

PUBLIC HEARING NOTICE

The Planning Director of the City of San José will consider a **Planned Development Permit Amendment** at a public hearing in accordance with the San José Municipal Code on:

Wednesday, February 10, 2010

9:00 a.m.

City Council Chambers

City Hall

200 East Santa Clara Street

San Jose, CA 95113

The project being considered is:

**PDA97-001-06. Planned Development Permit Amendment to install two sets of exterior automatic gates facing the S.Third and S. Fourth Street entrances of an existing mixed-use development parking garage on a 1.89 gross acre-site in the A(PD) Planned Development Zoning District, located at/on the southeast corner of East San Fernando Street and South Third Street (130 E SAN FERNANDO ST.)
Council District 3. SNI: None. CEQA: Exempt.**

Reports, drawings, and documents are available for review from 9:00 a.m. to 5:00 p.m., Monday through Friday, and a draft permit and recommendations will be available for review seven calendar days prior to the public hearing at:

Department of Planning, Building and Code Enforcement

200 East Santa Clara Street, 3rd Floor Tower

San José, CA 95113

(408) 535-7800

www.sanjoseca.gov/planning/hearings/

You are welcome to attend and to speak on this issue. To arrange an accommodation under the Americans with Disabilities Act to participate in this meeting, please call (408) 535-7800 (Voice)/TTY# (408) 294-9337 at least 48 hours before the meeting. **Muốn biết tin tức bằng tiếng Việt Nam về tờ thông tin này, xin quý vị liên lạc Trung Nguyen ở số (408) 535-7883 và đọc số dự án PDA97-001-06. Para información en Español acerca de esta solicitud, comuníquese con Ben Corrales al (408) 535-7868, e indique el número de proyecto PDA97-001-06.** The decision of the Director may be appealed in accordance with the requirements of the San José Municipal Code. Instructions for filing a permit appeal are available from the Department of Planning, Building and Code Enforcement.

* If you choose to challenge this land use decision in court, you may be limited to only those issues you, or someone else, raised and discussed at the public hearing or in written correspondence delivered to the City at or prior to the public hearing.

Comments and questions are welcome and should be referred to the Project Manager Sally Zarnowitz, at e-mail address: sally.zarnowitz@sanjoseca.gov in the Department of Planning, Building and Code Enforcement. Please refer to the above file number for further information on this project.

Dated: December 14, 2009

Noticing Radius:500ft

PLANNED DEVELOPMENT PERMIT

FILE NO.	PDA97-001-06
LOCATION OF PROPERTY	Southeast corner of E. San Fernando Street and S. Third Street (130 E. San Fernando Street)
ZONING DISTRICT	A(PD) 97061 Planned Development
GENERAL PLAN DESIGNATION	Core Area
PROPOSED DESCRIPTION	Planned Development Permit Amendment to allow the installation of two sets of exterior automatic vehicular gates facing the S. Third and S. Fourth Street entrances of an existing Mixed-use development parking garage.
ENVIRONMENTAL STATUS	Exempt
OWNER/APPLICANT ADDRESS	Paseo Retail, LLC 5150 Overland Ave. Culver City, CA 90230

FACTS

The Director of Planning, Building, and Code Enforcement finds that the following are the relevant facts regarding this proposed project:

1. This Planned Development Permit is to allow the installation of two (2) sets of exterior automatic vehicular gates facing the S. Third Street and S. Fourth Street entrances of an existing Mixed-use development parking garage.
2. The site is currently developed with attached residential units, parking, and ground-floor retail.
3. The subject property is an approximately 1.87 acre site in the A(PD) Planned Development Zoning District.
4. This site has a designation of Core Area on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
5. Parking per the approved Planned Development Zoning is required to conform to the Downtown Parking Management Zone standards. No on-site parking is required in the Downtown Parking Management Zone. Thirty retail parking spaces are provided with this permit.
6. The proposed project will meet all of the development regulations set forth in Planned Development Zoning, PDC97-061, including but not limited to heights, setbacks, and densities.
7. This project is for the installation of automatic vehicular gates and there are no significant environmental effects associated with the project or the site.

FINDINGS

The Director of Planning, Building, and Code Enforcement concludes and finds, based on the analysis of the above facts, that:

1. The Planned Development Permit Amendment, as issued, furthers the policies of the General Plan, in that:
 - a. The proposed project does not propose to change the existing uses on the site, which are consistent with the General Plan Land Use designation of Core Area.
2. The Planned Development Permit Amendment, as issued, conforms in all respects to the Planned Development Zoning of the property in that:
 - a. The proposed project conforms to the approved General Development Plan.
3. The interrelationship between the orientation, location, mass and scale of building volumes, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious, in that:
 - a. The architectural elements of the proposed project are integrated into a harmonious whole.
4. Under the provisions of Section 15303(e) of CEQA, the installation of small new equipment, where only minor modifications are made in the exterior of the structure, are exempt from environmental review. This project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended, in that it is for the installation of vehicular gates in an existing parking garage and there are no significant environmental effects associated with the project or the site.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Permit by the applicant; and
 - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of the San José Municipal Code applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire four years from and after the date of issuance hereof by said Director if within such four-year period construction of buildings, pursuant to and in accordance with the provisions of this Permit, has not commenced. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment to extend the term of this Permit for a period of up to but not exceeding one year; provided, however, that no more than two such term extensions may be approved. The Permit Adjustment must be approved prior to the expiration of this Permit.
3. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
4. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the "Building Code"

shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San Jose Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.

5. **Conformance with Plans.** Construction and development shall conform to approved Planned Development Permit file no. PD97-001-06, plans entitled “Paseo Villas, 130 E. San Fernando St., San Jose California” dated July, 2009, on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04).
6. **Revocation.** This Permit is subject to revocation for violation of any of its provisions or conditions.
7. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Planned Development Permit incorporated by reference in this Permit in accordance with Chapter 20.100 of the San Jose Municipal Code.
8. **Street Cleaning and Dust Control.** During construction, the owner/developer shall damp sweep the public and private streets each working day. On-site areas visible to the public from the public or private right-of-way shall be cleaned of debris, rubbish, and trash at least once per week. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site.
9. **Protection of Storm Drains.** No hazardous materials, paint, rinse water, or construction sediments or debris shall be allowed to enter the public right-of-way or any storm drain inlet.
10. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday and to the hours of 8:00 a.m. to 7:00 p.m. on Saturdays, and legal holidays, except that construction may occur at any other hour within a totally enclosed building if such construction is not audible at the property line and does not result in a public or private nuisance.
11. **Nuisance.** As required by Title 20 of the San José Municipal Code, construction on this site shall be conducted in a manner, which does not create a public or private nuisance. The property owner must abate any such nuisance immediately upon notice.
12. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department prior to obtaining Building Permits, and is subject to the following requirements 3-08737 to the satisfaction of the Director of Public Works:
 - a. *Security Gates:* The proposed gates shall be kept open during on-site retail business hours.
 - b. *Street Improvements:*
 - 1) Ensure that the key switch island and obstruction loops are not in the public right of way on S. Fourth Street.
 - 2) Install one-way signs on-site to remind motorists exiting the garage that S. Third Street and S. Fourth Street are one-way streets.
 - 3) Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
13. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. **Construction Plans.** This Permit File Number (PDA97-001-06) shall be printed on all construction plans submitted to the Building Division.

- b. **Construction Conformance.** A project conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division.
14. **Fire Clearance for Issuing Permits.** The Fire Department's review was limited to verifying compliance of the project to Chapter 5, Appendix B, and Appendix C of the California Fire Code with City of San Jose Amendments (SJFC). Compliance with all other applicable fire and building codes and standards relating to fire and panic safety shall be verified by the Fire Department during the Building Permit process.
- a. Additional information noted below will be checked during the Building Permit process:
- 1) Each access control gate on site shall have an approved Knox Fire Department Key Switch device with unlocking capability for the Fire Department. Provide manual means of opening gate if there is a power failure.
15. **Archaeology.** Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
16. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
17. **Lighting.** On-site, exterior, unroofed lighting shall conform to the Outdoor Lighting Policy and shall use fully cut-off and fully shielded, Low-Pressure Sodium fixtures. No new lighting is approved with this permit.

APPROVED and issued on the **29th** day of **January, 2010**.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Deputy