



## CITY COUNCIL STAFF REPORT

<b>File Nos.</b>	C21-013, C21-015, C21-016
<b>Location</b>	62 parcels are located in various locations in the City.
<b>Existing Zoning</b>	CP Commercial Pedestrian Zoning District, CN Commercial Neighborhood Zoning District
<b>Proposed Zoning</b>	CIC Combined Industrial/Commercial Zoning District, LI Light Industrial Zoning District, IP Industrial Park Zoning District
<b>CEQA:</b>	Determination of Consistency with the Envision San José 2040 General Plan EIR (Resolution No. 76041) and the Envision San José General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto.

### RECOMMENDATION:

Staff recommends that the City Council:

1. Consider the Determination of Consistency with the Envision San José 2040 General Plan EIR (Resolution No. 76041) and the Envision San José General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto.
2. Approve an ordinance rezoning 62 certain real properties consisting of 51 properties from the CP Commercial Pedestrian and CN Commercial Neighborhood Zoning District to the CIC Combined Industrial/Commercial Zoning District, nine properties from the CP Commercial Pedestrian Zoning District to the LI Light Industrial Zoning District, and two properties from the CN Commercial Neighborhood Zoning District to the IP Industrial Park Zoning District, located in various locations in the City in accordance with Senate Bill 1333.

### PROJECT DATA

GENERAL PLAN CONSISTENCY	
<b>General Plan Designation</b>	CIC Combined Industrial/Commercial, LI Light Industrial, IP Industrial Park <input checked="" type="checkbox"/> <b>Consistent</b> <input type="checkbox"/> <b>Inconsistent</b>
<b>Consistent Policies</b>	<b>Implementation Policies IP-1.7, IP-8.2, IP-8.3</b>

### PROJECT DESCRIPTION

City-initiated Conforming Rezoning to rezone a total of 62 properties. Among these, 51 properties are proposed to be rezoned from the CP Commercial Pedestrian and CN Commercial Neighborhood Zoning District to the CIC Combined Industrial/Commercial Zoning District, nine

properties from the CP Commercial Pedestrian Zoning District to the LI Light Industrial Zoning District, and two properties from the CN Commercial Neighborhood Zoning District to the IP Industrial Park Zoning District.

### **Background**

Recent State legislation (Senate Bill 1333) requires charter cities such as San José to align a property's Zoning with its General Plan land use designation. To comply with State law and streamline the development review process for projects consistent with the General Plan, staff has been working on a multiyear effort to bring the Zoning Ordinance into conformance with the Envision San José 2040 General Plan. The first phase of this work (Phase 1(a)) was approved by City Council on June 2019, to begin the process to align the Zoning Ordinance with the General Plan, including changes to permitting requirements across all zoning districts. Phase 1(b) was approved by City Council in June 2021 and created six new urban village and mixed-use zoning districts to support areas that are planned for mixed-use development and high-density residential or commercial uses. Phase II entails City-initiated rezoning of properties citywide where the properties' zoning does not align with its General Plan land use designation.

Rezoning properties to align zoning with the General Plan represents the third phase of work to bring the Zoning Ordinance into conformance with the General Plan. As part of this phase of work, staff is proposing the rezoning of 62 properties to align their designated zoning with their General Plan land use designation. The 62 properties are located in various locations in the City as indicated on the attached draft Ordinance.

### **ANALYSIS**

The proposed project was analyzed for conformance with the following:

- 1) Envision San José 2040 General Plan
- 2) Zoning Ordinance
- 3) Senate Bill 330
- 4) Senate Bill 1333
- 5) California Environmental Quality Act (CEQA)

### **Envision San José 2040 General Plan Conformance**

The subject sites have an Envision San José 2040 General Plan Land Use/Transportation Diagram land use designations of Combined Industrial/Commercial (CIC), Industrial Pak (IP), and Light Industrial (LI). (see Attachment 1)

*Combined Industrial/Commercial (CIC):* This category allows a significant amount of flexibility for the development of a varied mixture of compatible commercial and industrial uses, including hospitals and private community gathering facilities. Properties with this designation are intended for commercial, office, or industrial developments or a compatible mix of these uses. This designation occurs in areas where the existing development pattern exhibits a mix of commercial and industrial land uses or in areas on the boundary between commercial and industrial uses. Development intensity can vary significantly in this designation based on the nature of specific uses likely to occur in a particular area. In order to maintain an industrial

character, small, suburban strip centers are discouraged in this designation, although larger big-box type developments may be allowed because they mix elements of retail commercial and warehouse forms and uses.

*Industrial Pak (IP):* The Industrial Park designation is an industrial designation intended for a wide variety of industrial users such as research and development, manufacturing, assembly, testing and offices. This designation is differentiated from the Light Industrial and Heavy Industrial designations in that Industrial Park uses are limited to those for which the functional or operational characteristics of a hazardous or nuisance nature can be mitigated through design controls. Areas identified exclusively for Industrial Park uses may contain a very limited number of supportive and compatible commercial uses, when those uses are of a scale and design providing support only to the needs of businesses and their employees in the immediate industrial area.

*Light Industrial (LI):* This designation is intended for a wide variety of industrial uses and excludes uses with unmitigated hazardous or nuisance effects. Warehousing, wholesaling, and light manufacturing are examples of typical uses in this designation. Light Industrial designated properties may also contain service establishments that serve only employees of businesses located in the immediate industrial area.

The proposed conforming rezoning is consistent with the following General Plan policies:

1. Implementation Policy IP-1.7: Ensure that proposals to rezone and prezone properties conform to the Land Use/Transportation Diagram, and advance Envision General Plan vision, goals, and policies.
2. Implementation Policy IP-8.2: Use the City's conventional zoning districts, contained in its Zoning Ordinance, to implement the Envision General Plan Land Use/Transportation Diagram. These districts include a range of allowed land uses, development intensities, and standards within major land use categories (residential, commercial and industrial) together with zoning districts for other land uses such as mixed-use and open space. The various ranges of allowed use and development intensity correspond generally to the respective Envision General Plan land use designations, while providing greater detail as to the appropriate land uses and form of development.
3. Implementation Policy IP-8.3 – Zoning: For the review of privately or publicly initiated rezoning applications, consider the appropriateness of the proposed zoning district in terms of how it will further the Envision General Plan goals and policies as follows:
  - a. Align with the Envision General Plan Land Use/Transportation Diagram.
  - b. Retain or expand existing employment capacity.
  - c. Preserve existing retail activity.
  - d. Avoid adverse land use incompatibilities.
  - e. Implement the Envision General Plan goals and policies including those for Urban Design.
  - f. Support higher density land uses consistent with the City's transition to a more urban environment.

- g. Facilitate the intensification of Villages and other growth areas consistent with the goal of creating walkable, mixed-use communities
- h. Address height limits, setbacks, land use interfaces and other design standards so as to provide for the intensification of land uses adjacent to already developed areas.

*Analysis: The conforming General Plan land use designations for the proposed sites include, CIC Combined Industrial/Commercial Zoning District, LI Light Industrial Zoning District, and IP Industrial Park; therefore, staff proposes a Conforming Rezoning of the properties from the CP Commercial Neighborhood Zoning District to the CIC Combined Industrial/Commercial Zoning District, from the CP Commercial Pedestrian Zoning District to the LI Light Industrial Zoning District, and from the CN Commercial Neighborhood Zoning District to the IP Industrial Park Zoning District, located in various locations in the City. This would correspond to the existing Envision General Plan land use designations for the subject sites. The proposed rezoning would allow future development consistent with the sites' General Plan land use designations.*

### **Zoning Ordinance Conformance**

The proposed rezoning conforms with Table 20-270, Section 20.120.110 of the San José Municipal Code, which identifies the CIC Combined Industrial/Commercial Zoning District , IP Industrial Pak Zoning District, and LI Light Industrial Zoning District as a conforming district to the respective CIC, LI and IP General Plan land use designations. (see Attachment 1)

The proposed rezoning would allow the properties to be used and developed in accordance with the allowable uses in Table 20-90, Section 20.20.100, and consistent with the Combined Industrial/Commercial Industrial Park , and Light Industrial General Plan land use designations.

### **Senate Bill 330 Compliance**

The Housing Crisis Act of 2019 (SB 330) limits the manner in which 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, or other types of increased requirements. An exception to this is that a property may be allowed to reduce intensity of residential uses if changes in land use designations or zoning elsewhere ensure “no net loss” (down-zoning) in residential capacity within the jurisdiction. Additionally, SB 940 authorizes the City of San José to proactively change a zoning to a more intensive use (up-zoning) and to use the added capacity to subsequently change the zoning to a less intensive use.

Approval of File Nos. C21-013, C21-015, and C21-016 would result in a decrease of residential capacity by 5,142 units. Currently, there are 21,993 units of increased residential capacity from file numbers PDC19-039, C20-002, C20-014, and C21-003, in accordance to SB330 and SB940. Therefore, approval of these rezonings would result in no net loss of residential capacity, consistent with SB 330 and SB 940.

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Pursuant to Section 15168(c)(2) of the CEQA Guidelines, the City of San José has determined that the proposed project is pursuant to, in furtherance of, and within the scope of the Envision San

José 2040 General Plan program, the impacts of which were analyzed and disclosed in the Final Environmental Impact Report for the Envision San José 2040 General Plan, for which findings were adopted by City Council Resolution No. 76041 on November 1, 2011 and Supplemental EIR adopted by City Council Resolution No. 77617 on December 15, 2015, and addenda thereto. The FPEIR, SEIR and Addenda were prepared for the comprehensive update and revision of all elements of the City of San José General Plan, including an extension of the planning timeframe to the year 2040.

No new or more significant environmental impacts beyond those identified in the Envision San José 2040 General Plan Final Program Environmental Impact Report (FPEIR), Supplemental EIR (SEIR), and Addenda have been identified, nor have any new mitigation measures or alternatives which are considerably different from those analyzed in the FPEIR, SIER and Addenda been identified.

## **CONCLUSION**

The proposed Conforming Rezoning of 62 properties, in which 51 properties will be rezoned from the CP Commercial Pedestrian and CN Commercial Neighborhood Zoning District to the CIC Combined Industrial/Commercial Zoning District, nine properties from the CP Commercial Pedestrian Zoning District to the LI Light Industrial Zoning District, and two properties from the CN Commercial Neighborhood Zoning District to the IP Industrial Park Zoning District, is consistent with General Plan policies IP-1.7, IP-8.2, and IP-8.3. The rezoning also conforms to the General Plan Land Use designation of CIC Combined Industrial/Commercial, LI Light Industrial, and IP Industrial Park, and would streamline proposed projects consistent with the General Plan on the subject properties.

## **CLIMATE SMART SAN JOSE**

The recommendation in this staff report has no effect on Climate Smart San José energy, water, or mobility goals.

## **PUBLIC HEARING NOTIFICATION**

Staff followed Council Policy 6-30: Public Outreach Policy. Planning staff facilitated a virtual community meeting for File Nos. C21-013, C21-015, and C21-016 on May 27, 2021 to provide information on the proposed Conforming Rezoning. A notice for the community meeting was distributed to all landowners and tenants for the 62 subject properties. No property owners or tenants attended the meeting.

A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site 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. Staff received one email from a member of the public inquiring about the rezoning.

/s/

Chris Burton, Director

Planning, Building and Code Enforcement

HONORABLE MAYOR AND CITY COUNCIL

August 31, 2021

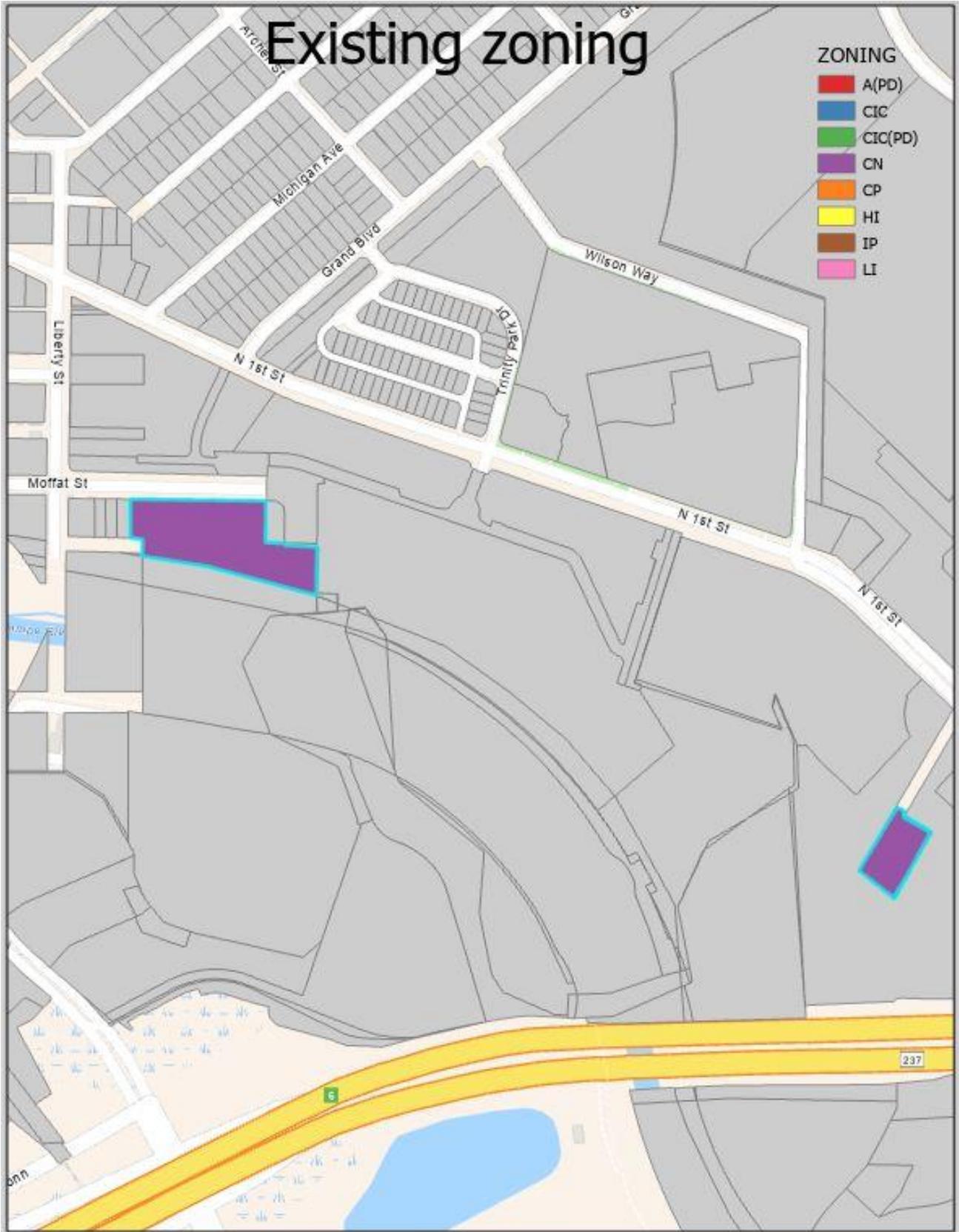
**Subject: File No. C21-013,015,016**

Page 6

For questions, please contact Michael Brilliot, Deputy Director, at (408) 535-7831 or [michael.brilliot@sanjoseca.gov](mailto:michael.brilliot@sanjoseca.gov).

Attachments: Maps  
Draft Ordinance

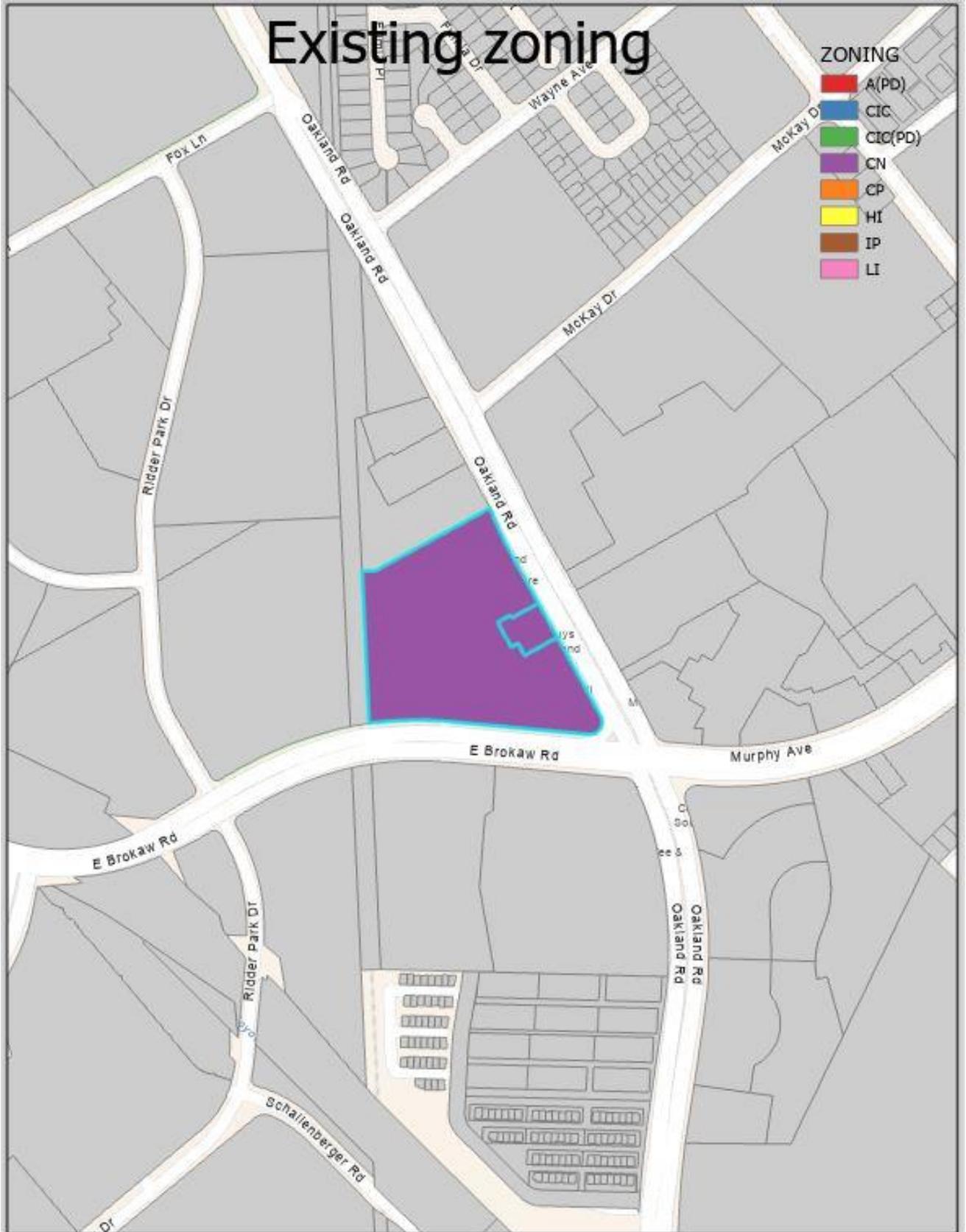
# Attachment 1



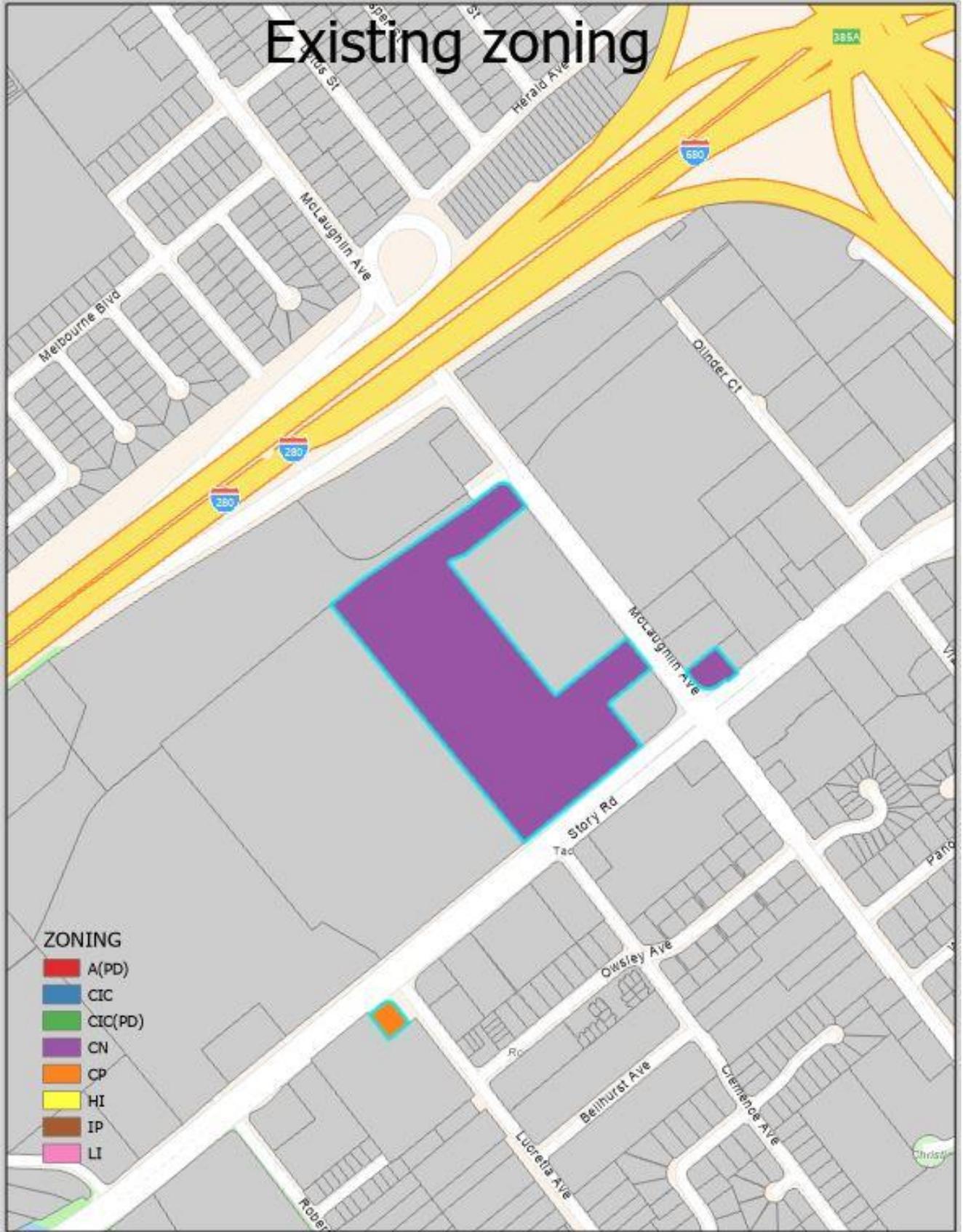
# Existing zoning

## ZONING

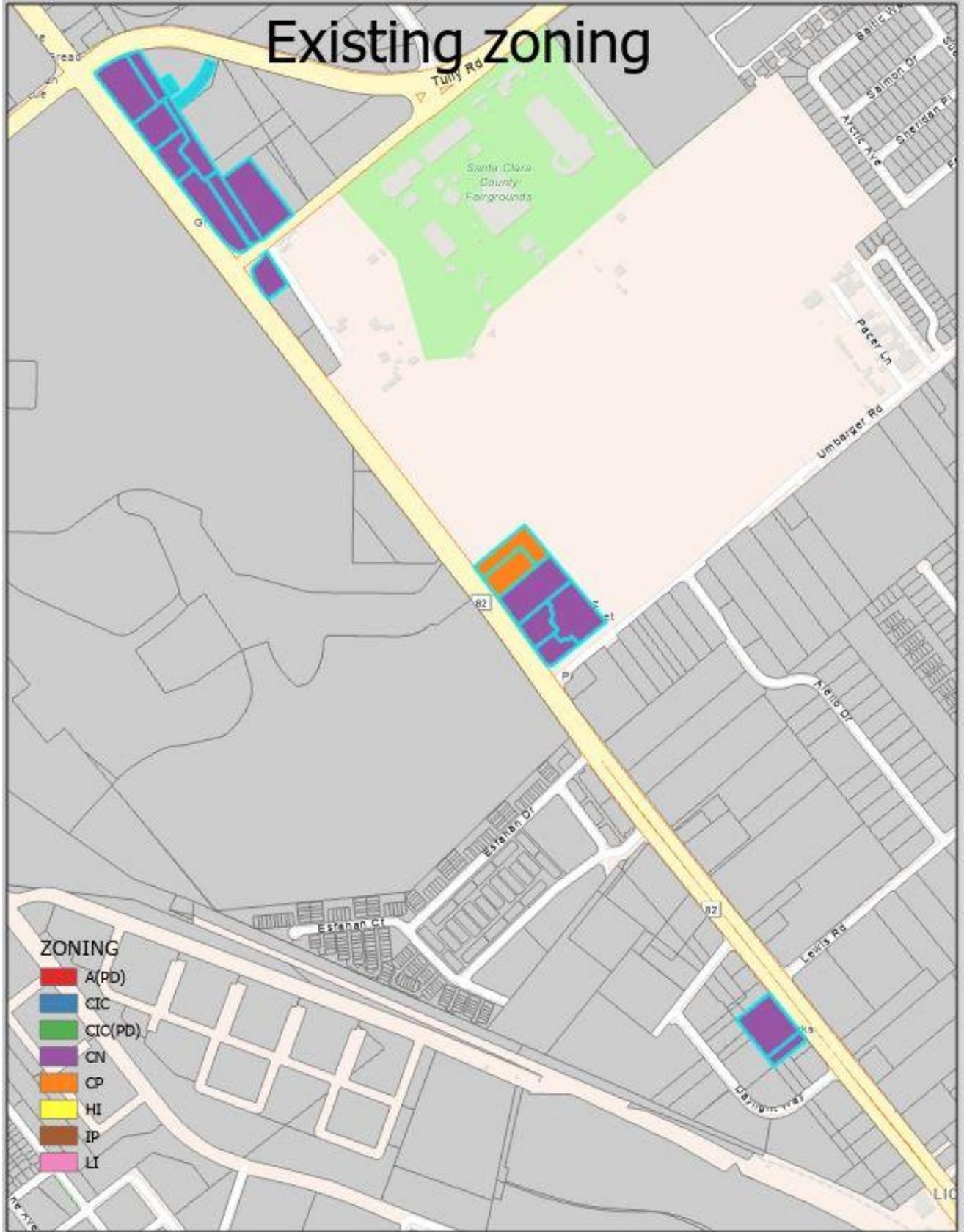
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- CIC
- CIC(PD)
- CN
- CP
- HI
- IP
- LI



# Existing zoning



# Existing zoning



# Existing zoning

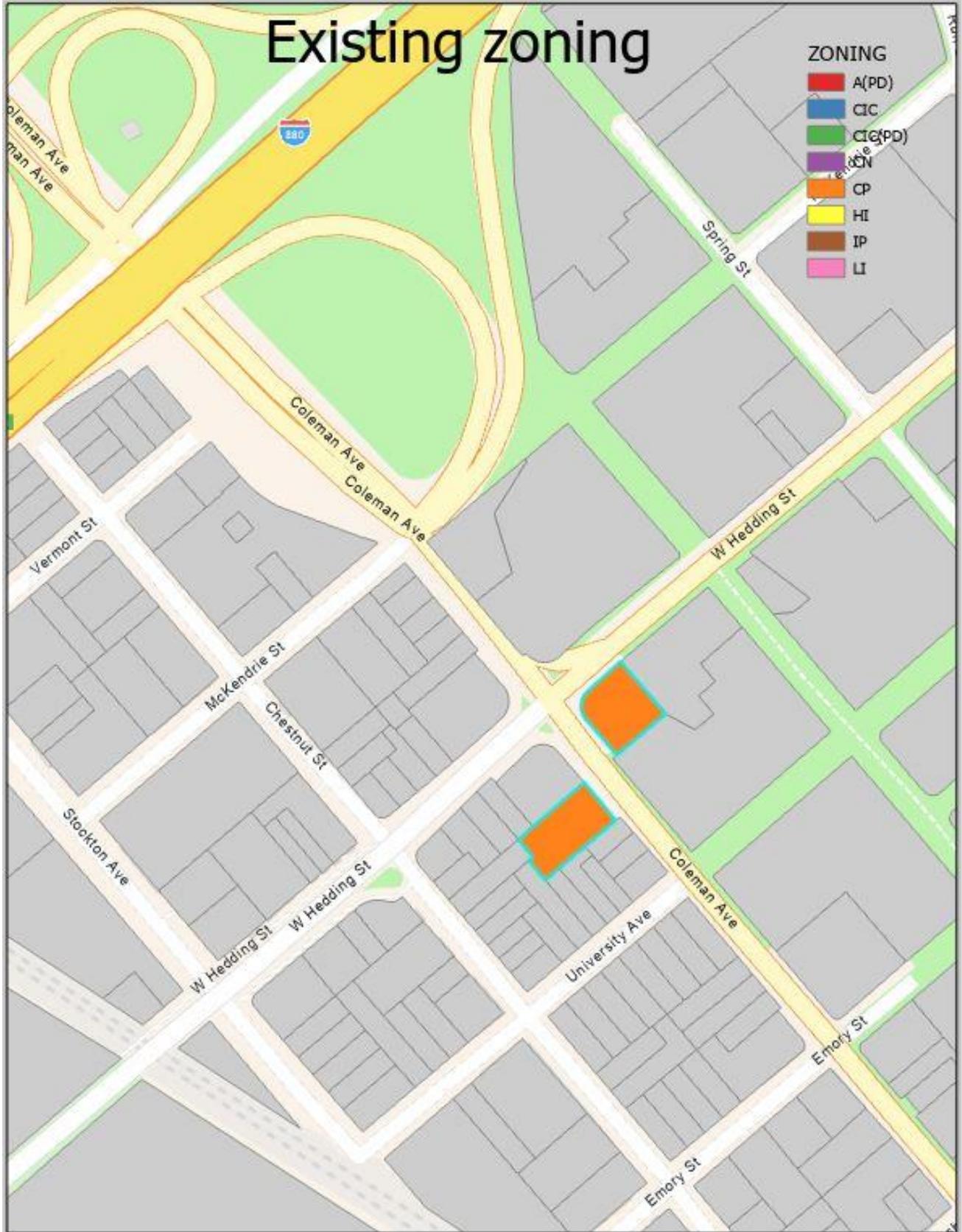
## ZONING

- A(PD)
- CIC
- CIC(PD)
- CN
- CP
- HI
- P
- LI



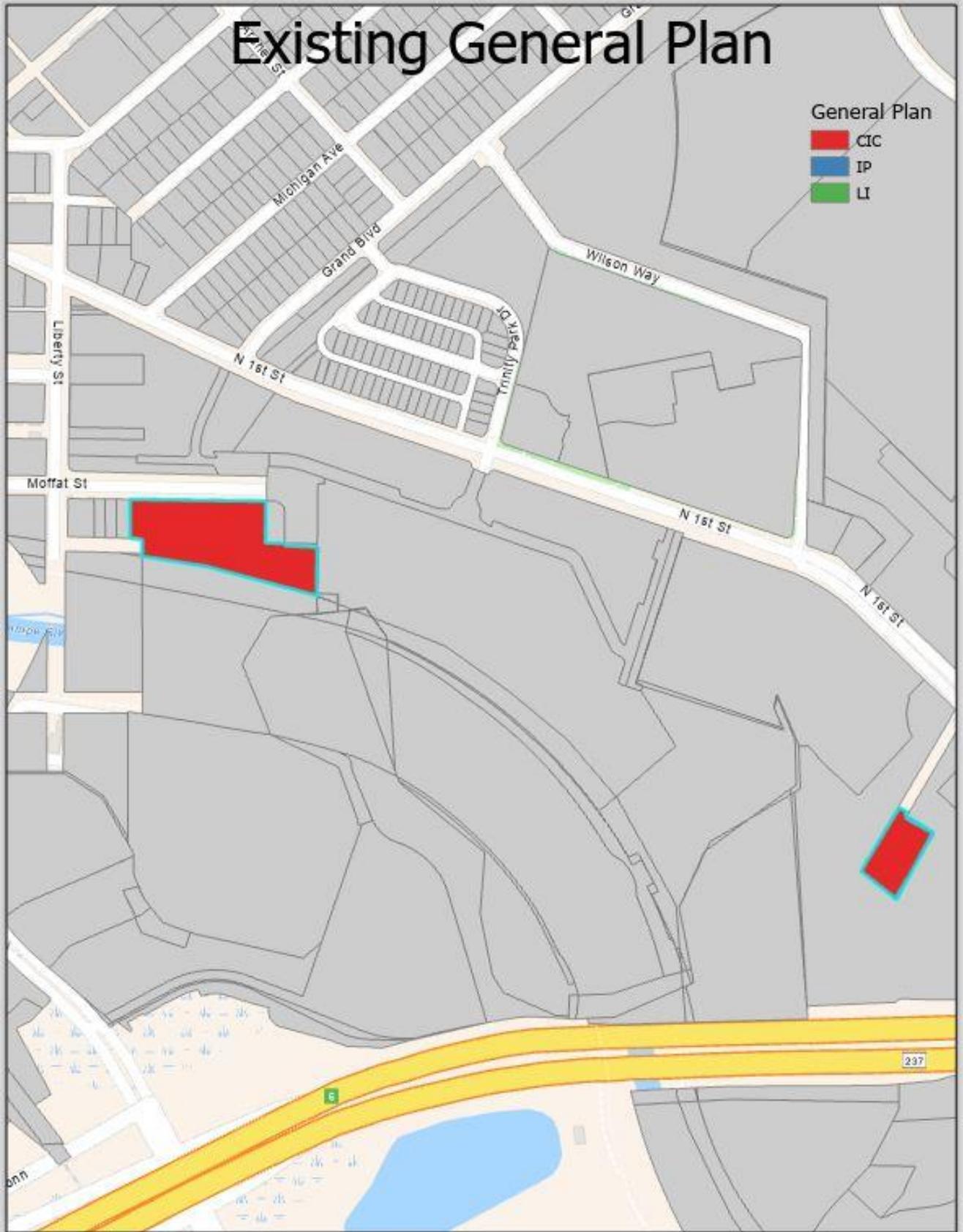


# Existing zoning



# Existing General Plan

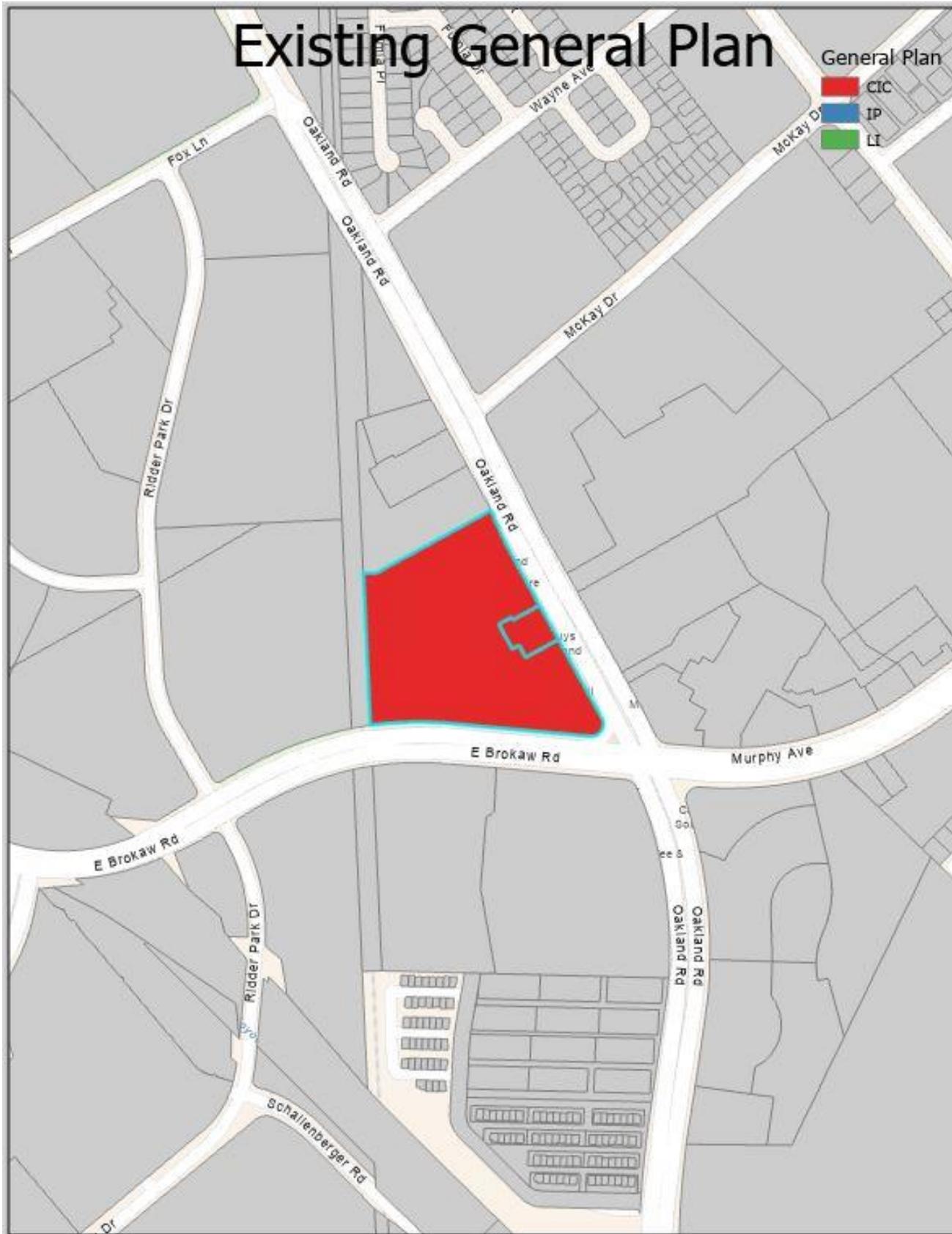
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  - IP
  - LI



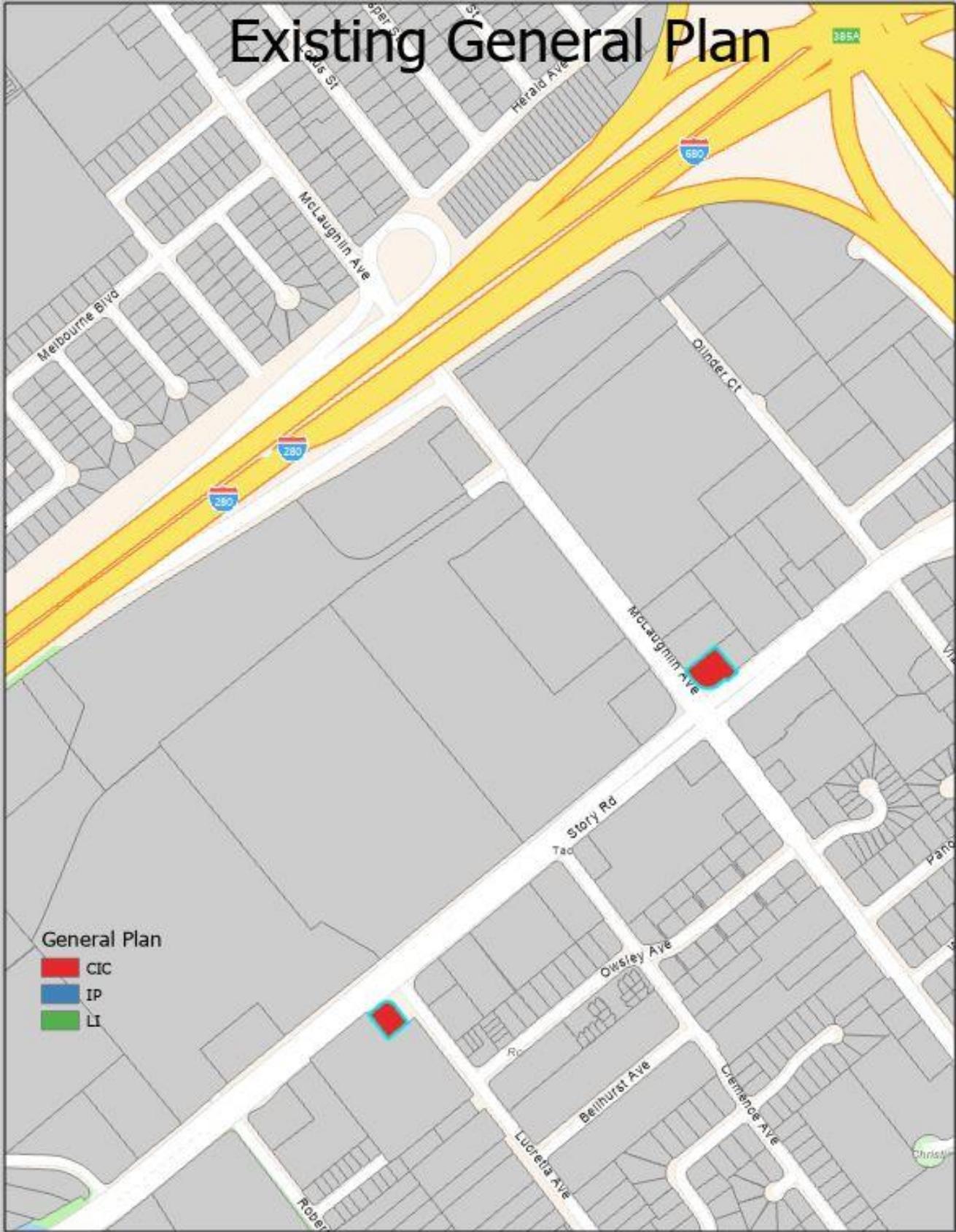
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General Plan

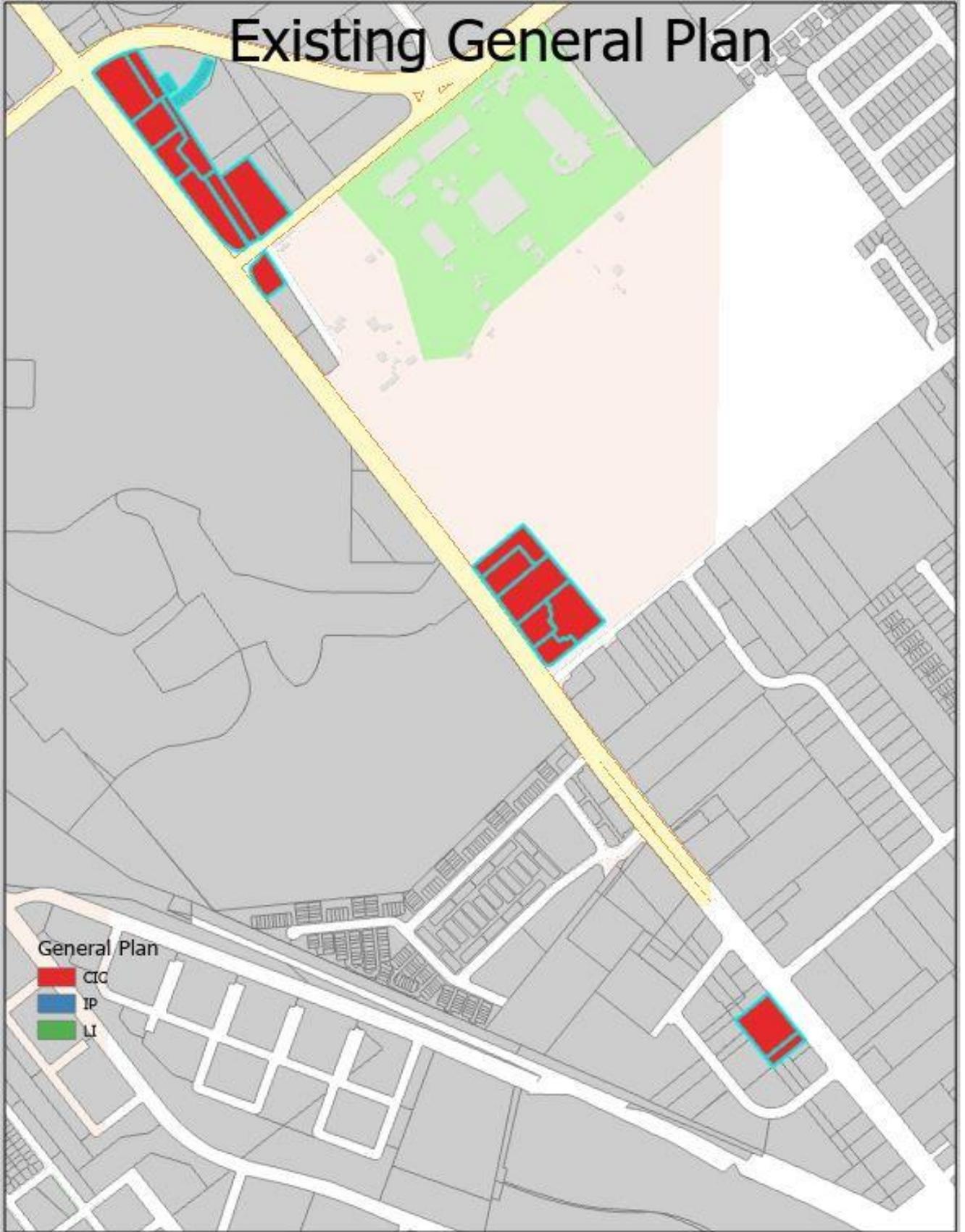
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# Existing General Plan



# Existing General Plan



General Plan

- CIC
- IP
- LI

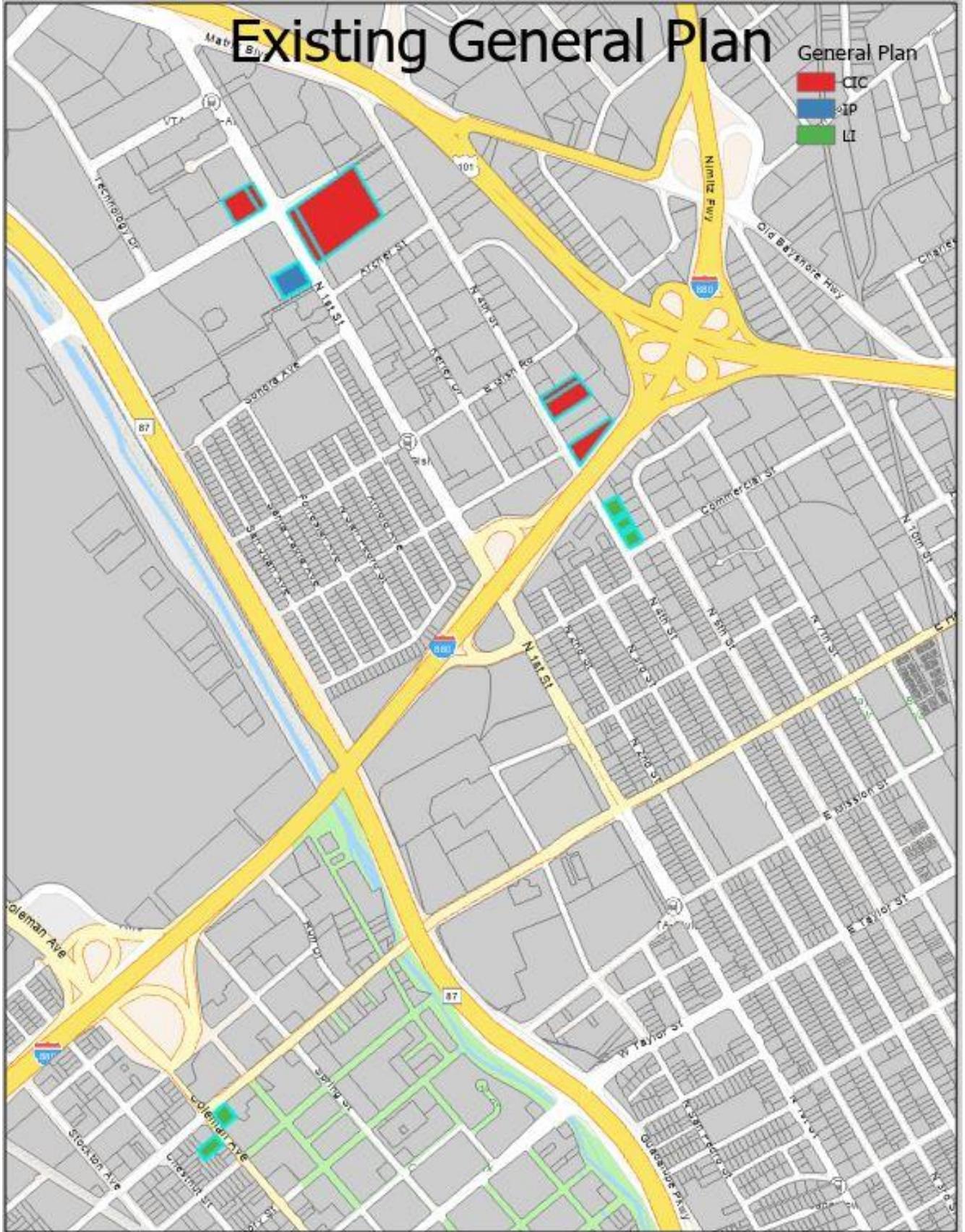
# Existing General Plan



# Existing General Plan

General Plan

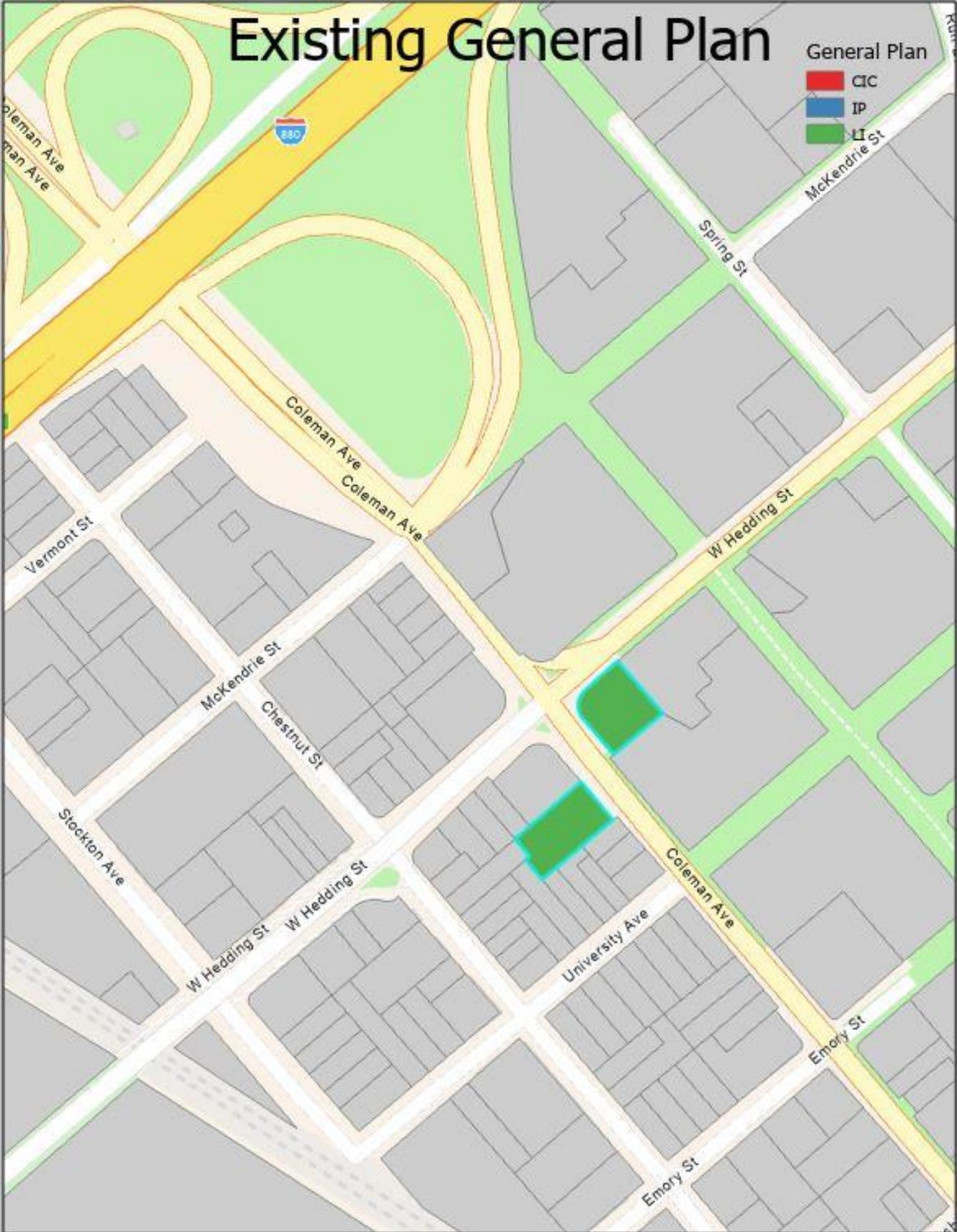
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# Existing General Plan

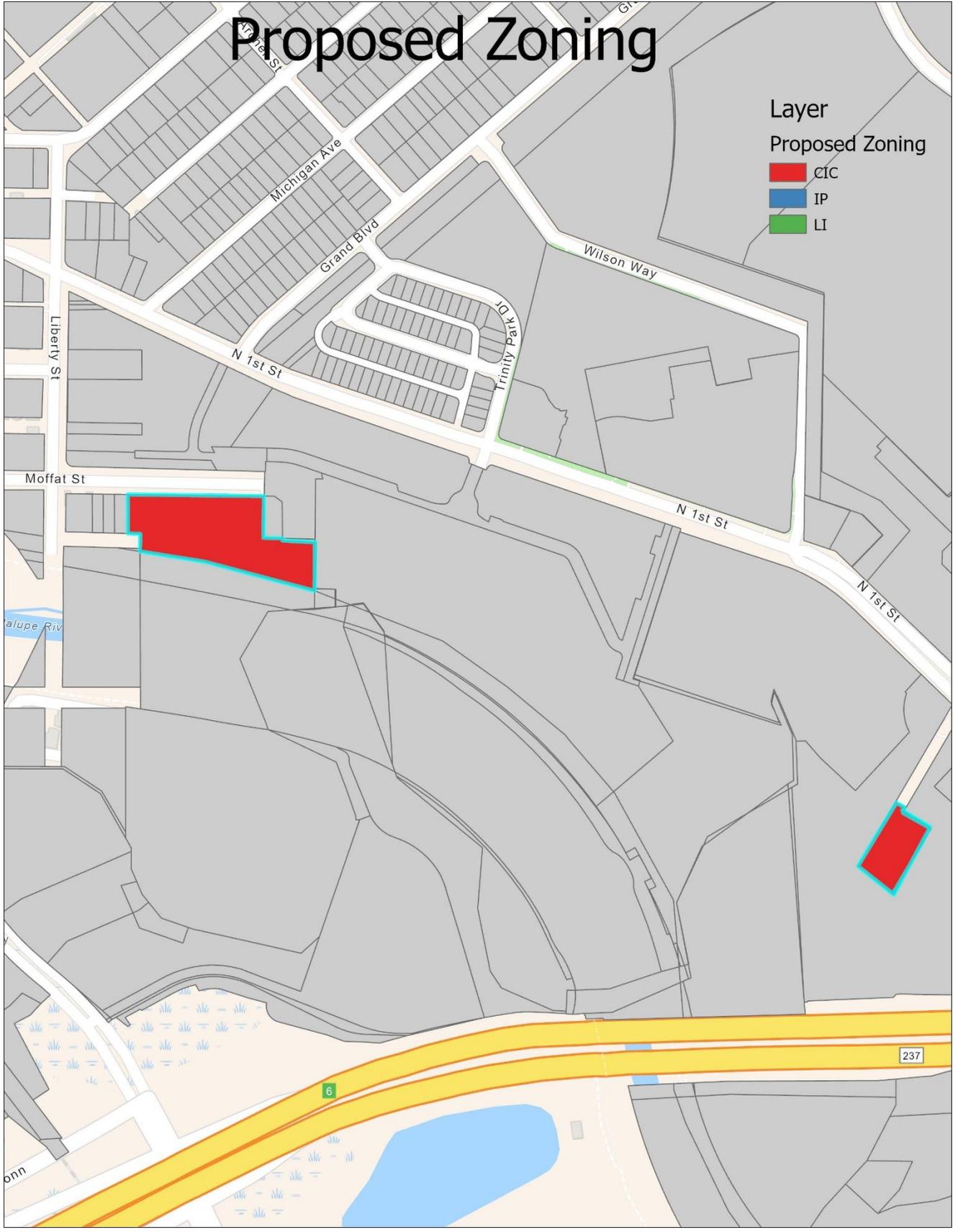
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- LT



# Proposed Zoning

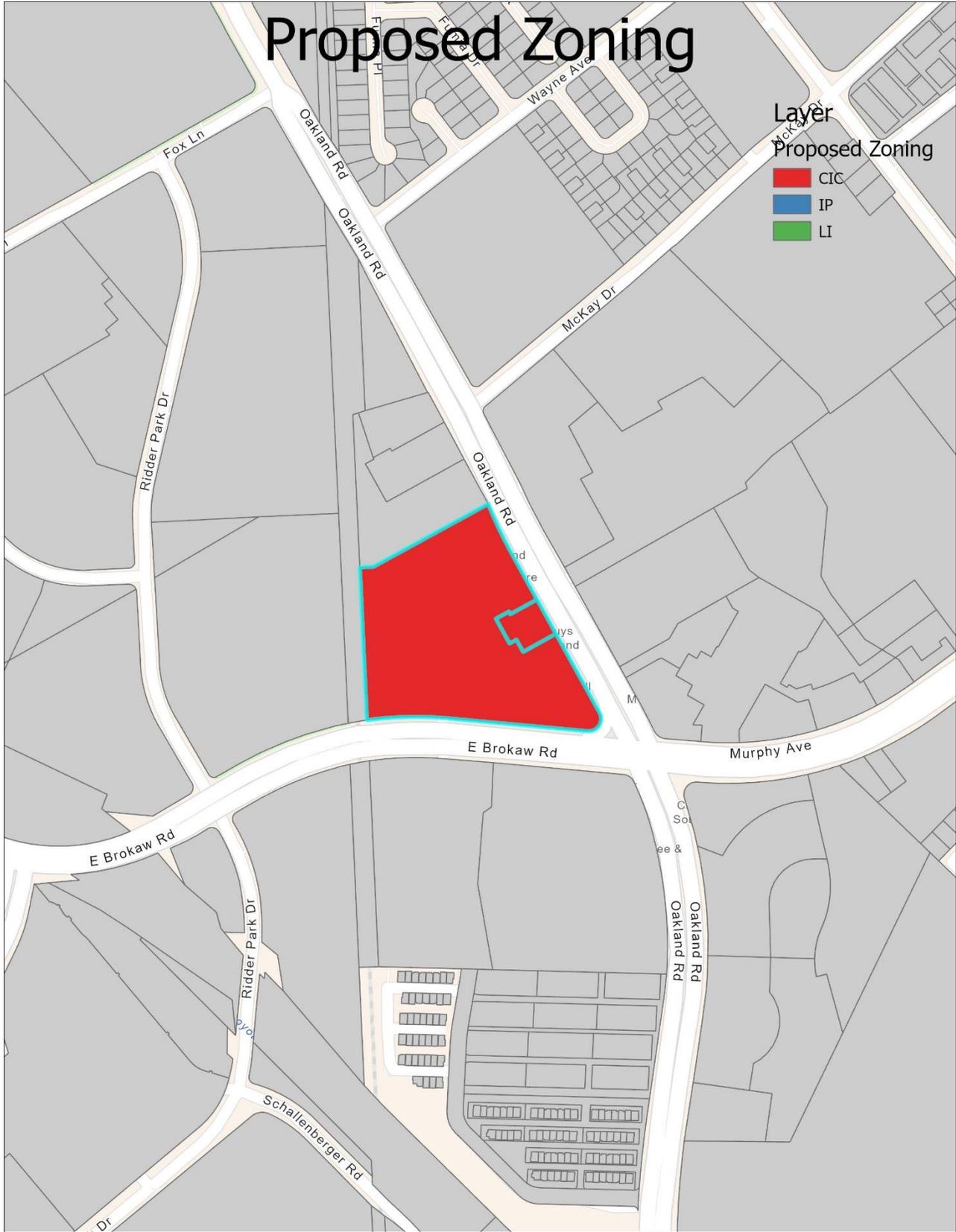
- Layer  
Proposed Zoning
- CIC
  - IP
  - LI



# Proposed Zoning

Layer  
Proposed Zoning

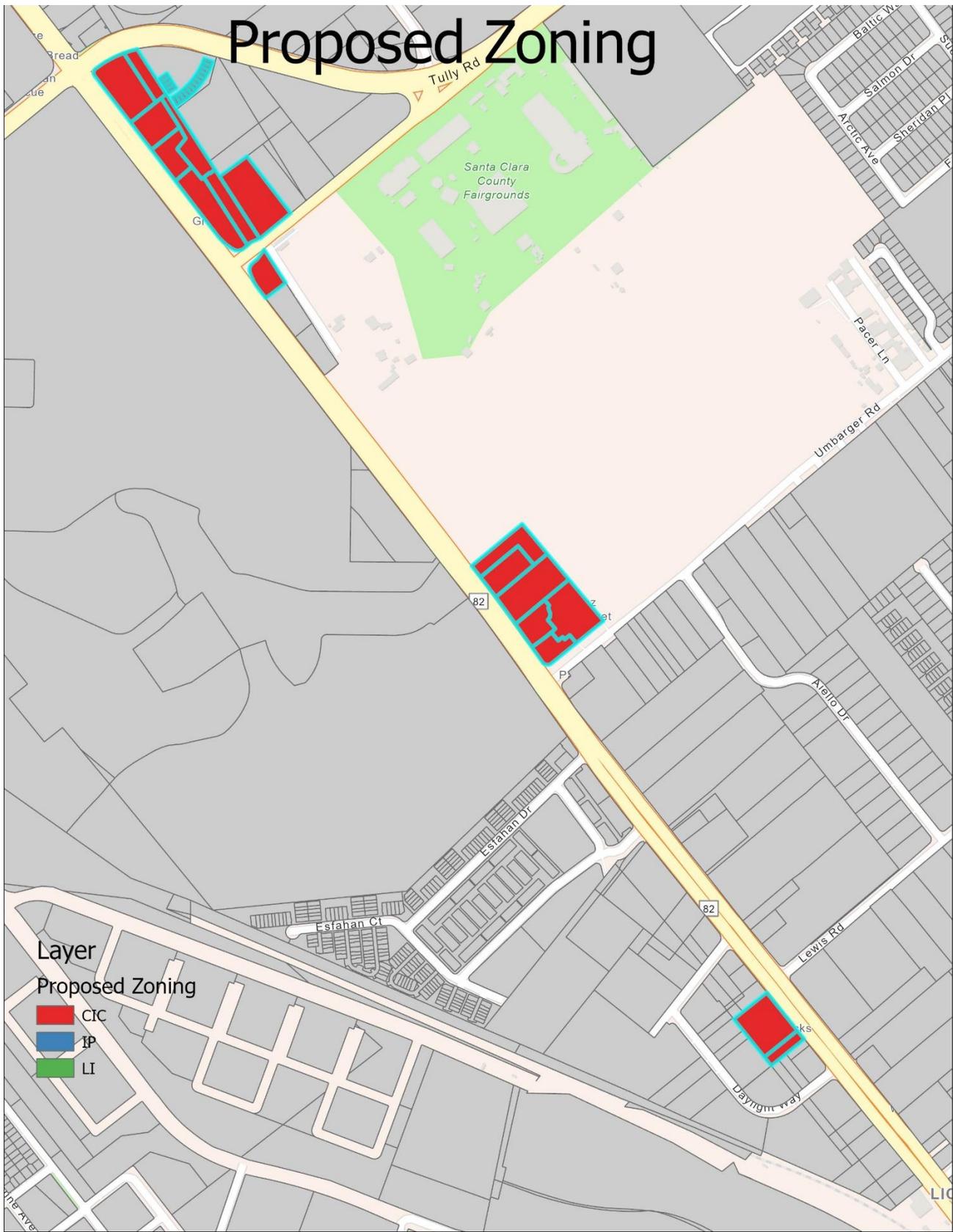
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- LI



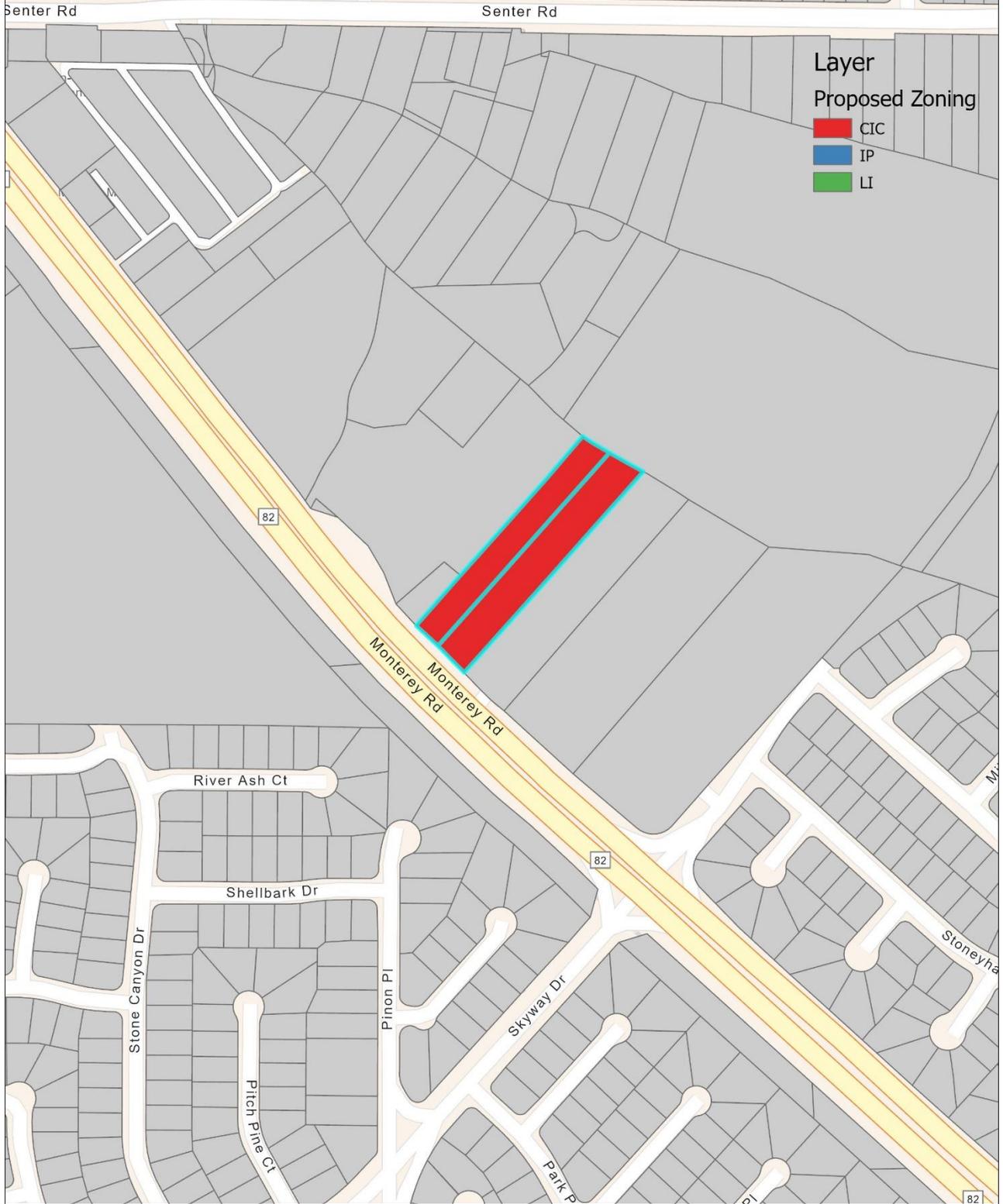
# Proposed Zoning



# Proposed Zoning



# Proposed Zoning



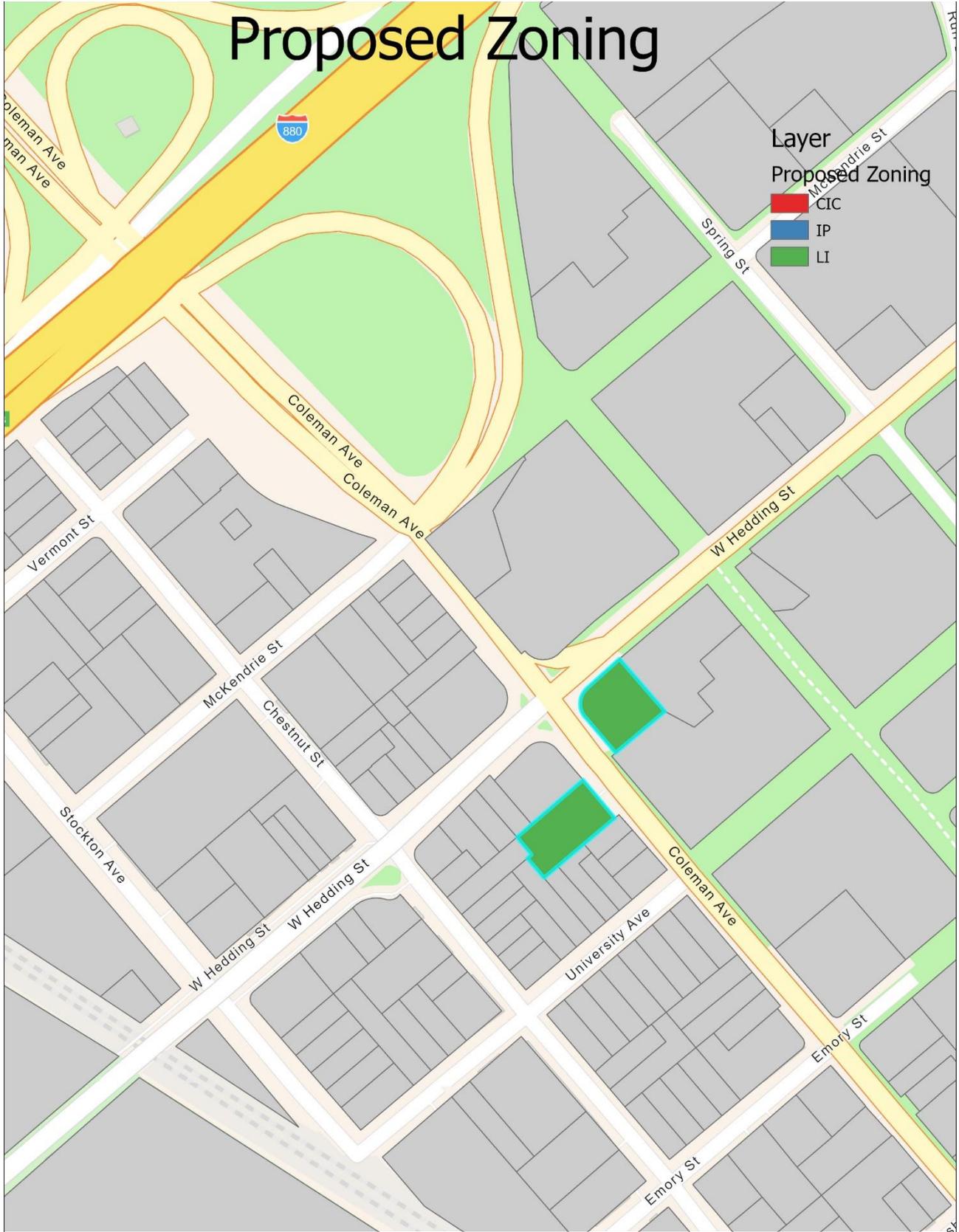
# Proposed Zoning



Layer  
Proposed Zoning

- CFC
- IP
- LI

# Proposed Zoning



**DRAFT**

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF SAN JOSE REZONING 51 PROPERTIES FROM THE CP COMMERCIAL PEDESTRIAN AND CN COMMERCIAL NEIGHBORHOOD ZONING DISTRICT TO THE CIC COMBINED INDUSTRIAL/COMMERCIAL ZONING DISTRICT, NINE PROPERTIES FROM THE CP COMMERCIAL PEDESTRIAN ZONING DISTRICT TO THE LI LIGHT INDUSTRIAL ZONING DISTRICT, AND TWO PROPERTIES FROM THE CN COMMERCIAL NEIGHBORHOOD ZONING DISTRICT TO THE IP INDUSTRIAL PARK ZONING DISTRICT, LOCATED IN VARIOUS LOCATIONS IN THE CITY OF SAN JOSE**

**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**, pursuant to Section 15168(c)(2) of the CEQA Guidelines, the City of San José has determined the proposed rezoning is pursuant to, in furtherance of and within the scope of the previously approved program evaluated in the Final Program Environmental Impact Report for the Envision San José 2040 General Plan (the “FEIR”), for which findings were adopted by City Council through its Resolution No. 76041 on November 1, 2011 and Supplemental Environmental Impact Report (the “SEIR”), through Resolution No. 77617, adopted by City Council on December 15, 2015, and Addenda thereto, and does not involve new significant effects beyond those analyzed in the FEIR and SEIR; and

**WHEREAS**, the City Council of the City of San José is the decision-making body for the proposed subject rezoning to the CIC Combined Industrial/Commercial Zoning District, LI Light Industrial Zoning District, and IP Industrial Park Zoning District Zoning District; and

**WHEREAS**, this Council of the City of San José has considered and approves the information contained in the FEIR and related City Council Resolution No. 76041, and in the SEIR and related City Council Resolution No. 77617, and Addenda thereto, and the determination of consistency therewith prior to acting upon or approving the subject rezoning; and

**WHEREAS**, the proposed rezoning is consistent with the designation of the site in the applicable General Plan; and

**WHEREAS**, pursuant to Senate Bill 330, the proposed rezoning (File Nos. C21-013, C21-015, and C21-016) reduces the intensity of residential uses because the proposed rezonings do not allow residential; the rezoning would decrease the residential capacity by 5,142 residential units, and further, this rezoning, if approved concurrently with File Nos. C21-013, C2-015 and C21-016. Under SB940, staff currently has 21,993 units of increased capacity from previous up-zonings;

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

**SECTION 1.** The recitals above are incorporated herein.

**SECTION 2.** All that real property hereinafter described in this section, hereinafter referred to as "subject property," is hereby rezoned to the to the CIC Combined Industrial/ Commercial Zoning District, LI Light Industrial Zoning District, and IP Industrial Park Zoning District 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, depicted in Exhibit "A" attached hereto and incorporated herein by this reference.

**SECTION 3.** The district map of the City is hereby amended accordingly.

**SECTION 4.** Any land development approval that is the subject of City File Nos. C21-013, C21-015, and C21-016 is subject to the operation of Part 2.75 of Chapter 15.12 of Title 15 of the San José Municipal Code. 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 \_\_\_\_\_, 2021 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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SAM LICCARDO  
Mayor

ATTEST:

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TONI J. TABER, CMC  
City Clerk

**EXHIBIT “A”**

**EXISTING ZONING AND GENERAL PLAN DESIGNATION PARCEL LIST**

APN	General Plan	Existing Zoning	Conforming Zoning	Downzoning Units
01539023	CIC	CN	CIC	1
01539024	CIC	CN	CIC	93
01539055	CIC	CN	CIC	1
23029018	CIC	CN	CIC	46
23501010	CIC	CN	CIC	760
23501023	CIC	CN	CIC	100
23505018	CIC	CN	CIC	128
23505021	CIC	CN	CIC	154
23505022	CIC	CN	CIC	56
23703083	CIC	CN	CIC	882
23703084	CIC	CN	CIC	45
26410032	CIC	CN	CIC	24
26416040	CIC	CN	CIC	57
45641012	CIC	CN	CIC	150
45641013	CIC	CN	CIC	34
47210096	CIC	CN	CIC	41
47711060	CIC	CP	CIC	27
47722007	CIC	CN	CIC	196
47722072	CIC	CN	CIC	158
47722073	CIC	CN	CIC	55
47722077	CIC	CN	CIC	94
47722078	CIC	CN	CIC	75
47722080	CIC	CN	CIC	79
47722081	CIC	CN	CIC	81
47722082	CIC	CN	CIC	145
47777001	CIC	CN	CIC	4
47777002	CIC	CN	CIC	4
47777003	CIC	CN	CIC	4
47777004	CIC	CN	CIC	4
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47777013	CIC	CN	CIC	4
47777014	CIC	CN	CIC	4
47777015	CIC	CN	CIC	4
47777016	CIC	CN	CIC	4
47777C01	CIC	CN	CIC	157
49738003	CIC	CN	CIC	166
49738018	CIC	CN	CIC	68
49738022	CIC	CN	CIC	134

49738023	CIC	CN	CIC	71
49738024	CIC	CN	CIC	36
49738025	CIC	CP	CIC	101
49738026	CIC	CP	CIC	90
68402002	CIC	CP	CIC	143
68402003	CIC	CP	CIC	110
23029023	IP	CN	IP	137
47211075	IP	CN	IP	1
23512022	LI	CP	LI	43
23512023	LI	CP	LI	11
23512024	LI	CP	LI	33
23512025	LI	CP	LI	11
23512026	LI	CP	LI	31
23512027	LI	CP	LI	49
25414115	LI	CP	LI	38
25901093	LI	CP	LI	34
25902091	LI	CP	LI	32