

**ORDINANCE NO. 28606**

**AN ORDINANCE OF THE CITY OF SAN JOSÉ REZONING CERTAIN REAL PROPERTY SITUATED ON THE SOUTHWEST CORNER OF TULLY ROAD AND MCLAUGHLIN AVENUE (1100 TULLY ROAD) TO CN COMMERCIAL NEIGHBORHOOD 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**, a Mitigated Negative Declaration (MND) was prepared for a rezoning project under File No. C08-047, and said MND was adopted by the Director of Planning pursuant to the provisions of Title 21 of the San José Municipal Code on May 27, 2009, which action has not been protested, challenged or appealed; and

**WHEREAS**, the City Council of the City of San José is the decision-making body for the proposed subject rezoning to CN Commercial Neighborhood Zoning District; and

**WHEREAS**, this Council of the City of San José has considered and approves said MND prior to taking any approval actions on this 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 CN - Commercial Neighborhood.

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. C08-047 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 16th day of June, 2009, by the following vote:

AYES: CAMPOS, CHU, CONSTANT, KALRA, OLIVERIO, PYLE; REED.

NOES: HERRERA, LICCARDO.

ABSENT: CHIRCO, NGUYEN.

DISQUALIFIED: NONE.

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CHUCK REED  
Mayor

ATTEST:

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LEE PRICE, MMC  
City Clerk