

PLANNED DEVELOPMENT PERMIT

FILE NO. PD12-001

LOCATION OF PROPERTY West side of Capitol Expressway, 150 feet northerly of Quimby Road (2365 Quimby Road)

ZONING DISTRICT A(PD) Planned Development

ADOPTED ORDINANCE Ordinance No. 26332

ZONING FILE NUMBER PDC00-053

GENERAL PLAN DESIGNATION Combined Industrial/Commercial

PROPOSED USE Planned Development Permit to convert an existing approximately 41,000 square foot industrial building to medical office and medical clinic/out-patient facility uses, to expand two parking lots, to construct an approximately 450 square foot interior addition, and associated façade and site improvements on a 2.81 gross acre site

ENVIRONMENTAL STATUS Re-use of Revision to the Evergreen Development Policy FEIR (Resolution No. 73570) and Supplemental EIR (Resolution No. 74741)

OWNER / APPLICANT Evergreen Professional Investments, LLC
2690 S. White Road, Suite 100
San Jose, CA 95148

CONTACT Ruggeri-Jensen-Azar, Inc.
8055 Camino Arroyo
Gilroy, CA 95020

FACTS

1. The subject 2.81 gross acre site is located on the west side of Capitol Expressway, approximately 150 feet northerly of Quimby Road.
2. The subject site has a land use designation of Combined Industrial/Commercial on the City of Envision San José 2040 General Plan Land Use/Transportation Diagram.
3. The subject site is adjacent to Eastridge Mall in the A(PD) Planned Development Zoning District to the west, commercial uses in the A(PD) Planned Development Zoning District to the south, Valley Transportation Authority's (VTA) Eastridge Transit Center in the A(PD) Planned Development Zoning District to the north, and single-family detached residential uses in the R-1-8 Single-Family Residence Zoning District to the east across E. Capitol Expressway and

Thompson Creek.

4. The subject site is located in the A(PD) Planned Development Zoning District (File No. PDC00-053, Ordinance No. 26332).
5. A Planned Development Permit (File No. PD01-078) was approved on February 10, 2003 to allow an approximately 19,000 square feet of mezzanine space within an existing 22,000 square foot building for a total of approximately 41,000 square feet of industrial and commercial uses.
6. The approved Planned Development Zoning allows medical office and medical clinic uses as a conditional use.
7. This Planned Development Permit will allow medical office and medical clinic/out-patient uses in an existing vacant industrial building.
8. The site is currently developed with an approximately 41,000 square foot industrial building and associated site improvements, including 77 parking spaces and landscaping.
9. The project proposes a 450 square foot interior addition, expansion of the existing parking lots, landscape improvements, and building façade improvements.
10. Pursuant to Section 20.90.060 of Title 20 of the San Jose Municipal Code, the off-street parking requirements for the medical office and medical clinic uses is one space per 250 square feet of floor area. The proposed medical office and medical clinic/out-patient facility uses requires 140 parking spaces. The project proposes 147 parking spaces, creating a surplus of 7 parking spaces.
11. Pursuant to Section 15162 of the CEQA Guidelines, the City of San José has prepared an Environmental Impact Report (EIR). The environmental impacts of this project were addressed by a Final EIR and addenda thereto entitled, "Revision to the Evergreen Development Policy FEIR" and findings were adopted by City Council Resolution No. 73570 on December 12, 2006 and Supplemental EIR findings were adopted by City Council Resolution No. 74741 on December 16, 2008. 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 is consistent with the site's General Plan Land Use/Transportation Diagram designation of Combined Industrial/Commercial in that medical offices and medical clinics are among the various industrial and commercial uses intended for this designation.
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. The proposed façade improvements are compatible with the mass and scale of the existing building.
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. Pursuant to Section 15162 of the CEQA Guidelines, the City of San José has prepared an Environmental Impact Report (EIR). The environmental impacts of this project were addressed by a Final EIR and addenda thereto entitled, “Revision to the Evergreen Development Policy FEIR” and findings were adopted by City Council Resolution No. 73570 on December 12, 2006 and Supplemental EIR findings were adopted by City Council Resolution No. 74741 on December 16, 2008.

Finally, the Director of Planning, Building, and Code Enforcement concludes and finds, based on the analysis of the above facts, that the proposed project conforms in all respects to the provisions of Title 20 of the San José Municipal 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.

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 48 months from and after the date of issuance hereof by said Director, if within such time period, the use 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. **Use Cessation.** If the use authorized under this permit once commenced within the timeframe of Condition #2 above, and then subsequently discontinued or abandoned for 12 or more months, thereafter, this Planned Development Permit is expired and will no longer be in effect per Section 20.10.830(B) of the San Jose Municipal Code, as amended.
4. **Planned Development District Effectuated.** Once this Planned Development Permit is accepted, the use of territory not covered by the permit shall only be land uses consistent with the Planned Development Zoning District and only upon issuance of a Planned Development Permit for those uses.

5. **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.
6. **Conformance to Plans.** Development of the site shall conform to approved Planned Development plans entitled “Planned Development Permit for Evergreen Medical Center 2365 Quimby Road, San Jose” last dated December 22, 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), with the exception of any subsequently approved changes.
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. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance.
9. **Conformance with Santa Clara County Reid Hillview Airport Comprehensive Land Use Plan (CLUP).** The subject property is located within the Inner Safety Zone (ISZ). County policies for this safety zone prescribe a maximum population density of 60 people per acre, with 30 percent of the gross area being maintained as open space. Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Director of Planning, Building and Code Enforcement:
 - a. **Maximum Density:** A maximum density of 60 people per acre shall be maintained within the areas of the Inner Safety Zone. Compliance with this density requirement can be shown through an occupancy load calculation in each of the rooms on the floor plans.
 - b. **Avigation Easement:** An avigation easement must be recorded with the County for the subject property.
10. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of any future Parcel Map (if applicable) by the Director of Public Works, the applicant will be required to have satisfied all of the following Public Works conditions.
 - a. [PENDING FINAL PUBLIC WORKS MEMO]
11. **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.
12. **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, PD12-001, 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. **Conformance Review:** 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 plan check approval and building permit issuance by the Building Division, the developer shall obtain confirmation from the Planning Division that the project conforms to all applicable requirements of the subject Permit, including the plan sets.
13. **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.
 14. **Hazardous Materials.** Any hazardous materials regulated by Chapter 17.68 of the San José Municipal Code on the site must be used and stored within approved buildings and/or within areas specified on the approved plan set, if any, in full compliance with the City's Hazardous Material Ordinance and the Hazardous Materials Management Plan for the site approved by the San José Fire Prevention Bureau.
 15. **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.
 16. **Generator Approval.** One stand-by/backup generator, Caterpillar Model No. D80-6, is included in this Permit, located in the approved generator enclosure as shown in the approved Planned Development Plans.
 17. **Sign Approval.** All attached and freestanding signs proposed beyond those shown in the approved Planned Development Plans shall be subject to approval by the Director of Planning.
 18. **No Outside Storage.** No outside storage is permitted for the project.
 19. **Mechanical Equipment.** All roof equipment shall be screened from view.
 20. **Building and Property Maintenance.** The developer shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.
 21. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
 22. **Anti Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris.
 23. **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.

24. **Nuisance.** This use shall be operated in a manner that does not create a public or private nuisance. Nor shall the use adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area or be detrimental to public health, safety or general welfare. Any such nuisance must be abated immediately upon notice by the City.
25. **Revocation, Suspension, Modification.** This Planned Development Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
- a. A violation of any conditions of the Planned Development Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

APPROVED and issued on this 2nd day of March 2012.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Deputy