

ORDINANCE NO. 28391**AN ORDINANCE OF THE CITY OF SAN JOSÉ REZONING CERTAIN REAL PROPERTY SITUATED AT THE SOUTHEAST CORNER OF NORTH FIRST STREET AND EAST ROSEMARY STREET 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, an Addendum to the Final Environmental Impact Report for the North San José Area Development Policies Update (the "EIR"), which EIR was certified by the City Council on June 21, 2005 in conformance with the California Environmental Quality Act of 1970 (CEQA), as amended, was prepared for the rezoning project under File No. PDC07-101, said Addendum was prepared and approved by the Planning Director on June 17, 2008, and reviewed and considered by the Planning Commission on June 25, 2008, none of which actions were challenged, appealed or protested; and

WHEREAS, the City Council of the City of San José is the decision-making body for the subject rezoning from the CN – Commercial Neighborhood, CG – Commercial General, and LI – Light Industrial Zoning Districts to the A(PD) Planned Development Zoning District; and

WHEREAS, the City Council has reviewed and considered the EIR, together with the Addendum thereto, prior to taking any action on the 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 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, "Rosemary Housing, 1290 North First Street," **last revised August 26, 2008.**

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. PDC07-101 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 26th day of August 2008 by the following vote:

AYES:	CHIRCO, CHU, CORTESE, LICCARDO, NGUYEN, PYLE, WILLIAMS; REED.
NOES:	OLIVERIO,.
ABSENT:	CAMPOS, CONSTANT.
DISQUALIFIED:	NONE.

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk