

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSE REZONING CERTAIN REAL PROPERTY SITUATED AT THE NORTHWEST CORNER OF WINFIELD BOULEVARD AND BLOSSOM RIVER WAY, 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 a Mitigated Negative Declaration (“MND”) under File No. PDC85-089 prepared in conformance with the California Environmental Quality Act of 1970 (CEQA), as amended, and found complete by the Planning Commission on January 15, 1986, under File No. PDC85-089, which determination has not been challenged, protested or appealed; and

WHEREAS, this Council of the City of San José, acting as lead agency under CEQA, proposes to approve a project which was the subject of said MND, to wit: the adoption of an ordinance rezoning certain real property hereinafter described to A(PD) Planned Development Zoning District; 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 does hereby certify that, as the decision-making body, it has considered and approves the information contained in such MND prior to acting upon or approving such project, and finds that the facts and findings upon which the MND was based have not changed.

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 district zoning of the subject property shall be A-Agricultural. The PD zoning of the subject property shall be that development plan for the subject property entitled, "The Atrium of San Jose, Planned Development Zoning, 1009 Blossom River Way, San Jose, CA 95123, File No. PDC10-004," dated June 23, 2010 (“General

Development Plan”).

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. PDC10-004 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 31st day of August, 2010 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk

SCHEDULE A

1. Commitment Date: August 10, 2009 at 7:30 A.M.
2. Policy or Policies to be issued: Amount

(A) To Be Determined \$To Be Determined
Proposed Insured:

To Be Determined

(B) To Be Determined \$To Be Determined
Proposed Insured:

To Be Determined
3. (A) The estate or interest in the land described in this Commitment is:

Fee Simple

(B) Title to said estate or interest at the date hereof is vested in:

Brookdale Living Communities of California, Inc., a Delaware corporation
4. The land referred to in this Commitment is situated in the City of San Jose, County of Santa Clara , State of California, and is described as follows:

THAT CERTAIN PARCEL OF LAND, BEING A PORTION OF THAT 10.14 ACRE PARCEL DESCRIBED IN THE DEED RECORDED IN BOOK 5369, PAGE 46, OFFICIAL RECORDS, TO WIT:

BEGINNING AT THE SOUTHEASTERLY CORNER OF SAID PARCEL, SAID CORNER BEING ON THE WESTERLY LINE OF THE SOUTHERN PACIFIC TRANSPORTATION RIGHT OF WAY (100.00 FEET WIDE); THENCE LEAVING SAID RIGHT OF WAY ALONG THE SOUTHERLY LINE OF SAID PARCEL N 87° 50' W 599.33 FEET TO THE SOUTHWESTERLY CORNER OF THE HEREIN DESCRIBED PARCEL; THENCE LEAVING SAID SOUTHWESTERLY CORNER N 5° 15' W 267.00 FEET; THENCE N 09° 57' 37" E 439.53 FEET; THENCE S 71° 41' 36" E 34.95 FEET; THENCE S 12° 57' 58" E. 58.50 FEET; THENCE S 18° 00' W. 29.13 FEET ALONG THE EASTERLY LINE OF THAT 0.706 ACRE PARCEL DESCRIBED IN QUITCLAIM DEED RECORDED IN BOOK 5524 OF OFFICIAL RECORDS AT PAGE 593 IN THE OFFICE OF THE RECORDER, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA; THENCE LEAVING SAID LINE S 78° 46' 25" E. 582.95 FEET; THENCE S 89° 19' 01" E. 76.81 FEET TO SAID WESTERLY LINE OF THE SOUTHERN PACIFIC TRANSPORTATION RIGHT OF WAY; THENCE ALONG THE WESTERLY RIGHT OF WAY S 15° 10' W 529.80 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE CITY OF SAN JOSE BY THAT CERTAIN GRANT DEED RECORDED NOVEMBER 23, 1987 IN BOOK K368 PAGE 759, DESCRIBED AS FOLLOWS:

A CERTAIN PARCEL, BEING A PORTION OF THAT 10.14 ACRE PARCEL OF LAND DESCRIBED IN

First American Title Insurance Company

THE DEED RECORDED IN BOOK 5369 OF OFFICIAL RECORDS AT PAGE 46 IN THE OFFICE OF THE RECORDER, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERLY CORNER OF SAID PARCEL, SAID CORNER BEING ON THE WESTERLY LINE OF THE SOUTHERN PACIFIC TRANSPORTATION RIGHT OF WAY (100.00 FEET WIDE); THENCE ALONG THE EASTERLY BOUNDARY OF SAID PARCEL NORTH 16° 10' 57" EAST 26.93 FEET; THENCE LEAVING SAID EASTERLY BOUNDARY, ALONG THE ARC OF A NON-TANGENT 306.48 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 11° 33' 32", SAID ARC BEING SUBTENDED BY A CHORD BEARING SOUTH 87° 24' 11" WEST 61.72 FEET, WITH AN ARC LENGTH OF 61.83 FEET; THENCE NORTH 86° 49' 03" WEST 480.24 FEET; THENCE ALONG THE ARC OF A TANGENT 25.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 82° 35' 00", SAID ARC BEING SUBTENDED BY A CHORD BEARING NORTH 45° 31' 33" WEST 32.99 FEET, WITH AN ARC LENGTH OF 36.03 FEET; THENCE NORTH 04° 14' 03" WEST 188.26 FEET; THENCE ALONG THE ARC OF A TANGENT 273.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 15° 12' 37", SAID ARC BEING SUBTENDED BY A CHORD BEARING NORTH 03° 22' 16" EAST 72.26 FEET, WITH AN ARC LENGTH OF 72.47 FEET; THENCE NORTH 10° 58' 34" EAST 225.45 FEET; THENCE ALONG THE ARC OF TANGENT 25.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 52° 17' 49", SAID ARC BEING SUBTENDED BY A CHORD BEARING NORTH 37° 07' 29" EAST 22.03 FEET, WITH AN ARC LENGTH OF 22.82 FEET; THENCE ALONG THE ARC OF A TANGENT 35.50 FOOT CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 206° 38' 31", SAID ARC BEING SUBTENDED BY A CHORD BEARING NORTH 40° 02' 53" WEST 69.09 FEET, WITH AN ARC LENGTH OF 128.03 FEET, TO A POINT ON THE EASTERLY BOUNDARY OF THAT CERTAIN PARCEL DESCRIBED IN GRANT DEED DOCUMENT NO. 3015-1515; THENCE COINCIDENT THEREWITH THE FOLLOWING TWO COURSES 1) SOUTH 10° 58' 34" WEST 331.07 FEET; 2) SOUTH 04° 14' 03" EAST 267.00 FEET TO A POINT ON THE SOUTHERLY BOUNDARY OF SAID 10.14 ACRE PARCEL; THENCE COINCIDENT THEREWITH SOUTH 86° 49' 03" EAST 599.33 FEET TO THE POINT OF BEGINNING.

APN: 458-14-030

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