

ORDINANCE NO. 28522

**AN ORDINANCE OF THE CITY OF SAN JOSE ADOPTING
THE PROPOSED FIFTH AMENDMENT TO THE STRONG
NEIGHBORHOODS INITIATIVE PROJECT AREA
REDEVELOPMENT PLAN; AND MAKING CERTAIN
FINDINGS**

WHEREAS, on June 25, 2002, the Council of the City of San Jose (“City Council”) and the Board of Directors of the Redevelopment Agency of the City of San Jose (“Agency Board”) adopted the Strong Neighborhoods Initiative Redevelopment Project Area (“Project Area”); and

WHEREAS, pursuant to the Community Redevelopment Law of the State of California (Health and Safety Code Section 33000 *et seq.*), the Agency has submitted to this Council for consideration a proposed Fifth Amendment to the Redevelopment Plan for the Project Area to exclude certain territory known as Naglee Park (“Fifth Amendment”); and

WHEREAS, the Agency has prepared and submitted to the Council a report accompanying the proposed Fifth Amendment prepared pursuant to Sections 33352 and 33457.1 of the Community Redevelopment Law (“Report to Council”), and this Council has reviewed and considered the Report to Council, which is incorporated herein by reference. Under separate resolution the Council has approved the Report to Council. The Report to Council has been made available to the public prior to the public hearing described below; and

WHEREAS, pursuant to the provisions of Title 21 of the Municipal Code, the Director of the City of San José Planning, Building, and Code Enforcement Department completed the review required under the California Environmental Quality Act (“CEQA”) for the proposed Fifth Amendment. It was determined that, amongst other things, the

proposed Fifth Amendment does not warrant additional CEQA documentation beyond what has been previously prepared for the Redevelopment Plans for the San Jose Merged Redevelopment Project Area since the Fifth Amendment does not change the scope of any projects described within existing Redevelopment Plans nor commit to the implementation of any particular project. Moreover, the proposed Fifth Amendment would result in impacts less than those which were disclosed in the Project Area Program EIR in that the planned redevelopment activities for Naglee Park would no longer be implemented and the associated environmental impacts from construction and operation of the redevelopment activities would not occur. A copy of the environmental determination prepared in connection with the City of San Jose Planning, Building, and Code Enforcement Department's review is attached to the Accompanying Report as Attachment C; and

WHEREAS, on February 11, 2009, the City of San Jose's Planning Commission determined that the Fifth Amendment is consistent with the San Jose 2020 General Plan; and

WHEREAS, Community Redevelopment Law requires that this Council consider the Fifth Amendment 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 Community Redevelopment Law, that the Agency and this Council would conduct a joint public hearing on the Fifth Amendment at the hour of 1:30 p.m., or as soon thereafter as it may be heard, on the 24th day of March, 2009, in the Council Chambers of the City of San Jose, San Jose, California; and

WHEREAS, the joint public hearing was held on March 24, 2009, and this Council did consider the proposed Fifth Amendment at said hearing and all oral and written evidence or testimony for or against the adoption thereof; and

WHEREAS, no speakers appeared at the public hearing to speak in response to the proposed Fifth Amendment; and

WHEREAS, no written objections were received at or prior to the public hearing.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION I. No oral or written objections were presented to the City Council in connection with the Fifth Amendment.

SECTION II. The Fifth Amendment is found and determined to be necessary and desirable, and is hereby approved and adopted as submitted to the City Council on March 24, 2009. The Fifth Amendment is on file in the offices of the City Clerk and the Redevelopment Agency of the City of San Jose. The Redevelopment Plan for the Project Area (as amended, including, without limitation, as amended by the Fifth Amendment) is on file in the offices of the City Clerk and the Redevelopment Agency of the City of San Jose, and is by this reference incorporated herein and made a part hereof.

SECTION III. It is the purpose and intent of this Council in enacting this Ordinance to provide for the continued rehabilitation and redevelopment of the Project Area through all lawful and convenient means whatsoever. To this end, the Redevelopment Plan for the Project Area (as amended, including, without limitation, as amended by the Fifth Amendment) is hereby designated the official Redevelopment Plan for the Project Area.

SECTION IV. It is additionally the purpose and intent of this Council in enacting this Ordinance to exclude certain territory known as Naglee Park from the Project Area.

SECTION V. The City Council does hereby find and determine, based on substantial evidence in the record, including, but not limited to, the Report to Council and all documents referenced therein, any other documents referenced herein, oral and written staff reports, and evidence and testimony received at the public hearing, that the Redevelopment Plan for the Project Area (as amended by the Fifth Amendment) will continue to redevelop the Project Area in conformity with Community Redevelopment Law and in the interests of the public peace, health, safety, and welfare. This finding and determination is made based, in part, on the goals set forth in the Redevelopment Plan and in the Five-Year Implementation Plan for the Project Area and the analysis contained in the Report to Council.

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

SECTION VII. Prior ordinances adopting and amending the Redevelopment Plan for the Project Area are continued in full force and effect, as amended by this Ordinance.

SECTION VIII. No later than 60 days after the adoption of this Ordinance, the Executive Director or designee is hereby directed to record with the County Recorder of Santa Clara County a statement that the Redevelopment Plan for the Project Area has been amended.

SECTION IX. Within 30 days following the adoption of this Ordinance, the City Clerk or designee is hereby directed to transmit a copy of this Ordinance, a description of Naglee Park and a map or plat indicating the amendment to the Redevelopment Plan, to the following parties:

- (a) The auditor and assessor of Santa Clara County;
- (b) The officer or officers performing the functions of the auditor or assessor for any taxing agencies which, in levying or collecting taxes, do not use the Santa Clara County assessment roll or do not collect taxes through Santa Clara County;
- (c) The governing body of each of the taxing agencies which levies taxes upon any property in the Project Area; and
- (d) The State Board of Equalization.

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SECTION X. If any part of this Ordinance, or the Fifth Amendment 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 Fifth Amendment, and this Council hereby declares that it would have passed the remainder of this Ordinance or approved the remainder of the Fifth Amendment, if such invalid portion thereof had been deleted.

PASSED FOR PUBLICATION of title this 24th day of March, 2009, by the following vote:

AYES: CAMPOS, CHU, KALRA, LICCARDO, NGUYEN,
OLIVERIO, PYLE, REED.

NOES: NONE.

ABSENT: CHIRCO, CONSTANT, HERRERA.

DISQUALIFIED: NONE.

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk