

**ORDINANCE NO. 28795**

**AN ORDINANCE OF THE CITY OF SAN JOSÉ REZONING CERTAIN REAL PROPERTY SITUATED ON THE EAST SIDE OF RUBY AVENUE, APPROXIMATELY 100 FEET NORTHERLY OF MURILLO AVENUE (2494 RUBY AVENUE), 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 June 23, 2010, under File No. PDC09-028 (the "MND"), 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, approves and adopts 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, "Planned Development Zoning for Ruby Estates, A Residential Development By Ruby Estates, LLC. In San Jose, California," **dated August 21, 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. PDC09-028 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 17<sup>th</sup> day of August, 2010, by the following vote:

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

NOES: NONE.

ABSENT: NONE.

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:

PORTION OF LOT 15 AS SHOWN ON THAT CERTAIN MAP ENTITLED, "MAP OF MARTEN'S SUBDIVISION OF PART OF THE PALA RANCHO", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON APRIL 27, 1912 IN BOOK N OF MAPS, AT PAGE 97, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE CENTER LINE OF RUBY AVENUE, 40 FEET IN WIDTH, DISTANT THEREON SOUTH 49° 36' EAST 120.89 FEET FROM THE SOUTHERLY COMMON CORNER FOR LOTS 14 AND 15, AS SAID LOTS ARE SHOWN UPON THE MAP ABOVE REFERRED TO, SAID POINT OF BEGINNING ALSO BEING ON THE SOUTHWESTERLY LINE OF LOT 15; RUNNING THENCE NORTH 40° 24' EAST AND PARALLEL WITH THE SAID DIVIDING LINE BETWEEN LOTS 14 AND 15 FOR A DISTANCE OF 516.56 FEET TO AN IRON PIPE; RUNNING THENCE SOUTH 49° 36' EAST AND PARALLEL WITH THE SAID CENTER LINE OF RUBY AVENUE 220.15 FEET TO AN IRON PIPE; RUNNING THENCE SOUTH 40° 24' WEST AND PARALLEL WITH THE SAID DIVIDING LINE BETWEEN LOTS 14 AND 15 FOR A DISTANCE OF 516.56 FEET TO A POINT IN THE SAID CENTER LINE OF RUBY AVENUE, WHICH IS ALSO THE SAID SOUTHWESTERLY LINE OF LOT 15; RUNNING THENCE NORTH 49° 36' WEST ALONG THE SAID CENTER LINE OF RUBY AVENUE, 220.15 FEET TO THE POINT OF BEGINNING.

APN: 652-11-010-00