ORDINANCE NO. 24 – 2262

AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF CUPERTINO REZONING CERTAIN SITES
IN THE CITY FOR CONFORMANCE WITH GENERAL PLAN
AND HOUSING ELEMENT

SECTION I: PROJECT DESCRIPTION

Application No: Z-2023-001
Applicant: City of Cupertino
Location: Citywide

SECTION II: RECITALS

WHEREAS, state law requires the City to prepare and adopt an updated Housing Element every eight years to accommodate its fair share of housing and identify housing needs, resources and opportunities;

WHEREAS, pursuant to State Housing Law, the City prepared and presented a draft 6th Cycle Housing Element to the California Department of Housing and Community Development (HCD) on March 28, 2024,

WHEREAS, HCD informed the City in a letter dated April 10, 2024 that the proposed Draft Housing Element is conditionally certified, pending rezoning of the Priority Housing Sites, and any associated rezoning required, to accommodate the City's Regional Housing Needs Allocation (RHNA); and

WHEREAS, pursuant to State Housing Law, the City Council adopted the City's 6th Cycle Housing Element on May 14, 2024 with Resolution 24-039; and

WHEREAS, the Municipal Code amendment will be consistent with the City's General Plan land use map, proposed uses and surrounding uses; and

WHEREAS, the necessary public notices have been given as required by the Municipal Code of the City of Cupertino and the Government Code, and the Planning Commission held a public hearing on June 11, 2024 to consider the project; and

WHEREAS, based on substantial evidence in the administrative record, on June 11, 2024 the Planning Commission recommended that the City Council approve the Zoning Map Amendments, Z-2023-001, in substantially similar form to the Resolution presented (Resolution No. 2024-11); approve the Specific Plan Amendments (SPA-2024-001) and amendments to the Below Market Rate Housing Mitigation Manual (CP-2024-002) in substantially similar form to the Resolution presented (Resolution No. 2024-10) and did

not make a recommendation to the City Council as it related to the Municipal Code Amendments required to conform with the General Plan and Housing Element and other minor clean up text edits (MCA-2023-001); and

WHEREAS, the City Council of the City of Cupertino held a duly noticed public hearing on July 2, 2024, and after considering all testimony and written materials provided in connection with that hearing introduced this ordinance and waived the reading thereof; and

WHEREAS, the City Council of the City of Cupertino is the decision-making body for this Ordinance;

WHEREAS, the City entered into a Stipulated Judgement dated January 8, 2024 pursuant to a lawsuit related to adoption of the Housing Element which included requirements for coming into compliance with state housing element law and exempted the City from the California Environmental Quality Act ("CEQA") pursuant to Government Code section 65759; and

WHEREAS, pursuant to Government Code 65759, the General Plan Amendment to adopt the Housing Element and associated amendments to the General Plan and zoning is fully described and analyzed in the Environmental Assessment, which is incorporated into the General Plan as Appendix G;

WHEREAS, the City Council finds the following:

1. That the proposed zoning is in accord with the Municipal Code and the City's Comprehensive General Plan.

   The proposed zoning is in conformance with the General Plan since the City Council adopted amendments to the General Plan, including changes to land use designations, in May 2024 with adoption of the Housing Element. These changes are mere conforming changes to make the City's zoning map conform to the land use map. Additionally, some minor changes to the colors on the map are to reflect changes to the legend to accommodate new zoning designations.

2. The proposed zoning is in compliance with the provisions of the California Environmental Quality Act (CEQA).

   Pursuant to Govt. Code Section 65759, the zoning actions related to bringing the City's Housing Element into compliance with state law are exempt from CEQA. An Environmental Assessment was prepared, also in compliance with state law. This Environmental Assessment identified all feasible mitigation measures and was adopted as Appendix G – General Plan 2040 and Zoning Code Amendments Environmental Assessment of the General Plan as required by state law. The site(s) are physically suitable (including, but not limited to, access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints) for the proposed zoning designation(s) and anticipated land use development(s). *The sites being rezoned have access to utilities and are compatible with adjoining land uses.*

3. The proposed zoning will promote orderly development of the City.
   The proposed zoning aligns zoning with the City's General Plan land use goals and policies related to locating higher density development close to transit corridors. The sites being rezoned will promote orderly development in the City by allowing similar land uses to be located compatibly. The proposed changes also allow the City to comply with the requirements of state law related to housing.

4. That the proposed zoning is not detrimental to the health, safety, peace, morals and general welfare of persons residing or working in the neighborhood of subject parcels.
   The proposed zoning is not detrimental to the health, safety, peace, morals and general welfare since these are conforming changes. Additionally, where health or safety impacts have been identified mitigation measures have been identified which would be applicable to any development on these sites, including those implemented through the City's existing Municipal Code requirements.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CUPERTINO DOES ORDAIN AS FOLLOWS:

Section 1. ***Rezoning.***

That the property described in attached Exhibits Z-1 have a zoning designation as that shown, and is incorporated into the Master Zoning Map (Exhibit Z-2) of the City of Cupertino and the Heart of the City Specific Plan Area Zoning Map (Exhibit Z-3), which is also incorporated into the Master Zoning Map; and

Section 2. ***Severability and Continuity.***

The City Council declares that each section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance is severable and independent of every other section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance. If any section, sub-section, paragraph, sub-paragraph, sentence, clause or phrase of this ordinance is held invalid, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, the City Council declares that it would have adopted the remaining provisions of this ordinance irrespective of such portion, and further declares its express intent that the remaining portions of this ordinance should remain in effect after the invalid portion has been eliminated. To the extent the provisions of this Ordinance are substantially the same as previous provisions of the Cupertino Municipal Code, these provisions shall be construed as continuations of those provisions and not as an amendment to or readoption of the earlier provisions.

Section 3. ***California Environmental Quality Act.***

Adoption of these zoning amendments to allow implementation of the Housing Element is exempted from the California Environmental Quality Act ("CEQA") pursuant to Government Code section 65759.

Section 4. ***Effective Date.***

This Ordinance shall take effect and be in force thirty (30) days from and after adoption as provided by Government Code Section 36937.

INTRODUCED at a regular meeting of the Cupertino City Council the 2nd day of July 2024 and **ENACTED** at a regular meeting of the Cupertino City Council on this 16th day of July 2024 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

SIGNED: _____ Sheila Mohan, Mayor City of Cupertino	_____ Date
ATTEST: _____ Kirsten Squarcia, City Clerk	_____ Date
APPROVED AS TO FORM: _____ Christopher D. Jensen, City Attorney	_____ Date

APN	Acres	Existing Zoning Designation	New Zoning
316 23 027	0.64	P(CG, Res)	R4
369 03 005	0.47	P(CG, Res)	R4
326 34 047	1.09	P(CG, Res)	R4
359 07 006	0.32	P(CG, Res)	R4
375 06 006	1.71	P(CG, Res)	R4
375 06 007	0.96	P(CG, Res)	R4
316 21 031	1.81	P(CG, Res)	R4
316 23 026	1.78	P(CG, Res)	R4
326 32 050	0.83	P(CG, Res)	R4
326 27 053	0.75	T	R4
323 36 018	0.42	P(CG)	R4
316 04 064	0.44	A1-43	R3/TH
369 37 022	0.39	R3	R4
369 37 023	0.22	R3	R3/TH
369 37 024	0.17	R3	R3/TH
369 34 053	0.54	P(CG)	R3/TH
359 18 044	0.26	P(CG)	R4
366 10 121	1.34	P(CG, Res 5-15)	R3/TH
366 10 137	0.92	P(CG, Res 5-15)	R3/TH
366 19 047	2.33	P(CG, Res 5-15)	R4
366 19 078	0.08	P(CG, Res 5-15)	R4
359 09 017	1.00	P(CG, Res)	R4
316 20 088	5.16	CG	R4
359 13 019	0.99	R1-10	R3
356 06 001	0.73	R1-7.5	R3/TH
356 06 002	0.69	R1-7.5	R3/TH
356 06 003	0.25	R1-7.5	R3/TH
356 06 004	0.87	R1-7.5	R3/TH
362 31 001	0.25	P(R3)	R3/TH
362 31 030	0.23	P(R3)	R3/TH
326 20 034	1.34	R1-10	R3/TH
316 23 093	1.35	P(CG, Res)	P (CG/R4)
316 23 036	0.24	P(CG, Res)	P (CG/R4)
369 06 002	0.9	P(CG, Res)	P (CG/R4)

APN	Acres	Existing Zoning Designation	New Zoning
369 06 003	0.53	P(CG, Res)	P (CG/R4)
369 06 004	1.29	P(CG, Res)	P (CG/R4)
359 10 015	1.18	P(CG)	P (CG/R4)
359 10 060	0.98	P(CG)	P (CG/R4)
359 10 044	0.18	P(CG)	P (CG/R4)
359 08 025	0.83	P(CG, Res)	P (CG/R4)
359 08 026	0.45	P(CG, Res)	P (CG/R4)
359 08 027	0.87	P(CG, Res)	P (CG/R4)
359 08 028 [1]	0.85	P(CG, Res)	P (CG/R4)
326 09 052	0.74	P(CG)	P (CG/R4)
326 09 060	2.75	P(Rec/Enter)	P (CG/R4)
326 09 061	1.12	P(CG)	P (CG/R4)
369 34 052	2.70	P(CG)	P (CG/R4)
369 37 028	0.56	P(CG)	P (CG/R4)
366 19 055	0.40	P(CG, Res 5-15)	P (CG/R3/TH)
366 19 053	0.56	P(CG, Res 5-15)	P (CG/R3/TH)
366 19 054	1.75	P(CG, Res 5-15)	P (CG/R3/TH)
316 05 050	1.02	P(CG, Res)	P (CG/R4)
316 05 051	0.62	P(CG, Res)	P (CG/R4)
316 05 052	0.73	P(CG, Res)	P (CG/2R4)
316 05 053	0.92	P(CG, Res)	P (CG/R4)
316 05 056	6.94	P(CG, Res)	P (CG/R4)
316 05 072	0.54	P(CG, Res)	P (CG/R4)
359 20 028 [2]	0.75	BQ	P (CG/R3)
316 06 058	6.62	P(Res – 70)	No change
316 06 059	5.42	P(Res – 70)	No change
316 06 060	0.45	P(Res – 70)	No change

[1] Land Use designation and residential density changed only for a 178 feet by 208 feet portion of this site on the western portion closest to Stevens Creek Boulevard as shown in Santa Clara County Assessor's Office's records Book 359 Page 8 (Revised 2022-2023).

[2] Land Use designation and residential density changed only for a 180.75 feet by 180.75 feet portion of the northwest corner of the site is rezoned as shown in Santa Clara County Assessor's Office's records Book 359 Page 20 (Revised 2022-2023). rezoned as shown in Santa Clara County Assessor's Office's records Book 359 Page 20 (Revised 2022-2023).

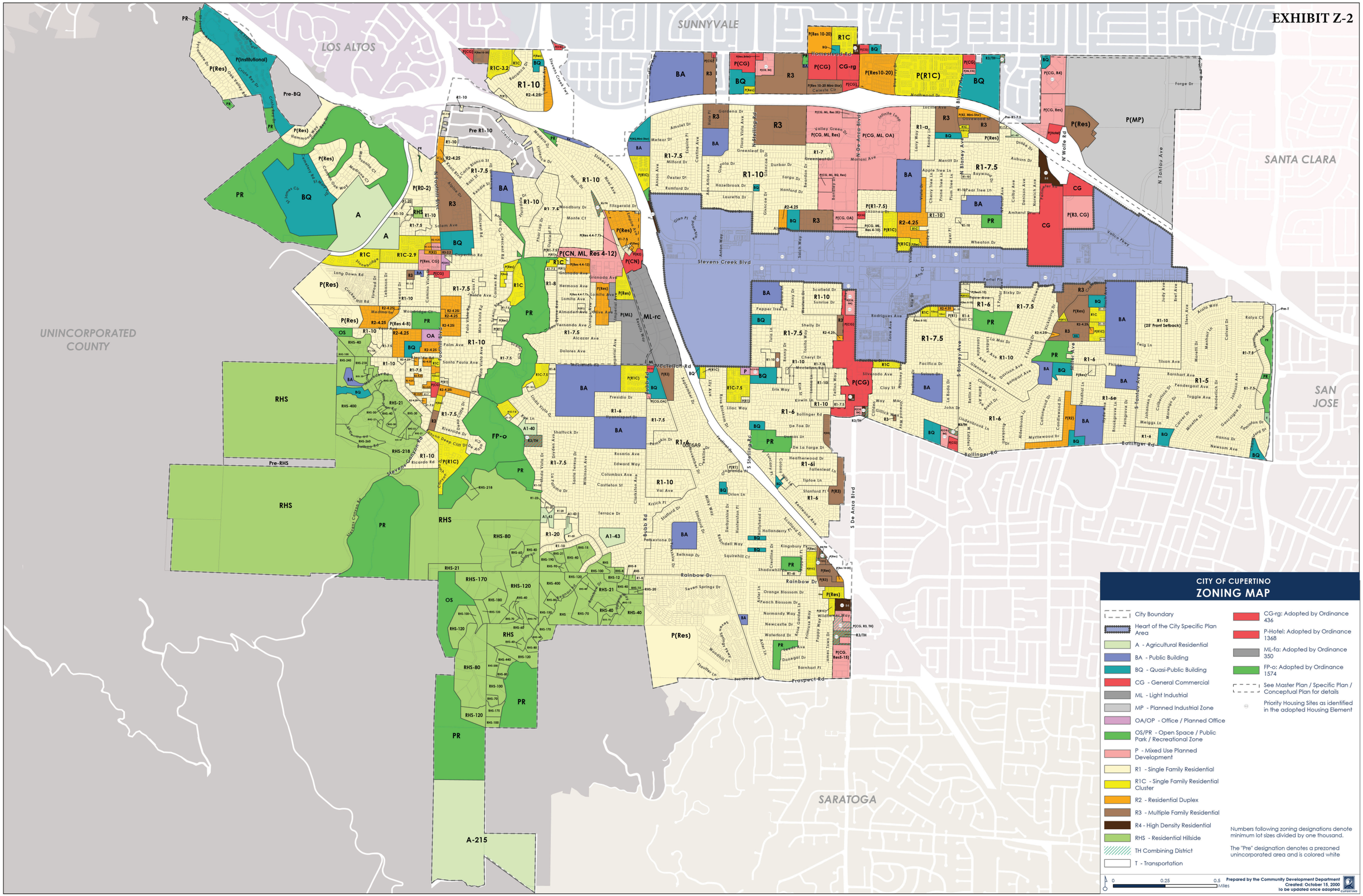
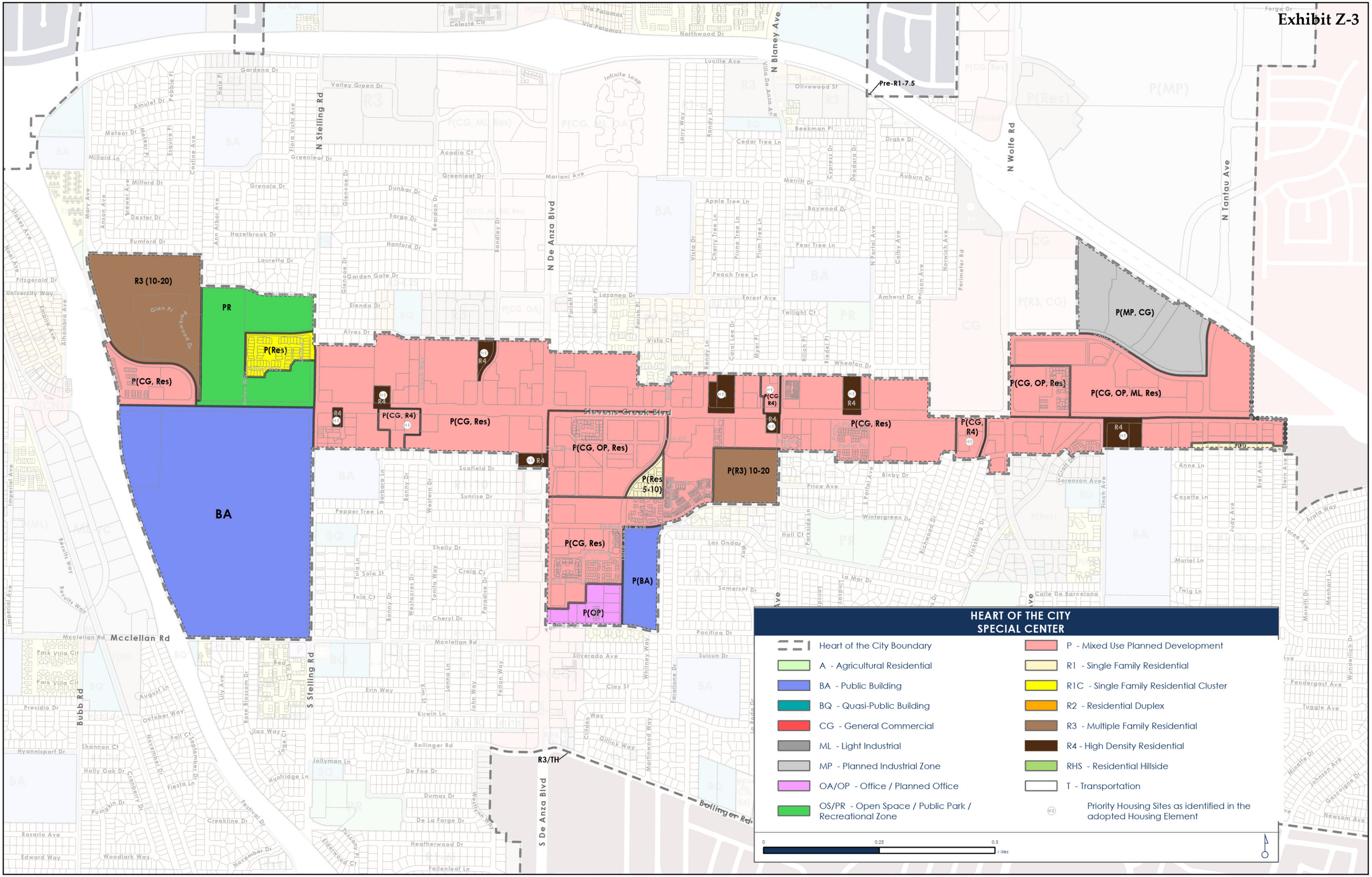


EXHIBIT Z-2
SUNNYVALE
LOS ALTOS
SANTA CLARA
SAN JOSE
SARATOGA
UNINCORPORATED COUNTY
CITY OF CUPERTINO
ZONING MAP
City Boundary
Heart of the City Specific Plan Area
A - Agricultural Residential
BA - Public Building
BQ - Quasi-Public Building
CG - General Commercial
ML - Light Industrial
MP - Planned Industrial Zone
OA/OP - Office / Planned Office
OS/PR - Open Space / Public Park / Recreational Zone
P - Mixed Use Planned Development
R1 - Single Family Residential
R1C - Single Family Residential Cluster
R2 - Residential Duplex
R3 - Multiple Family Residential
R4 - High Density Residential
RHS - Residential Hillside
TH Combining District
T - Transportation
CG-rg: Adopted by Ordinance 436
P-Hotel: Adopted by Ordinance 1368
ML-fa: Adopted by Ordinance 350
FP-o: Adopted by Ordinance 1574
See Master Plan / Specific Plan / Conceptual Plan for details
Priority Housing Sites as identified in the adopted Housing Element
Numbers following zoning designations denote minimum lot sizes divided by one thousand.
The "Pre" designation denotes a prezoned unincorporated area and is colored white
0 0.25 0.5 Miles
Prepared by the Community Development Department
Created: October 15, 2000
To be updated once adopted

Exhibit Z-3


HEART OF THE CITY
SPECIAL CENTER
Heart of the City Boundary
A - Agricultural Residential
BA - Public Building
BQ - Quasi-Public Building
CG - General Commercial
ML - Light Industrial
MP - Planned Industrial Zone
OA/OP - Office / Planned Office
OS/PR - Open Space / Public Park / Recreational Zone
P - Mixed Use Planned Development
R1 - Single Family Residential
R1C - Single Family Residential Cluster
R2 - Residential Duplex
R3 - Multiple Family Residential
R4 - High Density Residential
RHS - Residential Hillside
T - Transportation
Priority Housing Sites as identified in the adopted Housing Element
0
0.25
0.5
Miles
R3 (10-20)
PR
P(Res)
P(CG, Res)
BA
P(CG, R4)
P(CG, Res)
P(CG, OP, Res)
P(Res 5-10)
P(R3) 10-20
P(CG, Res)
P(BA)
P(OP)
P(CG, R4)
P(CG, Res)
P(CG, R4)
P(MP, CG)
P(CG, OP, Res)
P(CG, OP, ML, Res)
R4
Pre-R1-7.5
R3/TH
Stevens Creek Blvd
Mcclellan Rd
Bollinger Rd
N Stelling Rd
S Stelling Rd
N De Anza Blvd
S De Anza Blvd
N Blaney Ave
N Wolfe Rd
N Tantau Ave
Perimeter Rd
Bubb Rd