

ZONING ADMINISTRATOR INTERPRETATION

DATE: December 28, 1993, updated on April 26, 2007

CODE SECTION: Appendix A - PD-23 Provisions

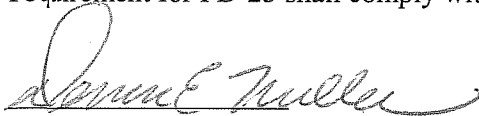
QUESTION NEEDING INTERPRETATION: The PD-23 provisions include limitations to the yard regulations and height regulations that are not consistent with the plans that were included in the Agenda Report when the proposed development was reviewed by the City Council. The ordinance which adopted PD-23 includes a reference that the plans for the development must comply with the plans adopted by the City Council but describes the yard and height limitations in a way that would result in modifications to the plans. Does the description in the text of the ordinance override the plan that were adopted by the City Council?

INTERPRETATION:

In reviewing the yard requirements specified in the May 12, 1992 Council Agenda Report, the minimum yards along both Catalina Avenue and Union Street were described to be consistent with the City of Gardens front yard requirements. However, the minimum front yard for projects subject to the City of Gardens provisions was fifteen feet at the time the development for PD-23 was initially reviewed and adopted by the Council. Between the adoption of the project and the publication of Ordinance #6547 enacting PD-23 regulations, the Council adopted modifications to the front yard regulations for the City of Gardens development standards, Ordinance #6511. The modifications to the City of Gardens front yard requirement increased the minimum front yard from fifteen feet to twenty feet. Consequently, by the time the ordinance enacting PD-23 was adopted, the plans adopted by the Council were not longer in compliance with the City of Gardens front yard requirements.

Additionally, the plans included with the Agenda Report provided a height for the proposed development which has not changed. Nevertheless, the description of the height limit in the Agenda Report and in Ordinance #6547 are in disagreement as to the specified height of the proposed development even though the plans included with the Agenda Report and referenced in the ordinance clearly apply the exceptions to height limits for mechanical equipment.

Despite the errors of the Agenda Report and Ordinance #6547, the City Council did not intend that the regulations of the front yard or the height applicable to the proposed PD-23 development to cause the plans for the proposed development to be altered in any way. Indeed, the ordinance itself includes the site plan by reference in the ordinance, the elevations including the height of the building in excess of the limits described in both the Agenda Report and in Ordinance #6547 were reviewed by the Council and approved for the project on May 12, 1992. Therefore, both the minimum yard requirement and the height requirement for PD-23 shall comply with the plans included with the May 12, 1992 Agenda Report.



Denver E. Miller
Zoning Administrator