

DRAFT

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SAN JOSE REZONING CERTAIN REAL PROPERTY OF APPROXIMATELY 0.46 GROSS ACRE SITUATED ON THE WEST SIDE OF NORTH CAPITOL AVENUE, APPROXIMATELY 240 FEET NORTHERLY OF PENITENCIA CREEK ROAD (907 NORTH CAPITOL AVENUE) FROM THE R-M MULTIPLE-FAMILY RESIDENCE ZONING DISTRICT TO THE R-M(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, a Statement of Exemption was prepared for a rezoning under File No. PDC1-046, and said Statement of Exemption (CEQA Categorical Exemption Section 15303(d) for New Construction of four multi-family units) was adopted on October 26, 2020; and

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

WHEREAS, this Council of the City of San José has considered and approves the Statement of Exemption as the appropriate environmental clearance for the proposed project prior to acting upon or approving the subject rezoning; and

WHEREAS, the proposed rezoning is consistent with the designation of the site in the applicable General Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. The recitals above are incorporated herein.

SECTION 2. All that real property hereinafter described in this section, hereinafter referred to as "subject property," is hereby rezoned as R-M(PD) Planned Development Zoning District. The base district zoning of the subject property shall be R-M Multiple Residence Zoning District. The Planned Development Zoning of the subject property shall be that development plan for the subject property entitled, "Berryessa Home Development" last revised January 15, 2020 ("General Development Plan").

Said General Development Plan is on file in the office of the Director of Planning, Building and Code Enforcement 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", entitled "Legal Description" attached hereto and incorporated herein by this reference.

SECTION 3. The district map of the City is hereby amended accordingly.

SECTION 4. The land development approval that is the subject of City File No. PDC17-046 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 _____ day of _____, 2020 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

Exhibit "A"

All that certain real property situate in the City of San Jose, County of Santa Clara, State of California, being more particularly described as follows:

All of Parcel No. 1 and Parcel No. 2, as described in the Trust Transfer Deed from Anna Chelstowski, an unmarried woman to Anna Chelstowski, as Trustee of the Chelstowski 1990 Living Trust, recorded on July 9, 1990 in Book L411 of Official Records at Page 1521, said Santa Clara County records, excepting therefrom that certain parcel of land as described in the Grant Deed from Anna Chelstowski, as Trustee of the Chelstowski 1990 Living Trust to the Santa Clara Valley Transportation Authority, recorded on April 5, 2001 as Document No. 15621624 of Official Records, said Santa Clara County records.

and, excepting therefrom, the following area:

Beginning at the most Southerly corner of said parcel of land as described in the Grant Deed from Anna Chelstowski, as Trustee of the Chelstowski 1990 Living Trust to the Santa Clara Valley Transportation Authority;

Thence along the Southeasterly line of Parcel No. 2 and Parcel No. 1, as both parcels are described in said Trust Transfer Deed from Anna Chelstowski, an unmarried woman to Anna Chelstowski, as Trustee of the Chelstowski 1990 Living Trust, South 48° 30' 22" West, 247.54 feet to the most Southerly corner of said Parcel No. 1;

Thence leaving said Southeasterly line, along the Southwesterly line of said Parcel No. 1, North 40° 00' 53" West, 2.54 feet;

Thence leaving said Southwesterly line, North 49° 05' 35" East, 247.49 feet to the Point of Beginning.

and, in addition thereto, the following area:

Beginning at the most Southerly corner of said Parcel No. 1, as described in the Trust Transfer Deed from Anna Chelstowski, an unmarried woman to Anna Chelstowski, as Trustee of the Chelstowski 1990 Living Trust;

Thence, from said Point of Beginning, along the Southwesterly line of said Parcel No. 1, North 40° 00' 53" West, 2.54 feet to the True Point of Beginning;

Thence leaving said Southwesterly line, South 49° 05' 35" West, 3.89 feet;

Thence parallel with said Southwesterly line of Parcel No. 1, North 40° 00' 53" West, 80.78 feet to a point in the Northwesterly line of said Parcel 2;

Thence leaving said parallel line, along the Northwesterly line of said Parcel 2, North 49° 15' 22" East, 3.89 feet to the most Westerly corner of said Parcel No. 1;

Thence leaving said Northwesterly line, along the said Southwesterly line of Parcel No. 1, South 40° 00' 53" East, 80.77 feet to the True Point of Beginning.

Containing an area of 0.463 acres (20,162 square feet), more or less.

Assessor's Parcel Numbers(s): 254-29-029