

SPECIAL USE PERMIT

FILE NO.	SP10-010
LOCATION OF PROPERTY	1048 Lincoln Avenue
ZONING DISTRICT	CP Commercial Pedestrian
GENERAL PLAN DESIGNATION	General Commercial
PROPOSED USE	Special Use Permit to convert an existing single family to office use, with alternative parking design, on a 0.127 gross acre site.
ENVIRONMENTAL STATUS	Exempt
OWNER/ADDRESS	Roya Hosseini % 1048 Lincoln Avenue LLC 1048 Lincoln Avenue San Jose, CA 95125

FACTS

The Director of Planning finds that the following are the relevant facts regarding this proposed project:

1. This Special Use Permit is to convert an existing single-family residence to a non-residential use.
2. The site is located in the CP Commercial Pedestrian Zoning District.
3. The site has a designation of General Commercial on the adopted San José 2020 General Plan Land Use / Transportation Diagram.
4. The subject property was developed with a single-family residence in 1926.
5. No addition to the building is proposed.
6. The proposed office use requires five parking spaces.
7. Two of the required five parking spaces will be provided in a tandem configuration.
8. The subject property is adjacent to commercial uses to the west and south, and adjacent to residential uses to the north and east.
9. Under the provisions of Section 15301(a) of CEQA 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. The project will not have a significant adverse effect on the environment.

FINDINGS

With respect to the Special Use Permit finding (Section 20.100.820), the Director concludes and finds, based on the analysis of the above facts, that:

1. The proposed use at the location requested will not:
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety, or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking, and loading facilities, landscaping and other development features prescribed in Title 20, or as is otherwise required in order to integrate the use with existing and planned uses in the surrounding area; and
3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind of quantity of traffic such use would generate; or by other forms of transit adequate to carry the kind and quantity of individuals such use would generate; and
 - b. By other public or private service facilities as are required.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Director of Planning approves, pursuant to Part 7 of Chapter 20.100 of the San José Municipal Code, the subject proposal to allow the conversion of the existing residence to office use.

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. **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 to treat such sewage adequately and within

the discharge standards imposed on the City by the State of California Regional Water 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.

3. **Building Permit.** Obtainment of a Building Permit is evidence of acceptance of all conditions specified in this document and the applicant's intent to fully comply with said conditions.
4. **Permit Expiration.** This Special Use Permit shall automatically expire four years from and after the date of approval by the Director of Planning, or by the Planning Commission on appeal, granting this Permit, if within such four-year period, the proposed use of this site has not commenced, pursuant to and in accordance with the provisions of this Special Use Permit. The Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
5. **Conformance with Plans.** Construction and development shall conform to the approved plans entitled, "The Khaled Hosseini Foundation Interior Remodel," dated February 9, 2010, 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 Special Use 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. **Public Works Clearance.** Prior to the issuance of Building Permits, the applicant will be required to satisfied all of the following Public Works conditions:
 - a. *Minor Improvement Permit.* The public improvements conditions as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.
 - b. *Transportation.* This project is exempt from the Level of Service (LOS) Policy, and no further LOS analysis is required because the project proposed 10,000 square feet of office use or less.
 - c. *Grading/Geology.* If the project proposes grading more than 150 cubic yards, a grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
 - d. *Sewage Fees.* In accordance with City Ordinance all storm sewer fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
 - e. *Assessments.*

- 1) This project abuts Zone 2 of the Willow Glen Community Benefit District which provides enhanced services for crosswalk paving, planter boxes, cleaner sidewalks, beautification, better parking management, and increase promotions and events for businesses along Lincoln Avenue. Property within the district pay for the enhanced services through annual assessments placed on the property tax bills which are adjusted annually by the Consumer Price Index.
- 2) The proposal to change the use from residential to business, matching the adjacent special district land use, is a trigger for evaluation. This property may be required to annex into the district because of the benefit received by the special district amenities. For your consideration, the 2009-10 assessment is calculated based on the land use of its building and lot square footage, as well as its frontage. Commercial properties pay \$0.070 per building square foot, \$0.060 per lot square foot, and \$5.300 per foot of linear frontage. Please contact Theresa Antonio at 408-535-6825 for coordination.

f. *Street Improvement.*

- 1) Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
- 2) Removal and replace broken, cracked or uplifted curb, gutter, and sidewalk along project frontages.
- 3) Construct City standard handicap ramps with detectable warnings across Broadway Avenue.
- 4) Proposed driveway on Broadway Avenue shall be City standard.
- 5) Provide ground cover within existing parkstrip along Broadway Avenue.

g. *Electrical.* Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.

h. *Street Trees.*

- 1) The locations of the street trees will be determined at the street improvement stage. Street trees shown on this permit are conceptual only.
- 2) Contact the City Arborist at 408-277-2759 for the designated street tree.
- 3) Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects." Obtain a DOT street tree planting permit for any proposed street tree plantings.

9. **Landscaping.** Planting and irrigation are to be provided, as indicated on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with

Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.d

10. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance.
11. **Lighting.** No additional lighting is permitted as part of this permit. Any new lighting shall secure appropriate permits and conform to the City's Lighting Policy.
12. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.

APPROVED and issued this **5th of May, 2010.**

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Deputy



File No: SP10-010
District: 6

Noticing Radius: 500 Feet



Prepared by the Department of Planning,
Building, and Code Enforcement
4/9/2010