

ORDINANCE NO. 28075

AN ORDINANCE OF THE CITY OF SAN JOSÉ REZONING CERTAIN REAL PROPERTIES SITUATED ON THE NORTHWEST CORNER OF CAPITOL AVENUE AND BERRYESSA ROAD (13441 BERRYESSA ROAD AND 1141 NORTH CAPITOL AVENUE) TO THE CG COMMERCIAL GENERAL 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 (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 the CG Commercial General Zoning District; and

WHEREAS, this Council has, on August 16, 1994, adopted Resolution No. 65459 in connection with said EIR; and

WHEREAS, the City Council of the City of San José is the decision-making body for the subject rezoning to CG Commercial General 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 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 CG - Commercial General.

The subject property referred to in this section is all that real property situated in the County of Santa Clara, State of California, and 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. C07-023 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 19th day of June, 2007, by the following vote:

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

NOES: NONE

ABSENT: NONE

DISQUALIFIED: NONE

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk