

Kirk Vartan

From: Forman, Kathi (PW) [Kathi.Forman@sanjoseca.gov]
Sent: Thursday, December 18, 2008 1:26 PM
To: kirk@kvartan.com
Cc: Norris, Tom
Subject: RE: Questions for the City of San Jose - Forest (west)/Winchester Blvd. Traffic Light

Dear Mr. Vartan:

The information given by Katy Allen remains as given... "The change to the signal would not be activated until the new street is open to traffic on Winchester Boulevard." As you were already informed of the activation timing, your question: "Can you also confirm that no action on the intersection will take place until the development of the BAREC site is almost complete?" was interpreted to mean construction activity. The answer remains as stated in the original email response below.

Taking into consideration that you are in possession of or have access to all the information currently available, please know that:

- A permit to modify the traffic signal at Winchester Boulevard and Forest Avenue will be issued. We do not have an exact date as yet but do expect it.
- Expect construction activity in the street once the permit has been issued. Impacts from those activities will be minimized as much as possible but do expect the unavoidable (but typical) inconvenience associated with street construction for a short period of time. The duration of construction is, as yet, undetermined.

In closing this inquiry, the City does not have a mechanism by which we notify the public of permits issued. Please note, however, that you can keep yourself informed and track the status of the traffic signal modification permit by using the City's database. A link can be found on the bottom of the City of San José webpage as follows:

- <http://www.sanjoseca.gov/>
- Click on the "**Permits Online**" icon at the bottom of the page
- Select option to **Find Permits by Permit/Reference Number**
- Type in permit reference number **07-022715**

Sincerely,

Kathi Forman

*Information / Communications Manager
 Public Works Department, Director's Office
 200 East Santa Clara Street, Fifth Floor
 San Jose, CA 95113
 408-535-8304*

From: Kirk Vartan [mailto:kirk@kvartan.com]
Sent: Wednesday, December 17, 2008 7:48 PM
To: Forman, Kathi (PW)
Cc: Norris, Tom; kirk@kvartan.com
Subject: RE: Questions for the City of San Jose - Forest (west)/Winchester Blvd. Traffic Light

Thank you Ms. Forman,

I am asking about a specific statement made by the Director of Public Works. Specifically, she states: "Typically, signal modifications and off-site improvements are coordinated with the

completion of the project to ensure access needs are met. The change to the signal would not be activated until the new street is open to traffic on Winchester Boulevard."

Can you be clear as to when the proposed removal of the light would begin? Will there be any notice? Will the residents be informed?

Thank you,

Kirk Vartan

From: Forman, Kathi (PW) [mailto:Kathi.Forman@sanjoseca.gov]
Sent: Wednesday, December 17, 2008 4:05 PM
To: kirk@kvartan.com
Cc: Norris, Tom
Subject: RE: Questions for the City of San Jose - Forest (west)/Winchester Blvd. Traffic Light

Dear Mr. Vartan:

In regards to your request to review copies of the permit plans submitted by the developer for the signal modification at Winchester Blvd. and Forest Avenue, I respectfully reiterate my response to an earlier request you made on June 20, 2008:

...because these plans are in draft form and multiple iterations of revisions are expected during a typical plan review process, these plans do not constitute an approved design by the City of San José and are not available for copy or distribution. However, the draft plans are available for viewing at City Hall.

You can arrange to view the plans by calling by Vivian Tom at 535-6819 or Domingo Trinidad at 793-4146 for an appointment Monday - Friday between the hours of 8:00 a.m. to 5:00 p.m. *Please be aware that the City of San Jose is closed for business Wednesday, December 24, 2008 through Friday, January 2, 2009. The City will reopen for business on Monday, January 5th.*

In response to your second question: When a permit is issued, it is effective for a period of time - usually up to 18 months. Once the developer has an approved permit, construction of the street improvements can start at any time during the period specified in the permit. The order of construction is determined by the permit holder. The City can only confirm the period approved on the issuance of a permit.

Sincerely,

Kathi Forman

*Information / Communications Manager
 Public Works Department, Director's Office
 200 East Santa Clara Street, Fifth Floor
 San Jose, CA 95113
 408-535-8304*

From: Kirk Vartan [mailto:kirk@kvartan.com]
Sent: Wednesday, December 17, 2008 10:22 AM
To: Forman, Kathi (PW)
Cc: Norris, Tom; kirk@kvartan.com
Subject: RE: Questions for the City of San Jose - Forest (west)/Winchester Blvd. Traffic Light

Dear Ms. Forman,

Thanks for the information. Can I review a copy of the updated permit request and plans that are now resubmitted? Ms. Allen referenced them in a letter and that sounds like there are material changes. I would like to review those changes.

Can you also confirm that no action on the intersection will take place until the development of the

BAREC site is almost complete? This is the SummerHill project that is funding the proposed intersection modifications.

Thank you,

Kirk Vartan

From: Forman, Kathi (PW) [mailto:Kathi.Forman@sanjoseca.gov]
Sent: Wednesday, December 17, 2008 9:26 AM
To: kirk@kvartan.com
Cc: Norris, Tom
Subject: FW: Questions for the City of San Jose - Forest (west)/Winchester Blvd. Traffic Light

Dear Mr. Vartan:

For the sake of clarity, I am responding to your request for information item by item and submit the following responses in your original email below.

Sincerely,

Kathi Forman

**Information / Communications Manager
 Public Works Department, Director's Office
 200 East Santa Clara Street, Fifth Floor
 San Jose, CA 95113
 408-535-8304**

-----Original Message-----

From: Kirk Vartan [mailto:kirk@kvartan.com]
 Sent: Friday, December 12, 2008 12:55 PM
 To: Norris, Tom; Shippey, Christine
 Cc: kirk@kvartan.com
 Subject: Questions for the City of San Jose - Forest
 (west)/Winchester Blvd. Traffic Light
 Importance: High

Hello,

I am not sure if the is a Public Records Act request or not. I do not think it is, so I will proceed as if it is not. If it is, please let me know and treat it accordingly.

I believe questions 1-4 are for the Department of Public Works and question 5 is for the City Attorney's Office. Please forward to the appropriate department as necessary to get the answers.

I have the following questions:

(1) Has the developer applied for and received the encroachment permit it purportedly needs to remove the signal? Please be specific as to what has been done. **The developer has applied for a permit to modify the signal at Winchester Blvd. and Forrest Ave. Signal plans have been submitted and are still**

under review. As yet, no permit has been issued .

(2) If the developer has not yet received the encroachment permit, does the process for obtaining the permit allow for public comment, such as a hearing before the Planning Commission or City Council? **The process for issuing a permit is a technical review process and, as such, does not include public participation either in the form of a comment period or a public hearing.**

(3) If the developer has not yet received the encroachment permit, what impact (if any) does the Letter of Understanding (LOU) between the City of Santa Clara and the City of San Jose have on the process? **The letter of understanding is a maintenance agreement between cities and does not directly impact the issuance of a permit.**

(4) If the developer has not yet received the encroachment permit, what impact (if any) does the recent re-submission of the plans have on the encroachment permit process? **The technical review process for issuing a permit is an iterative process. Re-submission of plans is part of the typical review process.**

(5) Does the City of San Jose's municipal code require a party that seeks an encroachment permit to defend any lawsuit that may challenge the granting of the permit? **The City of San José Municipal Code, Chapter 13.36: PUBLIC WORKS STREET PERMITS has not such provision**

Thanks very much and I look forward to your answer.

Kirk Vartan
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San Jose, CA 95117
Cel: 408.666.6661