

ORDINANCE NO. 28228

**AN ORDINANCE OF THE CITY OF SAN JOSE ADOPTING
THE TWENTY-THIRD AMENDED ALUM ROCK AVENUE
REDEVELOPMENT PLAN TO INCLUDE FIRE STATION #2
AS A SPECIFIC PROJECT; AND MAKING CERTAIN
FINDINGS**

WHEREAS, pursuant to the Community Redevelopment Law of the State of California, the Agency has submitted to this Council for consideration the proposed Twenty-Third Amended Redevelopment Plan ("Amended Plan") for the Alum Rock Avenue Redevelopment Project Area ("Project Area") for the sole purpose of including as a publicly owned improvement project in the Amended Plan, the demolition and rebuild of Fire Station #2, located at 2933 Alum Rock Avenue ("Project"); and

WHEREAS, the Plan for the Project Area was first adopted on April 7, 1988, and was merged into the San Jose Merged Area Redevelopment Project ("Merged Area") on May 7, 1988; and

WHEREAS, the City of San Jose's Planning Commission issued a report and recommendation, regarding the exemption of the Project, and therefore the Amended Plan, from CEQA and finding the Project and the Amended Plan conforms to the General Plan, to Council on December 5, 2007; and

WHEREAS, Section 33445(b) of the California Community Redevelopment Law requires that construction of publicly owned facilities must be provided for in the redevelopment plan. This amendment is to amend section 317 of the Alum Rock Redevelopment Plan to add Fire Station #2 as a specific publicly owned improvement and facility to be constructed; and

WHEREAS, California Community Redevelopment Law requires that this Council consider the Amended Plan at a public hearing, which may be a joint public hearing with the Board of Directors of the Agency; and

WHEREAS, the Agency caused notice of joint public hearing to be published, and mailed to those required recipients as set forth in Health and Safety Code section 33452, in form and substance and within the time and manner prescribed by California Community Redevelopment Law, that the Agency and this Council would conduct a joint public hearing on the Amended Plan at the hour of 1:30 p.m., or as soon thereafter as it may be heard, on the 8th day of January, 2008, in the Council Chambers of the City of San Jose, San Jose, California; and

WHEREAS, the joint public hearing was held on January 8, 2008, and this Council did consider the proposed Amended Plan at said hearing and all oral and written evidence or testimony for or against the adoption thereof; and

WHEREAS, there were no written objections to the proposed Amended Plan submitted prior to or at the public hearing; and

WHEREAS, no speakers appeared at the public hearing.

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

SECTION I. Any and all objections presented to the City Council in connection with the public hearing, having been considered, are hereby overruled.

SECTION II. The Amended Plan for the Project Area is found to be necessary and desirable, and is hereby approved as submitted to the Council on January 8, 2008, and is hereby adopted. Said Amended Plan is on file in the offices of the City Clerk and the Redevelopment Agency of the City of San Jose, and said Amended Plan by this reference is incorporated herein and made a part hereof.

SECTION III. It is the purpose and intent of this Council in enacting this Ordinance to continue to provide for the rehabilitation and redevelopment of the Project Area and the Merged Area through all lawful and convenient means whatsoever. To this end the Amended Plan hereinabove incorporated by reference is hereby designated the official Redevelopment Plan for the Alum Rock Avenue Redevelopment Project Area.

SECTION IV. It is additionally the purpose and intent of this Council in enacting this Ordinance to provide for the addition of Fire Station #2 as a project, to be funded by the Agency under the Amended Plan. Neither the Plan nor the Amended Plan provides for tax increment revenues to be taken from the Project Area.

SECTION V. Although the below findings and determinations are not required by Section 33367 of the California Community Redevelopment, given the nature of the amendment, the City Council does hereby find and determine:

A. The Project Area is a blighted area, the redevelopment of which is necessary to effectuate the public purposes of the California Community Redevelopment Law. The implementation of the Amended Plan will improve or alleviate the physical and economic conditions of blight in the Project Area. This determination is made based on previous blight findings for the Project Area.

B. The elimination of blight and the redevelopment of the Project Area could not be reasonably expected to be accomplished by private enterprise acting alone without the aid and assistance of the Agency.

C. The Amended Plan provides for the redevelopment of the Project Area in conformance with provisions of the California Community Redevelopment Law and in the interests of the public peace, health, safety and welfare. This determination is based on the goals set forth in the Amended Plan and in the Five-Year Implementation Plan, which was adopted on November 16, 2004.

D. The adoption and carrying out of the Amended Plan is economically sound and feasible as funding for the Project will be provided in the Agency's Capital Improvement Program.

E. The Amended Plan is consistent with the General Plan of the City of San Jose, as determined by the Planning Commission of the City of San Jose on December 5, 2007.

F. Implementation of the Amended Plan will promote the public peace, health, safety and welfare and will effectuate the purposes and policy of the California Community Redevelopment Law as set forth in the Amended Plan and the Five-Year Implementation Plan. Fire Station #2 requires seismic upgrades to meet current building code. Demolition and construction of Fire Station #2 will assist in eliminating an inadequate public facility in the Project Area through the construction of a seismically safe building that will enhance public safety readiness and improve infrastructure.

G. The implementation of the Amended Plan is not expected to result in the displacement of any occupants of housing facilities or remove any housing units located within the Project Area.

SECTION VI. The notice, public hearing and other requirements of California Community Redevelopment Law have been met.

SECTION VII. Prior ordinances adopting and amending the Amended Plan are continued in full force and effect, as amended by this Ordinance. The Amended Plan is designated as the official redevelopment plan of the Project Area.

SECTION VIII. The Executive Director is hereby directed to record with the County Recorder of Santa Clara County a notice of the adoption of the Amended Plan pursuant to this Ordinance containing a description of the boundaries of the Amended Plan and a statement that proceedings for redevelopment of the Project Area pursuant to the Amended Plan have been instituted under the California Community Redevelopment Law.

SECTION IX. If any part of this Ordinance, or the Amended Plan which it approves, is held to be invalid for any reason, such decision shall not affect the validity

of the remaining Ordinance or of the remaining Amended Plan, and this Council hereby declares that it would have passed the remainder of this Ordinance or approved the remainder of the Amended Plan, if such invalid portion thereof had been deleted.

SECTION X.

Section 317 of the Alum Rock Redevelopment Plan is amended to read as follows:

317. Development by the Agency

To the extent now or hereafter permitted by law, the Agency is authorized to pay for, develop, or construct any publicly-owned building, facility, structure, or other improvement either within or without the Project Area, for itself or for any public body or entity, which buildings, facilities, structures, or other improvements are or would be of benefit to the Project Area. Specifically, the Agency may pay for, install, or construct buildings, facilities, structures, and other improvements and may acquire or pay for the land required therefore. Without limiting the foregoing, the Mexican Cultural Heritage Gardens project was expressly authorized in the Sixth Amended Redevelopment Plan, and Agency participation in the funding and construction of a public library and a youth center, both presently proposed to be located near the corner of Alum Rock Avenue and White Road, is expressly authorized in the Eleventh Amended Redevelopment Plan. Additionally, Fire Station #2, located at 2933 Alum Rock Avenue was expressly authorized in the Twenty Third Amended Redevelopment Plan.

In addition to the public improvements authorized under this Section 317, the Agency is authorized to install and construct, or to cause to be installed and constructed, within or without the Project Area, for itself or for any public body or entity for the benefit of the Project Area, public improvements and public utilities, including, but not limited to, the following: (1) over and underpasses; (2) sewers; (3) natural gas distribution systems; (4) water distribution systems; (5) parks, plazas, and pedestrian paths; (6) playgrounds and recreational facilities; (7) parking facilities; (8) landscape areas; (9) educational and cultural improvements; and (10) street improvements.

The Agency may enter into contracts, leases, and agreements with the City or other public body or entity pursuant to this Section 317, and the obligation of the Agency under such contract, lease, or agreement shall constitute an indebtedness of the Agency which may be made payable out of the taxes levied in the San Jose Merged Area Redevelopment Project and allocated to the Agency under subdivision (b) of Section 33670 of the Community Redevelopment Law, or out of any other available funds.

PASSED FOR PUBLICATION of title this 8th day of January, 2008, by the following vote:

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

NOES: NONE

ABSENT: CONSTANT

DISQUALIFIED: NONE

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk