

DOCKETED

Docket Number:	20-SPPE-01
Project Title:	Great Oaks South Backup Generating Facility Small Power Plant Exemption
TN #:	237308
Document Title:	ROC with Adam Petersen, City of San Jose re Status of Original Special Use Permit
Description:	N/A
Filer:	Lisa Worrall
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	3/25/2021 3:08:43 PM
Docketed Date:	3/25/2021



***Siting, Transmission
 and Environmental
 Protection Division***

FILE: n/a

PROJECT TITLE: Great Oaks South Backup
 Generating Facility

Docket: 20-SPPE-01

TECHNICAL AREA(s): Alternatives			
<input type="checkbox"/> Telephone	<input checked="" type="checkbox"/> E-mail	<input type="checkbox"/> Meeting Location: N/A	
NAME(s):	Jeanine Hinde, Planner II, Energy Commission	DATE:	10/27/20
WITH:	Adam Petersen, Contract Environmental Team, City of San Jose Building and Code Enforcement Department		
SUBJECT:	Status of the original Special Use Permit (SP15-031) for the previously approved Equinix Data Centers project		

COMMENTS:

Jeanine Hinde sent an e-mail to Adam Petersen requesting information on the steps the City would require the applicant to complete before starting construction of the previously approved Equinix Data Centers project at the project site, which was approved by the City in 2017. Information on the previously approved project is applicable to a No-Project Scenario that is being evaluated in the environmental impact report for the proposed Great Oaks South Backup Generating Facility. The e-mail exchange with Mr. Petersen is attached.

cc:	<p>Signed:</p> <p> s _____</p> <p>Name: Jeanine Hinde, Planner II</p>
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Re: Great Oaks South Data Center, CEC staff analysis for the EIR, No Project Alternative

Petersen, Adam <Adam.Petersen@sanjoseca.gov>

Tue 10/27/2020 4:22 PM

To: Hinde, Jeanine@Energy <Jeanine.Hinde@energy.ca.gov>

Cc: Wang, Angela <Angela.Wang@sanjoseca.gov>

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Jeanine,

The project qualifies for an automatic two-year extension per an ordinance amendment approved in August:

<https://records.sanjoseca.gov/Ordinances/ORD30460.pdf> This means SP15-031 has a new expiration date, 1/25/2023.

Adam Petersen

Contract Environmental Team

City of San Jose Planning, Building

and Code Enforcement Department

200 East Santa Clara Street, Room 300

San Jose, CA 95113

adam.petersen@sanjoseca.gov

<http://www.sanjoseca.gov/index.aspx?nid=1725>

From: Hinde, Jeanine@Energy <Jeanine.Hinde@energy.ca.gov>

Sent: Tuesday, October 27, 2020 12:00 PM

To: Petersen, Adam <Adam.Petersen@sanjoseca.gov>

Subject: Re: Great Oaks South Data Center, CEC staff analysis for the EIR, No Project Alternative

[External Email]

Adam,

I have two followup questions:

Could the applicant request an extension to the permit term for SP15-031, and if so, might the City approve that request?

The "outside clearance" needed for SV12...is that for the BAAQMD permit?

Thank you,
Jeanine

From: Petersen, Adam <Adam.Petersen@sanjoseca.gov>
Sent: Monday, October 26, 2020 10:07 PM
To: Hinde, Jeanine@Energy <Jeanine.Hinde@energy.ca.gov>
Subject: Re: Great Oaks South Data Center, CEC staff analysis for the EIR, No Project Alternative

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Jeanine,
SP15-031 was approved on 1/25/2017 and has a 4-year term. It will expire on 1/25/2021. Determining whether the project can move forward without delay is subjective, at best.

One grading permit, File No. 3-05857, was issued on 12/10/2018, to allow grading for SV12, one of the three data center buildings. The building permit, File No. 2018-144961, has been on file since 2018, to allow construction for SV12. The internal review is complete but needs some outside clearance. The building Permit has not been issued yet. Grading permits, which includes satisfying any previous mitigation measures, are still needed for the two other data center buildings, as are building permits.

Adam Petersen

Contract Environmental Team
City of San Jose Planning, Building
and Code Enforcement Department
200 East Santa Clara Street, Room 300
San Jose, CA 95113

adam.petersen@sanjoseca.gov
<http://www.sanjoseca.gov/index.aspx?nid=1725>

From: Hinde, Jeanine@Energy <Jeanine.Hinde@energy.ca.gov>

Sent: Thursday, October 15, 2020 2:55 PM

To: Petersen, Adam <Adam.Petersen@sanjoseca.gov>

Subject: Great Oaks South Data Center, CEC staff analysis for the EIR, No Project Alternative

[External Email]

Hi Adam,

I believe I previously mentioned that I am writing and coordinating preparation of the Alternatives section of the EIR for the Great Oaks South Data Center project. I have begun drafting the No Project Alternative. The applicant's Alternatives analysis in the application presents two No Project scenarios. One scenario is a No Project - No Build Alternative. The other assumes construction and operation of the previous project approved by the City. (I've copied the applicant's write up below...the scenario that assumes construction of the original project granted approval by the City.)

As you know, part of the CEQA requirements for No Project is to analyze "what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services."

I am writing to ask if you can comment on the City's perspective for this No Project scenario, and in particular, could the previously approved project go forward with minimal or no delay? And, if this No Project scenario is potentially feasible but might be delayed by certain City requirements, can you please outline what the applicant would be required to do before proceeding with construction of the original project?

Thank you,
Jeanine Hinde

No Project – Buildout of Approved Development (from the applicant's submittal of its revised Chapter 5 from the application, docket #234485)

As described previously, the City of San José approved a Special Use Permit (SUP) for the GOSDC on January 25th, 2017. The SUP included backup generation facilities of 21 3-MW generators. The original configuration of the GOSDC consisted of three, two-story buildings each encompassing 191,000 gross square feet (gsf), for a total of approximately 573,000 gsf. The data center buildings were designated SV-

12, SV-13 and SV-14. The City is allowing construction of the GOSDC to continue for SV-12.

The MND completed for the approved project did not identify any significant impacts that could not be reduced to less than significant levels with implementation of mitigation measures. Under the No Project – Buildout of Approved Development Alternative, the project would be constructed as designed under the original approval granted by the City. As a result, this alternative would result in the same construction-related impacts of the project identified in Section 5.1, above. While additional backup generators are part of the proposed project, due to the limitation on maintenance and testing hours and the incorporation of diesel particulate filters, potential impacts associated with emissions are equal to or less than those of the Approved Project. Additionally, this alternative would prevent the project from meeting its objectives related to backup electricity generation due to the reduced number of generators.

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CITY OF SAN JOSÉ, CALIFORNIA

Office of the City Clerk
200 East Santa Clara Street
San José, California 95113
Telephone (408) 535-1260
FAX (408) 292-6207

City Clerk

STATE OF CALIFORNIA)
COUNTY OF SANTA CLARA)
CITY OF SAN JOSE)

I, Toni J. Taber, City Clerk & Ex-Officio Clerk of the Council of and for the City of San Jose, in said County of Santa Clara, and State of California, do hereby certify that "**Ordinance No. 30460**", the original copy of which is attached hereto, was passed for publication of title on the **11th day of August, 2020**, was published in accordance with the provisions of the Charter of the City of San Jose, and was given final reading and adopted on the **25th day of August, 2020**, by the following vote:

AYES: ARENAS, CARRASCO, DAVIS, DIEP, ESPARZA, FOLEY, JONES,
JIMENEZ, KHAMIS, PERALEZ, LICCARDO.

NOES: NONE.

ABSENT: NONE.

DISQUALIFIED: NONE.

VACANT: NONE.

Said Ordinance is effective as of the **25th day of September, 2020**.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of San Jose, this **4th Day of September, 2020**.

(SEAL)

TONI J. TABER, CMC
CITY CLERK & EX-OFFICIO
CLERK OF THE CITY COUNCIL

/rmk

ORDINANCE NO. 30460

AN UNCODIFIED ORDINANCE OF THE CITY OF SAN JOSE TEMPORARILY EXTENDING THE TERM OF SPECIFIED LAND USE PERMITS BY TWO YEARS FROM THE SET EXPIRATION DATE, AND TREE REMOVAL PERMITS BY EIGHT MONTHS FROM THE SET EXPIRATION DATE

WHEREAS, on January 30, 2020, the World Health Organization declared COVID-19 a Public Health Emergency of International Concern, and, on January 31, 2020, the United States Secretary of Health and Human Services declared a public health emergency; and

WHEREAS, on March 4, 2020, California Governor Gavin Newsom proclaimed a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for a broader spread of COVID-19; and

WHEREAS, on March 16, 2020, the County of Santa Clara declared a state of emergency and issued a shelter-in-place order to prevent the further spread of COVID-19, which order took effect on March 17, 2020; and

WHEREAS, according to the United States Bureau of Labor Statistics, the United States economy, as measured by gross domestic product, contracted by 4.8 percent in the first quarter of 2020; and

WHEREAS, it is estimated that California lost 2,000,000 jobs by March 27, 2020 and the Governor has labeled California's economic crisis a "pandemic-induced recession;" and

WHEREAS, in order to encourage and support new development projects in the City of San Jose that have already expended money and time applying for and obtaining required land use permits from the City, the Council desires to extend the term of such permits that were not expired as of the effective date of this ordinance and to also retroactively

extend the term of certain specified permits that were not expired as of March 17, 2020 but expired prior to the effective date of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. The terms of the permits and approvals specified below that were issued pursuant to San Jose Municipal Code Title 19, Title 20, and Chapter 13.32 and that received final approval on or before March 17, 2020 and that did not expire on or before March 17, 2020 are hereby extended as follows:

a. The terms of the following permits and approvals are hereby extended for two (2) years from the later of the permit expiration date or the most recent expiration date in a Permit Adjustment extending the term of the permit in accordance with San Jose Municipal Code section 20.100.500:

- (1) Site Development Permit pursuant to Part 5 of Chapter 20.100;
- (2) Conditional Use Permit pursuant to Part 6 of Chapter 20.100;
- (3) Special Use Permit pursuant to Part 7 of Chapter 20.100;
- (4) Planned Development Permit pursuant to Part 8 of Chapter 20.100;
- (5) Single Family House Permit pursuant to Part 9 of Chapter 20.100;
- (6) Administrative Permits pursuant to Part 10 of Chapter 20.100; and
- (7) Development Variances and Exceptions pursuant to Part 11 of Chapter 20.100.

b. The terms of the following permits and approvals that were not expired as of March 17, 2020 but expired prior to the effective date of this ordinance are hereby retroactively extended for two (2) years from the later of the permit expiration date or the most recent expiration date in a Permit Adjustment extending the term of the permit in accordance with San Jose Municipal Code section 20.100.500:

- (1) Site Development Permit pursuant to Part 5 of Chapter 20.100;
 - (2) Conditional Use Permit pursuant to Part 6 of Chapter 20.100;
 - (3) Special Use Permit pursuant to Part 7 of Chapter 20.100;
 - (4) Planned Development Permit pursuant to Part 8 of Chapter 20.100
 - (5) Single Family House Permit pursuant to Part 9 of Chapter 20.100;
 - (6) Administrative Permits pursuant to Part 10 of Chapter 20.100; and
 - (7) Development Variances and Exceptions pursuant to Part 11 of Chapter 20.100.
- c. Tree removal permits issued pursuant to San Jose Municipal Code Chapter 13.32 that had not expired prior to the effective date of this ordinance are hereby extended for a period of eight (8) months from the expiration date of the permit.
- d. Notwithstanding the provisions of Sections 1.a, 1.b, and 1.c above, this Ordinance shall not extend the term of any permit that specifies that the permit may only be extended by an action of the Planning Director, Planning Commission, or City Council, as applicable, following a duly noticed public hearing. Any application for the extension of the term of such a permit by the Planning Director, Planning Commission, or City Council shall also comply with any specific hearing notice procedures specified in the permit.

SECTION 2: This ordinance shall take effect 30 days from and after its final adoption.

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PASSED FOR PUBLICATION of title this 11th day of August, 2020 by the following vote:

AYES: ARENAS, CARRASCO, DAVIS, DIEP, ESPARZA,
FOLEY, JONES, JIMENEZ, KHAMIS, PERALEZ,
LICCARDO.

NOES: NONE.

ABSENT: NONE.

DISQUALIFIED: NONE.



SAM LICCARDO
Mayor

ATTEST:



TONI J. TABER, CMC
City Clerk