

PLANNED DEVELOPMENT PERMIT

FILE NO.	PD12-042
LOCATION OF PROPERTY	West side of N. 13th Street, approximately 260 feet southerly of E. Mission Street
ZONING DISTRICT	A(PD) Planned Development (PDC11-022)
GENERAL PLAN DESIGNATION	Mixed Use Commercial
PROPOSED USE	Planned Development Permit to allow construction of an approximately 7,700 square foot retail building (AutoZone) on a 0.53 gross acre site
ENVIRONMENTAL STATUS	Exempt
OWNER	Jesus and Virginia Fernandez 15000 Rolfe Ct. San José, CA 95127
APPLICANT	Phil Pecord AutoZone Inc. 123 S. Front St. Memphis, TN 38103

FACTS

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

1. The subject site has a land use designation of Mixed Use Commercial on the Envision San José 2040 General Plan Land Use/Transportation Diagram.
2. The currently vacant approximately 0.53 acre subject site is located in the A(PD) Planned Development Zoning District.
3. The Planned Development Rezoning (Ordinance No. 29125) was adopted on August 21, 2012 and allows permitted, Conditional, and Special uses in the CP – Commercial Pedestrian Zoning District with the issuance of a Planned Development Permit.
4. On October 11, 2012 this Planned Development Permit was filed to allow construction of an approximately 7,700 square foot retail building for vehicle parts sales (AutoZone).
5. Vehicle parts sales uses in the CP Zoning District require a Conditional Use Permit and can be approved on this site with the issuance of a Planned Development Permit.

6. The proposal includes the demolition of an existing 1-story approximately 1,050 square foot commercial building. Under the provisions of Part 5 of Chapter 20.80 of the San José Municipal Code, except as specifically exempted by Section 20.80.450, no demolition permit or removal permit shall be issued unless and until a Development Permit which specifically approves such demolition or removal has been issued and has become effective pursuant to the provisions of Chapter 20.100
7. Based on the proposed square footage of the retail building, approximately 7,700 square feet, at 1 space per 400 net square feet, 17 parking spaces are required. 22 parking spaces are proposed.
8. Commercial uses are adjacent to the property to the north, south, and east across N. 13th Street. Residential uses are adjacent to the property to the west.
9. Under the provisions of Section 15303(c) 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 has considered the following in evaluating the proposed demolition:

1. The approval of the demolition of the building should facilitate a project that is compatible with the surrounding neighborhood.
2. The approval of the permit would not negatively impact the supply of existing housing stock in the City of San José.
3. Both inventoried and non-inventoried buildings, sites and districts of historical significance will not be negatively impacted.
4. Rehabilitation or reuse of the existing building would not be feasible.

The Director of Planning, Building, and Code Enforcement concludes and finds, based on the analysis of the above facts with respect to the Planned Development Permit findings (Section 20.100.940), that:

1. The Planned Development Permit, as issued, furthers the policies of the General Plan, in that:

The project is consistent with the site's General Plan Land Use/Transportation Diagram designation of Mixed Use Commercial, which supports a wide variety of commercial uses.

2. The Planned Development Permit, as issued, conforms in all respects to the Planned Development Zoning of the property in that:

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:

The project conforms to the Commercial Design Guidelines.

The site layout and architectural elements of the proposed building are integrated into a harmonious whole.

The proposed project is compatible in terms of architecture and scale with the anticipated development proximate to the site.

4. 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 effect on adjacent property or properties, in that:

Under the provisions of Section 15303(c) of the State Guidelines for implementation of the California Environmental Quality Act (CEQA), the City of San José has determined that the project is exempt from environmental review and does not involve new significant effects beyond those analyzed in this Final EIR.

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.

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 four years from and after the date of issuance hereof by said Director, if within such time period, the use 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. **Conformance to Plans.** Development of the site shall conform to the approved Planned Development plans entitled, "AutoZone, Store Development, Store #4096," dated August 1, 2011, last revised December 11, 2012, 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. **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.
6. **Conformance with Previously Approved Zoning.** All conditions of approval and required environmental mitigation measures from the previously approved Planned Development Zoning remain in effect.
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. **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.
9. **Lot Line Adjustment.** Prior to the issuance of a Building Permit the developer shall secure approval and provide proof of recordation of a Lot Line Adjustment to consolidate the existing lots.
10. **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.
<PLACEHOLDER>
 - 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. *Transportation:* This project is subject to the City's US-101/Oakland/Mabury Transportation Development Policy. The US-101/Oakland/Mabury Transportation Development Policy requires new residential and commercial developments that generate vehicular trips at either of the Policy Interchanges to pay a Traffic Impact Fee (TIF) towards the upgrade of US-101/Oakland Interchange and construction of US-101/Mabury Interchange. The 2012 TIF is \$32,595 for each project peak hour trip that travels through either the US-101/Oakland or US-101/Mabury Interchanges. This fee is subject to an annual escalation on January 1st per the Engineering News-Record Construction Cost Index for San Francisco. Based on 2012 rate and 2 trips, the project's TIF is approximately \$65,190.

- c. *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.
- d. *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 have been reviewed and this project will be in conformance with City Policy 6-29.
 - ii. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
- 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. *Undergrounding:* The In Lieu Undergrounding Fee shall be paid to the City for all frontages adjacent to 13th Street prior to issuance of a Public Works Clearance. One hundred percent (100%) of the base fee in place at the time of payment will be due. Currently, the 2012 base fee is \$412 per linear foot of frontage and is subject to change every January 31st based on the Engineering News Record's 20 City Average Cost Index. The project will be required to pay the current rate in effect at the time the Public Works Clearance is issued. (Based on the 2012 rate, the fee is \$75,775).
- h. *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.

- i. *Street Improvements:*
 - i. Remove and replace curb, gutter, and sidewalk along project frontage.
 - ii. Close unused driveway cuts.
 - iii. Repair, overlay, or reconstruction of asphalt pavement may 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.
 - j. *Electrical:* 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.
 - k. *Street Trees:* The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. 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 cut-outs at the back of curb. Obtain a DOT street tree planting permit for any proposed street tree plantings.
 - l. *SNI.* This project is located within the Thirteenth Street SNI area. Public improvements shall conform to the approved EIR and neighborhood improvement plan.
11. **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, PD12-042, shall be printed on all construction plans submitted to the Building Division.
 - b. *Lot Line Adjustment.* Lot Line Adjustment shall be recorded per Condition #9 above.
 - c. *Mechanical Equipment.* No roof-mounted or other exterior mechanical equipment shall be located within 120 feet of a residential property line unless a Sound Engineer has certified that noise levels from such equipment will not exceed 55 dBA at the residential property line. All roof mounted mechanical equipment shall be screened from view per rooftop mechanical equipment diagram.
 - d. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - e. *Construction Plan Conformance.* A project construction plan 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 any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
12. **Green Building.** The project shall comply with the provisions of Ordinance No. 28622 in the San Jose Municipal Code or subsequent ordinance for private-sector green building that is in effect at the time that a building permit application is submitted to the Department of Planning, Building and Code Enforcement Building Division.
13. **Recycling.** Scrap construction material should be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction debris from the project, including information on available haulers and processors.

14. **Landscaping.** Planting and irrigation are to be provided and maintained 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.
15. **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 Jose Landscape and Irrigation Guidelines. The design of the system shall be approved and stamped by a California Registered Landscape Architect prior to Certificate of Occupancy.
16. **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.
17. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE - NO PARKING," shall be provided to the satisfaction of the Fire Chief.
18. **Fire Flow.** Required fire flow for the site shall be provided to the satisfaction of the Fire Chief.
19. **Visible Street Numbers.** Street numbers shall be visible day and night from the nearest street, either by means of illumination or by use of reflective materials.
20. **Colors and Materials.** All building colors and materials are to be those specified on the Approved Plan Set.
21. **Lighting.** On-site, exterior, unroofed lighting shall conform to the Outdoor Lighting Policy and Interim Standards for Broad-Spectrum (White) Light for Private Development. Lighting shall be designed, controlled and maintained so that no light source is visible from outside of the property. Light fixture height shall be no taller than 25 feet.
22. **Motorcycle Parking.** This project shall conform to the motorcycle parking requirements identified on the Zoning Ordinance. The required spaces shall be provided through a combination of dedicated spaces as shown on the plans and/or the use of surplus vehicular parking spaces (to be used as vehicle or motorcycle parking spaces).
23. **Bicycle Parking.** This project shall conform to the bicycle parking requirements identified in the Zoning Ordinance. Bicycle parking facilities shall be located in a convenient, highly visible and well lighted area and within view of pedestrian traffic.
24. **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.
25. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
26. **Anti Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.

27. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning. Signs shown on plans are for conceptual reference only.
28. **Building and Property Maintenance.** The property owner or management company 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.
29. **Hours of Operation.** No use on the subject site shall operate between the hours of 12:00 midnight and 6:00 a.m.
30. **Outside Storage.** No outside storage is permitted as part of this permit.
31. **Vehicle Repair or Service.** No vehicle repair or service (e.g., tires, batteries, lube, oil change, fluid topping-off) is permitted.
32. **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 19th day of December 2012.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Deputy