

**DOCKETED**

<b>Docket Number:</b>	20-SPPE-01
<b>Project Title:</b>	Great Oaks South Backup Generating Facility Small Power Plant Exemption
<b>TN #:</b>	235164
<b>Document Title:</b>	Mimi Patterson email to Angela Wang re permits for GOS
<b>Description:</b>	Email Communications re City of San Jose's public outreach and permits for Great Oaks South SP15-031
<b>Filer:</b>	Rosemary Avalos
<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Public Advisor
<b>Submission Date:</b>	10/8/2020 1:30:35 PM
<b>Docketed Date:</b>	10/8/2020

**From:** [Mimi Patterson](#)  
**To:** [Wang, Angela](#)  
**Cc:** [Keyon, David](#); [Petersen, Adam](#); [Kelly, Patrick \(PBCE\)](#); [Manford, Robert](#); [Avalos, Rosemary@Energy](#); [Hughey, Rosalynn](#); [Nick Renna](#); [Patricia sheehan](#); [Bill Dunmyer](#); [Janelle Casanave](#); [kandlferguson@yahoo.com](#); [Lisa Campbell](#); [pmundt49@gmail.com](#); [kathy.bloom@sbcglobal.net](#); [timothy.rood@sanjoseca.gov](#); [Shannon Kaloczy](#)  
**Subject:** Re: Equinox Great Oaks Data Centers  
**Date:** Wednesday, September 30, 2020 8:33:06 PM

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Good evening Angela,

Thank you for your email and response to my inquiries. I appreciate you taking the time out of your busy schedule to address my inquiries, but I wanted to clarify who is the primary contact person for this project? It seems that since I emailed Tim Rood, Robert Manford and Rosalynn Hughey, I have been bounced from them to David Keyon and now to you. I am inquiring so that my emails will not continue to be tossed from person to another person within your department. I would like to maintain consistent answers and factual responses without redundancy, so if you can let me know who the best person to continue communication with, that would be great.

I reviewed the special use permit you emailed me, and the January 25, 2017 Director's Hearings Agenda and Meetings. I have a couple of questions:

- 1) Why is there no information within the minutes from the January 25, 2017 Director's hearing? It merely states "approved" for all items. Typical minutes include details of the people involved and attended, and the specific items on the agenda.
- 2) Based on the size and scope of the Project, entitlement should have been through a **Site Development Permit and not a Special Use Permit? Can you explain in detail why this happened?**
- 3) Harry Freitas was the Director of Planning, Building and Code Enforcement at that time. Why was Director Freitas allowed to grant entitlement for such an impactful project after only a **three-week review process which was internal only with no community outreach?** Let me emphasize this project was for three large data centers totaling 579,000 square feet on an 18.56 gross acre site. Mr. Freitas' abrupt and rash approval process lacked due diligence and fiduciary responsibility to any neighborhood and to any community. I would like an explanation on how this was allowed to happen without hesitation or question.
- 4) Can you explain why the City of San Jose Planning and Development Environment Reviewers permitted the removal of thirteen (13) on-site trees (nine (9) ordinance-size and four (4) non-ordinance size) heritage oak trees? It seems like the MND did not provide enough information and reason for these heritage oak trees to be removed.
- 5) You mentioned that due to the additional 15 generators, Equinix is now amending their special use permit application. Due to the time lapsed and magnitude of the design change, why is the City of San Jose Planning and Development Department allowing this as an amendment and not a new application process?

Again, thank you for your time and I look forward to hearing from you as soon as

possible.

Best,  
Mimi Patterson

On Wed, Sep 30, 2020 at 9:51 AM Wang, Angela <[Angela.Wang@sanjoseca.gov](mailto:Angela.Wang@sanjoseca.gov)> wrote:

Hello Mimi,

Thank you for the information. I am requested to respond to your questions regarding public outreach.

**SP15-031, approved in 2017:**

SP15-031 is a Special Use Permit to allow the construction of three data center buildings on a 18-6-gross acre site. SP15-031 was heard and approved at the 1/25/2017 Director's Hearing. The meeting notice was mailed out on 1/6/2017. The noticing radius was 500 feet from the project site. I think this is why a lot of your neighbors didn't receive the notice. There is no meeting minutes for Director's Hearings. But you can check the archived audio-recordings. It's available on-line: [https://sanjose.granicus.com/ViewPublisher.php?view\\_id=54](https://sanjose.granicus.com/ViewPublisher.php?view_id=54)

**SPA15-031-01, currently under review:**

SPA15-031-01 is a Special Use Permit Amendment application to amend the approved SP15-031 to allow more generators, reduce the project footprint and total square footage of the buildings (reduced about +/- 32,000 sf) and the associated design changes. The scope is not to propose a new development with three data center buildings but to amend this approved project. This is why we categorized it as a "Standard Development Proposal", not a "Large Development Proposal" and instructed the applicant to post a 2' x 3' sign. But since the project has received high public interest, we will apply the "Significant Community Interest Proposal" public outreach regulations. We will request the applicant to post 4'x6' signs on each street frontage ASAP.

We haven't sent out any notice yet because the community meeting and public hearing are not scheduled yet. By the time when we will have the community meeting and public hearing, we will send out notice to the area within a 1,000-foot radius of the site.

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**From:** Mimi Patterson <[patterson.mimi@gmail.com](mailto:patterson.mimi@gmail.com)>  
**Sent:** Monday, September 28, 2020 7:52 PM  
**To:** Keyon, David <[david.keyon@sanjoseca.gov](mailto:david.keyon@sanjoseca.gov)>  
**Cc:** Petersen, Adam <[Adam.Petersen@sanjoseca.gov](mailto:Adam.Petersen@sanjoseca.gov)>; Wang, Angela <[Angela.Wang@sanjoseca.gov](mailto:Angela.Wang@sanjoseca.gov)>; Kelly, Patrick (PBCE) <[patrick.kelly@sanjoseca.gov](mailto:patrick.kelly@sanjoseca.gov)>; Manford, Robert <[Robert.Manford@sanjoseca.gov](mailto:Robert.Manford@sanjoseca.gov)>; Avalos, Rosemary@Energy <[rosemary.avalos@energy.ca.gov](mailto:rosemary.avalos@energy.ca.gov)>; Hughey, Rosalynn <[Rosalynn.Hughey@sanjoseca.gov](mailto:Rosalynn.Hughey@sanjoseca.gov)>; Nick Renna <[nick\\_renna@sbcglobal.net](mailto:nick_renna@sbcglobal.net)>; Patricia sheehan <[pattitude51@yahoo.com](mailto:pattitude51@yahoo.com)>; Bill Dunmyer <[billDunmyer@comcast.net](mailto:billDunmyer@comcast.net)>; Janelle Casanave <[casanave23@aol.com](mailto:casanave23@aol.com)>; [kandlferguson@yahoo.com](mailto:kandlferguson@yahoo.com); Lisa Campbell <[lcampbell@choicecommunications.com](mailto:lcampbell@choicecommunications.com)>; [pmundt49@gmail.com](mailto:pmundt49@gmail.com)  
**Subject:** Re: Equinox Great Oaks Data Centers

[External Email]

Hi David,

Thank you for your prompt response and for taking the time to explain the sequence of events in detail. There are still a couple of important issues with this project that need to be addressed:

1) You mentioned there was a publicly-noticed hearing back in 2017 for Equinix's original permit. I have consulted many of my neighbors and unfortunately, none of us received any type of notices for this public hearing back in 2017. Can you please forward me the minutes for this 2017 public hearing and perhaps the original notice that was supposedly sent to our community? As mentioned in my original email to the City of San Jose, there was a distinct lack of community outreach and had the City of San Jose and the applicant fulfilled their obligation to notify the public and community in 2017, we certainly would be in a very different scenario today. To date, many of my neighbors and I still have not received any type of public notice for this Equinix project.

2) I would also like to reiterate there was never any site signage installed for the original Special-Use Permit Application, and as I mentioned in my first email, the signage recently installed for this Amendment is, at 2 x 3, undersized based on the total square footage for the Project. Based on the City's On-Site Noticing/Posting Requirements this is considered a Large Development Proposal and as such, signage should be 4 x 6. Additionally, the signage is to be posted on each street frontage, two locations in the case of this Project. There is only one sign on the smaller, less-traveled street. Pictures of that **2' x 3' sign on Via Del Oro are below.**

On-site noticing is a key part of Community Outreach. In the City of San Jose's Council Policy (page 4 of 8), it states the following:

### 3. On-Site Noticing

#### Purpose/Intent

On-site Noticing is an additional mode of Early Notification warranted for all Proposals. The on-site notice is intended to provide information to immediate neighbors and members of the public regarding the development application on file for the subject property.

#### Modes and Timing

The applicant is responsible for installing such on-site notice at the site. Such on-site notice should be accessible to the public and should be sufficient to adequately notify the public of the proposed development at the site and where the public might obtain more information regarding the proposed development. All on-site notices need to meet City specifications, which should be indicated in a separate detailed handout available from the Department of Planning, Building, and Code Enforcement. The applicant is responsible to replace any vandalized or missing sign only once upon request by the City.

On-site Notification should be employed within ten (10) working days of the filing of a development application.

With inadequate and deficient signage, it appears that the applicant may be purposely trying not to notify the public and as such, trying to minimize the negative impact of this project on our community. Based on the City of San Jose' Council Policy and mandates, this may be violating the City of San Jose's mandate for a 4' x 6' sign for projects 100,000 sf and more.





## NOTICE OF DEVELOPMENT PROPOSAL

The City of San Jose's Planning, Building and Code Enforcement Department has received an application for a development permit at this property



**PROJECT DESCRIPTION:** Special Use Permit Amendment to modify the previously approved Special Use Permit, File No. SP15-031 to rename Buildings SV13 & SV14 to SV19 & SV18, change the building footprint and equipment layout (except generators) of SV19 & SV18 to match SV12 which was approved under AD19-1179, increase the total number of generators to 36 (12 for each building), modify the site layout, the number of parking stalls and landscaping, and to allow the removal of one ordinance-sized tree on a 19.56-gross acre site.

**PROJECT ADDRESS:** West side of Via Del Oro between Great Oaks Boulevard and San Ignacio Avenue (123, 127 & 131 Great Oaks Boulevard)

**PROJECT FILE NO.:** SPA15-031-01

**APPLICANT:** Equinix

**COUNCIL DISTRICT:** 2

**For Additional Information:**

- View information and/or submit comments at the City of San Jose's On-Line Permitting web page at <http://www.sjpermits.org> by using the project file number: **SPA15-031-01**.
- Contact Planning Project Manager Angela Wang in the Planning Division at (408) 535-6311 or by e-mail at [angela.wang@sanjoseca.gov](mailto:angela.wang@sanjoseca.gov).
- Visit the Planning Division Public Information Counter, Monday through Friday, located at: City Hall, 201 East Santa Clara Street.
- Muốn biết tin tức bổ sung về dự án và tư vấn xin xây dựng, xin truy cập liên lạc Kieuhan Pham ở số 408-793-4174 và/hoặc số dự án **SPA15-031-01**.
- Para información en Español acerca de esta solicitud, comuníquese con Jennifer Provencio al 408-793-4100 e indique el número de proyecto **SPA15-031-01**.







Again, thank you for taking the time to reach out and sending the valuable information. The pictures of the heron on the proposed site are a bonus in consideration of your environmental review. Typically there are two herons, and we suspect they are a mated pair. I look forward to hearing from you soon regarding the above referenced items.

Best,

Mimi Patterson

On Mon, Sep 28, 2020 at 5:04 PM Keyon, David <[david.keyon@sanjoseca.gov](mailto:david.keyon@sanjoseca.gov)> wrote:

Dear Mimi Patterson,

The Deputy Director requested that I respond to your e-mail from last Friday regarding the CEQA review for the Equinox Great Oaks Data Center.

The project currently being considered is significant different from the data centers considered under the original Special Use Permit (SP15-031). The Director of Planning adopted the Initial Study and Mitigated Negative Declaration (MND) and approved the original permit at a publicly-noticed hearing back in 2017. An MND was determined to be an appropriate level of CEQA clearance for the project as the project, with incorporation of the identified mitigation measures, could reduce the identified impacts to a less than significant level based on thresholds established by the Envision San Jose 2040 General Plan and the Bay Area Air Quality Management District.

Since the original approval, the applicant submitted an application for a Special Use Permit Amendment (SPA15-031) to revise their project, including a significant increase in the number of emergency backup generators from 21 to 36. This increase in generator capacity triggered additional review by the California Energy Commission (CEC). The CEC is required to determine if the project qualifies for a Small Powerplant Exemption, and this action must occur before the City can start its review of the Special Use Permit Amendment.

The CEC action is required to comply with CEQA, and because the CEC has the first action needed in the review of the project, they are taking the lead to prepare the environmental studies. At this stage, CEC has indicated that the project will likely require an EIR. All studies prepared for the original 2015 Initial Study/Mitigated Negative Declaration will be updated to reflect the larger project and the changed setting since the original 2017 approval. If the CEC prepared an EIR, there will be a scoping meeting and a 45-day public circulation period. The City will be in a supportive role, but will not be leading this effort as the CEC will be the agency preparing the EIR.

If the CEC certifies the EIR and approves the Small Powerplant Exemption request, then the City will start its review of the project. This review will include a community meeting and a noticed public hearing before the Planning Director.

For questions about community outreach for the project, and to be included on a list of people interested in receiving notification on the project, please contact the Angela Wang, the Planning Project Manager, at [Angela.Wang@sanjoseca.gov](mailto:Angela.Wang@sanjoseca.gov).

For questions related to the City's support of preparation of the environmental review

documents, please contact the Environmental Project Manager at [Adam.Petersen@sanjoseca.gov](mailto:Adam.Petersen@sanjoseca.gov).

Thank you,

**David Keyon**

Principal Planner, Environmental Review

City of San Jose

(408) 535-7898 [david.keyon@sanjoseca.gov](mailto:david.keyon@sanjoseca.gov)

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