



CITY OF SAN JOSÉ, CALIFORNIA

Office of the City Clerk
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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. 28708**", the original copy of which is attached hereto, was passed for publication of title on the **15th day of September, 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 **29th day of September, 2009**, by the following vote:

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

NOES: NONE.

ABSENT: CHIRCO.

DISQUALIFIED: NONE.

VACANT: NONE.

Said ordinance is effective as of **October 30, 2009**.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of San Jose, this **30th day of September, 2009**.

(SEAL)

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

/rmk

ORDINANCE NO. 28708

AN ORDINANCE OF THE CITY OF SAN JOSÉ PREZONING CERTAIN REAL PROPERTY SITUATED AT THE SOUTHEAST CORNER OF EAST MISSION STREET AND NORTH TENTH STREET 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 certified as final on May 25, 2005; 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 Mitigated Negative Declaration, to wit: the adoption of an ordinance rezoning certain real property hereinafter described to A(PD) Planned Development Zoning District; and

WHEREAS, the City Council of the City of San José is the decision-making body for the subject rezoning from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District; and

WHEREAS, this Council does hereby certify that, as the decision-making body, it has considered, approves and adopts the information contained in such Mitigated Negative Declaration prior to acting upon or approving such 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 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.

The base district zoning of the subject property shall be A - Agriculture. The PD zoning of the subject property shall be that certain development plan for the subject property entitled, "**Westmount Square,**" dated **September 15, 2009.**

The General Development Plan for this A(PD) Planned Development rezoning 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.

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. PDC08-066 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 15th day of September, 2009 by the following vote:

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

NOES: NONE.

ABSENT: CONSTANT.

DISQUALIFIED: NONE.



CHUCK REED
Mayor

ATTEST:



LEE PRICE, MMC
City Clerk

LEGAL DESCRIPTION
LANDS OF WESTMOUNT SQUARE, LLC.
S/S OF MISSION STREET BETWEEN 10TH AND 11TH STREETS
SAN JOSE, CA

Being all of Lots 1 and 2 as shown upon that certain Parcel Map recorded in Book 475 of Maps at Page 26, Santa Clara County Records, more particularly described as follows:

Beginning at the most southerly corner of Lot 2, as said lot is shown upon that certain Parcel Map described above, said corner being on the most easterly right of way line of Tenth Street, 80 feet wide, measured at right angles, thence continuing along the westerly side of Tenth Street North $30^{\circ} 41' 34''$ West 485.66 feet to a tangent curve; thence on a curve to the right through a central angle of $90^{\circ} 00' 45''$, having a radius of 20 feet, an arc distance of 31.42 feet to a point in the most southerly right of way line of Mission Street, 80 feet wide, measured at right angles; thence continuing along the southerly right of way line of Mission Street North $59^{\circ} 19' 11''$ East 235.62 feet to a tangent curve; thence on a curve to the right through a central angle of $89^{\circ} 59' 53''$, having a radius of 20 feet, an arc distance of 31.42 feet to the most westerly right of way line of Eleventh Street, 80 feet wide, measured at right angles; thence continuing along the most right westerly right of way line of Eleventh Street South $30^{\circ} 40' 56''$ East 485.69 feet; thence leaving said right of way line of Eleventh Street South $59^{\circ} 19' 30''$ West 275.53 feet.

Containing an area of 3.10 acres, more or less.