



CITY COUNCIL STAFF REPORT

File Nos.	C21-006
Applicant:	SK Hynix America, Inc.
Location	Northside of Montague Expressway approximately 640 feet west of North First Street (APN 097-06-055)
Existing Zoning	A(PD) Planned Development (File No. PDC05-099)
Proposed Zoning	IP Industrial Park
Council District	4
Historic Resource	No
Annexation Date:	February 1, 1979 (Orchard No_85)
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

APPLICATION SUMMARY:

Conforming Rezoning from an A(PD) Planned Development Zoning District to the IP Industrial Park Zoning District on an approximately 11.19-gross acre site.

RECOMMENDATION:

1. Approve an ordinance rezoning the approximately 11.19-gross acre site located on the north side of Montague Expressway approximately 640 feet west of North First Street from the A(PD) Planned Development Zoning District to the IP Industrial Park Zoning District.

PROJECT DATA

GENERAL PLAN CONSISTENCY			
General Plan Designation		Industrial Park <input checked="" type="checkbox"/> Consistent <input type="checkbox"/> Inconsistent	
Consistent Policies		Implementation Policies IP-1.1, IP-1.7, IP-8.2, and IP-8.3	
SURROUNDING USES			
	General Plan Land Use	Zoning	Existing Use
North	Industrial Park	IP Industrial Park	VTA Headquarters
South	Industrial Park	A(PD) Planned Development (File No. PDC81-155)	Office Park
East	Industrial Park	IP Industrial Park	Office Park
West	Open Space, Parkland and Habitat	N/A	Guadalupe River

RELATED APPROVALS	
Date	Action
4/17/2007	Planned Development Rezoning from the IP Industrial Park Zoning District to an A(PD) Zoning District (File No. PDC05-099) to allow up to 575 single-family attached residential units and up to 2,700 square feet of commercial space on an approximately 11.19-gross acre site.
12/14/2007	Vesting Tentative Map (File No. PT06-086) to reconfigure one parcel into seven parcels for up to 528 single-family attached residential condominiums on an approximately 11.19-gross acre site.
6/22/2007	Planned Development Permit (File No. PD06-048) to construct 245 attached residential units on an approximately 4.83-gross acre site.
6/22/2007	Planned Development Permit (File No. PD06-051) to construct 104 single-family attached residences on an approximately 1.49-gross acre site.
6/22/2007	Planned Development Permit to construct 50 single-family attached residences and dedication of land for potential park or residential development on an approximately 1.90-gross acre site
6/22/2007	Planned Development Permit to construct 127 multifamily attached residences and 4,223 square feet of retail on an approximately 1.74-gross acres site

PROJECT DESCRIPTION

On March 2, 2021, the applicant, SK Hynix America, Inc. filed an application to rezone an approximately 11.19-gross acre site from an A(PD) Planned Development Zoning District the IP Industrial Park Zoning District.

Background

The vacant, 11.19-gross acre site is located on the north side of Montague Expressway approximately 640 feet west of North First Street (See Figure 1). The site is surrounded by commercial and industrial uses to the north, south, and east, and is bordered by the Guadalupe

River to the west. There are no other active planning development permit applications on file for the subject site.

The site was previously planned as a multi-phase mixed use residential project. As shown in the Related Approvals table, a previous project was approved at the subject site. In 2007, the site was rezoned from the IP Industrial Park Zoning District to an A(PD) Planned Development Zoning District (File No. PDC05-099) to allow up to 575 residential units and approximately 2,700 square feet of commercial space. An associated Vesting Tentative Subdivision Map and four Planned Development Permits were also approved. However, a Final Subdivision Map was not filed, and no buildings were constructed. All associated development permits and the Tentative Subdivision Map expired on January 29, 2010.

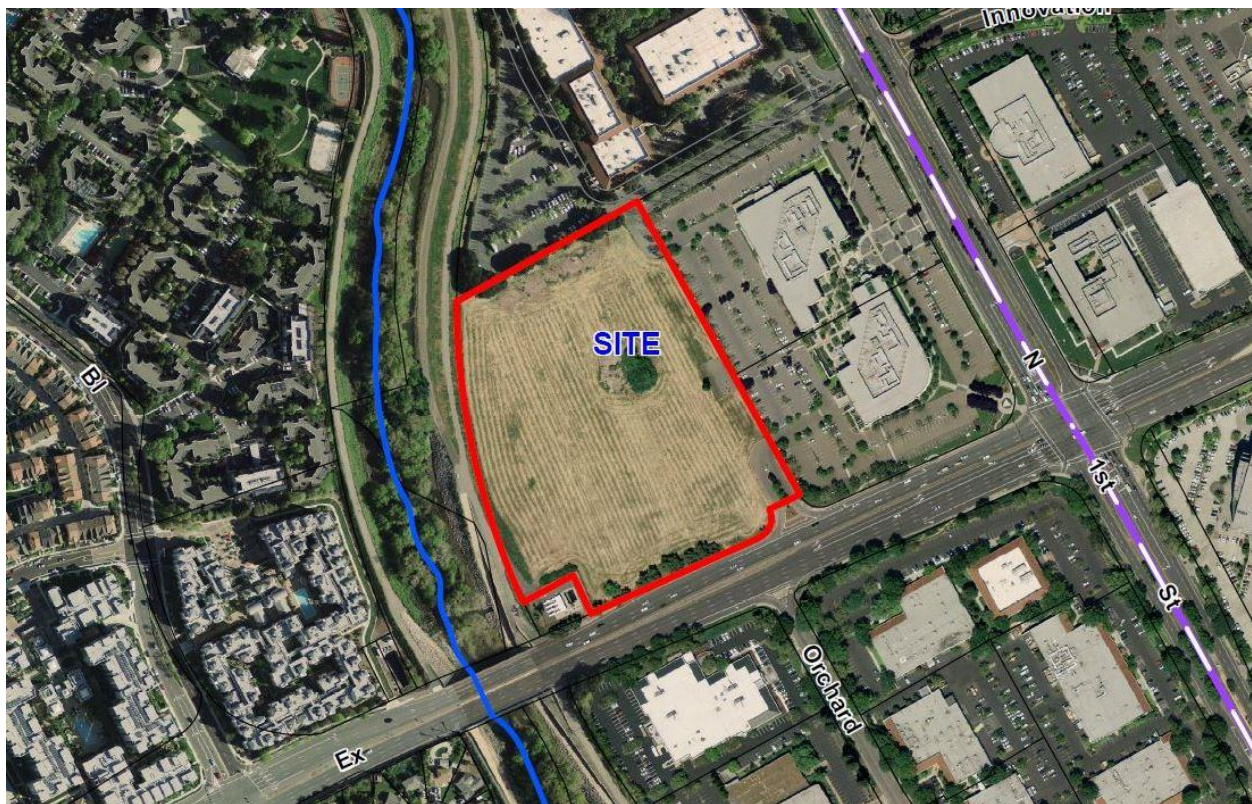


Figure 1: Aerial image of the subject site

The subject property is currently located in an A(PD) Planned Development Zoning District. The applicant has requested a Conforming Rezoning to rezone the site to the IP Industrial Park Zoning District, which would further bring the site into conformance with the General Plan Land Use/Transportation Diagram land use designation of Industrial Park.

ANALYSIS

The proposed project was analyzed for conformance with the following: 1) the *Envision San José 2040 General Plan*, 2) the Zoning Ordinance, 3) Senate Bill 330 “no net loss” requirements. The project was also evaluated under the California Environmental Quality Act (CEQA).

Envision San José 2040 General Plan Conformance

The subject site has an [*Envision San José 2040 General Plan*](#) Land Use/Transportation Diagram land use designation of Industrial Park (see Figure 2).



Figure 2: General Plan Land Use/Transportation Diagram

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. These commercial uses should typically be located within a larger industrial building to protect the character of the area and maintain land use compatibility. Additional flexibility may be provided for retail and service commercial uses, including hotels within the North San José Development Policy area and the Edenvale Development Policy area through the City's discretionary review and permitting process. One primary difference between this use category and the Light Industrial category is that, through the Zoning Ordinance, performance and design standards are more stringently applied to Industrial Park uses.

The rezoning is consistent with the following General Plan policies:

1. Implementation Policy IP-1.1 Land Use/Transportation Diagram: Use the *Envision General Plan* Land Use/Transportation Diagram designations to indicate the general intended land use, providing flexibility to allow for a mix of land uses, intensities and development forms compatible with a wide variety of neighborhood contexts and to designate the intended roadway network to be developed over the timeframe of the *Envision General Plan*. Use the Zoning designation to indicate the appropriate type, form and height of development for particular properties.
2. Implementation Policy IP-1.7 Land Use/Transportation Diagram: Ensure that proposals to rezone and prezone properties conform to the Land Use/Transportation Diagram, and advance *Envision General Plan* vision, goals and policies.
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.
4. Implementation Policy IP-8.2 - Zoning: 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.

Analysis: The project consists of a Conforming Rezoning of the property from the A(PD) Planned Development Zoning District to the Industrial Park Zoning District. This would bring the site into conformance with the existing General Plan land use designation of Industrial Park. The site is currently vacant. Any future development would be required to be consistent with the General Plan Land Use Designation of Industrial Park. Rezoning the site to Industrial Park would allow development that is consistent with the surrounding neighborhood, which consists of primarily office parks. Furthermore, any future development of the site would provide substantial employment growth. As discussed in more detail in the Zoning section below, the maximum allowed height at the subject site would be 120 feet. Any future development would also be required to conform with the development standards of the Industrial Park Zoning District and applicable design guidelines.

Zoning Ordinance Conformance

The proposed rezoning conforms with [Table 20-270, Section 20.120.110](#) of the San José Municipal Code, which identifies the Industrial Park Zoning District as a conforming district to the General Plan Land Use/Transportation Diagram land use designation of Industrial Park.

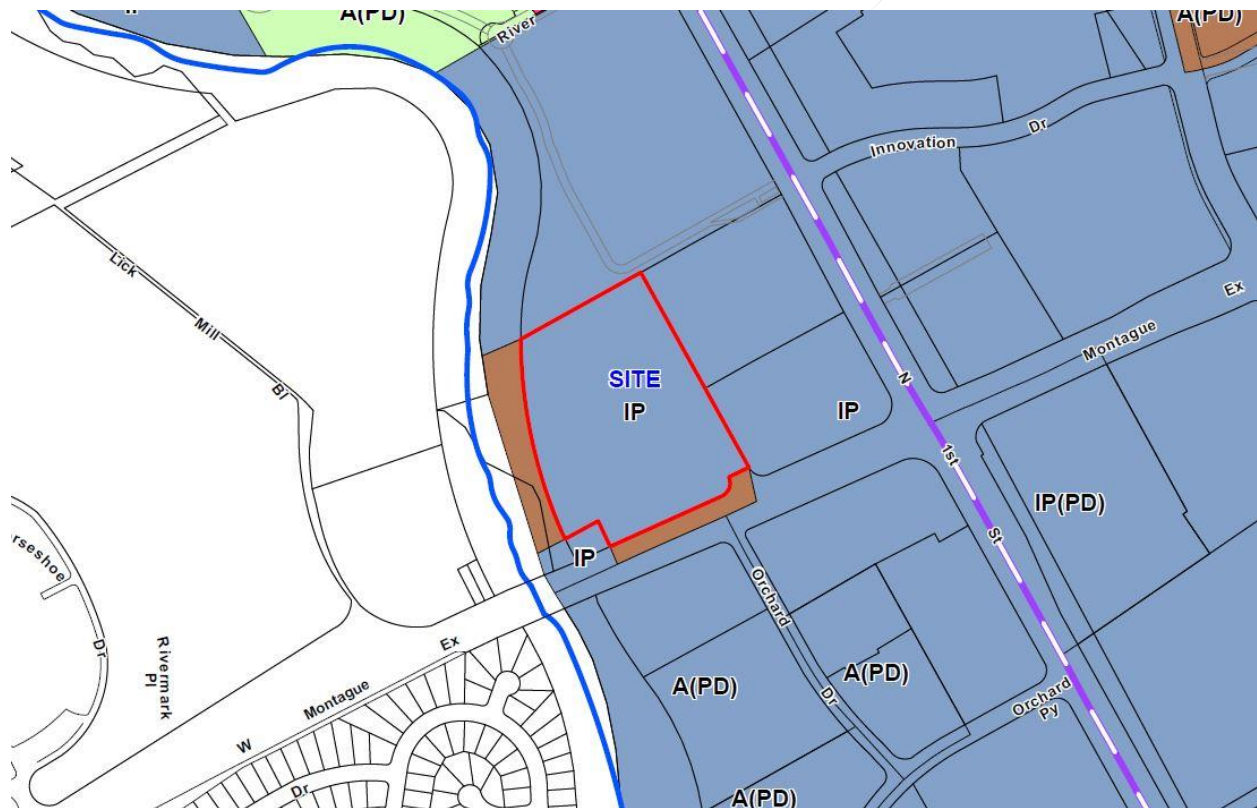


Figure 3: Proposed Zoning Map

The Industrial Park Zoning District would allow the property to be used and developed in accordance with the allowable uses in [Table 20-110](#), which includes a range of industrial, commercial, and office uses. This rezoning would facilitate the future redevelopment of the site to be consistent with the General Plan land use designation.

Setbacks and Heights

[Table 20-120](#) in [Section 20.50.200](#) of the San José Municipal Code establishes the following development standards for the IP Industrial Park Zoning District.

Standard	IP Zoning District
Minimum lot area (square feet)	10,000 square feet
Front setback (building)	15 feet
Front setback (parking and circulation for passenger vehicles)	25 feet
Front setback (parking for trucks and buses)	40 feet
Front setback (loading docks)	60 feet from property line
Side setback	0 feet
Rear setback	0 feet
Maximum height	120 feet (pursuant to Section 20.85.020Ce)

The Rezoning of the property from the A(PD) Planned Development Zoning District to the Industrial Park Zoning District would require any future development to adhere to the development standards set forth in [Table 20-120](#) of the San José Municipal Zoning Code. The subject site is located within the boundaries of the North San José Employment Area. Therefore, the maximum allowed height is 120 feet pursuant to [Section 20.85.020C.e.](#) of the San José Municipal Zoning Code for Specific Height Restrictions. All future development would be evaluated for conformance with the above development standards and all other Municipal Code regulations. The environmental impacts of future development on the site will also be evaluated under the California Environmental Quality Act (CEQA).

Allowed Uses

Any future use of the site would be required to adhere to the allowed uses established in the Industrial Park Zoning District pursuant to [Table 20-120](#) of the San José Municipal Zoning Code.

Senate Bill 330 Compliance

The Housing Crisis Act of 2019 (SB 330, 2019) limits the manner in which local governments may reduce the capacity for residential units that can be built on within the local agency's jurisdiction, including actions such as downzoning, 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 that work to reduce the amount of housing capacity in the jurisdiction. An exception to this limitation is that a property may be allowed to reduce intensity of residential uses if changes in land use designations or zoning elsewhere in the jurisdiction ensure there is no net loss in residential capacity within the jurisdiction.

The proposed rezoning (File No. C21-006) does reduce the intensity of residential uses. The existing A(PD) Planned Development Zoning District (File No. PDC05-099) allows a residential capacity of 575 units. The rezoning from A(PD) to Industrial Park would decrease the residential capacity by 575 units. This rezoning, if approved concurrently with File No. C21-005 would offset reduced intensity of residential capacity for proposed project File No. C21-006. Approval of File No. C21-005 would result in an increase of residential capacity by 644 units. Therefore,

approval of both rezonings concurrently would result in no net loss of residential capacity. The approval of both rezonings would result in a net increase in residential capacity of 69 units. If the rezoning for File No. C21-005 is not approved, then the subject rezoning, File No. C21-006, cannot be approved because there would be a loss of residential capacity.

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 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 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.

CLIMATE SMART SAN JOSÉ

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

CONCLUSION

Should the rezoning be approved by the City Council, the property would be rezoned from an A(PD) Planned Development Zoning District (File No. PDC05-009) to the Industrial Park Zoning District. Should the rezoning be approved by City Council, the applicant would be able to apply for development of the site consistent with the allowed uses of the Industrial Park General Plan Land Use Designation and Industrial Park Zoning District. There is currently no development project associated with this proposed rezoning.

PUBLIC HEARING NOTIFICATION

Staff followed Council Policy 6-30: Public Outreach Policy. 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.

/s/

ROSALYNN HUGHEY, Director

Planning, Building and Code Enforcement

For questions, please contact Robert Manford, Deputy Director, at (408) 535-7900.

Attachments: Legal Description & Plat Map
Draft Rezoning Ordinance

EXHIBIT "A"
LEGAL DESCRIPTION
LANDS OF SK HYNIX AMERICA INC.

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING ALL OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE GRANT DEED RECORDED ON NOVEMBER 28, 2018, AS INSTRUMENT NO. 24070566, OFFICIAL RECORDS OF SANTA CLARA COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

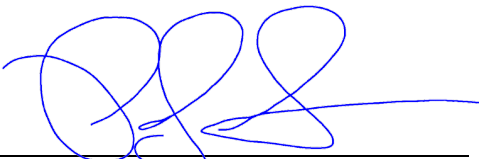
BEGINNING AT THE SOUTHEAST CORNER OF SAID PARCEL OF LAND, THENCE ALONG THE SOUTHERLY, WESTERLY, NORTHERLY AND EASTERLY LINES OF SAID PARCEL, THE FOLLOWING ELEVEN (11) COURSES:

1. SOUTH 64° 58' 34" WEST, 80.00 FEET,
2. ALONG THE ARC OF A 40.00 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT, WHOSE CENTER POINT BEARS SOUTH 64° 58' 34" WEST, THROUGH A CENTRAL ANGLE OF 90° 00' 00", AN ARC DISTANCE OF 62.83 FEET,
3. SOUTH 64° 58' 34" WEST, 439.53 FEET,
4. NORTH 25° 01' 26" WEST, 100.00 FEET,
5. SOUTH 64° 58' 34" WEST, 115.52 FEET,
6. ALONG THE ARC OF A 1330.00 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT, WHOSE CENTER POINT BEARS NORTH 59° 43' 35" EAST, THROUGH A CENTRAL ANGLE OF 05° 38' 06", AN ARC DISTANCE OF 130.81 FEET,
7. NORTH 03° 01' 10" WEST, 2.78 FEET,
8. NORTH 33° 18' 10" WEST, 6.58 FEET,
9. ALONG THE ARC OF A 1330.00 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT, WHOSE CENTER POINT BEARS NORTH 65° 45' 11" EAST, THROUGH A CENTRAL ANGLE OF 24° 50' 50", AN ARC DISTANCE OF 576.78 FEET,
10. NORTH 59° 59' 42" EAST, 482.38 FEET,
11. SOUTH 29° 58' 47" EAST, 801.75 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 487,229 SQUARE FEET OR 11.1852 ACRES OF LAND, MORE OR LESS.

AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART OF.

DESCRIPTION PREPARED BY KIER & WRIGHT CIVIL ENGINEERS AND SURVEYORS, INC.



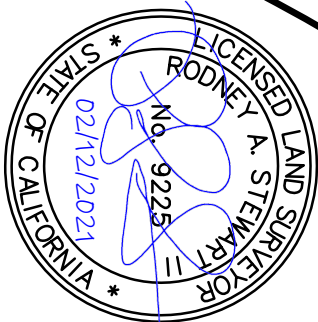
RODNEY A STEWART II, LS 9225

02/12/2021

DATE



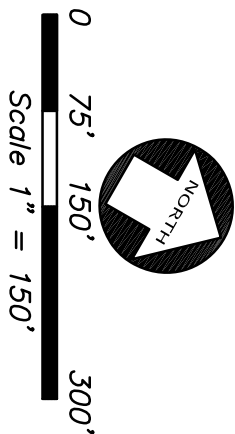
S59°59'42"W 482.38'



LANDS OF SK HYNIX
AMERICA INC.
24070566 OR
(APN 097-06-055)
487,229± SF
(11.1852± ACRES)

N29°58'47"W 801.75'

LANDS OF HYNIX
SEMICONDUCTOR AMERICA INC.
PARCEL ONE, 21136496 OR
(APN 097-06-047)



LANDS OF HYNIX
SEMICONDUCTOR AMERICA INC.
PARCEL TWO, 21136496 OR
(APN 097-06-060)

LEGEND

APN OR (R)	ASSESSORS PARCEL NUMBER OFFICIAL RECORDS RADIAL BEARING SQUARE FEET
------------------	--

R=40.00'
D=90°00'00"
L=62.83'

POINT OF
BEGINNING

S64°58'34"W 439.53'
MONTAGUE EXPRESSWAY

S64°58'34"W (R)

S64°58'34"W 115.52'

N59°43'35"E (R)
R=1330.00' D=5°38'06" L=130.81'

N3°01'10"W 2.78'

N33°18'10"W 6.58'

N65°45'11"E (R)

R=1330.00' D=24°50'50" L=576.77'



KIER+WRIGHT

3350 Scott Boulevard, Building 22
Santa Clara, California 95054

Phone: (408) 727-6665
www.kierwright.com

SAN JOSE,

LANDS OF SK HYNIX AMERICA INC.

EXHIBIT "B"

CALIFORNIA

DATE	FEBRUARY 2021
SCALE	1" = 150'
BY	RAS II
JOB NO.	A20153
SHEET	1 OF 1

NORTH FIRST STREET

Parcel Map Check Report

Client:

Client

Client Company

Address 1

Date: 2/12/2021 4:27:27 PM

Prepared by:

Rodney A Stewart II, LS 9225

Kier & Wright Civil Engineers & Surveyors, Inc.

3350 Scott Blvd, Bldg 22, Santa Clara, CA 95054

Parcel Name: CLOSURE-BNDRY - LANDS OF SK HYNIX AMERICA INC.

Description:

Process segment order counterclockwise: False

Enable mapcheck across chord: False

North: 6,056.0469'

East: 3,778.8663'

Segment# 1: Line

Course: S29°58'47"E

Length: 801.75'

North: 5,361.5692'

East: 4,179.4955'

Segment# 2: Line

Course: S64°58'34"W

Length: 80.00'

North: 5,327.7295'

East: 4,107.0050'

Segment# 3: Curve

Length: 62.83'

Radius: 40.00'

Delta: 90°00'00"

Tangent: 40.00'

Chord: 56.57'

Course: S19°58'34"W

Course In: S64°58'34"W

Course Out: S25°01'26"E

RP North: 5,310.8097'

East: 4,070.7597'

End North: 5,274.5644'

East: 4,087.6796'

Segment# 4: Line

Course: S64°58'34"W

Length: 439.53'

North: 5,088.6450'

East: 3,689.4076'

Segment# 5: Line

Course: N25°01'26"W

Length: 100.00'

North: 5,179.2581'

East: 3,647.1080'

Segment# 6: Line

Course: S64°58'34"W

Length: 115.52'

North: 5,130.3936'

East: 3,542.4317'

Segment# 7: Curve

Length: 130.81'

Radius: 1,330.00'

Delta: 5°38'06"
Chord: 130.75'
Course In: N59°43'35"E
RP North: 5,800.8864'
End North: 5,246.4181'

Tangent: 65.46'
Course: N27°27'22"W
Course Out: S65°21'41"W
East: 4,691.0567'
East: 3,482.1460'

Segment# 8: Line

Course: N3°01'10"W
North: 5,249.1943'

Length: 2.78'
East: 3,481.9996'

Segment# 9: Line

Course: N33°18'10"W
North: 5,254.6937'

Length: 6.58'
East: 3,478.3868'

Segment# 10: Curve

Length: 576.78'
Delta: 24°50'50"
Chord: 572.27'
Course In: N65°45'11"E
RP North: 5,800.8851'
End North: 5,814.8190'

Radius: 1,330.00'
Tangent: 292.99'
Course: N11°49'24"W
Course Out: N89°23'59"W
East: 4,691.0594'
East: 3,361.1324'

Segment# 11: Line

Course: N59°59'42"E
North: 6,056.0455'

Length: 482.38'
East: 3,778.8647'

Perimeter: 2,798.96'
Error Closure: 0.0021
Error North : -0.00144

Area: 487,229.03Sq.Ft.
Course: S47°38'48"W
East: -0.00158

Precision 1: 1,332,838.10

DRAFT

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF SAN JOSE REZONING
CERTAIN REAL PROPERTY OF APPROXIMATELY 11.19
GROSS ACRES SITUATED ON THE NORTH SIDE OF
MONTAGUE EXPRESSWAY APPROXIMATELY 640 FEET
WEST OF NORTH FIRST STREET (APN: 097-06-055) FROM
THE A(PD) PLANNED DEVELOPMENT ZONING DISTRICT
TO THE IP INDUSTRIAL PARK ZONING DISTRICT**

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 that 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 IP Industrial Park 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 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 No. C21-006) does reduce the intensity of residential uses because the proposed rezoning does not allow for greater residential density than the existing A(PD) Planned Development Zoning District (File PDC05-099); the rezoning would decrease the residential capacity by 575 units, and further, this rezoning, if approved concurrently with File No. C21-005, would offset reduced intensity of residential capacity for the proposed project under File No. C21-006, resulting in no net loss of residential capacity. Approval of both rezonings would result in a net increase in residential capacity of 69 units.

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 IP Industrial Park 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, described in Exhibit "A" and depicted in Exhibit "B" 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 No. C21-006 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 _____, 2021 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk