



CITY COUNCIL STAFF REPORT

File Nos.	C23-082, C23-083, C23-084, C23-085, C23-086, C23-087, C23-088
Location	91 parcels at various locations within the City of San José.
Existing Zoning	A Agriculture, CP Commercial Pedestrian, CN Commercial Neighborhood, CG Commercial General, CO Commercial Office, HI Heavy Industrial, IP Industrial Park, LI Light Industrial, R-1-5 and R-1-8 Single-Family Residential.
Proposed Zoning	CP Commercial Pedestrian, CN Commercial Neighborhood, MUC Mixed Use Commercial, MUN Mixed Use Neighborhood, R-1-8 Single-Family Residential, TEC Transit Employment Center, TR Transit Residential, UR Urban Residential, UV Urban Village.
CEQA:	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:

Approve an ordinance of the City of San José rezoning 15 properties from the CP Commercial Pedestrian Zoning District to UR Urban Residential Zoning District, 12 properties from CP Commercial Pedestrian Zoning District to UV Urban Village Zoning District, eight properties from IP Industrial Park Zoning District to TEC Transit Employment Center Zoning District, six properties from R-1-8 Single-Family Residential Zoning District to CP Commercial Pedestrian Zoning District, six properties from HI Heavy Industrial Zoning District to UV Urban Village Zoning District, five properties from R-M Zoning District to MUN Mixed Use Neighborhood Zoning District, four properties from CG Commercial General Zoning District to UV Urban Village Zoning District, four properties from HI Heavy Industrial Zoning District to UR Urban Residential Zoning District, four properties from LI Light Industrial Zoning District to MUN Mixed Use Neighborhood Zoning District, three properties from CP Commercial Pedestrian Zoning District to MUC Mixed Use Commercial Zoning District, three properties from CP Commercial Pedestrian Zoning District to MUN Mixed Use Neighborhood Zoning District, two properties from CN Commercial Neighborhood Zoning District to UV Urban Village Zoning District, two properties from CO Commercial Office Zoning District to MUC Mixed Use Commercial Zoning District, two properties from R-1-8 Single-Family Residential Zoning

District to UR Urban Residential Zoning District, two properties from R-2 Two-Family Residential Zoning District to UV Urban Village Zoning District, two properties from R-M Multifamily Residential Zoning District to CP Commercial Pedestrian Zoning District, two properties from R-M Zoning District to UR Urban Residential Zoning District, one property from A Agriculture Zoning District to TR Transit Residential Zoning District, one property from A Agriculture Zoning District to MUN Mixed Use Neighborhood Zoning District, One property from R-1-5 Single-Family Residential Zoning District to CP Commercial Pedestrian Zoning District, one property from R-1-8 Single-Family Residential Zoning District to MUN Mixed Use Neighborhood Zoning District, one property from R-2 Two-Family Residential Zoning District to MUN Mixed Use Neighborhood Zoning District, one property from R-2 Two-Family Residential Zoning District to CP Commercial Pedestrian Zoning District, one property from R-M Multifamily Residential Zoning District to Transit Residential Zoning District, one property from R-1-8 Single-Family Residential Zoning District to CN Commercial Neighborhood Zoning District and one property from R-M Multifamily Residential Zoning District to UV Urban Village Zoning District, located in various locations on those certain real properties within the City of San José.

PROJECT DATA

GENERAL PLAN CONSISTENCY	
General Plan Designation	<p>MUC Mixed Use Commercial, MUN Mixed Use Neighborhood, NCC Neighborhood Community/Commercial, RN, TEC Transit Employment Center, TR Transit Residential, UR Urban Residential, UV Urban Village.</p> <p><input checked="" type="checkbox"/> Consistent <input type="checkbox"/> Inconsistent</p>
Consistent Policies	Implementation Policies IP-1.7, IP-8.2, IP-8.3

PROJECT DESCRIPTION

City-initiated Conforming Rezoning to rezone a total of 91 properties. The 91 properties would be rezoned as follows: 15 properties from the CP Commercial Pedestrian Zoning District to UR Urban Residential Zoning District, 12 properties from CP Commercial Pedestrian Zoning District to UV Urban Village Zoning District, eight properties from IP Industrial Park Zoning District to TEC Transit Employment Center Zoning District, six properties from R-1-8 Single-Family Residential Zoning District to CP Commercial Pedestrian Zoning District, six properties from HI Heavy Industrial Zoning District to UV Urban Village Zoning District, five properties from R-M Zoning District to MUN Mixed Use Neighborhood Zoning District, four properties from CG Commercial General Zoning District to UV Urban Village Zoning District, four properties from HI Heavy Industrial Zoning District to UR Urban Residential Zoning District, four properties from LI Light Industrial Zoning District to MUN Mixed Use Neighborhood Zoning District, three properties from CP Commercial Pedestrian Zoning District to MUC Mixed Use Commercial Zoning District, three properties from CP Commercial Pedestrian Zoning District to MUN Mixed Use Neighborhood Zoning District, two properties from CN Commercial Neighborhood Zoning District to UV Urban Village Zoning District, two properties from CO Commercial Office Zoning District to MUC

Mixed Use Commercial Zoning District, two properties from R-1-8 Single-Family Residential Zoning District to UR Urban Residential Zoning District, two properties from R-2 Zoning District to UV Urban Village Zoning District, two properties from R-M Zoning District to CP Commercial Pedestrian Zoning District, two properties from R-M Zoning District to UR Urban Residential Zoning District, one property from A Agriculture Zoning District to TR Transit Residential Zoning District, one property from A Agriculture Zoning District to MUN Mixed Use Neighborhood Zoning District, One property from R-1-5 Single-Family Residential Zoning District to CP Commercial Pedestrian Zoning District, one property from R-1-8 Single-Family Residential Zoning District to MUN Mixed Use Neighborhood Zoning District, one property from R-2 Zoning District to MUN Mixed Use Neighborhood Zoning District, one property from R-2 Zoning District to CP Commercial Pedestrian Zoning District, one property from R-M Zoning District to Transit Residential Zoning District, one property from R-1-8 Single-Family Residential Zoning District to CN Commercial Neighborhood Zoning District and one property from R-M Zoning District to UV Urban Village Zoning District, located in various locations on those certain real properties within the City of San José. The specific locations of the parcels to be rezoned are specified in the proposed rezoning ordinance, attached hereto and incorporated herein by reference as Attachment – Draft Ordinance.

Background

Government Code section 65860 (amended in 2018 by Senate Bill 1333) requires charter cities such as San José to make zoning consistent with the General Plan land use designation. To comply with the recent change in State law and to streamline the development review process for projects consistent with the General Plan, staff has been working on a multiyear effort to make the zoning district map consistent with the Envision San José 2040 General Plan land use map. The first phase of this work (Phase 1(a)) was approved by City Council in June 2019, which aligned the existing zoning districts with their respective General Plan designations, including changes to permitting requirements in the Zoning Ordinance 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.

Rezoning properties to make zoning districts consistent with the General Plan land use designations represents the final phase of work to bring the Zoning District Map into conformance with the General Plan land use map. At this time, staff is proposing the rezoning of 91 properties to make consistent their designated zoning with their General Plan land use designation. The proposed 91 properties are located in various locations, as indicated on the attached draft Ordinance and shown on the maps. (Attachment)

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
- 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 CP Commercial Pedestrian, MUC Mixed Use Commercial, MUN Mixed Use Neighborhood, R-1-8 Single-Family Residential, TEC Transit Employment Center, TR Transit Residential, UR Urban Residential, UV Urban Village. (see Exhibit A-1 of the attached ordinance).

MUC Mixed Use Commercial: This designation is intended to accommodate a mix of commercial and residential uses with an emphasis on commercial activity. New development of a property with this designation should accordingly include commercial space equivalent to at least a 0.5 FAR for residential/commercial mixed-use projects and 0.25 FAR for commercial projects with a typically appropriate overall FAR of up to 4.5, allowing for a medium intensity of development. This designation, therefore, is more commercially focused than the Mixed-Use Neighborhood designation and also allows for a greater intensity of use. Appropriate commercial uses include neighborhood retail, mid-rise office, medium-scale hospitals or other health care facilities, and medium-scale private community gathering facilities. Low-impact industrial uses are appropriate if they are compatible and do not pose a hazard to other nearby uses.

MUN Mixed Use Neighborhood: This designation supports commercial or mixed-use development integrated within the Mixed-Use Neighborhood area. This designation should be used to establish new neighborhoods with a cohesive urban form, to provide a transition between higher-density and lower-density neighborhoods, or to facilitate new infill development within an existing area that does not have an established cohesive urban character. Hospitals and other healthcare facilities may potentially be located within Mixed Use Neighborhood areas provided that any potential land use impacts can be mitigated. This designation may also be appropriate for areas in close proximity to urban amenities (such as transit stations), but that is not within a proposed Urban Village area. Development within this designation should occur through the use of standard Zoning Districts which specify the minimum lot size. Development at higher ends of the density range will typically require larger lot sizes (or a combination of existing lots) and must still meet Community Design Policies in the Envision General Plan and applicable design guidelines. The allowable density/intensity for mixed-use development will be determined using an allowable Floor Area Ratio (FAR) (0.25 to 2.0) rather than Dwelling Units per Acre (DU/AC) to better address the urban form and to potentially allow fewer units per acre if in combination with other non-residential uses such as commercial or office.

NCC Neighborhood Community/Commercial: This designation supports a very broad range of commercial activity, including commercial uses that serve the communities in neighboring areas, such as neighborhood-serving retail and services and commercial/professional office development. Neighborhood / Community Commercial uses typically have a strong connection to and provide services and amenities for the nearby community and should be designed to promote that connection with an appropriate urban form that supports walking, transit use, and public interaction. General office uses, hospitals, and private community gathering facilities are also allowed in this designation. This designation also supports one hundred percent (100%) deed-restricted affordable housing developments that are consistent with General Plan Policy H-2.9 and Policy IP-5.12.

RN Residential Neighborhood: This designation is applied broadly throughout the city to encompass most of the established, single-family residential neighborhoods, including both the

suburban and traditional residential neighborhood areas which comprise the majority of its developed land. The intent of this designation is to preserve the existing character of these neighborhoods and to strictly limit new development to infill projects which closely conform to the prevailing existing neighborhood character as defined by density, lot size and shape, massing and neighborhood form and pattern. New infill development should improve and/ or enhance existing neighborhood conditions by completing the existing neighborhood pattern and bringing infill properties into general conformance with the quality and character of the surrounding neighborhood. New infill development should be integrated into the existing neighborhood pattern, continuing and, where applicable, extending or completing the existing street network. The average lot size, orientation, and form of new structures for any new infill development must therefore generally match the typical lot size and building form of any adjacent development, with particular emphasis given to maintaining consistency with other development that fronts onto a public street to be shared by the proposed new project.

TEC Transit Employment Center: This designation is applied to areas planned for intensive job growth because of their importance as employment districts to the city and their high degree of access to transit and other facilities and services. To support San José's growth as a Regional Employment Center, it is useful to designate such key Employment Centers along the light rail corridor in North San José, in proximity to the BART and light rail facilities in the Berryessa/Milpitas area, and in proximity to light rail in the Old Edenvale area. All of these areas fall within identified Growth Areas and have access to transit and other important infrastructure to support their intensification.

TR Transit Residential: This is the primary designation for new high-density, mixed-use residential development sites that are located in close proximity to transit, jobs, amenities, and services. This designation may also be appropriate for some sites within Urban Village areas as identified through an Urban Village Planning process. This designation also supports intensive commercial employment uses, such as office, retail, hotels, hospitals, and private community gathering facilities. To help contribute to "complete communities," commercial uses should be included with new residential development in an amount consistent with the achievement of the planned job growth and Urban Village Plan for the relevant Urban Village area. The allowable density/intensity for commercial projects is a FAR of 2.0 to 12.0 with a minimum FAR of 2.0. Residential/commercial mixed-use development shall require a minimum of 50 DU/AC with a maximum of FAR of 12.0. The allowable density for this designation is further defined within the applicable Zoning Ordinance designation and may also be addressed within an Urban Village Plan or other policy documents.

UR Urban Residential: This designation allows for medium-density residential development and a fairly broad range of commercial uses, including retail, offices, hospitals, and private community gathering facilities, within identified Urban Villages, in other areas within the City that have existing residential development built at this density, within Specific Plan areas, or in areas in close proximity to an Urban Village or transit facility where intensification will support those facilities. Any new residential development at this density should be in Growth Areas or, on a very limited basis, as infill development within areas with characteristics similar to the Urban Village areas (generally developed at high density and in proximity to transit, jobs, amenities and other services). The allowable density for this designation is further defined within the applicable Zoning Ordinance designation and may also be addressed within an Urban Village Plan or other policy documents. This designation is also used to identify portions of Urban Village areas where the density of new development should be limited to a medium intensity in

order to provide for a gradual transition between surrounding low-density neighborhoods and other areas within the Urban Village suitable for greater intensification. The allowable density/intensity for mixed-use development will be determined using an allowable FAR (1.0 to 4.0) to better address the urban form and potentially allow fewer units per acre if in combination with other uses such as commercial or office. Developments in this designation would typically be three to four stories of residential or commercial uses over parking.

UV Urban Village: This designation is applied within the Urban Village areas that are planned in the current Horizon to accommodate higher density housing growth along with a significant amount of job growth. This designation is also applied in some cases to specific sites within Urban Village Area Boundaries that have received entitlements for Urban Village type development. This designation supports a wide variety of commercial, residential, institutional, or other land uses with an emphasis on establishing an attractive urban form in keeping with the Urban Village concept. Development within the Urban Village designation should conform to land use and design standards established with an adopted Urban Village Plan, which specifies how each Urban Village will accommodate the planned housing and job growth capacity within the identified Urban Village Growth Area. Prior to the preparation of an Urban Village Plan, this designation supports uses consistent with those of the Neighborhood Community Commercial designation, as well as the development of Signature Projects as described in the Envision General Plan Implementation policies. Following the preparation of an Urban Village Plan, the appropriate use for a site will be commercial, residential, mixed-use, public facility, or other use as indicated within the Urban Village plan as well as those uses supported by the Neighborhood/Community Commercial designation.

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 General Plan land use designations for the proposed sites include, MUC, MUN, NCC, RN, TEC, TR, UR, and UV. Therefore, staff proposes a Conforming Rezoning of the properties from the A to TR, A to MUN, CG to UV, CN to UV, CO to MUC, CP to MUC, CP to MUN, CP to UR, CP to UV, HI to UR, HI to UV, IP to TEC, LI to MUN, MS-G to UV, R-1-5 to CP, R-1-8 to MUN, R-1-8 to CP, R-1-8 to UR, R-2 to MUN, R-2 to UV, R-2 to CP, R-M to MUN, R-M to CP, R-M to TR, R-M to UR, R-1-8 to CN and R-M to UV. 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 in Section 20.120.110 of the San José Municipal Code, which identifies the A, CP, CN, CG, CO, HI, IP, LI, R-1-5, and R-1-8 Zoning District as a conforming district to the respective CP, CN, MUC, MUN, R-1-8, TEC, TR, UR, and UV General Plan land use designations. (see Exhibit A of the attached ordinance). The proposed rezoning would allow the properties to be used and developed in accordance with the allowable uses in Title 20 of the San José Municipal Code.

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 the 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.

Approval of File Nos. C23-082, C23-083, C23-084, C23-085, C23-086, C23-087, and C23-088 would not result in a decrease of residential capacity. Among the properties that are the subject of the proposed rezoning, 26 properties would have a reduction of a total of 922 residential unit capacity, 55 properties would have an increase of a total of 10,079 residential unit capacity, and 10 properties would not have any change in residential capacity. Thus, the proposed rezoning would not result in any decrease in residential unit capacity but will result in a 9,157 units residential capacity increase, which complies with SB330 requirements.

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 (FEIR), for which findings were adopted by City Council Resolution No. 76041 on November 1, 2011 and Supplemental Environmental Impact Report (SEIR) adopted by City Council Resolution No. 77617 on December 15, 2015, and addenda thereto. The FEIR, 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 FEIR, SEIR, and Addenda have been identified, nor have any new mitigation measures or alternatives that are considerably different from those analyzed in the FEIR, SEIR, and Addenda been identified.

PUBLIC HEARING NOTIFICATION

Staff followed Council Policy 6-30: Public Outreach Policy. Planning staff distributed notices to the property owners and tenants for File Nos. C23-082, C23-083, C23-084, C23-085, C23-086, C23-087, and C23-088 on April 3, 2023, to provide information on the proposed Conforming Rezoning. Staff included their contact information on the notice and have been available to answer any questions that property owners and tenants may have. The notice also included directions to the Rezoning and General Plan Alignment website which has information to assist property owners and tenants with the process and includes frequently asked questions. The notice also included directions to our interactive Rezoning Map Viewer where the community can view the rezonings that are happening within their neighborhood and throughout the City.

Subsequent to sending the rezoning notice to affected property owners and tenants, a notice of the public hearing was distributed to the owners and tenants of all properties located within 300 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/
Christopher Burton, Director
Planning, Building and Code Enforcement

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

Attachment: Draft Ordinance