen percent (15%) of the project units within that time period. Where time limits are not met for purpose of commencement of construction, conversion approvals shall no longer be effective unless subjected to a review by the Planning Commission and another separate approval by the City Council is received. Approvals may be further conditioned. (Zoning Ord. § 27-9).

**18.54.100 Investment apartments – Application and purpose.**

Except where the context would indicate otherwise, the provisions of Chapter 18.54 SCCC apply to investment apartments. It is the intent of the City to allow a form of ownership of rental family housing combining separate ownership of multiple rental dwelling units with common ownership by the associated unit owners of the land and buildings where such units are located, in the expectation that such form of ownership will promote a higher degree of ownership concern for property maintenance than is commonly associated with multiple-family rental housing. It is further the purpose of these sections to promote a high standard of maintenance of such developments. Of particular concern on conversions of existing apartment projects are fire safety, building security (solid-core doors with door viewers and deadbolt locks), off-street parking, open space, and landscaping. On new investment apartment projects, the provisions of the then-current Uniform Codes and this title applicable to new construction will apply. (Zoning Ord. § 27-10).

**18.54.110 Investment apartments – Definitions.**

"Investment apartments" and "investment apartment project" are defined in SCCC 18.06.010. (Zoning Ord. § 27-11).

**18.54.120 Investment apartments – Application of the general plan.**

Because the conversion of apartments to an investment apartment project does not result in a reduction in the City's supply of rental housing, any provision in the general plan of the City that is designed to restrict the conversion of apartments to condominiums or any other form of common ownership project shall be deemed not to apply to investment apartments. (Zoning Ord. § 27-12).

**18.54.130 Investment apartments – Subdivision.**

The construction of or the conversion of existing single-owner(s) apartments to investment apartments as described in SCCC 18.06.010 is a subdivision as defined herein in these sections pertaining to investment apartments. Investment apartments shall be consistent with the provisions for condominiums in SCCC 17.05.010 and the Subdivision Map Act (California Government Code Section 66410 et seq.). In addition to such requirements as may be imposed by these sections pertaining to investment apartments, a subdivision of property in the manner described in SCCC 18.54.110 shall be conditioned upon the following:

(a) Every owner of units shall own as an appurtenance to such units, either (1) an undivided interest in the common areas and facilities of the entire project (or of the tract in which the ownership is located) or (2) a share in the corporation or voting membership in an association owning the common areas and facilities of the entire project (or of the tract in which the ownership is located).

(b) No unit in the development shall be sold until a corporation, association, property owners' group, or similar entity has been created with the rights to assess all the properties that are jointly owned with interests in the common areas and facilities in the entire development (or in the tract that is part of the entire development) to meet the expenses of such entity, and with the authority to control, and the duty to maintain, all of said mutually available features of the development or tract portion thereof. Such entity shall operate under recorded conditions, covenants, and restrictions (CC&Rs) that shall include compulsory membership of all owners of units and flexibility of assessments to meet changing costs of maintenance, repairs, services, and the rental/leasing of all units within the property area.

(c) The CC&Rs required herein shall be subject to review and approval by the Planning Commission and City Council. They shall be in a form prohibiting rescission or modification without the prior written approval of the City.

(d) No real property interest shall be divided in ownership unless it is first recorded as a separate unit on a recorded final map. (Zoning Ord. § 27-13).

**18.54.140 Investment apartments – Tentative map requirements.**

(a) Any application for approval of a tentative map for investment apartments shall be accompanied by proposed CC&Rs and a property improvement plan in accordance with this chapter.

(b) Prior to City Council consideration of a final map, CC&Rs shall be reviewed and approved by the City Attorney's office pursuant to SCCC 18.54.080(c)(1) and the City's planning division.

(c) Every tentative map for investment apartments shall be subject to the condition that, prior to approval of the final map and prior to conversion and sale of units, the applicant

shall be responsible for obtaining permits and inspections of the subject property by personnel of the appropriate City department as necessary to determine compliance with the requirements imposed by the City in the improvement plan.

(d) Prior to the sale of each block of units, applicant shall file with the City's inspection division a current structural pest control report issued by a licensed structural pest control operator, showing the subject property to be free of termites, dry rot, fungi, and damage therefrom. Such a report shall be deemed current for not more than ninety (90) days following the date of the inspection. (Zoning Ord. § 27-14).

**18.54.150 Investment apartments – Development standards – Minimum contents of the CC&Rs.**

The establishment of an investment apartment project shall be subject to the following requirements:

(a) In a conversion situation, an application for a planned development (PD) zoning district shall include and be accompanied by an improvement plan pursuant to SCCC 18.54.160. The Planning and Building Inspection Department may also require an improvement plan for new development if it determines additional information is needed to augment the information submitted with the zoning application. If the improvement plan is approved by the City Council, it shall become part of the zoning map of the City as provided for by SCCC 18.04.030. Changes in the improvement plan shall be considered as changes in the zoning map and shall be made in accordance with the procedures set forth in Chapter 18.112 SCCC.

(b) In addition to any other condition required, a condition of approval shall be that CC&Rs are submitted to and approved by the City prior to approval of the final map by the City Council. In reviewing and approving said CC&Rs, the following additional provisions and conditions shall be considered mandatory:

- (1) Provision is to be made for compliance with the terms, conditions, and provisions of the PD zoning approval.
- (2) Provision shall be made for professional management of the investment apartment complex. This shall include provision for an on-site office staffed on a full-time basis during normal business hours. The investors and owners shall be required to maintain continuously on file with the Planning and Inspection Department of the City the name and mailing address of the manager.
- (3) Provision shall be made for the service on the manager of any notice, order, or summons (collectively referred to as "notice") by the City or other party. Said notice shall be valid and binding on all of the associated owners with respect to the enforcement actions by the City.
- (4) Provision shall be made for the recording of the name and address of any successors to the responsible management.
- (5) Provision shall be made for fixing and determining responsibility for all service and utility connections.

- (6) Provision shall be made for responsibility for maintaining all common walls and structures, and for collection of the cost of repair or maintenance thereof. The associated owners shall collectively be responsible for maintenance and management expenses of all grounds, buildings, and structures on the project site, excluding only the interior surfaces of the dwelling units.
- (7) Provisions shall be made requiring management to be responsible for compliance with all terms, conditions, and provisions of City approval, any precise plan approval, and compliance with the zoning, building, and other ordinances of the City.
- (8) Provision shall be made that (a) all dwelling units shall be charged rent, (b) no person or persons, including investors or owners, shall be permitted to occupy any unit thereof without payment of rent thereto, or to own fewer than two units, and (c) each unit shall pay the homeowners' fees to assure proper maintenance of the project.
- (9) The CC&Rs shall contain a provision to the effect that use of the premises for investment apartment ownership purposes shall continue only during the existence and compliance with the terms and conditions of the approval of the investment apartment project.
- (10) There shall be no amendment to the CC&Rs without the prior approval of the City.
- (11) The CC&Rs shall contain a provision that the aforementioned enumerated conditions shall run in favor of the City, a municipal corporation, as well in favor of all other persons interested in said subdivision, and, in the event of violation, may be enforced by the City, but the failure of the City to so enforce shall not bar enforcement in any future proceedings brought by the City or any other interested party.

(c) All properties originally permitted as apartment structures shall be inspected by the City's inspection division and appropriate fees paid. The corrections set forth in the inspection division's inspection report shall be included in the proposed improvement plan.

(d) The subdivision of multiple-family residential units to investment apartment units shall result in individual ownership of not less than two dwelling units for each ownership (including, but not limited to, ownership by individual(s), firm(s), association(s), organization(s), partnership(s), corporation(s), etc.) and all dwelling units shall be maintained as rental units.

(e) Except as otherwise provided by this chapter, an existing multiple-family development that is subdivided into investment apartments may comply with the zoning regulations in effect at the time the development was originally constructed.

(f) Each dwelling unit within the investment apartment project shall be provided with a fire-warning system, in conformity with the Uniform Fire Code, as adopted by the City. Smoke detector(s) shall be required for each unit. Such fire-warning system shall be



defined as a pull station fire alarm system in each alcove area entryway to units. This alarm system is to have central station monitoring with off-site annunciation at the central monitoring station by individual building to minimize Fire Department response times. Prominent project "you are here" signs shall be permanently installed at each vehicle entrance to the project that clearly show building addresses and locations. Each building shall have an individual street address painted prominently on each building in contrasting colors to facilitate ease of identification.

(g) For conversions, parking shall be provided in the amount of no less than one and one-half parking spaces per unit, except as permitted by Section 18.54.060(b)(5).

(h) All investment apartment projects shall be reviewed and approved by the Planning Commission and City Council as a PD rezoning prior to the granting or issuance of the final map. (Zoning Ord. § 27-15).

**18.54.160 Investment apartments – Improvement plan.**

(a) An improvement plan for conversions (or as required by the planning division for new construction) is to be approved by the Planning Commission and City Council as a part of the PD rezoning. Emphasis shall be on the following matters: fire safety, building security, off-street parking, open space, and landscaping. The improvement plan shall also provide that all existing on-site facilities that are to be retained are to be brought to a reasonably sound and attractive condition.

(b) Any application for approval of an improvement plan as part of the PD zoning application shall be accompanied by the following:

- (1) A site plan showing all existing and proposed structures, including walls and fences, landscaping, irrigation systems (valve and sprinkler head location only), and driveways and parking areas.
- (2) A statement of the current and proposed ownership of the subject property and its current and proposed use.
- (3) A description of the property, including acreage and number of existing and proposed dwelling units categorized by the number of bedrooms in each unit.
- (4) A statement of proposed improvements and estimated costs as well as a projected time frame for all improvements.
- (5) A statement of the current and proposed management program, including structural maintenance and parking assignments.
- (6) A statement of current and projected rents extending to twelve (12) months after conversion to investment apartments.
- (7) A statement of proposed assessments and fees to be charged to owners of dwelling units after conversion to investment apartments. (Zoning Ord. § 27-16)

**EXHIBIT “Draft Off-site Parking Provisions Ord”**

## Chapter 18.86

### Off-Site Parking Provisions

#### Sections:

<u>18.86.010</u>	Off-Site parking provisions.
<u>18.86.020</u>	Intent.
<u>18.86.030</u>	Administrative Off-Site Parking Permit required.
<u>18.86.040</u>	Procedure for granting Off-Site Parking Permits by Zoning Administrator.
<u>18.86.050</u>	Appeals.
<u>18.86.060</u>	Off-Site Parking Permit requirements.
<u>18.86.070</u>	Revocation.

#### **18.86.010 Off-site parking provisions.**

Parking requirements for uses in all non-residential and mixed use zoning districts may be satisfied on other parcels or sites through approval of an Off-Site Parking Permit in compliance with the provisions in this title. The Off-Site Parking Permit shall be obtained by the owner of the property providing the off-site parking, subject to satisfying the specific parking demands on his/her own site. It is a violation of this Code to operate a parking lot for off-site uses without first obtaining an Off-Site Parking Permit and violators will be subject to code enforcement.

#### **18.86.020 Intent.**

The purpose of this chapter is to establish a process for conditionally allowing off-site parking as a means to satisfy on-site parking requirements for any use in non-residential and mixed use zoning districts. Off-site parking facilitates parking lot consolidation, and thereby may decrease the amount of impervious surfaces, increase space available for landscaping, and optimize land use efficiency. By allowing the flexibility to provide required parking off-site, this title enables more efficient use of existing parking spaces, in concert with enabling non-residential and mixed-use land uses to meet required peak parking demands.

#### **18.86.030 Administrative Off-Site Parking Permit required.**

All property owners, excluding the City or Redevelopment Agency, who seek to provide parking on their parcel or site for a project or use elsewhere, shall first obtain an administrative Off-Site Parking Permit. Applications for Off-Site Parking Permits shall include the following:

(a) Aerial photo(s) illustrating the boundaries of the parcel or site generating the parking demand and the parcel or site providing the off-site parking. Aerial photo(s) shall clearly indicate the distance between the project site and the off-site parking locations. A pedestrian path of travel between the parcels or sites shall also be illustrated on the aerial photo(s) using public rights of way or via easements on private property.

(b) A site plan for the site or parcel where the off-site parking will be provided. The site plan shall clearly illustrate all parking spaces, the dimensions of parking spaces, a

parking space count, any parking spaces reserved for on-site use(s), driveways, curb cuts, drive aisles, landscaping, signage and light standards.

(c) A written description of the off-site parking, which shall include, but not be limited to:

1. Days/hours of availability for off-site parking;
2. The term of the off-site parking availability (e.g. annual, until sale of property, etc);
3. Responsible party for off-site parking management;
4. A written statement acknowledging that designated off-site parking spaces are exclusively for the benefit of off-site uses during the days/hours designated for off-site use, and are not available for concurrent use to meet on-site parking demand;
5. Description/count of stalls available under the Off-Site Parking Permit; and,
6. Existing uses on the parcels or sites providing the off-site parking, and the associated parking requirement.

(d) Application submittal fees as indicated in the City's adopted Planning Application Fee Schedule for Zoning Administrator Actions.

#### **18.86.040 Procedure for granting Off-Site Parking Permits by the Zoning Administrator.**

The procedure for granting Off-Site Parking Permits by the Zoning Administrator shall be administrative, provided that all of the requirements of this title are met, and all of the following findings can be made by the Zoning Administrator:

(a) That the establishment or operation of the off-site parking, under the circumstances of the particular case, are essential or desirable to the public convenience or welfare;

(b) That the off-site parking will not be detrimental to any of the following:

- (1) The health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood of such proposed off-site parking;
- (2) Property or improvements in the neighborhood of such proposed off-site parking; or
- (3) The general welfare of the City;

(c) That the off-site parking will not impair the integrity and character of the zoning district;

(d) That the off-site parking is in keeping with the purposes and intent of this title; and

(e) That those sites providing parking for events at sports or entertainment venues located north of State Highway 101, are in compliance with the requirements of any City adopted parking program for this area.

The Zoning Administrator may designate such conditions in connection with the Off-Site Parking Permit as deemed necessary to secure the purposes of this title, and may require guarantees and evidence of compliance with conditions.

**18.86.050 Appeals.**

In the event the applicant or others affected by the decision are not satisfied with the decision of the Zoning Administrator, within seven calendar days following such decision, a written appeal may be made to the Planning Commission. In the event that there is any dissatisfaction with the action of the Planning Commission, the applicant, others affected, or the City Council may appeal the action to the City Council, in accordance with the appeal provisions for Use Permits set forth in Section 18.110.070 of the Santa Clara City Code.

**18.86.060 Off-Site Parking Permit requirements.**

Off-Site Parking Permits shall be managed by the owner of the property providing the off-site parking. The property owner responsible for the Off-Site Parking Permit shall ensure compliance with the following requirements:

(a) Conditions of Approval

(b) Adopted Parking Program: Off-Site Parking Permits for sites providing parking for events at sports and entertainment venues located north of State Highway 101 shall comply with all requirements of any City Council adopted parking program for this area, including payment of any fees necessary to mitigate the costs affiliated with the parking program.

(c) Waste and Recycling Receptacles: Waste and recycling receptacles shall be provided for use by individuals utilizing the off-site parking lot. Any waste or recyclables blown or thrown into the public right-of-way, or onto adjacent properties by individuals utilizing the off-site parking lot, shall be picked up in a timely manner.

(d) Lighting: Adequate lighting facilities shall be provided and maintained on the off-site parking lot, consistent with the site plan approved with the Off-Site Parking Permit application. Any such lighting shall be directed and maintained so as not to interfere with persons using any public street or improvement, or unnecessarily with the use and enjoyment of any adjacent property.

(e) Signage: The off-site parking lot shall not be used for advertising, unless otherwise permitted in an adopted parking program. A sign or signs may be installed to indicate the name of the business, activity or event that the parking lot serves. Necessary traffic-control and disclaimer signs are also permitted and not included in the maximum permissible sign area. All signs shall be shown on the site plan. The area of all signs shall be calculated in accordance with Chapter 18 of the Santa Clara City Code. The maximum permissible signage shall be one sign per each entrance to the parking lot, with the maximum size of each sign not exceeding twelve (12) square feet, excluding the temporary and permanent signage otherwise allowed for the primary use on the

property and any temporary signage permitted as a component of an adopted parking program.

(f) Security: For special event parking, security may be required for the duration of the event.

(g) Parking lot surfacing: The area reserved for parking and all vehicular and pedestrian access ways shall be appropriately surfaced to the satisfaction of the Zoning Administrator.

(h) Landscaping: Existing site landscaping and landscape features, such as water features and sculptures, shall be maintained consistent with the requirements of Title 18 of the Santa Clara City Code.

(i) Existing nonconforming conditions: For purposes of this chapter, physical conditions on the site that are legal nonconforming with respect to current standards of the applicable zoning district shall not be required to be rectified as a condition of permit approval.

**18.86.070 Revocation.**

Any Off-Site Parking Permit granted in accordance with the terms of this title may be revoked if the basis for approval is found to be invalid or if any of the conditions of approval of such permit are violated, or if any law or ordinance is violated in connection therewith, or if the Zoning Administrator, in concurrence with the Planning Commission and the City Council, finds that the continuance of the Off-Site Parking Permit will endanger the public health, safety or welfare.

At the initiation of the Zoning Administrator, the Planning Commission shall hold a hearing on any proposed revocation after giving written notice to the permittee at least ten (10) days prior to the hearing. Following the hearing, the Planning Commission shall submit its recommendations to the City Council. The City Council shall act on the revocation within forty-five (45) days after receipt of the recommendations of the Planning Commission.

**EXHIBIT "Current PD Zoning Ord"**

**Chapter 18.54**  
**REGULATIONS FOR PD –**  
**PLANNED DEVELOPMENT AND COMBINED ZONING DISTRICTS**

Sections:

- 18.54.010 Application.
- 18.54.020 Intent.
- 18.54.030 Permitted uses.
- 18.54.040 Uses not permitted.
- 18.54.050 Design standards.
- 18.54.060 Development plan.
- 18.54.070 Development schedule.
- 18.54.080 Community ownership projects.
- 18.54.090 Community ownership conversion.
- 18.54.100 Investment apartments – Application and purpose.
- 18.54.110 Investment apartments – Definitions.
- 18.54.120 Investment apartments – Application of the general plan.
- 18.54.130 Investment apartments – Subdivision.
- 18.54.140 Investment apartments – Tentative map requirements.
- 18.54.150 Investment apartments – Development standards – Minimum contents of the CC&Rs.
- 18.54.160 Investment apartments – Improvement plan.
- 18.54.170 Investment apartments – Inspections.

**18.54.010 Application.**

The regulations set forth in this chapter shall apply to all PD zoning districts. (Zoning Ord. § 27-1).

**18.54.020 Intent.**

This district is intended to accommodate development that is compatible with the existing community and that:

- (a) Integrates uses that are not permitted to be combined in other zone districts; or
- (b) Utilizes imaginative planning and design concepts that would be restricted in other zone districts; or
- (c) Subdivides land or air space in a manner that results in units not having the required frontage on a dedicated public street; or
- (d) Creates a community ownership project. (See definition of "community ownership project" in SCCC 18.06.010.)

Residential community ownership projects require that each household, with a common ownership interest in its project, coupled with a right of ownership or occupancy in its



own dwelling unit, be bound together in an owner's association which is responsible for the maintenance and management of the common area and the improvements within the common area of the project. This mix of individual and common ownership is different from conventional and familiar patterns of housing in the City of Santa Clara. Community ownership in residential projects can provide new opportunities of home ownership at a lower cost than single-family units, and provide housing for people who prefer not to have the responsibility of maintaining a separate lot and building. There are also potential problems associated with residential community ownership, such as owner expectations, maintenance expenses for the entire common area, and the conversion of unsuitable apartments.

To insure that such problems are avoided in both the short and long term, it is the express intent of the City of Santa Clara to treat community ownership projects differently from rentals and to establish rules and standards thereto regulating the construction and conversion to community ownership projects in the City of Santa Clara. (Zoning Ord. § 27-2).

**18.54.030 Permitted uses.**

Any and all uses are permitted in this district except those excluded in SCCC 18.54.040; provided further, that such use or uses and their location shall be shown in the development plan of the applicant for the particular planned development zoning district as approved. Any change in use requires a rezoning. (Zoning Ord. § 27-3).

**18.54.040 Uses not permitted.**

Those industrial uses limited to MH zoning districts or involving outdoor storage on more than ten percent of the lot area shall not be allowed in planned developments. (Zoning Ord. § 27-4).

**18.54.050 Design standards.**

The proposed development plan must be designed to provide an environment of a stable, desirable character not out of harmony with its surrounding neighborhood. It must meet the most restrictive standards of this title with respect to open space, circulation, density, off-street parking and other conditions pertinent to the proposed use in such a way as to form a harmonious, integrated project of sufficient unity and architectural quality to justify the mixture of normally separated uses or to justify certain exceptions to the normal regulations of this title. These regulations include, but are not limited to the following: height limits, setback requirements, required distances, and buffering between residential and commercial development.

(a) The number of dwelling units which are proposed shall not exceed the number of dwelling units which would normally be permitted in the area under consideration as indicated on the general plan.

(b) The general plan indicates the density (number of dwelling units) permitted. This title then indicates the zoning district which would permit a particular density. The maximum building coverage for each proposed use within the planned development shall not

exceed the maximum coverage allowed for the particular use or uses in the appropriate zoning district. (Zoning Ord. § 27-5).

**18.54.060 Development plan.**

An application for a planned development zoning district shall include and be accompanied by a development plan which, if approved by the City Council, shall become a part of the zoning map of the City of Santa Clara as provided for by SCCC 18.04.030.

(a) Changes in the development plan shall be considered as changes in the zoning map and shall be made in accordance with the procedures set forth in Chapter 18.112 SCCC.

(b) The development plan shall include:

(1) A map showing any and all street systems and lot designs within the proposed planned development zoning district, any area proposed to be dedicated or reserved for public open space, parkways, common open space, playground, school sites, public buildings and other such uses. Compliance with this requirement shall not be construed to relieve the applicant from compliance with the subdivision ordinance or any other applicable ordinance of the City of Santa Clara.

(2) If required by the Zoning Administrator of the City of Santa Clara, a map showing the topography of the proposed district at one-foot contour intervals shall be submitted.

(3) A general land use plan for the proposed district delimiting the area of each of the proposed uses.

(4) A fully dimensioned plot plan for each building site or sites in the proposed planned development zoning district. The required plot plan shall show the exact location of all existing and/or proposed buildings, indicating maximum and minimum distances between buildings, and between buildings and property or building sites, and the location of outdoor storage areas.

(5) An off-street parking and loading plan drawn to scale shall be submitted. The number of required off-street parking spaces shall be the same as required for the particular uses in the zones in which they are otherwise permitted. Required parking spaces shall conform to all the City of Santa Clara off-street parking standards.

(6) Elevations and/or perspective drawings of all proposed structures drawn to scale. The purpose of such drawings is to indicate the height of proposed buildings, materials to be used, and the general appearance of the existing and/or proposed structures so that the entire development will have architectural unity and be in harmony with surrounding developments.

(7) When the project involves the conversion of an existing structure to a community housing project, complete as-built drawings may be required by the Zoning Administrator. (Zoning Ord. § 27-6).

**18.54.070 Development schedule.**

(a) Construction of the planned development must begin within two years of final approval of the City Council.

(b) Extension of Time Limits. For good cause shown by the property developer, extensions of time may be granted for a period not to exceed two years for each extension. A request for an extension of time shall be made in writing prior to the expiration of the original time schedule or subsequent extensions granted for the development. The Planning Commission may, with or without a public hearing, recommend for or against an extension of time. Upon receipt of the recommendation of the Planning Commission, the City Council may change or extend the time limits imposed by the development schedule, or leave the schedule unchanged as it deems necessary to secure the purposes of this title. (Zoning Ord. § 27-7).

**18.54.080 Community ownership projects.**

In addition to the requirements of SCCC 18.54.050 and 18.54.060, the following shall apply to community ownership projects (both new and conversions). In the event of a conflict in requirements, the requirements set forth in this section shall control over SCCC 18.54.050 and 18.54.060.

(a) Physical Standards.

(1) Maximum building coverage, landscaped area, and lot area per dwelling unit for new residential projects shall all be the same as those required in the corresponding residential (R) zone district. The density of the proposed project shall determine the corresponding zone.

(2) Off-street parking shall be provided as required in the corresponding residential (R) zone district and by City Council policy. At least ten percent of these spaces shall be conveniently arranged and assigned to visitors and the general use of the residents.

(3) Each dwelling unit must have a separate circuit breaker panel and shut-off valves for all plumbing fixtures and gas supply. In addition, all newly constructed projects shall have individual-dwelling-unit meters for all utilities except water. Individual-unit meters for water may be installed at the option of the developer.

(4) All permanent mechanical equipment and major domestic appliances including, but not limited to, dishwashers, washing machines, and air conditioning units, determined by the Building Official to be a potential source of vibration or noise, shall be shock-mounted, isolated from the floor and ceiling, or otherwise installed in a manner approved by the Building Official to lessen the transmission of vibration and noise.

(5) The walls and floor/ceilings separating dwelling units must meet the applicable fire wall and sound transmission criteria found in the Uniform Building Code, as adopted and amended by the City of Santa Clara, in effect at the time of approval of PD zoning. If architectural plans are available and sufficient in detail, the Building Official may determine the sound transmission class based on laboratory tests of similar designs. If, for any reason, the Building Official is unable to make such a determination, field testing of an existing building shall be made by an acoustical engineer (or professional acoustician) acceptable to the Building Official, and said testing shall be based on a representative sample of walls and ceiling/floors.

(6) The Life Safety System, as adopted in Chapter 15.60 SCCC, and the applicable fire safety requirements found in the Uniform Building and Fire Codes, as adopted and amended by the City of Santa Clara, in effect at the time of approval of PD zoning shall be provided.

(b) Maintenance. In order to protect the public health, safety, and welfare, and in order to avoid disproportionate public expense, the owners' association shall be responsible for property maintenance of the common area (including, but not limited to, property and facilities) and for the activities necessary to maintain operation for the community ownership project as approved. Said maintenance is dependent on the payment by the unit owners of assessments imposed by the owners' association.

It is imperative that the unit owner in a community ownership project be held strictly accountable for his/her share of the costs expended by the owners' association for the health, safety, and welfare of the project. To the extent permitted by law, to accomplish said objective of accountability for health, safety, and welfare matters, the unit owner shall be subject to having a lien placed against his/her unit by the owners' association. Said imposition of a lien may occur in the event that the unit owner fails to pay for his/her share of expenses incurred by the owners' association in providing for the health, safety, and welfare of the project. The City encourages the developer to give notice of said authority of the owners' association to impose said lien on the individual unit in the organizational documents. Said authority to impose a lien is necessary to assure the owners' association that a unit owner cannot refuse to accept his/her responsibility to pay for expenditures pertaining to the health, safety, and welfare of the community ownership project by refusing to pay assessments imposed by the owners' association for said purposes.

(c) Organizational Documents.

(1) Prior to approval of final map, the organizational documents shall be reviewed and approved by the City Attorney. Absent exigent circumstances and if no action is taken by the City Attorney within forty-five (45) days after a complete set of documents has been duly filed with him, the organizational documents shall be deemed approved. For purposes of this section, the phrase "action by the City Attorney" may include any of the following: providing preliminary comments and review, requiring modifications to the organizational documents or meeting with the drafter of the organizational documents.

(2) The organizational documents shall provide that the City, at its option, has the right and authority to veto any amendment to the organizational documents that would adversely affect the long-term maintenance of the project structure or its common areas. To enable the City to exercise said optional veto, the organizational documents shall provide that any amendment shall not become effective until sixty (60) days after notice of such proposed action is filed with the City Council and the Council has not vetoed the amendment. (Ord. 1832 § 1, 3-4-08; Zoning Ord. § 27-8).

18.54.090 Community ownership conversion.

In addition to those requirements set forth in SCCC 18.54.070 and 18.54.080, the following requirements shall apply to conversion of a residential rental project to a community ownership project.

(a) The conversion of a rental project to a community ownership project presents potential problems due to the fact that the structure may not have been originally designed and constructed for community ownership use. In reviewing applications for conversions, the City of Santa Clara may consider not only the specific standards required of all community ownership projects, but also the following considerations, as applicable, to the type of project.

(1) The condition of the structure and major mechanical facilities.

(2) Size of units.

(3) Open space and recreational facilities.

(4) Adequacy of parking spaces in relation to unit size and potential occupancy. There shall be a requirement that two parking spaces for each dwelling unit be maintained. Tandem parking may be considered as justification for a parking variance.

(5) The impact of conversion on existing tenants and proposed tenant protection agreements. Ability of residential tenants to find equivalent housing in the City for equivalent rent.

(6) The impact on the City's rental housing market.

(7) The impact on the public school system.

(8) Where there are significant open spaces, recreational facilities, and/or maintenance responsibilities, a conversion request shall be evaluated only if the apartment complex has over twenty-five (25) units.

(9) Existing roofs less than two years of age are exempted from required fire-resistive material.

If, in reviewing these considerations, the City finds that the proposed conversion is unsuitable for community ownership, the City shall deny the rezoning application and not approve the tentative map.

(b) The conversion of a rental project to a community project presents potential problems for long-term tenant rental accommodations in the City. It is the City Council policy and determination that if the number of rental dwellings in the City drops to forty percent (40%) or less of the total dwellings according to results of hereinafter described tracking system, while such condition persists further conversion of a rental project to a community ownership project is disallowed. Subject to the approval of the City Council, the City Manager or designee shall create and maintain a tracking system that will provide their best available estimates of the tenure of both the existing dwellings in the City and of the approved but not yet converted condominiums and projections of new construction. For all conversion approvals after May 31, 1983, the converter shall report in writing to the City staff every six months on the status of the number of units sold, the number of units available for rental, and the number of existing tenants purchasing units. The report shall continue until it is reported that the final unit was sold. The tracking system is to be implemented administratively.

(c) Under circumstances where conversions are not disallowed, the applicant shall submit proposed leases and other agreements, to be enforceable by the owners and tenants, containing at least the following minimum tenant protection requirements in order that the City Council may make a determination and be assured that the appropriate requirements, including the following minimum requirements, have been or will be complied with.

(1) Each tenant has been or will be given one hundred eighty (180) days' written notice of the applicant's intention to convert prior to termination of tenancy due to the conversion or proposed conversion. This provision shall not alter or abridge the rights or obligations of the parties in performance of their covenants, including, but not limited to, the provision of services, payment of rent, or the obligations imposed by Sections 1941, 1941.1 and 1941.2 of the California Civil Code.

(2) Each tenant has been or will be given notice of an exclusive right to contract for the purchase of his/her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than ninety (90) days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the California Business and Professions Code, unless the tenant has given prior written notice of his/her intention not to exercise the right.

(3) Each tenant has been or will be given notice of an exclusive right to lease tenant's present unit in the conversion project. The right shall run for a period of not less than sixty (60) days following City Council approval of PD zoning. Except as otherwise agreed by tenant, each lease document shall be consistent with this subsection (c) and City Council approved conditions, and shall so provide.

(4) Each tenant at the time of City Council approval of PD zoning shall be offered such a lease at the same initial rent and on similar terms and conditions as tenant's then existing lease except that duration shall be at least one year.

(5) Each tenant at the time of City Council approval of PD zoning who is age sixty-two (62) or older shall be offered such a lease of at least five years.

(6) Each tenant at the time of City Council approval of PD zoning who has a child or children living with the tenant and enrolled in grades first through sixth shall be offered a lease long enough to allow those children to complete sixth grade. No such lease need exceed six years.

(7) The above lease shall contain a provision limiting rent increases to no more than the percentage increase in the San Francisco – Oakland Consumer Price Index for all Urban Consumers (July 1st to June 30th) or its successor index.

(8) Each tenant at the time of City Council approval of PD zoning who does not purchase a unit will be paid a moving allowance prior to relocation. The allowance shall be based on the average of bids obtained by the converter from California-Public-Utility-regulated moving companies for moving possessions of tenants from at least three units which are typical in features with others in the conversion project (such as three-bedroom, two-bedroom, one-bedroom) and with the moves to be for a distance of up to twenty (20) miles and not less than fifteen (15) miles. The bids shall be obtained by the converter within six months of the move.

(9) Each tenant, at the time of City Council approval of PD zoning, who purchases a unit will be given at least a seven percent price discount plus an optional three percent "as is" discount for accepting existing appliances, floor coverings, and draperies.

(d) The applicant shall submit a schedule of conversion timing designed to reduce the number of displaced tenants at any one time to a level that can be assimilated by available rental housing within a radius of ten miles of the conversion project.

(e) A report on the physical condition of the planned conversion and estimated unit owner payments for capital improvements, repairs and maintenance for both the common area and the individual units shall be given by the applicant to potential unit purchasers. The report shall be based on a structural analysis which describes the condition of the following major physical elements of the project: foundations, walls and roofs, mechanical equipment, recreation facilities, parking facilities, and any appliance.

(1) The report shall estimate, to the best knowledge of the applicant, the approximate date when each element will require replacement and the cost of such replacement. In addition, the applicant's report shall estimate the ongoing maintenance and repair costs to the buyer of the common area, the cost of utility payments that will be billed to the buyer as an individual, and other costs necessary for normal occupancy.

(2) Said report requirement is expressly intended to realistically apprise a potential buyer of costs he/she may reasonably anticipate with respect to the purchase and maintenance of a unit in community ownership project.

(f) The City shall complete, at the applicant's expense, a pre-sale inspection of a planned conversion project for compliance with the Housing Codes, and all corrective actions must be made, agreements executed, and/or bonds posted to cover such actions, prior to sale.

(g) The applicant shall include a list of all known tenants' names and addresses with submission of the request for rezoning. Subsequently, the City may notify through mailing all known tenants of the proposed rezoning at least ten days prior to the rezoning hearing. This notification may also inform the tenants of their future rights and alternatives if the conversion is approved. The failure to mail such notice to all of said persons shall not operate to divest the City of jurisdiction to conduct any hearing required to be held.

(h) Commencement of construction for purposes of SCCC 18.54.070 to a community ownership conversion shall mean the completion of the conversion of at least fifteen percent (15%) of the project units within that time period. Where time limits are not met for purpose of commencement of construction, conversion approvals shall no longer be effective unless subjected to a review by the Planning Commission and another separate approval by the City Council is received. Approvals may be further conditioned. (Zoning Ord. § 27-9).

**18.54.100 Investment apartments – Application and purpose.**

Except where the context would indicate otherwise, the provisions of Chapter 18.54 SCCC apply to investment apartments. It is the intent of the City to allow a form of ownership of rental family housing combining separate ownership of multiple rental dwelling units with common ownership by the associated unit owners of the land and buildings where such units are located, in the expectation that such form of ownership will promote a higher degree of ownership concern for property maintenance than is commonly associated with multiple-family rental housing. It is further the purpose of these sections to promote a high standard of maintenance of such developments. Of particular concern on conversions of existing apartment projects are fire safety, building security (solid-core doors with door viewers and deadbolt locks), off-street parking, open space, and landscaping. On new investment apartment projects, the provisions of the then-current Uniform Codes and this title applicable to new construction will apply. (Zoning Ord. § 27-10).

**18.54.110 Investment apartments – Definitions.**

"Investment apartments" and "investment apartment project" are defined in SCCC 18.06.010. (Zoning Ord. § 27-11).



**18.54.120 Investment apartments – Application of the general plan.**

Because the conversion of apartments to an investment apartment project does not result in a reduction in the City's supply of rental housing, any provision in the general plan of the City that is designed to restrict the conversion of apartments to condominiums or any other form of common ownership project shall be deemed not to apply to investment apartments. (Zoning Ord. § 27-12).

**18.54.130 Investment apartments – Subdivision.**

The construction of or the conversion of existing single-owner(s) apartments to investment apartments as described in SCCC 18.06.010 is a subdivision as defined herein in these sections pertaining to investment apartments. Investment apartments shall be consistent with the provisions for condominiums in SCCC 17.05.010 and the Subdivision Map Act (California Government Code Section 66410 et seq.). In addition to such requirements as may be imposed by these sections pertaining to investment apartments, a subdivision of property in the manner described in SCCC 18.54.110 shall be conditioned upon the following:

(a) Every owner of units shall own as an appurtenance to such units, either (1) an undivided interest in the common areas and facilities of the entire project (or of the tract in which the ownership is located) or (2) a share in the corporation or voting membership in an association owning the common areas and facilities of the entire project (or of the tract in which the ownership is located).

(b) No unit in the development shall be sold until a corporation, association, property owners' group, or similar entity has been created with the rights to assess all the properties that are jointly owned with interests in the common areas and facilities in the entire development (or in the tract that is part of the entire development) to meet the expenses of such entity, and with the authority to control, and the duty to maintain, all of said mutually available features of the development or tract portion thereof. Such entity shall operate under recorded conditions, covenants, and restrictions (CC&Rs) that shall include compulsory membership of all owners of units and flexibility of assessments to meet changing costs of maintenance, repairs, services, and the rental/leasing of all units within the property area.

(c) The CC&Rs required herein shall be subject to review and approval by the Planning Commission and City Council. They shall be in a form prohibiting rescission or modification without the prior written approval of the City.

(d) No real property interest shall be divided in ownership unless it is first recorded as a separate unit on a recorded final map. (Zoning Ord. § 27-13).

**18.54.140 Investment apartments – Tentative map requirements.**

(a) Any application for approval of a tentative map for investment apartments shall be accompanied by proposed CC&Rs and a property improvement plan in accordance with this chapter.

(b) Prior to City Council consideration of a final map, CC&Rs shall be reviewed and approved by the City Attorney's office pursuant to SCCC 18.54.080(c)(1) and the City's planning division.

(c) Every tentative map for investment apartments shall be subject to the condition that, prior to approval of the final map and prior to conversion and sale of units, the applicant shall be responsible for obtaining permits and inspections of the subject property by personnel of the appropriate City department as necessary to determine compliance with the requirements imposed by the City in the improvement plan.

(d) Prior to the sale of each block of units, applicant shall file with the City's inspection division a current structural pest control report issued by a licensed structural pest control operator, showing the subject property to be free of termites, dry rot, fungi, and damage therefrom. Such a report shall be deemed current for not more than ninety (90) days following the date of the inspection. (Zoning Ord. § 27-14).

**18.54.150 Investment apartments – Development standards – Minimum contents of the CC&Rs.**

The establishment of an investment apartment project shall be subject to the following requirements:

(a) In a conversion situation, an application for a planned development (PD) zoning district shall include and be accompanied by an improvement plan pursuant to SCCC 18.54.160. The Planning and Building Inspection Department may also require an improvement plan for new development if it determines additional information is needed to augment the information submitted with the zoning application. If the improvement plan is approved by the City Council, it shall become part of the zoning map of the City as provided for by SCCC 18.04.030. Changes in the improvement plan shall be considered as changes in the zoning map and shall be made in accordance with the procedures set forth in Chapter 18.112 SCCC.

(b) In addition to any other condition required, a condition of approval shall be that CC&Rs are submitted to and approved by the City prior to approval of the final map by the City Council. In reviewing and approving said CC&Rs, the following additional provisions and conditions shall be considered mandatory:

(1) Provision is to be made for compliance with the terms, conditions, and provisions of the PD zoning approval.

(2) Provision shall be made for professional management of the investment apartment complex. This shall include provision for an on-site office staffed on a full-time basis during normal business hours. The investors and owners shall be required to maintain continuously on file with the Planning and Inspection Department of the City the name and mailing address of the manager.

(3) Provision shall be made for the service on the manager of any notice, order, or summons (collectively referred to as "notice") by the City or other party. Said notice shall be valid and binding on all of the associated owners with respect to the enforcement actions by the City.

(4) Provision shall be made for the recording of the name and address of any successors to the responsible management.

(5) Provision shall be made for fixing and determining responsibility for all service and utility connections.

(6) Provision shall be made for responsibility for maintaining all common walls and structures, and for collection of the cost of repair or maintenance thereof. The associated owners shall collectively be responsible for maintenance and management expenses of all grounds, buildings, and structures on the project site, excluding only the interior surfaces of the dwelling units.

(7) Provisions shall be made requiring management to be responsible for compliance with all terms, conditions, and provisions of City approval, any precise plan approval, and compliance with the zoning, building, and other ordinances of the City.

(8) Provision shall be made that (a) all dwelling units shall be charged rent, (b) no person or persons, including investors or owners, shall be permitted to occupy any unit thereof without payment of rent thereto, or to own fewer than two units, and (c) each unit shall pay the homeowners' fees to assure proper maintenance of the project.

(9) The CC&Rs shall contain a provision to the effect that use of the premises for investment apartment ownership purposes shall continue only during the existence and compliance with the terms and conditions of the approval of the investment apartment project.

(10) There shall be no amendment to the CC&Rs without the prior approval of the City.

(11) The CC&Rs shall contain a provision that the aforementioned enumerated conditions shall run in favor of the City, a municipal corporation, as well in favor of all other persons interested in said subdivision, and, in the event of violation, may be enforced by the City, but the failure of the City to so enforce shall not bar enforcement in any future proceedings brought by the City or any other interested party.

(c) All properties originally permitted as apartment structures shall be inspected by the City's inspection division and appropriate fees paid. The corrections set forth in the inspection division's inspection report shall be included in the proposed improvement plan.

(d) The subdivision of multiple-family residential units to investment apartment units shall result in individual ownership of not less than two dwelling units for each

ownership (including, but not limited to, ownership by individual(s), firm(s), association(s), organization(s), partnership(s), corporation(s), etc.) and all dwelling units shall be maintained as rental units.

(e) Except as otherwise provided by this chapter, an existing multiple-family development that is subdivided into investment apartments may comply with the zoning regulations in effect at the time the development was originally constructed.

(f) Each dwelling unit within the investment apartment project shall be provided with a fire-warning system, in conformity with the Uniform Fire Code, as adopted by the City. Smoke detector(s) shall be required for each unit. Such fire-warning system shall be defined as a pull station fire alarm system in each alcove area entryway to units. This alarm system is to have central station monitoring with off-site annunciation at the central monitoring station by individual building to minimize Fire Department response times. Prominent project "you are here" signs shall be permanently installed at each vehicle entrance to the project that clearly show building addresses and locations. Each building shall have an individual street address painted prominently on each building in contrasting colors to facilitate ease of identification.

(g) For conversions, parking shall be provided in the amount of no less than one and one-half parking spaces per unit.

(h) All investment apartment projects shall be reviewed and approved by the Planning Commission and City Council as a PD rezoning prior to the granting or issuance of the final map. (Zoning Ord. § 27-15).

**18.54.160 Investment apartments – Improvement plan.**

(a) An improvement plan for conversions (or as required by the planning division for new construction) is to be approved by the Planning Commission and City Council as a part of the PD rezoning. Emphasis shall be on the following matters: fire safety, building security, off-street parking, open space, and landscaping. The improvement plan shall also provide that all existing on-site facilities that are to be retained are to be brought to a reasonably sound and attractive condition.

(b) Any application for approval of a improvement plan as part of the PD zoning application shall be accompanied by the following:

(1) A site plan showing all existing and proposed structures, including walls and fences, landscaping, irrigation systems (valve and sprinkler head location only), and driveways and parking areas.

(2) A statement of the current and proposed ownership of the subject property and its current and proposed use.

(3) A description of the property, including acreage and number of existing and proposed dwelling units categorized by the number of bedrooms in each unit.

(4) A statement of proposed improvements and estimated costs as well as a projected time frame for all improvements.

(5) A statement of the current and proposed management program, including structural maintenance and parking assignments.

(6) A statement of current and projected rents extending to twelve (12) months after conversion to investment apartments.

(7) A statement of proposed assessments and fees to be charged to owners of dwelling units after conversion to investment apartments. (Zoning Ord. § 27-16).

**18.54.170 Investment apartments – Inspections.**

As a condition to obtaining the inspections of the subject property required by this chapter, the applicant shall pay such inspection fees as may be established from time to time by resolution of the City Council. (Zoning Ord. § 27-17).

EXHIBIT "Corresp-6/17/10"

**NO CORRESPONDENCE WAS RECEIVED**

CITY OF SANTA CLARA

AGENDA MATERIAL ROUTE SHEET

Council Date: 7/13/10

SUBJECT: Council Adoption of Ordinances for Amendments to Title 18 of the Santa Clara City Code to:
1. Amend Chapter 18.54, "Regulations for PD - Planned Development and Combined Zoning Districts" to provide more flexibility in landscaping, building lot coverage, circulation and on-site parking requirements; and, 2. Add Chapter 18.86, "Off-site Parking Provisions" to provide a mechanism to facilitate the provision of required on-site parking in off-site parking lots.

PUBLICATION REQUIRED:

The attached Notice/Resolution/Ordinance is to be published \_\_\_ time(s) at least \_\_\_ days before the scheduled meeting/public hearing/bid opening/etc., which is scheduled for \_\_\_, 20\_\_.

AUTHORITY SOURCE FOR PUBLICATION REQUIREMENT:

Federal Codes:

Title \_\_\_ U.S.C. § \_\_\_
(Titles run 1 through 50)

California Codes:

Code \_\_\_ § \_\_\_
(i.e., Government, Street and Highway, Public Resources)

Federal Regulations:

Title \_\_\_ C.F.R. § \_\_\_
(Titles run 1 through 50)

California Regulations:

Title \_\_\_ California Code of Regulations § \_\_\_
(Titles run 1 through 28)

City Regulations:

City Charter § \_\_\_ City Code § \_\_\_
(i.e., 1310. Public Works Contracts. Notice published at least once at least ten days before bid opening)

Reviewed and approved:

1. As to City Functions, by

Kevin L. Riley
Department Head

2. As to Legality, by

Franklin Alh
City Attorney's Office/CAO Assign. No 10.0850

3. As to Environmental Impact Requirements, by

Kevin L. Riley
Director of Planning and Inspection

4. As to Substance, by

J. Sparacino
City Manager