

**ORDINANCE NO.**

**AN ORDINANCE OF THE CITY OF SAN JOSÉ REZONING CERTAIN REAL PROPERTY SITUATED ON THE NORTH SIDE OF KIELY BOULEVARD, 550 FEET WESTERLY OF SARATOGA AVENUE (370 SOUTH KIELY BOULEVARD), TO THE CN - COMMERCIAL NEIGHBORHOOD ZONING DISTRICT**

**WHEREAS**, all rezoning proceedings required under the provisions of Chapter 20.120 of Title 20 of the San José Municipal Code have been duly had and taken with respect to the real property hereinafter described; and

**WHEREAS**, the area encompassed by the subject proposed rezoning under File No. C09-029 was the subject of an Environmental Impact Report (EIR) prepared in conformance with the California Environmental Quality Act of 1970, as amended (CEQA), and certified by the City Council on August 16, 1994; and

**WHEREAS**, this Council of the City of San José, acting as lead agency under CEQA, proposes to approve a project which was the subject of said EIR, to wit: the adoption of an ordinance rezoning certain real property hereinafter described to CN Commercial Neighborhood Zoning District; and

**WHEREAS**, this Council has, on August 16, 1994, adopted Resolution No. 65459; and

**WHEREAS**, the Council is the decision-making body for the proposed subject rezoning to CN Commercial Neighborhood Zoning District; and

**WHEREAS**, this Council does hereby certify that, as a decision-making body, it has considered and approves the information contained in such EIR and Resolution No. 65459 prior to acting upon or approving such proposed project.

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSÉ:**

**SECTION 1.** All that real property hereinafter described in this section, hereinafter referred to as "subject property," is hereby rezoned as CN - Commercial Neighborhood.

The subject property referred to in this section is all that real property situated in the County of Santa Clara, State of California, described in Exhibit A attached hereto and incorporated herein by this reference.

DRAFT - Contact the Office of the City Clerk at (408)535-1260 or CityClerk@sanjoseca.gov for final document.

**SECTION 2.** The district map of the City is hereby amended accordingly.

**SECTION 3.** The land development approval that is the subject of City File No. C09-029 is subject to the operation of Part 2.75 of Chapter 15.12 of Title 15 of the San José Municipal Code. The applicant for or recipient of such land use approval hereby acknowledges receipt of notice that the issuance of a building permit to implement such land development approval may be suspended, conditioned or denied where the City Manager has determined that such action is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed by the California Regional Water Quality Control Board for the San Francisco Bay Region.

**PASSED FOR PUBLICATION** of title this            day of October 2009, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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CHUCK REED  
Mayor

ATTEST:

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LEE PRICE, MMC  
City Clerk

069-029

EXHIBIT A

DESCRIPTION

Those certain real properties situate in the City of San Jose, County of Santa Clara, State of California, described as follows:

PARCEL ONE:

ALL OF PARCEL B, as shown on that certain "Parcel Map, being a Resubdivision of Parcel C as shown on the Map recorded in Book 296 of Maps, page 15", filed November 5, 1979 in Book 453 of Maps, page 12.

Reserving therefrom an easement for ingress and egress to be appurtenant to Parcel A of said map over the following described parcel of land:

A strip of land 30 feet in width centered about the common line between Parcels A and B as shown on that certain Parcel Map recorded in Book 453 of Maps at page 12, Santa Clara County Records, and more particularly described as follows:

BEGINNING at the most Northerly common corner of Parcels A and B as said corner is shown on said Parcel Map; thence North 89 59' 30" East 15.00 feet along the Northerly line of said Parcel B; thence along a line parallel with the said common line of Parcels A and B, and distant 15 feet Easterly, South 0 00' 30" East, 142.85 feet; thence South 30 57' 09" West, 115.38 feet to the Northerly line of Kiely Blvd.; thence along said northerly line of Kiely Blvd.; on a curve concave Northeasterly, a radial line of which bears North 30 16' 35" East, having a radius of 393.59 feet, through a central angle of 2 11' 02", an arc distance of 15.00 feet to the most Southerly common corner of said Parcels A and B; thence on a continuation of the same curve along the Northerly line of Kiley Blvd. having a radius of 339.59 feet through a central angle of 2 11' 09", an arc distance of 15.02 feet; thence along a line parallel with and distant 15 feet Westerly from the said common line between Parcels A and B, North 30 57' 09" East, 106.28 feet; thence North 0 00' 30" West, 134.55 feet to the North line of Parcel A; thence along the said North line of Parcel A, North 89 59' 30" East, 15.00 feet to the point of beginning.

EXCEPTING therefrom that portion lying within said Parcel A.

PARCEL TWO:

AN EASEMENT for ingress and egress appurtenant to Parcel One above over the following described parcel of land:

A strip of land 30 feet in width centered about the common line between Parcels A and B as shown on that certain Parcel Map recorded in Book 453 of Maps at page 12, Santa Clara County Records, and more particularly described as follows:

BEGINNING at the most Northerly common corner of Parcels A and B as said corner is shown on said Parcel Map; thence North 89 59' 30" East 15.00 feet along the Northerly line of said Parcel B; thence along a line parallel with the said common line of Parcels A and B, and distant 15 feet Easterly, South 0 00' 30" East, 142.85 feet; thence South 30 57' 09" West, 115.38 feet to the Northerly line of Kiely Blvd.; thence along said Northerly line of Kiely Blvd.; on a curve concave Northeasterly, a radial line of which bears North 30 16' 35" East, having a radius of 393.59 feet, through a central angle of 2 11' 02", an arc distance of 15.00 feet to the most Southerly common corner of said Parcels A and B; thence on a continuation of the same curve along the Northerly line of Kiely Blvd. having a radius of 339.59 feet through a central angle of 2 11' 09", an arc distance of 15.02 feet; thence along a line parallel with and distant 15 feet Westerly from the said common line between Parcels A and B, North 30 57' 09" East, 106.28 feet; thence North 0 00' 30" West, 134.55 feet to the North line of Parcel A; thence along the said North line of Parcel A, North 89 39' 30" East, 15.00 feet to the point of beginning.

EXCEPTING THEREFROM that portion lying within said Parcel B.

Commonly known as: 370 Kiely Blvd., San Jose, CA  
APN: 294-42-005