



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Chris Burton

SUBJECT: SEE BELOW

DATE: May 29, 2024

COUNCIL DISTRICT: 4

SUBJECT: GP24-006 & C24-041 – ADOPT A RESOLUTION AND ORDINANCE AMENDING THE ENVISION SAN JOSÉ 2040 GENERAL PLAN LAND USE/TRANSPORTATION DIAGRAM AND ZONING DISTRICT MAP TO APPLY THE MIXED INCOME HOUSING OVERLAY ON TWO SITES IN NORTH SAN JOSÉ.

RECOMMENDATION

The Planning Commission voted 9-0-2 (Garcia and Oliverio absent) to recommend that the City Council take the following actions:

1. Consider a Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (EIR) (Resolution No. 76041), Envision San José 2040 General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto, and the Envision San José 2040 General Plan Supplemental EIR for the City of San José 2023-2031 Housing Element Update (Resolution No. RES2023-262). The project does not involve new significant impacts beyond those analyzed in the above EIRs; and
2. Adopt a resolution amending the Envision San José 2040 General Plan land use/transportation diagram to apply the MIHO Mixed-Income Housing Overlay on two parcels; and
3. Adopt an ordinance amending the zoning district map to apply the MIHO Mixed Income Zoning Overlay to two parcels.

SUMMARY AND OUTCOME

Should the City Council approve the actions listed above as recommended by the Planning Commission, the Envision San José 2040 General Plan land use/transportation diagram and zoning district map will be amended to apply the MIHO Mixed-Income Housing Overlay on two sites (APN: 101-30-005 & 101-30-007) in North San José. Housing projects meeting the affordability requirements of MIHO will be permitted and processed through a ministerial approval process. Non-residential projects are still allowed through the underlying Industrial Park zoning district.

BACKGROUND

The background of this project is described on pages 2 – 3 of the attached Planning Commission staff report.

ANALYSIS

A complete analysis of the proposed resolution and ordinance amendments are included in the attached Planning Commission staff report.

The recommendation in this memorandum aligns with one or more Climate Smart San José energy, water, or mobility goals. The project would facilitate high-density housing in close proximity to transit.

EVALUATION AND FOLLOW-UP

The proposed ordinance will be effective 30 days after Council adoption at the second reading.

COORDINATION

The preparation of this memorandum has been coordinated with the City Attorney's Office.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the June 11, 2024, City Council meeting. A notice of the public hearing was published in the San José Post Record and on the City's website. Staff followed Council Policy 6-30: Public Outreach Policy to inform the public of the proposed project. A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project sites. The staff report was posted on the City's website. Staff has been available to respond to questions from the public. Staff received inquiries from the property owners asking clarifying questions about the effect of the overlay on their property, if any. Staff responded with information about the overlay designation and that it provides a path for housing development projects. There were no specific concerns expressed about the proposed project.

COMMISSION RECOMMENDATION AND INPUT

On May 8, 2024, the Planning Commission held a public hearing to consider the proposed resolution and ordinance. Planning staff recommended approval to amend the Envision San José 2040 General Plan land use/transportation diagram and zoning district map.

Staff gave a short presentation about the history of the project and the proposed changes. There were no speakers for this item.

Planning Commission Discussion

Commissioner Cantrell asked if the parcels were being combined. Staff clarified that for the purposes of the Housing Element and Housing Element site capacity, they are individually considered combined sites with the larger sites at 101 Daggett Drive and 2865 Zanker Road. However, the two sites (APN: 101-30-005 & 101-30-007) are not being combined.

Vice-Chair Ornelas-Wise asked if the City is doing anything to protect and preserve the loss of industrial land since the zoning is changing from industrial to residential. Principal Planner Jerad Ferguson responded that the adjacent sites were already included in our Housing Element, and the City decided to apply the Mixed-Income Housing Overlay on top. It doesn't preclude someone from building under the base industrial zoning. Staff went through a careful selection process to balance the need for more housing in the area, but also preserve sites for future industrial opportunities. We found that the two sites were unintentionally left out and it would be difficult to develop these sites individually considering they are very narrow.

Commissioner Tordillos made a motion to approve staff recommendations and Commissioner Rosario seconded the motion. The motion passed 9-0-2 (Garcia and Oliverio absent).

CEQA

Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (EIR) (Resolution No. 76041), Envision San José 2040 General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto, and the Envision San José 2040 General Plan Supplemental EIR for the City of San José 2023-2031 Housing Element Update (Resolution No. RES2023-262), File No. ER21-032.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

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/s/
Chris Burton
Secretary, Planning Commission

The principal author of this memorandum is Kenneth Chou, Planner II. For questions, please contact Jerad Ferguson, Principal Planner, at Jerad.Ferguson@sanjoseca.gov or (669) 223-1160.

ATTACHMENT
Planning Commission Staff Report dated May 8, 2024



Memorandum

TO: PLANNING COMMISSION

FROM: Christopher Burton

SUBJECT: GP24-006 & C24-041

DATE: May 8, 2024

COUNCIL DISTRICT: 4

Type of Permit	A City-initiated General Plan Amendment to amend the Envision San José 2040 General Plan Land Use/Transportation Diagram to apply the MIHO Mixed Income Housing Overlay on two sites, APN: 101-30-005 and 101-30-007; A City-initiated rezoning to apply the MIHO Mixed Income Housing Zoning Overlay on two sites, APN: 101-30-005 and 101-30-007.
Project Planner	Kenneth Chou
CEQA Clearance	Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (EIR) (Resolution No. 76041), Envision San José 2040 General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto, and the Envision San José 2040 General Plan Supplemental EIR for the City of San José 2023-2031 Housing Element Update (Resolution No. RES2023-262). The project does not involve new significant impacts beyond those analyzed in the above EIRs.
CEQA Planner	Reema Mahamood

RECOMMENDATION

Staff recommends that the Planning Commission recommends that the City Council take all the following actions:

1. Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (EIR) (Resolution No. 76041), Envision San José 2040 General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto, and the Envision San José 2040 General Plan Supplemental EIR for the City of San José 2023-2031 Housing Element Update (Resolution No. RES2023-262). The project does not involve new significant impacts beyond those analyzed in the above EIRs; and
2. Adopt a resolution amending the Envision San José 2040 General Plan Land Use/Transportation Diagram to apply the MIHO Mixed Income Housing Overlay on two parcels (Exhibit A); and
3. Adopt an ordinance amending the Zoning District Map to apply the MIHO Mixed Income Zoning Overlay to two parcels (Exhibit A).

BACKGROUND

In September 2017, the Mayor's Office issued a memorandum which set a goal of entitling/building 25,000 housing units, including 10,000 affordable units. The Mayor's memo also included staff direction to study ways to modify the phasing constraints in the ADP.

On June 12, 2018, the City Council directed staff to implement a Housing Crisis Workplan that prioritizes implementation and policy actions that facilitate the citywide development of 15,000 market-rate and 10,000 affordable residential units by 2023. Item #4 on the Workplan is the review and update of the ADP to complete analysis and proposed policy amendments necessary to advance 8,000 housing units from Phase 2 into Phase 1. In response, staff established a Housing Crisis work program and a process of biannual progress reports to the Community and Economic Development Committee to report on progress on implementing this work program. "Retirement" of the ADP to make the remaining housing capacity available for new development was added to this work program.

In February 2018, the City Council adopted Council Policy 5-1, updating the City's Transportation Analysis Policy which now largely uses VMT as a metric for determining transportation impacts under CEQA. However, Council Policy 5-1 includes grandfathering provisions where the TIF remains valid in transportation policy areas such as North San José. Given the change to VMT required by state law, the North San José TIF, which is based upon the evaluation of LOS-related impacts, is no longer relevant to the CEQA analysis of transportation impacts. While the TIF remains valid as a mitigation fee pursuant to the Mitigation Fee Act and is supported by a nexus study, it is no longer desirable for the reasons explained above.

In May 2019, the City Council directed staff to explore options to enable housing development more readily in North San José, and present options that forward the goal of advancing housing with an enhanced amount and incentives for the creation of affordable housing.

On April 11, 2022, the City Council adopted General Plan text amendments and amendments to the North San José Area Development Policy ("ADP") to limit the applicability of the ADP to projects that received an approved entitlement (general plan amendment and/or zoning amendment) and/or a land use permit from the effective date of the ADP to the effective date of the resolution making such changes, and making the North San José Traffic Impact Fee inapplicable to future North San José development projects. The City Council also approved ordinances establishing a new Overlay Chapter, a new TERO Overlay Zoning District, and a corresponding amendment to the Zoning District Map.

On November 15, 2023, the Planning Commission considered the resolution and ordinances creating the MIHO Mixed Income Housing General Plan and Zoning Overlay, applying the MIHO Mixed Income Housing Overlay on 13 sites, and creating a Local Ministerial Approval Process.

On December 5, 2023, City Council adopted these General Plan amendments and ordinances creating two new residential zoning overlay districts in North San José and applying the zoning overlay districts to specified sites in North San José identified in the adopted Housing Element. These actions established the Affordable Housing Overlay (AHO) Zoning District and the Mixed Income Housing Overlay (MIHO) Zoning District. Consistent with previous strategies approved by City Council related to increasing affordable housing in North San José, the AHO Zoning District requires 100% affordable housing, and the MIHO Zoning District requires at least 25% of the units to be affordable.

Upon further review of the City's Housing Element Sites Inventory, the MIHO Mixed Income Housing Overlay should have been applied to two additional sites, APN: 101-30-005 and 101-30-007 (See Exhibit A). The two additional sites are a part of two larger sites at 101 Daggett Drive and 2865 Zanker Road. Staff intended to apply the overlay on the entirety of the site. However, records dating back to May 2022 show the two sites were unintentionally left out.

ANALYSIS

Applying MIHO Mixed Income Housing Overlay

The now-retired North San José Area Development Policy (NSJADP) had a goal of constructing up to 6,000 housing units in the "Core Area" of the policy area clustered along the North First Street corridor, the area of the highest intensity of industrial development in North San José. No specific sites or development standards were established for the former Core Area, but it remains designated as Transit Employment Center (TEC) in the General Plan with residential noted as an allowed use. Staff proposed a Mixed-Income Housing Overlay to provide a residential development alternative that would apply to nine contiguous properties within the Core Area. This nine-site Core Area is bounded roughly by Daggett Drive to the north, Orchard Parkway on the west, W. Plumeria Drive on the south, and Zanker Road on the east. Upon further review of the sites, there are two additional properties, APN: 101-30-005 and 101-30-007, in the Core Area along the east of North 1st Street roughly bounded by Orchard Parkway on the north and W. Plumeria Drive on the south. The two properties total approximately 2.18 acres. Staff intended for these two properties to be a part of the larger properties at 101 Daggett Drive and 2865 Zanker Road. The two parcels have common ownership with the adjacent larger parcels and would be more difficult to redevelop without alignment. It was always the intention to apply the MIHO Mixed Income Housing Overlay on the entirety of the two properties. However, records dating back to May 2022 have shown the two sites were unintentionally left out. Therefore, staff is proposing that the MIHO Mixed Income Housing Overlay be applied to the two properties as shown on the map included in Exhibit A.

Amendment to the Zoning Map to MIHO Overlay

The sites are currently zoned as Industrial Park where housing is not allowed. The proposed zoning map amendment will allow housing development projects to proceed with a ministerial permitting process if they meet the 25% affordability requirement. The development standards of the MIHO Zoning District would apply. Housing projects constructed in conformance with these new Zoning Overlays may be processed through a local ministerial approval process pursuant to Chapter 20.195.

SENATE BILL 330 COMPLIANCE

The Housing Crisis Act of 2019 (SB 330), California Government Code Section 66300(b)(1), limits the way local governments may reduce the capacity for residential units that can be built on properties that allow housing, including actions such as down-zoning; changing general or specific plan land use designations to a less intensive use; reductions in height, density or floor area ratio; and other kinds of increased requirements. An exception to this is that the intensity of residential uses on a property may be reduced if changes in land use designations or zoning elsewhere ensure "no net loss" in residential capacity within the jurisdiction.

There are two parts to the SB 330 calculation: General Plan residential capacity and Zoning District residential capacity. An increase in residential capacity at the General Plan level may be used to offset a General Plan Amendment that decreases residential capacity if they are concurrently approved. Any increase in residential capacity in the Zoning District may be used to offset a rezoning that decreases residential capacity if they are concurrently approved. Also, zoning residential calculations are based on theoretical and average residential densities in the City for zoning districts where no residential density limit is specified, while General Plan residential calculations are based on allowable densities in the General Plan.

In the case of this proposal, both the General Plan Amendment and the Zoning change have the same proposed density (75-250 DU/AC). The two proposed MIHO sites could have an affect on residential capacity. However, since they were intended to be a part of the larger properties staff is suggesting a conservative approach to calculate site capacity. Therefore, the capacity assumed for the overall sites is the same as the capacity included in the Housing Element Sites Inventory for the larger adjacent site and these sites will be considered consolidated sites for the purposes of the Housing Element Sites Inventory. The two properties (APNs: 101-30-005 and 101-30-007) are approximately 1.1 and 1.08 acres, respectively. The table below shows a breakdown of how the capacity on these sites was reevaluated.

APN/Address	Acreage	Total potential units
101 Daggett Dr. (APN: 101-30-004)	15.6	1,295
Address Unknown (APN: 101-30-005)	1.1	91
2865 Zanker Rd. (APN:101-30-006)	22.81	1,778
Address Unknown (APN: 101-30-007)	1.08	84
Total	40.59	3,248

Therefore, the proposed General Plan Amendment and Zoning Ordinance update to add the subject properties to the MIHO is **compliant** with SB 330 as there is no net loss of residential density.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

A Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (EIR) (Resolution No. 76041), Envision San José 2040 General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto, and the Envision San José 2040 General Plan Supplemental EIR for the City of San José 2023-2031 Housing Element Update (Resolution No. RES2023-262), in accordance with the California Environmental Quality Act as amended the proposed General Plan Text Amendment and Rezoning does not include any construction, demolition, or other activity that has the potential to negatively impact the environment. Pursuant to Section 15168 of the CEQA Guidelines, the City of San José has determined that this activity is within the scope of the approved Envision San José 2040 General Plan, and the Final Program EIR for the Envision San José 2040 General Plan and Final Supplemental EIR to the Envision San José General Plan FEIR, for which findings were adopted by City Council Resolution Nos. 76041 and RES2023-262 respectively, that adequately describe the activity for the purposes of CEQA.

PUBLIC OUTREACH

Staff followed Council Policy 6-30: Public Outreach Policy in order to inform the public of the proposed project. A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project sites and posted on the City website. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

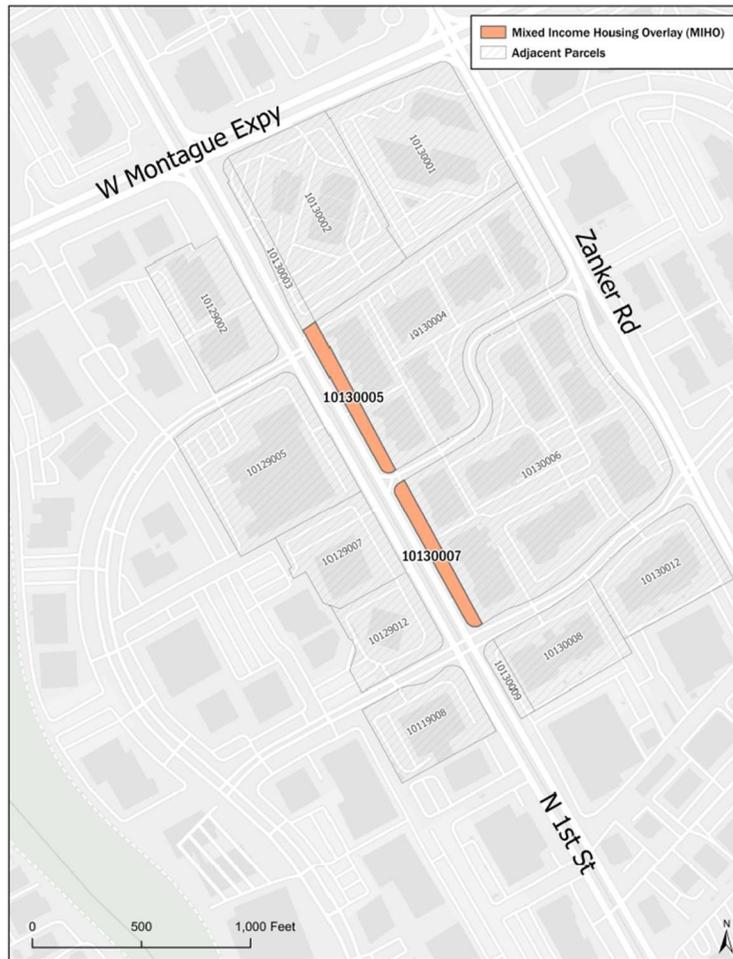
For questions, please contact Jerad Ferguson, Principal Planner, at jerad.ferguson@sanjoseca.gov or (669) 223-1160.

Project Manager: Kenneth Chou

Approved by: /s/ Martina Davis, Division Manager, for Christopher Burton, Planning Director

ATTACHMENTS
EXHIBIT A: Map and List of Properties to be added to MIHO GP LUD & Zoning map
EXHIBIT B: Draft Resolution with General Plan Diagram Amendment
EXHIBIT C: Draft Ordinance Amending the Zoning District Map
EXHIBIT D: Determination of Consistency to the Housing Element Supplemental Environmental Impact Report

Exhibit A – Map and List of Mixed Income Housing Overlay Sites



List of Proposed Mixed-Income Housing Overlay Sites

#	APN	Acres	Address	Units*	General Plan	Proposed
1	101-30-005	1.1	No Address	91	Industrial Park	MIHO
2	101-30-007	1.08	No Address	84	Industrial Park	MIHO

*Unit Count is based on the 6th Cycle Housing Element Site Inventory

GP24-006 & C24-041

Links to Attachment B-D

Click on the title to view document.

<u>Exhibit B: Draft Resolution with General Plan Diagram Amendment</u>
<u>Exhibit C: Draft Ordinance Amending the Zoning District Map</u>
<u>Exhibit D: Determination of Consistency to the Housing Element Supplemental Environmental Impact Report</u>