

RESOLUTION NO. 73815

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSE UPHOLDING THE PLANNING COMMISSION'S DECISION TO UPHOLD THE PLANNING DIRECTOR'S DECISION TO ADOPT A MITIGATED NEGATIVE DECLARATION FOR A PLANNED DEVELOPMENT REZONING FROM R-1-1 SINGLE-FAMILY RESIDENCE ZONING DISTRICT TO A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO ALLOW SIX SINGLE-FAMILY DETACHED RESIDENTIAL UNITS ON A 1.07 GROSS ACRE SITE LOCATED ON THE EAST SIDE OF ALMADEN EXPRESSWAY, APPROXIMATELY 200 FEET NORTH OF THE TERMINUS OF FLEETWOOD DRIVE, IN COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT OF 1970, AND RELATED STATE AND LOCAL GUIDELINES AND REGULATIONS

WHEREAS, pursuant to Title 21 of the San Jose Municipal Code, **RDS Investments**, hereinafter referred to as "Applicant," on July 3, 2006, filed applications for which a Mitigated Negative Declaration (hereinafter called "MND") was circulated for public review and adopted by the Director of Planning for a proposed Planned Development rezoning, File No. **PDC06-070**, concerning that certain real property hereinafter referred to as "subject property," described in the MND for the "Jayden Lane Residential Project" and which property description is made a part hereof by reference as though fully set forth herein; and

WHEREAS, the Director of Planning, Building and Code Enforcement pursuant to, and in accordance with, said Title 21 prepared an Initial Study and an MND relating to said subject property and the proposed project described in the Initial Study and MND; and

WHEREAS, pursuant to and in accordance with said Title 21, the Director of Planning sent a copy of the Notice of Intent to Adopt a Mitigated Negative Declaration, after a public review period from March 20, 2007 to April 9, 2007, to each public agency having jurisdiction by law of said proposed project, as well as each resident and occupant within 1,000 feet of the site of the subject property advising such agencies and individuals to review and submit written comments, if any, on the MND to the Director of Planning in the time and manner specified in said notice and pursuant to said Title 21; and

WHEREAS, pursuant to and in accordance with said Title 21, the Director adopted said MND on April 11, 2007; and

WHEREAS, pursuant to and in accordance with said Title 21, on April 11 and April 25, 2007, the Planning Commission conducted a hearing on the MND, notice of which was duly given; and

WHEREAS, at said hearing, the Planning Commission gave all persons full opportunity to be heard and to present evidence and testimony respecting said MND; and

WHEREAS, at said hearing, the Planning Commission passed a motion by a vote of 4-0-2 (Commissioners Platten and Dhillon absent), to adopt said MND; and

WHEREAS, on April 30, 2007, an appeal of the adoption of said MND was filed by Douglas Page, 1060 Fleetwood Drive, San Jose, CA 95120; and

WHEREAS, notice of the date, time and place of the hearing before the City Council on the Appeal of the adoption of the MND was duly and properly given pursuant to and in compliance with the provisions and requirements of Title 21 of the San José Municipal Code; and

WHEREAS, at the date, time and place provided in said notice, the City Council of the City of San José conducted a public hearing *de novo* on the Appeal of the adoption of the MND and provided all persons with an opportunity to be heard and provide testimony or evidence on the matter of the adoption of the MND.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSE AS FOLLOWS:

SECTION 1. This Council has considered the whole of the record before it, including the Initial Study, the MND and all related written and oral testimony received, and hereby finds that there is no substantial evidence in the record that approval of the project will have a significant adverse impact on the environment.

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SECTION 2. This Council hereby finds, determines and declares the MND for said project has been completed in compliance with CEQA and represents the independent judgment and analysis of the City of San José.

ADOPTED this 5th day of June, 2007, by the following vote:

AYES:	CAMPOS, CHIRCO, CONSTANT, CORTESE, LICCARDO, NGUYEN, OLIVERIO, PYLE, WILLIAMS; REED
NOES:	NONE
ABSENT:	NONE
DISQUALIFIED:	NONE
VACANT	DISTRICT 4

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk