

## PLANNED DEVELOPMENT PERMIT AMENDMENT

<b>FILE NO.</b>	<b>PDA08-040-01</b>
<b>LOCATION OF PROPERTY</b>	<b>Southwest corner of Coleman Avenue and Newhall Street (1150-1190 Newhall Drive)</b>
<b>ZONING DISTRICT</b>	<b>A(PD) Planned Development (PDC09-004)</b>
<b>GENERAL PLAN DESIGNATION</b>	<b>Combined Industrial/Commercial</b>
<b>PROPOSED USE</b>	<b>Planned Development Amendment to replace two previously entitled retail buildings (#4 and #8) with a gas station with a drive-through car wash and retail building, totaling 4,200 square feet, and site reconfiguration for two entitled restaurant and retail buildings (#5 and #6) on a 2.52 gross acre site.</b>
<b>ENVIRONMENTAL STATUS</b>	<b>Re-use of an EIR</b>
<b>OWNER/ADDRESS</b>	<b>Brad Durga % Arcadia Coleman Landings, LLC 900 E. Hamilton Ave. Campbell, CA 95008</b>

### FACTS

1. The project site has a designation of Combined Industrial/Commercial on the City of San Jose 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the A(PD) Planned Development Zoning District.
3. The subject site is 2.52 gross acres.
4. The project proposes to replace two previously entitled retail buildings with a gas station with a drive-through car wash and retail building, totaling 4,200 square feet and site reconfiguration for two entitled restaurant and retail buildings (#5 and #6).
5. The proposed retail building is 32 feet in height.
6. The proposed pump canopy is 27 feet in height.

7. The replacement of a building with the proposed gas station pump canopy will result in 504 feet of building frontage located within 200 feet along the ALUC Safety Zone for Runway 11-29 No Build line.
8. An Environmental Impact Report, entitled “FMC/Coleman Avenue Planned Development Rezoning” was certified for this project on 8/19/03 and includes mitigation to ensure that the proposed use does not result in impacts relative to traffic the aesthetics, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality and noise.

## **FINDINGS**

1. The Planned Development Permit, as issued, furthers the policies of the General Plan in that:
  - a. The project consists of an infill housing development that conforms to the General Plan designation of Combined Industrial/Commercial and that furthers the Plan’s Economic Development Goals and Policies.
2. The Planned Development Permit, as issued, conforms in all respects to the Planned Development zoning of the property in that:
  - a. The building location, setbacks, and parking spaces conform to the General Development Plan.
3. The interrelationship between the orientation, location and elevations of the proposed building(s) and structure(s) and other uses on-site are mutually compatible and aesthetically harmonious in that:
  - a. The architectural elements of the proposed and/or existing structure(s) are integrated into a harmonious whole.
  - b. The project conforms to the Commercial Design Guidelines.
4. The environmental impacts of the project including, but not limited to, noise, vibration, dust, drainage, erosion, 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. An Environmental Impact Report was certified for this project that concluded that the project would not result in a significant environmental impact. Measures have been incorporated into the project design to ensure that the project does not result in unacceptable negative effects on adjacent properties.
  - 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.

Based upon the above-stated findings and subject to the conditions set forth below, the Director of Planning approves, pursuant to Section 20.80.440(B) and Chapter 20.100 of the San José Municipal Code, the subject Planned Development Permit Amendment.

**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 time period, the construction of buildings has not commenced, pursuant to and in accordance with the provision 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 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 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 plans

entitled, "Planned Development Permit Amendment for PD08-040, Coleman Retail – Phase II", dated July 14, 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).

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. **Off-Sale of Alcoholic Beverages.** This permit does not authorize the off-sale of alcoholic beverages. Any such use will require the approval of a Planned Development Permit Amendment.
9. **Hours of Operation.** Hours of operation for the gas station and retail uses shall be from 6:00 AM to 12:00 midnight. The drive-through use of building 7 is permitted to operate until 2:00 AM, as set forth in Planned Development Permit PD08-040. Any other extension of hours will require a subsequent Planned Development Permit Amendment.
10. **Drive-Through Uses.** This project approves three drive-through uses on the site, on buildings #5 and #7, and the car wash for the gas station, as noted on the approved plan set.
11. **Lighting.** On-site exterior uncovered lighting shall be designed, controlled, and maintained so that no light source is visible from outside of the property. Light fixtures shall be energy efficient (Energy Star approved), long-lasting, dimmable, remotely controllable, and constructed with minimal hazardous materials. Light poles shall not exceed 25 feet in height.
12. **Construction Impact Mitigation Measures.** The applicant shall ensure that the following construction impact mitigation measures are fully implemented throughout the duration of construction activities associated with this project. For the purposes of this Permit, "construction" shall mean all on-site activities including site clearing, grading, and construction. Failure to comply with these conditions by the applicant, project contractors or subcontractors shall be cause for shutdown of the project site until compliance with the following conditions can be ensured by the City.
  - a. *Mitigation Measures.* These construction impact mitigation measures shall be included in all contract documents for the project to ensure full disclosure to contractors and subcontractors.
  - b. *Equipment.* Mitigation of construction phase noise at the site shall include the use of quiet or "new technology" equipment, particularly with improved exhaust mufflers. All internal combustion engines used at the project site shall be equipped with the type of muffler recommended by the equipment manufacturer. In addition, all equipment shall be maintained in good mechanical condition so as to minimize noise created by faulty or poorly maintained engine, drive-train and other components.
  - c. *Construction Hours.* Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any onsite or offsite work within 500 feet of any residential

unit so as to avoid the more sensitive evening, nighttime and weekend hours.

- d. *Construction Deliveries.* Deliveries shall not occur outside the above construction hours. All deliveries shall be coordinated to ensure that no delivery vehicles arrive prior to the opening of the gates to prevent the disruption of nearby residents.
  - e. *Plans.* The construction hours shall be printed on all plans for the project used to construct the project.
  - f. *Fencing.* The site shall be wholly enclosed by security fencing. The gates to the project site shall remain locked during all other times, except for a fifteen-minute period immediately preceding and following the above hours of construction.
  - g. *Construction Employees.* Construction workers shall not arrive to the site until the opening of the project gates. The applicant shall designate a location without adjacent residential units for workers to wait prior to the opening of the project gates.
  - h. *Construction Activities.* Construction equipment, materials, and workers shall not be staged on any area of the site within 50 feet of an adjoining property used for residential purposes unless the Director of Planning approves a Permit Adjustment authorizing such activity. The construction staging area shall not create a public or private nuisance.
  - i. *Disturbance Coordinator.* A disturbance coordinator shall be identified by the developer for this project. The disturbance coordinator shall be responsible for ensuring compliance with the hours of construction, site housekeeping, and other construction-related conditions in this permit.
  - j. *Daily Log.* The disturbance coordinator shall maintain a log of daily activities on the project, including but not limited to, verification of site closure activities, project cleanliness, complaints on site activities and conditions and dates and times of the coordinators visits to the project if the coordinator is not solely responsible for this project site. This log shall be available for inspection by City Staff upon request.
  - k. *Telephone Contact.* A phone with answering machine for complaints or other communication during non-work hours shall be maintained during the duration of project construction. The phone number should be a local call for surrounding residents.
  - l. *Signage.* The name and phone number of the disturbance coordinator, the hours of construction limitations, the project contact telephone number, City File Number PD06-040, city contact and phone number (department and phone number) shall be displayed on a weatherproof sign posted at each entrance to the project site.
13. **Dust Control/Air Quality.** Project construction shall implement the Bay Area Air Quality Management District's list of feasible construction dust control measures. The following construction practices shall be implemented during all phases of construction on the project site:
- a. Water all active construction areas at least twice daily or as often as needed to control

dust emissions.

- b. Cover all trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
  - c. Apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas during construction of the site.
  - d. Sweep daily or as often as needed with water sweepers all paved access roads, parking areas and staging areas at construction sites to control dust.
  - e. Sweep public streets daily, or as often as needed, with water sweepers, to keep streets free of visible soil material.
  - f. Hydro seed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
  - g. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.) sufficient to prevent visible airborne dust.
  - h. Limit traffic speeds on unpaved roads to 15 mph.
  - i. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
  - j. Replant vegetation in disturbed areas as quickly as possible.
14. **Public Works Clearance for Building Permit(s):** Prior to the issuance of Building permits, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.
- a. *Grading/Geology:*
    - 1) A grading permit is required prior to the issuance of a Public Works Clearance.
    - 2) If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
    - 3) Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.

- 4) The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.
  - b. *Sewage Fees*: In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
15. **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, PD08-040-01, shall be printed on all construction plans submitted to the Building Division.
  - b. *Emergency Address Card*. The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
  - c. *Americans With Disabilities Act*. The applicant shall provide appropriate access as required by the Americans With Disabilities Act (ADA).
  - d. *Street Number Visibility*. Street numbers of the buildings shall be easily visible at all times, day and night.
  - e. *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 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.
16. **Landscaping**. Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set and mitigation shall be provided for any removal of trees. 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.
17. **Refuse**. All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash enclosures shall have a drain that connects to the sanitary sewer system. No outdoor storage

is allowed/permitted unless designated on the approved plan set. Trash areas shall be maintained in a manner to discourage illegal dumping.

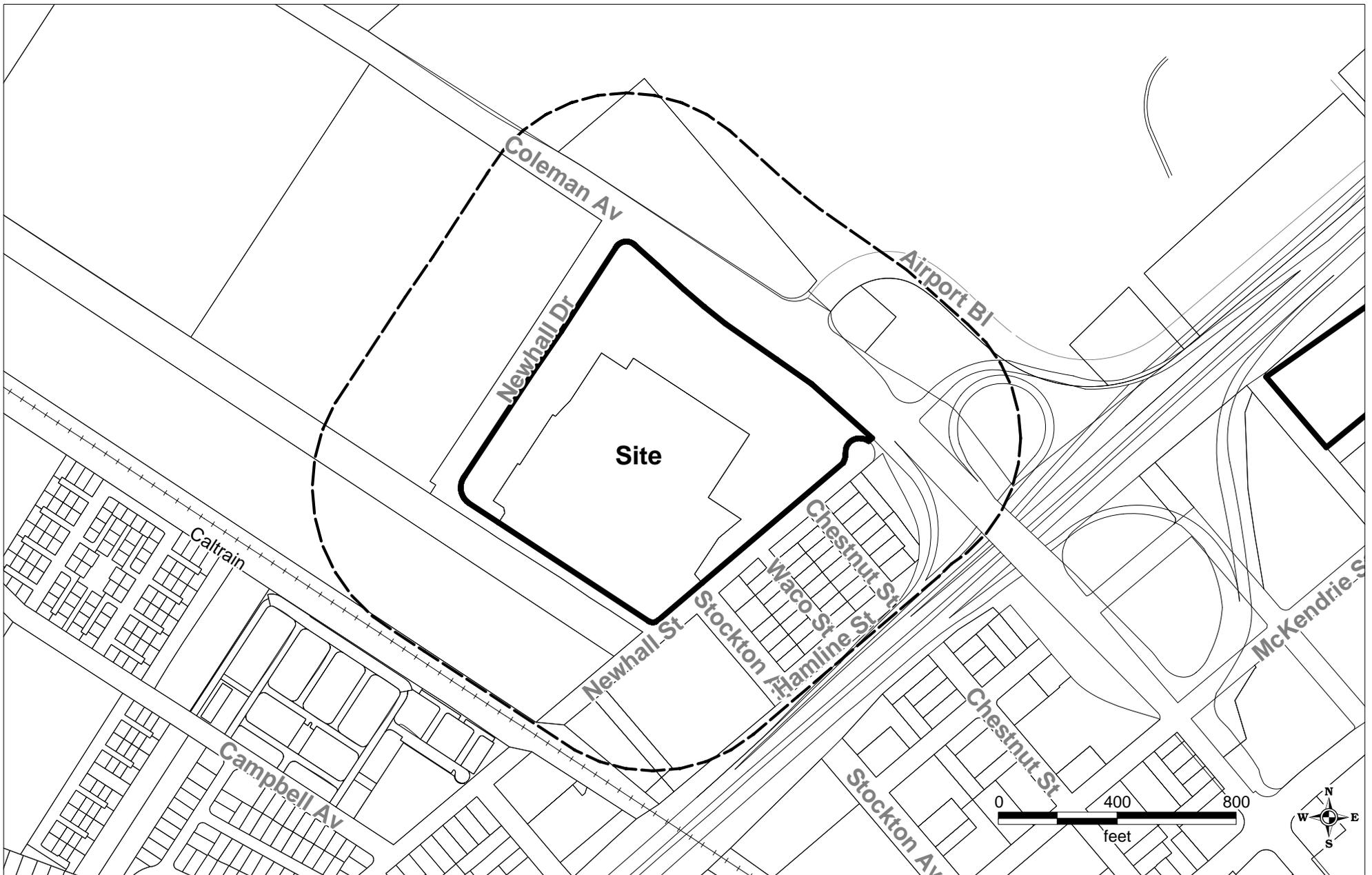
18. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
19. **Materials.** All building and materials are to be those specified on the approved plan set.
20. **Anti-Graffiti.** Graffiti shall be removed from buildings and wall surfaces within 48 hours of defacement.

**APPROVED** and issued this **21<sup>st</sup> day of July, 2010.**

JOSEPH HORWEDEL  
Director, Planning, Building and Code Enforcement

---

Deputy



File No: PDA08-040-01  
District: 3

Noticing Radius: 500 Feet



Prepared by the Department of Planning,  
Building, and Code Enforcement  
5/12/2010