



## 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. 28696**", the original copy of which is attached hereto, was passed for publication of title on the **26<sup>th</sup> day of January, 2010**, 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 **9<sup>th</sup> day of February, 2010**, 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 **12<sup>th</sup> day of March, 2010**.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of San Jose, this **11<sup>th</sup> day of February, 2010**.

(SEAL)

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

/rmk

**ORDINANCE NO. 28696****AN ORDINANCE OF THE CITY OF SAN JOSÉ REZONING CERTAIN REAL PROPERTY SITUATED ON THE EAST SIDE OF MONTEREY ROAD, APPROXIMATELY 700 FEET NORTH OF TULLY ROAD (2112 MONTEREY ROAD), FROM A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO 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**, the area encompassed by the subject proposed rezoning was the subject of a Mitigated Negative Declaration prepared in conformance with the California Environmental Quality Act of 1970 (CEQA), as amended, and found complete by the Planning Commission on December 9, 2009, under File No. PDC09-015 which determination has not been challenged, protested or appealed; and

**WHEREAS**, the City Council of the City of San José is the decision-making body for the proposed subject rezoning to A(PD) Planned Development 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 JOSE:**

**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 zoning district of the subject property shall be the A - Agriculture Zoning District. The Planned Development zoning of the subject property shall be that development plan for the subject property entitled, "Markham Terrace Affordable Family Apartments, 2112 Monterey Road San Jose," **last revised October 8, 2009.**

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. PDC09-015 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 26<sup>th</sup> day of January, 2010, by the following vote:

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

NOES: OLIVERIO.

ABSENT: KALRA.

DISQUALIFIED: NONE.



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CHUCK REED  
Mayor

ATTEST:



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LEE PRICE, MMC  
City Clerk

**LEGAL DESCRIPTION**

Real property in the City of San Jose, County of Santa Clara, State of California, described as follows:

**PARCEL ONE:**

BEGINNING AT A STAKE MARKED A-1 STANDING IN THE NORTHEASTERLY LINE OF THE MONTEREY ROAD, AS NOW WIDENED TO 80 FEET IN WIDTH, DISTANT ALONG SAID LINE SOUTH 38 DEGREES, 30' EAST 12 FEET FROM THE POINT OF INTERSECTION OF SAID PRESENT LINE OF THE MONTEREY ROAD WITH THE NORTHWESTERLY LINE OF THAT CERTAIN 2 ACRE TRACT OF LAND DESCRIBED IN THE DEED FROM ALBERT PATRICK SULLIVAN, ET AL, TO FRANK S. WHIDDEN, ET UX, DATED JANUARY 5, 1931, IN BOOK 548 OFFICIAL RECORDS, PAGE 238, SANTA CLARA COUNTY RECORDS; THENCE LEAVING SAID LINE OF THE MONTEREY ROAD AND RUNNING PARALLEL WITH SAID NORTHWESTERLY LINE OF SAID 2 ACRE TRACT OF LAND NORTH 51 DEGREES, 33' EAST 80 FEET TO A STAKE MARKED A-2; THENCE PARALLEL WITH THE NORTHEASTERLY LINE OF THE MONTEREY ROAD, SOUTH 38 DEGREES, 30' EAST 100 FEET TO A STAKE MARKED A-3; THENCE PARALLEL WITH SAID NORTHWESTERLY LINE OF SAID 2 ACRE TRACT, SOUTH 51 DEGREES 33' WEST 80 FEET TO A STAKE MARKED A-4; IN THE NORTHEASTERLY LINE OF THE MONTEREY ROAD; THENCE ALONG SAID LINE, NORTH 38 DEGREES 30' WEST 100 FEET TO THE POINT OF BEGINNING AND BEING A PORTION OF LOT 5, AS SHOWN ON MAP ACCOMPANYING THE REPORT OF REFEREES IN THE PARTITION SUIT HAD IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF SANTA CLARA, ENTITLED, "SIXTO CHABOYA ET AL VS. G.W. RUTHERFORD, ETAL", OF 500 ACRE LOT 6 NORTH.

EXCEPTING THEREFROM ALL THAT PORTION THEREOF LYING WITHIN THE BOUNDS OF THE FOLLOWING DESCRIBED PARCEL OF LAND:

A STRIP OF LAND 40.00 FEET WIDE, THE SOUTHWESTERLY LINE OF WHICH IS THE NORTHEASTERLY LINE OF THE EXISTING STATE HIGHWAY IN SANTA CLARA COUNTY ROAD, IV-SCI-2-B (MONTEREY ROAD, 80.00 FEET WIDE) AND BEING BOUNDED ON THE NORTHWEST AND SOUTHWEST, RESPECTIVELY, BY THE NORTHWESTERLY AND SOUTHEASTERLY LINES OF THE TRACT OF LAND CONVEYED TO LOUIS MENICUCCI, ET AL, BY DEED RECORDED APRIL 6, 1956 IN BOOK 3467 AT PAGE 642 OFFICIAL RECORDS OF SANTA CLARA COUNTY.

**PARCEL TWO:**

BEGINNING AT A POINT IN THE NORTHEASTERLY LINE OF MONTEREY ROAD, AS NOW WIDENED TO 80 FEET, THAT IS DISTANT THEREON NORTH 38 DEGREES 30' WEST 30 FEET FROM THE SOUTHEASTERLY LINE OF LOT 5 OF THE CHABOYA PARTITION ACCORDING TO THE MAP THEREOF HEREINAFTER REFERRED TO; SAID POINT OF BEGINNING ALSO BEING THE SOUTHEASTERLY LINE OF THAT CERTAIN 1.46 ACRE PARCEL OF LAND DESCRIBED IN THE DEED FROM HUGH A. DE LACY TO FRANK S. WHIDDEN, ET UX, DATED JANUARY 7, 1925, RECORDED JANUARY 7, 1925 IN BOOK 128 OFFICIAL RECORDS, PAGE 149, SANTA CLARA COUNTY RECORDS; THENCE FROM SAID POINT OF BEGINNING NORTH 38 DEGREES, 30' WEST ALONG SAID NORTHEASTERLY LINE OF MONTEREY ROAD, 346.93 FEET TO A STAKE MARKET "A-4" SET AT THE MOST SOUTHERLY CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE DEED FROM FRANK S. WHIDDEN, ET UX, TO HORACE L. ALLEN, ET UX, DATED FEBRUARY 4, 1937, RECORDED FEBRUARY 8, 1937 IN BOOK 811 OFFICIAL RECORDS, PAGE 21,

SANTA CLARA COUNTY RECORDS; THENCE LEAVING SAID MONTEREY ROAD AND RUNNING ALONG THE BOUNDARY LINES OF SAID PARCEL OF LAND DESCRIBED IN THE DEED TO SAID HORACE L. ALLEN, ET UX, NORTH 51 DEGREES 33' EAST 80 FEET TO A STAKE MARKED A-3, NORTH 38 DEG. 30' WEST 100 FEET TO A STAKE MARKED A-2 AND SOUTH 51 DEGREES 33' WEST 80 FEET TO A STAKE MARKED "A-1" IN SAID NORTHEASTERLY LINE OF SAID MONTEREY ROAD; THENCE ALONG SAID NORTHEASTERLY LINE OF MONTEREY ROAD, NORTH 38 DEGREES 30' WEST 12 FEET TO THE NORTHWESTERLY LINE ON THAT CERTAIN 2 ACRE TRACT OF LAND DESCRIBED IN THE DEED FROM ALBERT PATRICK SULLIVAN ET AL, TO FRANK S. WHIDDEN, ET UX, DATED JANUARY 5, 1931, RECORDED JANUARY 5, 1931 IN BOOK 548 OFFICIAL RECORDS, PAGE 238, SANTA CLARA COUNTY RECORDS; THENCE LEAVING SAID MONTEREY ROAD AND RUNNING THENCE ALONG THE NORTHWESTERLY LINE OF SAID 2 ACRE TRACT OF LAND, NORTH 51 DEGREES 33' EAST 331.31 FEET TO THE MOST NORTHERLY CORNER THEREOF AND IN THE SOUTHWESTERLY LINE OF THE RIGHT OF WAY OF THE SOUTHERN PACIFIC RAILROAD COMPANY; THENCE ALONG SAID SOUTHWESTERLY LINE OF THE SOUTHERN PACIFIC RAILROAD COMPANY'S RIGHT OF WAY, SOUTH 34 DEGREES, 12' EAST 459.53 FEET TO A STAKE MARKED C2-C2 STANDING AT THE MOST EASTERLY CORNER OF THE 1.46 ACRE PARCEL OF LAND HEREINABOVE REFERRED TO; THENCE LEAVING THE RIGHT OF WAY OF THE SOUTHERN PACIFIC RAILROAD COMPANY AND RUNNING ALONG THE SOUTHEASTERLY LINE OF SAID 1.46 ACRE PARCEL OF LAND SOUTH 51 DEGREES, 26' 40" WEST 293.43 FEET TO THE POINT OF BEGINNING, CONTAINING APPROXIMATELY 3.10 ACRES OF LAND, AND BEING A PART OF LOT 5, AS SHOWN UPON THE MAP ACCOMPANYING THE REPORT OF THE REFEREES IN THE PARTITION SUIT HAD IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF SANTA CLARA, ENTITLED, "SIXTO CHABOYA ET AL, VS. G.W. RUTHERFORD ET AL," OF 500 ACRE LOT 6 NORTH.

EXCEPTING THEREFROM ALL THAT PORTION THEREOF LYING WITHIN THE FOLLOWING DESCRIBED PARCEL OF LAND: A STRIP OF LAND 40.00 FEET WIDE, THE SOUTHWESTERLY LINE OF WHICH IS THE NORTHEASTERLY LINE OF THE EXISTING STATE HIGHWAY IN SANTA CLARA COUNTY, ROAD IV-SCI-2-B (MONTEREY ROAD, 80.00 FEET WIDE) AND BEING BOUNDED ON THE NORTHWEST AND SOUTHEAST, RESPECTIVELY, BY THE NORTHWESTERLY AND SOUTHEASTERLY LINES OF THE TRACT OF LAND CONVEYED TO LOUIS MENICUCCI, ET AL, BY DEED RECORDED APRIL 16, 1956 IN BOOK 3467 AT PAGE 642, OFFICIAL RECORDS OF SANTA CLARA COUNTY.

APN: 477-23-021