

ORDINANCE NO. 28061

AN ORDINANCE OF THE CITY OF SAN JOSÉ REZONING CERTAIN REAL PROPERTY SITUATED AT THE NORTHEASTERLY CORNER OF COTTLE AND POUGHKEEPSIE ROADS FROM THE IP – INDUSTRIAL PARK ZONING DISTRICT TO THE A (PD) PLANNED DEVELOPMENT 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 was the subject of an Environmental Impact Report (“EIR”) prepared in conformance with the California Environmental Quality Act of 1970, as amended, together with related state and local guidelines (collectively, “CEQA”) and which EIR was certified by the Planning Commission of the City of San José on April 11, 2007, which certification action was not appealed to City Council; and

WHEREAS, the City Council of the City of San José is the decision-making body for the proposed subject rezoning from the IP – Industrial Park Zoning District to the A(PD) Planned Development Zoning District; and

WHEREAS, this Council of the City of San José, acting as lead agency under CEQA, proposes to approve a rezoning project that was the subject of said Final EIR, to wit: the adoption of an ordinance rezoning certain real property hereinafter described to A(PD) Planned Development Zoning District; and

WHEREAS, this Council has, on June 5, 2007, adopted Resolution No. 73814 in connection with said Final EIR and the proposed rezoning action; and

WHEREAS, this Council does hereby certify that, as the decision-making body, it has considered and approves the information contained in such Final EIR and Resolution No. 73814 prior to acting upon or approving such 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 A(PD) Planned Development.

The base district zoning of the subject property shall be A-Agricultural. The PD zoning of the subject property shall be that development plan for the subject property entitled, "Lowe's of 5600 Cottle Road South San Jose, CA," dated, February 13, 2007.

Said General Development Plan is on file in the office of the Director of Planning and is available for inspection by anyone interested therein, and said General Development Plan is by this reference adopted and incorporated herein the same as if it were fully set forth herein.

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. PDC 06-003 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 5th day of June, 2007 by the following vote:

AYES: CHIRCO, CONSTANT, CORTESE, LICCARDO,
NGUYEN, OLIVERIO, PYLE; REED

NOES: CAMPOS

ABSENT: NONE

DISQUALIFIED: WILLIAMS

VACANT DISTRICT 4

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk

cc: IBM
Attn: John Lattyak
Manager, IBM Site Operations, San Jose and SVL
Room G409
555 Bailey Avenue
San Jose, CA 95141

Lowe's H.I.W.
Attn: Jim Manion
1530 Faraday Avenue, Suite 140
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