

SITE DEVELOPMENT PERMIT

FILE NO.	H10-018
LOCATION OF PROPERTY	Northeast corner of East Santa Clara Street and N. Fifth Street.
ZONING DISTRICT	DC Downtown Core
GENERAL PLAN DESIGNATION	Public Quasi-Public
PROPOSED USE	A Site Development Permit to allow for the phased construction of a 24,342 square foot religious facility that will include a sanctuary, community center, child care center, classrooms and offices on a 0.40 gross acre site.
ENVIRONMENTAL STATUS	Mitigated Negative Declaration (File No. PDC01-046)
OWNER/ADDRESS	First United Methodist Church 130 E. San Fernando Street San Jose, CA 95112

FACTS

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

1. The subject property is located at the northeast corner of E. Santa Clara Street and N. 5th Street.
2. The subject property is 0.40 gross acres in size.
3. The subject property is currently an undeveloped vacant lot.
4. This Site Development Permit is to allow for the phased construction of a 24,342 square foot religious facility that will include a sanctuary, community center, child care center, classrooms and offices on the subject site.
5. The subject property is located in the DC Downtown Core Zoning District.
6. A church/religious assembly is a permitted use in the DC Downtown Core Zoning District.
7. No parking is required for a church/religious assembly in the DC Downtown Core Zoning District.
8. The subject property has a San Jose 2020 General Plan Land Use/Transportation Diagram land use designation of Public/Quasi-Public.

9. The area surrounding the site is characterized by a mix of development including public buildings, multi-family residential development and commercial uses.
10. There are no ordinance sized trees proposed to be removed as part of the project.
11. An Initial Study was prepared for this project under the Planned Development Rezoning, File No. PDC01-046, and the Director of Planning circulated a Mitigated Negative Declaration for public review that was adopted by the City Council on April 16, 2002. The key issues addressed in the Initial Study included the impacts of air quality, cultural resources, geology and soils, hydrology and water quality, and noise on the site. The project includes mitigation measures that reduce any potentially significant impacts to a less than significant level.

FINDINGS

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

1. This Site Development Permit, as issued, furthers the policies of the General Plan, in that the project conforms to the General Plan Land Use/Transportation Diagram land use designation of Public/Quasi-Public in that a church use is an intended use within the designation.
2. The interrelationship between the orientation, location and elevations of the proposed parking area and other uses on-site are mutually compatible and aesthetically harmonious in that:
 - a. Sufficient open space is provided.
 - b. Parking spaces are conveniently located in relation to the uses they support as street parking is available along the street frontage of the subject site, as well as, public parking lots and garages are located within close proximity to the site.
3. The orientation, location and elevation of the proposed building, structures, and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood in that:
 - a. The new structure on the site is comparable in terms of mass, scale and height with existing adjacent or nearby structures.
 - b. The structure does not unreasonably interfere with the light and air available to adjacent sites.
 - c. The privacy of adjacent sites will be protected by adequate screening of, or orientation of activities away from, privacy sensitive areas adjacent to the site.
4. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to conceal aid activities in that the trash will be located within a covered enclosure and mechanical equipment will be located within the building or screened on the roof top.
5. Traffic access, pedestrian access and parking are adequate in that:
 - a. The proposed number, size and access of parking spaces comply with the requirements of the Zoning Ordinance.
 - b. There are sufficient walkways around the perimeter of the building.

6. The environmental impacts of the project will not have an unacceptable negative effect on adjacent property or properties in that:
 - a. An Initial Study was prepared for this project, and the Director of Planning, Building, and Code Enforcement circulated a Mitigated Negative Declaration for public review that was adopted on April 16, 2002. The key issues addressed in the Initial Study included the impacts of air quality, cultural resources, geology and soils, hydrology and water quality, and noise on the site. The project includes mitigation measures that reduce any potentially significant impacts to a less than significant level.
 - 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.

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 Site Development Permit shall automatically expire four (4) years from and after the date of issuance hereof by said Director, if within such period, the proposed use of this site or the construction has not commenced, pursuant to and in accordance with the provisions of this Site 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 to extend the validity of this Permit in accordance with Title 20 of the San José Municipal Code. The Permit Adjustment 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. **Conformance to Plans.** Development of the site shall conform to approved Site Development plans entitled “*First United Methodist Church, 24 North Fifth Street, San Jose, CA 95113*” last revised on November 19, 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), with the exception of any subsequently approved changes.
5. **Revocation.** This Planned Development Permit is subject to revocation for violation of any of its provisions or conditions.
6. **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.
7. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, 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. **Minor Improvement Permit:** The public improvements conditioned 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. **Grading/Geology:**
 - i. 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.
 - ii. 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.
 - c. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City’s Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant discharges. Post-construction treatment control measures, shown on the project’s Stormwater Control Plan, shall meet the numeric sizing design criteria specified in City Policy 6-29.
 - i. The project’s Stormwater Control Plan and numeric sizing calculations are currently under review.
 - ii. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.

- d. **Stormwater Peak Flow Control Measures:** The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).
- e. **Flood: Zone D:** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for zone D.
- f. **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.
- g. **Assessments:** This project is located within the Basic Zone of the Downtown San Jose Property-Based Business Improvement District ("Downtown PBID") which provides enhanced cleaning, safety and image enhancement programs within the boundaries of the district. Properties within the district pay for the services through annual assessments placed on the property tax bills which may be increased by up to 5% each year. The 2010-11 assessment is calculated based on the land use of its building and lot square footage. Commercially used properties pay \$0.049453886 per building and lot square footage; Residential and Religious uses pay \$0.035996343 per building and lot square footage.
- h. **Street Improvements:**
 - i. Remove and replace curb, gutter, and sidewalk along the Santa Clara Street project frontage.
 - ii. The 5th Street traveled way is comprised of concrete panels. Any intrusion in the traveled way will require removal and replacement of the entire concrete panel section.
 - iii. Repair, overlay, or reconstruction of asphalt pavement will be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.
- i. **Sanitary:** The project is required to submit plan and profile of the private sewer mains with lateral locations for final review and comment prior to construction.
- j. **SNI:** This project is located within the 13th Street SNI area. Public improvements shall conform to the approved EIR and neighborhood improvement plan.
- k. **Greater Downtown Area Master Plans:** This project is located within the Greater Downtown area. Public improvements shall conform to the Council approved San Jose Downtown Streetscape and Street and Pedestrian Lighting Master Plans.
- l. **Electrical:**
 - i. 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.
 - ii. Trim the tree around the existing electrolier at Santa Clara Street to improve the lighting level.

- m. **Street Trees:** 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”. Street trees shall be installed in the park strip on 5th Street and in cut-outs at the back of curb on Santa Clara Street. Obtain a DOT street tree planting permit for any proposed street tree plantings. The locations of the street trees will be determined at the street improvement stage. Street trees shown on this permit are conceptual only. Contact the City Arborist at (408) 277-2756 for the designated street tree.
8. **Lot Line Adjustment.** Prior to the issuance of a Building Permit for Phase Two of the project construction, a Lot Line Adjustment Permit shall be obtained to move the property line between APN’s 467-19-078 and 467-19-079 to accommodate the location of the building expansion.
9. **Green Building.** The development is subject to the City’s Green Building Ordinance for Private Sector New Construction - Non-Residential Development Less Than 25,000 square feet. Prior to the issuance of any shell or complete building permits for the construction of buildings approved through the scope of this *Site Development Permit*, the applicant shall submit a LEED green building checklist as a part of the Building Permit plan submittal.
10. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Building Official:
- a. *Construction Plans.* This permit file number, H10-018, shall be printed on all plans submitted to the Building Division.
 - b. *Compliance.* The applicant shall ensure that all of the construction impact mitigation measures listed under Condition #11 of this Permit are fully complied with throughout the duration of all construction activities associated with this project and related off-site construction work. Failure to comply with these conditions by the applicant, their contractors or subcontractors shall be cause for shutdown of the project site until compliance with the following conditions can be ensured by the City. These construction impact mitigation measures shall be included in all contract documents for the project to ensure full disclosure to contractors and subcontractors.
 - c. *Construction Hours.* Construction and grading activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday. This includes the staging of equipment and construction personnel. The construction hours shall be printed on all plans for the project used to construct the project. Interior construction activities that do not generate any audible noise impacts at residential properties are allowed on Saturdays between 9:00 a.m. and 5:00 p.m.
 - d. *Enforcement.* The Director of Planning, Building and Code Enforcement may order an immediate halt to construction activities on the project site any time that the Director determines that the project is not in substantial conformance with the requirements of this Permit. Within seven days of ordering such a halt to construction, the Director of Planning, Building and Code Enforcement shall issue a Notice of Noncompliance in conformance with Section 20.100.320 of Title 20 of the San José Municipal Code indicating the specific area(s) of noncompliance and providing notice that the Director

may issue an Order to Show Cause why the development permit shall not be revoked, suspended, or modified if the noncompliance is not corrected.

11. Fire Clearance for Issuing Permits. Compliance with all 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.

12. Environmental Mitigation.

- a. **Air Quality:** 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. The Bay Area Air Quality Management District has prepared a list of feasible construction dust control measures that can reduce construction impacts to a level that is less than significant. The following construction practices would be implemented during all phases of construction on the project site. With the inclusion of these mitigation measures, the short-term air quality impacts associated with construction will be reduced to less-than-significant levels.
 - i. Use dust-proof chutes for loading construction debris onto trucks
 - ii. Water to control dust generation during construction
 - iii. Cover all trucks hauling debris from the site
 - iv. Water or cover stockpiles of debris, soil, sand, or other materials that can be blown by the wind
 - v. Cover all trucks hauling soil, sand, or other loose materials, or require trucks to maintain at least two feet of freeboard
 - vi. Sweep daily (preferably with water sweepers) all paved access road, parking areas, and staging areas at construction sites
 - vii. Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets
 - viii. Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.)
 - ix. Install sandbags or other erosion control measures to prevent silt runoff to public roadways
- b. **Cultural Resources:** An archaeological monitoring program will be implemented during subsurface disturbance activities by a qualified archaeologist until excavation reaches the maximum depth at which cultural deposits are reasonably expected to occur or the archaeologist determines that monitoring is not necessary.
- c. **Hydrology and Water Quality:** The project will incorporate mitigation measures to minimize urban run-off. The mitigation measures include a storm water run-off management plan for construction activities to satisfaction of Department of Public Works, and compliance with all applicable City, Local, Regional, State and Federal laws. The project shall conform to the City of San Jose National Pollutant Discharge Elimination System (NPDES) Storm Water Permit and shall include Best Management Practices (BMPs) as specified in the *Blueprint for a Clean Bay* to control the discharge of

storm water pollutants including sediments associated with construction activities. Prior to the issuance of a grading permit, the applicant may be required to submit an Erosion Control Plan to the City project Engineer. The Erosion Control Plan may include BMPs as specified by the Association of Bay Area Governments' Manual of Standards Erosion & Sediment Control Measures for reducing impacts on the City's storm drainage system from construction activities. For additional information about the Erosion Control Plan, the NPDES permit requirements, or the documents mentioned above, please call the Department of Public Works at (408) 277-5161.

- d. **Geology and Soils:** A design-level geotechnical investigation will be prepared and will include specific foundation design standards for the structure. The project would be designed and constructed in accordance with the Uniform Building Code guidelines for Seismic Zone 4 to avoid or minimize potential damage from seismic shaking on the site.
 - e. **Noise:** To mitigate noise impacts to project occupants, the building design will feature sound rated windows, forced air mechanical ventilation so windows could be kept closed, and special building construction techniques such as insulation and soundproofing. Mechanical equipment will be placed, installed, and insulated to limit noise levels at 55 dBA Ldn at the property line adjacent to residences and at Horace Mann School. A construction noise mitigation program will be developed and implemented at the permit stage. Approval of this project will also include a standard condition that any construction within 500 feet of a residential property shall be limited to 7:00 AM to 7:00 PM, Monday through Friday.
13. **Storm Water Stenciling.** All drain inlets shall be labeled "No Dumping-Flows to Bay." Please contact the City of San José, Department of Public Works, at (408) 277-5161 to obtain free stencils.
 14. **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.
 15. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
 16. **Landscaping.** Planting and irrigation are to be provided as indicated on the approved plans. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced. Permanent 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. **Landscape Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
 18. **Irrigation Standards.** The applicant shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms to the Zonal Irrigation Plan in the Approved Plan Set and is consistent with the City of San José Landscape and Irrigation Guidelines.
 19. **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 areas shall be maintained in a manner to discourage illegal dumping.

20. **Fencing.** Fences shall be erected in accordance with the standards established on the Approved Plan Set. Changes to the approved fencing shall comply with Section 17.24.050 of the City of San Jose Municipal Code.
21. **Lighting.** On-site, exterior, unroofed lighting shall conform to the Outdoor Lighting Policy. Lighting shall be designed, controlled and maintained so that no light source is visible from outside of the property.
22. **Colors and Materials.** All building colors and materials are to be those specified on the Approved Plan Set. Any changes in the materials or architectural elements shown shall require the approval by the Director of Planning, Building, and Code Enforcement.
23. **Roof Equipment.** All roof equipment shall be screened from view.
24. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning, Building, and Code Enforcement.
25. **Nuisance.** This use shall be operated in a manner that does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
26. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
27. **Drop Off Area.** Any proposed drop off area in the public right-of-way shall be coordinated with the Department of Public Works and will require the submittal of a queuing analysis to the satisfaction of the Director of Public Works. A drop off area in the public right-of-way is not approved as a part of this permit.

APPROVED and issued on this 30th day of March, 2011.

Joseph Horwedel, Director
Planning, Building, and Code Enforcement

Deputy



File No: H10-018
District: 3

Noticing Radius: 500 Feet



Prepared by the Department of Planning,
Building, and Code Enforcement
9/20/2010