



CITY COUNCIL STAFF REPORT

File Nos.	C21-010
Location	The six parcels are located in various locations east and south of the Urban Services Area boundary, including the East Foothills of San José on Sierra Road, on Miracle Mountain Drive north of the Boulder Ridge Golf Club, and in South San José on Casa Loma Road.
Existing Zoning	R-1-1 Residence Zoning District, A(PD) Planned Development Zoning District
Proposed Zoning	OS Open Space Zoning District
Council District	4, 10
Historic Resource	No
Annexation Date:	January 6, 1961, August 1, 1962, May 19, 1978, January 23, 1964
CEQA:	Initial Study/Addendum (File No. ER20-187) to the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041 and the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No.77617), and Addenda thereto.

RECOMMENDATION:

Staff recommends that the City Council:

1. Adopt a resolution adopting the Initial Study/Addendum (File No. ER20 187) to the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No.77617), and Addenda thereto, in accordance with CEQA, as amended.
2. Approve an ordinance rezoning six parcels totaling approximately 2,029-gross acres located in various locations east and south of the Urban Service Area boundary, including the East Foothills of San José on Sierra Road, on Miracle Mountain Drive north of the Boulder Ridge Golf Club, and in South San José on Casa Loma Road, from the R-1-1 Zoning District to the OS Open Space Zoning District.

PROPOSED PROJECT DATA

GENERAL PLAN CONSISTENCY			
General Plan Designation		Lower Hillside, Open Hillside, and Open Space, Parklands, and Habitat <input checked="" type="checkbox"/> Consistent <input type="checkbox"/> Inconsistent	
Consistent Policies		Implementation Policies IP-1.7, IP-8.2, LU-19.4	
SURROUNDING USES			
	General Plan Land Use	Zoning	Existing Use
North	Open Hillside	Unincorporated	Vacant
South	Open Hillside	R-1-1 Zoning District	Vacant and single-family housing
East	Open Hillside	Unincorporated	Vacant
West	Open Hillside	R-1-1 Zoning District and R-1-2 Zoning District	Vacant and single-family housing

RELATED APPROVALS

Date	Action
01/06/1961 08/01/1962 05/19/1978 01/23/1964	Sites annexed into the City of San José

PROJECT DESCRIPTION

City-initiated Conforming Rezoning to rezone six properties totaling approximately 2,029-gross acres from the R-1-1 Zoning District and the A(PD) Planned Development Zoning District to the OS Open Space Zoning District.

Background

In 2018, Senate Bill 1333 was approved by State legislation which requires charter cities such as San Jose to align their Zoning Ordinance and General Plan. To comply with State law, staff is proposing the rezoning of properties to align their zoning with their General Plan land use designation. The proposed conforming rezoning is to rezone six properties totaling approximately 2,029-gross acres from the R-1-1 Zoning District and the A(PD) Planned Development Zoning District to the OS Open Space Zoning District.

The site south of Sierra Road is surrounded by vacant land to the north and east and surrounded by vacant land and single-family housing to the south and west (Figure 1). The site south of Miracle Mountain Drive is surrounded by single-family to the north and vacant land to the south, east, and west (Figure 2). The site south of Casa Loma Road is completely surrounded by vacant land in all directions (Figure 3). There are no active planning permit applications on file for the

subject sites. Five of the subject properties are currently located in the R-1-1 Zoning District and one is currently located in the A(PD) Planned Development Zoning District. The City of San José initiated a Conforming Rezoning to rezone the six sites to the Open Space Zoning District, which would align with the properties' Lower Hillside, Open Hillside, and Open Space, Parklands and Habitat General Plan land use designations.



Figure 1: Sierra Road (APN: 595-07-023)

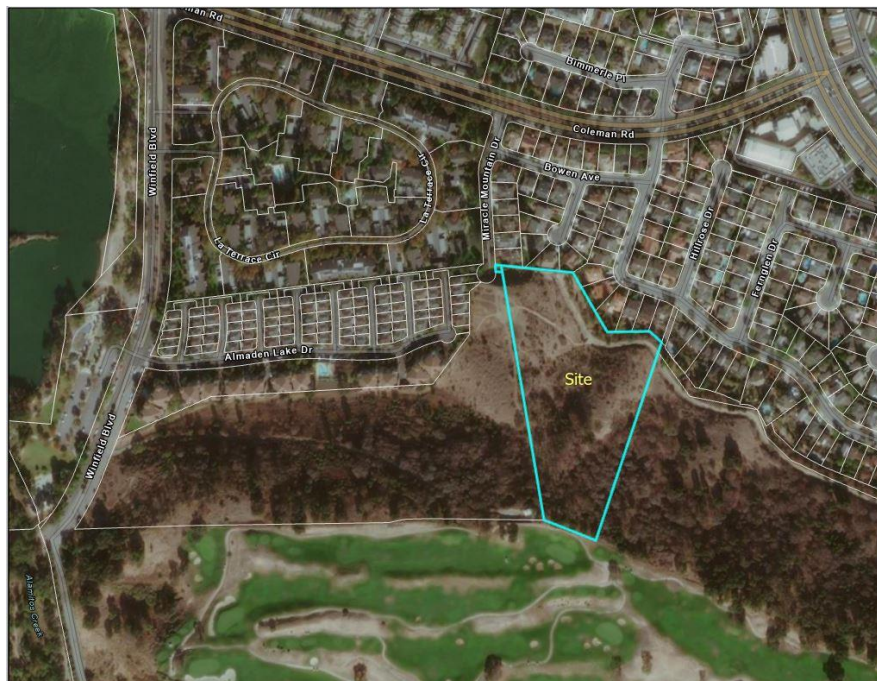


Figure 2: Miracle Mountain Drive (APNs: 694-01-027, -030)

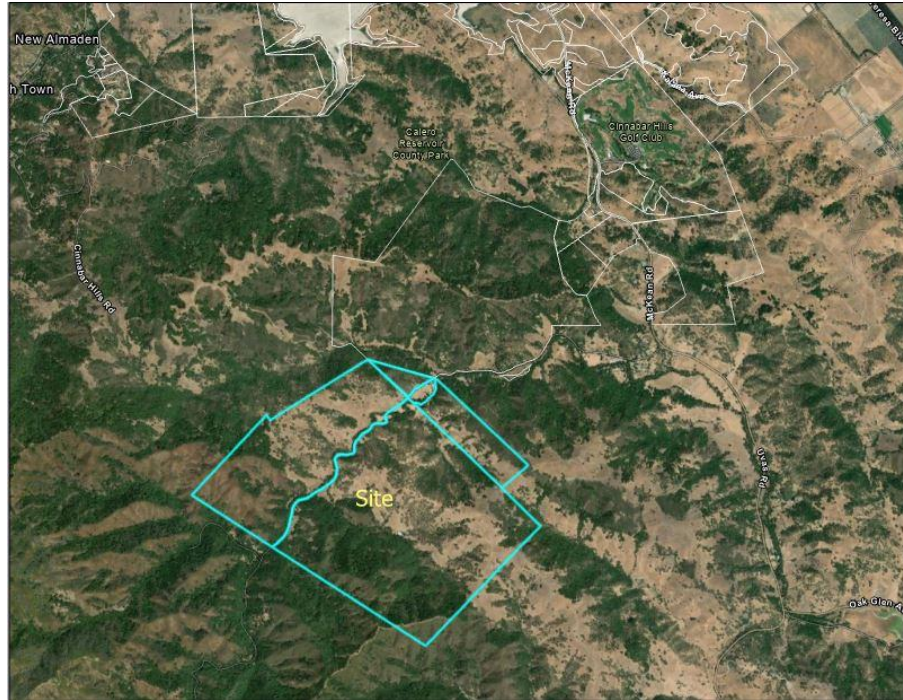


Figure 3: Casa Loma Road (APN: 742-12-001, -007, -008)

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) California Environmental Quality Act (CEQA)

Envision San José 2040 General Plan Conformance

The subject sites have [Envision San José 2040 General Plan](#) Land Use/Transportation Diagram land use designations of Lower Hillside, Open Hillside, and Open Space, Parklands and Habitat (see Figure 4).

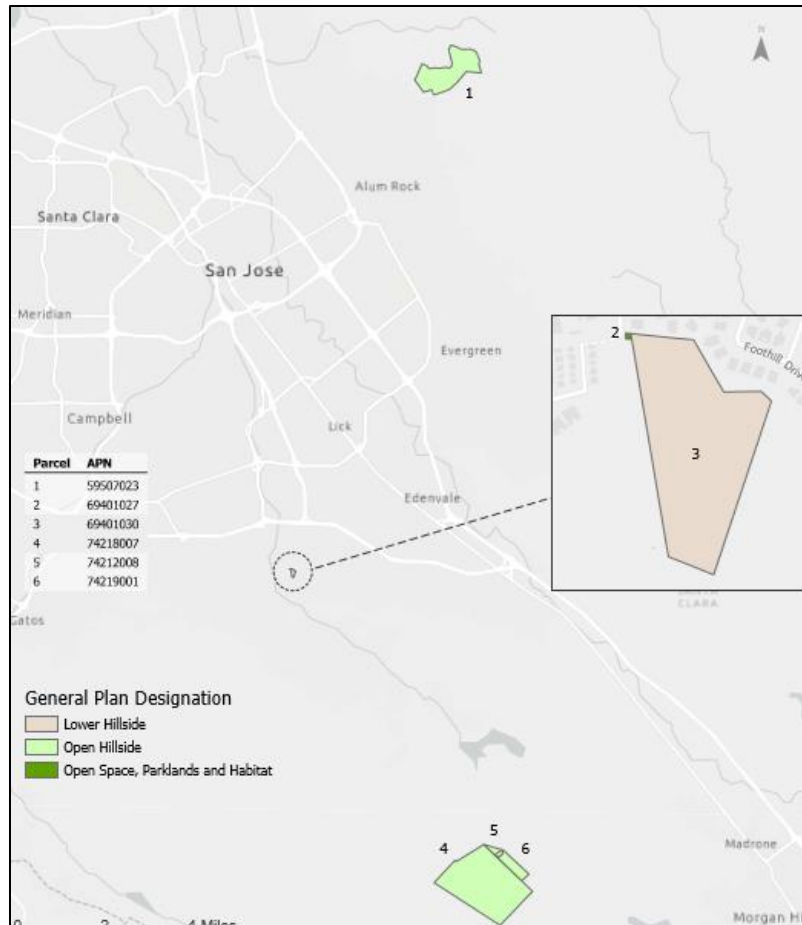


Figure 4: General Plan Land Use/Transportation Diagram

The properties located in the East Foothills on Sierra Road (parcel 1) and the properties in South San Jose on Casa Loma Road (parcels 4, 5, and 6) have an Open Hillside land use designation. The Open Hillside land use designation is applied to areas which are located outside of the Urban Growth Boundary (UGB) with the intent of preserving a permanent greenbelt of open space and natural habitat along the City's eastern and southern edges. Within this designation, the supported uses vary slightly for lands owned publicly or privately. Publicly-owned lands within the Open Hillside designation include habitat conservation areas, open space preserves, and large-scale parklands. Privately-owned lands within the Open Hillside designation may allow a limited amount of development, including single-family dwellings and, on large sites, private recreation, and low-intensity institutional or commercial uses with the majority of the site preserved as open space, very-low intensity agricultural uses.

The larger property (parcel 3) on Miracle Mountain Drive north of the Boulder Ridge Golf Club has a Lower Hillside land use designation. The Lower Hillside land use designation is applied to properties at the edge of the developed City, just inside its Urban Growth Boundary (UGB) and at the limit of the Urban Service Area (USA), but where urbanization has already partially occurred and where urban infrastructure and services (streets, utilities, etc.) are already available. This designation is applied to properties located downhill from the UGB, but that typically have hillside characteristics and which typically have a higher cost for the provision of public services. Development of Lower Hillside properties is not intended to expand the city or create

new areas of development, but rather to allow for limited infill that completes the existing pattern of development at its edge.

The smaller property (parcel 2) on Miracle Mountain Drive north of the Boulder Ridge Golf Club has an Open Space, Parklands, and Habitat land use designation. The Open Space, Parklands, and Habitat land use designation are lands that can be publicly- or privately-owned areas that are intended for low intensity uses. Lands in this designation are typically devoted to open space, parks, recreation areas, trails, habitat buffers, nature preserves and other permanent open space areas. This designation is applied within the Urban Growth Boundary to lands that are owned by nonprofits or public agencies that intend their permanent use as open space, including lands adjacent to various creeks throughout the City.

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. Land Use Policy LU-19.4: Reserve areas outside the Greenline/Urban Growth Boundary (UGB) for rural, agricultural, open space, habitat, or other very low-intensity uses. Prohibit new urban development outside of the Greenline/Urban Growth Boundary (UGB). Appropriate land use designations for areas outside of the UGB include Agriculture; Open Hillside; Open Space, Parklands and Habitat; Urban Reserve; and the Open Hillside Golf Course Site Overlay

Analysis: The conforming Zoning District for the Lower Hillside, Open Hillside, and Open Space, Parklands and Habitat General Plan land use designations includes the OS Open Space Zoning District; therefore, staff proposes a Conforming Rezoning of the properties from the R-1-1 Zoning District to the OS Open Space Zoning District. This would correspond to the existing Envision General Plan land use designations for the subject sites. The OS Zoning District 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 Open Space Zoning District as a conforming district to the Lower Hillside, Open Hillside, and Open Space, Parklands and Habitat General Plan land use designation. (see Figure 5-7)

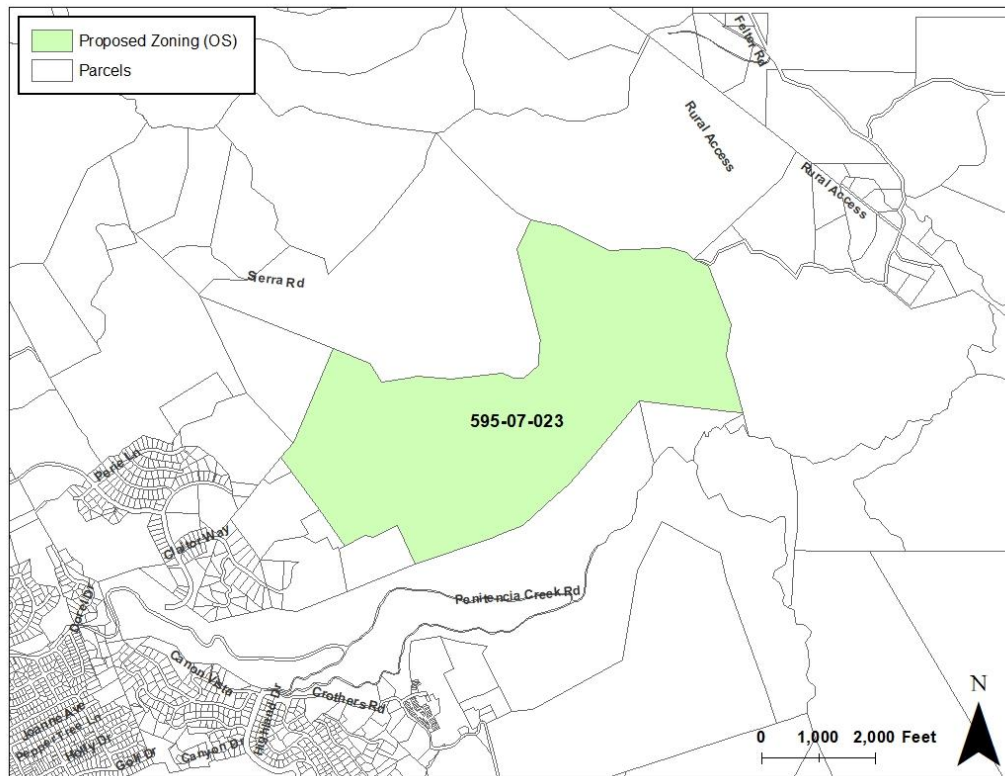


Figure 5: Sierra Road Proposed Zoning



Figure 6: Miracle Mountain Drive Proposed Zoning

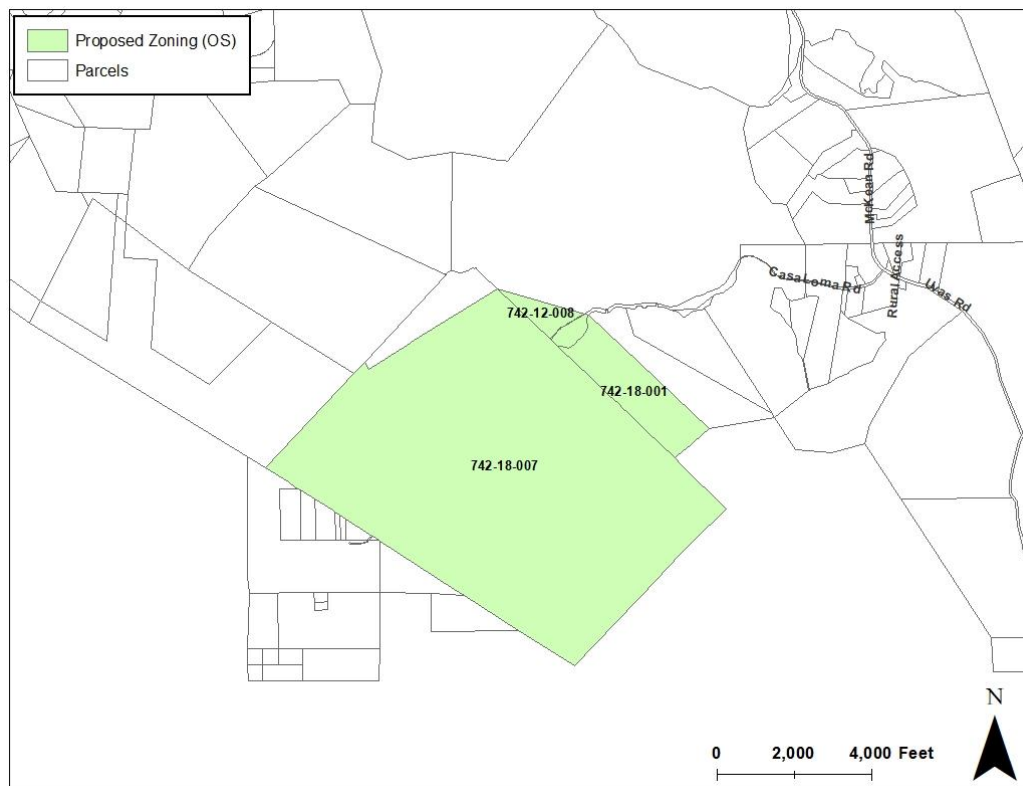


Figure 7: Casa Loma Road Proposed Zoning

The Open Space Zoning District would allow the property to be used and developed in accordance with the allowable uses in Table 20-90, [Section 20.20.100](#), which includes a range of open space uses such as trails and paths, including equestrian, pedestrian, and bicycle trails. The proposed rezoning would allow for future development of the properties consistent with the Lower Hillside, the Open Hillside, and the Open Space, Parklands and Habitat General Plan land use designations.

Setbacks and Heights

Table 20-100 in Section [20.20.100](#) of the San José Municipal Code establishes the following development standards for the OS Open Space Zoning District.

Standard	OS Zoning District
Front, Side, and Rear Setbacks	50 feet from abutting streets and highways, 300 feet from abutting property zoned or used for residential purposes, 50 feet from abutting property zoned or used for other than residential purposes.
Maximum Height	35 feet

The rezoning of the property from the R-1-1 Residential Zoning District and the A(PD) Planned Development Zoning District to the OS Open Space Zoning District would limit allowable uses to those specified above and in the Zoning Ordinance and would require future development to

be evaluated for conformance with the above development standards and all other Municipal Code regulations.

Senate Bill 330 Compliance

The Housing Crisis Act of 2019 (SB330) limits the manner in which local government 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. The 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” in residential capacity within the jurisdiction. Additionally, SB940 authorizes the City of San José to proactively change a zoning to a more intensive use and to use the added capacity to subsequently change the zoning elsewhere to a less intensive use.

The proposed rezoning (File No. C21-010) reduces the intensity of residential uses. The R-1-1 Residential Zoning District allows one dwelling unit per acre while the A(PD) Zoning District allows one single-family detached dwelling unit on one parcel. Since the five R-1-1 Zoned parcels total 2,029 acres, there is a total loss of 2,029 residential units and since the A(PD) Planned Development zoned parcel allows only one residential unit, there is a total loss of 2,030 residential units.

In conformance with SB 330, the proposed rezoning (File No. C21-010) is being considered concurrently by the City Council with File No. C21-001 and File No. PDC17-051, which would offset reduced residential capacity on the subject sites and result in “no net loss” of residential capacity. File No. C21-001 is a conforming rezoning of approximately 28.9 gross acres located in the East District area of the Berryessa BART Urban Village Plan area from the A(PD) Planned Development and IP Industrial Park zoning districts to the CP Commercial Pedestrian and PQP Public/Quasi-Public zoning districts. File No. PDC17-051 is a rezoning on an approximately 61.5-gross acre site located at 1590 Berryessa Road from the A(PD) Planned Development Zoning District to CP(PD) Planned Development Zoning District.

Approval of File Nos. C21-001 and PDC17-051 would result in an increase of residential capacity by 3,960 units. Therefore, approval of these rezonings concurrently would result in no net loss of residential capacity. The approval of these rezonings (File Nos. C21-010, and C21-001 and PDC17-051) would result in a net increase in residential capacity of 1,930 units (3,960 units – 2,030 units = 1,930 units).

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The environmental impacts of the proposed Conforming Rezoning were addressed in an Initial Study/Addendum (File No. ER20-187) to the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 77617), and Addenda thereto. This conforming rezoning would not result in any physical changes to the environment. For this reason, the conforming rezoning would not have impacts on scenic vistas or resources, and impacts would remain less than significant.

The Initial Study/Addendum is posted to the City's "Active EIRs" website at: www.sanjoseca.gov/completeeirs (see Berryessa BART Urban Village Plan Initial Study/Addendum). The Envision San José 2040 General Plan EIR and SEIR can also be found at www.sanjoseca.gov/activeeirs.

CONCLUSION

The proposed Conforming Rezoning from the R-1-1 Residential Zoning District to the OS Open Space Zoning District is consistent with the current General Plan Land Use designations of Open Space, Lower Hillside, and Open Space, Parks and Habitat for the six sites and General Plan policies IP-1.7, IP-8.2, LU-19.4 as explained above.

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. 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/

CHU CHANG, Acting Director
Planning, Building and Code Enforcement

For questions, please contact Michael Brilliot, Deputy Director, at michael.brilliot@sanjoseca.gov.

Attachments: Draft Ordinance

DRAFT

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SAN JOSE REZONING CERTAIN REAL PROPERTY OF APPROXIMATELY 2,029-GROSS ACRES SITUATED IN VARIOUS LOCATIONS OF THE CITY, INCLUDING THE EAST FOOTHILLS OF SAN JOSE ON SIERRA ROAD, ON MIRACEL MOUNTAIN DRIVE NORTH OF THE BOULDER RIDGE GOLF CLUB, AND IN SOUTH SAN JOSE ON CASA LOMA ROAD FROM THE R-1-1 RESIDENTIAL ZONING DISTRICT AND A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO THE OS OPEN SPACE ZONING DISTRICT (APNS 595-07-023; 694-01-027; 694-01-030; 742-18-007; 742-12-008; 742-19-001)

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 the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code (collectively, "CEQA"), the City has certified that certain Final Program Environmental Impact Report for the Envision San José 2040 General Plan (Resolution No. 76041) and the Supplemental Environmental Impact Report for the Envision San José 2040 General Plan (Resolution No.77617), and Addenda thereto (collectively, Final EIR), in connection therewith; and

WHEREAS, the City of San José has determined that no new effects would occur from and no new mitigation measures would be required for the adoption of this Ordinance and that adoption of this Ordinance is within the scope of and in furtherance of the rezoning to the OS Open Space Zoning District, taken together with the Final EIR, related Resolution Nos. 76041 and 77617, and the Addendum to the FEIR prepared for this Ordinance under File No. ER20-187; and

WHEREAS, the City Council of the City of San José is the decision-making body for the proposed subject rezoning to the OS Open Space Zoning District; and

WHEREAS, this Council of the City of San José has considered the Addendum to the Envision San José 2040 General Plan Final Program Environmental Impact Report (certified by Resolution No. 76041), and Supplemental Environmental Impact Report to the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 77617), and Addenda thereto 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. C21-010) reduces the intensity of residential uses because the proposed rezoning does not allow for greater residential density than the existing R-1-1 Residential Zoning District and A(PD) Planned Development Zoning District; the rezoning would decrease the residential capacity by 2,030 residential units, and further, this rezoning, if approved concurrently with File No. C21-001 and PDC17-051, would offset reduced intensity of residential capacity for the proposed project under File No. C21-010, resulting in no net loss of residential capacity. Approval of both rezonings would result in a net increase in residential capacity of 1,543 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 OS Open Space 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 No. C21-010 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:

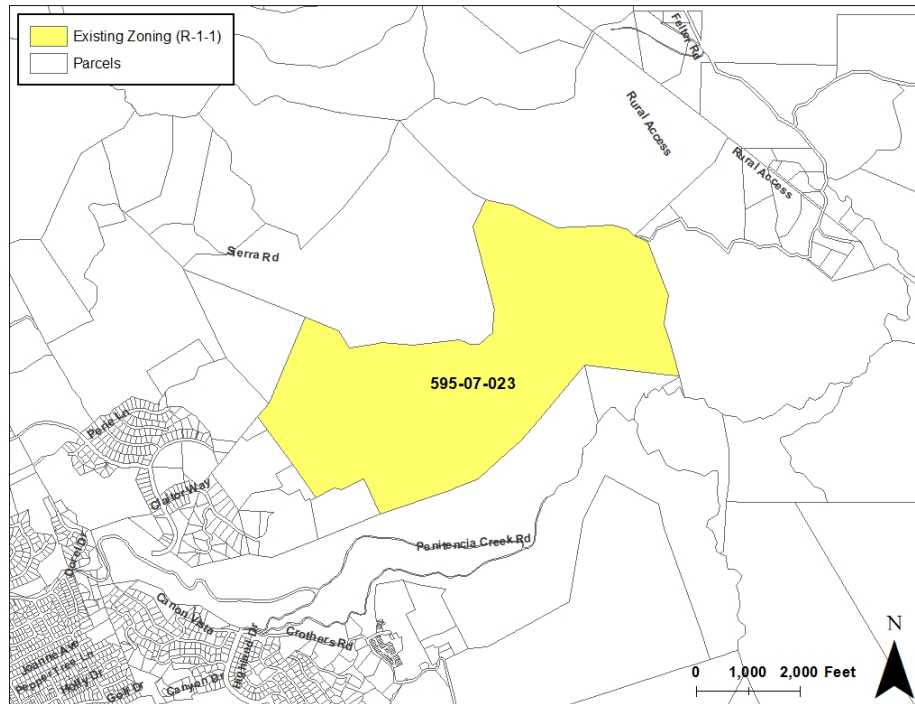
DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

EXHIBIT A-1 EXISTING ZONING DISTRICTS



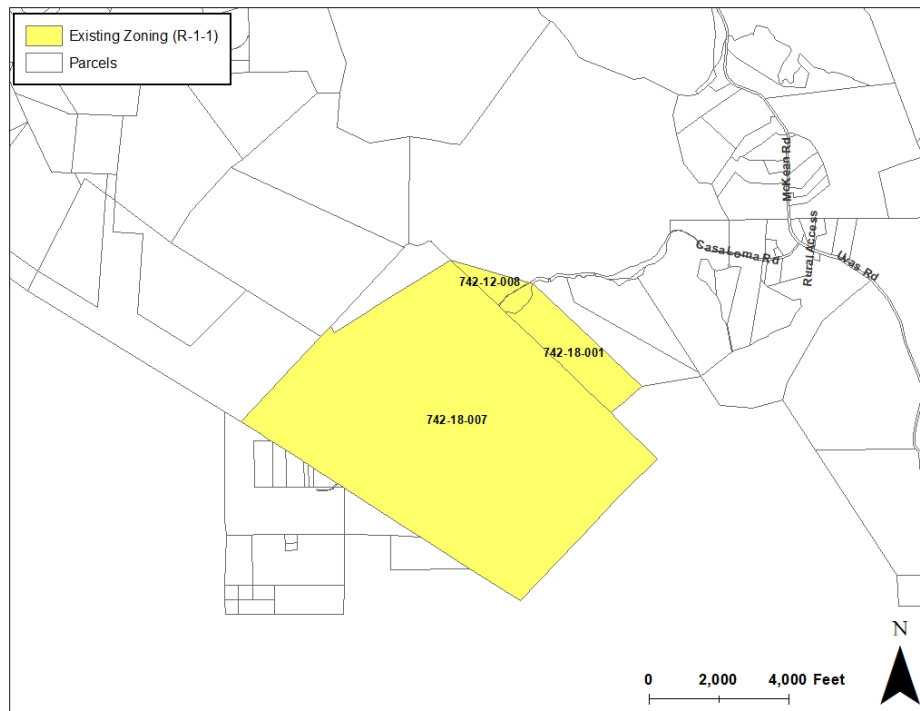


EXHIBIT A-2 AREAS REZONED TO OS OPEN SPACE ZONING DISTRICT

