



CITY OF SAN JOSÉ, CALIFORNIA

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City Clerk

STATE OF CALIFORNIA)
COUNTY OF SANTA CLARA)
CITY OF SAN JOSE)

I, Lee Price, City Clerk & Ex-Officio Clerk of the Council of and for the City of San Jose, in said County of Santa Clara, and State of California, do hereby certify that "**Ordinance No. 28671**", the original copy of which is attached hereto, was passed for publication of title on the **17th day of November, 2009**, was published in accordance with the provisions of the Charter of the City of San Jose, and was given final reading and adopted on the **1st day of December, 2009**, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, HERRERA, KALRA,
LICCARDO, NGUYEN, OLIVERIO, PYLE; REED.

NOES: NONE.

ABSENT: NONE

DISQUALIFIED: NONE.

VACANT: NONE.

Said ordinance is effective as of **1st day of January, 2010**.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of San Jose, this **2nd day of December, 2009**.

(SEAL)

LEE PRICE, MMC
CITY CLERK & EX-OFFICIO
CLERK OF THE CITY COUNCIL

/rmk

ORDINANCE NO. 28671

AN ORDINANCE OF THE CITY OF SAN JOSÉ REZONING CERTAIN REAL PROPERTY SITUATED ON THE NORTHEAST CORNER BETWEEN WILLOW STREET AND DELMAS AVENUE 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, the area encompassed by the subject proposed rezoning under File No. C08-044 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 CN Commercial Neighborhood Zoning District; and

WHEREAS, this Council has, on August 16, 1994, adopted Resolution No. 65459; and

WHEREAS, the Council is the decision-making body for the proposed subject rezoning to CN Commercial Neighborhood 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 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 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. C08-044 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 17th day of November, 2009, by the following vote:

AYES: CHIRCO, CHU, HERRERA, KALRA, LICCARDO, NGUYEN,
OLIVERIO, PYLE, REED.

NOES: NONE.

ABSENT: CAMPOS, CONSTANT.

DISQUALIFIED: NONE.



CHUCK REED
Mayor

ATTEST:



LEE PRICE, MMC
City Clerk

EXHIBIT A**LEGAL DESCRIPTION**

All that certain real property situate in the City of San Jose, County of Santa Clara, State of California, described as follows:

Beginning at the intersection of the Easterly line of Delmas Avenue with the Northwesterly line of Willow Street, running thence Northerly and along the Easterly line of Delmas Avenue, 136.10 feet; thence Easterly at right angles to said Delmas Avenue 137.50 feet; thence Southerly and parallel with Delmas Avenue, 25.45 feet to the said Northwesterly line of Willow Street; thence S. 53° 23' W., and along said line of Willow Street, 176.51 feet to the point of beginning and being a part of Lot 17 as said Lot is delineated and so designated upon Map entitled, "Map of the Subdivision of the Mrs. Wuensche Tract, being Lots 30 and 35 of the Odd Fellows Savings Bank Tract, as recorded in Book "B" of Maps, Pages 14, Records of Santa Clara County," and which said Map was filed for record on November 30, 1892 in the office of the County Recorder of the County of Santa Clara, State of California, in Volume "G" of Maps, at Page 26.

Saving and accepting therefrom that certain parcel of land described in the Deed from Josephine B. Espitallier to City of San Jose, dated November 14, 1933, and recorded November 28, 1933 in Book 669 of the Official Records, page 175, as follows:

Beginning at the point where the Easterly line of Delmas Avenue intersects the Northwesterly line of Willow Street, said point being the most Southwesterly corner of Lot 17 of Mrs. Wuensche Tract as the same is shown on the Map thereof of record in Book G of Maps, at page 28, Records of Santa Clara County, and running thence Northeasterly along the Northwesterly line of Willow Street for a distance of 176.51 feet to a point in the common boundary separating Lots 17 and 18 of said Mrs. Wuensche Tract, running thence in a Northerly direction along said common boundary line parallel to the Easterly line of Delmas Avenue for a distance of 6.42 feet; thence Southwesterly parallel to the Northwesterly line of Willow Street, for a distance of 152.53 feet; thence running Northwesterly on the arc of a curve to the right, tangent to the last described line, the radius of which is 11.45 feet, a distance of 25.62 feet to its point of tangency with the Easterly line of Delmas Avenue; running thence Southerly and by direct line along the Easterly line of Delmas Avenue 30.37 feet to the point of beginning.