



CITY OF SAN JOSÉ, CALIFORNIA

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San José, California 95113
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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. 28864**", the original copy of which is attached hereto, was passed for publication of title on the **7th day of December, 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 **14th day of December, 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 **14th day of January, 2011**.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of San Jose, this **16th day of December, 2010**.

(SEAL)

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

/rmk

ORDINANCE NO. 28864

AN ORDINANCE OF THE CITY OF SAN JOSÉ REZONING CERTAIN REAL PROPERTY SITUATED ON THE SOUTH SIDE OF ABORN ROAD BETWEEN ALESSANDRO DRIVE AND 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 an Environmental Impact Report (EIR) prepared in conformance with the California Environmental Quality Act of 1970 (CEQA), as amended, and found complete by the Planning Commission on December 1, 2010, under File No. PDC10-001, 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 EIR as reflecting the independent judgment and analysis of the City 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, "Lands of Mirassou Trust, A Mixed Use Development by SummerHill Homes," **last revised September 16, 2010.**

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. PDC10-001 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 7th day of December, 2010, by the following vote:

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

NOES: NONE.

ABSENT: NONE.

DISQUALIFIED: NONE.



CHUCK REED
Mayor

ATTEST:



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:

ALL OF PARCEL 1 AS SHOWN ON THAT CERTAIN PARCEL MAP ENTITLED, "PARCEL MAP SHOWING LOT LINE ADJUSTMENT BETWEEN PARCEL NO. 1 AND PARCEL NO. 2 ON A PARCEL MAP RECORDED IN BOOK 386 AT MAPS, PAGE 21, SANTA CLARA COUNTY RECORDS AND BEING A PORTION OF THE RANCHO YERBA BUENA", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON JANUARY 21, 1982 IN BOOK 495 OF MAPS, PAGE 28 AND 29.

EXCEPTING THEREFROM THAT PORTION DEDICATED TO THE CITY OF SAN JOSE, A MUNICIPAL CORPORATION RECORDED DECEMBER 17, 1998 UNDER SERIES NO. 14557639 AND DESCRIBED AS FOLLOWS:

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, BEING A PORTION OF PARCEL 1, AS SHOWN ON THAT CERTAIN PARCEL MAP FILED FOR RECORD JANUARY 21, 1982 IN BOOK 495 OF MAPS, AT PAGES 28 & 29, SANTA CLARA COUNTY RECORDS, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE MOST WESTERLY LINE OF SAID PARCEL 1 OF PARCEL MAP WHICH BEARS S. 10° 30' 00" E. 50.68 FEET FROM THE NORTHWEST CORNER OF SAID PARCEL 1; THENCE FROM SAID POINT OF BEGINNING ALONG SAID WESTERLY LINE S. 10° 30' 00" E. 104.00 FEET; THENCE LEAVING SAID WESTERLY LINE N. 50° 39' 20" E. 50.17 FEET; THENCE N. 39° 20' 40" W. 91.10 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM THAT PORTION DEDICATED TO THE CITY OF SAN JOSE, A MUNICIPAL CORPORATION, FOR STREET PURPOSES, RECORDED DECEMBER 17, 1998 UNDER SERIES NO. 14557640 AND DESCRIBED AS FOLLOWS:

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, BEING A PORTION OF PARCEL 1, AS SHOWN ON THAT CERTAIN PARCEL MAP RECORDED JANUARY 21, 1982 IN BOOK 495 OF MAPS, AT PAGES 28 & 29, SANTA CLARA COUNTY RECORDS, AND BEING A PORTION OF THE RANCHO YERBA BUENA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF SAID PARCEL 1; THENCE ALONG THE WESTERLY LINE OF SAID PARCEL 1, SOUTH 10° 30' 00" EAST 50.68 FEET TO THE SOUTHERLY LINE OF ABORN ROAD, AS SHOWN ON THE MAP OF TRACT NO. 8784 RECORDED MARCH 28, 1996 IN BOOK 675 OF MAPS, AT PAGES 17 THROUGH 20, SANTA CLARA COUNTY RECORDS; THENCE LEAVING SAID WESTERLY LINE, EASTERLY ALONG A LINE CONCENTRIC WITH AND 80.00 FEET SOUTHERLY, MEASURED RADIALLY, FROM THE LINE DESIGNATED FUTURE CENTERLINE ON THE MAP OF TRACT NO. 7901 RECORDED JULY 7, 1986 IN BOOK 562 OF MAPS, AT PAGES 1 THROUGH 3, SANTA CLARA COUNTY RECORDS, THE FOLLOWING THREE (3) COURSES: ALONG A CURVE TO THE LEFT, WHOSE RADIUS POINT BEARS NORTH 18° 09' 23" WEST HAVING A RADIUS OF 2080.00 FEET, THROUGH A CENTRAL ANGLE OF 1° 52' 55" FOR AN ARC LENGTH OF 68.32 FEET; ALONG A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 1920.00 FEET, THROUGH A CENTRAL ANGLE OF 19° 52' 47" FOR AN ARC LENGTH OF 666.18 FEET; ALONG A REVERSE CURVE TO THE LEFT, HAVING A RADIUS OF 2080.00 FEET, THROUGH A CENTRAL ANGLE OF 10° 07' 47" FOR AN ARC LENGTH OF 367.74 FEET; THENCE LEAVING

SAID CONCENTRIC LINE ALONG A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET, THROUGH A CENTRAL ANGLE OF 89° 48' 43" FOR AN ARC LENGTH OF 39.19 FEET; THENCE SOUTH 10° 28' 35" EAST 151.43 FEET; THENCE ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 854.00 FEET, THROUGH A CENTRAL ANGLE OF 18° 20' 32" FOR AN ARC LENGTH OF 273.39 FEET; THENCE SOUTH 28° 49' 07" EAST 74.02 FEET; THENCE ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 100.00 FEET, THROUGH A CENTRAL ANGLE OF 21° 10' 18" FOR AN ARC LENGTH OF 36.95 FEET; THENCE SOUTH 49° 59' 25" EAST 9.69 FEET; THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 100.00 FEET, THROUGH A CENTRAL ANGLE OF 21° 10' 18" FOR AN ARC LENGTH OF 36.95 FEET; THENCE SOUTH 28° 49' 07" EAST 145.12 FEET; THENCE SOUTH 21° 29' 09" WEST 162.82 FEET TO THE SOUTHERLY LINE OF SAID PARCEL 1; THENCE ALONG SAID SOUTHERLY LINE NORTH 79° 30' 00" EAST 170.58 FEET TO THE SOUTHEASTERLY CORNER THEREOF; THENCE ALONG THE EASTERLY AND NORTHERLY LINES OF SAID PARCEL 1, THE FOLLOWING SIX (6) COURSES: NORTH 10° 30' 00" WEST 1.10 FEET; NORTH 28° 49' 07" WEST 620.02 FEET; ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 853.00 FEET, THROUGH A CENTRAL ANGLE OF 18° 20' 32" FOR AN ARC LENGTH OF 273.07 FEET; NORTH 10° 28' 35" WEST 94.90 FEET; SOUTH 79° 31' 46" WEST 825.75 FEET; AND SOUTH 77° 16' 54" WEST 295.49 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM, PARCEL 1 AS SHOWN ON THAT CERTAIN PARCEL MAP FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON OCTOBER 21, 1999 IN BOOK 720 OF MAPS, PAGES 7 AND 8.

ALSO EXCEPTING THEREFROM THAT PORTION CONVEYED TO SHAPELL INDUSTRIES, A DELAWARE CORPORATION, BY GRANT DEED RECORDED MARCH 14, 2000, SERIES NO. 15179606, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING A PORTION OF THE DESIGNATED REMAINDER, AS SHOWN ON THAT CERTAIN PARCEL MAP FILED FOR RECORD IN BOOK 720 OF MAPS, AT PAGE 7 & 8, SANTA CLARA COUNTY RECORDS, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERLY CORNER OF SAID 16.976 ACRE DESIGNATED REMAINDER; THENCE ALONG THE SOUTHERLY LINE OF SAID 16.976 ACRE DESIGNATED REMAINDER, SOUTH 79° 30' 00" WEST 30.98 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID SOUTHERLY LINE SOUTH 79° 30' 00" WEST 133.22 FEET; THENCE NORTH 51° 15' 06" EAST 121.99 FEET; THENCE SOUTH 34° 32' 34" EAST 63.22 FEET TO THE TRUE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE CITY OF SAN JOSE, A MUNICIPAL CORPORATION, BY GRANT DEED RECORDED JUNE 28, 2000, SERIES NO. 15294524, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING A PORTION OF THE DESIGNATED REMAINDER, AS SHOWN ON THAT CERTAIN PARCEL MAP FILED FOR RECORD IN BOOK 720 OF MAPS, AT PAGE 7 & 8, SANTA CLARA COUNTY RECORDS, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERLY CORNER OF PARCEL 1, AS SHOWN ON SAID MAP; THENCE ALONG THE SOUTHERLY LINE OF SAID DESIGNATED REMAINDER NORTH 79° 30' 00" EAST 132.08 FEET; THENCE LEAVING SAID SOUTHERLY LINE NORTH 51° 15' 06" EAST 121.99 FEET; THENCE SOUTH 34° 32' 34" EAST 63.22 FEET TO SAID SOUTHERLY LINE; THENCE ALONG SAID SOUTHERLY LINE, NORTH 79° 30' 00" EAST 30.98 FEET TO THE WESTERLY LINE OF RUBY AVENUE; THENCE ALONG SAID WESTERLY LINE NORTH 21° 29' 09" EAST 50.63 FEET; THENCE LEAVING SAID WESTERLY LINE, NORTH 64° 39' 13" WEST 99.29 FEET; THENCE NORTH 00° 42' 04" EAST 61.22 FEET; THENCE NORTH 18° 18' 43" WEST 31.75 FEET; THENCE NORTH 12° 40' 07" WEST 62.83 FEET; THENCE NORTH 27° 20' 54" WEST 105.99 FEET; THENCE SOUTH 77° 35' 08" WEST 193.43 FEET TO THE NORTHERLY PROLONGATION OF THE EASTERLY

LINE OF SAID PARCEL ONE; THENCE ALONG SAID NORTHERLY PROLONGATION AND SAID
EASTERLY LINE SOUTH 10° 30' 00" EAST 289.69 FEET; THENCE SOUTH 10° 54' 08" WEST 65.17
FEET TO THE TRUE POINT OF BEGINNING.

PARCEL TWO:

TOGETHER WITH AN EASEMENT FOR NOISE AND LIGHT OVER ALL OF PARCEL 1 AS SHOWN
UPON THAT CERTAIN PARCEL MAP FILED ON OCTOBER 21, 1999 IN BOOK 720 OF MAPS,
PAGES 7 AND 8, AS RESERVED IN THAT GRANT DEED BY MIRASSOU VINEYARDS, A
CALIFORNIA GENERAL PARTNERSHIP; AND JAMES L. MIRASSOU, TRUSTEE UNDER
IRREVOCABLE TRUST OF EDMUND A. MIRASSOU AND MILDRED K. MIRASSOU DATED MAY 11,
1981, RECORDED NOVEMBER 11, 1999 UNDER SERIES NO. 15065214, OFFICIAL RECORDS.

APN: 659-57-010