

ORDINANCE NO. 28101

AN ORDINANCE OF THE CITY OF SAN JOSÉ REZONING CERTAIN REAL PROPERTY SITUATED IN AN AREA ON BOTH SIDES OF BERRYESSA ROAD, BETWEEN THE UNION PACIFIC RAILROAD RIGHT OF WAY TO THE EAST AND THE COYOTE CREEK TO THE WEST, NORTH OF MABURY ROAD (1590 BERRYESSA ROAD) 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, as amended (CEQA), and found complete by the City Council on April 24, 2007; 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 EIR, to wit: the adoption of an ordinance rezoning certain real property hereinafter described to A(PD) Planned Development Zoning District; and

WHEREAS, this Council has, on August 14, 2007 adopted Resolution No. 73956; and

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

WHEREAS, this Council does hereby certify that, as a decision-making body, it has considered and approves the information contained in such EIR and related Resolution prior to acting upon or approving such proposed project.

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

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, "A Mixed Use Transit Village on the San José Flea Market", dated December 23, 2005, and **last revised August 14, 2007.**

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, which is the subject of City File No. PDC03-108 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 14th day of August, 2007, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CORTESE, LICCARDO,
NGUYEN, PYLE

NOES: CONSTANT, OLIVERIO, WILLIAMS; REED

ABSENT: NONE

DISQUALIFIED: NONE

Chuck Reed
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk