REQUEST FOR ACTION

AGENDA ITEM 3

City Council

January 6, 2021

APPLICANT: Corey Bundy

SUBJECT:

Recommendation to CC proposed amendment to the Santa Clara City Zoning Ord. Chapter 17.68.40:G to allow gated communities under certain conditions.

BACKGROUND DESCRIPTION:

PC recommends approval of the proposed code amendment, noting that the amendment is quite restrictive in terms of allowing gated communities and very few are likely to meet the criteria for allowing gated communities. Only one public comment was received at the PC public hearing and that was from Mr Dade Rose who supports the amendment. See Staff report for additional description.

Proposed Recommendation

Approval

Cost

N/A

Approved by Legal Department

Yes

Approved in Budget

Yes

Approved by City Finance Department

Yes

Amount

N/A

Requested By

Corey L Bundy/Bob Nicholson

File Upload Attachments

https://sccity.org/wp-content/uploads/formidable/41/CC-agenda-report-for-12-16-20-proposed-amendment-for-gated-communities27149.docx

CC agenda report for 1/6/21; Consider approval of a proposed amendment to the Santa Clara City Zoning ordinance, Chapter 17.68.40:G to allow for gated communities under certain conditions.

Title 17 Zoning Ordinance
17.68.40:G Planned Development Districts / Gated Communities (see attached draft amendment)

Background: City staff including city attorney are recommending an amendment to Chapter 17.68.40:G which presently prohibits gated communities within a Planned Development District. The proposed draft code amendment provides that the PC may recommend approval of, and the CC may approve a Project Plan for a PD zone project which includes a gate or gates intended to limit public access to the project, provided the project meets various conditions and requirements. One of the requirements is that the property within the gated area shall remain in one ownership and not be subdivided or condominiumized. The other requirements are listed in section 2.a thru g.
Note also that the PC and CC is not obligated to approve gated communities regardless of whether the proposed conditions are met. The PC and CC maintain discretion on where and when a project meeting the minimum conditions are allowed to install privacy gates at project entrances.

PC recommends approval of the proposed code amendment, noting that the amendment is quite restrictive in terms of allowing gated communities and very few are likely to meet the criteria for allowing gated communities. Only one public comment was received at the PC public hearing and that was from Mr Dade Rose who supports the amendment.

ORDINANCE NO. 2021-01

AN ORDINANCE OF THE CITY OF SANTA CLARA, UTAH, ESTABLISHING CONDITIONS FOR APPROVAL OF EXCEPTIONS TO THE GENERAL PROHIBITION ON PRIVATE "GATED COMMUNITIES"

WHEREAS, The Santa Clara City Council believes that having a variety of land use and development types and varieties, particularly with respect to available residential housing, is in the best interest of the City and its residents; and

WHEREAS, Santa Clara City Code § 17.68.100, "Planned Development Standards and Requirements," paragraph G., currently states that "no gated communities are permitted" in any Planned Development zone of the City; and

WHEREAS, the City Council has reviewed said ordinance, having been made aware that gated, private streets may be desirable for certain types of residential developments in the City; and

WHEREAS, the City Council desires to maintain the general prohibition on gated communities, but also to create an opportunity for future development applicants to propose gated communities where the same might be appropriate and desireable; and

WHEREAS, the City Council further desires to establish standards for future proposed gated communities, including conditions and requirements which would have to be met before such a community could be approved; and

WHEREAS, said City Council now deems such action necessary and desirable for the preservation and protection of the general health, safety and welfare of the residents of Santa Clara, Utah,

BE IT HEREBY ORDAINED by the City Council of Santa Clara, Utah, as follows:

A. Santa Clara City Code 17.68.100, paragraph G., is hereby revised to read as set forth in this Ordinance below.

G. Gated Communities:

1. Gated communities are not generally permitted in any planned development zone in the City.

2. Notwithstanding the foregoing prohibition, the Planning Commission may recommend approval of, and the City Council may approve, a Project Plan or Phase Plan for a residential planned development community which includes a gate or gates intended to limit public access to the community, provided the Project Plan meets the following conditions and requirements.

   a. All property enclosed by the gate or gates must maintain unity of title and shall not be subdivided or condominiumized.

b. All roadways, driveways, sidewalks, trails, or other such means of ingress, egress, and circulation through the community to which public access is limited by the gate(s) shall not be public rights of way and shall not be dedicated to, operated or maintained by the City.

c. Utility services provided by the City may be separately metered to individual units within the community; however, the City shall invoice the owner of the entire community for all utility services, and not the individual residents or tenants of the community.

d. The applicant shall be responsible to pay all required impact fees and other development fees applicable to the community, regardless of the private nature of the gated community; however, the applicant may apply for a credit against impact fees to the extent such a credit is specifically justified under applicable law.

e. The applicant shall review with and obtain written approval from the chiefs of the City public safety departments (fire and police) for an access plan which preserves public safety access to the community using various appropriate means (for example, crash gates, public safety access override systems, or otherwise as proposed by applicant and approved by the appropriate departments).

f. All infrastructure enclosed within the community gate(s) and meant for the common use and benefit of the owner and residents of the community (including but not limited to utility lines, utility equipment, roadways, curbs, gutters, sidewalks, parks, trails, and all improvements thereon) shall be the responsibility of the owner to maintain, operate, repair, and replace. A development agreement articulating such obligations of the owner, holding the City harmless and indemnifying the City against such costs, and any other provisions required by the City shall be submitted by the applicant for approval by the City Council, and thereafter recorded upon the real property comprising the community.

g. In the event that the City elects or is required for any reason to fulfill the owner's responsibilities as set forth in the development agreement, or bear the costs of the same, then owner and its successors and assigns shall be liable to the City for the same, including administrative fees, costs of collection, and attorneys fees. The City shall have the right to record and foreclose a lien upon the subject property, either judicially or non-judicially as provided by law for deeds of trust, and/or to bring suit personally against the owner or its successors or assigns, to enforce and collect such obligations.

3. Nothing in the foregoing paragraphs shall obligate the Planning Commission to recommend approval of, or the City Council to approve, a Project Plan or Phase Plan for a gated community, regardless of such plan's compliance with the foregoing conditions. These conditions shall be considered the minimum standards for gated communities in the City, and the Planning Commission and City Council may, in their discretion, elect not to recommend approval of, or elect not to approve, a Project Plan or Phase Plan which meets all of the foregoing requirements.

BE IT FURTHER ORDAINED that this Ordinance shall take effect immediately after publication and posting as required by law and shall supersede any other ordinance or provision in conflict with the terms hereof.

PASSED AND APPROVED on this ____ day of January 2021.

CITY OF SANTA CLARA

_____
Rick Rosenberg, Mayor

Attest:

_____
Chris Shelley, Recorder