

(b) GP24-006 & C24-041 – Adopt a Resolution and an Ordinance Amending the Envision San José 2040 General Plan Land Use/Transportation Diagram and Zoning District Map.

Recommendation:

(a) 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.

(b) Approve an ordinance amending the Zoning District Map to apply the MIHO Mixed Income Zoning Overlay to two parcels in North San José.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) Supplemental Environmental Impact Report (Resolution No. 77617), the Envision San José 2040 General Plan Supplemental Environmental Impact Report for the City of San José 2023-2031 Housing Element Update (Resolution No. RES2023-262), and addenda thereto. Planning Commission recommends approval (9-0-2, Garcia and Oliverio absent) (Item 8.a. on the 5/8/2024 Planning Commission agenda). Council District 4. (Planning, Building and Code Enforcement)

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.

HONORABLE MAYOR AND CITY COUNCIL

May 29, 2024

Subject: GP24-006 & C24-041 North San José Overlay

Page 4

/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.

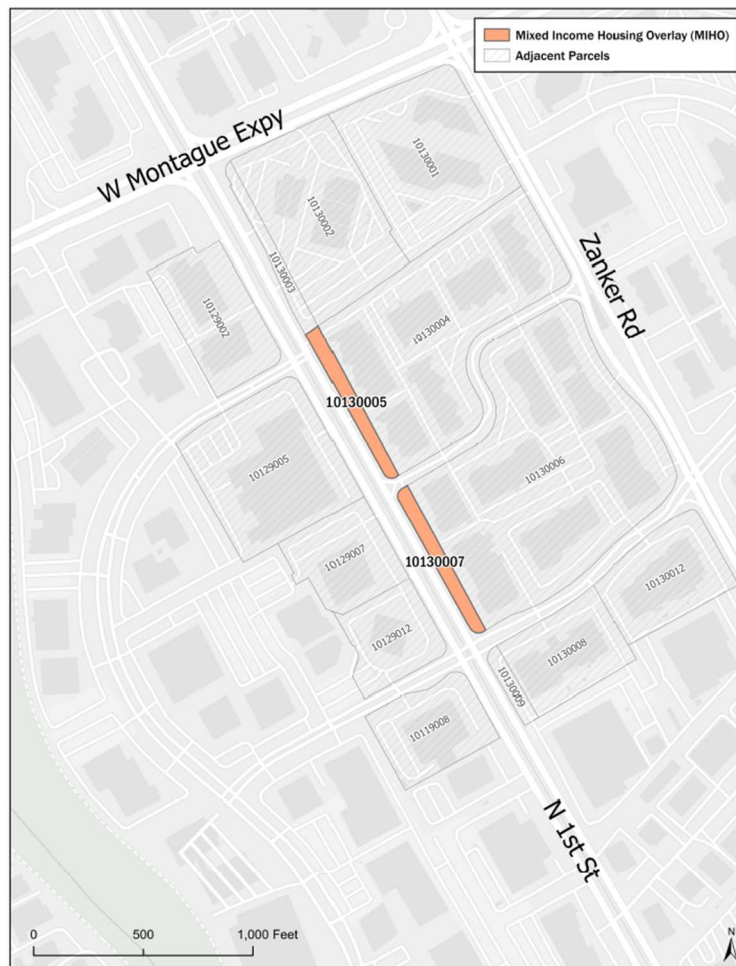
CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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.

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| <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> |

RESOLUTION NO. _____

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN
JOSE AMENDING THE ENVISION SAN JOSE 2040
GENERAL PLAN PURSUANT TO TITLE 18 OF THE SAN
JOSE MUNICIPAL CODE TO MODIFY THE LAND
USE/TRANSPORTATION DIAGRAM**

**2024 General Plan Amendment Cycle (Cycle 1)
FILE NO. GP24-006**

WHEREAS, the City Council for the City of San José ("City Council") is authorized by Title 18 of the San José Municipal Code and state law to adopt and, from time to time, amend the General Plan governing the physical development of the City of San José; and

WHEREAS, on November 1, 2011, the City Council adopted the General Plan entitled, "Envision San José 2040 General Plan, San José, California" by Resolution No. 76042, which General Plan has been amended from time to time ("General Plan"); and

WHEREAS, in accordance with San José City Charter Section 1000 and Title 18 of the San José Municipal Code, all General Plan and Specific Plan amendment proposals are referred to the Planning Commission of the City of San José for and recommendation prior to City Council consideration; and

WHEREAS, on May 8, 2024, the Planning Commission held a hearing to consider the proposed amendment to the General Plan, File No. GP24-006 specified in the attached Exhibit "A" ("General Plan Amendment") and depicted in Exhibit "B" (File No. GP24-006.), at which hearing persons were given the opportunity to appear and present their views with respect to said proposed amendments; and

WHEREAS, at the conclusion of the public hearing, the Planning Commission transmitted its recommendations to the City Council on the proposed General Plan Amendment; and

WHEREAS, on June 11, 2024, the Council held a duly noticed public hearing; and

WHEREAS, a copy of the proposed General Plan Amendment is on file with the office of the Director of Planning, Building and Code Enforcement of the City, and available electronically on the Department of Planning, Building and Code Enforcement webpage, with copies submitted to the City Council for its consideration; and

WHEREAS, the General Plan Amendment will not result in inconsistent zoning because the properties are being concurrently being rezoned to their respective conforming Zoning Districts and will not take effect until the associated rezoning ordinances take effect; and

WHEREAS, pursuant to California Senate Bill (SB) 330 (2019), a city is prohibited from enacting a development policy, standard, or condition, as defined, that would have the effect of changing the land use designation or zoning of a parcel or parcels of property to a less intensive residential use or reducing the residential intensity of land use within an existing zoning district below what was allowed under the general plan or specific plan land use designation and zoning ordinances of the county or city as in effect on January 1, 2018; and

WHEREAS, California Government Code Section 66300(i)(1) allows a city to change a land use designation or zoning ordinance to a less intensive residential use if the city concurrently changes the development standards, policies, and conditions applicable to other parcels within the jurisdiction to ensure that there is no net loss in residential capacity; and

WHEREAS, no net loss of residential capacity will result from this General Plan Amendment because the City is amending the General Plan land use designation of these properties from no residential capacity to a total residential capacity of 545 residential units, the proposed General Plan Amendment increases residential capacity by 545 residential units, therefore, there is no net loss in residential capacity with the change in land use designations set forth herein; and

WHEREAS, the City Council wishes to modify the Land Use/Transportation Diagram of the General Plan to change the following: two parcels with a Transit Employment Center designation to the Mixed Income Housing Overlay (“MIHO”) District; and

WHEREAS, prior to making its determination on the General Plan Amendment, the Council reviewed and considered the 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).;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE AS FOLLOWS:

SECTION 1. The foregoing recitals are incorporated herein by reference.

SECTION 2. The City Council’s determination regarding General Plan Amendment File No. GP24-006 is specified and set forth in the attached Exhibit “A” and incorporated by reference.

SECTION 3. The General Plan Land Use Amendment specified in GP24-006, as set forth in “Exhibit A” of this Resolution, shall take effect upon the effective date of the associated rezoning ordinance.

ADOPTED this _____ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

STATE OF CALIFORNIA)
) ss
COUNTY OF SANTA CLARA)

I hereby certify that the amendments to the San José General Plan specified in the attached Exhibit “A” and Exhibit “B” were adopted by the City Council of the City of San José on [REDACTED], as stated in its Resolution No. [REDACTED].

Dated: _____

TONI J. TABER, CMC
City Clerk

EXHIBIT “A”

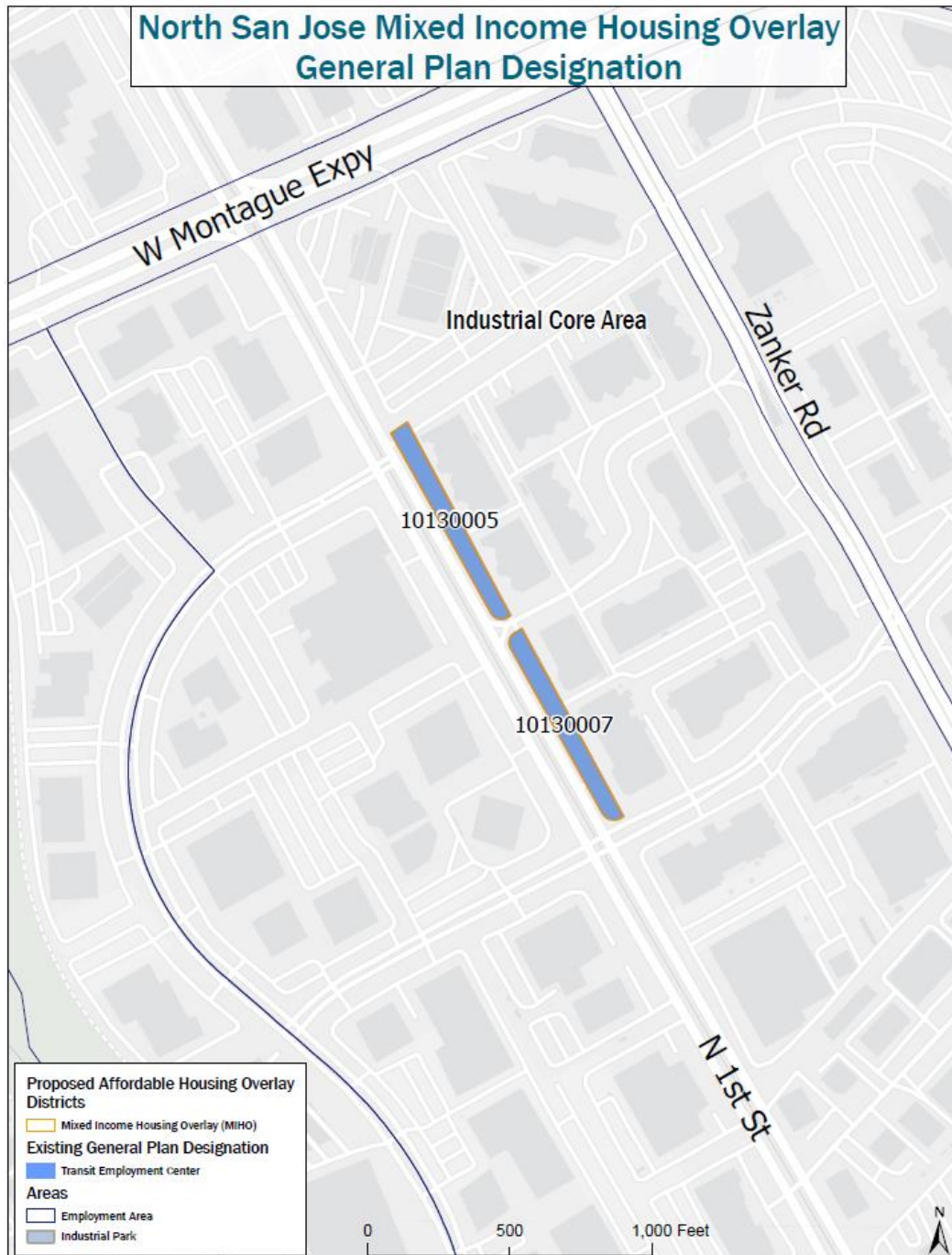
**EXISTING AND PROPOSED GENERAL PLAN
LAND USE DESIGNATION PARCEL LIST**

File No. GP24-006: The following parcels specified by Assessor’s Parcel Number (APN) are hereby amended from the General Plan land use designation specified below as “Existing General Plan” to the General Plan land use designation specified below as “Proposed General Plan”:

| APNs | Acres | Existing Zoning/Overlay | Residential Capacity (Units) | Proposed Zoning/Overlay | Residential Capacity | Capacity Change (Residential Units Change) |
|--------------|-------|-------------------------|------------------------------|-------------------------|----------------------|--|
| 101-30-005 | 1.1 | None (TEC) | 0 | MIHO | 275 | 275 |
| 101-30-007 | 1.08 | None (TEC) | 0 | MIHO | 270 | 270 |
| TOTAL | 2.18 | | 0 | | 545 | 545 |

EXHIBIT “B”

File No. GP24-006. The Envision San José 2040 General Plan 2040 Land Use/Transportation Diagram is hereby amended to add certain properties to the Mixed Income Housing Overlay Districts.



ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING
THE ZONING DISTRICT MAP TO APPLY THE MIHO MIXED
INCOME HOUSING OVERLAY DISTRICT ON TWO
PARCELS (APNs 101-30-005 & 007)**

WHEREAS, all 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, pursuant to California Environmental Quality Act Guidelines Section 15168(c)(2), the City of San José has determined the proposed overlay districts are pursuant to, in furtherance of, and within the scope of the previously approved program evaluated in the Final Supplemental Environmental Impact Report to the Envision San José General Plan Final Program Environmental Impact Report for the 2023-2031 Housing Element Update, adopted by the City Council through Resolution No. RES2023-262 ("FPEIR"); and

WHEREAS, the City Council has reviewed and considered the Determination of Consistency to the FPEIR and finds adoption of this Ordinance to apply the Mixed Income Housing Overlay ("MIHO") districts to the Zoning District Map will not involve significant effects or impacts beyond those analyzed in the FPEIR; and

WHEREAS, the City Council finds the proposed overlay districts are consistent with the Envision San José 2040 General Plan in compliance with California Senate Bill 1333; and

WHEREAS, through adoption of the Ordinance, the City Council wishes to amend the Zoning District Map to add the MIHO district to two parcels in North San José, as depicted in the Zoning District Map amendments attached as Exhibit “A”; and

WHEREAS, the proposed overlay districts (File No. C24-041) do not reduce the intensity of residential uses because the overlay districts do not change the underlying zoning of the subject properties but allow an increase in residential capacity of 545 residential units, resulting in no net loss and compliance with California Senate Bill 330 (2019);

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

SECTION 1. The foregoing recitals above are incorporated herein.

SECTION 2. The Mixed Income Housing Overlay District is hereby applied to all that real property hereinafter described in this section, hereinafter referred to as "subject property."

The subject property referred to in this section is all that real property situated in the County of Santa Clara, State of California, depicted in Exhibit “A,” entitled “Mixed Income Housing Overlay District Zoning Map,” attached hereto and incorporated herein by this reference.

SECTION 3. The City of San José Zoning District Map of the City is hereby amended accordingly.

SECTION 4. Any land development approval that is the subject of City File No. C24-041 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 ____ day of _____, 2024 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

Exhibit A: Mixed Income Housing Overlay District Zoning Map

