

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSÉ REZONING CERTAIN REAL PROPERTY SITUATED ON THE SOUTHWEST CORNER OF SARATOGA AVENUE AND KIELY BOULEVARD (403 SARATOGA AVENUE) 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, pursuant to Section 15168 of the CEQA Guidelines, the City of San Jose has determined that the proposed rezoning is pursuant to or in furtherance of the Final Environmental Impact Report prepared for the Envision San José 2040 General Plan (the "FEIR"), for which findings were adopted by City Council Resolution No. 76041 on November 1, 2011; and

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

WHEREAS, this Council of the City of San José has considered and approves said use of the FEIR prior to taking any approval actions on this project.

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

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

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.

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. C12-021 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 , 2012 by
the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

DENNIS D. HAWKINS, CMC
City Clerk

EXHIBIT "A"
FOR REZONING PURPOSES

REAL PROPERTY in the City of San Jose, County of Santa Clara, State of California, being all of Parcel 1 as shown on that certain Record of Survey being a portion of Lots 3, 4 & 5 of the "Map of the Dean Tract", filed for record on November 3, 1967, in Book 229 of Maps, at Page 44, Santa Clara County Records, described as follows:

BEGINNING at the most southeasterly corner of said Parcel 1, said point lying on the northwesterly right-of-way of Saratoga Avenue;

Thence leaving said right-of-way, along the southerly and westerly lines of said Parcel 1, the following two courses:

1. Thence South $89^{\circ}51'39''$ West, 110.04 feet;
2. Thence North $06^{\circ}23'06''$ East, 194.59 feet to a point on the southerly right-of-way of Kiely Boulevard;

Thence along said right-of-way, the following two courses:

1. Thence North $89^{\circ}59'30''$ East, 135.00 feet;
2. Thence along a tangent curve to the right, having a radius of 45.00 feet, through a central angle of $124^{\circ}19'00''$ for an arc length of 97.64 feet to a point on the northwesterly right-of-way of Saratoga Avenue;

Thence along said right-of-way, South $34^{\circ}18'30''$ West, 148.63 feet to the POINT OF BEGINNING.

Containing an area of 0.69 acres, more or less.