

DRAFT

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING SECTION 20.85.020 OF PART 2 OF CHAPTER 20.85.020 OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE (ZONING ORDINANCE) AMENDING SPECIFIC HEIGHT RESTRICTIONS RELATED TO THE NORTH 1ST STREET LOCAL TRANSIT VILLAGE

WHEREAS, pursuant to Section 15168(c)(2) of the CEQA Guidelines, the City of San José has determined that this Ordinance 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, changes to San Jose Municipal Code (SJMC) Section 20.85.020 are necessitated by the North 1st Street Local Transit Village Plan, as the Village Plan will contain maximum height regulations that need to be referenced in the SJMC section; and

WHEREAS, pursuant to the provisions of Section 21676 of the California Public Utilities Code (“Section 21676”), the City made a referral of the General Plan Amendments (File Nos. GP21-016 and GP21-017), Rezoning (File Nos. C21-041 and C21-042), and an Ordinance Amendment (File No. PP21-014) to the Airport Land Use Commission of Santa Clara County (“ALUC”) for a determination of consistency with the ALUC’s plans to the extent that the area covered by the subject General Plan Amendments, Rezoning, and Ordinance Amendment associated with the North 1st Street Local Transit Village plan falls

within the ALUC's Airport Influence Area surrounding Mineta San José International Airport ("SJC"); and

WHEREAS, on February 23, 2022, the ALUC, acting pursuant to its authority under Section 21676, determined that the project was consistent with ALUC policies as defined in the "Comprehensive Land Use Plan for San José International Airport" ("CLUP"), as the language regulating height in the San José Municipal Code Amendment (File No. PP21-014) requires conformance to the CLUP's Part 77 Surfaces (a requirement governed by the Federal Aviation Administration (FAA)) and a "no hazard determination" will be required of development projects to meet this FAA requirement; and

WHEREAS, pursuant to Senate Bill 330, the proposed ordinance amendments (File No. PP21-014) reduce the intensity of residential uses because the proposed ordinance amendments would decrease the maximum heights for certain properties located within the North 1st Street Local Transit Village boundary thereby reducing the residential capacity when the Village by 0.07 units; however, there is no net loss of residential capacity because there are 15,356 units of capacity created through previous Council approved upzonings, which, under Senate Bill (SB) 940, can be used to offset the reduce residential capacity resulting from the approval of this proposed ordinance; and

WHEREAS, the City Council of the City of San José is the decision-making body for this Ordinance; and

WHEREAS, this Council of the City of San José has considered and approves the information contained in the FEIR, as supplemented and with the addenda thereto, and related City Council Resolution Nos. 76041 and 77617 and the determination of consistency therewith prior to taking any approval actions on this Ordinance;

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

SECTION 1. Section 20.85.020 of Part 2 of Chapter 20.85 of Title 20 of the San José Municipal Code is amended to read as follows:

20.85.020 Geographic area specific height restrictions.

The following geographical areas shall be subject to specific height restrictions as described below:

- A. Downtown. For the downtown zoning area defined in Section 20.70.010, the maximum allowable height for new buildings and structures shall be defined by the airspace requirements of the Norman Y. Mineta San José International Airport as determined by the Federal Aviation Administration.

- B. Downtown frame. In the downtown frame area, consisting of the area adjacent to the downtown and bounded by Taylor Street, 11th Street, Keyes Street, Monterey Road, Willow Street, the Union Pacific Railroad line, and the boundaries of the downtown zoning area, the maximum allowable building height is one hundred twenty feet in any event, except:
 - 1. North 1st Street Local Transit Village Exception. Properties within the boundary of the North 1st Street Local Transit Village shall comply with the maximum building heights specified in the applicable Urban Village Plan; however, in no event shall the maximum allowable height for new buildings and structures exceed the height limitations of the airspace requirements of the Norman Y. Mineta San José International Airport as specified in the Comprehensive Land Use Plan (CLUP) for the Norman Y. Mineta San Jose International Airport adopted by the Santa Clara County Airport Land Use Commission (ALUC)

which requires height to comply with the Federal Aviation Administration Part 77 Surfaces.

C. Employment centers. The following height restrictions consolidate and set forth those height restrictions applicable to certain geographic areas:

1. For the North San José area located to the north and west of Interstate 880, the maximum allowable building height shall be as follows:
 - a. For the portion of North San José within the area bounded by Zanker Road, Montague Expressway, Orchard Drive, Orchard Parkway, the planned extension of Component Drive, the Guadalupe River, Highway 101, and Zanker Road, the maximum allowable building height shall be defined by the airspace requirements of the Norman Y. Mineta San José International Airport as determined by the Federal Aviation Administration, but shall not exceed two hundred fifty feet in any event; and
 - b. For the portion of North San José within the area bounded by North Fourth Street, Highway 101, North First Street and the planned extension of Skyport Drive, the maximum allowable building height shall be defined by the airspace requirements of the Norman Y. Mineta San José International Airport as determined by the Federal Aviation Administration, but shall not exceed three hundred ten feet in any event; and
 - c. For the portion of North San José bounded by Headquarters Drive, North First Street and Highway 237, the maximum allowable building height is two hundred ten feet; and
 - d. For the portion of North San José within the area bounded by Keoncrest Avenue, Sonora Avenue, Route 87 and Interstate 880, the maximum allowable building height is thirty-five feet; and

- e. For the portion of North San José within the area not otherwise regulated by provisions in Section 20.85.020C.1.a., b., c., or d., or by provisions in Section 20.85.020D., or by provisions in Section 20.85.020E., the maximum allowable building height is one hundred twenty feet.
2. For the portion of the Old Edenvale area bounded by Great Oaks Boulevard, Highway 85, Miyuki Drive and Santa Teresa Boulevard, the maximum allowable building height shall be defined by the airspace requirements of the Norman Y. Mineta San José International Airport as determined by the Federal Aviation Administration, but shall not exceed two hundred fifty feet in any event.
3. For properties in the portion of the Old Edenvale area bounded by Monterey Highway, Highway 85 and Cottle Road, the maximum allowable building height is one hundred twenty feet.
4. For other properties located within the New Edenvale area bounded by Silicon Valley Boulevard, Piercy Road, Hellyer Avenue, the Coyote Creek Trail, Silver Creek Valley Road, and Highway 101, maximum allowable building height is one hundred twenty feet.
5. In the portion of Coyote Planning Area designated as industrial park on the general plan land use/transportation diagram, the maximum allowable building height is one hundred thirty-five feet.
6. For those properties within the City of San José bounded by Coleman Avenue, Interstate 880 and the Union Pacific Railroad line, the maximum allowable building height shall be defined by the airspace requirements of the Norman Y. Mineta San José International Airport as determined by the Federal Aviation Administration.
7. On the Norman Y. Mineta San José International Airport property within the jurisdiction of the City of San José that is bounded by Interstate 880, Highway

101, Route 87, Coleman Avenue, and the jurisdictional boundaries of the City of Santa Clara, which property is designated public/quasi-public on the Envision San José 2040 General Plan Land Use/Transportation Diagram, the maximum allowable building height shall be defined by the airspace requirements of the Norman Y. Mineta San José International Airport as determined by the Federal Aviation Administration.

D. Transit areas. For properties wholly or partially located within a radius of two thousand feet of an existing or planned passenger rail station along the Guadalupe Light Rail Corridor north of Montague Expressway, the maximum allowable building height shall not exceed two hundred feet. For properties wholly or partially located within a radius of two thousand feet of an existing or planned passenger rail station along the Guadalupe Light Rail Corridor north of downtown and south of Montague Expressway, or along the planned BART corridor (as shown on the general plan land use/transportation diagram), the maximum allowable building height shall not exceed one hundred fifty feet. For properties located wholly or partially within a radius of two thousand feet of other existing or planned passenger rail stations (as shown on the general plan land use/transportation diagram), the maximum allowable building height shall not exceed one hundred twenty feet. In instances where multiple specific height restrictions would apply to a use described in this Section 20.85.020.D., other than uses located within an airport influence area, the most permissive applicable regulation shall govern. For uses located within an airport influence area, the most restrictive applicable regulations shall govern.

1. North 1st Street Local Transit Village Exception. Notwithstanding any other height exception in Chapter 20.85, properties within the boundary of the North 1st Street Local Transit Village shall comply with the maximum heights specified in the applicable Urban Village Plan; however, in no event will the maximum allowable height for new buildings and structures exceed the height

limitations of the airspace requirements specified in the Comprehensive Land Use Plan (CLUP) for the Norman Y. Mineta San Jose International Airport adopted by the Santa Clara County Airport Land Use Commission (ALUC) which requires height to comply with the Federal Aviation Administration Part 77 Surfaces.

E. Urban village areas. For properties identified on the general plan land use/transportation diagram as being located wholly or partially within an urban village area boundary, and which have an urban village, neighborhood/ community commercial, regional commercial or public quasi/public general plan land use/transportation diagram designation, the maximum allowable building height shall not exceed one hundred twenty feet on the property, or portion thereof, located within the urban village area boundary. Notwithstanding the general height restriction applicable in an urban village area boundary, the maximum allowable building height within the following specifically-identified urban village sub-areas shall be as follows:

1. Rincon South Urban Village. For the Urban Village area bounded by Old Bayshore Highway, North First Street, Skyport Drive, Technology Drive and Airport Parkway, the maximum allowable Building Height shall be defined by the airspace requirements of the Norman Y. Mineta San José International Airport as determined by the Federal Aviation Administration, but not to exceed two hundred feet in any event, except that on the southeasterly corner of Airport Parkway and Old Bayshore Highway, the maximum allowable building height shall be defined by the airspace requirements of the Norman Y. Mineta San José International Airport as determined by the Federal Aviation Administration, but shall not exceed two hundred twenty feet in any event.

PASSED FOR PUBLICATION of title this ___ day of _____, 2022 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk