

**DRAFT**

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF SAN JOSE REZONING  
CERTAIN REAL PROPERTY OF APPROXIMATELY 0.3-  
GROSS ACRE SITUATED ON THE WEST SIDE OF NORTH  
CAPITOL AVENUE, APPROXIMATELY 300 FEET SOUTH  
OF BERRYESSA ROAD (APN: 254-29-019), FROM THE A  
AGRICULTURAL ZONING DISTRICT TO THE R-M  
MULTIPLE RESIDENCE 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. C18-030, and said Statement of Exemption (CEQA Categorical Exemption Section 15303(b) for New Construction of no more than four multi-family units) was adopted on February 24, 2021; 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 Multiple Residence 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 R-M Multiple Residence Zoning District.

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

**SECTION 4.** Any land development approval that is the subject of City File No. C18-030 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.

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PASSED FOR PUBLICATION of title this \_\_\_\_ day of \_\_\_\_\_, 2021 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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SAM LICCARDO  
Mayor

ATTEST:

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TONI J. TABER, CMC  
City Clerk

**EXHIBIT "A"**  
Legal Description

**For APN/Parcel ID(s): 254-29-019**

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THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIPE IN THE SOUTHWESTERLY LINE OF CAPITOL AVENUE DISTANT THEREON S. 41° 26' 30" E. 398 FEET FROM THE INTERSECTION OF SAID LINE OF CAPITOL AVENUE WITH THE SOUTHEASTERLY LINE OF BERRYESSA ROAD, SAID POINT OF BEGINNING BEING THE SOUTHEASTERLY CORNER OF THE 0.945 ACRE TRACT OF LAND CONVEYED BY THOMAS BECK, ET UX, TO L. E. HANCHETT BY DEED DATED JANUARY 9, 1906 AND RECORDED JANUARY 9, 1906 IN BOOK 302 OF DEEDS, AT PAGE 261 IN THE OFFICE OF THE RECORDER OF SAID COUNTY; THENCE ALONG SAID LINE OF CAPITOL AVENUE S. 41° 26' 30" E. 78.81 FEET TO A 1" IRON PIPE; THENCE LEAVING SAID LINE OF CAPITOL AVENUE AND RUNNING S. 46° 53' 30" W. 185 FEET TO AN IRON PIPE; THENCE PARALLEL WITH THE CENTER LINE OF CAPITOL AVENUE N. 41° 26' 30" W. 91.73 FEET TO AN IRON PIPE IN THE SOUTHEASTERLY LINE OF SAID 0.945 ACRE TRACT; THENCE ALONG SAID SOUTHEASTERLY LINE N. 50° 54' E. 185.07 FOOT TO THE POINT OF BEGINNING AND BEING A PORTION OF 500 ACRE LOT 62.

EXCEPTING THEREFROM THAT PORTION CONVEYED TO SANTA CLARA VALLEY TRANSPORTATION AUTHORITY IN DEED RECORDED NOVEMBER 27, 2000 IN INSTRUMENT NO. 15470552 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID FOSTER PARCEL; THENCE ALONG THE NORTHWESTERLY LINE OF SAID PARCEL, SOUTH 52° 13' 51" WEST, 37.95 FEET; THENCE LEAVING SAID NORTHWESTERLY LINE, SOUTH 41° 57' 54" EAST, 51.00 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 992.00 FEET; THENCE ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 01° 45' 44", FOR AN ARC LENGTH OF 30.51 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF SAID PARCEL; THENCE ALONG SAID SOUTHEASTERLY LINE, NORTH 48° 05' 51" EAST, 35.94 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL; THENCE LEAVING SAID SOUTHEASTERLY LINE, ALONG THE NORTHEASTERLY LINE OF SAID PARCEL, NORTH 40° 14' 09" WEST, 78.81 FEET TO THE POINT OF BEGINNING.