

SPECIAL USE PERMIT

FILE NO.	SP10-058
LOCATION OF PROPERTY	Northwest corner of 4th and East Santa Clara Streets (147 East Santa Clara Street)
ZONING DISTRICT	DC Downtown Primary Commercial
GENERAL PLAN DESIGNATION	Core Area
PROPOSED USE	Conversion of approximately 916 square feet of an existing retail gas service station service bay area to a convenience store on an approximately .71 gross-acre site
ENVIRONMENTAL STATUS	Exempt
OWNER/APPLICANT ADDRESS	Manraj Natt George F. Saunders Enterprises, Inc. 147 East Santa Clara 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 for the addition of approximately 916 square feet to an approximately 740 square-foot convenience store at an existing gasoline service station in the CP Commercial Pedestrian Zoning District.
2. Under the provisions of Section 15301(e)(1) of the State Guidelines for Implementation of the California Environmental Quality Act (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.
3. This site has a designation of Core Area on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
4. Under the provisions of Section 20.80.600 of the San José Municipal Code, a Special Use Permit is required for the conversion of a gas station, in full or in part, to a permitted use in the subject zoning district.
5. The subject site is approximately 0.71 gross acres in size.
6. The subject site is currently developed with a gasoline service station built in 1969 in accordance with Building Permit No. 1117.
7. The subject site will have 17 parking spaces of which 13 are required spaces.

FINDINGS

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

1. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious, in that:
 - a. The subject improvements are for minor exterior remodel changes to an existing structure, landscaping, and other minor site improvements and change of use of service bays to a convenience store and will not significantly alter the appearance of the building(s) on the site.
 - b. Sufficient open space separates all structure(s) and uses.
 - c. Sufficient maneuvering room will be provided on site to allow smooth circulation and minimize interference with other uses.
2. The orientation, location and elevation of the proposed buildings and 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 proposed project substantially conforms to the City of San Jose's Commercial Design Guidelines.
 - b. The buildings are generally compatible with other commercial buildings in the area.
3. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties, 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 minor alterations and development of small structures, this project is found to be exempt from the environmental review requirements.
 - 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.
4. Traffic access, pedestrian access and parking are adequate in that:
 - a. Sufficient parking and traffic capacity are available for the minimal traffic this project will create.
5. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior hearing, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood in that:
 - a. Perimeter landscaping helps the site blend with its surroundings.
6. The Permit, as issued, furthers the policies of the General Plan, in that:
 - a. The project is consistent with the site's General Plan Land Use/Transportation Diagram designation of Core Area.

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

1. The proposed use at the location 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 and quality 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 Section 20.80.600 of the San José Municipal Code, the addition to the existing convenience store.

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. **Deadline for Commencing Construction.** This Special Use Permit shall automatically expire two years from and after the date of issuance hereof by said Director if within such two-year period construction of buildings has not commenced, pursuant to and in accordance with the provisions 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 to extend the validity of this Permit for a period of up to two years. 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 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.

4. **Building Permit.** A Building Permit is required for the proposed construction. 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.
5. **Conformance to Plans.** Construction and development shall conform to approved Special Use Permit plans entitled, "Chevron-Food Mart (T.I), 147 East Santa Clara Street, San Jose, CA 95113 " last revised June 11, 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. **Conformance to Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
7. **Revocation.** This Special Use Permit is subject to revocation for violation of any of its provisions or conditions.
8. **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.
9. **Hours of Operation.** The allowed hours of operation of the convenience store are 6:00 a.m. to 12:00 a.m. midnight.
10. **Cultural Resources.** Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
11. **Removing Graffiti.** The property owner shall promptly remove all graffiti on any structure. In the event the property owner fails to remove all graffiti from the structure within two business days following receipt of notification from the City, the City shall have the right to remove any graffiti and the Provider shall reimburse the City for all costs incurred for the removal within 30 days of receipt of a bill for the work done.
12. **Tree Removals.** No trees shall be removed as part of this permit. No tree larger than 56 inches in circumference, at a height of 24 inches above the natural grade slope, shall be removed without a Tree Removal Permit issued by the Director of Planning.
13. **Street Cleaning and Dust Control.** During demolition/construction, the developer shall damp sweep the public streets and/or private streets each working day. On-site areas visible

to the public from the public right-of-way shall be cleaned of debris, rubbish, and trash. 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.

14. **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.
- c. **Mitigation Measure:** These construction impact mitigation measures shall be included in all contract documents for the project to ensure full disclosure to contractors and subcontractors.
 - d. **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.
 - e. **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.
 - f. **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.
 - g. **Plans:** The construction hours shall be printed on all plans for the project used to construct the project.
 - h. **Fencing:** The construction area 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.
 - i. **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.
 - j. **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.
 - k. **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.
 - l. **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.

- m. **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.
 - n. **Signage:** The name and phone number of the disturbance coordinator, the hours of construction limitations, the project contact telephone number, City File Number SP10-058, city contact and phone number (department and phone number) shall be displayed on a weatherproof sign posted at each entrance to the project site.
15. **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. No outdoor storage is allowed unless designated on the approved plan set. Trash areas shall be maintained in a manner to discourage illegal dumping.
16. **Outside Storage.** No outside storage is permitted except in areas designated on the approved plan set.
17. **Waste Management.** Scrap construction and demolition material should be recycled. Integrated Waste Management staff at 277-5533 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors. For further information, contact the Commercial Solid Waste Program at (408) 535-3515.
18. **Industrial Waste.** If industrial waste, as defined by Section 15.12 of the San Jose Municipal Code, is to be discharged into the sanitary sewer system, a clearance shall be obtained from the Water Pollution Control Plant, Industrial Waste Section.
19. **Storm Water Discharge.** The applicant shall conform to the Non-Point Source Control requirement for storm water discharge associated with construction activity as required by the State Water Resource Control Board. Contact the Regional Water Quality Control Board at (415) 286-0968 for further information.
20. **Storm Water Management.** 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.
21. **Fire Safety.** 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 to the satisfaction of the Fire Chief.
22. **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, SP10-058, 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. **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 check submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from

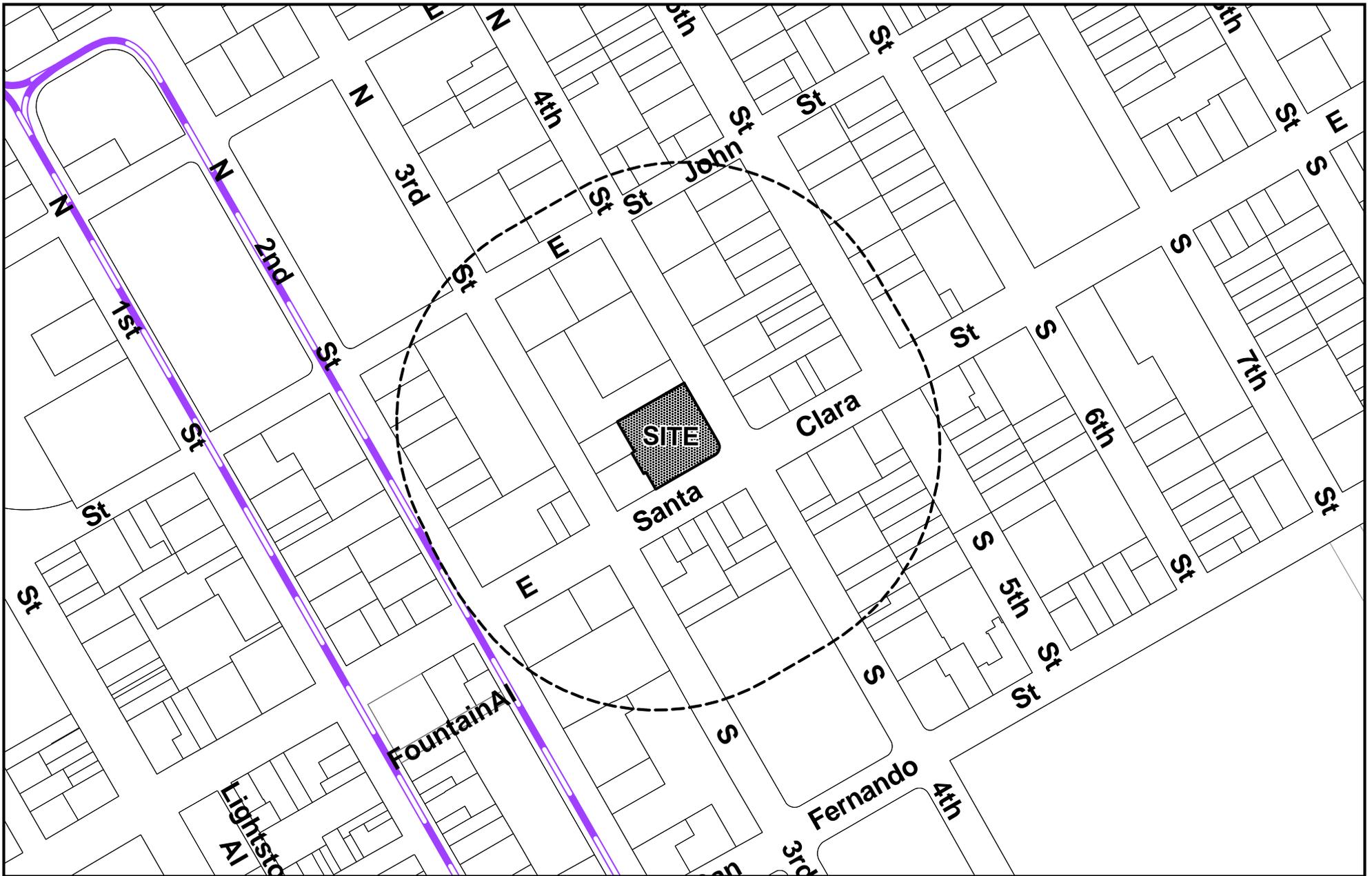
the Planning Division that the project, as constructed, conforms to all applicable requirements of the subject Permit, including the plan sets.

23. **Colors and Materials.** All building colors and materials are to be as specified on the approved plan set.
24. **Signage.** This Special Use Permit does not include the approval of any signage. Signs are to conform to the regulations of Title 23 of the Municipal Code and allowed with the issuance of a Sign Permit Adjustment.
25. **Public Works Clearance for Building Permit:** Prior to the issuance of Building permits the applicant shall 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. **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/or stormwater treatment controls to minimize stormwater pollutant discharges.
 - 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.
 - c. **Street Improvements:** Future redevelopment of the site shall require public improvements which may include the closure of the existing easterly driveway on E. Santa Clara Street closest to the 4th Street intersection.
26. **Deadline for Commencing Construction.** This permit shall automatically expire two years from and after the date of issuance hereof by said Director if within such two-year period construction has not commenced, pursuant to and in accordance with the provisions of this 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 for a period of up to two years.
27. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.

APPROVED and issued this **22nd day of June, 2011.**

Joseph Horwedel, Director
Planning, Building, and Code Enforcement

Deputy



File No: SP10-058

District: 3

Noticing Radius: 500 Feet



Prepared by the Department of Planning,
Building and Code Enforcement
01/04/2010