

PLANNED DEVELOPMENT PERMIT

FILE NO.	PD10-002
LOCATION OF PROPERTY	746 The Alameda
ZONING DISTRICT	A(PD) Planned Development established by Ordinance Number 28514
ZONING FILE NUMBER	PDC08-062
GENERAL PLAN DESIGNATION	Residential Support for the Core
PROPOSED USE	Planned Development Permit to remodel an existing building for interim commercial uses of the CP Commercial Pedestrian Zoning District on a 0.24 gross acre site.
ENVIRONMENTAL STATUS	Exempt
OWNER	Jandka Investment LLC 5655 Silver Creek Road, #525 San Jose, CA 95138

FACTS

1. The project site has a designation of Residential Support for the Core on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the A(PD) Planned Development Zoning District (File No, PDC08-062).
3. The project site is located in a Neighborhood Business District.
4. In accordance with Section 20.100.900 of the San José Municipal Code, a Planned Development Permit is required.
5. The project proposes a Planned Development Permit for the remodel of an existing building for interim commercial uses of the CP Commercial Pedestrian Zoning District.
6. The subject site is 0.24 gross acres in size.
7. The existing building was constructed in 1965.
8. No parking is provided on the subject property.
9. Section 20.90.210 states that structures built prior to November 10, 1965 shall not be required to meet the off-street parking requirements of this Title unless there is a substantial change in the structure or in the use of the structure.
10. Ground-floor retail uses have a parking requirement of one space per 400 square feet.
11. Industrial uses prior to November 10, 1965 required one parking space per 350 square feet.
12. The proposed commercial uses of Photo Processing and Printing & Publishing are permitted uses in the CP Commercial Pedestrian Zoning District.

13. The proposed project does not include the removal of any ordinance-sized trees.
14. The proposed project will meet all of the development regulations set forth in Planned Development Zoning, PDC09-011, including but not limited to heights, setbacks, parking, etc.

FINDINGS

With respect to the Planned Development Permit finding requirements (Section 20.100.940 of the San José Municipal Code), the Director of Planning finds that:

1. The Planned Development Permit, as issued, furthers the policies of the General Plan in that:
 - a. The proposed use of the existing building for commercial uses may be found in conformance in that developed parcels less than two acres in size may be deemed to be in conformance with the General Plan regardless of the General Plan Land Use Diagram designation for the site. For the purpose of the General Plan, a developed parcel is defined as one that has an existing urban land use. Allowing commercial uses in the existing building will strengthen and support the Neighborhood Business District until such time as the mixed-use project is feasible.
2. The Planned Development Permit, as issued, conforms in all respects to the Planned Development zoning of the property in that:
 - a. The uses conform to the General Development Plan.
3. The interrelationship between the orientation, location, mass and scale of building volumes, and elevations of the proposed building(s), structure(s) and other uses on-site are appropriate, compatible and aesthetically harmonious in that:
 - a. The architectural elements of the proposed structures are integrated into a harmonious whole.
 - b. The proposed project is architecturally compatible with existing and planned development in the area.
4. The environmental impacts of the project, including, but not limited to noise, vibration, dust, drainage, erosion, storm water run off, and odor, which even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties in that:
 - a. The proposed project will not have an unacceptable negative affect on adjacent property or properties, in that under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), which allows for the construction of small facilities, this project is found to be exempt from the environmental review requirements.
 - b. The proposed project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the California Department of Fish and Game Code.

Finally, based upon the above-stated findings and subject to the Conditions of Approval set forth below, the Director of Planning approves this permit.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), 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 Title 20 applicable to such Permit.
2. **Permit Expiration.** This Planned Development Permit shall automatically expire 24 months from and after the date of issuance hereof by said Director, if within such 24-month period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Planned Development Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may extend the validity of this Permit in accordance with Title 20 of the San José Municipal Code.
3. **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 José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
4. **Conformance to Plans.** Development of the site shall conform to approved Planned Development plans entitled, "746 [The] Alameda Interim Use", dated February 28, 2010, on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04).
5. **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 José Municipal Code.
6. **Revocation.** This Planned Development Permit is subject to revocation for violation of any of its provisions or conditions.
7. **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.
8. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional

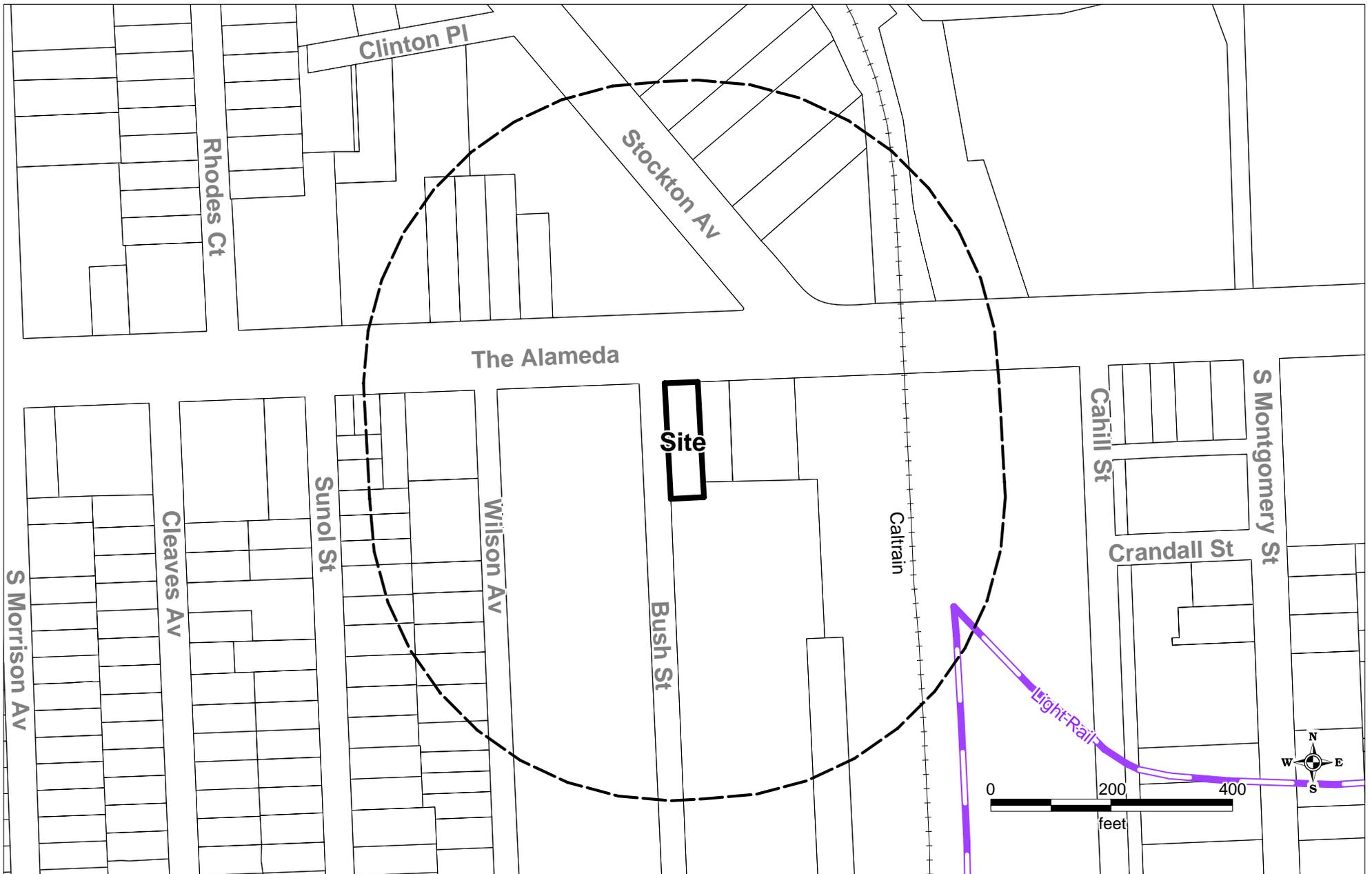
Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.

9. **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, PD10-002, shall be printed on all construction plans submitted to the Building Division.
 - b. *Construction Conformance.* A project construction 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. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.
10. **Fire Clearance for Issuing Permits.** The Fire Department's review was limited to verifying compliance of the project to the California Fire Code with City of San José 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.
11. **Americans with Disabilities Act.** The applicant shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
12. **Colors and Materials.** All building colors and materials are to be those specified on the Approved Plan Set.
13. **Mechanical Equipment.** All proposed mechanical equipment shall be screened from view.
14. **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. Lighting shall be designed, controlled and maintained so that no light source is visible from outside of the property.
15. **Recycling.** Scrap construction and demolition material shall be recycled. Integrated Waste Management staff at (408) 277-5533 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
16. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.

APPROVED and issued this 14th day of April, 2010.

Joseph Horwedel, AICP
Director, Planning, Building and Code Enforcement

Deputy



File No: PD10-002
 District: 6

Noticing Radius: 500 Feet



Prepared by the Department of Planning,
 Building, and Code Enforcement
 3/18/2010