

SPECIAL USE PERMIT

FILE NO.	SP09-003
LOCATION OF PROPERTY	247 N. Third Street
ZONING DISTRICT	CO Commercial Office
GENERAL PLAN DESIGNATION	Residential Support for the Core (25+ DU/AC)
PROPOSED USE	Special Use Permit to allow conversion of an existing residential building for office use, including the addition of 131 square feet on the second floor, conversion of 450 square feet in the basement, and demolition of a detached garage to accommodate surface parking.
ENVIRONMENTAL STATUS	Exempt
APPLICANT / ADDRESS	Harvard P.M.D 22 Venner Hoyd S.A. 247 N. Third Street San Jose, CA 95113

FACTS

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

1. This Special Use Permit is to allow conversion of an existing residential building for office use.
2. Under the provisions of Section 15301(n) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) as stated below, this project is found to be 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.
3. The residence on the subject site has been listed on the San Jose Historic Resources Inventory as Eligible for the National Register of Historic Places under Criterion C for architectural merit. The project proposes the preservation of the residential structure and the use is compatible with the surrounding area.
4. The accessory structure proposed for demolition to accommodate required on-site parking was evaluated in a Historic Report by historical consultants Archaeological Resource Management, dated February 16, 2009. The report concluded that removal of the accessory structure would not significantly impact the eligibility of the primary residence for the National Register of Historic Places.
5. The subject site is designated Residential Support for the Core (25+ DU/AC) on the San José 2020 General Plan Land Use/Transportation Diagram. The proposed office use is consistent with this designation utilizing the Alternate Discretionary Use Policy for Structures of Historical or Architectural Merit.

6. The proposed use furthers the General Plan Urban Conservation/Preservation Major Strategy. The strategy encourages conservation and preservation of historic structures through a combination of public policies and private initiative because they add inestimable character and interest to the City's image.
7. The subject site is located in the CO Commercial Office Zoning District.
8. Under the provisions of Section 20.80.300 of the San José Municipal Code, no one- or two-family dwelling in any District shall be converted to any other use except upon issuance of and in compliance with a Special Use Permit for conversion to any nonresidential use identified as a permitted use in the District with the dwelling.
9. The existing subject dwelling is approximately 3,019 square feet in size. The project proposes the addition of 131 square feet on the second story and 450 square feet of conditioned space in the basement, within the existing footprint of the structure, in order to facilitate the proposed office use.
10. The primary policy applicable for the review and analysis of this project is City Council Policy 6-11 Design Criteria for Conversion of residential Structures to Non-Residential Uses. Planning staff has reviewed this proposal for consistency with the relevant sections of these policies.
11. The proposed office use is generally compatible with the existing mix of residential and commercial uses in the area.
12. The Zoning Ordinance requires one parking space for every 200 net square feet of proposed office space. The project proposal meets this requirement with eleven on-site parking spaces.

FINDINGS

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

1. The proposed project conforms to the City's General Plan.
2. The proposed project conforms in all respects to the provisions of Title 20 of the San José Municipal Code.
3. The proposed project is in conformance with the California Environmental Quality Act.

The Director of Planning has considered all of the following criteria in evaluating the proposed demolition.

1. The failure to approve the permit would result in the creation of continued existence of a nuisance, blight or dangerous condition in that the structures are in dilapidated condition and provide an attractive nuisance and hazard to the neighborhood.
2. The failure to approve the permit would jeopardize public health, safety or welfare.
3. The approval of the permit should maintain the supply of existing housing stock in the City of San José.
4. Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible in that the structures have been evaluated and the National Register eligible church will be preserved while the Structures of Merit will be offered for relocation or salvage.
5. Rehabilitation or reuse of the existing buildings would not be feasible.

6. The approval of the demolition of the buildings should facilitate a project that is compatible with the surrounding neighborhood. The General Plan Land Use/Transportation Diagram designation encourages a higher density residential development compatible with the existing residential neighborhood.
7. The demolition of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.

Further, the Director of Planning 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; in that:
 - i. The proposed late night use will facilitate a project that is compatible with the surrounding area.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Director of Planning approves the late night use of the subject establishment.

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 Special Use Permit shall automatically expire four years from and after the date of issuance hereof by said Director, if within such time period, the after hours use has not commenced, pursuant to and in accordance with the provision of this Special Use Permit. 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/ 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.
3. **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

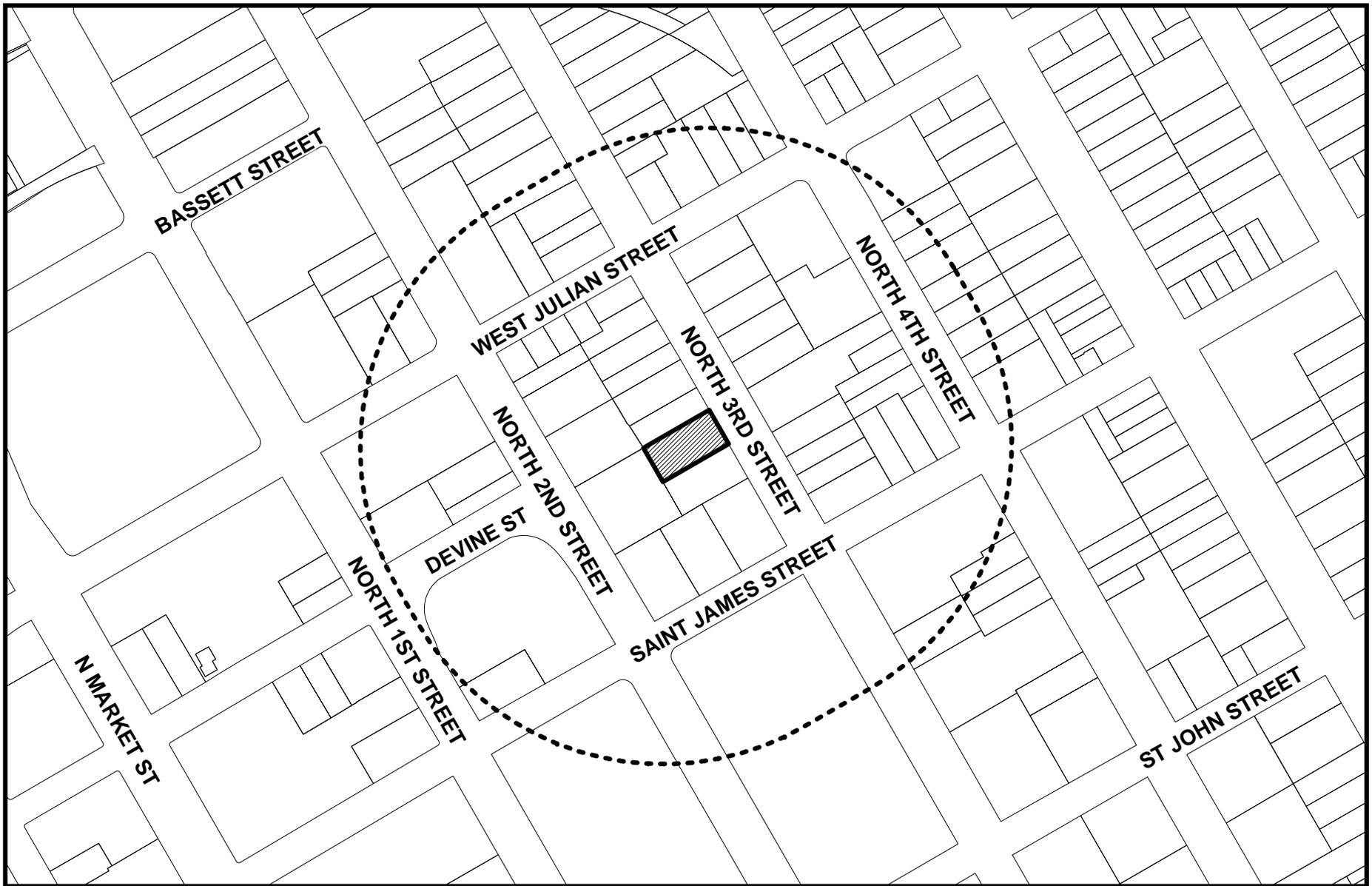
Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval, may be imposed by the approval authority.

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 José 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 plans 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).
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. **Construction Air Quality.**

APPROVED and issued on this **day of May, 2010.**

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Deputy



Approx. Scale: 1" = 250'
Map Created On: 6/11/2009
Noticing Radius: 500 feet

File No: SP09-003

District: 3

Quad No: 83