

ORDINANCE NO. 28794

AN ORDINANCE OF THE CITY OF SAN JOSÉ REZONING CERTAIN REAL PROPERTY SITUATED AT THE NORTH SIDE OF BERRYESSA ROAD, APPROXIMATELY 130 FEET WEST OF NORTH CAPITOL AVENUE (2471-2481 BERRYESSA ROAD), FROM CP COMMERCIAL PEDESTRIAN TO CG COMMERCIAL GENERAL 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 (CEQA), as amended, and certified by the City Council on August 16, 1994; 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 CG Commercial General Zoning District; and

WHEREAS, the City Council has, on August 16, 1994, adopted Resolution No. 65459; and

WHEREAS, the City Council of the City of San José is the decision-making body for the subject rezoning from the CP Commercial Pedestrian Zoning District to the CG Commercial General 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 EIR and Resolution No. 65459 prior to acting upon or approving such project.

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 CG Commercial General 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 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. C10-016 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 17th day of August, 2010 by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, HERRERA,
KALRA, LICCARDO, NGUYEN, OLIVERIO, PYLE; REED.

NOES: NONE.

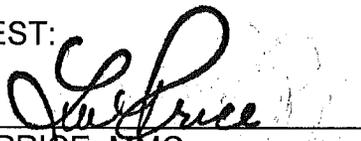
ABSENT: NONE.

DISQUALIFIED: NONE.



CHUCK REED
Mayor

ATTEST:



LEE PRICE, MMC
City Clerk

LEGAL DESCRIPTION**EXHIBIT "A"**

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:

Parcel One:

Beginning at an iron peg in the center line of Berryessa Road distant thereon South 36° 30' West 3.06 chains from the point of intersection of the center line of Berryessa Road with the center line of Capitol Avenue, said Point of Beginning being also the most Southerly corner of the certain 1.17 acre tract of land conveyed by the City of San Jose to George Gross, T.J. Maxey, as Trustees of the Berryessa School District, by deed dated July 22, 1870, an recorded August 22, 1870 in Book 10 of Deeds, at Page 288, Records of Santa Clara County, California; thence running South 36° 30' West and along the center line of Berryessa Road, 2.62 chains to the most Easterly corner of the certain 0.86 acre tract of land conveyed by the Board of Commissioners of the Funded Debt of the City of San Jose, to Daniel Lundy, by Deed dated January 23, 1865 and recorded March 8, 1865 in Book "T" of Deeds, at Page 386, records of said County of Santa Clara thence running North 49° 30' West and along the Northeasterly line of said 0.86 acre tract, 3.55 chains to and iron peg in the Southeasterly line of that certain 1.51 acre tract of land conveyed by Isaiah Shaw to J.F. Rose, Philip Anderson and Jane Shaw, as Trustees of the Berryessa Scholl District by Deed dated January 12, 1884, and recorded January 15, 1884, in Book 70 of Deeds, at Page 586, records of said County of Santa Clara; thence running along the Southeasterly line of said 1.51 acre tract of land, North 35° East 2.73 chains to an iron peg set at the most Westerly corner of that certain 0.35 acre tract of land conveyed by the Board of Commissioners of the Funded Debt of the City of San Jose to D.R. Jayne, David Hobson and Thomas Holland as Trustees of the Berryessa Division No. 44 of the Sons of Temperance, by Deed dated February 13, 1865, and recorded February 18, 1865, in Book "T" of Deeds, at Page 309, Records of said County of Santa Clara; thence running South 49° 30' East and along the Southwesterly line of said 0.35 acre tract and the Southwesterly line of the 1.17 acre tract of land hereinabove referred to 3.78 chains to the Point of Beginning, and being a portion of 500 acre Lot 63 of the Pueblo Land to the City of San Jose.

Excepting therefrom that portion thereof conveyed to the County of Santa Clara, State of California, recorded November 15, 1967 in Book 7928, Page 446 Official Records, and more particularly described as follows:

Beginning at the point of intersection of the Northwest line of San Jose and Berryessa Road, 50 feet wide the Northeast line of that certain 0.98 acre parcel of land conveyed by Emily Oressa Anderson to Manuel George, et ux, by Deed recorded March 3, 1966 in Book 7299 of Official Records, Page 364 in the Office of the Recorder of the County of Santa Clara, State of California; thence from said Point of Beginning South 49° 16' 40" West 83.36 feet, and on a curve to the left with a radius of 1065 feet through an angle of 4° 52' 44" for a distance of 90.69 feet to a point in the Southwest line of said 0.98 acre parcel of land distant thereon North 48° 36' 27" West 32.13 feet from the said Northwest line of San Jose and Berryessa Road; thence along said Southwest line South 48° 36' 27" East 32.13 feet to a point in said Northwest line of San Jose and Berryessa Road; thence South 45° 30' 28" East to the centerline of the San Jose and Berryessa Road; 50 feet wide; thence along said center line North 37° 23' 33" East 50 the East corner of said 0.98 acre parcel of land; thence along said Northeast line of said 0.98 acre parcel of land North 48° 36' 27" West to the Point of Beginning, containing 0.069 acres of land and also 0.1 acre of land in the portion of San Jose and Berryessa Road, and being a portion of Pueblo Tract No. 1.

ASSESSOR'S PARCEL NO.: 245-05-005

PARCEL TWO:

A portion of that certain parcel of land conveyed by Deed No. 34213, to the State of California, recorded April 16, 1969 in Volume 8500, Page 343, and all of that certain parcel of land described as Parcel 2C in Final Order of Condemnation No. 210767, recorded August 15, 1969 in Volume 8640, Page 580, both in the Official Records of Santa Clara County described as a whole, as follows: Commencing at the most Northerly corner of said Parcel 2C; thence along the Northeasterly line of said Parcel 2C, S. 48° 55' 04" E., 187.67 feet to the general Southerly line of said Parcel 2C; thence along last said line, from a tangent that bears 63° 09' 38" W., along a curve to the right, with a radius of 250.00 feet, through an angle of 29° 28' 23", an arc length of 128.60 feet, and N. 87° 21' 59" W., 66.97 feet; thence along the Westerly extension of last said course, N. 87° 21' 59" W. 62.35 feet to the general Northerly line of said parcel, (8500 or 343); thence along last said line, and along the Northwesterly line of said Parcel 2C, N. 37° 53' 17" E., 182.52 feet to the point of commencement.

EXHIBIT "A" (continued)

Title No. 09-51045502-D-BF
Locate No. CAFNT0943-0938-0005-0051045502

ASSESSOR'S PARCEL NO.: 245-05-006

Parcel Three:

An easement for driveway purposes over the following described real property:

BEGINNING at the most Southerly corner of that certain strip of land (8.55 feet wide) conveyed by Atlantic Richfield Company to Berryessa Union School District by Deed recorded April 14, 1976 in Book B968 of Official Records, page 31, Santa Clara County Records; said corner being in the Southwesterly line of that certain parcel of land described as Parcel 2 in the Deed to Atlantic Richfield Company, recorded April 1, 1976 in Book B946 of Official Records, page 515, Santa Clara County Records; thence from said point of beginning along the Southeasterly line of said strip of land North 37° 21' 06" East 177.04 feet to the intersection thereof with a parallel line distant 65.00 feet Southwesterly, measured at right angles, from the existing monument line and future center line of Capitol Avenue; thence along said parallel line South 38° 40' 00" East 43.00 feet; thence leaving said parallel line South 63° 03' 21" West 40.87 feet to a parallel line distant 24.00 feet Southeasterly, measured at right angles from said Southeasterly line of said strip of land; thence along said last named parallel line South 37° 21' 06" West 131.64 feet to the intersection thereof with said Southwesterly line of Parcel 2; thence along said Southwesterly line North 48° 18' 41" West 24.07 feet to the point of beginning.