

## PLANNED DEVELOPMENT PERMIT AMENDMENT

<b>FILE NO.</b>	<b>PDA04-009-04</b>
<b>LOCATION OF PROPERTY</b>	<b>southwest corner of Tully Road and Highway 101 (1290 Tully Road)</b>
<b>ZONING DISTRICT</b>	<b>A(PD) Planned Development</b>
<b>ZONING FILE NUMBER</b>	<b>PDC03-040</b>
<b>GENERAL PLAN DESIGNATION PROPOSED USE</b>	<b>Combined Industrial / Commercial Planned Development Amendment to allow a trade/vocational school for up to 45 persons including staff on the subject site</b>
<b>ENVIRONMENTAL STATUS</b>	<b>Exempt</b>
<b>OWNER/ADDRESS</b>	<b>SFERS Real Estate Corp. P. O. Box 4900 Unit 207 Scottsdale, AZ 85261-4900</b>

### FACTS

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

1. The site is currently developed with a 22,964 square foot commercial building.
2. The project site has a designation of *Combined Industrial Commercial* on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
3. The project site is located in the A(PD) Planned Development Zoning District.
4. The subject site is 1.96 gross acres in size.
5. The project will allow a trade/vocational school on the subject site
6. Under the provisions of Section 15301 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

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

1. The Planned Development Permit, as issued, furthers the policies of the General Plan, in that:
  - a. The project maintains the existing pattern of development in the immediate vicinity.

2. The Planned Development Permit, as issued, conforms in all respects to the Planned Development Zoning of the property in that:
  - a. The proposed project conforms to the approved General Development Plan.
3. The interrelationship between the orientation, location, mass and scale of building volumes, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious, in that:
  - a. No physical changes are proposed to the exterior of the existing buildings on the site as a part of this permit.
4. The proposed project is in conformance with the California Environmental Quality Act in that:
  - a. Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), which allows for the continuing use of existing facilities, this project is found to be exempt from the environmental review requirements.

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 Amendment shall automatically expire four years from and after the date of issuance hereof by said Director, if within such time period, the proposed use has not commenced, pursuant to and in accordance with the provision of this Planned Development Permit Amendment. 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 entitled, "Tully Business Center, Tully Road at Highway 101, San Jose, CA," dated November 24, 2010 and "Urban Oasis, 1290 Tully Road, San Jose, CA 95122," dated January 13, 2011 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. **Previous Conditions.** All of the conditions of the previously Planned Development Permit and Amendments (PD04-009, PDA04-009-01, PDA04-009-02 and PDA04-009-03) shall remain unchanged and in full force and effect unless such conditions are specifically modified or deleted by this Amendment.
9. **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 Jose Municipal Code.

**APPROVED** and issued on this **29<sup>th</sup> day of April 2011.**

Joseph Horwedel, Director  
Planning, Building, and Code Enforcement

Deputy