

DRAFT

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SAN JOSE REZONING CERTAIN REAL PROPERTY OF AN APPROXIMATELY 28.99-GROSS ACRE SITE SITUATED ON THE WEST SIDE OF EAST CAPITOL EXPRESSWAY, APPROXIMATELY 1,165 FEET SOUTHERLY OF QUIMBY ROAD (ASSESSOR PARCEL NUMBERS 670-29-032, 670-29-033, 670-29-035, AND 670-50-001 TO 670-50-005), FROM THE A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO THE 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, a Mitigated Negative Declaration was prepared in conformance with the California Environmental Quality Act of 1970 (CEQA), as amended, for the subject rezoning to A(PD) Planned Development Zoning District under File Number PDC20-002 (the "MND"); and

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

WHEREAS, this Council of the City of San José has considered, approved and adopted said MND and related Mitigation Monitoring and Reporting Program under separate Council resolution 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. 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 A(PD) Planned Development Zoning District. The base zoning district of the subject property shall be the Agricultural Zoning District. The Planned Development rezoning of the subject property shall be that development plan for the subject property entitled, "General Development Plan," dated revised August 6, 2021.

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" 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. PDC20-002 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 _____, 2021 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

July 20, 2020

**LEGAL DESCRIPTION
TO ACCOMPANY
REZONING
EVERGREEN CIRCLE RETAIL PARCELS**

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:

Being all of Parcels L, M, S and V and portions of Evergreen Place, North Evergreen Loop and South Evergreen Loop, all being public streets, as said Parcels and streets are shown on that certain Map of Tract 10394 Evergreen Circle Phase 1, filed September 8, 2017 in Book 906 of Maps at Pages 44 through 61, inclusive, Santa Clara County Records, as said Map is amended by that Certificate of Correction dated December 13, 2017 and recorded February 8, 2018 as Instrument No. 23864778 of Official Records, being more particularly described as follows:

BEGINNING at the most southerly common corner of Parcel S and Parcel P, as said common corner is shown on said Map of Tract 10394, said common corner lying on the southerly line of the exterior boundary of Evergreen Circle property as said property was zoned under City of San Jose file PDC10-022, approved December 16, 2014;

Thence westerly along said southerly boundary and the southerly line of Parcel S North $79^{\circ} 14' 33''$ East 976.96 feet, more or less, to a point on the westerly line of the Capitol Expressway Dedication as said Dedication is described in that Grant Deed from Arcadia Development Co. to the County of Santa Clara, dated November 21, 2017 and recorded December 26, 2017 as Instrument No. 23835017, Santa Clara County Official Records;

Thence leaving said southerly line northerly along the westerly line of the Capitol /Expressway Dedication and the easterly line of said Parcel S North $01^{\circ} 23' 39''$ West 722.42 feet; thence South $88^{\circ} 36' 21''$ West 2.14 feet;

Thence leaving said Dedication along a non-tangent curve to the left with a radius of 28.00 feet, the radial bearing of which bears South $88^{\circ} 34' 42''$ West, through a central angle of $89^{\circ} 49' 56''$ an arc length of 43.90 feet to a point on the northerly line of said Parcel S and a point on the southerly line of Evergreen Place, a public street;

Leaving said northerly line of Parcel S and the southerly line of said Evergreen Place North $01^{\circ} 23' 39''$ East 56.00 feet to a point on the monument line of said Evergreen Place; Thence leaving said monument line North $01^{\circ} 23' 39''$ East 43.00 feet to a point on the northerly line of said Evergreen Place and the southerly line of said Parcel V; Thence along the northerly and southerly lines North $88^{\circ} 44' 45''$ East 0.24 feet; Thence leaving said northerly line of said Evergreen Place along a tangent curve to the left with a radius of 28.00 feet through a central angle of $88^{\circ} 36' 39''$ an arc length of 43.30 feet to the easterly line of said Parcel V;

Thence along said easterly line of Parcel V the following three (3) lines:

- 1) South $89^{\circ} 51' 54''$ East 2.00 feet;

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- 2) North $00^{\circ} 08' 06''$ East 63.75 feet; and
- 3) South $89^{\circ} 51' 54''$ East 7.21 feet, more or less, to a point on the northerly line of Parcel V, said line also being the northerly line of the exterior boundary of the aforementioned zoning of the Evergreen Circle Property;

Thence along said northerly lines North $31^{\circ} 44' 42''$ West 582.13 feet, more or less to an angle point in said northerly lines; Thence South $73^{\circ} 18' 00''$ West 188.91 feet to the northerly common corner of said Parcel V and the Lands of the City of San Jose, as said Lands are described in that Grant Deed from Arcadia Development Co. to the City of San Jose, dated October 26, 2016 and recorded December 16, 2016 as Instrument No. 23535196, Santa Clara County Official Records;

Thence leaving said northerly lines along the common line of said Parcel V and Lands the following four (4) lines:

- 1) South $16^{\circ} 41' 30''$ East 114.10 feet;
- 2) South $34^{\circ} 55' 45''$ West 40.91 feet;
- 3) South $73^{\circ} 29' 30''$ West 74.86 feet; and
- 4) South $34^{\circ} 56' 56''$ West 193.34 feet to a point on the northerly line of North Evergreen Loop, a public street;

Thence along said northerly line of North Evergreen Loop South $87^{\circ} 30' 05''$ West 382.02 feet;

Thence leaving said northerly line of North Evergreen Loop at right angles South $02^{\circ} 29' 55''$ East 72.00 feet to the northerly common corner of Parcels M and N as said Parcels are shown on said Tract Map, said common corner being a point on the southerly line of said North Evergreen Loop;

Thence leaving said southerly line along the common line of said Parcels M and N the following eleven (11) lines:

- 1) South $12^{\circ} 31' 39''$ East 17.16 feet;
- 2) South $32^{\circ} 28' 21''$ West 24.50 feet;
- 3) South $12^{\circ} 31' 39''$ East 142.54 feet;
- 4) South $57^{\circ} 31' 39''$ East 9.21 feet;
- 5) North $32^{\circ} 28' 21''$ East 15.29 feet;
- 6) South $12^{\circ} 31' 39''$ East 62.94 feet;
- 7) South $32^{\circ} 28' 21''$ West 24.50 feet;
- 8) South $12^{\circ} 31' 39''$ East 142.54 feet;
- 9) South $57^{\circ} 31' 39''$ East 9.21 feet;
- 10) North $32^{\circ} 28' 21''$ East 15.29 feet; and
- 11) South $12^{\circ} 31' 39''$ East 27.39 feet to a point on the northerly line of South Evergreen Loop;

Thence along said northerly line of said South Evergreen Loop South $79^{\circ} 15' 19''$ West 101.82 feet;

Thence leaving said northerly line of said South Evergreen Loop at right angles South $10^{\circ} 44' 41''$ West 72.00 feet to the northerly common corner of aforementioned Parcels P and S, said common corner also being a point on the southerly line of said South Evergreen Loop;

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Thence leaving said southerly line along the common line of said Parcels P and S the following six (6) lines and two (2) curves:

- 1) South 10⁰ 44' 41" East 264.85 feet;
- 2) North 79⁰ 15' 19" East 13.93 feet;
- 3) South 10⁰ 44' 41" East 246.23 feet;
- 4) South 00⁰ 38' 39" West 33.57 feet;
- 5) Along a tangent curve to the right with a radius of 100.00 feet through a central angle of 15⁰ 52' 40" an arc length of 27.71 feet;
- 6) South 16⁰ 31' 11" West 55.73 feet;
- 7) Along a tangent curve to the left with a radius of 50.00 feet through a central angle of 27⁰ 15' 16" an arc length of 23.78 feet; and
- 8) South 10⁰ 45' 54" East 16.51 feet, more or less to the POINT OF BEGINNING.

Containing 28.99 acres, more or less

APN 670-29-032, 033 & 035

APN 670-50-001 thru 005 (formally 670-29-034)

Prepared By:
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Job # 12-784F

Note: This legal description is prepared for the sole purpose of rezoning the property described. It is not a legal description as defined in the State Subdivision Map Act.