

**ORDINANCE NO. 951 C.S.**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA ADDING SECTION 1300 TO CHAPTER 2 OF TITLE X OF THE MADERA MUNICIPAL CODE IN ORDER TO ESTABLISH A METHOD FOR COORDINATED ACQUISITION AND DEVELOPMENT OF CITY PARK FACILITIES.

THE CITY COUNCIL OF THE CITY OF MADERA DOES ORDAIN AS FOLLOWS:

**SECTION 1.** The Planning Commission of the City of Madera and this City Council have held public hearings and have determined that the proposed ordinance amendment is consistent with the General Plan.

**SECTION 2.** The Planning Commission and this City Council have determined the ordinance amendment to be consistent with the purpose and intent of Chapter 2 of Title X of the Madera Municipal Code.

**SECTION 3.** The Planning Commission and this City Council have determined the ordinance amendment is exempt under Title 14 of the California Code of Regulations, Section 15378(b)(4), that this ordinance is not a project under the requirements of the California Environmental Quality Act (CEQA), in that it involves the creation of a governmental funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment.

**SECTION 4.** Sections 1300 et seq. of Chapter 2 of Title X, Acquisition of Land and/or Payment of Fees for City Park Facilities, is hereby added as follows:

***[ACQUISITION OF LAND AND/OR PAYMENT OF FEES FOR CITY PARK FACILITIES***

**§10-2.1300 PURPOSE.**

(A) The purpose of this chapter is to establish the procedures for requiring the dedication of land, the payment of fees in-lieu thereof (or a combination of both) to serve new subdivisions in accordance with the requirements of the City's General Plan and in compliance with the requirements of California Government Code section 66477 (the "Quimby Act"). This chapter is enacted pursuant to the authority granted by the Quimby Act. The Quimby Act specifically authorizes the City to require dedication of parkland or the payment of fees in-lieu of such dedication in set amounts to meet the needs of the citizens of the community for parkland and to further the health, safety and general welfare of the community.

**§10-2.1301 DEFINITIONS**

(A) Except where the context otherwise requires, the definitions given in this section govern the construction of this article. If any of the definitions in this section conflict with definitions in other chapters of the Municipal Code, these definitions shall prevail for the purpose of interpreting and enforcing this section. If a term is not defined in this section, or other sections of the Municipal Code, the most common dictionary definition is assumed to be correct.

(B) The following definitions are listed in alphabetical order.

**DEVELOPER.** Every person, firm, or corporation constructing a new dwelling unit, directly or through the services of any employee, agent, independent contractor, or otherwise.

**FAIR MARKET VALUE.** The price, based on what a knowledgeable, willing, and unpressured buyer would logically pay to a knowledgeable, willing, and unpressured seller in the market. The fair market value of a buildable acre of land shall be determined from time to time, as directed by the City Council.

**NEW DWELLING UNIT.** Any structure of permanent character, placed in a permanent location, which is planned, designed or used for residential occupancy, including, but not limited to, one-family, two (2) family, and multifamily dwellings, apartment houses and complexes and mobile home spaces, but not including hotels, motels, and boarding houses for transient guests.

**SUBDIVISION.** Any type of construction, land division or improvement of land which provides for dwelling units identified under the provisions of Section 66424 of the California Government Code. "Subdivision" shall also include any increase in the number of mobile home spaces.

**§10-2.1302 APPLICABILITY.**

At the time of approval of the tentative map, parcel map, or final map, or upon issuance of a building permit, the Community Development Director, or his/her assignee, shall determine pursuant to Section 10-2.1304 hereof the land required for dedication and/or determine pursuant to Section 10-2.1306 the payment of a fee in lieu of dedication of land. As a condition of approval of a final subdivision map or parcel map, or upon issuance of a building permit, the subdivider shall dedicate land, pay a fee in lieu thereof, or both, at the option of the City, for neighborhood and community park or recreational purposes at the time and according to the standards and formula contained in this chapter.

**§10-2.1303 PARK ACREAGE STANDARD.**

It is hereby found and determined that the public interest, convenience, health, welfare, and safety require that a minimum of three (3) acres of property for each one thousand (1,000) persons residing within this City be devoted to local parks and recreational purposes. Said three (3) acres are justified by the existing ratio of 2.202\* acres of parks per one thousand (1,000) residents in the City, and the current maximum utilization of said acreage by the residents of Madera.

\* 66,082 residents / 145.52 acres of parks = 454.109 residents per acre.  
 1000 residents / 454.109 residents per acre = 2.202 acres per thousand residents.

**§10-2.1304 FORMULA FOR THE DEDICATION OF LAND.**

(A) The formula for determining the minimum acreage to be dedicated is based on a standard of three acres of park area per one thousand members of the population, and shall be as follows:

Average number of persons per unit / 1000 population X 3 acres of parkland X number of units in subdivision/development = land to be dedicated per unit.

Development Type	Population Per Dwelling Unit
Residential – Single Family	3.85
Residential – Multi-family	3.50
Residential – Mobile Home	1.70

Example: for a subdivision of 120 units: 3.85 / 1000 X 3 = 0.01155 X 120 = 1.386 acres to be dedicated (at a minimum).

(B) For the purpose of this section, the number of new dwelling units shall be based upon the number of parcels indicated on the tentative or parcel map when in an area zoned for one dwelling unit per parcel. When all or part of the subdivision is located in an area zoned for more than one dwelling unit per parcel, the number of proposed dwelling units in the area so zoned shall equal the maximum allowed under that zone, including any applicable density increases. In the case of a condominium project, the number of dwelling units shall be the number of condominium units. The term "new dwelling unit" does not include dwelling units lawfully in place prior to the date on which the parcel or final map is filed.

(C) Nothing in this section shall prohibit the dedication and acceptance of land for park and recreation purposes where the developer proposes such dedication voluntarily and the land is approved by the Community Development Director.

(D) Dedication of the land shall be made in accordance with the procedures contained in Section 10-2.1311 hereof.

**§10-2.1305 STANDARDS FOR THE DEDICATION OF LAND.**

(A) The developer shall, without credit:

- (1) Provide full street improvements and utility connections including, but not limited to, curbs, gutter, street paving, traffic control devices, street trees, and sidewalks to land which is dedicated pursuant to this section;
- (2) Provide for fencing along the property line of that portion of the subdivision contiguous to the dedicated land;
- (3) Provide improved drainage through the site; and
- (4) Provide other minimal improvements which the City determines to be essential to the acceptance of the land for recreational purposes.

(B) The land to be dedicated and the improvements to be made pursuant to this section shall be reviewed at the tentative map stage in accordance with the criteria set forth in Section 10-2.1309 and approved by the Community Development Director.

(C) Use of money. The money collected hereunder shall be used only for the purpose of acquiring necessary land and developing new or rehabilitating existing park or recreational facilities reasonably related to serving the subdivision.

**§10-2.1306 AMOUNT OF FEES IN LIEU OF LAND DEDICATION.**

(A) When a fee is to be paid in lieu of land dedication, the amount of such fee shall be based upon the fair market value determined by the City Council per Section 10-2.1307. The fee shall be determined by the following formula where:

- DUs = number of new dwelling units as defined in Section 10-2.1304
- Pop DU = population per dwelling unit as defined in Section 10-2.1304
- FMV = fair market value determined by Section 10-2.1307
- Buildable acre = a typical acre of the subdivision, with a slope less than ten (10%) percent, and located in other than an area on which building is excluded because of flooding, easements, or other restrictions

$$\text{DUs} \times \text{Pop DU} \times \frac{3 \text{ acres}}{1,000 \text{ people}} \times \frac{\text{FMV}}{\text{buildable acre}} = \text{in-lieu fee}$$

Example:  $1 \text{ DU} \times 3.85 \text{ Pop per DU} \times 3 \text{ acres} / 1000 = 0.01155 \times \$50,000 \text{ FMV per acre} = \$577.50 \text{ in-lieu fee}$ . The \$50,000 fair market value is used for example purposes only. The actual fair market value shall be determined by the City Council, consistent with Section 10-2.1307.

(B) Fees to be collected pursuant to this section shall be reviewed by the Community Development Director to ascertain if they comply with the formula set forth above. If compliance is found, then the fees shall be approved by the Community Development Director.

#### **§10-2.1307 DETERMINATIONS OF FAIR MARKET VALUE.**

(A) The fair market value per buildable acre shall be determined by resolution adopted by the City Council.

(B) The fair market value per buildable acre shall be updated from time to time as directed by the City Council.

(C) If the developer objects to the fair market value, the City, at the developer's expense, shall obtain an appraisal of the property by a qualified independent real estate appraiser, agreed to by the City and the developer, and the value established by said appraiser using standard recognized appraisal techniques to establish fair market value will be accepted as the fair market value of the land in the proposed development.

#### **§10-2.1308 PARK DEVELOPMENT IMPACT FEES.**

(A) A fee shall be paid for park development by the developer of each new dwelling unit irrespective of whether the developer is required to dedicate land as set forth in Section 10-2.1304 and/or pay fees in lieu of land dedication as set forth in Section 10-2.1306.

(B) The park development impact fee shall be established at the rate set forth by a resolution of the City Council.

#### **§10-2.1309 DETERMINATIONS OF LAND OR FEES.**

(A) Only the payment of fees may be required in subdivisions containing fifty (50) parcels or less, except that when a condominium project, stock cooperative, or community apartment project, as those terms are defined in Section 1351 of the Civil Code, exceeds fifty (50) dwelling units, dedication of land may be required, notwithstanding that the number of parcels may be less than fifty (50).

(B) Whether the City accepts land dedication or elects to require payment of a fee in lieu thereof, or a combination of both, shall be determined by consideration of the following:

- (1) The General Plan and Parks Master Plan of the City of Madera.
- (2) The natural features, access, and location of land in the subdivision available for dedication;
- (3) The size and shape of the subdivision and land available for dedication;
- (4) The feasibility of dedication;
- (5) The compatibility of dedication with the Parks and Recreation Element of the General Plan; and,
- (6) The location of existing and proposed park sites and trailways.

#### **§10-2.1310 CREDIT FOR PRIVATE OPEN SPACE.**

(A) No credit shall be given for private open space in the subdivision except as hereinafter provided. Where private open space usable for active recreational purposes is provided in a proposed planned development or real estate development as defined in Section 4175 or 6562 of the Civil Code, partial

credit, not to exceed forty-five (45%) percent, shall be given against the requirement of and dedication or payment of fees in lieu thereof if the City finds that it is in the public interest to do so and that all the following standards are met:

- (1) Yards, court areas, setbacks, and other open areas required by the zoning and building ordinances and regulations shall not be included in the computation of such private open space; and
- (2) Private park and recreational facilities shall be owned by an owners' association composed of all property owners in the subdivision and being an incorporated nonprofit organization capable of dissolution only by a one hundred (100%) percent affirmative vote of the membership and approved by the City, operated under recorded land agreements through which each lot owner in the neighborhood is automatically a member, and each lot is subject to a charge for a proportionate share of expenses for maintaining the facilities; and
- (3) Use of the private open space is restricted for park and recreation purposes by recorded covenant which runs with the land in favor of the future owners of the property and which cannot be defeated or eliminated without the consent of the City or its successor; and
- (4) The proposed private open space is reasonably adaptable for use for park and recreation purposes, taking into consideration such factors as size, shape, topography, geology, access, and location; and
- (5) The open space for which credit is given is a minimum of three (3) acres and provides a minimum of five (5) of the local park basic elements listed as follows, or a combination of such, and other recreation improvements that will meet the specific recreation needs of future residents of the area:

<b>Elements</b>	<b>Acres</b>
1. Children's play apparatus area	.50 to .75
2. Landscape park-like with quiet areas	.50 to 1.00
3. Family picnic area	.25 to .75
4. Game court area	.25 to .50
5. Turf playfield	1.00 to 3.00
6. Swimming pool (forty-two (42') feet by seventy-five (75') feet with adjacent deck and lawn areas)	.25 to .50
7. Recreation center building	.15 to .25

(B) Before credit is given, the Community Development Director shall make written findings that the above standards are met.

**§10-2.1311 PROCEDURE.**

(A) In advance of application for tentative map or parcel map, rezoning, or any other discretionary approval of residential development, the developer shall contact the Community Development Director to determine whether a park land dedication, a payment of in-lieu fee, or both will be applicable to the proposed residential development.

(B) At the time of approval of the tentative map or parcel map, rezoning, or any other discretionary approval of residential development, the Community Development Director shall determine, pursuant to Section 10-2.1304 hereof, the land required for dedication. At the time of filing of final map, the subdivider shall dedicate the land, unless in-lieu fees are solely being required.

(C) If the Community Development Director requires in-lieu fee payment by the developer, the Community Development Director shall set the amount of land upon which the in-lieu fee will be based. In-lieu fees shall be established using current land values at the time of filing of final map with the

formula set forth in Section 10-2.1306. In-lieu fees, if required, shall be paid at time of building permit. Park development impact fees shall be paid at time of building permit.

(D) Open space covenants for private park or recreation facilities shall be submitted to the City prior to approval of the final subdivision map or parcel map and shall be recorded contemporaneously with the final subdivision map.

(E) The land to be dedicated and/or in-lieu and park development fees to be paid, shall be subject to the latest adopted ordinances, resolutions, policies, and fees adopted by the City Council and in effect at the time of the final map review and approval.

#### **§10-2.1312 DISPOSITION OF FEES.**

(A) Fees pursuant to Sections 10-2.1306 and 10-2.1308 shall be paid to the City and shall be deposited into the subdivision park trust fund, or its successor. Money in said fund, including accrued interest, shall be expended solely for acquisition, development, or rehabilitation of park land or improvements related thereto.

(B) Collected fees shall be appropriated by the City to which the land or fees are conveyed or paid for a specific project to serve residents of the subdivision in a budgetary year within five (5) years upon receipt of payments or within five (5) years after the issuance of building permits on one-half (1/2) of the lots created by the subdivision, whichever occurs later.

(C) If such fees are not so committed, these fees shall be distributed and paid to the then record owners of the subdivision in the same proportion that the size of their lot bears to the total area of all lots in the subdivision.

(D) The City Director of Financial Services shall report to the City at least annually on income, expenditures, and status of the subdivision park trust fund.

#### **§10-2.1313 EXEMPTIONS.**

(A) Subdivisions containing less than five (5) parcels and not used for residential purposes shall be exempted from the requirements of this article; provided, however, that a condition shall be placed on the approval of such parcel map that if a building permit is requested for construction of a residential structure or structures on one or more of the parcels, the fee may be required to be paid by the owner of each such parcel as condition to the issuance of such permit.

(B) The provisions of this article do not apply to commercial or industrial subdivisions; nor do they apply to condominium projects or stock cooperatives which consist of the subdivision of air space in an existing apartment building which is more than five (5) years old when no new dwelling units are added.

#### **§10-2.1314 DEVELOPER-PROVIDED PARK AND RECREATION IMPROVEMENTS.**

After the Planning Commission or Community Development Director determines that land is required for dedication and/or in-lieu fee payment by the developers, the developer may apply to the Engineering Department for permission to construct specified park and recreation improvements on the land of said developer required for dedication or on other land within the same service area to be developed as a park. If the Engineering Department grants the developer permission for construction of specified parks and recreation improvements on said land, said Department shall fix the dollar value of the parks and recreation improvements prior to construction. The agreed dollar value of park and recreation improvements provided by the developer may be credited against the fees, if any, required by this section, provided the improvements are constructed per the approved plans by the Engineering Department.

**§10-2.1315 SCHEDULE FOR THE USE OF LAND OR FEES.**

The Parks and Community Services Department shall develop a schedule specifying how, when, and where it will use the land or fees, or both, to develop park or recreational facilities to serve residents of the subdivision.

**§10-2.1316 ACCESS.**

All land offered for dedication for local park or recreational purposes shall have access to at least one existing or proposed public street. This requirement may be waived by the City if the City determines that public street access is unnecessary for maintenance of the park area or use thereof by residents.

**§10-2.1317 SALE OF DEDICATED LAND.**

If during the ensuing time between dedication of land for park purposes and commencements of first-stage development, circumstances arise which indicate that another site would be more suitable for local park or recreational purposes serving the subdivision and the neighborhood (such as receipt of a gift of additional park land or a change in school location), the land may be sold upon the approval of the City with the resultant funds being used for the purchase of a more suitable site.]

SECTION 5. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or void for any other reason.

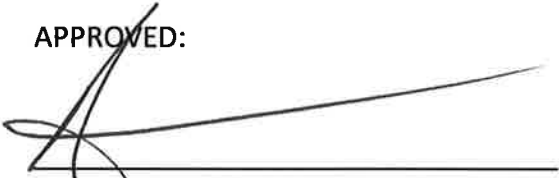
SECTION 6. This Ordinance shall be effective and of full force and effect at 12:01 am on the sixtieth (60<sup>th</sup>) day after its passage.

\* \* \* \* \*

The foregoing Ordinance No. 951 C.S. was introduced and given its first reading at a regular meeting of the City Council of the City of Madera held on the 7<sup>th</sup> day of March, 2018 and adopted after a second reading at a regular meeting of the City Council held on the 21<sup>st</sup> day of March, 2018 by the following vote:

- AYES: Mayor Medellin, Council Members Foley Gallegos, Robinson, Oliver, Rigby, Holley.
- NOES: None.
- ABSTENTIONS: None.
- ABSENT: Council Member Rodriguez.

APPROVED:

  
\_\_\_\_\_  
ANDREW J. MEDELLIN, Mayor

ATTEST:

  
\_\_\_\_\_  
SONIA ALVAREZ, City Clerk

APPROVED AS TO LEGAL FORM:

  
\_\_\_\_\_  
BRENT RICHARDSON, City Attorney



**ORDINANCE NO. 952 C.S.**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MADERA AMENDING THE OFFICIAL CITY OF MADERA ZONING MAP TO REZONE APPROXIMATELY 0.14 ACRES OF PROPERTY LOCATED ON THE WEST SIDE OF HIGH STREET (APN: 007-123-003), APPROXIMATELY 125 FEET NORTH OF THE INTERSECTION OF EAST YOSEMITE AVENUE AND HIGH STREET, FROM THE R3 (HIGH DENSITY RESIDENTIAL) ZONE DISTRICT TO THE C1 (LIGHT COMMERCIAL) ZONE DISTRICT.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MADERA AS FOLLOWS:

SECTION 1. The Planning Commission of the City of Madera and this Council have held public hearings upon the rezoning of this property and have determined that the proposed rezoning is consistent with the General Plan as amended and subsequent development will be in conformance with all standards and regulations of the Municipal Code.

SECTION 2. The City of Madera Zoning Map as provided for in Chapter 3 of Title 10 of the Madera Municipal Code is hereby amended as illustrated in the hereto attached Exhibit "A" which indicates the segment of the City of Madera Zoning Map to be amended. Unless the adoption of this amendment to the Zoning Map is lawfully stayed, thirty-one (31) days after adoption of this amendment, the Planning Director and City Clerk shall cause these revisions to be made to the City of Madera Zoning Map which shall also indicate the date of adoption of this revision and be signed by the Planning Director and City Clerk.

SECTION 3. Based upon the testimony and information presented at the hearing, the adoption of the proposed rezoning is in the best interest of the City of Madera, and the Council hereby approves the rezoning based on the following findings:

FINDINGS:

1. THE PROPOSED REZONE WILL PROVIDE THE REQUIRED CONSISTENCY BETWEEN THE GENERAL PLAN AMENDMENT AND ZONING.
2. THE REZONE IS NOT EXPECTED TO BE DETRIMENTAL TO THE HEALTH, SAFETY, PEACE, COMFORT OR GENERAL WELFARE OF THE NEIGHBORHOOD OR THE CITY.
3. CITY SERVICES AND UTILITIES ARE AVAILABLE OR CAN BE EXTENDED TO SERVE THE AREA.

SECTION 4. This Ordinance shall be effective and of full force and effect at 12:01 a.m. on the thirty-first day after its passage.

\* \* \* \* \*

The foregoing Ordinance No. 952 C.S. was introduced and given its first reading at a regular meeting of the City Council of the City of Madera held on the 4<sup>th</sup> day of April, 2018 and adopted after a second reading at a regular meeting of the City Council held on the 18<sup>th</sup> day of April, 2018 by the following vote:

- AYES: Mayor Medellin, Council Members Rodriguez, Foley Gallegos, Robinson, Rigby, Holley.
- NOES: None.
- ABSTENTIONS: None.
- ABSENT: Council Member Oliver.

APPROVED:




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ANDREW J. MEDELLIN, Mayor

ATTEST:




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SONIA ALVAREZ, City Clerk

APPROVED AS TO LEGAL FORM:

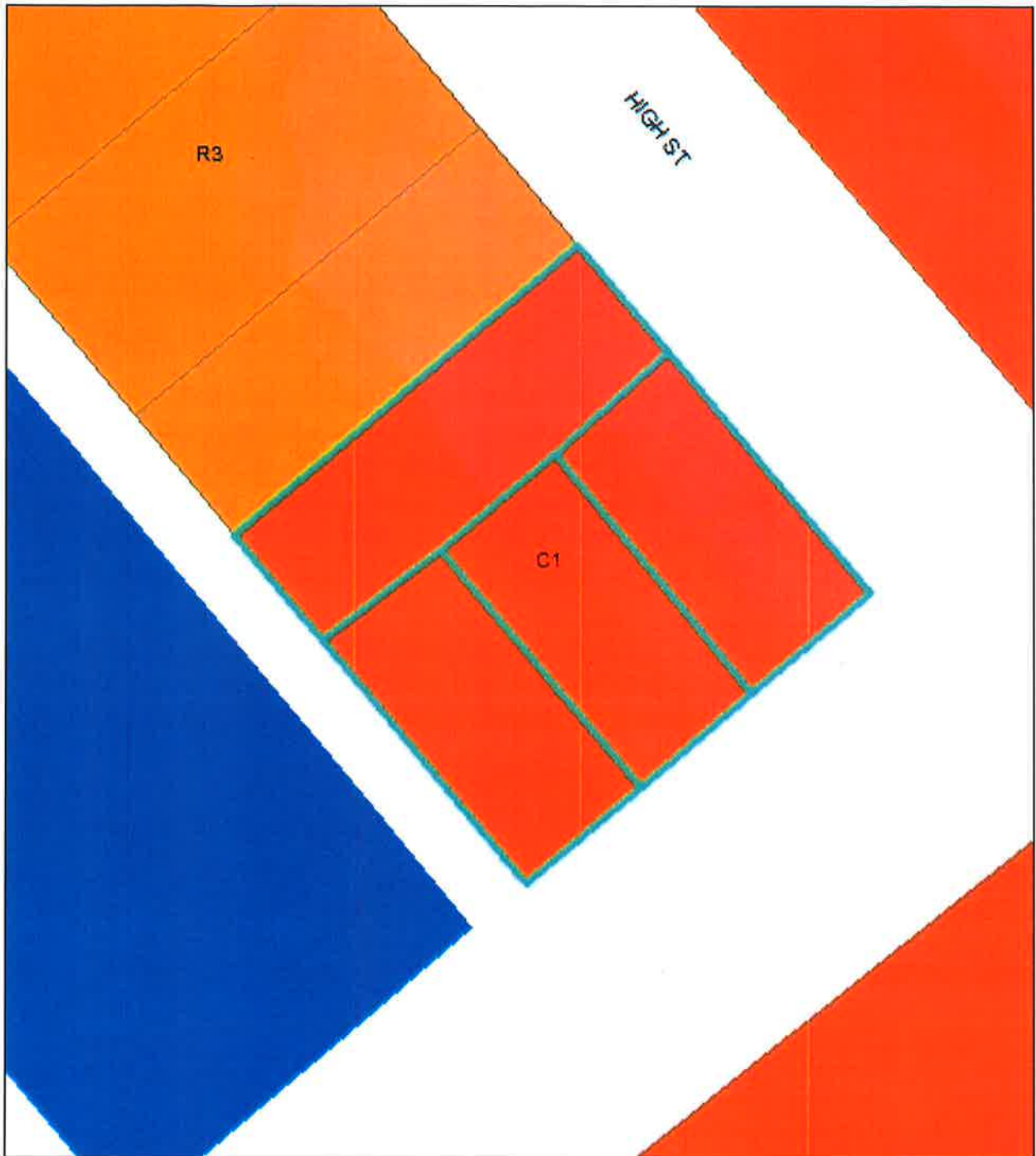



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BRENT RICHARDSON, City Attorney



**EXHIBIT A**



**ORDINANCE NO. 953 C.S.**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MADERA AMENDING THE OFFICIAL CITY OF MADERA ZONING MAP TO REZONE APPROXIMATELY 3.57 ACRES OF PROPERTY (APN: 008-102-003, 008-102-007 & 008-102-008), LOCATED APPROXIMATELY 600 FEET NORTH OF THE NORTHEAST CORNER OF THE INTERSECTION OF SUNRISE AVENUE AND ADELAIDE AVENUE, FROM THE R1 (LOW DENSITY RESIDENTIAL) ZONE DISTRICT TO THE PD 6000 (PLANNED DEVELOPMENT) ZONE DISTRICT.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MADERA AS FOLLOWS:

SECTION 1. The Planning Commission of the City of Madera and this Council have held public hearings upon the rezoning of this property and have determined that the proposed rezoning is consistent with the General Plan as amended and subsequent development will be in conformance with all standards and regulations of the Municipal Code.

SECTION 2. The City of Madera Zoning Map as provided for in Chapter 3 of Title 10 of the Madera Municipal Code is hereby amended as illustrated in the hereto attached Exhibit "A" which indicates the segment of the City of Madera Zoning Map to be amended. Unless the adoption of this amendment to the Zoning Map is lawfully stayed, thirty-one (31) days after adoption of this amendment, the Planning Director and City Clerk shall cause these revisions to be made to the City of Madera Zoning Map which shall also indicate the date of adoption of this revision and be signed by the Planning Director and City Clerk.

SECTION 3. Based upon the testimony and information presented at the hearing, the adoption of the proposed rezoning is in the best interest of the City of Madera, and the Council hereby approves the rezoning based on the following findings:

FINDINGS:

1. THE PROPOSED REZONE WILL PROVIDE THE REQUIRED CONSISTENCY BETWEEN THE GENERAL PLAN AMENDMENT AND ZONING.
2. THE REZONE IS NOT EXPECTED TO BE DETRIMENTAL TO THE HEALTH, SAFETY, PEACE, COMFORT OR GENERAL WELFARE OF THE NEIGHBORHOOD OR THE CITY.
3. CITY SERVICES AND UTILITIES ARE AVAILABLE OR CAN BE EXTENDED TO SERVE THE AREA.

SECTION 4. This Ordinance shall be effective and of full force and effect at 12:01 a.m. on the thirty-first day after its passage.

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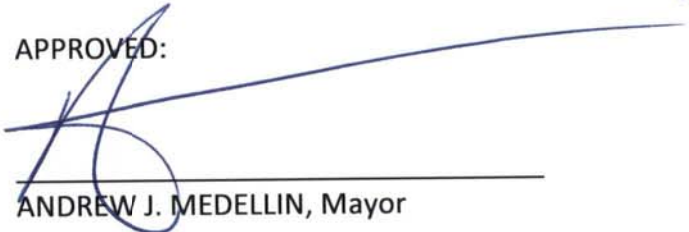
The foregoing Ordinance No. 953 C.S. was introduced and given its first reading at a regular meeting of the City Council of the City of Madera held on the 5<sup>th</sup> day of July, 2018 and adopted after a second reading at a regular meeting of the City Council held on the 18<sup>th</sup> day of July, 2018 by the following vote:

AYES: Mayor Medellin, Council Members Rodriguez, Foley Gallegos, Oliver, Robinson, Rigby, Holley.

NOES: None.

ABSTENTIONS: None.

ABSENT: None.

APPROVED:   
\_\_\_\_\_  
ANDREW J. MEDELLIN, Mayor

ATTEST:

  
\_\_\_\_\_  
SONIA ALVAREZ, City Clerk

APPROVED AS TO LEGAL FORM:

  
\_\_\_\_\_  
BRENT RICHARDSON, City Attorney





EXHIBIT A

