

ORDINANCE 2014-03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA TO RESCIND ORDINANCE 2014-01, WHICH AMENDED SECTION 11-04-110 AND CHAPTER 11-29 OF THE SAN JUAN BAUTISTA MUNICIPAL CODE TO MODIFY PROVISIONS FOR DESIGN AND ARCHITECTURAL REVIEW OF RETAIL BUSINESSES, RESTAURANT BUSINESSES, AND VISITOR ACCOMMODATIONS WITHIN THE CITY OF SAN JUAN BAUTISTA; AND, RE-ADOPT MUNICIPAL CODE PROVISIONS RESCINDED BY ORDINANCE 2014-01, RE-ESTABLISHING LIMITS ON THE APPROVAL OF LARGE-SCALE RETAIL BUSINESSES, FORMULA VISITOR ACCOMODATIONS AND RESTAURANT BUSINESSES

THE CITY COUNCIL ORDAINS AS FOLLOWS:

SECTION 1: The City Council finds and determines the following:

- A. Whereas, on March 18, 2014, Ordinance 2014-01 was adopted by the City Council with appropriate environmental review, finding that the ordinance was exempted from the California Environmental Quality Act (CEQA) under CEQA Guidelines 15061(b)(3), 15183, 15308, 15378, and Public Resources Code section 21083.3(e) and under CEQA Guidelines Section 15183 and Public Resources Code section 21083.3(e). The City Council further properly found that the proposed regulations were consistent with the San Juan Bautista General Plan.
- B. Whereas, the City was served on June 20, 2014 with a lawsuit filed by Petitioner Alliance of Concerned Citizens Organized for Responsible Development, raising the issues of whether the City complied with CEQA and whether the City made adequate findings of General Plan consistency.
- C. Whereas, in order to moot the issues raised in the lawsuit with no further expense of public funds on attorneys' fees and without admitting any of the challenges to the City's environmental review raised in the lawsuit, the City wishes to rescind the approval of Ordinance 2014-01.

SECTION 2: Ordinance 2014-01 is **rescinded**.

Section 11-04-110 is deleted as indicated with a strike-through as follows:

~~"11-04-110 Retail business development, restaurant business development, visitor accommodations development.~~

~~The following subsections, (A) through (D), pertain to retail business development, restaurant business development, and visitor accommodations development, each of the three as defined in Chapter 11-29 of this Code.~~

~~(A) As an element of reviews and approvals required by this Section, and in addition to findings required in other mandatory reviews and approvals, the following findings shall be required:~~

~~(1) The business will complement and enhance the character of the City.~~

~~(2) The business will offer merchandise and/or services that add to the diversity and character of the City.~~

~~(3) Both exterior and interior appearance and presentation of the business are compatible with the existing scale of development, distinctive architecture and pedestrian orientation of the City's character, and enhance the look and feel (i.e. character) of the surrounding area.~~

~~(B) The following conditions shall be imposed on approvals given pursuant to this Section, in addition to any other conditions required in other mandatory review and approvals:~~

~~(1) All signs must conform to the City's sign regulations and City's Design Guidelines.~~

~~(2) All buildings must comply with City's Design Guidelines.~~

~~(C) Drive-through quick serve establishments shall be allowed only in auto-oriented highway frontage commercial zone districts.~~

~~(D) The San Juan Bautista Historic District will allow retail business development, restaurant business development and visitor accommodations~~

~~development on vacant developable parcels; applications for any such development shall be reviewed in accordance with Chapter 11-18 and Chapter 11-06, by the Planning Commission and, as required, by the Historic Resource Board. All other permits and entitlements, as applicable to a particular project, shall be obtained pursuant to this Code."~~

The following definitions from Chapter 11-29-010, of the San Juan Bautista Municipal Code are deleted as indicated with a strike-through as follows:

~~" 'Retail business development' means any structure 7,000 square feet, or more, to be occupied by any one retail establishment. This definition does not include service and community establishments, including, but not limited to, banks, insurance brokerages, real estate brokerages, health centers, governmental uses, community centers, theaters, religious or fraternal uses, and similar establishments. A proposed development where retail sales are an incidental or accessory use to the primary use is not included within this definition."~~

~~" 'Restaurant business development' means a restaurant, or quick serve business that is required by contractual, lease or franchise arrangements to maintain standardized services, merchandise, menus, ingredients, food preparation, architecture, signs, or similar features."~~

~~" 'Visitor accommodations development' means a visitor accommodation business that incorporates physical features common among one or more other visitor accommodation businesses owned by the same company and corporation by contractual, lease or franchise arrangements to maintain standardized services, architecture, signs, or similar features."~~

SECTION 3: Chapter 11-29 of the San Juan Bautista Municipal Code is hereby amended to **re-establish** the following definitions, which are added to read as follows:

" 'Large-Scale Retail Business Development' means any structure five thousand (5,000) square feet, or more, to be occupied by any one (1) retail establishment. This definition does not include service and community establishment, including, but not limited to, banks, insurance brokerages, real estate brokerages, health centers, governmental uses, community centers, theaters, religious or fraternal uses, and similar establishments. A proposed development where retail sales are an incidental or accessory use to the primary use is not included within this definition."

" 'Formula visitors accommodations' means a visitors accommodation business that incorporates physical features common among one (1) or more of the other visitor

accommodation businesses owned by the same company and that is required by contractual or other arrangement to maintain standardized series, merchandise, uniforms, décor, logos, architecture, signs, or similar features.”

“ ‘Formula retail or restaurant business development’ means a retail, restaurant, or fast-food business that is required by contractual or other arrangement to maintain standardized services, merchandise, menus, ingredients, food preparation, uniforms, décor, logos, architecture, signs, or similar features.”

SECTION 4: Chapter 11-04.110 of the San Juan Bautista Municipal Code is hereby amended to **re-establish** the following section, which is added to read as follows:

“11.04.110: Large-Scale Retail Business, Formula Retail or Restaurant Business, and Formula Visitor Accommodations.

A. The following findings shall be required.

1. The business offers merchandise and/or services that serve the unmet needs of the population.
2. Although the formula-based business may have other store locations throughout the country, state, or region, the business will complement and enhance the character of the City.
3. Both exterior and interior appearance and presentation of the business is compatible with the existing scale of development, distinctive architecture and pedestrian orientation of the town character and results in an enhancement of the look and feel (i.e., character) of the surrounding area.
4. Signs shall conform to the City sign standards and Design Guideline.
5. Drive-thru food establishments shall be prohibited.

B. Application Procedure.

1. Large-Scale Retail Business, Formula Retail or Restaurant Business, and Formula Visitor Accommodations are subject to review by the Planning Commission so therefore the business/applicant shall fill out the *Application Requirements for a Conditional Use Permit* and any

other pertinent applications as specified therein, pay fees specified, and submit plans as set forth therein.”

SECTION 5: Environmental Determination. In 2007, the City Council determined that the following findings reflected the independent judgment of the City Council. The City Council found that Ordinance 2007-04 was exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines 15378, 15061(b)(3), 15183, 15305, and Public Resources Code section 21083.3(e) for the following reasons:

Under CEQA Guidelines Section 15061(b)(3), CEQA review is not required because there is no possibility that this Ordinance may have a significant effect upon the environment.

Under CEQA Guidelines Section 15378, the proposed amendments are not a project under CEQA because they will not cause a “direct physical change on the environment” and will not authorize any specific development activity.

Any potential indirect secondary impacts of the proposed amendments on the physical environment are speculative and are not reasonably foreseeable, and are, therefore, not subject to review under CEQA.

There is no substantial evidence that the proposed amendments will have the potential to cause a significant impact upon the environment.

There is no substantiated opinion or reasonable argument to determine that the proposed amendments will cause impacts that are subject to review under CEQA.

The proposed text amendments constitute a minor alteration in a land use limitation under CEQA Guidelines Section 15305, and such a land use limitation is a permissible exercise of the city’s zoning powers.

There are no unusual circumstances that would necessitate CEQA review.

Under CEQA Guidelines Section 15183 and Public Resources Code Section 21083.3(e), the proposed regulations were consistent with the San Juan Bautista General Plan.

POLICY L-16: Maintain Downtown as the City’s primary area for pedestrian oriented retail and service activities. Encourage additional pedestrian-oriented retail stores in this area, with continuous ground floor retail and service activity along Third Street between Franklin and Muckelemi.

POLICY L-21: Support the development of land at the western and eastern “gateways” to Downtown with mixed uses that convey a positive image of the City to residents and visitors.

POLICY L-23: Support existing small and locally-owned businesses in San Juan Bautista.

POLICY L-24: Support the establishment of new tourist-oriented businesses that are consistent with the town’s role as an historic center, an arts and cultural center, an agricultural center, and a showcase of Early California living.

The City Council reinstates and re-adopts these findings and determinations. Because Ordinance 2014-01 was adopted on the March 18, 2014, and the City desires to rescind that Ordinance and return to that which was adopted in 2007, and was the status quo of the City until its rescission on March 18, 2014, there is no “project” under CEQA Guidelines Section 15378. Such is the case because maintaining the status quo will not cause a “direct physical change on the environment” and will not authorize any specific development activity. Further, maintaining the status quo will exempt any possible project from environmental review under 15061(b)(3), as it can be determined with certainty that there is no possibility that the return to the status quo will have a significant effect on the environment.

SECTION 6: Effective Date. This Ordinance shall take effect 30 days after its adoption by the City Council.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of San Juan Bautista this 16th day of September, 2014 by the following vote:

AYES: Moore, Cosio, Edge, Boch, Lund

NOES: None

ABSENT: None

ABSTAIN: None

Mayor Andy Moore

ATTEST:

Linda G. McIntyre, City Clerk

APPROVED AS TO FORM:

George Thacher, City Attorney