



## **AGENDA**

### **CITY OF UNION CITY/ SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY MEETING**

**CAROL DUTRA-VERNACI, Mayor**  
**JEFF WANG, Vice Mayor (District 3)**  
**GARY SINGH, Councilmember (District 1)**  
**JAMIE PATIÑO Councilmember (District 2)**  
**SCOTT SAKAKIHARA, Councilmember (District 4)**

**Tuesday, April 9, 2024**  
**7:00 PM**

**City Hall- Council Chamber**  
**34009 Alvarado-Niles Road**  
**Union City, CA 94587**

- 1. CALL TO ORDER**
  - 1.a. Pledge of Allegiance
  - 1.b. Roll Call
- 2. UNFINISHED BUSINESS - None**
- 3. PROCLAMATIONS AND PRESENTATIONS**
  - 3.a. Proclamation Recognizing Sofia Dangerfield For Her Outstanding Volunteer Service
  - 3.b. Proclamation Recognizing Rosa Ortega For Her Outstanding Volunteer Service
  - 3.c. Proclamations Recognizing Union City's Employee Of The Year Recipients For 2023
  - 3.d. Proclamation Proclaiming April 2024 As Fair Housing Month
  - 3.e. Presentation On BMX Bike Park Proposal From Bob Singer With Union City Bike Park Advocates
- 4. ORAL COMMUNICATIONS**

*An individual speaker shall have three minutes to address the Council on non-agenda items under the Oral Communications section of the agenda. The Chair may, in their discretion, lower the time limit to less than three minutes based on the number of speakers and/or business to be conducted by the City Council. Members of the public who wish to speak to the Council under the first Oral Communications section are requested to complete a speaker card, giving their name and city of residence. If a speaker wants further notification from the City, the speaker may include a mailing address. Neither a speaker card or identification of name, city of residence or mailing address are required to provide public comment but are requested for record keeping purposes.*

## **5. CONSENT CALENDAR**

*All matters listed on the Consent Calendar are considered routine in nature and will be enacted by one motion. If discussion is required on a specific item, it will be removed from the Consent Calendar and considered separately.*

- 5.a. Waived Further Reading of Proposed Ordinance  
(This permits reading the title only in lieu of reciting the entire text of any proposed Ordinance.)
- 5.b. Approve The Minutes Of The March 26, 2024 City Council Special Meeting
- 5.c. Approve The Minutes Of The March 26, 2024 City Council Regular Meeting
- 5.d. Approve The Minutes Of The March 28, 2024 City Council Special Meeting
- 5.e. Adopt A Resolution Establishing The City Of Union City Electronic Claims Filing Policy
- 5.f. Adopt A Resolution Amending The FY 2023-2024 Master Fee Schedule To Add Fees Related To The Issuance Of Permits To Carry A Concealed Weapon (CCW)
- 5.g. Adopt A Resolution Initiating Proceedings For The Levy And Collection Of Assessments For The City-Wide Landscape & Lighting District No. 3 For Fiscal Year 2024/2025
- 5.h. Adopt A Resolution Authorizing The City Manager To Execute The Seventh Amendment To The Consulting Services Agreement With HDR Engineering, Inc., In The Amount Of \$381,730, For A Total Contract Amount Of \$891,623, To Finalize The Plans, Specifications & Engineer's Estimate (PS&E), To Provide Bid Support During Advertisement, And To Provide Construction Support For The BART Pedestrian At-Grade Crossing Project, City Project No. 14-14
- 5.i. Adopt A Resolution Authorizing The City Manager To Execute The Second Amendment To The Consulting Services



Agreement With Advanced Mobility Group, In The Amount Of \$72,000, For A Total Contract Amount Of \$146,950, For On-Call Traffic Signal System Support, City Project No. 22-14

- 5.j. Adopt A Resolution Approving An Amendment To Update The Class Specification For The Classifications Of Assistant Planner And Associate Planner
- 5.k. Adopt A Resolution Approving And Authorizing The City Manager To Execute Side Letter Agreements To The Memorandums Of Understanding With The Union City Police Officers Association And The Union City Police Management Association To Recognize Years Of Service And Sick Leave Accrued With Prior Agencies

## **6. PUBLIC HEARINGS**

- 6.a. Public Hearing And Adopt Two Resolutions 1) Adopting An Addendum To The 2040 General Plan EIR And 2) Amending The General Plan Land Use Diagram (Ag-24-001), And Introduce An Ordinance Amending The Official Union City Zoning Map (A-24-001)

## **7. CITY MANAGER REPORTS**

- 7.a. Waive Further Reading And Adopt An Ordinance Amending Union City Municipal Code Chapter 5.42, "Tobacco Retailers" And/Or Provide Further Direction
- 7.b. Presentation Of The Fiscal Year 2022-2023 Unaudited Year-End General Fund Financial Results And Fiscal Year 2023-2024 Mid-Year General Fund Financial Information And Adoption Of A Resolution Approving Fiscal Year 2023-2024 Mid-Year General Fund Budget Amendments
- 7.c. Introduction Of An Ordinance To Amend Chapter 2.05 "Campaign Reporting Requirements" In The Union City Municipal Code For Enhanced Clarity And Transparency In Campaign Reporting
- 7.d. Adopt A Resolution Of The City Council Of The City Of Union City Approving An Amended And Restated Employment Agreement With Joan Malloy To Serve As City Manager And Approving An Amendment To The City's Salary Schedule

## **8. SUCCESSOR AGENCY TO REDEVELOPMENT AGENCY - None**

## **9. AUTHORITIES AND AGENCIES - None**

## **10. CITY COMMISSION / COMMITTEE REPORTS - None**

## **11. ITEMS REFERRED BY COUNCIL**

## **12. GOOD OF THE ORDER**

## **13. CLOSED SESSION - None**

## 14. ADJOURNMENT

### MEETING INFORMATION

---

Unless otherwise provided, the City Council's regular meetings are held in person on the second and fourth Tuesday of each month at 7:00 p.m. inside the Council Chamber at City Hall, 34009 Alvarado-Niles Road, Union City CA 94587. The City continues to offer an opportunity to observe Council meetings via Zoom at: <https://unioncity-org.zoom.us/j/81719037355> Passcode: u8SH9cH^

Meetings are broadcast live through UCTV Channel 15 and via live stream at: <https://unioncity.org/199/City-Meetings-Video>

Members of the public will not have the ability to provide comment via Zoom except under limited circumstances specified below. The ability to observe remotely as identified above is predicated on the technology being available and functioning without technical difficulties. Should the remote platform(s) not be available, or become non-functioning, or should the City Council otherwise encounter technical difficulties that makes the platform(s) unavailable, the City Council will proceed with the items of business in person unless otherwise prohibited by law.

Any writings or documents provided to a majority of City Council members relating to each item of business referred to on this agenda are available for review on the City's website at [www.unioncity.org](http://www.unioncity.org) or during regular business hours in the Office of the City Clerk located at 34009 Alvarado-Niles Road, Union City CA 94587.

In Compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, you should contact the Office of the City Clerk at (510) 675-5448. Notification 36 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting. The City also provides closed captioning of all its Regular City Council Meetings for the hearing impair.

### **ADDRESSING THE CITY COUNCIL**

In Person Public Comment: Members of the public may address the Council on a matter on the agenda or during the Public Input portion of the meeting. Members who wish to speak are requested to complete a speaker card, giving their name and city of residence. If a speaker wants further notification from the City, the speaker may include a mailing address. Neither a speaker card nor identification of name, city of residence or mailing address are required to provide public comment but are requested for record keeping purposes.

Written Comment: To provide written comment on an item on the agenda or to address the Council about an issue during Public Comment, you may send an email to [cityclerk@unioncity.org](mailto:cityclerk@unioncity.org). Please

include the phrase "public comment" in the subject line and note the agenda item number that you want to address. Written comments will be e-mailed to the City Council and made publicly available.

Public Comment via Zoom: As indicated above, the public cannot address the Council via Zoom unless the City is required to provide such opportunity pursuant to AB 2449. In the event that members of the public are allow to participate via Zoom pursuant to AB 2449, the Mayor will make an announcement at the beginning of the meeting. Raise your virtual hand to notify the host that you would like to speak during the item that you wish to speak on.

### **CITY COUNCIL NORMS AND GUIDELINES (Resolution No. 6129-23; Adopted May 23, 2023)**

The City Council of the City of Union City comply with the following norms:

1. We conduct ourselves in a professional manner, treat everyone with respect, and act with high integrity, always putting the interests of the City of Union City ahead of self-interests in accordance with our code of ethics.
2. We respect the Council-Manager form of government, and do not interfere with the City Manager's role or any professional duties of City staff.
3. We recognize that matters of confidential nature are to be kept private and undisclosed.
4. We respect each other's opinions and are supportive of each other's work advocating for the City, and we ensure that all voices are heard. We do not criticize others for having a different point of view, and we agree to disagree respectfully.
5. We understand that the City Council acts as a body, all members are equal, and policy direction is only given by a majority vote of the City Council. Once a decision is made, all members of the City Council must respect the City Council's direction.
6. We will be prepared for City Council meetings and ask our questions of the City Manager in advance so we can avoid surprising City staff at meetings.
7. We do not criticize City staff publicly or to others and will refrain from directing them. Instead, we will take our concerns and questions privately to the City Manager.
8. We will govern on an at-large basis, although elected by districts. We will maintain a citywide perspective and consider the needs and interests of the entire community.
9. We will continue to allocate resources based on long-term strategic priorities and efforts, with consideration of citywide service levels and financial capacity.
10. We understand customer service is the priority and each member of the City Council will help constituents regardless of the district in which they reside or from which a Councilmember themselves is elected.

11. We recognize the significant importance of attendance and participation at City Council meetings in proceeding with City business. All members of the City Council should endeavor to miss no more than two regular meetings per calendar year absent extraordinary circumstances. Members of the City Council should, absent unforeseen circumstances, provide a minimum of sixty days' notice to the City Council of planned absences during the Good of the Order or Items Referred by Council portion of the City Council agenda, as appropriate.

May these Council Norms be administered and enforced in the following manner:

1. Councilmembers have the primary responsibility to assure that ethical standards are understood and met by the Council, and that the public can continue to have full confidence in the integrity of government.
2. The Mayor and the Council have the responsibility to intervene when action of its members are in violation of Council Norms.
3. The City Council can review and revise the Council Norms as needed.
4. During City Council discussions, deliberations, and proceedings, the Mayor is designated with the primary responsibility to ensure that Councilmembers adhere to the Council Norms.

#### **CERTIFICATION OF MEETING NOTICE AND AGENDA POSTING**

This notice/agenda was posted at least 72 hours in advance of the meeting date, in accordance with the Ralph M. Brown Act, on the City's Website and on the bulletin board of City Hall.



## Agenda Item

**DATE:** 4/9/2024

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**FROM:** CORINA HAHN, COMMUNITY & RECREATION SERVICES DIRECTOR

**SUBJECT:** PROCLAMATION RECOGNIZING SOFIA DANGERFIELD, CREATOR OF THE COMMUNITY CLOSET AND THE MINDFUL MAMI COLLECTIVE, FOR HER OUTSTANDING VOLUNTEER SERVICE

### **STRATEGIC PLAN ALIGNMENT**

### **BACKGROUND**

### **DISCUSSION**

### **FISCAL IMPACT**

### **RECOMMENDATION**


#### **Prepared by:**

Corina Hahn, Community & Recreation Services Director

#### **Submitted by:**

Corina Hahn, Community & Recreation Services Director

**ATTACHMENTS:**

Description	Type
 Proclamation - Sofia Dangerfield	Attachment

# CITY OF UNION CITY

## PROCLAMATION



### *Proclamation Recognizing Sofia Dangerfield For Her Outstanding Volunteer Service*

*WHEREAS, April is National Volunteer Month, a month dedicated to recognizing the importance of volunteering and honoring the significant contributions volunteers make by generously donating their time and talents to worthy causes and to benefit others; and*

*WHEREAS, the Community Closet is a grass roots program created by Sofia Dangerfield, and in collaboration with her team of volunteers and Community & Recreation Services that provides free clothing for all ages; including seasonal clothing to meet every day needs including clothing for school, job interviews, and employment; and*

*WHEREAS, through volunteerism this program promotes the exchange of clothing, extending the use of clothing beyond its first owner while reducing impact on the environment, and aid those who are struggling with suitable clothing; and*

*WHEREAS, the first Community Closet was held in September 2021 at Studio 11 in Union City and has since served over 4,000 community members throughout the Bay Area; and*

*WHEREAS, Sofia and her large team of dedicated volunteers, who make each Community Closet a huge success by helping create opportunities for community connections, promotion of self-respect and positive self-images by providing clean, quality clothing accessible to all, as well as volunteer opportunities for youth and adults to give back to their community in a meaningful way; and*

*WHEREAS, the City of Union City wishes to acknowledge the vision, leadership and commitment of Sofia Dangerfield and her team of volunteers for their contributions in volunteerism through the Community Closet and Mindful Mami Collective by providing opportunities to access free clothing, encouraging the reuse and reduction of materials in landfills, and promote the feeling of self-worth and pride in one's appearance, and help foster a culture of support and encouragement that is uplifting to all involved; and **NOW***

***THEREFORE, BE IT RESOLVED BY** the City Council of the City of Union City does hereby acknowledge and honor Sofia Dangerfield and the Community Closet volunteers for their valuable contributions to Union City citizens and beyond.*

***DATED:** April 9, 2024*

\_\_\_\_\_  
CAROL DUTRA-VERNACI, Mayor

\_\_\_\_\_  
JEFF WANG, Vice Mayor

\_\_\_\_\_  
JAIME PATINO, Councilmember

\_\_\_\_\_  
SCOTT SAKAKIHARA, Councilmember

\_\_\_\_\_  
GARY SINGH, Councilmember



## Agenda Item

**DATE:** 4/9/2024

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**FROM:** CORINA HAHN, COMMUNITY AND RECREATION SERVICES DIRECTOR

**SUBJECT:** PROCLAMATION RECOGNIZING ROSA ORTEGA FOR HER OUTSTANDING VOLUNTEER SERVICE

### **STRATEGIC PLAN ALIGNMENT**

### **BACKGROUND**

### **DISCUSSION**

### **FISCAL IMPACT**

### **RECOMMENDATION**

#### **Prepared by:**

Corina Hahn, Community and Recreation Services Director

#### **Submitted by:**



Corina Hahn, Community and Recreation Services Director

**ATTACHMENTS:**

Description	Type
 Proclamation - Rosa Ortega	Attachment

# CITY OF UNION CITY

## PROCLAMATION



### *Proclamation Recognizing Rosa Ortega for her Outstanding Volunteer Service*

*WHEREAS, April is National Volunteer Month, a month dedicated to recognizing the importance of volunteering and honoring the significant contributions volunteers make by generously donating their time and talents to worthy causes and to benefit others; and*

*WHEREAS, in 2014, Rosa Ortega started as a volunteer helping serve lunch to senior citizens at the Ruggieri Center in Union City; her early display of hard work, dependability and commitment to the center, its programs and members was vital and greatly appreciated; and*

*WHEREAS, over the last 10 years Rosa has volunteered over 7,000 hours and became an integral part of the success of the Ruggieri Center's Healthy Lunch program and ensuring Union City seniors have easy access to nutritional meals; and*

*WHEREAS, Rosa has played a significant role in the planning and implementation of the Ruggieri Center's Healthy Lunch Program by organizing and monitoring the kitchen volunteer schedule, keeping inventory of kitchen supplies, and served as the main point of contact for nutrition program participants, while always providing a friendly face and a shoulder to lean on, and*

*WHEREAS, during the Pandemic closure in 2021, Rosa continued to volunteer by conducting wellness checks by phone, providing comfort with her friendly voice to seniors during those unsettled times, as well as resources for food and personal protective equipment and supplies; and*

*WHEREAS, when the Ruggieri Center re-opened in August of 2021, Rosa was the first volunteer to return in-person and aid in the distribution of senior "to-go" lunches; her strength, positive energy, and leadership motivated others to return to the center soon after; and*

*WHEREAS, Rosa continues to be a valued member of the Ruggieri Center team, she assists and supports participants and center staff; her efforts and commitment have helped the Ruggieri Center thrive and grow its membership to the highest level in 25 years; she now serves as the Center's leader for the Farmers Market Food Distribution Program, sponsored by Tri - City Volunteers, and oversees smooth distribution to the 150+ residents waiting outside of the Ruggieri Center doors; and*  
**NOW**

**THEREFORE, BE IT RESOLVED BY** the City Council of the City of Union City does hereby acknowledge and honor Rosa Ortega for her valuable contributions and commitment of volunteer services to the community of Union City.

**DATED:** April 9, 2024

---

CAROL DUTRA-VERNACI, Mayor

---

JEFF WANG, Vice Mayor

---

JAIME PATINO, Councilmember

---

SCOTT SAKAKIHARA, Councilmember

---

GARY SINGH, Councilmember



## Agenda Item

### ATTACHMENTS:

Description	Type
❑ Proclamation In Recognition of Kelly Sipos, 2023 Police Department Employee of the Year	Attachment
❑ Proclamation In Recognition of Valerie Avendano, 2023 General Government Employee of the Year	Attachment
❑ Proclamation In Recognition of Rob Magbanua, 2023 Public Works/Community & Recreation Services Employee of the Year	Attachment

# CITY OF UNION CITY

## PROCLAMATION



### *In Recognition of Kelly Sipos, 2023 Police Department Employee of the Year*

*WHEREAS, Kelly Sipos began her career with the Union City Police Department in 1991 as a Public Safety Dispatcher before transitioning to a Confidential Operations Assistant in 2016 and an Executive Assistant for the Chief of Police in 2021; and*

*WHEREAS, in her current capacity as an Executive Assistant to the Chief of Police, she is responsible for various confidential and complex administrative functions involving executive-level support. Her role includes significant demands requiring a high degree of sensitivity to confidential matters and classified materials; and*

*WHEREAS, with over thirty-three years of experience and institutional knowledge, Kelly has developed an extremely unique and diverse skill set that has been instrumental in the Police Department's overall success. Kelly's attention to detail is unrivaled, and crucial for her projects which are often viewed by large audiences, including UCPD's Annual Report, City Council meetings, and various other civic gatherings; and*

*WHEREAS, Kelly demonstrates leadership through her positivity, integrity, modesty, creativity, and incredible work ethic, attributes instilled by her late mother, a retired Specialist for the San Joaquin County Sheriff's Office. Kelly leads others and makes those around her better, always accomplishing the mission while inspiring others and proactively finding ways to improve past practices with style and professionalism; and*

*WHEREAS, Kelly frequently carries out random acts of kindness discreetly, seeking no recognition and giving others credit for her hard work. Simply put, Kelly embodies 'Service from the Heart' by consistently going above and beyond in helping others.*

*NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Union City hereby expresses its appreciation to Kelly Sipos for her service to the City of Union City and extends congratulations for the honor bestowed upon her as the "2023 Police Department Employee of the Year."*

**DATED: APRIL 9, 2024**

---

CAROL DUTRA-VERNACI, Mayor

---

JEFFREY WANG, Vice Mayor

---

JAIME PATIÑO, Councilmember

---

SCOTT SAKAKIHARA, Councilmember

---

GARY SINGH, Councilmember

# CITY OF UNION CITY

## PROCLAMATION



### *In Recognition of Valerie Avendano, 2023 GENERAL GOVERNMENT Employee of the Year*

*WHEREAS, Valerie Avendano began her career with the City of Union City in the Economic and Community Department in 1998 and rose through the ranks, starting as a Building Permit Technician;*

*WHEREAS, Valerie is an invaluable member of the Building Division, and in her current capacity as the City's Building / Code Compliance Coordinator, she is responsible for Supervising Building Division staff and also manages the City's Code Enforcement activities; and*

*WHEREAS, Valerie has played a key role in ensuring the Building Division has maintained its high standards of professionalism and customer service; and*

*WHEREAS, Valerie leads by example and demonstrates a strong work ethic. She possesses strong organizational skills and uses those skills to help improve internal processes; and*

*WHEREAS, Valerie played a critical role in ensuring Building Division operations were not disrupted after the City experienced a devastating cyber-attack and during the pandemic when the City was forced to shut down to the public by quickly implementing new procedures to keep the Division functioning;*

*WHEREAS, during Valerie's career at the City, she has received numerous compliments and accolades from City staff members, applicants, and vendors for her commitment to ensuring Division protocols are maintained, her ability to successfully resolve issues, and to always lending a helping hand to a co-worker in need.*

*NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Union City does hereby express its appreciation to Valerie Avendano for her service to the City of Union City and extends to her congratulations for the honor bestowed upon her as the 2023 General Government Employee of the Year.*

**DATED: APRIL 9, 2024**

---

CAROL DUTRA-VERNACI, Mayor

---

JEFFREY WANG, Vice Mayor

---

JAIME PATIÑO, Councilmember

---

SCOTT SAKAKIHARA, Councilmember

---

GARY SINGH, Councilmember

# CITY OF UNION CITY

## PROCLAMATION

### *In Recognition of Rob Magbanua, 2023 Public Works/Community & Recreation Services Employee of the Year*

*WHEREAS, Rob Magbanua began his career with the City of Union City in the Community & Recreation Services Department in 2011 as a Seasonal Part-Time Staff, was promoted to a Part-Time Program Manager in 2014, and in 2015 became a full-time Recreation Coordinator for Community & Recreation Services; and*

*WHEREAS, in his current capacity as a Recreation Coordinator, he is responsible for Fitness & Personal Training Programs at the Mark Green Sports Center, Coordinating and Managing the March Superhero 5K Fun Run, responsible for developing and instructing the Parkinson's Exercise Program, as well as managing the department's social media accounts and capturing our department's promotional videos and photographs; and*

*WHEREAS, Rob Magbanua has played a key role in the Community & Recreation Services Department's creation of the Parkinson's Exercise Program, where he has been instrumental in growing the program and fundraising for the Parkinson's Foundation; and*

*WHEREAS, Rob Magbanua possesses strong photography and videography skills that are critical to telling the story of what we do for the community through pictures and videos on the Union City website, social media accounts, and the CRS YouTube Channel; and*

*WHEREAS, during Rob Magbanua's career at the City, he has received numerous compliments and accolades from City staff members, contractors, and vendors and has been honored by the Parkinson's Foundation for the Mark Green Sports Center's innovation, energy, and motivation by spreading awareness about Parkinson's through classes and participation of the Annual Parkinson's Moving Day Event; and*

*NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Union City does hereby express its appreciation to Rob Magbanua for his service to the City of Union City and extends to his congratulations for the honor bestowed upon him as the 2023 Public Works/ Community & Recreation Services Employee of the Year.*

**DATED: APRIL 9, 2024**

---

CAROL DUTRA-VERNACI, Mayor

---

JEFFREY WANG, Vice Mayor

---

JAIME PATIÑO, Councilmember

---

SCOTT SAKAKIHARA, Councilmember

---

GARY SINGH, Councilmember



## Agenda Item

**DATE:** 4/9/2024

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**FROM:** THAI NAM PHAM, CITY CLERK

**SUBJECT:** PROCLAMATION PROCLAIMING APRIL 2024 AS FAIR HOUSING MONTH

### **STRATEGIC PLAN ALIGNMENT**

### **BACKGROUND**

### **DISCUSSION**

### **FISCAL IMPACT**

### **RECOMMENDATION**

#### **Prepared by:**

Thai Nam Pham, City Clerk

#### **Submitted by:**

Thai Nam Pham, City Clerk

**ATTACHMENTS:**

Description	Type
 Proclamation - April 2024 Fair Housing Month	Attachment



# CITY OF UNION CITY

## PROCLAMATION



### *Proclaiming April 2024 As Fair Housing Month*

*WHEREAS, the passage of the Fair Housing Act in 1968 enshrined into federal law the goal of eliminating racial segregation and ending housing discrimination in the United States; and*

*WHEREAS, the Fair Housing Act prohibits discrimination based on race, color, religion, sex, disability, familial status, and national origin, and*

*WHEREAS, fair housing is a positive community good, benefitting the environment and our social fabric; and*

*WHEREAS, economic stability, community health, and human relations in all communities are improved by diversity and integration; and*

*WHEREAS, Fair Housing is integral to the ethical commitment of members of the National Association of REALTORS® and the Bay East Association of REALTORS® and is critical to the ability of all real estate professionals to serve their clients, customers and communities; and*

*WHEREAS, acts of housing discrimination and barriers to equal housing opportunity are repugnant to a common sense of decency and fairness.*

*NOW, THEREFORE, the City Council of the City of Union City, does hereby proclaim the month of April, 2024 as “Fair Housing Month” in Union City, California, to establish Union City as an inclusive community committed to fair housing, and to promote appropriate activities by private and public entities intended to provide or advocate for equal housing opportunities for all residents and prospective residents of the State of California.*

*DATED this 9th day of April 2024*

---

*CAROL DUTRA-VERNACI, Mayor*

---

*JEFF WANG, Vice Mayor*

---

*JAIIME PATIÑO, Councilmember*

---

*SCOTT SAKAKIHARA, Councilmember*

---

*GARY SINGH, Councilmember*

Tuesday, April 9, 2024





## Agenda Item

### ATTACHMENTS:

Description	Type
 PowerPoint Presentation - BMX Bike Park Proposal	Attachment

*Nurturing the spirit of the person and the community*

# BMX BIKE PARK PROPOSAL

Union City  
City Council  
4/9/24

<https://unioncitybikeparkadvocates.org>



Eli Singer



Doing a *toboggan* at the  
Union City bike & skate park

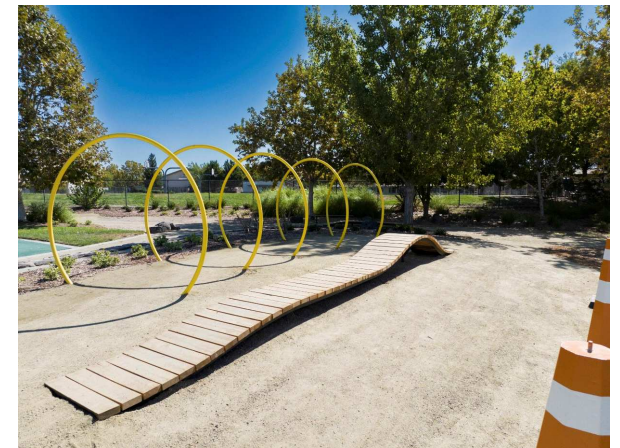


- Union City Bike Park Advocates Inc. (UCBPA) is incorporated in California and received federal 501(C)(3) non-profit status in 2023
- UCBPA Goals:
  - Build and maintain a multi-use (though primarily BMX) bike park in Union City at the site previously used for the Alameda County Stables
  - Provide an open space for *multi-generational* outdoor activity
  - Promote helmet use
  - Provide scholarship opportunities
  - Bring the community together around something positive





## Alternatives







## Proposed location





# COUNTY PARCEL VIEW

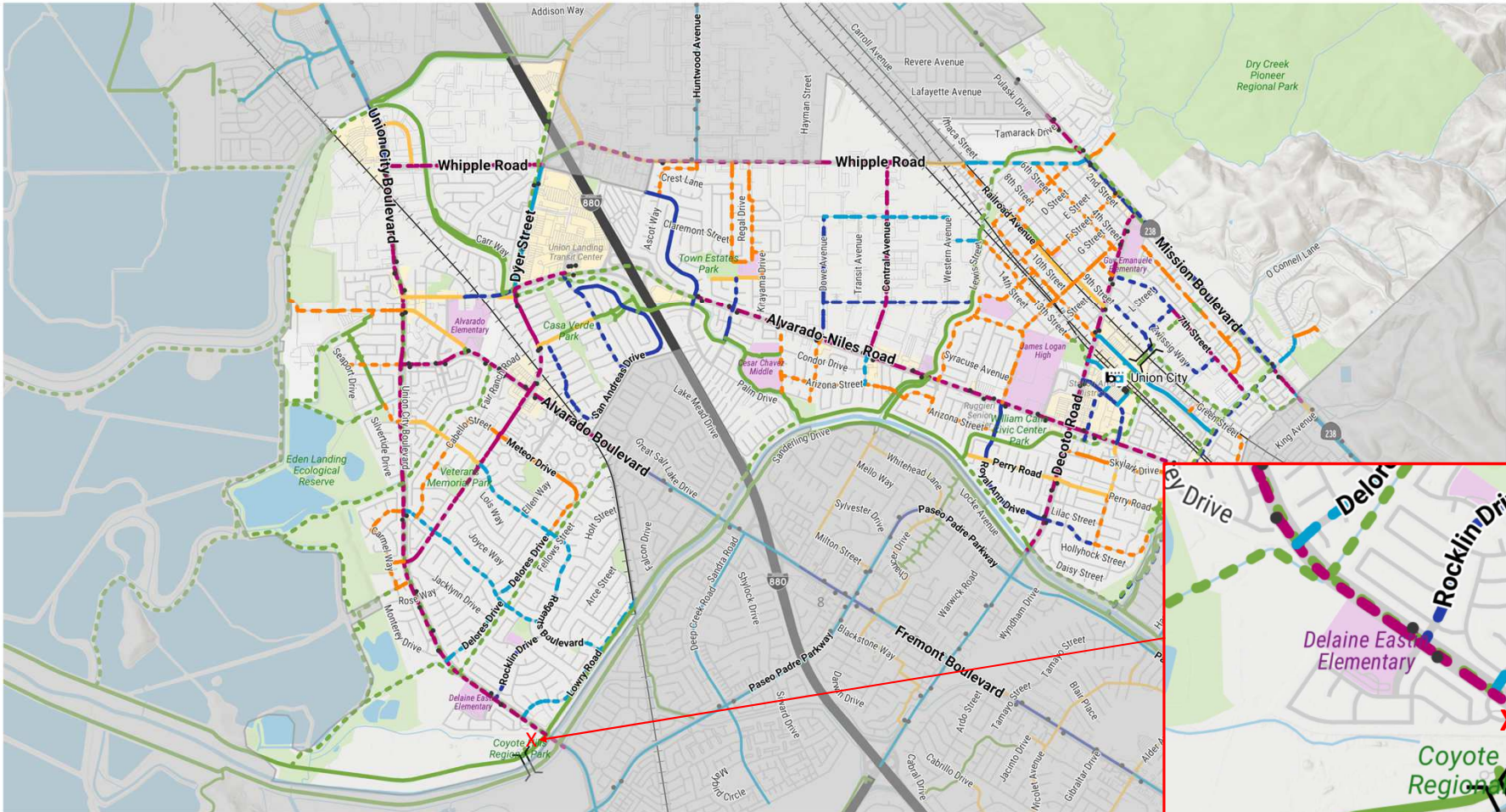
Alameda County and East Bay Regional Park District (EBRPD) parcels







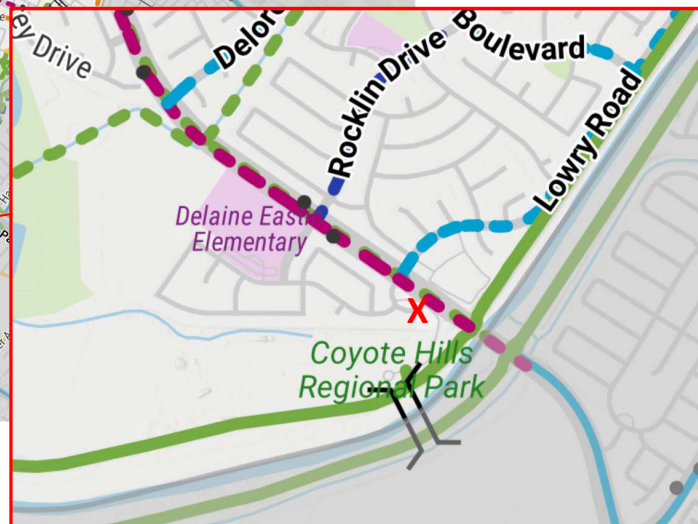




Coordinates  
with Proposed  
Union City Bike  
Network

**City of Union City  
Proposed Bicycle  
Network**

- |  |                               |                                |                         |                 |
|--|-------------------------------|--------------------------------|-------------------------|-----------------|
| <b>Existing And Planned Bicycle Facilities</b> | Bicycle Lane (Class II)       | Planned Facilities             | <b>Transit Stations</b> | <b>Land Use</b> |
| Shared-Use Path (Class I)                      | Bicycle Route (Class III)     | Pedestrian & Bike Overcrossing | BART                    | Open Space      |
| Separated Bike Lane (Class IV)                 | Bicycle Boulevard (Class III) |                                | Bus Stops               | Commercial      |
| Buffered Bicycle Lane (Class II)               | Existing Facilities           |                                |                         | School          |



## Milestones

- UCBPA gained 501(c)(3) status in October 2023
- Site visits by city, county, EBRPD, and regional bike park advocates
- Two site assessments, conducted by the Santa Cruz Mountain Trails Stewardship and American Ramp Company, regional leaders in the development of bike parks and trails
- Discussions with potential corporate sponsors
- Meeting 2/8/24 with County, City, and Park District leaders – very positive shared perspectives, seeds of partnership planted
- Presentation 2/14/24 to UC Parks & Recreation Commission
  - Unanimous statement of general support entered into meeting minutes



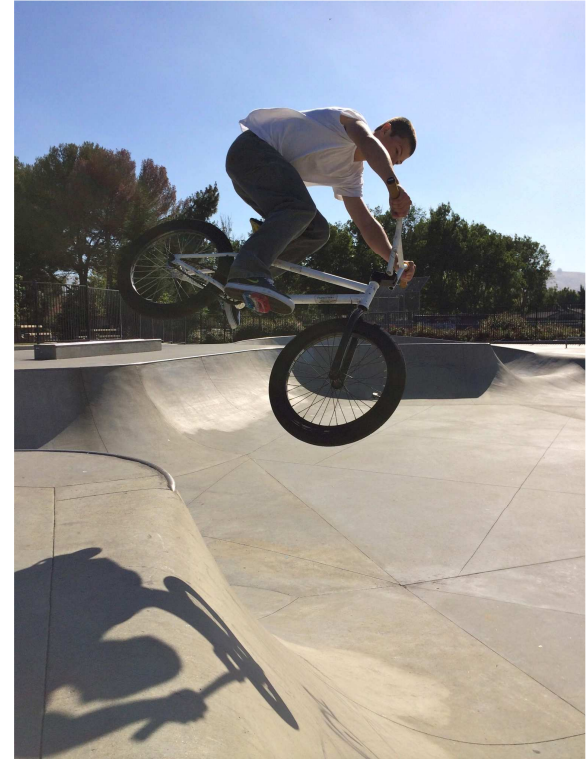


### **Alameda County District 2 Supervisor Elisa Marquez stance**

- Committed to leveraging her platform and resources to seeing this important community project move forward
- This includes identifying county funds to support a park feasibility study
- Invites city leaders to contact her for additional information

### **East Bay Regional Park District stance**

- In 2/8 meeting noted lack of major concerns and opportunities to continue to explore a partnership (Anna Alvarez, EBRPD Deputy GM)
- Open to MOU or lease agreement



### **Next steps**

- Conduct the feasibility study
- Solicit community input
- Secure external funding

Expecting the above to move forward, my ask of the Council:

- A non-binding statement of support
- Consideration of the City of Union City being the lead agency





Thanks for your time  
and attention!

Questions?

- Bob Singer
- (510) 688 – 0918
- [rsinger@unioncitybikeparkadvocates.org](mailto:rsinger@unioncitybikeparkadvocates.org)
- <https://unioncitybikeparkadvocates.org/>



## Agenda Item

**DATE:** 4/9/2024

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**FROM:** THAI NAM PHAM, CITY CLERK

**SUBJECT:** APPROVE THE MINUTES OF THE MARCH 26, 2024 CITY COUNCIL SPECIAL MEETING

Approve the minutes.

### **STRATEGIC PLAN ALIGNMENT**

### **BACKGROUND**

### **DISCUSSION**

### **FISCAL IMPACT**

### **RECOMMENDATION**

### **Prepared by:**


Thai Nam Pham, City Clerk

### **Submitted by:**



Thai Nam Pham, City Clerk

**ATTACHMENTS:**

Description	Type
 Action Minutes	Attachment



## MINUTES

### CITY OF UNION CITY CITY COUNCIL SPECIAL MEETING

**CAROL DUTRA-VERNACI, Mayor**  
**JEFF WANG, Vice Mayor (District 3)**  
**GARY SINGH, Councilmember (District 1)**  
**JAMIE PATIÑO Councilmember (District 2)**  
**SCOTT SAKAKIHARA, Councilmember (District 4)**

**Tuesday, March 26, 2024**  
**6:30 PM**

**City Hall - Council Chamber**  
**34009 Alvarado-Niles Road**  
**Union City, CA 94587**

#### 1. CALL TO ORDER

Mayor Dutra-Vernaci called the meeting to order at 6:30 PM.

#### 2. ROLL CALL

Attendance	Attendee Name
Present	Councilmember Patiño Councilmember Sakakihara Councilmember Singh Vice Mayor Wang Mayor Dutra-Vernaci
Absent	None

#### 3. ORAL COMMUNICATIONS - Comments limited to items on the Special Meeting Agenda

Mayor Dutra-Vernaci opened Oral Communications. There being no speakers, Mayor Dutra-Vernaci closed Oral Communications.

#### 4. CITY MANAGER REPORTS

##### 4.a. Receive Report Regarding Campaign Contribution Limits And Provide Further Direction

City Attorney Kokotaylo provided staff presentation and responded to Councilmember questions.

**Motion:** Direct staff to draft an ordinance amendment to revise the current campaign contribution limits by amending the individual or entity contribution maximum at \$800.00 per election cycle, establishing a cap on contributions at \$35,000 per city council district election and \$70,000 for mayoral elections, and introduce an opt-out provision for maximum contributions of \$100.00 per individual or entity.

**RESULT:** Pass

**MOVER:** Mayor Dutra-Vernaci

**SECONDER:** Councilmember Singh

**AYES:** Councilmembers Patiño, Sakakihara, Singh, Vice Mayor Wang, and Mayor Dutra-Vernaci

**NOES:** None

**ABSENT:** None

#### 5. ADJOURNMENT

Mayor Dutra-Vernaci adjourned the meeting at 6:55 PM.

**I HEREBY CERTIFY that the foregoing minutes were duly and regularly adopted at a regular meeting of the City Council of the City of Union City.**

/s/Thai Nam Pham, MMC, CPMC  
City Clerk



## Agenda Item

**DATE:** 4/9/2024

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**FROM:** THAI NAM PHAM, CITY CLERK

**SUBJECT:** APPROVE THE MINUTES OF THE MARCH 26, 2024 REGULAR MEETING

Approve the minutes.

### **STRATEGIC PLAN ALIGNMENT**

### **BACKGROUND**

### **DISCUSSION**

### **FISCAL IMPACT**

### **RECOMMENDATION**

#### **Prepared by:**

Thai Nam Pham, City Clerk

#### **Submitted by:**

Thai Nam Pham, City Clerk

**ATTACHMENTS:**

Description	Type
 Action Minutes	Resolution





## MINUTES

### CITY OF UNION CITY / SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY REGULAR MEETING

**CAROL DUTRA-VERNACI, Mayor**  
**JEFF WANG, Vice Mayor (District 3)**  
**GARY SINGH, Councilmember (District 1)**  
**JAMIE PATIÑO Councilmember (District 2)**  
**SCOTT SAKAKIHARA, Councilmember (District 4)**

**Tuesday, March 26, 2024**  
**7:00 PM**

**City Hall- Council Chamber**  
**34009 Alvarado-Niles Road**  
**Union City, CA 94587**

#### 1. CALL TO ORDER

The meeting was called to order by Mayor Dutra-Vernaci at 7:08 PM.

##### 1.a. Pledge of Allegiance

Mayor Dutra-Vernaci led the Pledge of Allegiance.

##### 1.b. Roll Call

Attendance	Attendee Name
Present	Councilmember Patiño Councilmember Sakakihara Councilmember Singh Vice Mayor Wang Mayor Dutra-Vernaci
Absent	None

#### 2. UNFINISHED BUSINESS

There were none.

**3. PROCLAMATIONS AND PRESENTATIONS**

**3.a. Introduction Of New And Promoted Employees For 2023**

Human Resources Director Jason Castleberry provided staff presentation.

**3.b. IT Department Strategic Plan Update**

IT Services Director Mario Vallejo provided staff presentation and responded to Councilmember questions.

**4. ORAL COMMUNICATIONS**

Mayor Dutra-Vernaci opened Oral Communications. The following speaker spoke on items that were not on the agenda:

Wendy Huang

There being no further speakers, Mayor Dutra-Vernaci closed Oral Communications.

**5. CONSENT CALENDAR**

**Motion: Approve the Consent Calendar.**

**RESULT:** **Pass**

**MOVER:** Councilmember Patiño

**SECONDER:** Councilmember Singh

**AYES:** Councilmembers Patiño, Sakakihara, Singh, Vice Mayor Wang, and Mayor Dutra-Vernaci

**NOES:** None

**ABSENT:** None

**5.a. Approve The Minutes Of The February 27, 2024 City Council Special Meeting**

A motion was made to approve the minutes.

**5.b. Approve The Minutes Of The February 27, 2024 City Council Regular Meeting**

A motion was made to approve the minutes.

**5.c. Adopt A Resolution To Formalize The Digital Preservation Of City Minutes, Resolutions, And Ordinances As Official Policy And Designate Docuware As The Trusted Electronic Document Management System (EDMS)**

A motion was made to adopt the resolution.

**Enactment No.: Resolution No. 6266-24**

- 5.d. **Adopt A Resolution Approving An Amendment To Update The Class Specifications For The Classifications Of Maintenance I - Parks and Grounds, And Budget Manager/Purchasing Agent**

A motion was made to adopt the resolution.

**Enactment No.: Resolution No. 6267-24**

- 5.e. **Adopt A Resolution Authorizing The Acceptance Of FY 2022-2023 SB 1383 Grant Funds From CalRecycle, In The Amount Of \$180,941, And Amending The FY 2023-2024 City Manager's Office, Solid Waste And Recycling Program Budget**

A motion was made to adopt the resolution.

**Enactment No.: Resolution No. 6268-24**

- 5.f. **Adopt A Resolution Approving The Consulting Services Agreement With California Wood Recycling, Inc. dba Agromin, For A Not-To-Exceed Amount Of \$240,000 Through December 31, 2026 For Compost Procurement Services And Compost Delivery To The City To Facilitate Compliance With SB 1383 Compost Procurement Regulations And Authorizing The City Manager To Approve Up To Three One-Year Extensions In An Additional Amount Not To Exceed \$270,000**

A motion was made to adopt the resolution.

**Enactment No.: Resolution No. 6269-24**

## **6. PUBLIC HEARINGS**

There were none.

## **7. CITY MANAGER REPORTS**

Mayor Dutra-Vernaci requested that Item 7.b. be moved ahead of 7.a. Her request received unanimous support.

### **7.b. Policy Direction Regarding The Franchise Agreements For Landfill, Compost, And Recycle Collection Services**

Recycling & Solid Waste Program Manager Cliff Feldman provided staff presentation and responded to Councilmember questions.

Mayor Dutra-Vernaci opened Public Comment. The following members spoke on the item:

Mary Schlarb  
Susan Peinado  
Jason Toro  
Subru Bhat  
Joe Chu  
Michael Gross

There being no further speakers, Mayor Dutra-Vernaci closed Public Comment.

**Motion:** Approve a 10-year contract extension with Republic Services and Tri-City Economic Development Corporation (Tri-CED) from July 1, 2025, through June 30, 2025, with the condition that all parties, along with the City, revisit and explore possibilities for cost adjustments to reduce rates.

**RESULT:** Pass

**MOVER:** Mayor Dutra-Vernaci

**SECONDER:** Councilmember Patiño

**AYES:** Councilmembers Patiño, Sakakihara, Singh, Vice Mayor Wang, and Mayor Dutra-Vernaci

**NOES:** None

**ABSENT:** None

**7.a. Introduction Of Ordinance Amending Union City Municipal Code Chapter 5.42 “Tobacco Retailers”**

City Attorney Kokotaylo provided staff presentation and responded to Councilmember questions.

Mayor Dutra-Vernaci opened the Public Comment. The following speakers spoke on the item:

Luis Santos Hernandez  
Deborah Chhun  
Thanawat Boontheng  
Dream Magampo  
Jeremiah Duong  
Mary Ann de Gracia  
Aditya Indla  
Krupa Singampalli  
Camille Cummings  
Alyssa Mamacalay  
Lucine Mokahel  
Liz Williams  
Arjun Singampalli  
Bob Gordon

There being no further speakers, Mayor Dutra-Vernaci closed Public Comment.

**Motion:** Introduce the ordinance amending the Municipal Code Chapter 5.42 “Tobacco Retailers” with the exemption for reusable vapes removed within the language.

**RESULT:** Fail

**MOVER:** Councilmember Sakakihara

**SECONDER:** Mayor Dutra-Vernaci

**AYES:** Councilmember Sakakihara and Mayor Dutra-Vernaci

**NOES:** Councilmember Patiño, Singh, and Vice Mayor Wang

**ABSENT:** None

**ABSTAIN:** None

**Motion:** Waive Further Reading and introduce by title only the proposed ordinance amending Union City Municipal Code Chapter 5.42, "Tobacco Retailers."

**RESULT:** Pass

**MOVER:** Councilmember Patiño

**SECONDER:** Councilmember Singh

**AYES:** Councilmember Patiño, Sakakihara, Singh, Vice Mayor Wang, and Mayor Dutra-Vernaci

**NOES:** None

**ABSENT:** None

**ABSTAIN:** None

**7.c. Presentation Of The Fiscal Year 2021-2022 Year-End Financial Results And Adoption Of A Resolution Authorizing The Use Of 50% Of The General Fund's Fiscal Year 2021-2022 Unanticipated Savings To Fund Unfunded Liabilities**

Finance Director Jackie Acosta provided staff presentation and responded to Councilmember questions.

Mayor Dutra-Vernaci opened the Public Comment. There being no speakers, Mayor Dutra-Vernaci closed Public Comment.

**Motion:** Receive and file the staff report and adopt the attached resolution authorizing staff to use \$473,442 to pay down a portion of the City's unfunded pension and/or OPEB liabilities.

**RESULT:** Pass

**MOVER:** Councilmember Singh

**SECONDER:** Councilmember Sakakihara

**AYES:** Councilmember Patiño, Sakakihara, Singh, Vice Mayor Wang, and Mayor Dutra-Vernaci

**NOES:** None

**ABSENT:** None

**ABSTAIN:** None

**Enactment No.: Resolution No. 6270-24**

**7.d. Adopt A Resolution Approving An Exception To The 180-Day Waiting Period For Post-Retirement Employment And Approving An Employment Agreement With Retired Annuitant Laurie Radovich**

Human Resources Director Jason Castleberry provided staff presentation.

Mayor Dutra-Vernaci opened the Public Comment. There being no speakers, Mayor Dutra-Vernaci closed Public Comment.

**Motion: Adopt a Resolution approving an exception to the 180-day waiting period for post-retirement employment, and approve an Employment Agreement with retired annuitant Laurie Radovich to serve as an Extra Help Transit Coordinator.**

**RESULT: Pass**

**MOVER:** Mayor Dutra-Vernaci

**SECONDER:** Councilmember Singh

**AYES:** Councilmember Patiño, Sakakihara, Singh, Vice Mayor Wang, and Mayor Dutra-Vernaci

**NOES:** None

**ABSENT:** None

**ABSTAIN:** None

**Enactment No.: Resolution No. 6271-24**

**8. SUCCESSOR AGENCY TO REDEVELOPMENT AGENCY**

There were none.

**9. ITEMS REFERRED BY COUNCIL**

Councilmember Patiño reported his attendance to the Cal Cities Latino Caucus Meeting, Cal Cities East Bay Meeting, and Cal Cities Policy Committee.

Councilmember Sakakihara reported on his attendance at the New Haven Subcommittee meeting, the Economic Development Advisory Team as an attendee, and the Parks and Recreation Commission meeting.

Councilmember Singh reported on the Human Relations Commission and the Economic Development Advisory Team.

Vice Mayor Wang reported his attendance to the Chamber of Commerce, New Haven Unified School District Joint Sub-Committee, Economic Development Advisory Team, National League of Cities Congressional Conference, Cal Cities Public Safety Committee, and Alameda County Waste Management Authority.

Mayor Dutra-Vernaci reported on the Metropolitan Transportation Commission.

**10. GOOD OF THE ORDER**

Councilmember Patiño reported his attendance at a community meeting at Torrey Pines residents at Studio 11, National League of Cities Conference, reception at the Library of Congress, food distribution at St. Anne's, Spectrum's Senior Lunch Program.

Councilmember Sakakihara shared his involvement in community activities, including a mock congress at IBCMS, celebrating Women's Day, and participating in Spectrum's Senior Lunch Program. He requested the Council to agendaize an examination of potential relief for a resident facing a \$17,000 affordable housing fee for a home addition. This includes

considering adjustments to the definition of capital space, increasing the exemption square footage above 500 for home additions, and specifically focusing on owner-occupied additions. He also called for analyzing the potential financial impacts of such changes on the City. His request received unanimous support from the Council.

Councilmember Singh reported his attendance at the Shri Guru Ravidass Ji Maharaj celebration.

Vice Mayor Wang reported meeting with Embarc and Republic Services.

## **11. CLOSED SESSION**

### **11.a. Conference with Labor Negotiators (Pursuant to**

**Government Code Section 54957.6) Agency Designated Representatives: Kristopher J. Kokotaylo, City Attorney; Mayor Dutra-Vernaci Unrepresented Employee: City Manager**

Mayor Dutra-Vernaci reported no reportable action on the item listed above.

## **12. ADJOURNMENT**

Mayor Dutra-Vernaci adjourned the meeting at 10:27 PM.

**I HEREBY CERTIFY that the foregoing minutes were duly and regularly adopted at a regular meeting of the City Council/Successor Agency to the Redevelopment Agency of the City of Union City.**

/s/Thai Nam Pham, MMC, CPMC  
City Clerk



## Agenda Item

**DATE:** 4/9/2024

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**FROM:** THAI NAM PHAM, CITY CLERK

**SUBJECT:** APPROVE THE MINUTES OF THE MARCH 28, 2024 CITY COUNCIL SPECIAL MEETING

Approve the minutes.

### **STRATEGIC PLAN ALIGNMENT**

### **BACKGROUND**

### **DISCUSSION**

### **FISCAL IMPACT**

### **RECOMMENDATION**

#### **Prepared by:**

Thai Nam Pham, City Clerk

#### **Submitted by:**

Thai Nam Pham, City Clerk



**ATTACHMENTS:**

Description	Type
 Action Minutes	Attachment



**MINUTES  
CITY OF UNION CITY  
CITY COUNCIL SPECIAL MEETING**

**CAROL DUTRA-VERNACI, Mayor  
JEFF WANG, Vice Mayor (District 3)  
GARY SINGH, Councilmember (District 1)  
JAMIE PATIÑO Councilmember (District 2)  
SCOTT SAKAKIHARA, Councilmember (District 4)**

**Thursday, March 28, 2024  
7:00 PM**

**City Council Chambers  
34009 Alvarado-Niles Road  
Union City, CA 94587**

**1. CALL TO ORDER**

Mayor Dutra-Vernaci called the meeting to order at 7:03 PM.

**2. ROLL CALL**

Attendance	Attendee Name
Present	Councilmember Patiño Councilmember Sakakihara Councilmember Singh Vice Mayor Wang Mayor Dutra-Vernaci
Absent	None

**3. ORAL COMMUNICATIONS - Comments limited to items on the Special Meeting Agenda**

Mayor Dutra-Vernaci opened Oral Communications. There being no speakers, Mayor Dutra-Vernaci closed Oral Communications.

#### **4. CITY MANAGER REPORTS**

##### **4.a. Accept The Business Tax Analysis Report Prepared By HdL Companies And Provide Broad-Based Policy Direction On Next Steps To Inform The Placement Of Potential Revenue Measures On The November 2024 Ballot**

City Manager Joan Malloy and Operations Director Eric Myers from HdL Companies delivered a presentation to the Council. President Bryan Godbe from Godbe Research was also in attendance. The Council discussed the results of the Business Tax Analysis Report and staff recommendations. Staff, Mr. Myers, and Mr. Godbe responded to councilmember questions.

Council accepted the business tax analysis report and agreed upon the following staff recommendations and provided direction:

- Shift all classifications to a gross receipts tax structure;
- Simplify and consolidate to nine categories;
- Advancement of a differential rate model across these categories, with a commitment to seeking further data;
- Maintain the existing minimum tax rates with annual CPI adjustments, though with further Council discussion, some flexibility should be considered for possible adjustments to the minimum tax; and
- Request additional analysis and suggestions regarding the staff's advice to phase in the new tax rates.

Additionally, the Council instructed staff to engage in a second phase of community surveying, focusing on utility users and business license taxes.

City Manager Malloy indicated to the City Council that staff would proceed with developing additional rate structures for the business license tax for the Council to consider.

##### **4.b. Adopt A Resolution Approving The Formation Of, And The Mayor's Appointment Of Two Councilmembers To, An Ad Hoc Subcommittee To Evaluate And Provide Recommendations On The Second Phase Community Survey To Inform The Placement Of Potential Revenue Measures On The November 2024 Ballot**

Council waived staff presentation.

**Motion:** Adopt a resolution approving the formation of an Ad Hoc Subcommittee to evaluate and provide recommendations on the second phase community survey to inform the placement of potential revenue measures on the November 2024 ballot and appointing Councilmembers Patiño and Sakakihara to the Subcommittee.

**RESULT:** Pass

**MOVER:** Mayor Dutra-Vernaci

**SECONDER:** Vice Mayor Wang

**AYES:** Councilmembers Patiño, Sakakihara, Singh, Vice Mayor Wang, and Mayor Dutra-Vernaci

**NOES:** None

**ABSENT:** None

**Enactment No.: Resolution No. 6272-24**

## 5. ADJOURNMENT

Mayor Dutra-Vernaci adjourned the meeting at 9:04 PM.

**I HEREBY CERTIFY that the foregoing minutes were duly and regularly adopted at a regular meeting of the City Council of the City of Union City.**

/s/Thai Nam Pham, MMC, CPMC  
City Clerk



## Agenda Item

**DATE:** 4/9/2024

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**FROM:** THAI NAM PHAM, CITY CLERK

**SUBJECT:** ADOPT A RESOLUTION ESTABLISHING THE CITY OF UNION CITY ELECTRONIC CLAIMS FILING POLICY

Staff recommends that the City Council adopt a resolution to establish the City of Union City's Electronic Claims Filing Policy. This policy responds to the community's evolving needs and advancements in digital technology. By allowing claims to be filed electronically, the City aligns with modern practices, enhancing the accessibility and efficiency of services provided.

### **STRATEGIC PLAN ALIGNMENT**

**Goal B, Governance and Organization Effectiveness:** Produce high-quality services to the community through a commitment to local government best practices and employee development, support, and retention.

**Strategy 12.** Increase staff efficiency and responsiveness by improving the design of and access to self-service options for the public and employees (e.g., human resources portals, permit system, customer service portals)

### **BACKGROUND**

To modernize services and align with recent changes in state law, staff proposes adopting a resolution that allows for the electronic submission of claims against the City. This initiative responds to the Government Claims Act, which requires a written claim submission before initiating a lawsuit for damages against a public entity. With the state legislature's approval of Senate Bill (SB) 1473, local public entities are now allowed to accept electronic claims submissions if authorized through an ordinance or resolution. This bill enables a more efficient claims process, allowing for electronic correspondence regarding claims and further simplifying procedures for both claimants and the City.

### **DISCUSSION**

The proposed resolution and the accompanying policy detail the process for submitting claims electronically, including the information claimants must provide and the method for electronic correspondence regarding claims.

Adopting this policy streamlines internal processes, reflecting the City's commitment to embracing technological solutions to improve operations. This initiative responds to state legislative changes, specifically Senate Bill (SB) 1473 in 2020, allowing local public entities to accept electronic claims submissions. Implementing this policy marks a step toward modernizing the City's services, reducing paper waste, and simplifying the claims process for the City and the public.

### **FISCAL IMPACT**

Transitioning to electronic claims processing is expected to reduce administrative costs and material waste associated with traditional paper-based submissions. The exact savings will be determined as the policy is implemented, depending on the volume of claims processed electronically.

### **RECOMMENDATION**

Staff recommends that the Council adopt the attached resolution establishing the City of Union City's Electronic Claims Filing Policy.

### **Prepared by:**

Thai Nam Pham, City Clerk

### **Submitted by:**

Thai Nam Pham, City Clerk

### **ATTACHMENTS:**

Description	Type
❏ Draft Resolution	Resolution
❏ Exhibit A - Electronic Claims Filing Policy	Exhibit

## **RESOLUTION NO. XXXX-24**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY ESTABLISHING THE CITY OF UNION CITY ELECTRONIC CLAIMS FILING POLICY**

**WHEREAS**, the Government Claims Act, pursuant to California Government Code section 945.4, requires that claimants present the City with a written claim before commencing a lawsuit for damages; and

**WHEREAS**, California Government Code section 915(a)(3) allows for electronic submission of claims if the City adopts a resolution establishing requirements for such submissions; and

**WHEREAS**, adopting an electronic claims filing policy will streamline the claims process, making it more efficient for both the city and claimants; and

**WHEREAS**, electronic processing is consistent with modern business practices and supports the City's sustainability goals by reducing paper use; and

**WHEREAS**, obtaining claims and other documents electronically reduces staff time and material waste compared to mailing and handling hard copy claims; and

**WHEREAS**, this Electronic Claims Filing Policy outlines the means by which the City will accept electronic claims, the information required for each claim, the consequences for not providing all required information, and the method of sending notices regarding such claims.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Union City hereby adopts the attached City of Union City Electronic Claims Filing Policy, herein attached as **Exhibit A**, establishing the procedure for electronic claim submissions and related communications.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Union City at a regular meeting held on this 9<sup>th</sup> day of April by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

---

CAROL DUTRA-VERNACI  
Mayor

ATTESTED:

APPROVED AS TO FORM:

---

THAI NAM N. PHAM  
City Clerk

---

KRISTOPHER J. KOKOTAYLO  
City Attorney

**Attachments:**

1. Exhibit A – City of Union City Electronic Claims Filing Policy



## **Electronic Claims Filing Policy**

### **I. Purpose and Scope**

- a. This policy establishes the process by which individuals and entities may submit claims electronically to the City of Union City ("City").
- b. The Government Claims Act requires that a claimant submit a written claim to the entity before bringing a lawsuit for damages against a public entity. Amendments to the Act allow cities to process claims electronically where authorized by resolution or ordinance.
- c. This policy, adopted by City Council Resolution No. XXXX-24, authorizes electronic claim processing, outlines the information required by the City for each claim, indicates the consequences of not providing all required information, and describes the method for sending claimants notices regarding electronically submitted claims.
- d. This policy does not mandate electronic filing; claimants may continue to submit claims by traditional means as prescribed by law.

### **II. Electronic Claim Submission Procedure**

- a. **Submitting Electronic Claims:** Claims may be submitted electronically to the City exclusively via the designated electronic claims submission portal located on the City's official website.
- b. **Required Information:** Claimants must provide the following information for a claim to be considered complete:

- i. **Claimant Information:**
  - 1. Full name of the claimant.
  - 2. Email address for correspondence.
  - 3. Postal address.
  - 4. Phone number available during business hours.
- ii. **Incident Details:**
  - 1. Date and time of the incident.
  - 2. Location of the incident.
  - 3. Detailed description of the incident and reasons the claimant believes the City is responsible.
  - 4. Description of the damages or injuries sustained.
- iii. **Electronic Signature:** Claims must include an electronic signature by the claimant or their authorized representative, affirming the truthfulness and accuracy of the claim. The claimant agrees, by signing electronically or by authorizing a third party to sign electronically on the claimant's behalf, that:
  - 1. The electronic signature will bind the claimant to the same extent as a handwritten signature;
  - 2. The claim will not be signed with a handwritten signature; and
  - 3. The City may ask the claimant to provide a handwritten signature in the future.
- c. **Optional Information:** Claimants are encouraged, if possible, to provide:
  - i. Names of any City employees involved, if known.
  - ii. Names and contact information of any witnesses.
  - iii. Any additional evidence supporting the claim, such as photos or documents.
- d. **Consequences for Incomplete Submissions:** Failure to provide all required information may delay claim processing, result in rejection, or impact the ability to bring a lawsuit against the City.
- e. **Notices and Correspondence:** The City will send all notices and correspondence regarding the claim to the email address provided by the claimant. Claimants may specify an alternative email address for notices.

### **III. Amendments**

This policy may be amended from time to time by resolution of the City Council to reflect changes in law, technology, or City procedures.



## Agenda Item

**DATE:** 4/9/2024

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**FROM:** JARED RINETTI, POLICE CHIEF

**SUBJECT:** ADOPT A RESOLUTION AMENDING THE FY 2023-2024 MASTER FEE SCHEDULE TO ADD FEES RELATED TO THE ISSUANCE OF PERMITS TO CARRY A CONCEALED WEAPON (CCW)

Staff recommends that the City Council adopt the attached resolution (Attachment No. 1) amending the FY 2023-2024 Master Fee Schedule to add fees related to the issuance of permits to carry a concealed weapon (CCW).

### **STRATEGIC PLAN ALIGNMENT**

Goal C: Economic, Community development and Public Safety

Strategy 13: Align public safety services with community needs

### **BACKGROUND**

California Penal Code sections 26510 and 26155 provide that a Sheriff of a county or the Chief or other head of municipal police department of any city, or city and county, shall issue or renew a license to carry a pistol, revolver, or other firearm capable of being concealed upon the person (Concealed Carry Weapon License). The licensing authority specified in Penal Code sections 26150 and 26155 shall issue a license to persons who are not a disqualified person to receive such a license, as determined in accordance with the standards set forth in Penal Code 26202, meet residential requirements, and have completed a course of training. All applicants for a Concealed Carry Weapon license will be fingerprinted and state and federal records will be checked to determine if they are eligible to possess firearms.

In the United States Supreme Court ruling in *New York State Rifle & Pistol Association v. Bruen* (June 2022), it suggests states cannot place overly restrictive requirements on individuals seeking to obtain concealed carry permits, such as demonstrating a specific "good cause" or "proper cause" beyond a general desire for self-defense. Instead, states may be required to adopt a less restrictive standard, such as a "shall-issue" policy

where permits are issued unless there is a specific disqualifying factor.

Historically, the Alameda County Sheriff's Office handled CCW permitting throughout the county. Due to Sheriff's Office staffing concerns, this responsibility has now been delegated to the individual cities throughout Alameda County. Effective March 2024, the Union City Police Department will be responsible for processing all CCW requests from citizens residing in Union City.

Obtaining a concealed carry weapon (CCW) permit in California comes with certain financial obligations. These fees are required to cover the administrative costs associated with processing applications, conducting background checks, and ensuring the safety and security of individuals who are granted the privilege to carry a concealed firearm.

## **DISCUSSION**

When applying for a CCW permit in California, applicants are required to pay an initial application fee. This fee is non-refundable, regardless of whether the application is approved or denied.

**Initial Application Fee / Proposed Fee:** \$150. Penal Code Sections 21690(b)(1) and (b)(2) allow local authorities to request 50% of the CCW fee be collected at the time the application is filed. This fee is based on standard industry practice fees and required state fees (DOJ).

**City Fee to be paid upon issuance:** \$150. Penal Code Sections 26190(b)(1) and (b)(2) allow the city to charge an additional fee in an amount equal to the reasonable costs for processing the application for a new license, license renewal, and issuing the license, and shall transmit the additional fee, if any, to the city.

Additionally, an employee's time to process a CCW is approximately 4 hours (database checks, live scan, applicant interview, reference interviews, possible follow up etc.). The calculated hourly pay is \$71.92 x 4 hours = \$287.68. Total reasonable cost for applicant to obtain CCW = \$300 (\$150 initial fee and \$150 at issuance of CCW).

**Renewal Fee: City Fee=** \$25 and State (DOJ) Fee = \$52. The applicant will be required by law to renew their CCW every 2 years. The renewal fee is based on standard industry practice and required state fees (DOJ).

**Duplication/Modification Fee** = \$10. The department will provide the applicant with an ID-type card as their CCW license. This proposed fee is if a new CCW license needs to be issued before the renewal date.

## **FISCAL IMPACT**

The new fees related to the issuance of concealed weapon permits will have no net effect on the City's budget as the fees have been established to cover the City's cost of processing applications and issuing permits to carry a concealed weapon.

## **RECOMMENDATION**

Staff recommends that the City Council adopt the attached resolution (Attachment No. 1) amending the FY 2023-2024 Master Fee Schedule to add fees related to the issuance of permits to carry a concealed weapon (CCW).

**Prepared by:**

Brian Baumgartner, Police Captain

**Submitted by:**

Brian Baumgartner, Police Captain

**ATTACHMENTS:**

Description	Type
☐ CCW Fee Resolution	Resolution
☐ Update to FY 2023-2024 Master Fee Schedule	Exhibit

**RESOLUTION NO. XXXX-24**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY  
OF UNION CITY AMENDING THE FISCAL YEAR 2023-  
2024 MASTER FEE SCHEDULE TO ADD FEES RELATED  
TO THE ISSUANCE OF PERMITS TO CARRY A  
CONCEALED WEAPON**

**WHEREAS**, the City Council of the City of Union City is authorized to establish and amend fees pertaining to services provided by the City to the public; and

**WHEREAS**, the City Council considered establishing fees to cover the City's costs related to the issuance of permits to carry a concealed weapon at a duly noticed City Council meeting on April 9, 2024; and

**WHEREAS**, the City Council desires to add fees to cover the City's costs for providing these new services, as authorized pursuant to the Union City Municipal Code; and

**WHEREAS**, the fees approved by this resolution will stand until such time as amendments may be brought before the City Council for consideration.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Union City does hereby add fees for services as set forth in the Proposed Fee Schedule (**Exhibit A**), attached hereto and incorporated herein by reference.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Union City at a regular meeting held on the 9<sup>th</sup> day of April 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

---

CAROL DUTRA-VERNACI  
Mayor

ATTESTED:

APPROVED AS TO FORM:

---

THAI NAM N. PHAM  
City Clerk

---

KRISTOPHER J. KOKOTAYLO  
City Attorney

# Exhibit A

City of Union City

Master Fee Schedule Update

Fiscal Year 2023-2024

TYPE OF FEE	PROPOSED FEE	JUSTIFICATIONS
Police Department		
Division (if applicable or leave blank)		
Application for a Permit to Carry a Concealed Weapon		
Application Fee	\$300 (50% due upon application and 50% due upon issuance of permit)	New:
Renewal Fee		
Biennial Renewal Fee	\$77	New:
Replacement Fee		
To provide a replacement permit	\$10	New:



## Agenda Item

**DATE:** 4/9/2024

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**FROM:** MARILOU AYUPAN, PUBLIC WORKS DIRECTOR

**SUBJECT:** ADOPT A RESOLUTION INITIATING PROCEEDINGS FOR THE LEVY AND COLLECTION OF ASSESSMENTS FOR THE CITY-WIDE LANDSCAPE & LIGHTING DISTRICT NO. 3 FOR FISCAL YEAR 2024-2025

Staff recommends that the City Council adopt the attached resolution initiating proceedings for the levy and collection of assessments for the Citywide Landscape & Lighting District No. 3 (LLAD No. 3) for Fiscal Year 2024-2025.

### **STRATEGIC PLAN ALIGNMENT**

The action is not an identified strategy in the Strategic Plan.

### **BACKGROUND**

Every year the City Council undertakes the process to levy the Landscape and Lighting District assessments on property. In accordance with the Landscape and Lighting Act of 1972 and the California Government Code, the City Council is required to conduct a public hearing process regarding the levy of annual assessments for LLAD No. 3 for the upcoming fiscal year. As part of the three-step process, the City Council must: 1) initiate proceedings and direct the preparation of an Engineer's Report; 2) subsequently hold a meeting to declare its intent to levy the assessments, accept the annual Engineer's Report, and set a public hearing; and 3) conduct a public hearing and confirm and levy the assessments.

### **DISCUSSION**

The costs for services provided through LLAD No. 3 include those associated with street lighting and signalization, street median and backup landscape maintenance, street tree management, and parks maintenance within the city limits of Union City.



The City’s consultant, NBS, will prepare the annual Engineer’s Report, calculate the levy amounts, and prepare the assessment roll for the Fiscal Year 2024-2025. Following the preparation of the Engineer’s Report, at its meeting on May 28, 2024, staff will recommend to the City Council to approve the report and set a public hearing date. The City Council will subsequently hold a public hearing, currently planned for June 25, 2024, to hear any objections and consider approving the annual assessments for LLAD No. 3.

**FISCAL IMPACT**

There is no fiscal impact for the requested Council action to initiate the proceedings for the levy and collection of said LLAD No. 3 assessments.

**RECOMMENDATION**

Staff recommends that the City Council adopt the attached resolution initiating proceedings for the levy and collection of assessments for the Citywide Landscape & Lighting District No. 3 (LLAD No. 3) for Fiscal Year 2024/2025.

**Prepared by:**

Farooq Azim, City Engineer

**Submitted by:**

Marilou Ayupan, Public Works Director

**ATTACHMENTS:**

Description	Type
 Draft Resolution	Resolution

**RESOLUTION NO. XXXX-24**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
UNION CITY INITIATING PROCEEDINGS FOR THE  
LEVY AND COLLECTION OF ASSESSMENTS FOR THE  
CITY-WIDE LANDSCAPE & LIGHTING DISTRICT NO. 3  
FOR FISCAL YEAR 2024/2025**

**WHEREAS**, the City Council of the City of Union City intends to renew the city-wide Landscape & Lighting District No. 3 (LLAD No. 3) to fund on-going maintenance of street lights and traffic signals, street median and landscape, street trees, and parks within the city limits of Union City; and

**WHEREAS**, the City Council of the City of Union City previously completed its proceedings in accordance with and pursuant to the Landscape and Lighting Act of 1972, Part 2, Division 15, of the California Streets and Highways Code (commencing with Section 22500) (the “Act”) to establish the City’s Landscape & Lighting District No. 3 (the “District”); and

**WHEREAS**, the City has retained NBS to prepare the annual Engineer’s Report, calculate the levy, and to prepare the assessment roll for the 2024/2025 fiscal year; and

**WHEREAS**, the City Council of the City of Union City wishes to initiate proceedings for the levy of assessments for Fiscal Year 2024/2025 in order to provide for the necessary costs and expenses pertaining to the maintenance of the improvements within the District.

**NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY  
THE COUNCIL AS FOLLOWS:**

- 1. Annual Report:** The City Council of the City of Union City hereby orders NBS to prepare and file with the City Clerk the annual Engineer’s Report concerning the levy and collection of assessments within the District for the fiscal year commencing July 1, 2024, and ending June 30, 2025.
- 2. New Improvements or Changes to Existing Improvements:** There are no changes to existing improvements, nor are there any items added to the list of improvements previously approved at the formation or subsequent annexations to the District.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Union City at a regular meeting held on the 9<sup>th</sup> day of April 2024 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

---

CAROL DUTRA-VERNACI  
Mayor

ATTESTED:

APPROVED AS TO FORM:

---

THAI NAM N. PHAM  
City Clerk

---

KRISTOPHER J. KOKOTAYLO  
City Attorney



## Agenda Item

**DATE:** 4/9/2024

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**FROM:** MARILOU AYUPAN, PUBLIC WORKS DIRECTOR

**SUBJECT:** ADOPT A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE THE SEVENTH AMENDMENT TO THE CONSULTING SERVICES AGREEMENT WITH HDR ENGINEERING, INC., IN THE AMOUNT OF \$381,730, FOR A TOTAL CONTRACT AMOUNT OF \$891,623, TO FINALIZE THE PLANS, SPECIFICATIONS & ENGINEER'S ESTIMATE (PS&E), TO PROVIDE BID SUPPORT DURING ADVERTISEMENT AND TO PROVIDE CONSTRUCTION SUPPORT FOR THE BART PEDESTRIAN AT-GRADE CROSSING PROJECT, CITY PROJECT NO. 14-14

Staff recommends that the City Council adopt a resolution authorizing the City Manager to execute the Seventh Amendment to the Consulting Services Agreement with HDR Engineering, Inc., in the amount of \$381,730, for a total contract amount of \$891,623, to finalize the Plans, Specifications & Engineer's Estimate ("PS&E"), to provide bid support during advertisement, and to provide construction support for the BART Pedestrian At-Grade Pedestrian Crossing Project, City Project No. 14-14.

### **STRATEGIC PLAN ALIGNMENT**

This agenda item is in alignment with the following:

**Goal C.** Institute forward-thinking business, land use development, housing, social services, and public safety strategies that promote community growth and innovation.

**Strategy 2:** Facilitate the build out of the greater Station District Area through the construction of the Quarry Lakes Parkway, completion of the pedestrian rail crossing and implementing the recommendations of the Southern Alameda County Regional Rail Integration Study to make the Station District a passenger rail hub served by ACE.

### **BACKGROUND**

Since the early 2000s, the vision of the Union City Intermodal Station Project is to create a two-sided BART Station with a new east entrance connecting to the Station District Area, a 30-acre plus planned TOD (Transit-Oriented Development) site along 11<sup>th</sup> Street.

On March 25, 2014, the City Council adopted Resolution No. 4552-14 authorizing the City Manager to execute a Consulting Services Agreement, C3638, with HDR Engineering, Inc. (“HDR”), in the amount of \$107,819, to begin the engineering design for the Railroad At-Grade Pedestrian Crossing at the Oakland Subdivision. This work included assistance with the new public at-grade crossing for pedestrians and bikes across the Union Pacific Railroad (“UPRR”) track and the required permit applications with the California Public Utility Commission (“CPUC”) and UPRR. The project also included coordination and securing approvals from BART.

On November 17, 2015, Union City executed the First Amendment to the Consulting Services Agreement with HDR Engineering, Inc., in the amount of \$39,987, for a total contract amount of \$147,806, for supplemental work required by UPRR to improve safety features in the design.

On August 15, 2016, Union City executed the Second Amendment to the Consulting Services Agreement with HDR Engineering, Inc., in the amount of \$25,000, for a total contract amount of \$172,806, to address unforeseen changes in scope from the review comments.

On September 13, 2016, the City Council adopted Resolution No. 4953-16 authorizing the City Manager to execute the Third Amendment to the Consulting Services Agreement with HDR Engineering, Inc., in the amount of \$82,762, for a total contract amount of \$255,568, to complete the project design and implement UPRR and BART comments.

On September 12, 2017, the City Council adopted Resolution No. 5126-17 authorizing the City Manager to execute the Fourth Amendment to the Consulting Services Agreement with HDR Engineering, Inc., in the amount of \$32,000, for a total contract amount of \$287,568, for Americans with Disabilities Act (“ADA”) ramp design changes for the at-grade pedestrian crossing design.

On February 25, 2019, Union City executed the Fifth Amendment to the Consulting Services Agreement with HDR Engineering, Inc., in the amount of \$24,932, for a total contract amount of \$312,500, for the supplemental survey and design changes required to eliminate the sump pump and re-routing of local drainage.

On July 9, 2019, the City Council adopted Resolution No. 5503-19, authorizing the City Manager to execute the Public At-Grade Pedestrian Crossing Agreement (C5376) with Union Pacific Railroad for the BART Pedestrian Crossing (DOT 859611R) at the Oakland Subdivision (MP 27.08) in the amount of \$228,200 for the BART Pedestrian At-Grade Crossing Project, City Project No. 14-14.

On April 14, 2020, the City Council adopted Resolution No. 5582-20, authorizing the City Manager to execute the Sixth Amendment to the Consulting Services Agreement with HDR Engineering, Inc., in the amount of \$197,393, for a total contract amount of \$509,893, for engineering design and preparation of the 100% PS&E (3<sup>rd</sup> Iteration) for the BART Pedestrian At-Grade Crossing Project, City Project No. 14-14.

## **DISCUSSION**

The Union City Intermodal Station Project has modified and reconstructed the existing 1970’s BART Station in phases. Phases 1A, 1B, 2 and 2A created a two-sided BART Station with a new east entrance from the Station District Area and a 30-acre TOD (“Transit-Oriented Development”) site along 11<sup>th</sup> Street. The construction of the Union City Intermodal Station, Phase 2A, to complete the BART Station building eastside improvement began in 2019 and included the widening and lengthening of the northbound station area platform, a new eastside stairway and new escalators. The final BART Station building modification was completed in 2022. Shortly after, UPRR installed the concrete railroad panels directly behind BART’s back door, defining the alignment of the Pedestrian At-Grade Crossing.

The completion of the pedestrian at-grade crossing will finally make the Union City BART Station a two-sided

station, with a new concrete walkway across the existing UPRR tracks directly connecting to the East Plaza in the Station District Area. Concrete ramping, adjacent to the new walkway on each side of the railroad tracks, will be included to meet ADA requirements and safety enhancements will include flashing signals and safety gates.

On April 11, 2023, the City Council adopted Resolution No. 6100-23, authorizing the Third Amendment to the Consulting Service Agreement with William R. Gray and Company, Inc., DBA Gray-Bowen-Scott (“GBS”), C5482d, in the amount of \$80,000, to assist Public Works with negotiations with UPRR and the CPUC for required railroad and construction agreements for the BART Pedestrian At-Grade Crossing Project, City Project No. 14-14.

The consultant team of GBS, HDR and Rail Surveyors and Engineers, Inc., (“RSE”), along with Union City staff, have been meeting with UPRR on a quarterly basis over the past year and have recently received productive comments to finalize the project plans and to secure the construction agreement (identifying UPRR improvements and associated costs) required to advertise the project for construction for the railroad improvements on the Oakland Subdivision, including the new BART Pedestrian At-Grade Crossing, the Decoto Road At-Grade pedestrian improvements and the permanent closure of “I” Street.

The BART Pedestrian At-Grade Crossing Project includes a new pedestrian at-grade crossing across the UPRR (Oakland Subdivision) track directly to the east side of the Union City BART Station back door, creating a two-sided station that includes a new sidewalk and new railroad signal and safety improvements at the Decoto Road at-grade railroad (Oakland Subdivision) crossing. The project also includes the permanent closure of the “I” Street at-grade railroad (Oakland Subdivision), a UPRR permit requirement for the new BART pedestrian at-grade crossing.

The construction estimate for the project is \$7.2 million, which also includes UPRR costs for installation of concrete railroad panels, railroad signals, safety gates, signage, and signal timing improvements.

In December 2023, Union City submitted a grant application in the amount of \$3.0 million for the Safe Routes to BART, Cycle 3 Program for the BART Pedestrian At-Grade Crossing Project. On March 1, 2024, BART staff notified the City that the BART Board of Directors was recommending the award of \$3.0 million to the BART Pedestrian At-Grade Crossing Project and would provide draft funding agreement for our review. Public Works is currently working with BART staff on the funding agreement and plan for City Council acceptance at an upcoming council meeting.

Union City has also submitted a grant application for an additional \$3.0 million for the BART Pedestrian At-Grade Crossing Project to the Metropolitan Transportation Commission’s (“MTC”) Regional Measure 3 (Bridge Toll Funds), Dumbarton Corridor Program. This \$120 million grant program has identified funding for projects along the Dumbarton/Decoto Corridor that support transit and rail improvements in counties of Alameda and San Mateo.

The Seventh Amendment to the Consulting Services Agreement with HDR Engineering, Inc., in the amount of \$381,730, will allow HDR to finalize the PS&E by incorporating final comments from UPRR and the City, to prepare the bid package for advertisement, to assist with contractor questions during the advertisement period, to prepare amendments, to prepare a conformed PS&E package for construction, and to provide construction support, which includes responding to contractor’s technical questions, preparing the RFIs (Request for Information), Contract Change Orders (CCO) and As-Built Plans.

The anticipated project schedule for completion of the Final PS&E ready for advertisement is early summer 2024, and the award of the construction contract is anticipated for fall 2024. The project is projected to be completed by late 2025, with UPRR constructing all the railroad improvements and approving the opening date for public use of the new pedestrian at-grade crossing.

## **FISCAL IMPACT**

The Seventh Amendment to the Consulting Services Agreement with HDR Engineering, Inc., in the amount of \$381,730, will be funded with Public Improvement funds (Account Number 4160-3199-91414-54110) identified in the approved Five-Year Capital Improvement Plan (CIP) for Fiscal Year 2023-2024 to Fiscal Year 2027-2028, bringing the total contract amount to \$891,623.

There is no impact to the General Fund.

**RECOMMENDATION**

Staff recommends that the City Council adopt a resolution authorizing the City Manager to execute the Seventh Amendment to the Consulting Services Agreement with HDR Engineering, Inc., in the amount of \$381,730, for a total contact amount of \$891,623, to finalize the Plans, Specifications & Engineer’s Estimate (PS&E), to provide bid support during advertisement, and to provide construction support for the BART Pedestrian At-Grade Pedestrian Crossing Project, City Project No. 14-14.

**Prepared by:**

Marilou Ayupan, Public Works Director

**Submitted by:**

Marilou Ayupan, Public Works Director

**ATTACHMENTS:**

Description	Type
<input type="checkbox"/> Draft Resolution	Resolution
<input type="checkbox"/> Attachment 1 - Amendment No. 7	Attachment



## **RESOLUTION NO. XXXX-24**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY AUTHORIZING THE CITY MANAGER TO EXECUTE THE SEVENTH AMENDMENT TO THE CONSULTING SERVICES AGREEMENT WITH HDR ENGINEERING, INC., IN THE AMOUNT OF \$381,730, FOR A TOTAL CONTRACT AMOUNT OF \$891,623, TO FINALIZE THE PLANS, SPECIFICATIONS & ENGINEER'S ESTIMATE (PS&E), TO PROVIDE BID SUPPORT DURING ADVERTISEMENT, AND TO PROVIDE CONSTRUCTION SUPPORT FOR THE BART PEDESTRIAN AT-GRADE CROSSING PROJECT, CITY PROJECT NO. 14-14**

**WHEREAS**, the at-grade railroad crossing on the Oakland Subdivision will provide pedestrian and bicycle access across the Union Pacific Railroad ("UPRR") tracks for an east-side connection to the Union City BART Station with the East Plaza and Transit-Oriented Development ("TOD") area adjacent to 11th Street; and

**WHEREAS**, on March 25, 2014, the City Council adopted Resolution No. 4552-14 authorizing the City Manager to execute a Consulting Services Agreement with HDR Engineering, Inc. ("HDR"), in the amount of \$107,819, to provide engineering design services for the railroad at-grade pedestrian crossing; and

**WHEREAS**, on November 17, 2015, Union City executed the First Amendment to the Consulting Services Agreement with HDR Engineering, Inc., in the amount of \$39,987, for a total contract amount of \$147,806, for supplemental work required by UPRR to improve safety features in the design; and

**WHEREAS**, on August 15, 2016, Union City executed the Second Amendment to the Consulting Services Agreement with HDR Engineering, Inc., in the amount of \$25,000, for a total contract amount of \$172,806, to address unforeseen changes in scope from the review comments; and

**WHEREAS**, on September 13, 2016, the City Council adopted Resolution No. 4953-16 authorizing the City Manager to execute the Third Amendment to the Consulting Services Agreement with HDR Engineering, Inc., in the amount of \$82,762, for a total contract amount of \$255,568, to complete the project design and implement UPRR and BART comments; and

**WHEREAS**, on September 12, 2017, the City Council adopted Resolution No. 5126-17 authorizing the City Manager to execute the Fourth Amendment to the Consulting Services Agreement with HDR Engineering, Inc., in the amount of \$32,000, for a total contract amount of \$287,568, to incorporate design changes to the Americans with Disabilities Act ("ADA") ramps; and

**WHEREAS**, on February 25, 2019, Union City executed the Fifth Amendment to the Consulting Services Agreement with HDR Engineering, Inc., in the amount of \$24,932, for a total contract amount of \$312,500, for the supplemental survey and the design changes required to eliminate the sump pump and re-routing of local drainage; and

**WHEREAS**, on July 9, 2019, the City Council adopted Resolution No. 5503-19, authorizing the City Manager to execute the Public At-Grade Pedestrian Crossing Agreement (C5376) with Union Pacific Railroad for the BART Pedestrian Crossing (DOT 859611R) at the Oakland Subdivision (MP 27.08), in the amount of \$228,200, for the BART Pedestrian At-Grade Crossing Project, City Project No. 14-14; and

**WHEREAS**, on April 14, 2020, the City Council adopted Resolution No. 5582-20, authorizing the City Manager to execute the Sixth Amendment to the Consulting Services Agreement with HDR Engineering, Inc., in the amount of \$197,393, for a total contract amount of \$509,893, for engineering design and preparation of the 100% Plans, Specifications & Estimates (“PS&E”) (3<sup>rd</sup> Iteration) for the BART Pedestrian At-Grade Crossing Project, City Project No. 14-14; and

**WHEREAS**, on April 11, 2023, the City Council adopted Resolution No. 6100-23 authorizing the Third Amendment to the Consulting Services Agreement with William R. Gray and Company, Inc., DBA Gray-Bowen-Scott (“GBS”), C5482d, in the amount of \$80,000, to assist Public Works with negotiations with Union Pacific Railroad and the California Public Utility Commission (CPUC) for required railroad and construction agreements the BART Pedestrian At-Grade Crossing Project, City Project No. 14-14; and

**WHEREAS**, the consultant team of GBS, HDR and Railroad Surveyors and Engineers, Inc. (“RSE”), as well as Union City staff, have been meeting with UPRR on a quarterly basis over the past year and have recently received productive comments to finalize the project plans and to secure the construction agreement (identifying UPRR improvements and associated costs) required to advertise the project for construction for the railroad improvements on the Oakland Subdivision, including the new BART Pedestrian At-Grade Crossing, the Decoto Road At-Grade pedestrian improvements and the permanent closure of “I” Street; and

**WHEREAS**, the railroad improvements proposed by UPRR include track improvements, concrete panels, warning devices, flashing signals and safety gates; and

**WHEREAS**, the Seventh Amendment to the Consulting Services Agreement with HDR Engineering, Inc., in the amount \$381,730, will allow HDR to finalize the PS&E, provide bid support during advertisement, and to provide design services during construction; and

**WHEREAS**, the Seventh Amendment to the Consulting Services Agreement with HDR Engineering, Inc., in the amount of \$381,730, will be funded with Public Improvement funds (Account Number 4160-3199-91414-54110) identified in the approved Five-Year Capital Improvement Plan (CIP) for Fiscal Year 2023-2024 to Fiscal Year 2027-2028.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Union City hereby authorizes the City Manager to execute the Seventh Amendment to the Consulting Services Agreement with HDR Engineering, Inc., in the amount of \$381,730, for a total contract amount of \$891,623, to finalize the PS&E, to provide bid support during advertisement, and to provide construction support for the BART Pedestrian At-Grade Crossing Project, City Project No. 14-14.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Union City  
at a regular meeting held on the 9<sup>th</sup> day of April 2024 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

---

CAROL DUTRA-VERNACI  
Mayor

ATTESTED:

APPROVED AS TO FORM:

---

THAI NAM N. PHAM  
City Clerk

---

KRISTOPHER J. KOKOTAYLO  
City Attorney

**SEVENTH AMENDMENT TO THE  
CONSULTING SERVICES AGREEMENT (C5427)**

**THIS SEVENTH AMENDMENT** (the “Seventh Amendment”) is effective as of this **9th day of April, 2024** by and between **THE CITY OF UNION CITY**, a municipal corporation, (“City”) and **HDR Engineering, Inc.**, (“Consultant”), collectively referred to as the “Parties.”

**W I T N E S S E T H:**

**WHEREAS**, on February 2, 2014, the Parties entered into a Consulting Services Agreement (C3638) (“Agreement”) wherein the Consultant will provide the City with consulting services related to Engineering Design Railroad At-Grade Public Crossing and Utility Crossing – Union Pacific Railroad (UPRR) Oakland Sub.MP 27.1, City Project No. 14-14, in the amount of \$107,819; and

**WHEREAS**, on November 17, 2015, the Parties entered into a First Amendment to the Agreement (“First Amendment”), C3638b, to expand the scope of services to be provided by the Consultant and increase the compensation; and

**WHEREAS**, on August 15, 2016, the Parties entered into a Second Amendment to the Agreement (“Second Amendment”), C3638c, to expand the scope of services to be provided by the Consultant and increase the compensation; and

**WHEREAS**, on September 13, 2016, the Parties entered into a Third Amendment to the Agreement (“Third Amendment”), C3638d, to expand the scope of services to be provided by the Consultant and increase the compensation; and

**WHEREAS**, on September 12, 2017, the Parties entered into a Fourth Amendment to the Agreement (“Fourth Amendment”), C3638e, to expand the scope of services to be provided by the Consultant and increase the compensation; and

**WHEREAS**, on February 25, 2019, the Parties entered into a Fifth Amendment to the Agreement (“Fifth Amendment”), C3638f, to expand the scope of services to be provided by the Consultant and increase the compensation; and

**WHEREAS**, on April 14, 2020, the Parties entered into a Sixth Amendment to the Agreement (“Sixth Amendment”), C5426, to expand the scope of services to be provided by the Consultant and increase the compensation; and

**WHEREAS**, the Parties desire to further amend the Agreement to extend the term of services, expand the scope of services, and increase the compensation; and

**WHEREAS**, the City and Consultant desire to enter into this Seventh Amendment.

**NOW, THEREFORE**, the Parties hereto do mutually agree as follows:

1. The “Scope of Services”, as set forth in Exhibit A of the Agreement, is hereby amended to include the services contained in Exhibit A of this Seventh Amendment, attached hereto and incorporated herein by reference.
2. The “Term of Services,” as set forth in the first sentence of Section 1.1 of the Agreement, is hereby extended to **December 31, 2025**.
3. The first sentence of Section 2 “COMPENSATION”, of the Agreement is hereby amended to reflect payment based upon a sum increase of **Three Hundred Eighty-One Thousand Seven Hundred Thirty and 15/100 Dollars (\$381,730)**, as set forth in Exhibit B of this Seventh Amendment. The total compensation under the Agreement including this Amendment shall not exceed a total contract amount of **Eight Hundred Ninety-One Thousand Six Hundred Twenty-Three Dollars (\$891,623)**. The first sentence shall now read:

City hereby agrees to pay Consultant a sum not to exceed **Eight Hundred Ninety-One Thousand Six Hundred Twenty-Three Dollars (\$891,623)**, notwithstanding any contrary indications that may be contained in Consultant's proposal, for services to be performed and reimbursable costs incurred under this Agreement.

5. All other provisions of the Agreement, remain unchanged except as modified by this Seventh Amendment.

**IN WITNESS WHEREOF**, the City and the Consultant have executed this Amendment effective as of the date hereinabove written.

THE CITY OF UNION CITY

HDR ENGINEERING, INC.

By \_\_\_\_\_

Joan Malloy  
City Manager

By  \_\_\_\_\_

Holly Kennedy  
Senior Vice President

Attest:

---

Thai Nam Pham  
City Clerk

Approved as to Form:

---

Kristopher J. Kokotaylo  
City Attorney

## EXHIBIT A

### SCOPE OF SERVICES

HDR appreciates the opportunity to continue to support you and the City on the Pedestrian At-Grade Railroad Crossing Project to see the project through to construction. As discussed in the meeting with you on February 28, 2024, HDR requests a budget amendment that will be used to finalize the final 100% PS&E for bid, to provide bid support, and provide design support during construction.

HDR's estimate assumes that the additional efforts to develop the related revisions to the third (current) iteration of the 100% PS&E will include:

Task 1- Project Management and Coordination. This effort is for continued project management oversight and administrative activities for 15-months. This activity also assumes informal coordination with the city and project stakeholders (BART, ROMA, and RSE) as well as 3 stakeholder meetings.

Task 2- Finalize 100% PS&E, technical specifications, and the City Part 1 specifications based on comments and inputs from the city and stakeholders. The City will provide their Part 1 Specifications Sections in word format and HDR will provide minor project specific updates regarding items such as project name and working days only. HDR will incorporate the at-grade crossing plan changes, as agreed by the city and its rail Consultant, for the "I" Street and Decoto Road crossings of UP. The City will provide pdf and electronic files for the completed and stamped plans, specifications and estimates for the Decoto Road grade crossing improvements. In order to facilitate comment resolution, the City is assumed to provide a comprehensive matrix of final comments from the city and stakeholders. HDR will review these comments, provide written responses, and attend a comment resolution meeting to agree on final responses. HDR will incorporate the changes based on these final comments into the final 100% deliverable. HDR assumes final comments are minor in nature and do not result in any significant rework.

Task 3 – Bid Support. HDR's estimate assumes that bid support to the city will include:

- Responses to 20 Requests for Information (RFIs).
- Issue two (2) addendums to clarify bid documents.
- Review of contractor's bids.
- Issue Conformed Documents for construction.

Task 4 – Design Support During Construction. HDR's estimate above assumes that DSDC activities during construction will include:

- Engineering services for the new pedestrian at-grade crossing of UP and the "I" Street grade crossing removal only.
- Engineering services for the Decoto Road grade crossing improvements will be the responsibility of the City and their rail Consultant (RSE).



- Construction and site observation (assumes five [5] field site visits by one [1] HDR engineer and participation in one dozen construction coordination meetings remotely.
- Responses to 25 RFIs.
- Review and respond to 25 Submittals.
- Review and develop five (5) construction change orders.
- Issue final record drawings based on contractors' mark ups.

Tasks 4 and 5 are on a time and materials basis as the number of RFIs, submittals are unknown. This HDR estimate does not include the effort that ROMA, RSE, or the other contractors will be providing to the City of Union City as part of the design, bidding, and construction of the project.

## EXHIBIT B

### COST PROPOSAL

The estimated distribution of hours dedicated to assisting the city with these activities is shown below and in further detail in the cost proposal:

Task No.	Task Description	Estimated Hours	Budget
1	Project Management and Coordination	80	\$19,584.00
2	Finalize 100% PS&E	440	\$117,096.00
3	Bid Support	300	\$72,161.00
4	Design Services During Construction (DSDC)	700	\$170,270.00
	Other Direct Costs (ODC's)	-	\$2,619.00
	<b>TOTAL HOURS</b>	<b>1520</b>	<b>\$381,730.00</b>

### HDR Union City at Grade Crossing Proposed 2024 Billing Rate Table

Employee/Supplier	2024 Billing Rate 5% Escalation to 2023 billing rates
Casey, Kenneth P	349.00
Goepel, Christian J	365.00
Gunderson, Adrian	419.50
Kochly, Michael C	232.00
Marasigan, Teodoro S	189.00
O'Gara, Christopher J	260.00
Dela Cruz, Joshua Buenaventura	270.00
Jones, Akilahelaine Battles (Akilah)	116.00
Lim, Kuang Y	460.00
Salvador, Neil Alexander	132.00
Yang, Moses	106.00
Chargin, Maria Christine (Mar)	104.00
Choi, Sarah	142.00
Morris, Inayah Patriz	142.00
Lorz, Tyler Garrett	174.00
Firouz, Riam E	212.00
Gura, Anthony M (Tony)	246.00



## Agenda Item

**DATE:** 4/9/2024

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**FROM:** MARILOU AYUPAN, PUBLIC WORKS DIRECTOR

**SUBJECT:** ADOPT A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE THE SECOND AMENDMENT TO THE CONSULTING SERVICES AGREEMENT WITH ADVANCED MOBILITY GROUP, IN THE AMOUNT OF \$72,000, FOR A TOTAL CONTRACT AMOUNT OF \$146,950, FOR ON-CALL TRAFFIC SIGNAL SYSTEM SUPPORT, CITY PROJECT NO. 22-14

Staff recommends that the City Council adopt a resolution authorizing the City Manager to execute the Second Amendment to the Consulting Services Agreement (“Second Amendment”) with Advanced Mobility Group (“AMG”), in the amount of \$72,000, for a total contract amount of \$146,950, for On-Call Traffic Signal System Support, City Project No. 22-14.

### **STRATEGIC PLAN ALIGNMENT**

This agenda item is in alignment with the following:

**Goal D, Strategy 2:** Environmental Sustainability and Infrastructure – Implement the City’s capital improvement plan.

### **BACKGROUND**

There are sixty-one (61) signalized traffic intersections in the City of Union City. In addition, the City also owns and maintains one High Intensity Activated Crosswalk (HAWK) system on Alvarado-Niles Road, one flashing beacon on Meyers Drive, and two Rectangular Rapid Flashing Beacon (RRFB) pedestrian crossings. The City applies for and receives federal, state, and local transportation capital grant funds for upgrading and improving various traffic signal systems to current standards. These traffic signal systems employ state-of-the-art electrical equipment and computerized systems requiring specialized expertise with traffic signal system analysis that goes beyond the capabilities of in-house staff.

On September 26, 2022, the City executed a Consulting Services Agreement with Advanced Mobility Group (“Agreement”), in the amount of \$56,000, for On-Call Traffic Signal System Support, City Project No. 22-14, which included the monitoring, reporting, and assisting of traffic signal system operations.

On October 1, 2023, the City executed the First Amendment to the Agreement to extend the term of the contract to June 30, 2024, and to increase the compensation by \$18,950, for a contract total not-to-exceed \$74,950.

The Public Works Engineering Division faces both a heavy workload and lack of traffic signal system expertise and capacity to handle in-house. AMG provides specialized traffic signal system support services that seamlessly augment the work of in-house staff. Staff continue to rely on AMG to provide valuable assistance and wish to retain their services for another two years.

## **DISCUSSION**

For nearly two years, AMG has assisted the Engineering Division with the evaluation of the status and effectiveness of the newly installed Intelight Adaptive Signal System, identifying traffic signal detection failures, responding to traffic signal related resident complaints, and performing weekly traffic signal system checks.

The Second Amendment, in the amount of \$72,000, will allow AMG to continue to provide the City with vital traffic signal system operation assistance for two additional years.

## **FISCAL IMPACT**

The cost for these services is \$72,000 and will be funded with \$26,610 from the Traffic Signalization Fund (Account Number 2610-3199-92214-54110) and \$45,390 from the Measure F Fund (Account Number 2544-3199-92214-54110), as identified in the approved Two-Year Biennial Operating Budget for Fiscal Year 2023-2024 and Fiscal Year 2024-2025.

## **RECOMMENDATION**

Staff recommends that the City Council adopt a resolution authorizing the City Manager to execute the Second Amendment to the Consulting Services Agreement with Advanced Mobility Group, in the amount of \$72,000, for a total contract amount of \$146,950, for On-Call Traffic Signal System Support, City Project No. 22-14.

### **Prepared by:**

Eddie Yu, Civil Engineer II

### **Submitted by:**

Marilou Ayupan, Public Works Director

## **ATTACHMENTS:**

Description	Type
<input type="checkbox"/> Draft Resolution	Resolution
<input type="checkbox"/> Attachment 1 - Second Amendment	Attachment

**RESOLUTION NO. XXXX-24**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY AUTHORIZING THE CITY MANAGER TO EXECUTE THE SECOND AMENDMENT TO THE CONSULTING SERVICES AGREEMENT WITH ADVANCED MOBILITY GROUP, IN THE AMOUNT OF \$72,000, FOR A TOTAL CONTRACT AMOUNT OF \$146,950 FOR ON-CALL TRAFFIC SIGNAL SYSTEM SUPPORT, CITY PROJECT NO. 22-14**

**WHEREAS**, the City of Union City owns and maintains sixty-one (61) existing traffic signals, one High Intensity Activated Crosswalk (HAWK) system, one flashing beacon, and two Rectangular Rapid Flashing Beacons (RRFB) crossings within the City; and

**WHEREAS**, the City receives federal, state, and local transportation funds for traffic signal improvements and equipment upgrades to support the City's Capital Improvement Program (CIP); and

**WHEREAS**, the traffic signal systems employ state-of-the-art electrical equipment and computerized systems requiring specialized expertise with traffic signal system analysis; and

**WHEREAS**, the Engineering Division has the need for professional consulting services for traffic signal system support to ensure that required work continues during heavy workload, or when the services being utilized are specialized and beyond the capacity of existing staff; and

**WHEREAS**, on September 26, 2022, the City executed a Consulting Services Agreement with Advanced Mobility Group ("AMG"), in the amount of \$56,000, for On-Call Traffic Signal System Support, City Project No. 22-14, which included the monitoring, reporting, and assisting of traffic signal system operations; and

**WHEREAS**, on October 1, 2023, the City executed the First Amendment to the Consulting Services Agreement with AMG to extend the term of the expiring contract to June 30, 2024, and increase the compensation by \$18,950, for a total contract amount of \$74,950; and

**WHEREAS**, for nearly two years, AMG has assisted the Engineering Division with the evaluation of the status and effectiveness of the newly installed Intelight Adaptive Signal System, identifying traffic signal detection failures, responding to traffic signal related resident complaints, and performing weekly traffic signal system checks; and

**WHEREAS**, the Second Amendment to the Consulting Services Agreement with AMG ("Second Amendment") will allow AMG to continue to provide assistance with traffic signal system support; and

**WHEREAS**, the Second Amendment, in the amount of \$72,000, will be funded with \$26,610 from the Traffic Signalization Fund (Account Number 2610-3199-92214-54110) and \$45,390 from the Measure F Fund (Account Number 2544-3199-92214-54110), as identified in the approved Two-Year Biennial Operating Budget for Fiscal Year 2023-2024 and Fiscal Year 2024-2025.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Union City hereby authorizes the City Manager to execute the Second Amendment to the Consulting Services Agreement with AMG, in the amount of \$72,000, for a total contract amount of \$146,950, for On-Call Traffic Signal System Support, City Project No. 22-14.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Union City at a regular meeting held on the 9<sup>th</sup> day of April 2024 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

---

CAROL DUTRA-VERNACI  
Mayor

ATTESTED:

APPROVED AS TO FORM:

---

THAI NAM N. PHAM  
City Clerk

---

KRISTOPHER J. KOKOTAYLO  
City Attorney

**SECOND AMENDMENT TO THE  
CONSULTING SERVICES AGREEMENT (C5909)**

**THIS SECOND AMENDMENT** (the “Second Amendment”) is effective as of this **9th day of April 2024**, by and between **THE CITY OF UNION CITY**, a municipal corporation, (“City”) and **Advanced Mobility Group**, (“Consultant”), collectively referred to as the “Parties.”

**W I T N E S S E T H:**

**WHEREAS**, on September 26, 2022, the Parties entered into a Consulting Services Agreement (C5909) (“Agreement”) wherein the Consultant will provide the City with consulting services related to On-Call Traffic Signal System Support, City Project No. 22-14, in the amount of \$56,000; and

**WHEREAS**, on October 1, 2023, the Parties entered into a First Amendment to the Consulting Services Agreement (C5909b) (“First Amendment”) to expand the scope of services, extend the term, and increase the compensation by \$18,950, for a total contract amount of \$74,950; and

**WHEREAS**, the Parties desire to amend the Agreement to further extend the term of services to be provided by the Consultant and increase the compensation; and

**WHEREAS**, the City and Consultant desire to enter into this Second Amendment.

**NOW, THEREFORE**, the Parties hereto do mutually agree as follows:

1. The “Term of Services,” as set forth in the first sentence of Section 1.1 of the Agreement, is hereby extended to **June 30, 2026**.
2. Section 2 “COMPENSATION” of the Agreement is hereby amended to increase the total amount of compensation by **Seventy-Two Thousand Dollars (\$72,000)**. The total compensation under the agreement shall not exceed a total contract amount of **One Hundred Forty-Six Thousand Nine Hundred Fifty Dollars (\$146,950)**. The first sentence shall now read:

City hereby agrees to pay Consultant a sum not to exceed **One Hundred Forty-Six Thousand Nine Hundred Fifty Dollars (\$146,950)** notwithstanding any contrary indications that may be contained in Consultant’s proposal for services to be performed and reimbursable costs incurred under this Agreement.

3. All other provisions of the Agreement remain unchanged except as modified by this Second Amendment.



**IN WITNESS WHEREOF**, the City and the Consultant have executed this Amendment effective as of the date hereinabove written.

THE CITY OF UNION CITY

ADVANCED MOBILITY GROUP

By \_\_\_\_\_  
Joan Malloy  
City Manager

By Joy Bhattacharya  
Joy Bhattacharya  
Vice President

Attest:

\_\_\_\_\_  
Thai Nam Pham  
City Clerk

Approved as to Form:

\_\_\_\_\_  
Kristopher J. Kokotaylo  
City Attorney



## Agenda Item

**DATE:** 4/9/2024

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**FROM:** JASON CASTLEBERRY, HUMAN RESOURCES DIRECTOR

**SUBJECT:** ADOPT A RESOLUTION APPROVING AN AMENDMENT TO UPDATE THE CLASS SPECIFICATION FOR THE CLASSIFICATIONS OF ASSISTANT PLANNER AND ASSOCIATE PLANNER

Staff recommends that the City Council adopt a resolution to approve an update the class specifications of Assistant Planner and Associate Planner.

### **STRATEGIC PLAN ALIGNMENT**

This program supports Goal B. Governance and Organization Effectiveness of the strategic plan in aligning critical city services with current staffing levels.

### **BACKGROUND**

As part of a review of the Assistant Planner and Associate Planner job duties and the needs of the City's Economic and Community Development Department relative to align position functions with appropriate qualifications and experience expectations, staff recommends minor modifications to the classification specification/job description.

### **DISCUSSION**

The proposed classification specification includes slight modifications to align functions, qualifications, experience skills expected for the role. The goal is to provide clarity on essential functions, qualifications, and certifications due the next recruitment. The City has met and conferred with the Professional Employee Group (PEG) regarding proposed revisions to the class specification. No change to the current salary range is recommended at this time. Economic and Community Development Department worked with the Human Resources Department to ensure the specifications are updated prior to future recruitments.

### **FISCAL IMPACT**

There is no fiscal impact for the position specification changes being proposed.

**RECOMMENDATION**

Staff recommends that the City Council adopt the attached resolution to approve an amendment to the City's Classification and Compensation Plan to update the class specifications of Assistant Planner and Associate Planner.

**Prepared by:**

Jason Castleberry, Human Resources Director

**Submitted by:**

Jason Castleberry, Human Resources Director

**ATTACHMENTS:**

Description	Type
❏ Draft Resolution	Resolution
❏ Class Specification Assistant Planner (Redlined)	Attachment
❏ Class Specification Assistant Planner (Clean)	Attachment
❏ Class Specification Associate Planner (Redlined)	Attachment
❏ Class Specification Associate Planner (Clean)	Attachment

**RESOLUTION NO. XXXX-24**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
UNION CITY AMENDING THE CLASSIFICATION AND  
COMPENSATION PLAN TO UPDATE THE CLASS  
SPECIFICATION FOR THE CLASSIFICATIONS OF  
ASSISTANT PLANNER AND ASSOCIATE PLANNER**

**WHEREAS**, the City has undertaken an inquiry and recommends that the City Council update the class specifications for the classifications of Assistant Planner and Associate Planner; and

**WHEREAS**, City staff have undertaken an analysis of necessary updates to the classification and compensation plan to update the classifications of Assistant Planner and Associate Planner; and

**WHEREAS**, the City Council has identified in the Strategic Plan Goal B, Governance and Organization Effectiveness to align critical city services with current staffing levels by ensuring the accuracy and clarity for the positions of Assistant Planner and Associate Planner; and

**WHEREAS**, the City Manager or her designee has met and conferred in good faith with the representatives of all bargaining units related to the above matters.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Union City hereby approves the updated Assistant Planner and Associate Planner class specifications, attached hereto and incorporated herein by reference, effective April 9, 2024.

**BE IT FURTHER RESOLVED** that the City Council hereby authorizes the City Manager to take such further actions as may be necessary to implement the proposed revisions to the class specification for the classifications of Assistant Planner and Associate Planner.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Union City at a regular meeting held on this 9<sup>th</sup> day of April 2024 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

---

CAROL DUTRA-VERNACI  
Mayor

ATTESTED:

APPROVED AS TO FORM:

---

THAI NAM N. PHAM  
City Clerk

---

KRISTOPHER J. KOKOTAYLO  
City Attorney

**Attachments:**

1. Class Specification Assistant Planner
2. Class Specification Associate Planner

## Assistant Planner

Bargaining Unit: Professional Employees Group  
[FLSA Status: Non-Exempt](#)

### **DEFINITION**

~~Under the general direction of the Planning Manager and the Economic and Community Development Director, performs planning work. This is a beginning level professional planning position, including research, data gathering, analysis, design, and report writing per the policies and provisions of the General Plan and zoning ordinance, preparation of environmental documents, and other planning and development projects. Work involves responsibility for the application of city planning knowledges and skills gained through the completion of a formal degree program in city planning and development. Considerable direction and assistance is given an incumbent in the beginning of his/her professional experience; however, as experience and training are gained, an incumbent is expected to advance to full professional work in the planning field. Work is reviewed upon completion of assignments through analysis of draft reports for adequacy, factual content, and presentation as well as the soundness of interpretations and conclusions.~~

### **CLASS CHARACTERISTICS**

~~The Assistant Planner position is the an entry-level flexibly staffed classification within the professional planning series. Employees at this level Work is reviewed upon completion of assignments, assessing draft reports for adequacy, factual content, presentation, and the soundness of interpretations and conclusions. The Assistant Planner classification is distinguished from the Associate Planner as the former is are expected to perform with the same independence of direction and judgment as the Associate Planner and would receive direction and assistance as they progress in the position. professional planning role within the City Planning and Development Department. This position involves applying city planning knowledge and skills acquired through the completion of a formal degree program in city planning and development. While significant direction and assistance are provided initially, the Assistant Planner is expected to progress to full professional work in the planning field as experience and training are gained. Work is reviewed upon completion of assignments, assessing draft reports for adequacy, factual content, presentation, and the soundness of interpretations and conclusions.~~

### **EXAMPLES OF DUTIES (illustrative only)**

- ~~Accepts, reviews, and processes applications for changes in zoning; answers inquiries relative to application of the zoning ordinance and procedures for its amendment; makes presentations on such matters to the planning commission and city council.~~
- ~~Under direction, reviews building, site and architectural plans, use permits, code amendments, variances, development proposals, and other related documents for conformance to City standards and other applicable state and federal rules and regulations;~~

may serve as primary point of contact to developers and property owners in meeting these standards.

- Assists in preparing environmental documents per the requirements of the California Environmental Quality Act for both public and private projects, including negative/mitigated negative declarations and/or environmental impact reports, notices, and mitigation measures.
- Prepares and updates maps, visual exhibits and other graphics for use in reports and public presentations.
- Under direction, may present to the City Council and Planning Commission, and other committees and advisory groups regarding land use applications, general plan amendments, code amendments, area and specific plans, and related studies.
- Assists in reviewing plans submitted for building permits for conformance with the Zoning Ordinance and conditions of approval.
- Confers with and advises architects, builders, contractors, engineers, and the general public regarding City development policies and standards.
- Coordinates planning related programs or projects involving multi-department and multi-jurisdictional review, participates in project review as member of the Development Review Committee; provides professional planning guidance in responding to questions or inquiries.
- Assists with researching, analyzing, and interpreting social, economic, population, and land use data and trends. Secures information from other departments, court documents and records, and other sources relative to zoning and property changes and proposed uses.
- ~~Performs related work as required.~~
  -
- ~~Prepares reports presenting information and conclusions by means of written texts and graphic illustrations.~~
- ~~Gathers, selects, compiles, and analyzes data with particular reference to its impact upon existing or future city plans.~~
- 

## **QUALIFICATIONS**

Any combination of education, training, and experience that would likely provide the required knowledge, skills, and abilities is qualifying.

### **Education and Training:**

Graduation from an accredited college or university with major course work in city-urban planning, public administration, architecture, geography or ~~a closely~~-related field.

### **Licenses and Certificates:**

Possession of a valid Class C California Driver's License with a satisfactory driving record.



### Knowledge, Skills, and Abilities:

#### Knowledge of:

- Planning and zoning principles, methods, practices and trends of urban planning and zoning administration.
- Federal, state, and local laws and regulations relating to land use and planning.

#### Ability To:

- Compile, comprehend, analyze, interpret, prepare, and present complex technical reports and statistical data.
- Prepare and present clear and concise reports orally and in writing to various groups of elected or appointed officials, consultants, and interested citizens.
- Establish and maintain cooperative and effective working relationships with other employees, consultants, elected and appointed officials, and the public.  
~~Knowledge of the law underlying a general or master plan, zoning and land subdivision ordinances.~~  
~~Ability to make decisions recognizing established precedents and practices, and to use resourcefulness and tact in meeting new problems.~~  
~~Ability to plan, organize, and carry through difficult research projects.~~  
~~Ability to express ideas clearly and concisely, orally and in writing, to groups and individuals.~~
- ~~Ability to establish and maintain effective working relationships with other employees and the public.~~

### ~~Licenses and Certificates:~~

~~Possession of a valid Class C California Driver's License with a satisfactory driving record.~~

### **WORKING CONDITIONS, ADA AND OTHER REQUIREMENTS**

The City of Union City is an equal opportunity employer. The City of Union City will comply with its obligations under the law to provide equal employment opportunities to qualified individuals with disabilities.

Positions in this class typically require: sitting, stooping, kneeling, crouching, reaching, standing, walking, pushing, pulling, lifting, fingering, grasping, talking, hearing, seeing, and repetitive motions.

Sedentary Work: Exerting up to 10 pounds of force occasionally and/or a negligible amount of force frequently or constantly to lift, carry, push, pull or otherwise move objects. Sedentary work involves sitting most of the time. Jobs are sedentary if walking and standing are required only occasionally and all other sedentary criteria are met.

Incumbents generally work in a typical office environment with adequate light and temperature.

*Travel: Positions in this class may require local and statewide travel as necessary.*

## **Assistant Planner**

Bargaining Unit: Professional Employees Group  
FLSA Status: Non-Exempt

### **DEFINITION**

Under the general direction of the Planning Manager and the Economic and Community Development Director, performs planning work including research, data gathering, analysis, design, and report writing per the policies and provisions of the General Plan and zoning ordinance, preparation of environmental documents, and other planning and development projects.

### **CLASS CHARACTERISTICS**

The Assistant Planner is the entry-level flexibly staffed classification within the professional planning series. Work is reviewed upon completion of assignments, assessing draft reports for adequacy, factual content, presentation, and the soundness of interpretations and conclusions. The Assistant Planner classification is distinguished from the Associate Planner as the former is expected to perform with the same independence of direction and judgment as the Associate Planner and would receive direction and assistance as they progress in the position.

### **EXAMPLES OF DUTIES (*illustrative only*)**

- Under direction, reviews building, site and architectural plans, use permits, code amendments, variances, development proposals, and other related documents for conformance to City standards and other applicable state and federal rules and regulations; may serve as primary point of contact to developers and property owners in meeting these standards.
- Assists in preparing environmental documents per the requirements of the California Environmental Quality Act for both public and private projects, including negative/mitigated negative declarations and/or environmental impact reports, notices, and mitigation measures.
- Prepares and updates maps, visual exhibits and other graphics for use in reports and public presentations.
- Under direction, may present to the City Council and Planning Commission, and other committees and advisory groups regarding land use applications, general plan amendments, code amendments, area and specific plans, and related studies.
- Assists in reviewing plans submitted for building permits for conformance with the Zoning Ordinance and conditions of approval.
- Confers with and advises architects, builders, contractors, engineers, and the general public regarding City development policies and standards.
- Coordinates planning related programs or projects involving multi-department and multi-jurisdictional review, participates in project review as member of the Development Review

Committee; provides professional planning guidance in responding to questions or inquiries.

- Assists with researching, analyzing, and interpreting social, economic, population, and land use data and trends.
- Performs related work as required.

## **QUALIFICATIONS**

Any combination of education, training, and experience that would likely provide the required knowledge, skills, and abilities is qualifying.

### **Education and Training:**

Graduation from an accredited college or university with major course work in urban planning, public administration, architecture, geography or related field.

### **Licenses and Certificates:**

Possession of a valid Class C California Driver's License with a satisfactory driving record.

### **Knowledge of:**

- Planning and zoning principles, methods, practices and trends of urban planning and zoning administration.
- Federal, state, and local laws and regulations relating to land use and planning.

### **Ability To:**

- Compile, comprehend, analyze, interpret, prepare, and present complex technical reports and statistical data.
- Prepare and present clear and concise reports orally and in writing to various groups of elected or appointed officials, consultants, and interested citizens.
- Establish and maintain cooperative and effective working relationships with other employees, consultants, elected and appointed officials, and the public.

## **WORKING CONDITIONS, ADA AND OTHER REQUIREMENTS**

The City of Union City is an equal opportunity employer. The City of Union City will comply with its obligations under the law to provide equal employment opportunities to qualified individuals with disabilities.

Positions in this class typically require: sitting, stooping, kneeling, crouching, reaching, standing, walking, pushing, pulling, lifting, fingering, grasping, talking, hearing, seeing, and repetitive motions.

Sedentary Work: Exerting up to 10 pounds of force occasionally and/or a negligible amount of force frequently or constantly to lift, carry, push, pull or otherwise move objects. Sedentary work involves sitting most of the time. Jobs are sedentary if walking and standing are required only occasionally and all other sedentary criteria are met.

Incumbents generally work in a typical office environment with adequate light and temperature.

*Travel: Positions in this class may require local and statewide travel as necessary.*

## Associate Planner

Bargaining Unit: Professional Employees Group  
FLSA Status: Non-Exempt

### **DEFINITION**

Under the general direction of the Planning Manager and the Economic and Community Development Director, performs planning work of substantial professional difficulty, including research, data gathering, analysis, design, and report writing ~~to the revision and maintenance~~ per the policies and provisions of the General Plan and zoning ordinance, preparation and administration of ~~the redevelopment area and specific~~ plans, preparation of environmental documents, and other complex planning and development projects. This position is also responsible for implementing the City's Economic Development Program and updating the Zoning Ordinance to be consistent with the General Plan. Assignments may require technical or functional supervision of technical and/or clerical positions. Positions in this class require substantial professional planning experience. ~~Assignments are usually broad in scope and require the use of judgment base on experience in making technical decisions of moderate to extreme difficulty.~~

### **CLASS CHARACTERISTICS**

~~The Associate Planner is a key position within the City's Community Development Department, operating under the general direction of the Community Development Director. The Associate Planner is the journey level flexibly staffed classification within the professional planning series. Positions in this class require substantial professional planning experience. This class is distinguished from the Assistant Planner by assignment of the full range of professional planning duties. Employees at this level receive only occasional instruction or assistance as new or unusual situations arise and are fully aware of the operating procedures and policies within the work place. This role involves undertaking planning work of substantial professional difficulty, requiring a high level of expertise in research, data gathering, analysis, design, and report writing. The Associate Planner is responsible for contributing significantly to the revision and maintenance of the general plan, overseeing the preparation and administration of the redevelopment area and specific plans, and managing other complex planning and development projects. Assignments are usually broad in scope and require the use of judgment base on experience in making complex technical decisions of moderate to extreme difficulty. Assignments may require technical or functional supervision of technical and/or clerical positions.~~

### **EXAMPLES OF DUTIES** *(illustrative only)*

- Reviews building, site and architectural plans, use permits, code amendments, variances, development proposals, applications and other related documents for conformance to City

standards and other applicable state and federal rules and regulations; serves as primary point of contact to developers and property owners in meeting these standards.

- ~~● Reviews existing general plan document to determine conformance with State Law.~~
- ~~● Develop with the Community Development Director, a detailed general plan revision work program.~~
- Draft contracts for consulting services and processes all public and private projects according to the requirements of CEQA. Prepares environmental documents per the requirements of the California Environmental Quality Act for both public and private projects, including negative/mitigated negative declarations and/or environmental impact reports; works with consultants in facilitating preparation of environmental documents and related findings and mitigation measures.
- ~~● Works with consultants to revise and update general plan elements.~~
- Prepares amendments and updates to the General Plan and Municipal Code in conformance with State law.
- Prepares and updates maps, visual exhibits and other graphics for use in reports and public presentations.
- Conducts office and field studies, researches and prepares recommendations for all types of development applications based on local and state planning laws.
- Reviews and analyzes development proposals and works with developers, the public and other agencies regarding various land use permits, general plan amendments, and zone changes.
- Makes presentations to the City Council and Planning Commission, and other committees and advisory groups regarding land use applications, general plan amendments, code amendments, area and specific plans, and related studies.~~attends and facilitates citizen advisory committee, including the local development corporation.~~
- ~~Helps coordinate and participates as a member of the Development Review Committee when processing development applications.~~Lead and facilitate planning initiatives or projects that require multi-departmental and multi-jurisdictional evaluation, actively participates in project reviews as a member of the Development Review Committee, and offers professional planning advice when addressing questions or inquiries. planning related programs or projects involving multi-department and multi-jurisdictional review; participates in project review as member of the Development Review Committee; provide professional planning guidance in responding to questions or inquiries.
- Confers with and advises architects, builders, attorneys, contractors, engineers, and the general public regarding City development policies and standards.
- ~~● Prepares a variety of written reports and correspondence to the staff and the community.~~
- ~~● Enforces the Zoning and Municipal Code.~~
- ~~● Prepares precise area plans. Implements and administers the City's Economic Development Program, including a business loan program and establishes public/private partnerships.~~
- Researches, drafts, and prepares updates to the Zoning Ordinance ordinances to implement and amendments to the General Plan.
- Reviews plans submitted for building permits for conformance with the Zoning Ordinance Code and conditions of approval.
- Reviews and finalizes research, analysis, and interpretation of the social, economic, population, and land use data and trends

- Serves as liaison to appointed hearing bodies.

## **QUALIFICATIONS**

Any combination of education, training, and experience that would likely provide the required knowledge, skills, and abilities is qualifying.

### **Licenses and Certificates:**

Possession of a valid Class C California Driver's License with a satisfactory driving record.

### **Education and Training:**

Education and experience equivalent to graduation from an accredited ~~recognized~~ college or university, with major work in urban planning, public administration, architecture, geography, economics, ~~political science~~, or related field; three years of increasingly responsible full time planning experience in a municipal planning department, ~~or in~~ private consulting for public agencies, or equivalent relevant experience. Possession of an appropriate master's degree may be substituted for one year of the required experience.

### **Knowledge of: ~~Skills, and Abilities:~~**

- Possess thorough knowledge of planning and zoning principles, methods, practices and trends of urban planning and zoning administration.
- Thorough knowledge of federal, state, and local laws and regulations relating to ~~general plans and zoning~~ land use and planning.
- Environmental laws and practices per the requirements of the California Environmental Quality Act and related state laws and regulations.
- Site planning and architectural design principles and practices.

### **Ability to:**

- Compile, comprehend, analyze, interpret, prepare, and present complex technical reports and statistical data.
- Prepare and present clear and concise reports orally and in writing to various groups of elected or appointed officials, consultants, and interested citizens.
- Establish and maintain cooperative and effective working relationships with other employees, consultants, elected and appointed officials, and the public.
- ~~Ability to analyze private projects for their profitability and economic return to the City.~~

### **Licenses and Certificates:**

~~Possession of a valid Class C California Driver's License with a satisfactory driving record.~~



## **WORKING CONDITIONS, ADA AND OTHER REQUIREMENTS**

The City of Union City is an equal opportunity employer. The City of Union City will comply with its obligations under the law to provide equal employment opportunities to qualified individuals with disabilities.

Positions in this class typically require: sitting, stooping, kneeling, crouching, reaching, standing, walking, pushing, pulling, lifting, fingering, grasping, talking, hearing, seeing, and repetitive motions.

**Sedentary Work:** Exerting up to 10 pounds of force occasionally and/or a negligible amount of force frequently or constantly to lift, carry, push, pull or otherwise move objects. Sedentary work involves sitting most of the time. Jobs are sedentary if walking and standing are required only occasionally and all other sedentary criteria are met.

Incumbents generally work in a typical office environment with adequate light and temperature.

*Travel: Positions in this class may require local and statewide travel as necessary.*



## **Associate Planner**

Bargaining Unit: Professional Employees Group  
FLSA Status: Non-Exempt

### **DEFINITION**

Under the general direction of the Planning Manager and the Economic and Community Development Director, performs planning work of substantial professional difficulty, including research, data gathering, analysis, design, and report writing per the policies and provisions of the General Plan and zoning ordinance, preparation and administration of area and specific plans, preparation of environmental documents, and other complex planning and development projects.

### **CLASS CHARACTERISTICS**

The Associate Planner is the journey level flexibly staffed classification within the professional planning series. Positions in this class require substantial professional planning experience. This class is distinguished from the Assistant Planner by assignment of the full range of professional planning duties. Employees at this level receive only occasional instruction or assistance as new or unusual situations arise and are fully aware of the operating procedures and policies within the work place. This role involves undertaking planning work of substantial professional difficulty, requiring a high level of expertise in research, data gathering, analysis, design, and report writing. The Associate Planner is responsible for overseeing the preparation and administration of area and specific plans, and managing other complex planning and development projects. Assignments are usually broad in scope and require the use of judgment base on experience in making complex technical decisions. Assignments may require technical or functional supervision of technical and/or clerical positions.

### **EXAMPLES OF DUTIES** *(illustrative only)*

- Reviews building, site and architectural plans, use permits, code amendments, variances, development proposals, applications and other related documents for conformance to City standards and other applicable state and federal rules and regulations; serves as primary point of contact to developers and property owners in meeting these standards.
- Prepares environmental documents per the requirements of the California Environmental Quality Act for both public and private projects, including negative/mitigated negative declarations and/or environmental impact reports; works with consultants in facilitating preparation of environmental documents and related findings and mitigation measures.
- Prepares amendments and updates to the General Plan and Municipal Code in conformance with State law.
- Prepares and updates maps, visual exhibits and other graphics for use in reports and public presentations.

- Conducts office and field studies, researches and prepares recommendations for all types of development applications based on local and state planning laws.
- Reviews and analyzes development proposals and works with developers, the public and other agencies regarding various land use permits, general plan amendments, and zone changes.
- Makes presentations to the City Council and Planning Commission, and other committees and advisory groups regarding land use applications, general plan amendments, code amendments, area and specific plans, and related studies.
- Lead and facilitate planning initiatives or projects that require multi-departmental and multi-jurisdictional evaluation, actively participates in project reviews as a member of the Development Review Committee, and offers professional planning advice when addressing questions or inquiries.
- Confers with and advises architects, builders, contractors, engineers, and the general public regarding City development policies and standards.
- Researches, drafts, and prepares updates to the Zoning Ordinance and amendments to the General Plan.
- Reviews plans submitted for building permits for conformance with the Zoning Ordinance and conditions of approval.
- Reviews and finalizes research, analysis, and interpretation of the social, economic, population, and land use data and trends
- Serves as liaison to appointed hearing bodies.

## **QUALIFICATIONS**

Any combination of education, training, and experience that would likely provide the required knowledge, skills, and abilities is qualifying.

### **Licenses and Certificates:**

Possession of a valid Class C California Driver's License with a satisfactory driving record.

### **Education and Training:**

Education and experience equivalent to graduation from an accredited college or university, with major work in urban planning, public administration, architecture, geography, or related field; three years of increasingly responsible full time planning experience in a municipal planning department, private consulting for public agencies, or equivalent relevant experience. Possession of an appropriate master's degree may be substituted for one year of the required experience.

### **Knowledge of:**

- Possess thorough knowledge of planning and zoning principles, methods, practices and trends of urban planning and zoning administration.
- Thorough knowledge of federal, state, and local laws and regulations relating to land use and planning.
- Environmental laws and practices per the requirements of the California Environmental Quality Act and related state laws and regulations.
- Site planning and architectural design principles and practices.

**Ability to:**

- Compile, comprehend, analyze, interpret, prepare, and present complex technical reports and statistical data.
- Prepare and present clear and concise reports orally and in writing to various groups of elected or appointed officials, consultants, and interested citizens.
- Establish and maintain cooperative and effective working relationships with other employees, consultants, elected and appointed officials, and the public.

**WORKING CONDITIONS, ADA AND OTHER REQUIREMENTS**

The City of Union City is an equal opportunity employer. The City of Union City will comply with its obligations under the law to provide equal employment opportunities to qualified individuals with disabilities.

Positions in this class typically require: sitting, stooping, kneeling, crouching, reaching, standing, walking, pushing, pulling, lifting, fingering, grasping, talking, hearing, seeing, and repetitive motions.

**Sedentary Work:** Exerting up to 10 pounds of force occasionally and/or a negligible amount of force frequently or constantly to lift, carry, push, pull or otherwise move objects. Sedentary work involves sitting most of the time. Jobs are sedentary if walking and standing are required only occasionally and all other sedentary criteria are met.

Incumbents generally work in a typical office environment with adequate light and temperature.

*Travel: Positions in this class may require local and statewide travel as necessary.*



## Agenda Item

**DATE:** 4/9/2024

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**FROM:** JASON CASTLEBERRY, HUMAN RESOURCES DIRECTOR

**SUBJECT:** ADOPT A RESOLUTION APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE SIDE LETTER AGREEMENTS TO THE MEMORANDUMS OF UNDERSTANDING WITH THE UNION CITY POLICE OFFICERS ASSOCIATION AND THE UNION CITY POLICE MANAGEMENT ASSOCIATION TO RECOGNIZE YEARS OF SERVICE AND SICK LEAVE ACCRUED WITH PRIOR AGENCIES

Staff recommends that the City Council adopt a resolution to approve side letter agreements to the Memorandums of Understanding (MOUs) with both the Union City Police Officers Association (POA) and the Union City Police Management Association (PMA) (collectively the “Associations”), to recognize years of service with other agencies and provide credit for sick leave accrued for sworn staff as operationally feasible and mutually beneficial to the parties.

### **STRATEGIC PLAN ALIGNMENT**

These actions support Goal B. Governance and Organization Effectiveness of the strategic plan in aligning critical city services with current staffing levels.

### **BACKGROUND**

The City and the Associations recognize the value of recruiting qualified, trained and tenured sworn staff. The City has found it challenging to recruit sworn staff from other agencies where sworn staff are tenured and receive greater benefits for their years of service in those agencies. Even though a prospective sworn staff member may be qualified and interested in joining the City, a transition to the City can often result in the prospective employee having to relinquish benefits that they have earned through years of service with another agency and begin with the City with no years of service credit under the existing MOUs.

The City and the Associations believe that it is mutually beneficial to provide recognition of years of service and credit for previously earned sick leave from prior employers for sworn employees that are subsequently

employed by the City. Additionally, staff have met and conferred with the Associations regarding the proposed side letter agreements as required by state law.

## **DISCUSSION**

Under the proposed side letter agreements, sworn employees will receive credit for years of service in a sworn position working for outside agencies as provided below:

**Years of Service:** The City would recognize 50% of a sworn employee's years of service with another agency as a sworn employee, rounded up or down, to the nearest six (6) month period beginning at two full years of service or more with another agency, for calculating benefits related to longevity pay and vacation accrual. Currently, members in the Associations receive 5% longevity pay after 19 years of service with the City and accrue vacation pursuant to the following schedule:

Years of Service	Annual Accrual Rate
0- 3 years	80 hours
4 - 8 years	120 hours
9 - 12 years	140 hours
13 - 15 years	160 hours
16 + years	200 hours

In this instance, an officer with 10 years of service in a prior agency before joining the City would receive 5 years of service credit towards the 19 years of service required to obtain the 5% longevity pay. The same officer would, immediately upon joining the City, receive 5 years of service credit for purposes of accruing vacation and would fall within the 4-8 years of service range under the MOUs, accruing 120 hours per year annually. Absent the proposed side letter agreements, this officer would begin with no years of service upon joining the City towards calculating longevity pay and the vacation accrual rate.

**Sick Leave:** Under the proposed side letter agreements, sworn employees will receive credit for sick leave accrued from their most recent employer up to a maximum of four hundred and eighty (480) hours, upon verification by Union City and the previous employer agency, as needed. This will only apply to sick leave accrued, and not paid out, from the most recent employer.

## **FISCAL IMPACT**

In the immediate term, the fiscal impact of a lateral transfer would be a cost-savings because the cost of the training and development that is necessary for sworn personnel has already been incurred by another employer. In the longer term, this has yet to be determined due to the uncertainty of the number of lateral transfers hired each year, as well as the total number of years of service and/or sick leave each lateral would have upon hire at Union City.

## **RECOMMENDATION**

Staff recommends that the City Council adopt the proposed resolution to approve side letter agreements to the MOUs for the Associations, to recognize years of service with other agencies and provide credit for sick leave accrued for sworn staff as operationally feasible and mutually beneficial to the parties.

## **Prepared by:**

Jason Castleberry, Human Resources Director

**Submitted by:**

Jason Castleberry, Human Resources Director

**ATTACHMENTS:**

Description	Type
☐ Resolution - Side Letter POA/PMA	Resolution
☐ Side Letter Agreement POA	Attachment
☐ Side Letter Agreement PMA	Attachment

**RESOLUTION NO.**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY  
APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE SIDE  
LETTER AGREEMENTS TO THE MEMORANDUMS OF UNDERSTANDING  
WITH THE UNION CITY POLICE OFFICERS ASSOCIATION AND THE UNION  
CITY POLICE MANAGEMENT ASSOCIATION TO RECOGNIZE YEARS OF  
SERVICE AND SICK LEAVE ACCRUED WITH PRIOR AGENCIES**

**WHEREAS**, the City has undertaken an inquiry and recommends that the City Council approve these side letter agreements to the Memorandums of Understanding between the City and both the Union City Police Officers Association (POA) and the Union City Police Management Association (PMA); and

**WHEREAS**, City staff have undertaken an analysis of necessary considerations to effectuate a Lateral Transfer Program; and

**WHEREAS**, the City Council has identified in the Strategic Plan Goal B, Governance and Organization Effectiveness to align critical city services with current staffing levels by ensuring the staffing structures are appropriate to provide programs and services uninterrupted; and

**WHEREAS**, the City Manager or her designee has met and conferred in good faith with the representatives of all bargaining units related to the above matters.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council hereby approves and authorizes the City Manager to execute the proposed side letter agreements to the Memorandums of Understanding between the City and both POA and PMA to recognize years of service with other agencies and provide credit for sick leave accrued for sworn staff, attached hereto and incorporated by reference, and to take such further actions as may be necessary to implement the intent of this Resolution.



**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Union City at a regular meeting held on this 9<sup>th</sup> day of April 2024 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

---

CAROL DUTRA-VERNACI  
Mayor

ATTESTED:

APPROVED AS TO FORM:

---

THAI NAM N. PHAM  
City Clerk

---

KRISTOPHER J. KOKOTAYLO  
City Attorney

**Side Letter to the Memorandum  
of Understanding Between  
The City of Union City  
and  
Union City Police Officers Association (POA)**

The City of Union City ("City") and the Union City Police Officers Association ("POA") (collectively the "Parties") enter into this side letter, effective January 4, 2024, to the Parties' Memorandum of Understanding ("MOU") to affirm the parties intent to recognize years of service with other agencies for sworn staff as operationally feasible and mutually beneficial to the parties.

WHEREAS, the City and POA recognize the value of recruiting qualified, trained and tenured sworn staff; and

WHEREAS, the City and POA desire and agree to provide recognition of years of service and credit for previously earned sick leave from prior employers for sworn employees that are subsequently employed by the City; and

WHEREAS, the Parties wish to enter into a side letter clarifying and memorializing the Parties' agreement for recognition of years of service and credit for previously earned sick leave from prior employers for employees that are subsequently employed by the City.

NOW, THEREFORE the Parties agree to the below revisions to the MOU, effective January 4, 2024.

Sworn employees will receive credit for years of service in a sworn position working for outside agencies as provided below. Additionally, those employees would be provided the following, in recognition of previous education, license or years of service, as it relates to the positions included in this unit:

**Years of Service ("YOS"):** The City recognizes 50% of a sworn employee's years of service with another agency as a sworn employee, rounded up or down, to the nearest six (6) month period beginning at two full years of service or more with another agency, for calculating benefits identified in the following sections of the MOU: Section 2.13 (Longevity Pay); Section 4.10 (Vacation). For example, an employee with 9-12 YOS with the City receives an annual accrual of 140 hours of vacation pursuant to Section 4.10. A sworn employee with 10 YOS at another agency (in a sworn capacity) that is subsequently hired by the City will receive 5 YOS credit with the City and receive an annual accrual of 120 hours of vacation (along with other employees that have 4-8 YOS) until that employee has completed an additional 4 full YOS with the City at which point the employee will have completed 9 YOS and fall into the category of 9-12 YOS and accrue 140 hours of annual vacation. Employees do not receive YOS credit for purposes of calculating retiree medical pursuant to Section 5.5 (Retiree Medical Plan).

**Sick Leave:** The City and POA have a mutual interest in maintaining a healthy workforce. Sworn employees will receive credit for sick leave accrued from their most recent employer for

leave identified pursuant to Section 4.1 (Sick Leave Allowance) of the MOU up to a maximum of four hundred and eighty (480) hours, upon verification by Union City and the previous employer agency, as needed. This will only apply to sick leave accrued, and not paid out, from the most recent employer.

For the City:

For POA:

---

Joan Malloy  
City Manager

Date:

---

Ian Hobson  
POA Member

Date:

---

Jason Castleberry  
Human Resources Director

Date:

---

Brandon Hayward  
POA Member

Date:

**Side Letter to the Memorandum  
of Understanding Between  
The City of Union City  
and  
Union City Police Management Association (PMA)**

The City of Union City ("City") and the Union City Police Management Association ("PMA") (collectively the "Parties") enter into this side letter, effective January 4, 2024, to the Parties' Memorandum of Understanding ("MOU") to affirm the parties intent to recognize years of service with other agencies for sworn staff as operationally feasible and mutually beneficial to the parties.

WHEREAS, the City and PMA recognize the value of recruiting qualified, trained and tenured sworn staff; and

WHEREAS, the City and PMA desire and agree to provide recognition of years of service and credit for previously earned sick leave from prior employers for sworn employees that are subsequently employed by the City; and

WHEREAS, the Parties wish to enter into a side letter clarifying and memorializing the Parties' agreement for recognition of years of service and credit for previously earned sick leave from prior employers for employees that are subsequently employed by the City.

NOW, THEREFORE the Parties agree to the below revisions to the MOU, effective January 4, 2024.

Sworn employees will receive credit for years of service in a sworn position working for outside agencies as provided below. Additionally, those employees would be provided the following, in recognition of previous education, license or years of service, as it relates to the positions included in this unit:

**Years of Service ("YOS"):** The City recognizes 50% of a sworn employee's YOS with another agency as a sworn employee, rounded up or down, to the nearest six (6) month period beginning at two full years of service or more with another agency, for calculating benefits identified in the following sections of the MOU: Section 9.A (Longevity Pay); Section 3 (Vacation). For example, an employee with 9-12 YOS with the City receives an annual accrual of 140 hours of vacation pursuant to Section 3. A sworn employee with 10 YOS at another agency (in a sworn capacity) that is subsequently hired by the City will receive 5 YOS credit with the City and receive an annual accrual of 120 hours of vacation (along with other employees that have 4-8 YOS) until that employee has completed an additional 4 full YOS with the City at which point the employee will fall into the category of 9-12 YOS and accrue 140 hours of annual vacation. Employees do not receive YOS credit for purposes of calculating retiree medical pursuant to Section 5.5 (Retiree Medical Plan).

**Sick Leave:** The City and PMA have a mutual interest in maintaining a healthy workforce. Sworn employees will receive credit for sick leave accrued from their most recent employer for

leave identified pursuant to Section 2.H (Sick Leave) of the MOU up to a maximum of four-hundred and eighty (480) hours, upon verification by Union City and the previous employer agency, as needed. This will only apply to sick leave accrued, and not paid out, from the most recent employer.

For the City:

For PMA:

---

Joan Malloy  
City Manager

Date:

---

Paul Kanazeh  
PMA Member

Date:

---

Jason Castleberry  
Human Resources Director

Date:

---

Andrew holt  
PMA Member

Date:



## Agenda Item

**DATE:** 4/9/2024

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**FROM:** CARMELA CAMPBELL, ECONOMIC AND COMMUNITY DEVELOPMENT DIRECTOR

**SUBJECT:** PUBLIC HEARING AND ADOPT TWO RESOLUTIONS 1) ADOPTING AN ADDENDUM TO THE 2040 GENERAL PLAN EIR AND 2) AMENDING THE GENERAL PLAN LAND USE DIAGRAM (AG-24-001), AND INTRODUCE AN ORDINANCE AMENDING the OFFICIAL UNION CITY ZONING MAP (A-24-001)

Staff recommends that the City Council adopt two resolutions: 1) adopting an Addendum to the 2040 General Plan EIR (Attachment 1) and 2) amending the General Plan Land Use Diagram (AG-24-001) (Attachment 2) and Introduce an Ordinance Amending the Official Union City Zoning Map (A-24-001) (Attachment 3) These actions are referred to as the “Project.” Diagrams showing the proposed General Plan and Zoning Map amendments are attached to this staff report and labeled Attachment 2 - Exhibit A and Attachment 3 -Exhibit B, respectively.

The project includes General Plan and Zoning Map amendments for multiple sites to better align with existing parcel lines, building locations, and historic and current land uses or to address a parcel that has an incorrect designation. In addition, several sites are proposed to be rezoned for consistency with the 2040 General Plan (“2040 GP”).

The Planning Commission recommended approval of the Project to the City Council at its March 21, 2024, meeting on a 5-0 vote. The following are attached to this report: the Planning Commission Staff Report (Attachment 4), Planning Commission Desk Item (Attachment 5), Planning Commission Draft Meeting Minutes (Attachment 6), and Planning Commission Draft Resolutions (Attachment 7 and 8).

### **STRATEGIC PLAN ALIGNMENT**

The proposed amendments are in alignment with the following:

**Goal C.** Institute forward-thinking business, land use development, housing, social services, and public safety strategies that promote community growth and innovation.

**Goal C. Strategy 15.** Improve and streamline the development process. (Council Priority)

**BACKGROUND**

The proposed amendments can be broken down into two categories. The first category includes amendments to a site's land use designation shown on the 2040 GP Land Use Diagram, as well as the zoning designation shown on the Official Zoning Map. These “clean-up” actions are proposed to better align zoning and general plan boundaries with existing property lines, with existing building locations, or with historic and current uses of the property or to address a parcel that has an incorrect designation.

Due to the number of sites proposed to be updated, several exhibits were prepared that correspond to specific areas within the City. There are four exhibits which show the proposed general plan amendments. These are labeled Areas A1 – A4 and included in Attachment 2. The corresponding exhibits for the related zoning map amendments are labeled Areas B1-B4 and are included in Attachment 3.

The second category includes parcels proposed to be rezoned for consistency with the 2040 GP adopted December 10, 2019. These changes are shown in Exhibit B and are labeled Areas B5-B12, which are also included in Attachment 3. State law requires that the Official Zoning Map be consistent with the adopted General Plan Land Use Diagram, which is the impetus for these proposed amendments.

The Planning Commission staff report (Attachment 4) includes tables showing every parcel proposed to be redesignated or rezoned. The tables also include the rationale for the proposed update.

**DISCUSSION**

**General Plan and Zoning Map Amendments**

As detailed above, approval of the proposed general plan and related zoning map amendments will better align general plan and zoning designations boundaries with existing property lines, existing building locations, or with historic and current uses of a property or to address a parcel with an incorrect designation. The updates will also facilitate business expansion and redevelopment of certain sites. See below for some additional detail regarding some of the proposed general plan and zoning amendments. Please note that the corresponding area number from the exhibits is shown for ease of review.

- **Masjid Al-Huda, 3880 Smith Street (Area A1 and B1).** The site has split designations, which correspond to underlying parcel lines. A portion of the site, which accommodates parking and some support buildings, has a general plan and zoning designation of RM 2500, which permits multi-family residential development. The remainder of the site has a Private Institutional (PI) general plan and zoning designation. The City is proposing to update the designation from RM 2500 to PI to better align the existing use with zoning/general plan designations for the remainder of the site. The property owner is considering some upgrades to their site and this update will remove the requirements for enhanced setbacks associated with the current residential zoning designation.
- **Dowe Business Park, Central Plaza, Provender Business Park, and Tarlton Properties, Alvarado-Niles Road (Area A3, A4, B3 and B4)** Along portions of Alvarado-Niles Road generally between Western Avenue and Hop Ranch Road, the first 90 feet of frontage on the easterly side of Alvarado-Niles Road has a general plan and zoning designation of Special Industrial (MS) and the remaining portion of the property has a general plan and zoning designation of Light Industrial (ML). This configuration results in the boundary between the two designations going through sites and /or

buildings and staff having to make an interpretation on which designations to apply. Staff is proposing to relocate the boundary lines of the two designations, so they better align with property lines and reflect the designations historically applied to the property by Planning Division staff. The update will also facilitate the expansion of a long-term Union City business, Elite Badminton Facility, located in the Central Plaza development.

- **US Post Office, 33168-31170 Alvarado-Niles Road (Area A3, B3).** The Post Office site is proposed to be redesignated from MS/ML to City Facility (CF) consistent with all public buildings/sites within Union City.

### **Zoning Map Amendments**

As part of implementation of the 2040 GP, several amendments to the Official Zoning Map are proposed. Aside from the proposed zoning map amendments discussed in the section above, the zoning map amendments discussed in this section are proposed to ensure a subject property's zoning designation is consistent with its' general plan designation, which is required by State law. See below for some additional detail regarding a few of the proposed amendments, which impact the majority of the parcels proposed to be rezoned.

- **Monarch At Soares Ranch, Alvarado Niles Road / Madelyn Terrace (Area B10).** The site, which accommodates 63 townhomes and related common areas, was included in the City's previous Housing Element, which covered the period from 2015-2023, as a future site for housing. Consistent with State law and the prior Housing Element, the site was rezoned from RM 1500, which is a multi-family residential designation to RM 1500-HE. The addition of "HE" to the site's base zoning designation of RM 1500 was to make it clear that the site, which was vacant at the time, had to be developed at a specific density, which it was. Now that the City has adopted an updated Housing Element and the project site has been developed, staff is proposing to rezone the property back to its prior designation of RM 1500.
- **511 Open Space (Area B8 and B9).** The term "511" applies to a 511-acre (+/-) neighborhood generally bounded by Union City Boulevard to the east, Remora Drive to the north and Union City's westerly and southerly boundary lines. The "511 Specific Plan" was adopted in 1987 and informed how the area was built out. You can view the 511 Specific Plan on-line at <https://www.unioncity.org/603/Long-Range-Planning-Projects>. There are several properties, which were set aside as permanent open space / habitat and currently used as such. The City is proposing to amend the zoning designations for these properties from "511" to "Open Space (OS)" consistent with their current general plan designation of Open Space. This change will have no impact on how the properties are currently used. This change removes any ambiguity that the properties are available for residential development which they are not. In addition, this area accommodates the closed Turk Island landfill. A similar update is proposed to update the zoning designation for this site from 511 to OS.
- **Calaveras Landing (Area B12).** Zoning map updates are proposed to the Calaveras Landing shopping center located along Industrial Parkway SW. The shopping center accommodates a Food Max, Home Depot, Advance Auto Parts, Taco Bell, and several in-line retail stores and restaurants. The site has a zoning designation of Special Industrial (MS). The shopping center obtained a Use Permit in 1990 to allow for commercial uses, which substantially expanded what could be established under the site's MS zoning designation. As part of the GP 2040 update, the site's general plan designation of MS was updated to "Regional Retail Commercial" along with the Union Landing Shopping Center. This designation is generally applied to commercial shopping centers serving a citywide or regional market located on large sites along freeways. To better align the zoning with the historic and current uses of the property, staff is proposing to update the zoning designation to Community Commercial (CC), which allows for a variety of commercial uses. This designation is



applied to the majority of our major shopping areas. This action will also remove the requirement for new food uses to obtain a Use Permit, which is currently a requirement in the MS zoning district, streamlining the approval process for new restaurant uses in the center. In addition, the proposed rezoning satisfies General Plan Implementation Program SA-13.A.

### **CEQA**

- An EIR was prepared as part of the 2040 General Plan and was certified in November 2019. The EIR evaluated the potential environmental impacts that would result from implementation of the 2040 General Plan. Under CEQA Guidelines Section 15164, preparation of an addendum is appropriate where a previously certified EIR has been prepared and some changes or revisions to the project are proposed, or the circumstances surrounding the project have changed, but none of the changes or revisions to the project would result in significant new or substantially more severe environmental impacts than what were previously analyzed. The City prepared an Addendum to the EIR for the Project, which is attached (Attachment 1 - Exhibit C).

The Addendum was prepared in accordance with State CEQA Guidelines. In regard to each environmental topic area analyzed, the Addendum establishes that no substantial changes in circumstances have occurred, nor has any new information of substantial importance been identified requiring new analysis or verification, and no new or more severe environmental impacts would occur as a result of the project beyond what was previously analyzed in the General Plan EIR.

### **Planning Commission Review**

- The Planning Commission reviewed the proposed amendments at a public hearing on March 21, 2024. For a detailed overview of the Planning Commission discussion, see attached Draft Meeting Minutes labeled Attachment 6. The Commission also considered a Desk Item (Attachment 5) concerning questions and comments from Commissioner Lew regarding the proposed amendments. The majority of the feedback was focused on an older version of Table 1 inadvertently included in the staff report resulting in some inconsistencies with the exhibits, which were correct. In response, the Planning Commission staff report was updated, which is the version attached to this staff report. There was also a minor update needed to both the Addendum and Exhibit A2, which are reflected in the attachments. The Commission voted 5-0 to recommend approval of the proposed amendments to the City Council.

### **Public Outreach Process**

- All owners of properties proposed for rezoning, or a changed general plan land use designation were notified by mail of the proposed action of the City. In addition, a public hearing notice describing the proposed City actions was placed in the Tri-City voice.

Consistent with SB 18, the City notified the list of California Native American tribes, provided by the State Native American Heritage Commission, who have the potential to be impacted by the proposed general plan amendments, an opportunity to consult with the City. Consistent with SB 18, the City provided 90 days for the tribal representative to reach out. This period concluded on February 28 and the City did not receive any requests for consultation.

Staff received questions from two members of the public regarding how the proposed rezonings could impact the allowed uses on their property. Staff responded to both inquiries by clarifying that the proposed rezonings are for consistency with the site's general plan designation, which already outlines the types and intensities of allowed land uses so there wouldn't be much change as a result of the proposed rezonings.

## **FISCAL IMPACT**

There is no impact to the General Fund as a result of the Project.

## **RECOMMENDATION**

Staff recommends that the City Council adopt two resolutions: 1) adopting an Addendum to the 2040 General Plan EIR (Attachment 1) and 2) amending the General Plan Land Use Diagram (AG-24-001) (Attachment 2) and Introduce an Ordinance Amending the Official Union City Zoning Map (A-24-001) (Attachment 3).

### **Prepared by:**

Carmela Campbell, Economic and Community Development Director, Derek Farmer, Planning Manager and Aaron Welch, Contract Planner

### **Submitted by:**

Carmela Campbell, Economic and Community Development Director

## **ATTACHMENTS:**

Description	Type
❑ Attachment 1 - CC Resolution - CEQA AddendumAG-24-001	Resolution
❑ Attachment 1- Exhibit C - Addendum	Exhibit
❑ Attachment 2- CC Resolution Approving AG-24-001	Resolution
❑ Attachment 2- Exhibit A- Areas A1-A4	Exhibit
❑ Attachment 3 - CC Ordinance - A-24-001	Ordinance
❑ Attachment 3 - Exhibit B	Exhibit
❑ Attachment 4 - PC Staff Report AG-24-001/A-24-001	Attachment
❑ Attachment 5 - Desk Item - AG-24-001/A-24-001	Attachment
❑ Attachment 6 - Draft PC Meeting Minutes	Attachment
❑ Attachment 7- Draft PC Resolution No - 04-24	Attachment
❑ Attachment 8 - Draft PC Resolution No. 05-24	Attachment
❑ Item 6.a. PowerPoint	Attachment

**RESOLUTION NO XXXX-24**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY  
ADOPTING AN ADDENDUM TO THE GENERAL PLAN ENVIRONMENTAL  
IMPACT REPORT FOR THE AMENDMENTS TO THE 2040 GENERAL PLAN LAND  
USE DIAGRAM (AG-24-001) AND OFFICIAL ZONING MAP (A-24-001)**

**WHEREAS**, by Resolution No. 5549-19, duly adopted by the City Council of Union City on December 10, 2019, there was adopted documents consisting of text, maps, and charts, entitled Union City 2040 General Plan, dated December 10, 2019, which included the reports in support thereof as the General Plan of Union City; and

**WHEREAS**, staff initiated amendments to the General Plan Land Use Diagram (AG-24-001) and Official Zoning Map (A-24-001) for multiple sites, both for consistency with the 2040 General Plan and to better align with existing parcel lines, building locations, and historic and current land uses or to address a parcel that has an incorrect designation (“Project”); and

**WHEREAS**, Section 15164 of the CEQA Guidelines provides that an addendum to a previously adopted environmental impact report or mitigated negative declaration may be prepared if only minor technical changes or additions to the project are necessary or none of the conditions described in CEQA Guidelines Section 15162 calling for the preparation of a subsequent environmental impact report or negative declaration have occurred; and

**WHEREAS**, the City has prepared an Addendum to the 2040 General Plan EIR for the amendments to the 2040 General Plan Land Use Diagram and Official Zoning Map (“Addendum”), labeled Exhibit C, attached hereto and made a part hereof, which determined that none of the conditions described in CEQA Guidelines section 15162 will occur as a result of implementation of the project; and

**WHEREAS**, the Addendum was posted to the City’s website and referenced in the public notice for the April 9, 2024 City Council public hearing; and

**WHEREAS**, a staff report, dated April 9, 2024 and incorporated herein by reference, described and analyzed the amendments to the 2040 General Plan Land Use Diagram and Official Zoning Map and the Addendum; and

**WHEREAS**, pursuant to Section 65854 of the Government Code, the City Council reviewed the staff report, and the Addendum at a noticed public hearing on April 9, 2024 at which time all interested parties had the opportunity to be heard; and

**WHEREAS**, the Planning Commission considered the Addendum at a public hearing on March 21, 2024 and adopted Planning Commission Resolution 04-24 recommending that the City Council adopt the Addendum, which was determined to be in compliance with the requirements of CEQA;

**WHEREAS**, the Addendum reflects the City's independent judgment and analysis on the potential for environmental impacts; and

**WHEREAS**, none of the conditions requiring preparation of a subsequent EIR or negative declaration have occurred, and that the changes that are part of the amendments to the 2040 General Plan Land Use Diagram and Official Zoning Map identified in the Addendum would not result in any significant impacts not considered under the original 2040 General Plan EIR; and

**WHEREAS**, the Addendum is available for review on the City's website at <https://unioncity.novusagenda.com/agendapublic/CoverSheet.aspx?ItemID=4198&MeetingID=1746>, and at the Economic and Community Development Department at City Hall during normal business hours. The location and custodian of the Addendum and other documents that constitute the record of proceedings for the amendments to the 2040 General Plan Land Use Diagram and Official Zoning Map is the City of Union City Economic and Community Development Department, 34009 Alvarado-Niles Road, Union City, CA 94587.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Union City hereby certifies and declares as follows:

- A. The foregoing recitals are true and correct and made a part of this resolution.
- B. The City Council independently reviewed and considered the information contained in the Addendum to the 2040 General Plan Environmental Impact Report, as well as all other information (both written and oral) provided by City staff, City consultants, and the Public to the City Council at its April 9, 2024 meeting relating to the Addendum, prior to approving the amendments to the 2040 General Plan Land Use Diagram and Official Zoning Map.
- C. The City Council has reviewed and considered the Addendum to the 2040 General Plan Final Environmental Impact Report and finds that none of the conditions requiring preparation of a subsequent EIR or negative declaration have occurred, and that the changes that are part of the project would not result in any significant impacts not considered under the original EIR.
- D. The Addendum to the 2040 General Plan Final Environmental Impact Report is the appropriate CEQA document for the project and has been prepared in compliance with CEQA and the CEQA Guidelines. The Addendum has been prepared as required by law and the document reflects the independent judgement and analysis of the City of Union City, which has exercised overall control and direction of its preparation.

**BE IT FURTHER RESOLVED** that the City Council hereby adopts the Addendum to the 2040 General Plan Environmental Impact Report in compliance with the requirements of CEQA.

# Addendum to the 2040 General Plan Environmental Impact Report (State Clearinghouse No. 2018102057)

## Amendments to the General Plan Land Use Diagram and Official Zoning Map

### 1 INTRODUCTION

#### 1.1 BACKGROUND

In November 2019, the City of Union City (City) certified the Final Environmental Impact Report (EIR) (State Clearinghouse No. 2018102057) for the Union City 2040 General Plan (2040 General Plan). Pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code (PRC) § 21000, et seq.), the EIR for the 2040 General Plan (General Plan EIR) evaluated the potential environmental impacts that would result from the 2040 General Plan update.

The City of Union City is proposing to amend the General Plan Land Use Diagram and Official Zoning Map for multiple sites, both for consistency with the 2040 General Plan and to better align with existing parcel lines, building locations, and historic and current land uses. Only map amendments are proposed; there are no text amendments proposed for either the General Plan or the Zoning Ordinance. These actions are hereinafter referred to as the "project".

As the lead agency under CEQA, the City has prepared this Addendum in accordance with State CEQA Guidelines Section 15164 to evaluate whether the proposed project's effects were adequately examined in the previous environmental analysis in the General Plan EIR or whether any changes trigger supplemental or subsequent review under State CEQA Guidelines Section 15162 or 15163. This Addendum considers whether the environmental conditions that exist today have changed such that new or substantially more severe environmental impacts would occur as a result of the project compared to that evaluated in the General Plan EIR. As described below, no changes associated with the proposed project, and no changes in circumstances, trigger subsequent or supplemental review.

#### 1.2 PREVIOUS ENVIRONMENTAL ANALYSES

The environmental process for the General Plan involved the preparation of the following documents that are relevant to the consideration of the proposed project.

- ▶ Draft EIR for the Union City 2040 General Plan, June 2019; and
- ▶ Final EIR for the Union City 2040 General Plan, November 2019.

#### 1.3 CALIFORNIA ENVIRONMENTAL QUALITY ACT GUIDELINES REGARDING AN ADDENDUM TO AN ENVIRONMENTAL IMPACT REPORT

Altered conditions, changes, or additions to the description of a project that occur after certification of an EIR may require additional analysis under CEQA. The legal principles that guide decisions regarding whether additional

environmental documentation is required are provided in the State CEQA Guidelines, which establish three mechanisms to address these changes: 1) a Subsequent Environmental Impact Report (SEIR), 2) a Supplement to an EIR, or 3) an Addendum to an EIR.

Section 15162 of the State CEQA Guidelines describes the conditions under which a SEIR would be prepared. In summary, when an EIR has been certified for a project, no Subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete, shows any of the following:
  - (A) The project will have one or more significant effects not discussed in the previous EIR;
  - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
  - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measures or alternatives; or
  - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Section 15163 of the State CEQA Guidelines states that a lead agency may choose to prepare a supplement to an EIR rather than a Subsequent EIR if:

- (1) any of the conditions described above for Section 15162 would require the preparation of a SEIR; and
- (2) only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation.

Under Section 15164, an addendum is appropriate where a previously certified EIR has been prepared and some changes or revisions to the project are proposed, or the circumstances surrounding the project have changed, but none of the changes or revisions would result in significant new or substantially more severe environmental impacts, consistent with CEQA Section 21166 and State CEQA Guidelines Sections 15162, 15163, 15164, and 15168.

Based on the criteria above and the project description, the City has determined that an Addendum to the General Plan EIR is the appropriate CEQA document. The EIR conformity evaluation is intended to review relevant environmental topic areas for any changes in circumstances or substantial new information as defined under CEQA Guidelines Section 15162, as compared to the environmental impacts identified in the certified EIR prepared for the 2040 General Plan.

The proposed project would include the rezoning of multiple parcels for consistency with the 2040 General Plan. These changes would be made to the Official Union City Zoning Map. This is an implementation action of the 2040 General Plan. State law requires that the municipal zoning code be consistent with the adopted General Plan, and the Implementation Chapter of the 2040 General Plan references this state requirement. The project would also include multiple parcels proposed for a different land use designation in the 2040 General Plan Land Use Diagram, as well as an associated rezoning on the Official Union City Zoning Map. These actions would be taken in order to better align zoning and general plan boundaries with existing property lines, with existing building locations, and/or with historic

and current use of the property. This will eliminate the potential for confusion in these locations and reduce the number of land uses in the City that are incompatible with existing zoning and general plan designations.

The project does not include an action that would result in any ground disturbance or change to the physical environment that was not already analyzed in the General Plan EIR. Additionally, the General Plan EIR analyzed four environmental topic areas where implementation of the 2040 General Plan would result in significant and unavoidable environmental impacts. The project's potential impacts to these significant and unavoidable environmental impacts require extensive analysis, and those four environmental topic areas are discussed in detail in Section 3, below. For these reasons, the checklist excludes more detailed evaluation of the following environmental topic areas:

- ▶ **Agriculture/Forestry.** While no areas of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance occur within Union City, the 2040 General Plan designates agricultural land uses in the southwest corner of the city, and throughout much of the hillside area east of State Route 238. The proposed project would not result in any changes to land in the hillside area or land with an agricultural use designation and would not result in any ground disturbance that was not previously evaluated in the General Plan EIR; therefore, the project would not result in any new or more severe significant impacts beyond what was evaluated in the General Plan EIR.
- ▶ **Air Quality.** The General Plan EIR found that implementation of the 2040 General Plan would be consistent with the Bay Area Air Quality Management District (BAAQMD) 2017 Clean Air Plan. In addition, the rate of increase for vehicle miles travelled during buildout of the 2040 General Plan would not exceed the rate of service population increase associated with the 2040 General Plan. The EIR indicated that there would be less than significant impacts related to the following: additional sources of toxic air contaminants exposed during buildout of the 2040 General Plan, generation of air pollutants during construction, and the introduction of new odor-generating land uses. Mitigation Measure AQ-1: Health Risk Assessments was included in the General Plan EIR analysis and would continue to apply to subsequent development. The 2040 General Plan goals, policies, and implementation programs in the Resource Conservation Element would limit air quality impacts through reduction in vehicle trips and thus emissions by providing alternate modes of transportation. As stated in the General Plan EIR, development projected by the 2040 General Plan would be designed to promote active transportation in the community, further reducing vehicle emissions (Union City 2019a: 4.2-9). The project would not result in physical changes affecting implementation of air quality plans, increases in criteria air pollutants, exposure to pollutant concentrations, or result in exposure of other emissions, such as odors. Development would be consistent with regulations pertaining to air quality, and impacts would be of similar type and severity as what could occur under the zoning district and land use designation. No substantial changes in circumstances have occurred, nor has any new information of substantial importance been identified requiring new analysis or verification. With the project's approval, no new or more severe significant impacts related to air quality would occur beyond what was previously analyzed in the General Plan EIR.
- ▶ **Biological Resources.** As described in the General Plan EIR, there are a variety of vegetation communities in Union City. Areas that may provide habitat for special-status species are primarily located in the open space and undeveloped hillside areas of the City and the marshes and wetlands adjacent to San Francisco Bay in the western part of the City (Union City 2019a). The General Plan EIR found that implementation of the 2040 General Plan development pursuant to other local and regional planning efforts within the greater cumulative impact area (adjoining cities such as Fremont and Alameda County) could result in regional impacts on special-status species, riparian, wetland, or other sensitive natural communities, as well as wildlife movement. The 2040 General Plan sets forth goals and policies for surveys and required actions to be taken if biological resources have potential to be impacted by development. The project does not include changes to the land use designations in the hillside area of the city and would not result in any additional ground disturbance than what was evaluated in the General Plan EIR and the project would implement all applicable policies described in the EIR. Therefore, the proposed project would not result in a new or more severe significant impact than what was analyzed in the General Plan EIR.

- ▶ **Cultural Resources.** Based on CEQA Guidelines Section 15064.5, the 2040 General Plan – and future development activities facilitated by the plan – would have a significant impact on historical cultural resources if it would cause a substantial adverse change in the significance of a historical cultural resource. The General Plan EIR found that development under the proposed 2040 General Plan could affect known or unknown historical and/or archaeological resources. Goals, policies, and implementation programs contained in the Resource Conservation element of the 2040 General Plan would reduce the potential for cultural resources to be adversely impact from development. In addition, the implementation of Mitigation Measure CR-1 would reduce impacts to historical and unique archeological resources to a less than significant level by including an implementation program in the 2040 General Plan requiring cultural resource studies for projects within the city and implementation of further requirements to avoid or reduce impacts to such resources on a project by-project basis. Moreover, the 2040 General Plan requires compliance with existing regulations relating to the treatment of human remains should ground-disturbing activities associated with development result in damage to or destruction of human burials. The proposed project would comply with the required policies and procedures from the 2040 General Plan and General Plan EIR and would not result in any additional ground disturbance beyond what was previously analyzed. Therefore, the project would not result in any new or more severe significant impacts.
- ▶ **Energy.** The General Plan EIR indicated that the 2040 General Plan would not result in potentially significant environmental impacts related to consumption of energy and conflicts with applicable plans. The development and population growth facilitated by the 2040 General Plan would result in overall consumption of energy beyond existing conditions. However, the 2040 General Plan is based on a land-use strategy that promotes greater overall energy efficiency in community and municipal operations. 2040 General Plan policies and implementation programs would ensure that development under the 2040 General Plan would comply with existing energy efficiency regulations, and would encourage new development to take advantage of voluntary energy efficiency programs. Wasteful, inefficient, or unnecessary consumption of energy would not occur and impacts would be less than significant. The 2040 General Plan would be consistent with energy efficiency goals contained in the Union City Climate Action Plan. Construction and operation of projects facilitated by the 2040 General Plan would comply with relevant provisions of the State’s CalGreen and Title 24 of the California Energy Code.
- ▶ **Geology/Soils.** The General Plan EIR analyzed the potential impacts of development facilitated by the 2040 General Plan and concluded that most potential impacts to geology and soils were less than significant with compliance with existing federal, state, and local laws and ordinances. The 2040 General Plan includes goals and policies in the Safety Element to minimize the risks associated with geologic and soil hazards. Implementation of these policies, in addition to compliance with applicable laws and regulations, would minimize the potential for erosion and loss of topsoil (Union City 2019a). Chapter 15.85 of the Union City Municipal Code also contains erosion control requirements that include slope protection and dust control. Additionally, growth and development facilitated by the 2040 General Plan would occur in the urbanized areas of Union City west of State Route 238, which is relatively flat with low potential for soil erosion. Development facilitated by the 2040 General Plan may result in the construction of structures on expansive soils, which could create a substantial risk to life or property (Union City 2019a). However, development would be required to comply with the California Building Code, which would ensure that expansive soils are remediated or that foundations and structures are engineered to withstand the forces of expansive soil. The implementation of Mitigation Measure GEO-1 would reduce impacts to paleontological resources to a less than significant level by including an implementation program requiring paleontological resource studies for projects in high sensitivity geological units within Union City and implementation of further requirements to avoid or reduce impacts to such resources on a project-by-project basis. The proposed project would not result in any changes to the level of ground disturbance beyond what was anticipated in the 2040 General Plan and evaluated in the General Plan EIR. Implementation of policies and regulations identified in the General Plan EIR would still be required and would minimize any potential impacts related to seismic and other unstable soils and geologic conditions. The project would not result in any new or more severe significant impacts.
- ▶ **Hazards and Hazardous Materials.** The General Plan EIR indicated that there would be less than significant impacts resulting from: the routine transport, use, or disposal of hazardous materials; reasonably foreseeable



upset and accident conditions involving the release of hazardous materials into the environment; the emission or handling of hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school; and being located on a site included on a list of hazardous materials sites and, as a result, creating a significant hazard to the public or the environment. There are no airports within two miles of Union City, and the city is not within the influence area of an airport. The General Plan EIR also determined that there would be less than significant impacts related to hazards from wildfires because the 2040 General Plan policies address maintaining a Local Hazard Mitigation Plan along with emergency access implementation. The General Plan EIR states that compliance with existing applicable regulations, programs, standards such as the Fire Code and Building Code, and implementation of 2040 General Plan goals and policies would minimize risks from routine transport, use, and disposal of hazardous materials, including potential hazards from the accidental release of hazardous materials. Oversight by the appropriate federal, State, and local agencies and compliance by new development with applicable regulations related to the handling and storage of hazardous materials would minimize the risk of the public's potential exposure to these materials (Union City 2019a:4.8-16). All of these City policies and federal, state, and local regulations would apply to any development that would occur on the rezoned sites. Therefore, the project would not change the level of impact identified in the General Plan EIR. No substantial changes in circumstances have occurred, nor has any new information of substantial importance been identified requiring new analysis or verification. With the project's approval, the impact on hazards and exposure to hazardous materials would not be more severe than the impact identified in the General Plan EIR, and there would be no new impacts beyond what the EIR evaluated.

- ▶ **Hydrology/Water Quality.** The General Plan EIR indicated that development facilitated by the 2040 General Plan could potentially result in violation of water quality standards or waste discharge requirements, depletion of groundwater supplies or interference with groundwater recharge, and increased risk of pollutant release in flood hazard areas. Compliance with applicable laws and regulations and implementation of goals and policies from the Safety Element, Public Facilities and Services Element, Resource Conservation Element, and Special Areas Element of the 2040 General Plan would reduce hydrology/water quality impacts associated with new development to the maximum extent practicable. The 2040 General Plan facilitates development within urbanized areas of the city, primarily as infill and redevelopment. Wetlands, streams, and rivers do not occur on parcels that have previously or are currently developed and that may be redeveloped. Additionally, any development facilitated by the 2040 General Plan within streams or rivers, as well as wetlands, would be required to obtain the necessary permits from regulatory agencies, which would avoid impacts to streams or rivers. The proposed project would comply with applicable laws and regulations in addition to the required policies and procedures from the 2040 General Plan and Union City Municipal Code and would not result in any additional ground disturbance beyond what was previously analyzed. Therefore, the project would not result in any new or more severe significant impacts.
- ▶ **Land Use and Planning.** The General Plan EIR states that the 2040 General Plan would have less than significant impacts on land use and planning. Implementation of the 2040 General Plan would provide for orderly development in Union City and would not physically divide any established community. The project would include the rezoning of multiple parcels for consistency with the 2040 General Plan. These changes would be made to the Official Union City Zoning Map. This is an implementation action of the 2040 General Plan. State law requires that the municipal zoning code be consistent with the adopted General Plan, and the Implementation Chapter of the 2040 General Plan references this state requirement. The project would also include multiple parcels proposed for a different land use designation in the 2040 General Plan Land Use Diagram, as well as an associated rezoning on the Official Union City Zoning Map. These actions would be taken in order to better align zoning and general plan boundaries with existing property lines, with existing building locations, and/or with historic and current use of the property. This will eliminate the potential for confusion in these locations and reduce the number of land uses in the City that are incompatible with existing zoning and general plan designations. Therefore, these changes would align with the General Plan EIR's conclusion regarding potential division of an established community. Also, with the project's approval, revisions to the Zoning Ordinance and Zoning Map would be required to ensure consistency with the 2040 General Plan. Specifically, revisions to the Zoning Map would need to be consistent with the 2040 General Plan, incorporating revisions to the land use

categories and other recommended design and development standards. Future development would be consistent with regulations pertaining to land use and planning. Future development projects on the affected parcels would continue to be reviewed through the City's development standards (Title 18 of the Municipal Code), entitlement processes, and CEQA to ensure consistency with all relevant federal and State policies and consistency with all relevant City General Plan policies related to land use. No substantial changes in circumstances have occurred, nor has any new information of substantial importance been identified requiring new analysis or verification. With the project's approval, the impact on land uses would not be more severe than the impact identified in the General Plan EIR, and there would be no new impacts beyond what the EIR evaluated.

- ▶ **Mineral Resources.** While development on areas containing mineral resources could result in the permanent loss of those minerals, the 2040 General Plan did not include land use designation changes in the hillside area east of State Route 238, where the known mineral deposit occurs. Therefore, the 2040 General Plan would not facilitate new or additional development within the area of the mineral deposit. The proposed project would not propose a change in land use designations in the hillside area; therefore, the project would not result in new or more severe significant impacts beyond what was evaluated in the General Plan EIR.
- ▶ **Population and Housing.** The General Plan EIR indicated that implementation of the 2040 General Plan would facilitate the construction of new housing in the city which would increase the City's population over time. However, the General Plan EIR determined that the 2040 General Plan accommodates and plans for population growth and includes policies to manage new development. The General Plan EIR indicated that implementation of the 2040 General Plan would not result in the displacement of substantial numbers of persons or housing and concluded the impact to be less than significant. The proposed project would rezone, redesignate, and align parcels consistent with the 2040 General Plan and would not result in any impacts to population and housing beyond those analyzed in the General Plan EIR.
- ▶ **Public Services and Recreation.** The General Plan EIR indicated that there would be less than significant impacts related to the construction of fire and police protection facilities, school facilities, libraries, and park facilities. The General Plan EIR found that development facilitated by the 2040 General Plan would increase the overall population in Union City, which would generate additional need for fire protection, and police protection services. With an increase in the population, there would be a subsequent increase in the population of school-aged children in the city, increasing demand for school services and potentially creating the need for new school facilities. The increase in population from implementing the 2040 General Plan would further increase the demand for library services and potentially the need for new library facilities in addition to increased demand for parks with the potential need for new park facilities. The proposed project would rezone, redesignate and align parcels consistent with the 2040 General Plan and would not result in any impacts to population and housing beyond those analyzed in the General Plan EIR. No substantial changes in circumstances have occurred, nor has any new information of substantial importance been identified requiring new analysis or verification. With the project's approval, the impacts on public services and recreation would not be more severe than the impact identified in the General Plan EIR, and there would be no new impacts beyond what the EIR evaluated.
- ▶ **Tribal Cultural Resources.** The General Plan EIR indicated that development projected by General Plan 2040 would have less than significant impacts related to tribal cultural resources. The General Plan EIR anticipates some development projects that may involve excavation, which will have the potential to impact previously unidentified tribal cultural resources. Effects on tribal cultural resources can only be known once a specific project has been proposed because the effects are highly dependent on the individual project site conditions, and the characteristics of the proposed activity, including but not limited to the level of ground disturbance associated with construction activities. In accordance with the provisions of Assembly Bill (AB) 52 and Senate Bill (SB) 18, the City prepared and mailed letters to local Native American contacts informing them of the project on November 28, 2023. None of the tribes contacted responded to request consultation. This project would rezone, redesignate and align parcels consistent with the 2040 General Plan. New tribal cultural resources may be identified or established during the development process on an individual site, but it is assumed that future development would be consistent with regulations pertaining to tribal cultural resources, and impacts would be of similar type and severity as what could occur under the current zoning district and land use designation. No

substantial changes in circumstances have occurred, nor has any new information of substantial importance been identified requiring new analysis or verification.

- ▶ **Utilities and Service Systems.** The General Plan EIR indicated that there would be less than significant impacts related to wastewater treatment, new or expanded utility infrastructure, wastewater generation, water supply, solid waste generation, and demand for utility services. It is assumed that future development on the individual sites to be rezoned or redesignated with the project would be consistent with regulations pertaining to utilities and service systems, and impacts would be of similar type and severity as what could occur under the current zoning district and land use designation. Future development projects will continue to be reviewed through the City's entitlement process and CEQA to ensure consistency with all relevant federal and State policies and consistency with all relevant City General Plan policies related to utilities. No substantial changes in circumstances have occurred, nor has any new information of substantial importance been identified requiring new analysis or verification. With the project's approval, the impact on utilities and service systems would not be more severe than the impact identified in the General Plan EIR, and there would be no new impacts beyond what the EIR evaluated.
- ▶ **Wildfire.** The General Plan EIR concluded that the impact related to wildland fires under the 2040 General Plan would be less than significant. Wildfire risk in Union City is limited to the hillside area east of State Route 238 because this area is undeveloped and contains large tracts of vegetation cover that can act as fire fuel. The project does not include changes to the land use designations in the hillside area that would allow for more or increased development compared to what is currently allowed under the 2040 General Plan, which is the area of the city most susceptible to wildfire. In addition, the Safety Element of the 2040 General Plan includes policies to reduce the potential for uncontrolled wildfires in the hillside area and to reduce the potential for structural damage from uncontrolled fire. The parcels to be rezoned, redesignated and aligned with the 2040 General Plan are all located in urban areas and are surrounded by existing development. Therefore, any proposed change in allowed use would not result in any changes to potential wildfire risk or environmental impacts resulting from wildfire than under existing conditions. Future development projects on the affected parcels would continue to be reviewed through the City's entitlement process and the CEQA process to ensure consistency with all relevant federal and State policies and consistency with all relevant City General Plan policies related to wildfire. No new or more severe significant impacts related to wildfire risk would occur beyond what was previously analyzed in the General Plan EIR.



## 2 PROJECT DESCRIPTION

### 2.1 PROJECT OVERVIEW

The proposed amendments can be broken down into two categories.

The first category includes both amendments to a site's land use designation shown on the 2040 General Plan Land Use Diagram, as well as the zoning designation shown on the Official Union City Zoning Map. These "clean-up" actions would be taken in order to better align zoning and general plan boundaries with existing property lines, with existing building locations, and/or with historic and current uses of the property.

In addition, there is one parcel (APN 482-27-7-15) that is incorrectly identified as Residential (10-17 du/ac) in the General Plan and Light Industrial (ML) on the Zoning Map, but was intended to be Open Space in both the General Plan and Zoning Map, since the property is used as a drainage canal. This error would be corrected by the proposed amendments.

The second category includes parcels proposed to be rezoned for consistency with the 2040 General Plan adopted December 10, 2019. This is an implementation action of the 2040 General Plan. State law requires that the Official Zoning Map be consistent with the adopted General Plan, and the Implementation Chapter of the 2040 General Plan references this state requirement.

#### General Plan Land Use Diagram Amendments

Exhibit A of this Addendum shows all parcels where a General Plan Land Use Diagram change is proposed. Table 1, below, identifies each of these parcels, along with a rationale for each change proposed.

Table 1. Proposed General Plan Land Use Diagram Changes

Exhibit A Map Area	APN	Existing GP Designation	Proposed GP Designation	Rationale for Change
A1	483-15-68	Residential (10-17)	Private Institutional	Align with current and historic property use
	483-15-69	Residential (10-17)	Private Institutional	Align with current and historic property use
A2	482-27-7-15	Residential (10-17)	Open Space	Align with use as a drainage canal
A3	475-150-8-3	Special Industrial (MS) & Light Industrial (ML)	Special Industrial (MS) & Light Industrial (ML)	Ensure designation does not split a building
	475-150-9-1	MS & ML	MS & ML	Ensure designation does not split a building
	475-111-60	MS & ML	MS & ML	Ensure designation does not split a building

	475-111-59	MS & ML	MS & ML	Ensure designation does not split a building
	475-111-15-11	MS & ML	MS & ML	Ensure designation does not split a building
	475-111-41	MS & ML	ML	Ensure designation follows property line
	475-111-42	MS & ML	MS	Ensure designation follows property line
	475-111-61	ML	Civic Facility	Align with current and historic property use
	475-111-43	MS & ML	Civic Facility	Align with current and historic property use
A4	475-111-14	MS & ML	MS & ML	Align designation boundary with adjacent property
	475-100-4	MS & ML	MS & ML	Ensure designation does not split a building
	475-100-38	MS & ML	MS & ML	Align designation boundary with adjacent property
	475-111-11	MS & ML	MS	Ensure designation follows property line
	475-111-10	MS & ML	MS	Ensure designation follows property line
	475-100-36	MS & ML	MS	Ensure designation follows property line

### Zoning Map Amendments

Exhibit B of this Addendum shows all parcels where a change to the Official Union City Zoning Map is proposed.

Table 2, below, identifies each of these parcels, along with a rationale for each change proposed.

Table 2. Proposed Zoning Map Changes

Exhibit B Map Area	APN	Existing Zoning District	Proposed Zoning District	Rationale for Change
B1	483-15-68	Multifamily Residential (RM 2500)	Private Institutional (PI)	Align with current and historic property use
	483-15-69	RM 2500	PI	Align with current and historic property use

B2	482-20-19-5	Agricultural (A)	Open Space (OS)	Align with 2040 General Plan
	482-20-9	Light Industrial (ML)	OS	Align with 2040 General Plan
	482-27-7-15	ML	OS	Align with use as a drainage canal
B3	475-150-8-3	Special Industrial (MS) & ML	MS & ML	Align with adjacent property boundary
	475-150-9-1	MS & ML	MS & ML	Ensure designation does not split a building
	475-111-60	MS & ML	MS & ML	Ensure designation does not split a building
	475-111-59	MS & ML	MS & ML	Ensure designation does not split a building
	475-111-15-11	MS & ML	MS & ML	Ensure designation does not split a building
	475-111-41	MS & ML	ML	Ensure designation follows property line
	475-111-42	MS & ML	MS	Ensure designation follows property line
	475-111-61	ML	Civic Facility (CF)	Align with current and historic property use
	475-111-43	MS & ML	CF	Align with current and historic property use
B4	475-111-14	MS & ML	MS & ML	Align designation boundary with adjacent property
	475-100-4	MS & ML	MS & ML	Ensure designation does not split a building
	475-100-38	MS & ML	MS & ML	Align designation boundary with adjacent property
	475-111-11	MS & ML	MS	Ensure designation follows property line
	475-111-10	MS & ML	MS	Ensure designation follows property line
	475-100-36	MS & ML	MS	Ensure designation follows property line
B5	486-6-28-1	Community Commercial (CC)	Corridor Mixed Use Commercial (CMU)	Align with 2040 General Plan

	486-6-31	CC	CMU	Align with 2040 General Plan
	486-6-32	CC	CMU	Align with 2040 General Plan
	486-6-33	CC	CMU	Align with 2040 General Plan
	486-6-34	CC	CMU	Align with 2040 General Plan
	486-6-81-4	CC	CMU	Align with 2040 General Plan
	486-6-82	CC	CMU	Align with 2040 General Plan
	486-6-84-1	CC	CMU	Align with 2040 General Plan
	486-3-64	CC	CMU	Align with 2040 General Plan
B6	475-50-18	General Industrial (MG)	MG & ML	Align with 2040 General Plan
	475-50-19	MG	MG & ML	Align with 2040 General Plan
B7	482-96-16-1	A	OS	Align with 2040 General Plan
	482-96-16-2	A	OS	Align with 2040 General Plan
	482-96-17	A	OS	Align with 2040 General Plan
	482-5-1-3	A	OS	Align with 2040 General Plan
	482-5-11-3	A	OS	Align with 2040 General Plan
	482-96-18	A	OS	Align with 2040 General Plan
	482-96-19	A	OS	Align with 2040 General Plan
B8	482-40-21	511	OS	Align with 2040 GP and 511 Specific Plan
	482-40-13-7	511	OS	Align with 2040 GP and 511 Specific Plan
	482-40-15-1	511	OS	Align with 2040 GP and 511 Specific Plan
	482-40-7-2	511	OS	Align with 2040 GP and 511 Specific Plan



	482-40-8-1	511	OS	Align with 2040 GP and 511 Specific Plan
	482-40-23	511	OS	Align with 2040 GP and 511 Specific Plan
	482-40-12-1	511	OS	Align with 2040 GP and 511 Specific Plan
	482-40-8-5	511	OS	Align with 2040 GP and 511 Specific Plan
	482-40-8-2	511	OS	Align with 2040 GP and 511 Specific Plan
	482-53-5	511	OS	Align with 2040 GP and 511 Specific Plan
	482-50-1-1	511	OS	Align with 2040 GP and 511 Specific Plan
	482-53-6	511	OS	Align with 2040 GP and 511 Specific Plan
	482-50-10-6	511	OS	Align with 2040 GP and 511 Specific Plan
B9	482-50-5-2	511	OS	Align with 2040 GP and 511 Specific Plan
	482-50-8	511	OS	Align with 2040 GP and 511 Specific Plan
	482-50-7-2	511	OS	Align with 2040 GP and 511 Specific Plan
	543-361-1	511	OS	Align with 2040 GP and 511 Specific Plan
B10	475-151-4	Multifamily Residential (1500) – Housing Element	Multifamily Residential (1500)	Align with 2040 GP and Housing Element
	475-183-1	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-10	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-11	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-12	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-13	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-14	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element

	475-183-15	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-16	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-17	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-18	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-19	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-2	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-20	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-21	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-22	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-23	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-24	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-25	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-26	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-27	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-28	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-29	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-3	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-30	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-31	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-32	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-33	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element

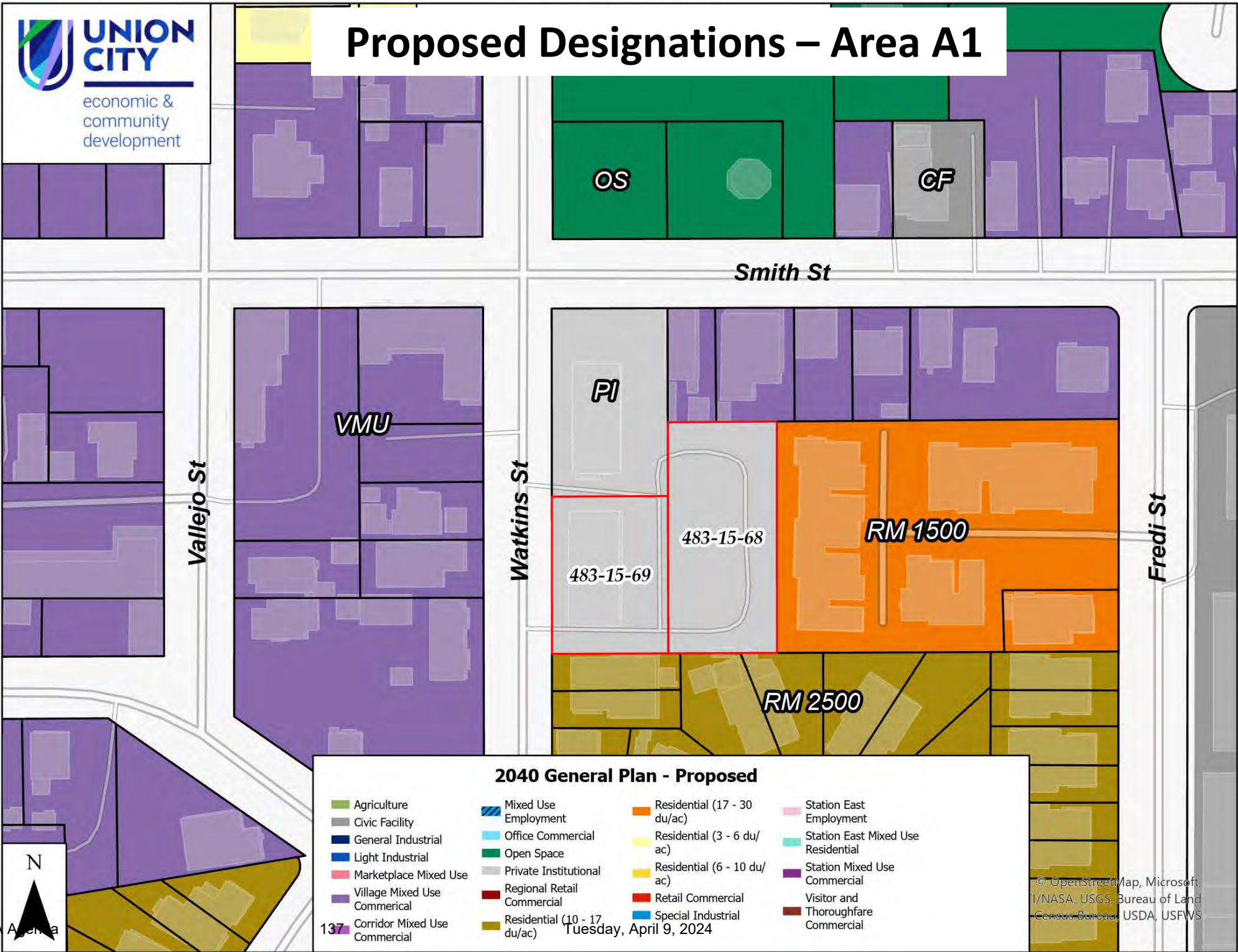
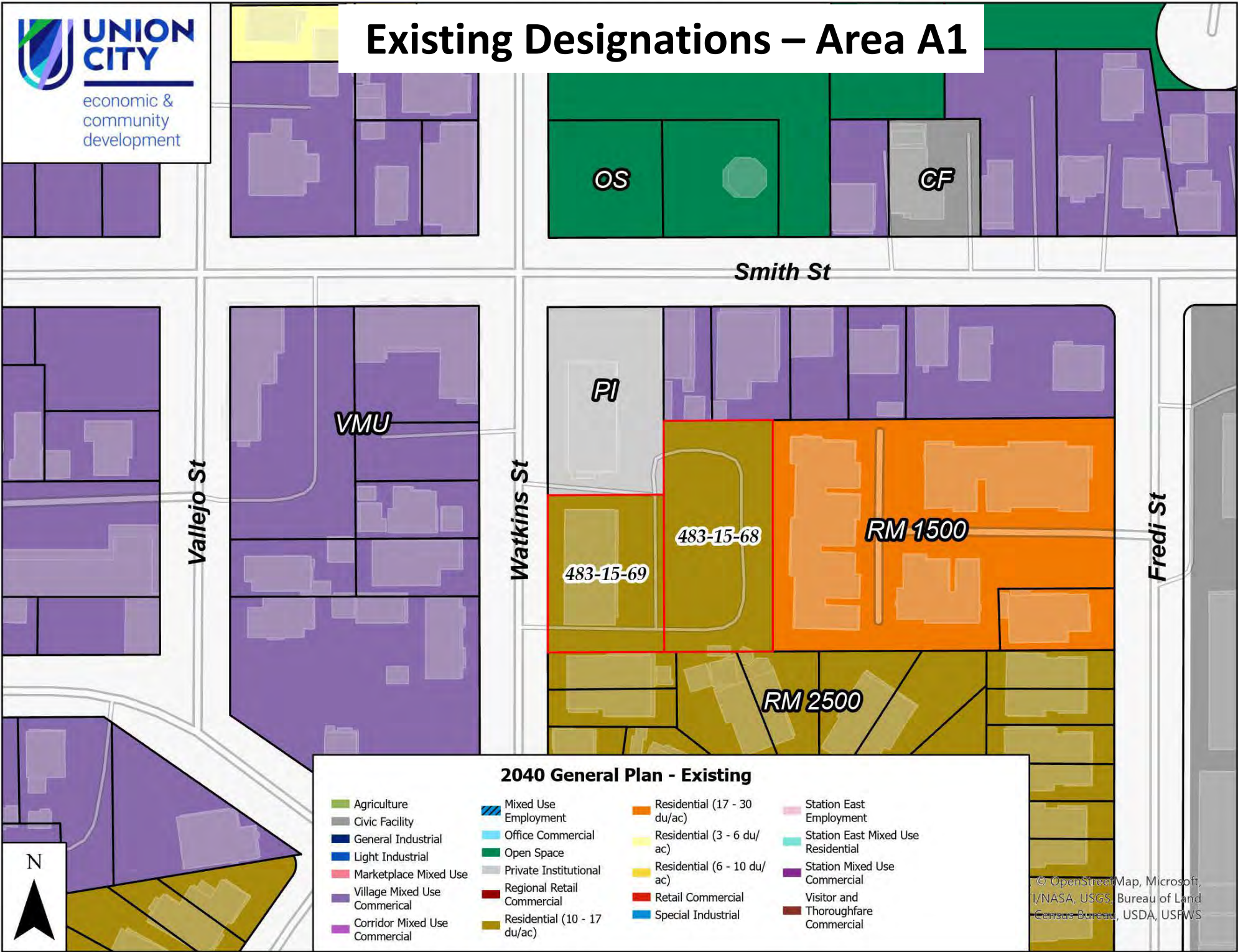
	475-183-34	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-35	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-36	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-37	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-38	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-39	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-4	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-40	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-41	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-42	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-43	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-44	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-45	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-46	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-47	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-48	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-49	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-5	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-50	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-51	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-52	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element

	475-183-53	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-54	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-55	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-56	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-57	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-58	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-59	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-6	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-60	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-61	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-62	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-63	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-64	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-65	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-66	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-68	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-69	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-7	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-70	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-71	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-72	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element

	475-183-8	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-9	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
B11	87-11-17-6	OS & RM-1500-HE	OS & RM-1500	Align with 2040 GP and Housing Element
	87-11-15-14	RM-2500 & PI	RM-2500 & RM-1500	Align with 2040 GP and Housing Element
B12	475-1-12-4	MS	CC	Align with 2040 General Plan
	475-1-13	MS	CC	Align with 2040 General Plan
	475-1-16	MS	CC	Align with 2040 General Plan
	475-1-17	MS	CC	Align with 2040 General Plan
	475-1-20	MS	CC	Align with 2040 General Plan
	475-1-21	MS	CC	Align with 2040 General Plan
	475-1-8-3	MS	CC	Align with 2040 General Plan
	475-10-24	MS	CC	Align with 2040 General Plan
	475-10-28	MS	CC	Align with 2040 General Plan

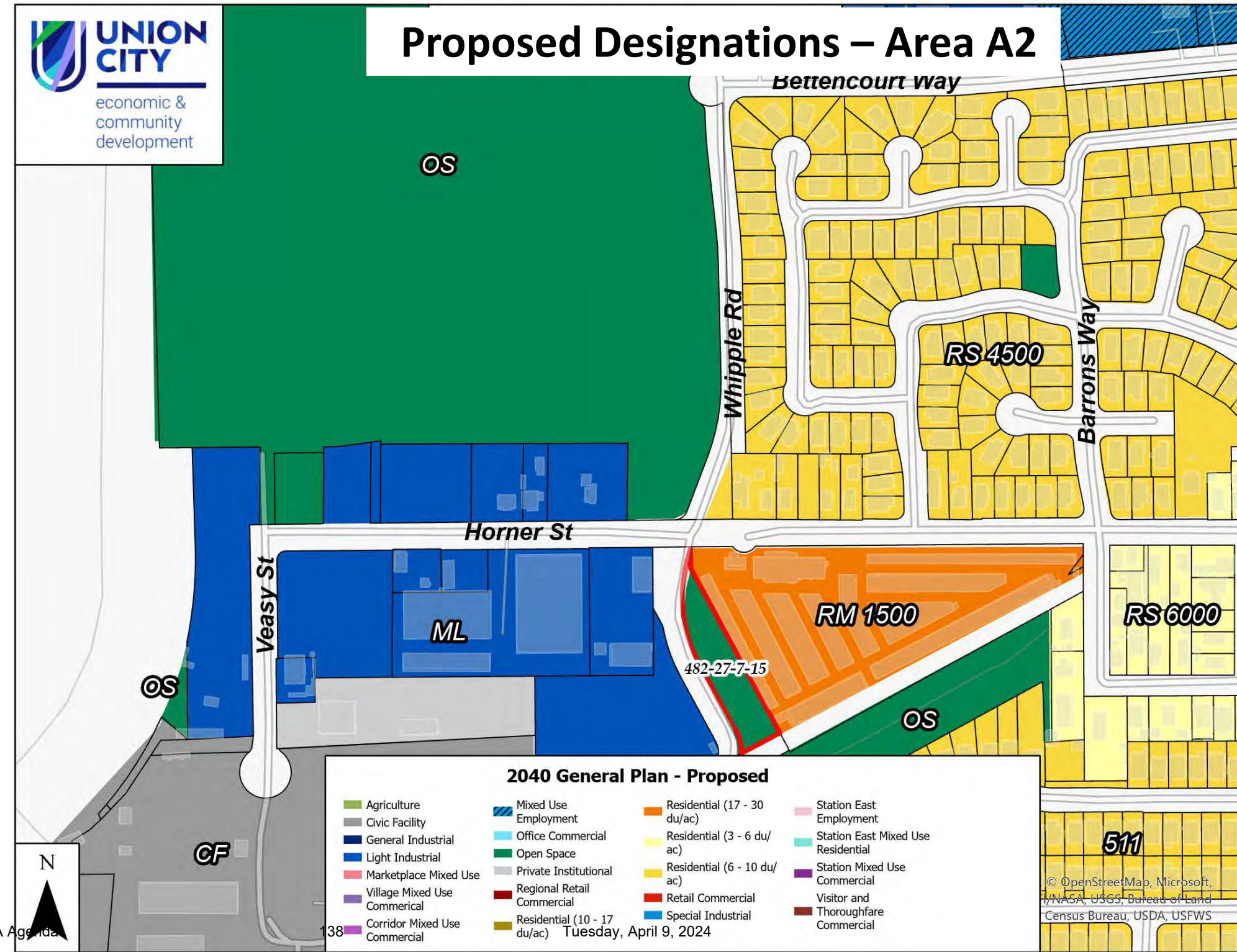
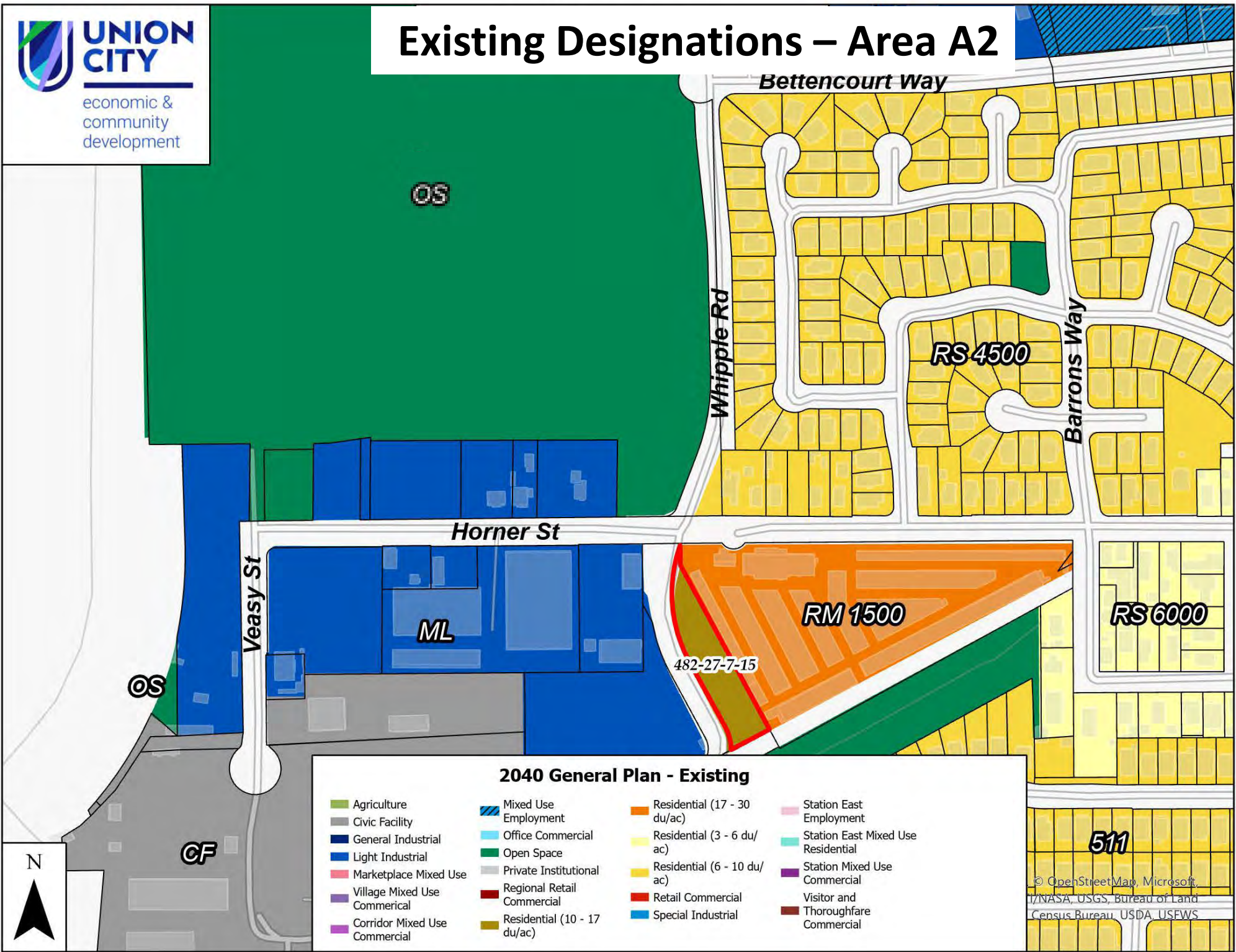


# Exhibit A: Existing and Proposed General Plan Designations



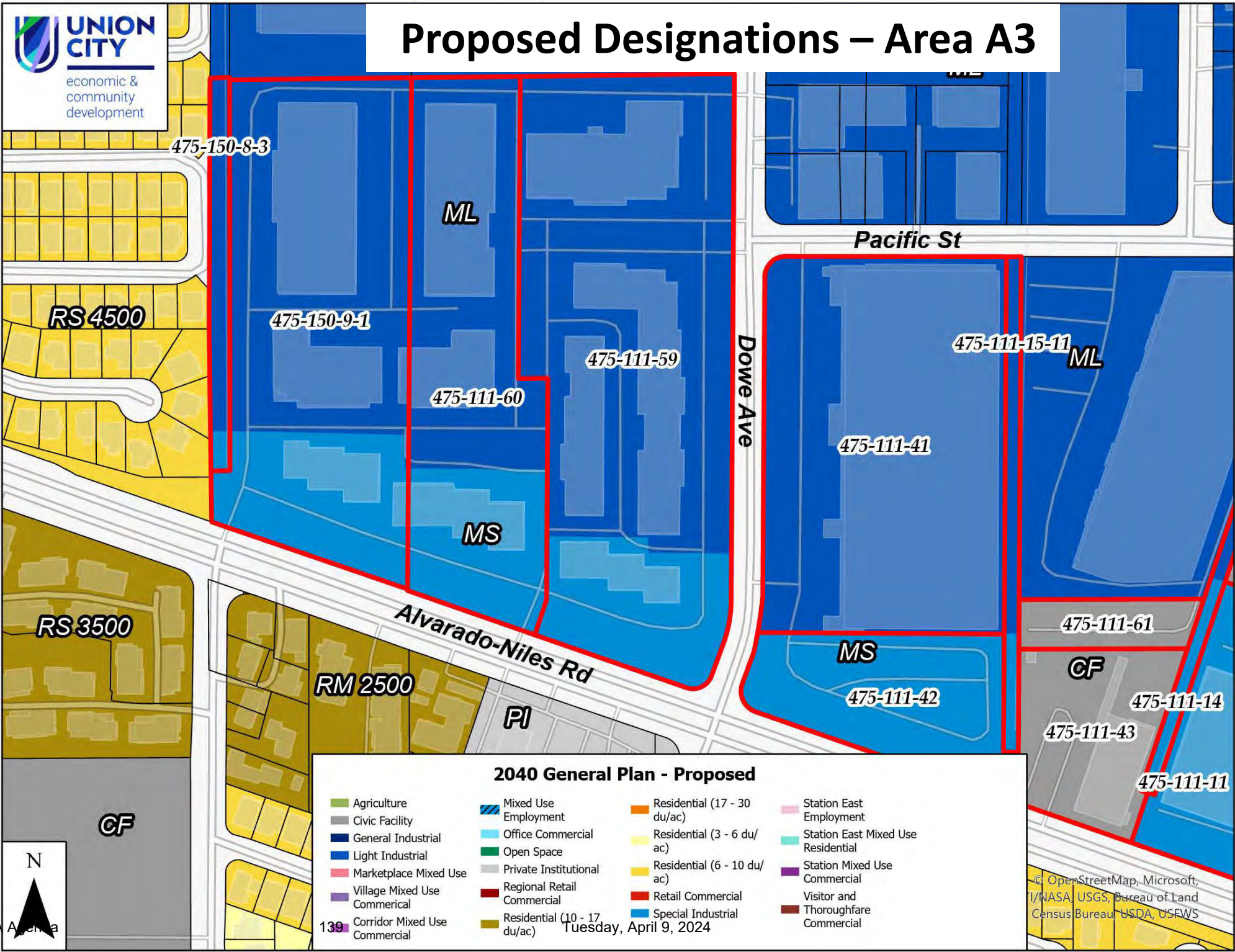
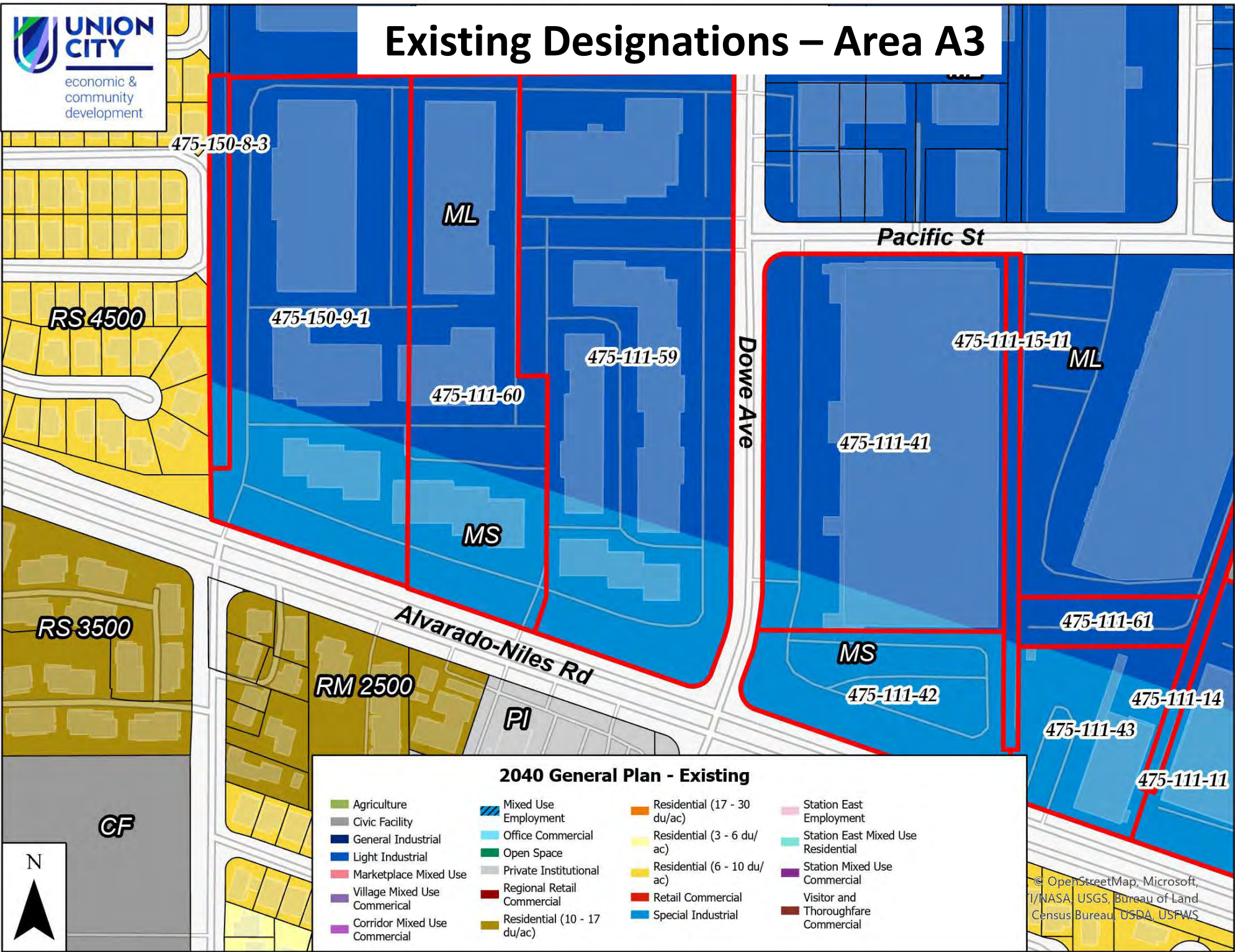


# Exhibit A: Existing and Proposed General Plan Designations



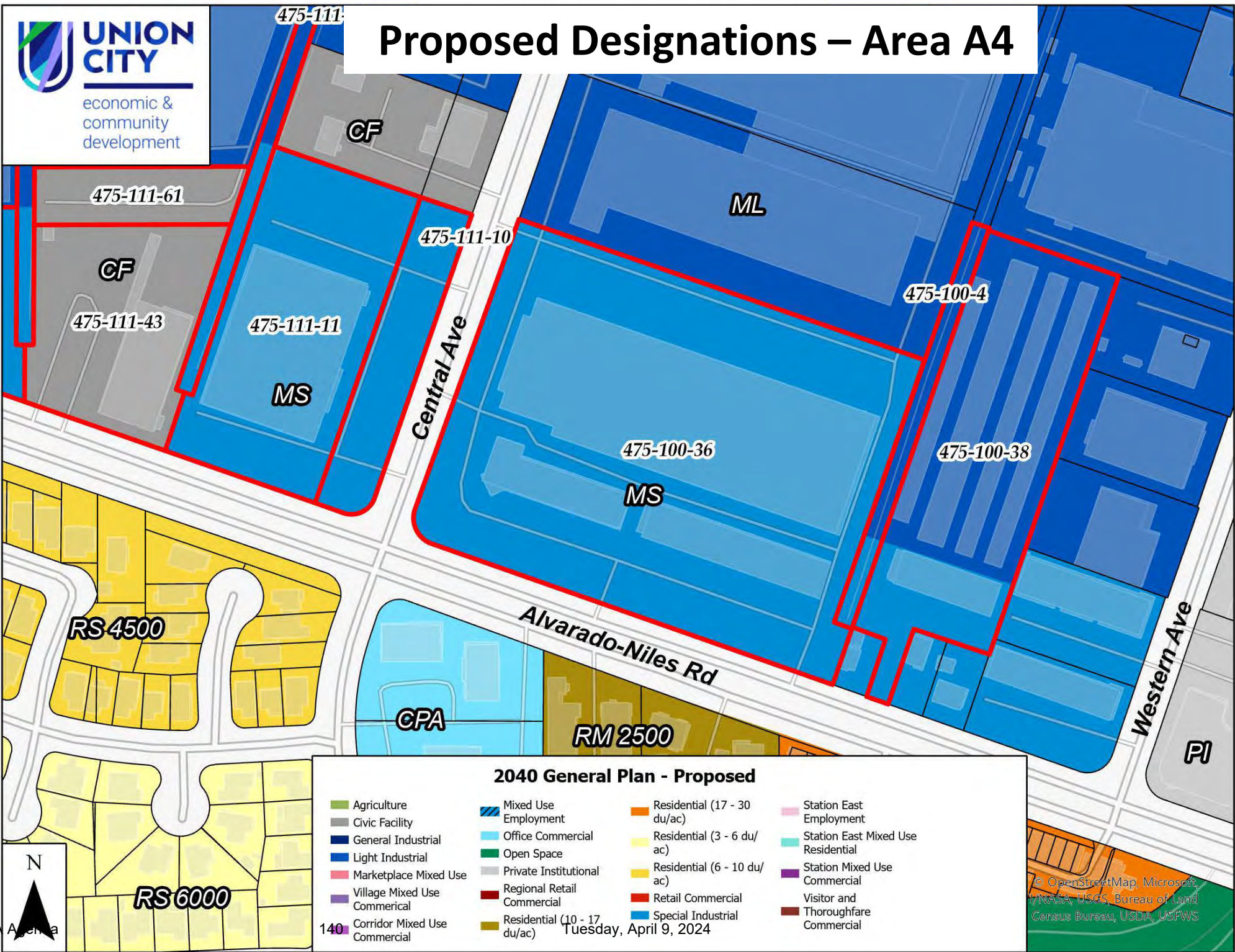
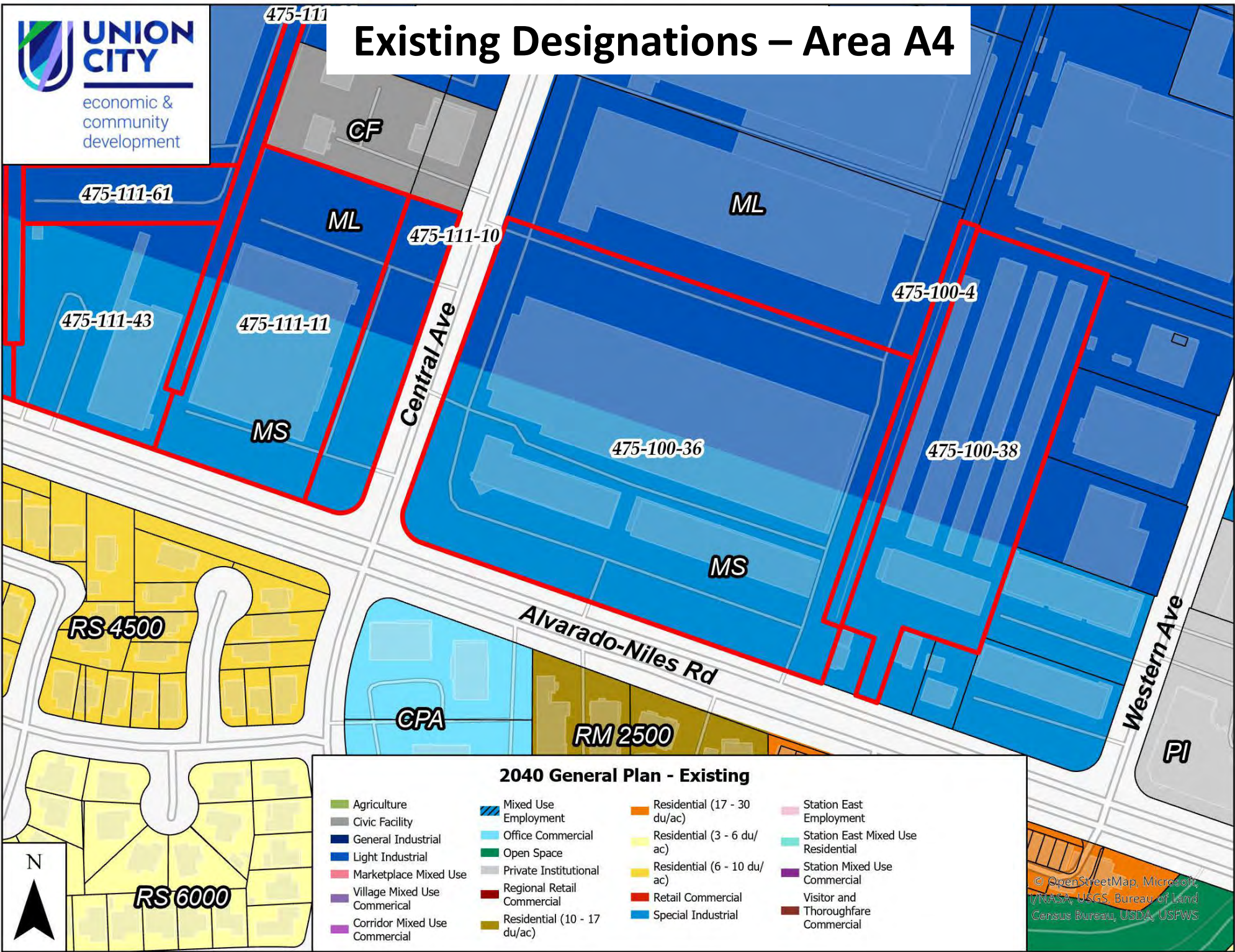


# Exhibit A: Existing and Proposed General Plan Designations



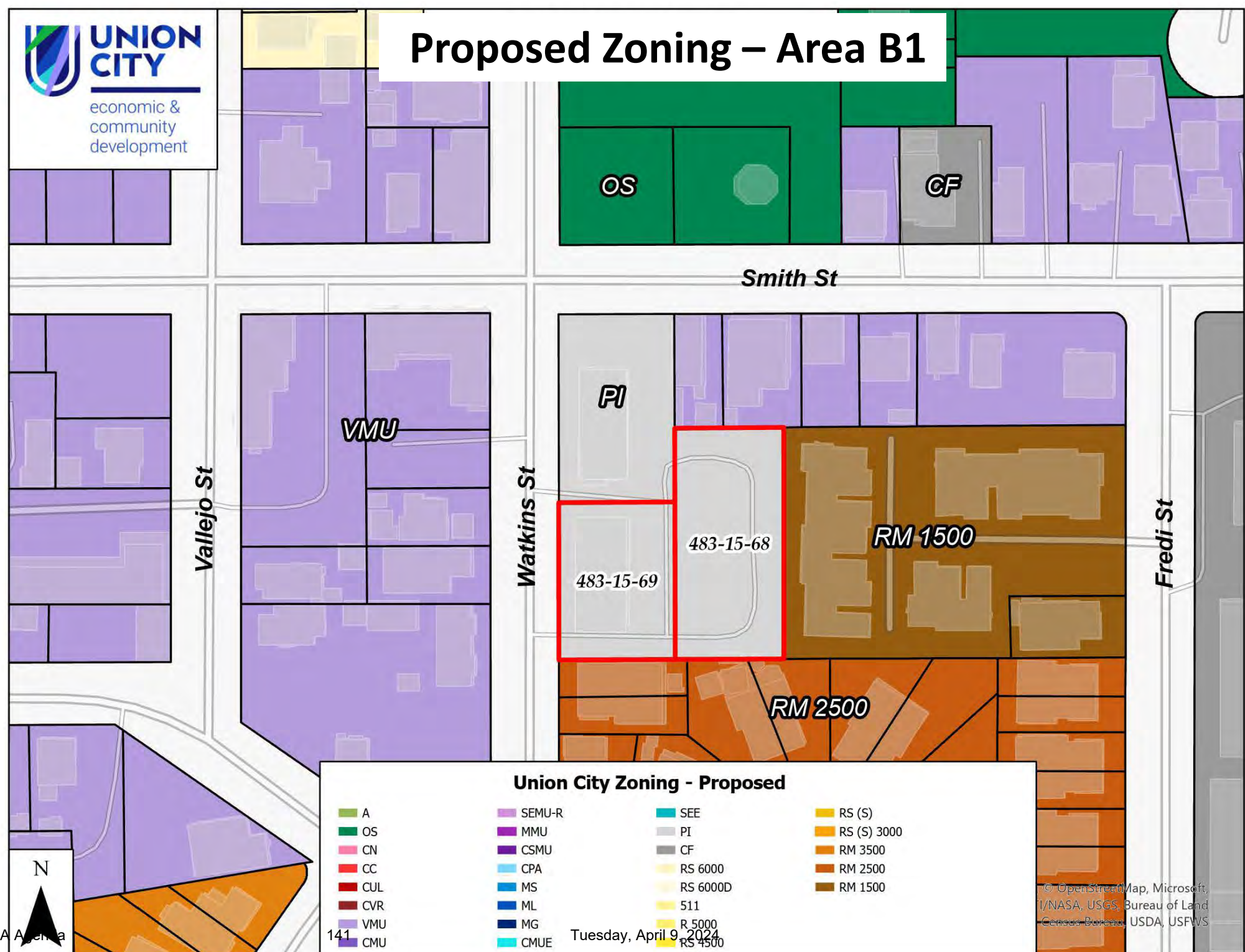
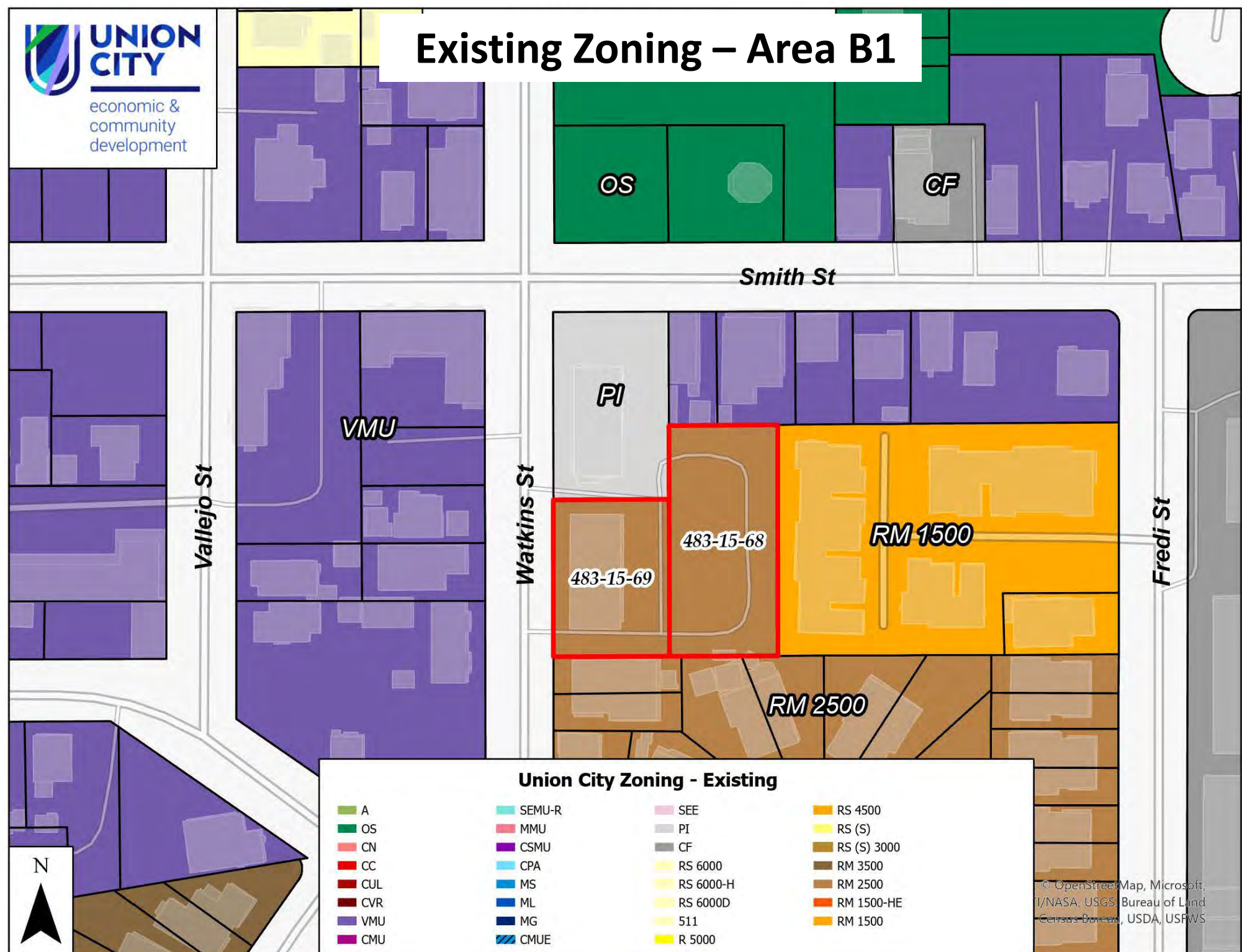


# Exhibit A: Existing and Proposed General Plan Designations



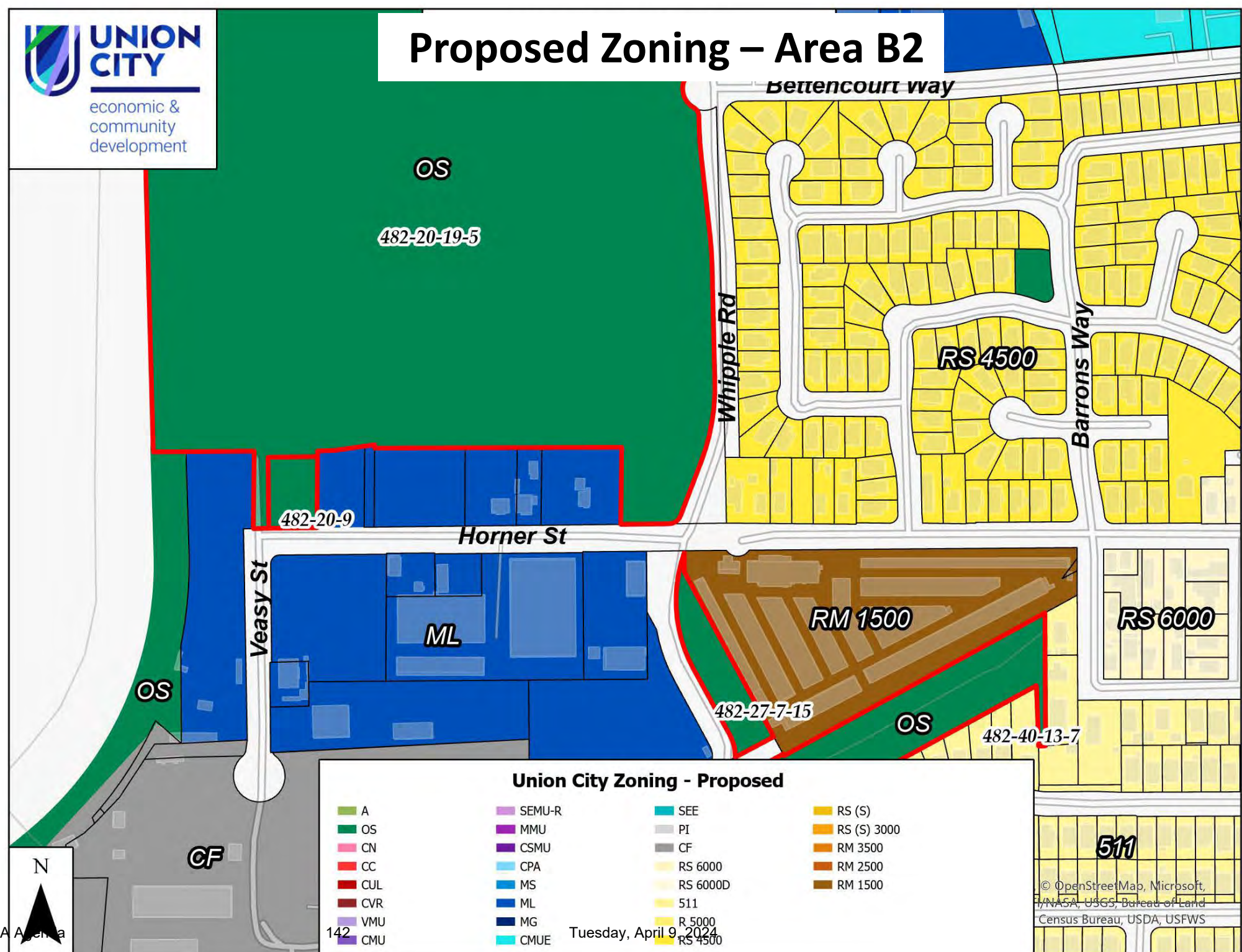
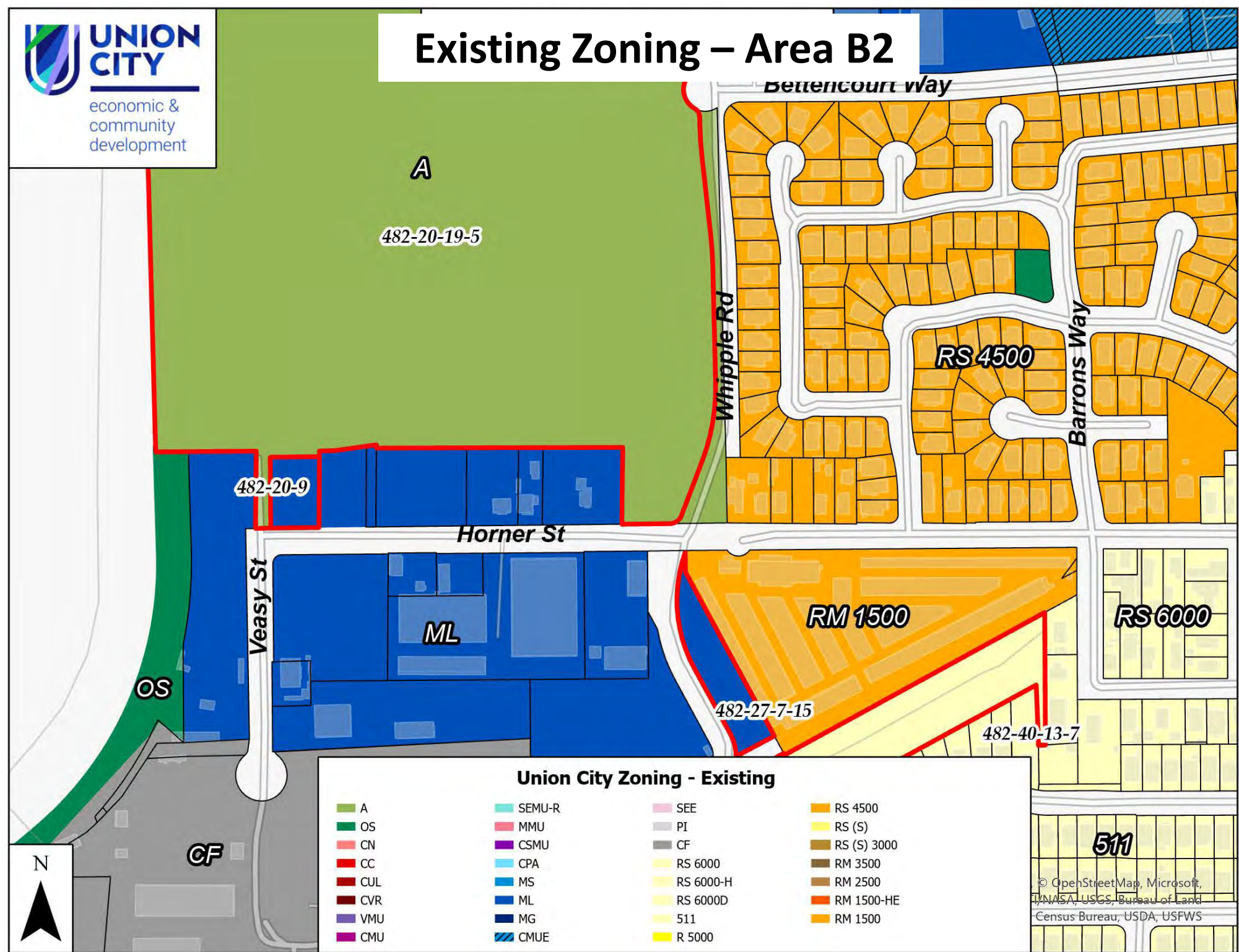


# Exhibit B: Existing and Proposed Zoning



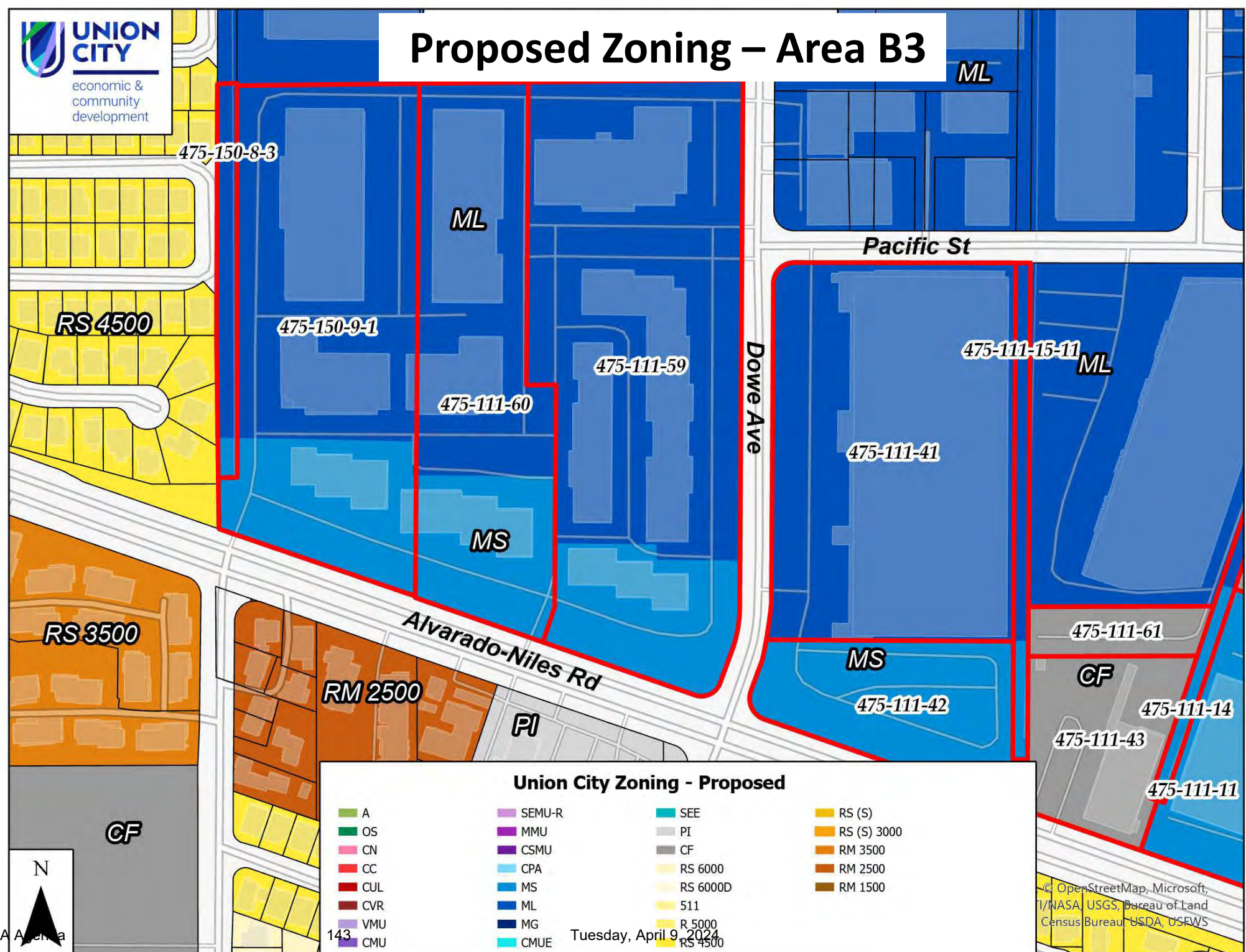
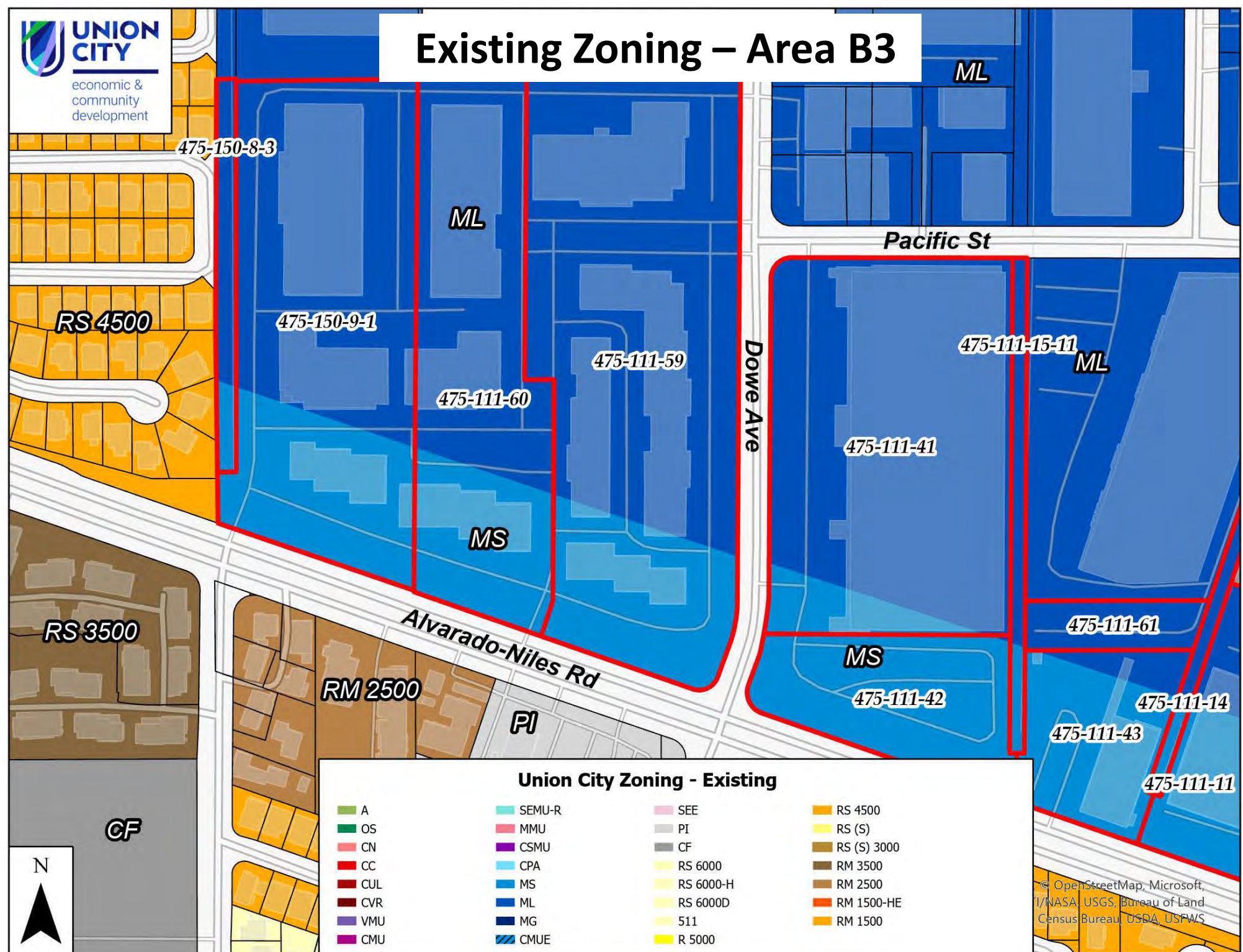


## Exhibit B: Existing and Proposed Zoning



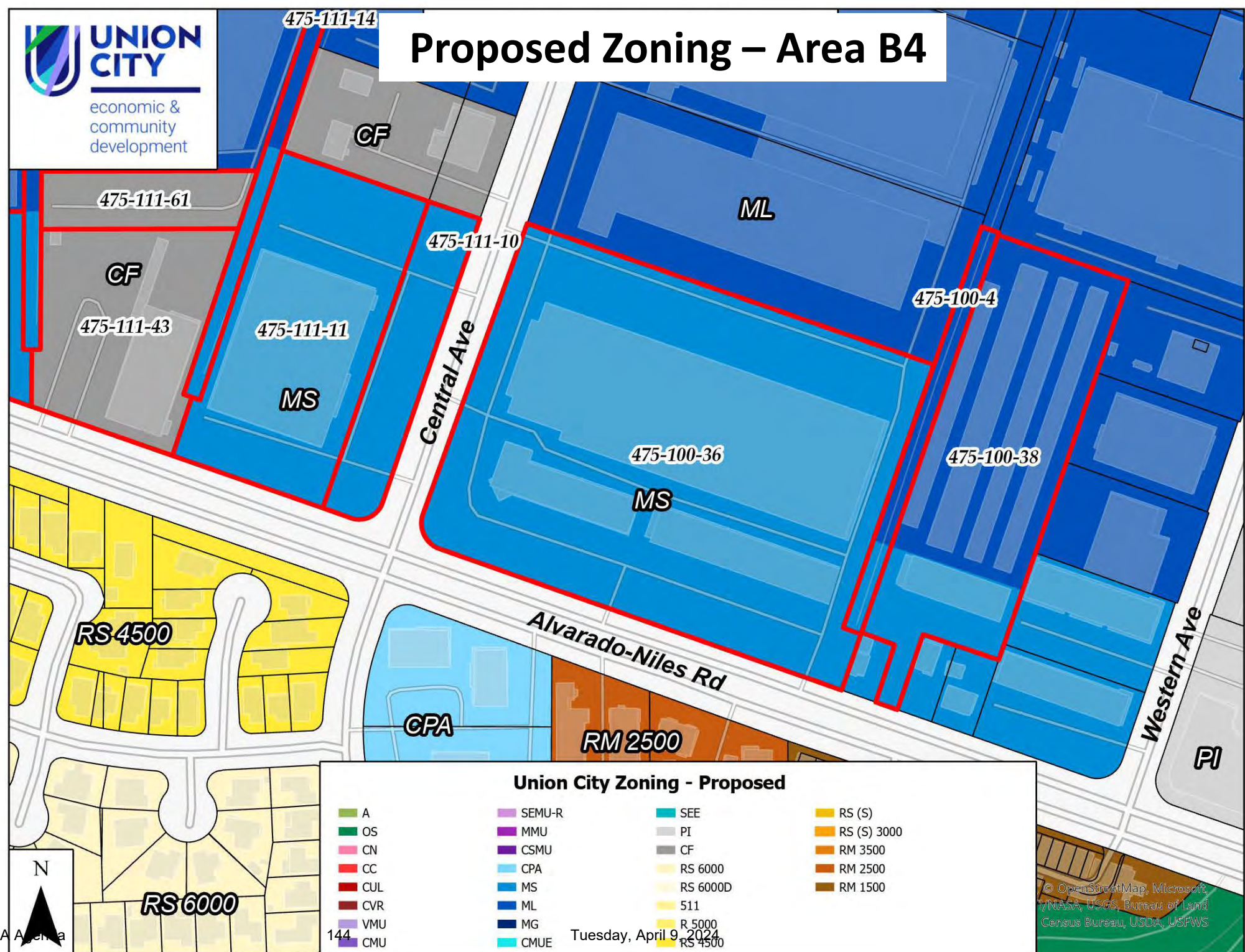
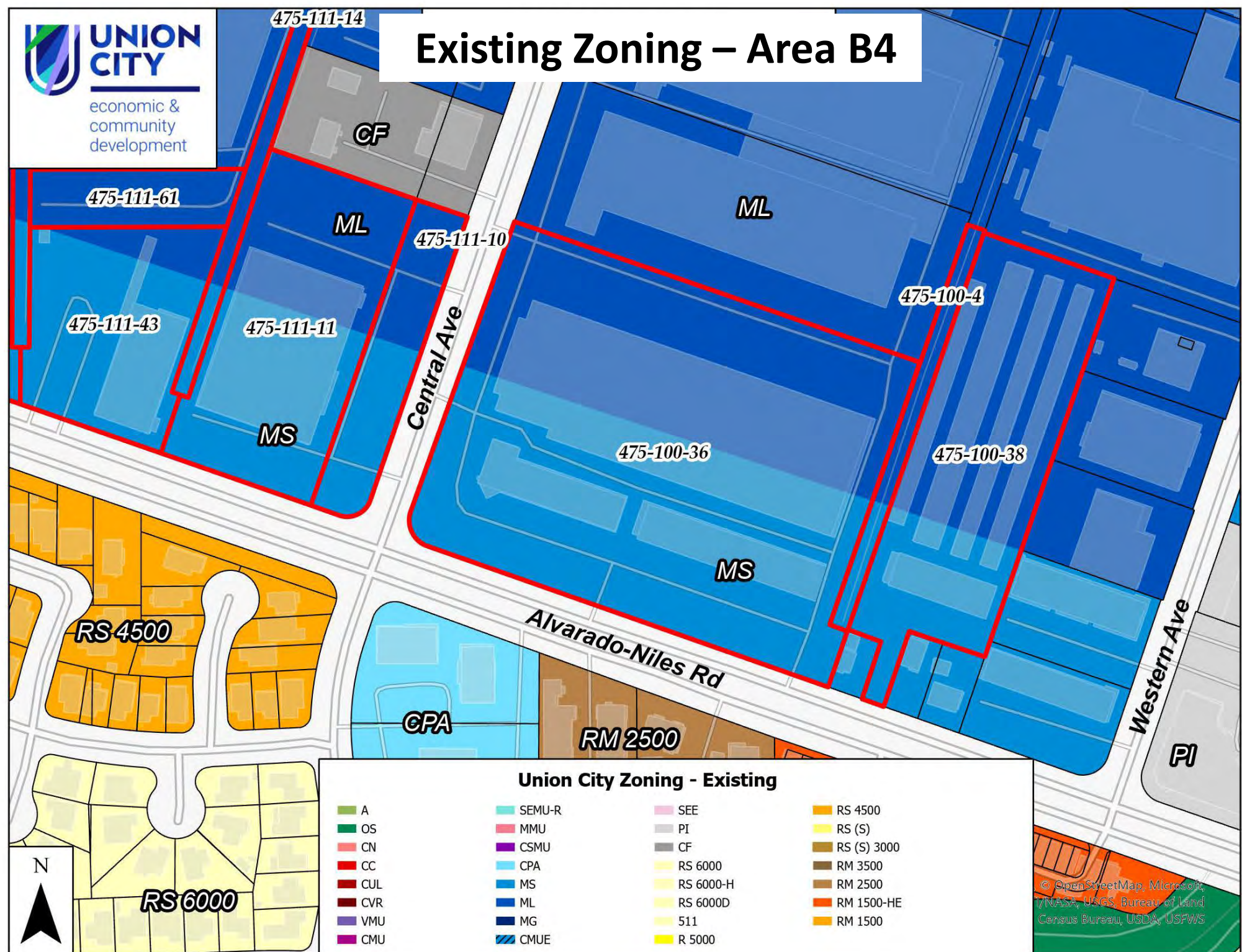


# Exhibit B: Existing and Proposed Zoning



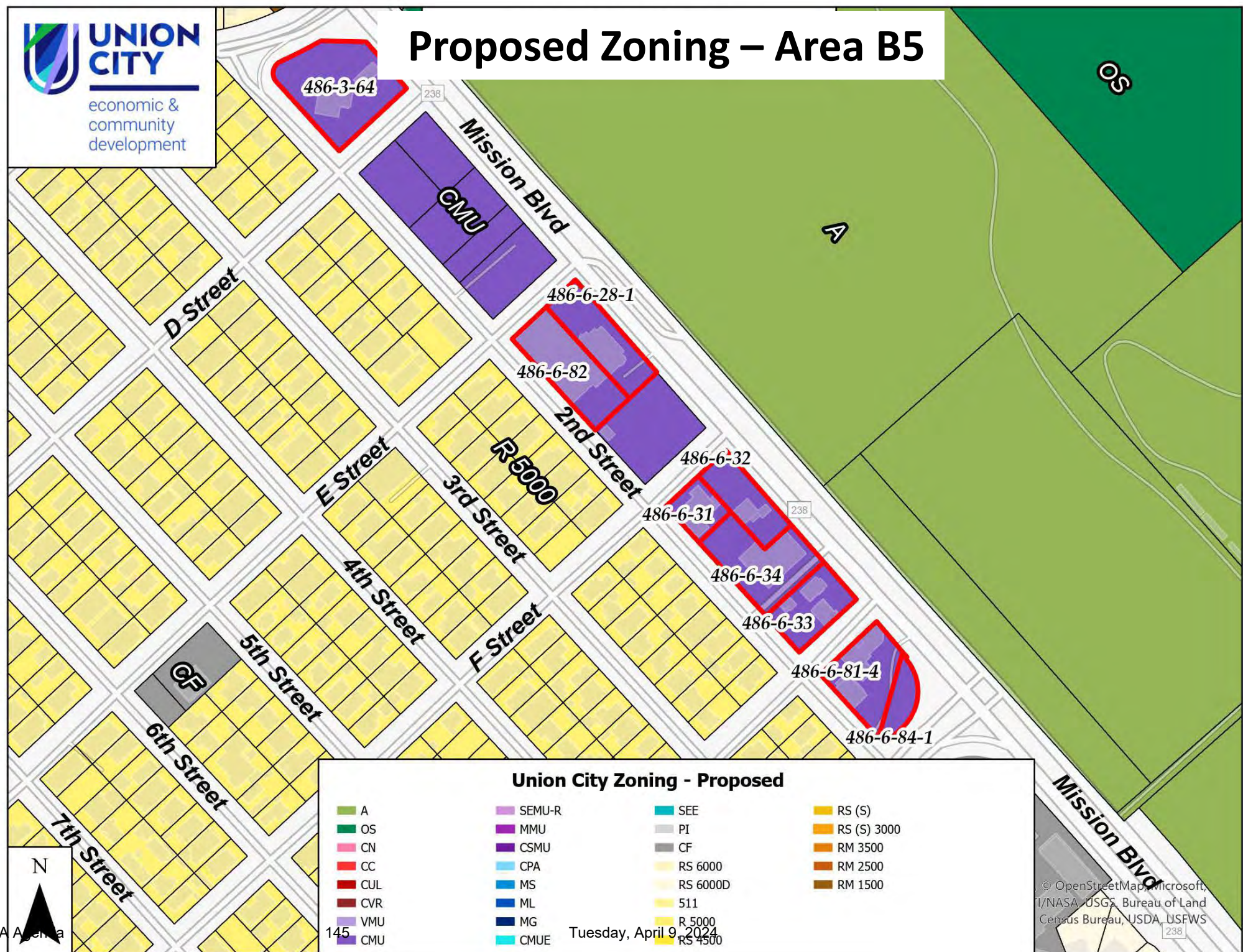
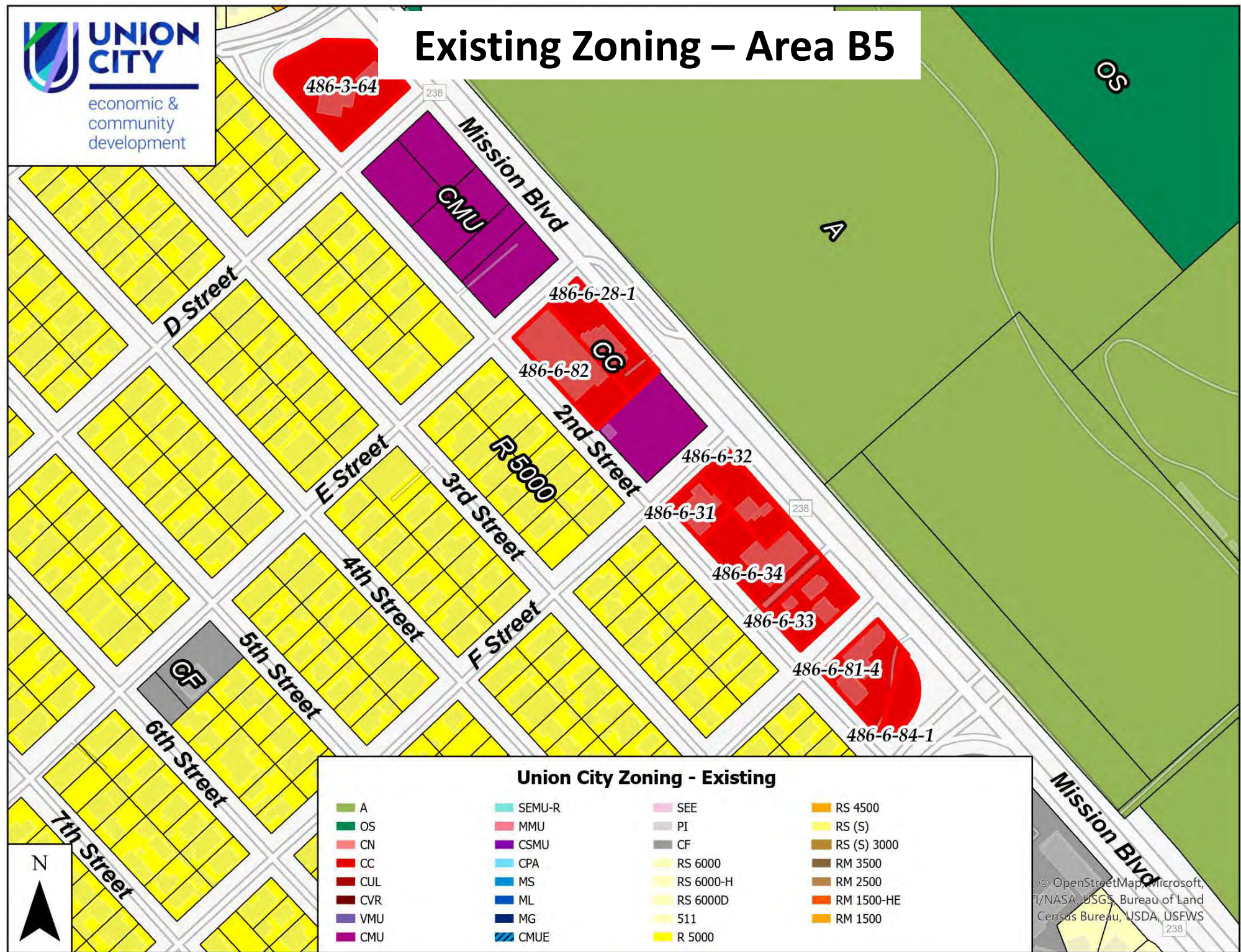


# Exhibit B: Existing and Proposed Zoning



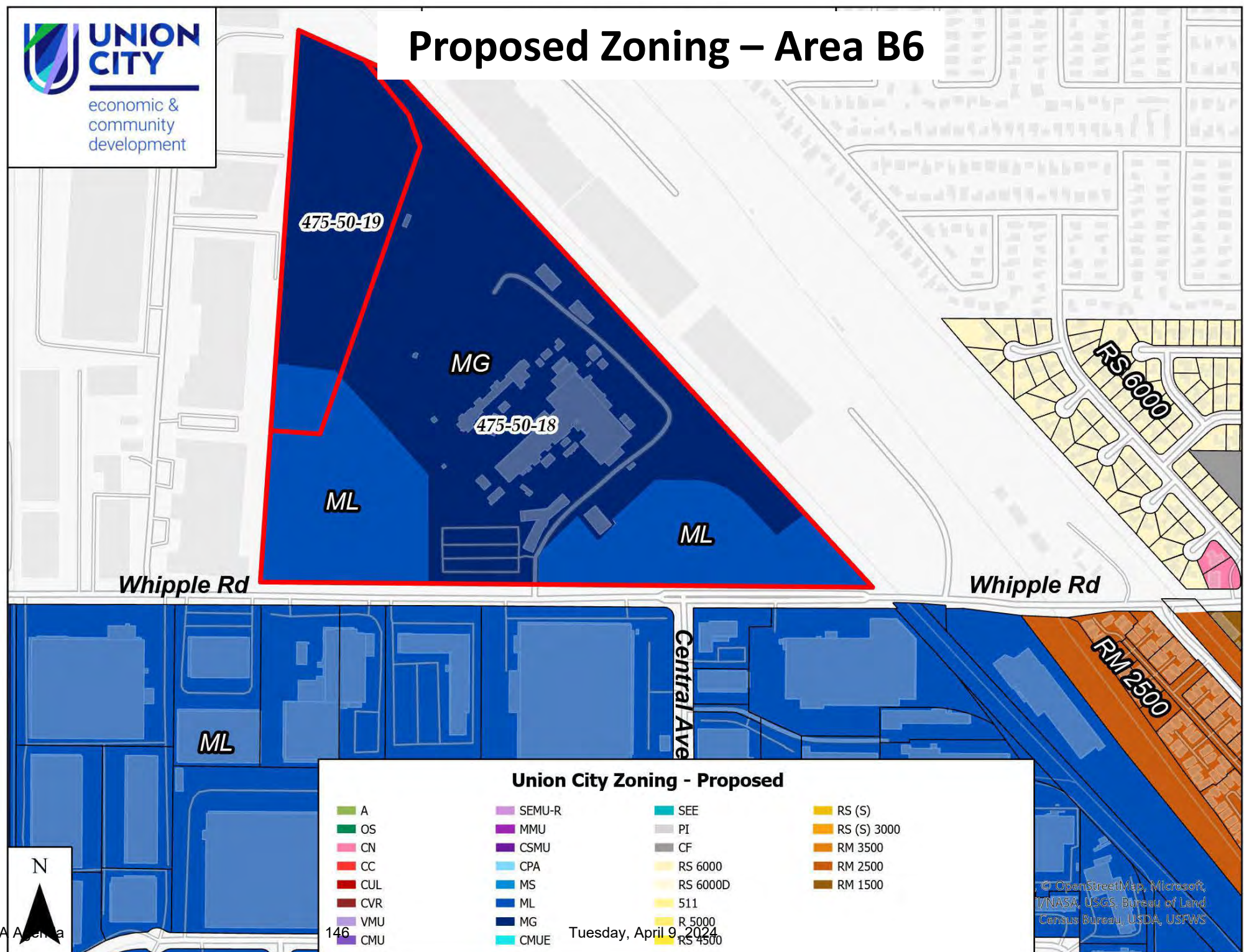
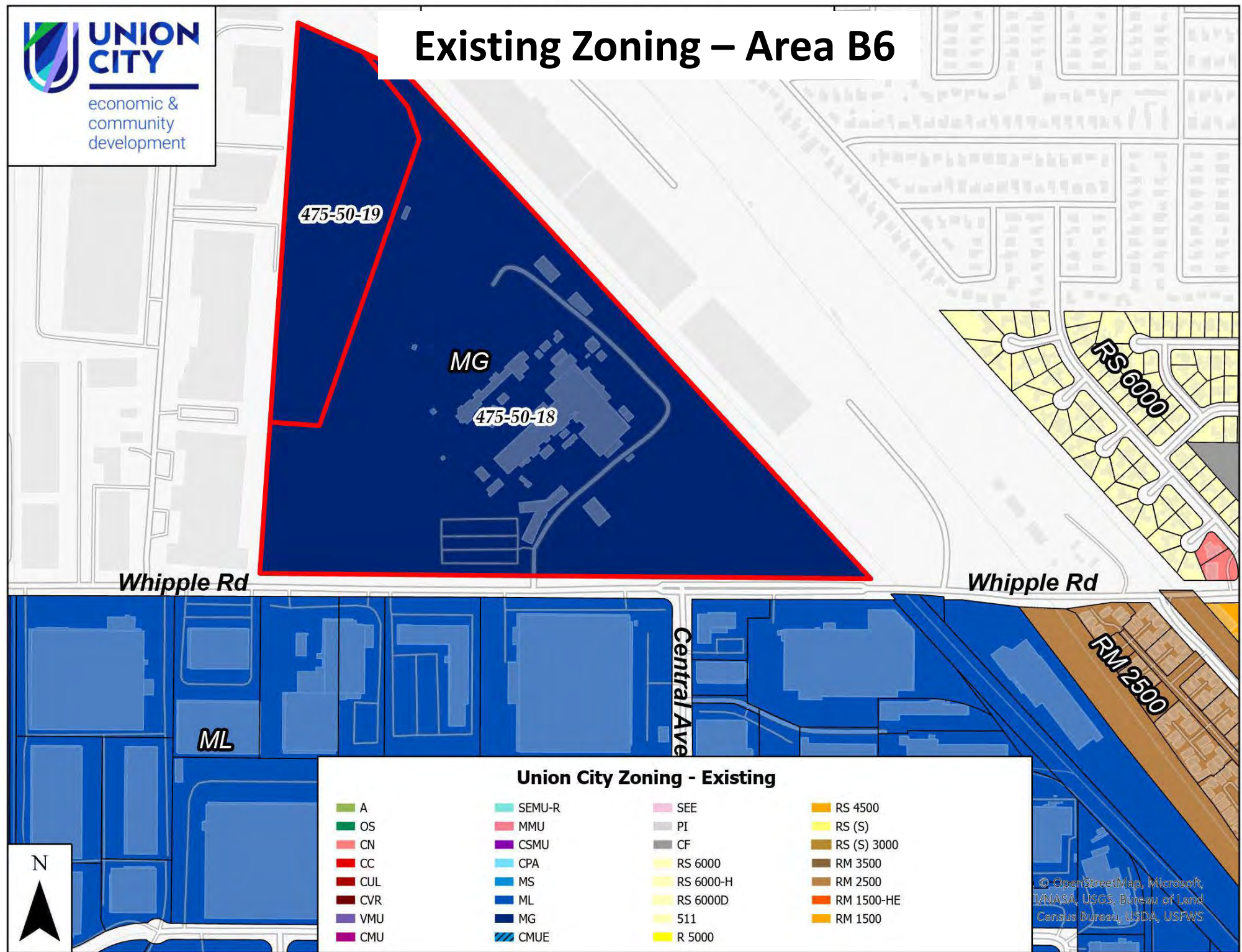


# Exhibit B: Existing and Proposed Zoning



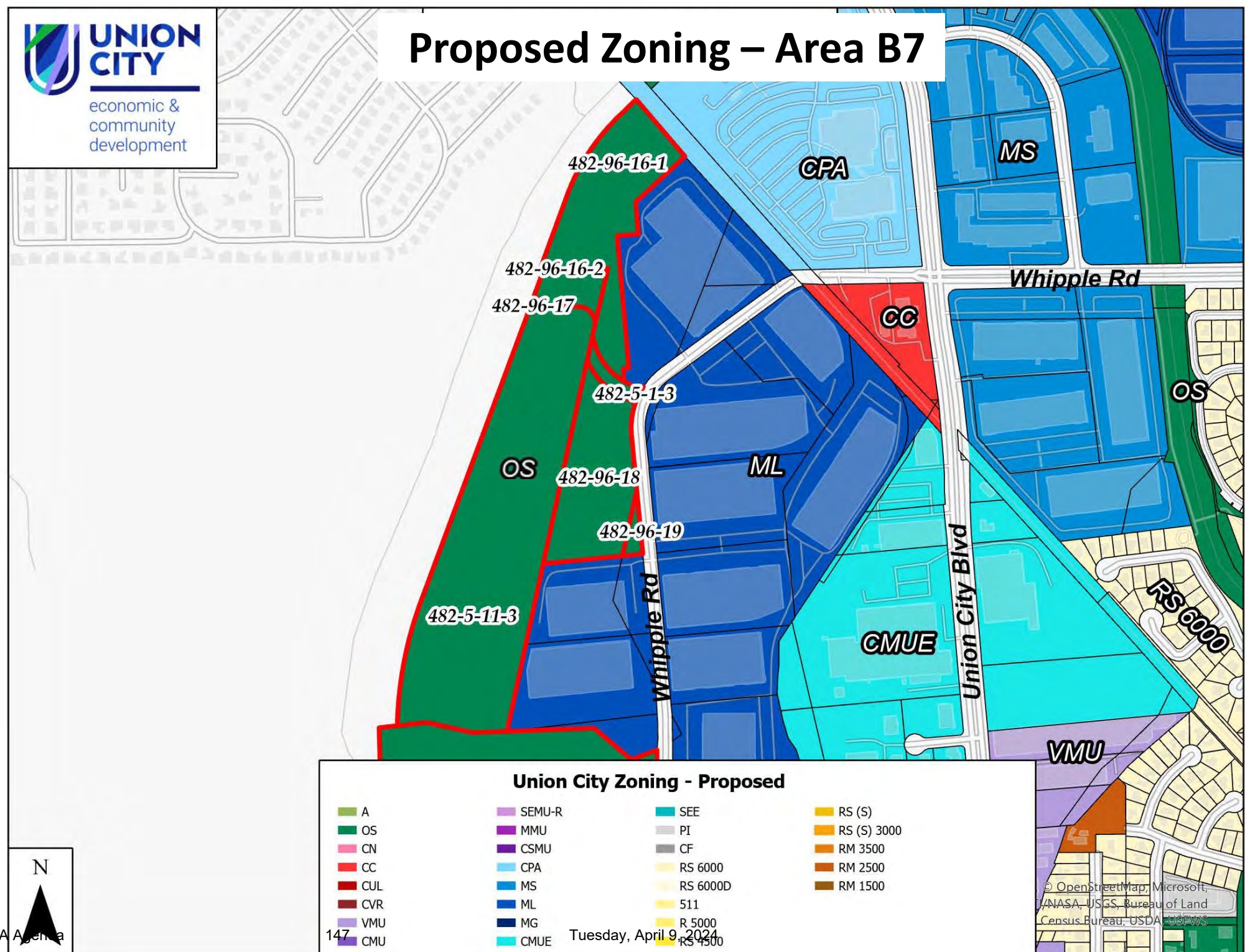
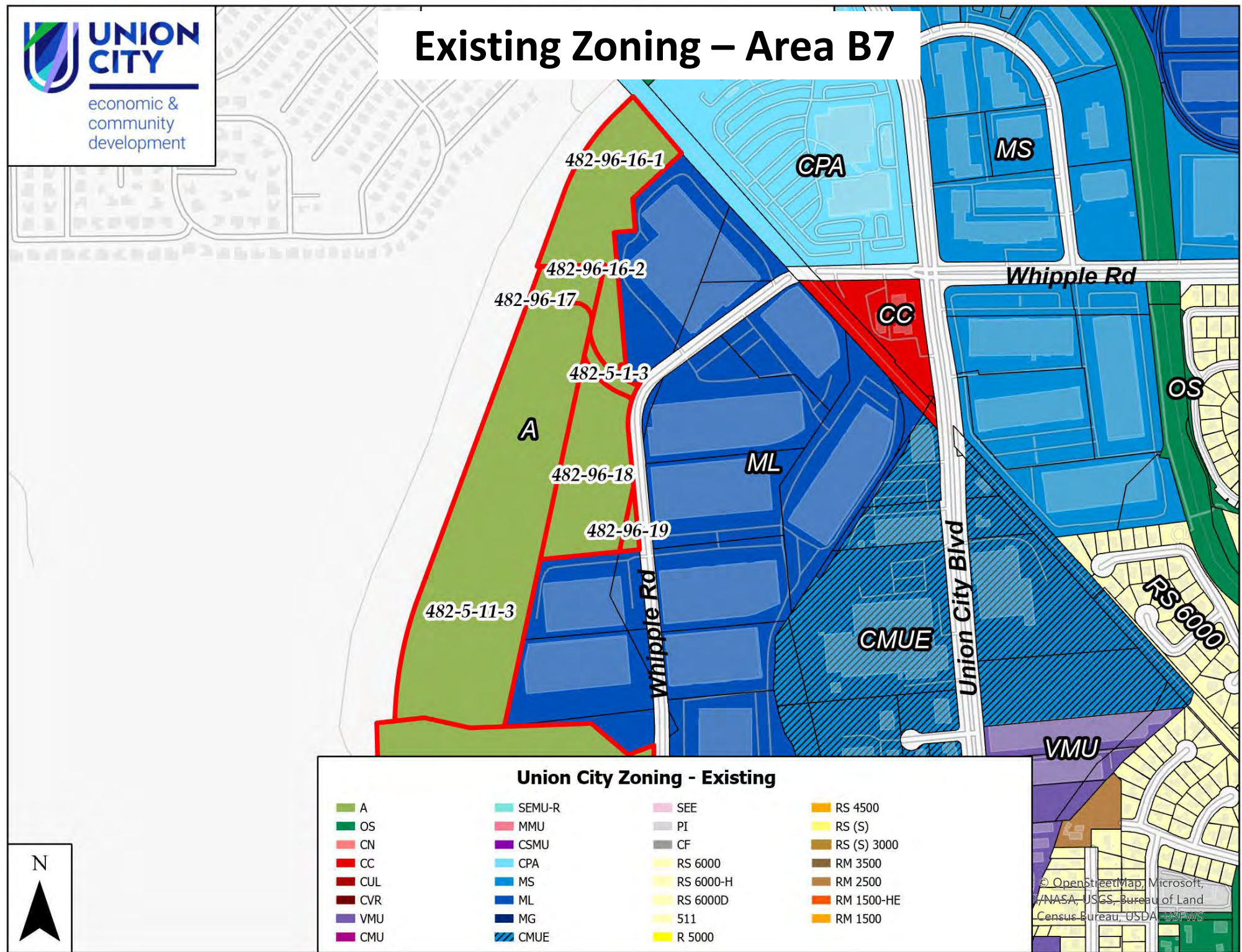


# Exhibit B: Existing and Proposed Zoning



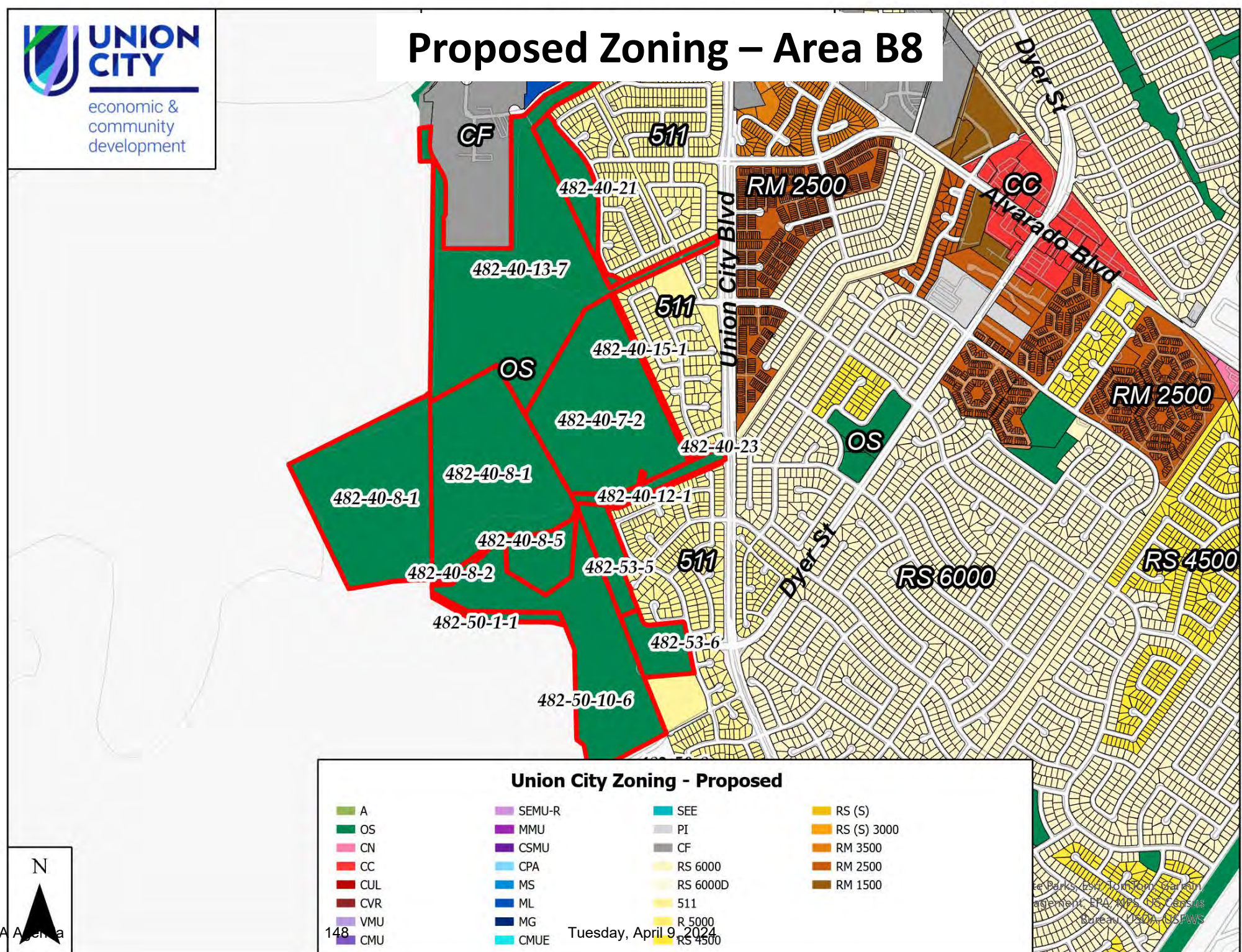
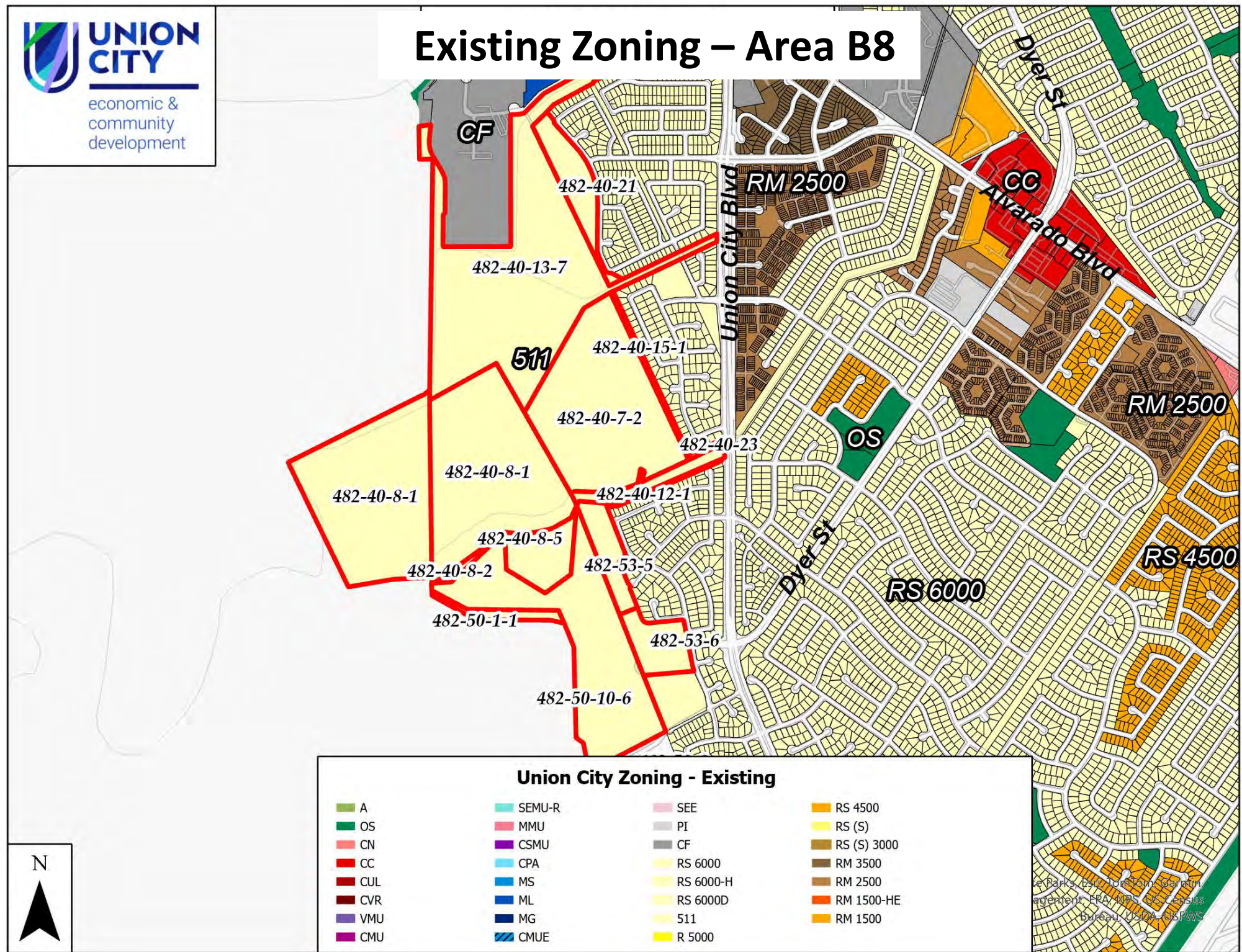


# Exhibit B: Existing and Proposed Zoning



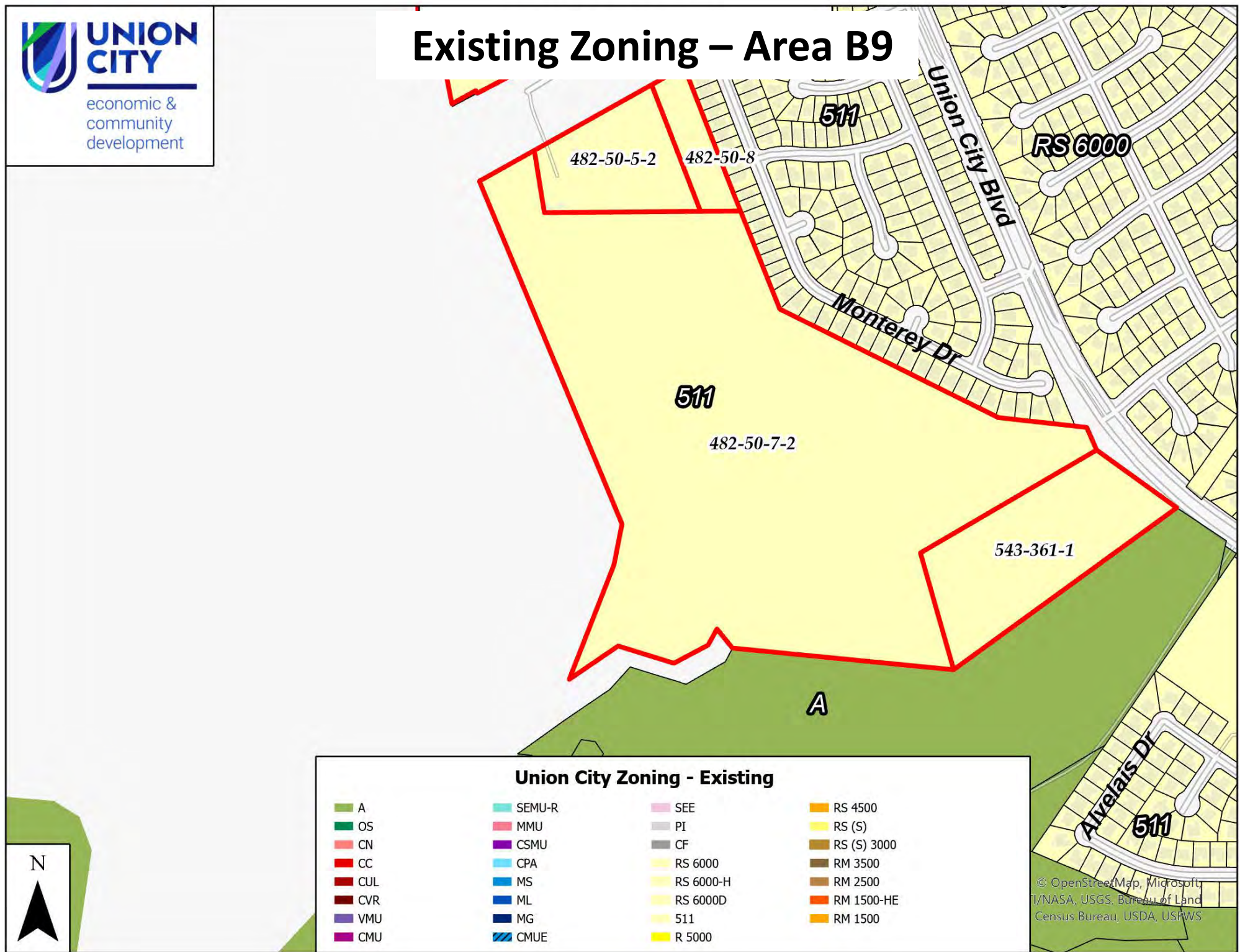


# Exhibit B: Existing and Proposed Zoning



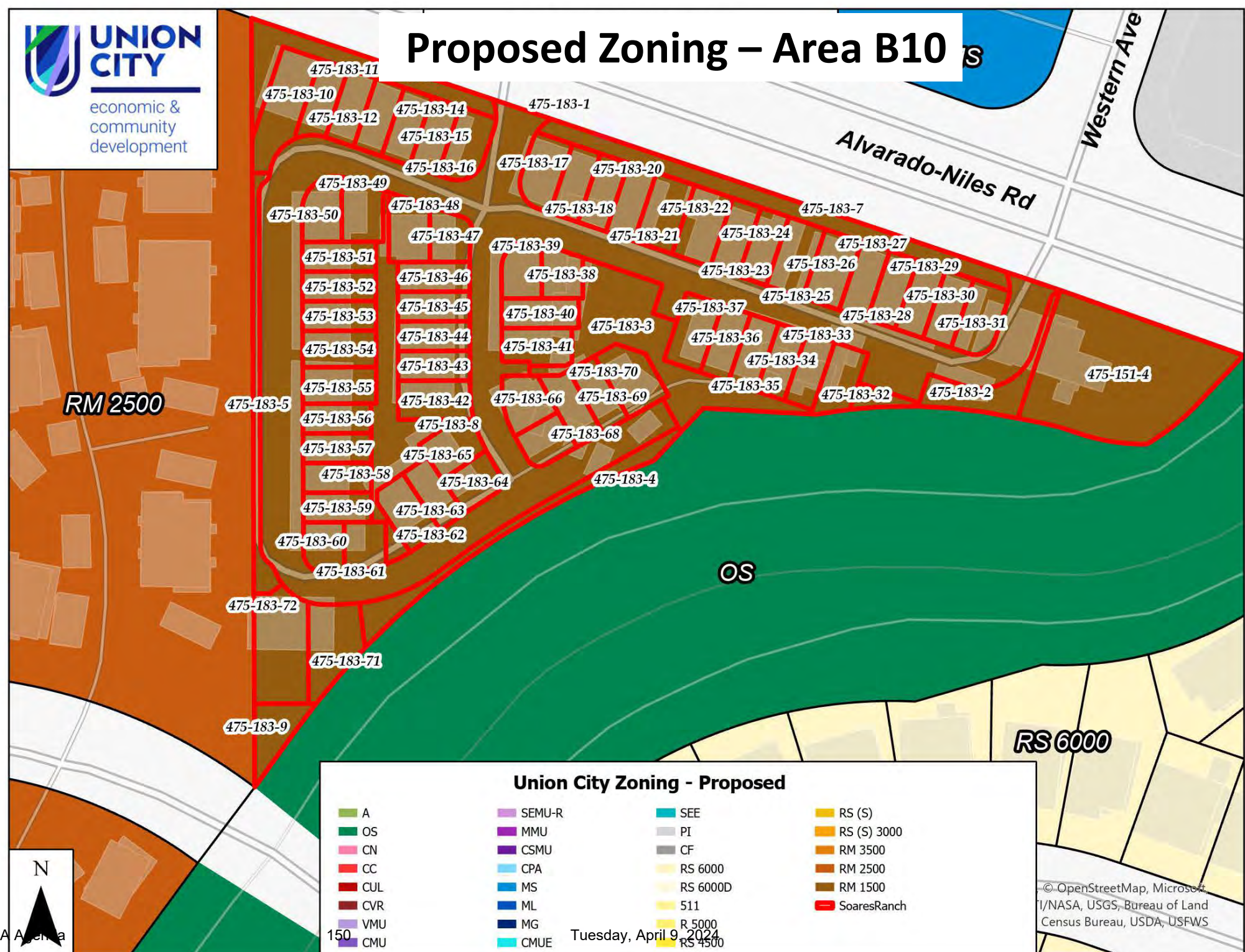
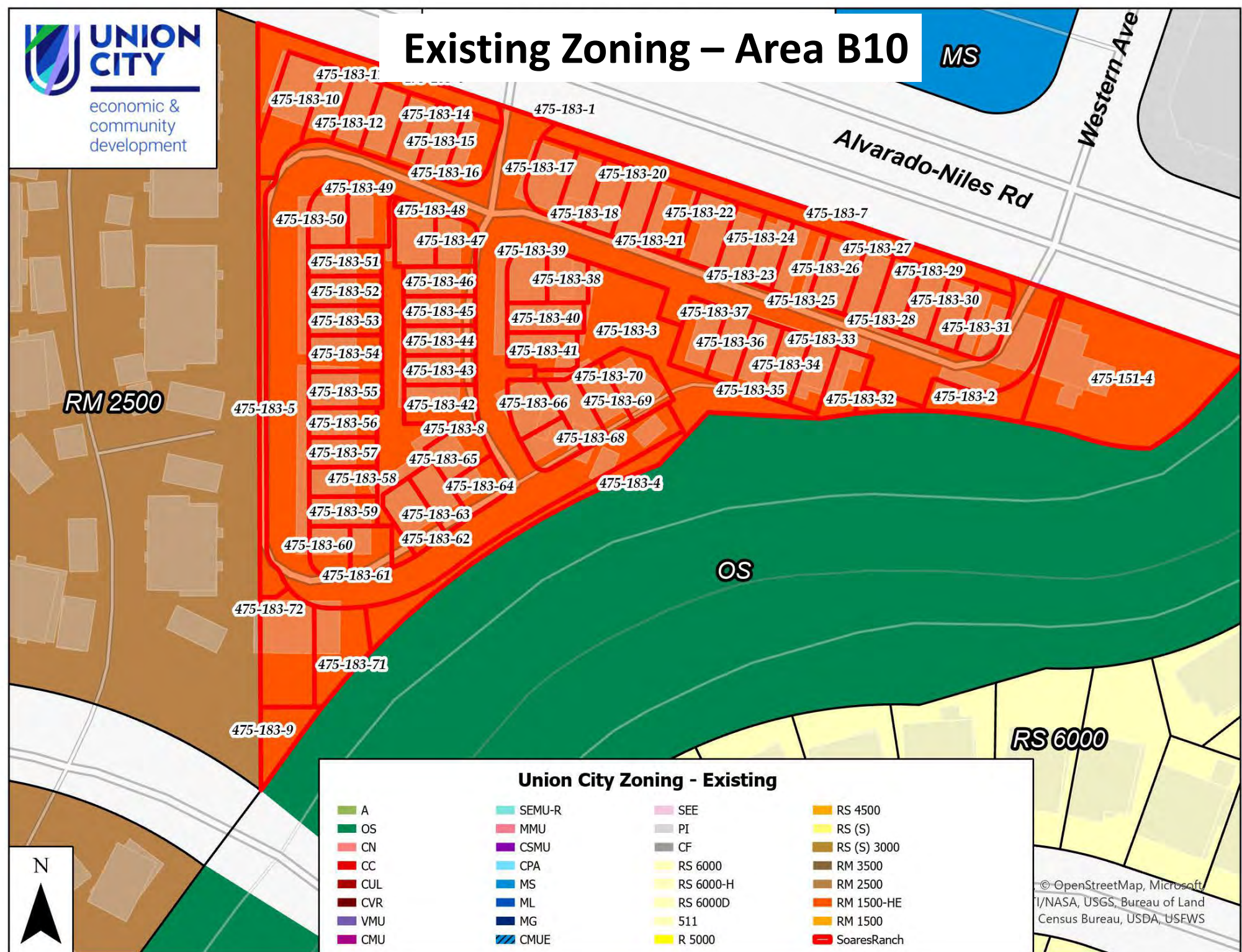


# Exhibit B: Existing and Proposed Zoning



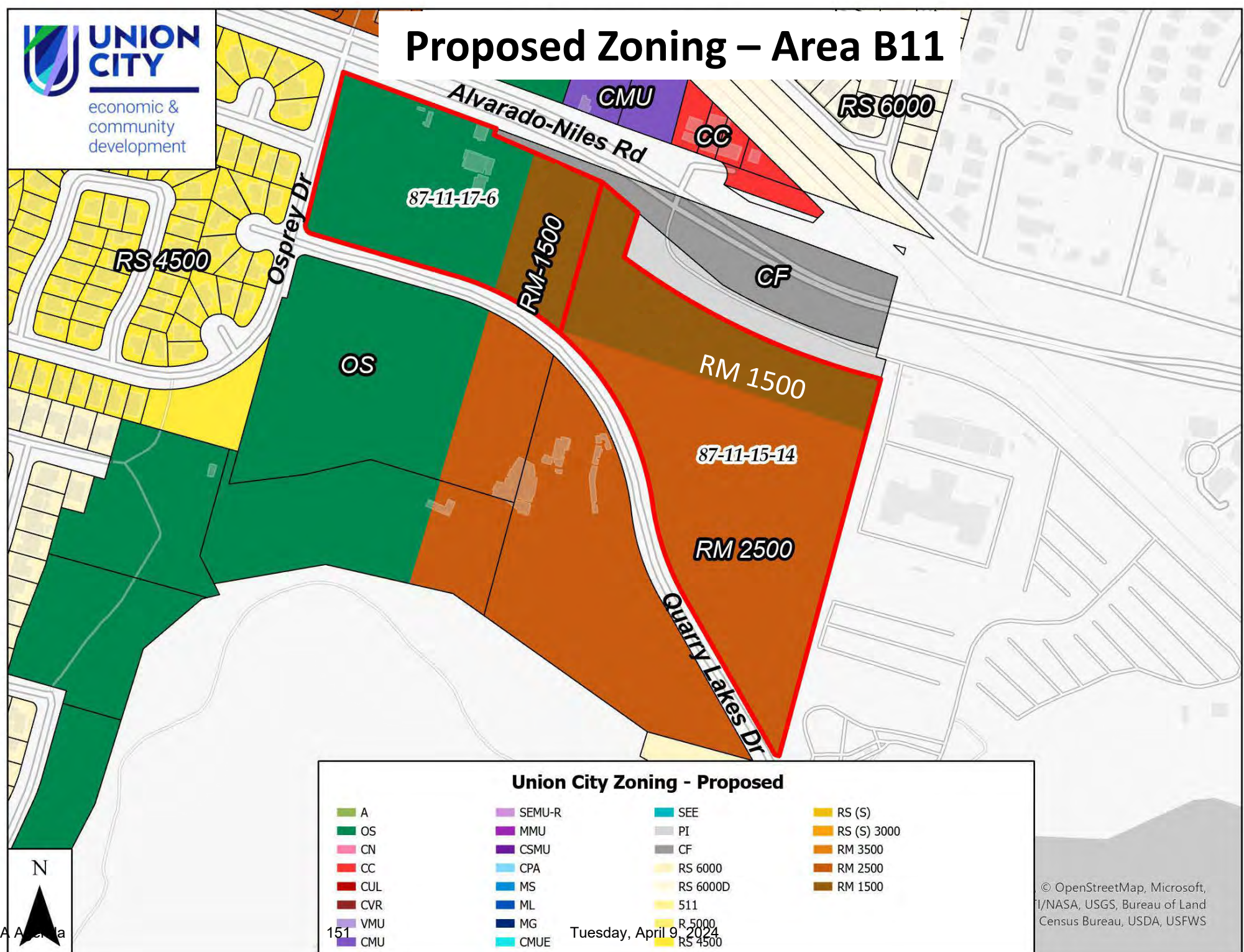
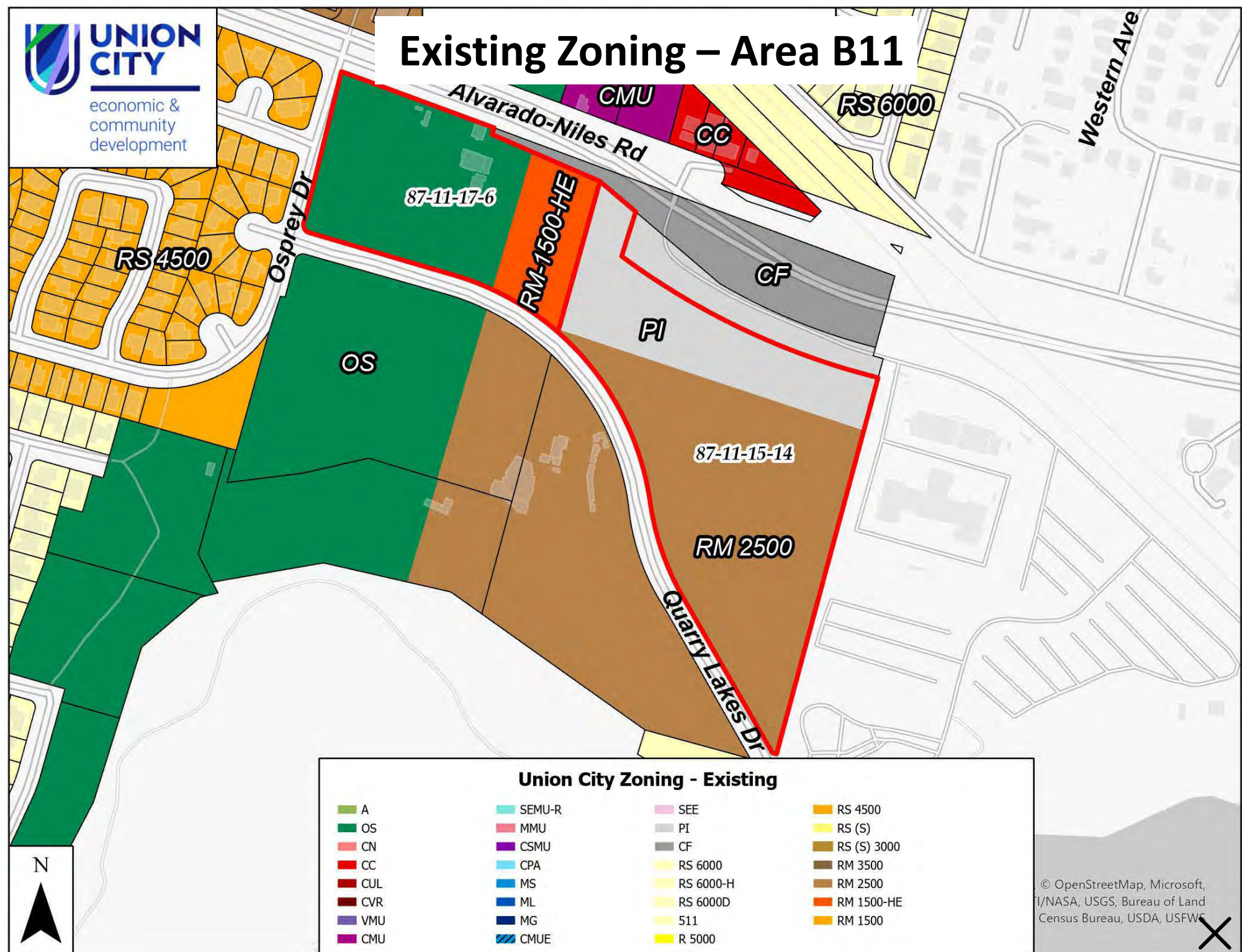


# Exhibit B: Existing and Proposed Zoning



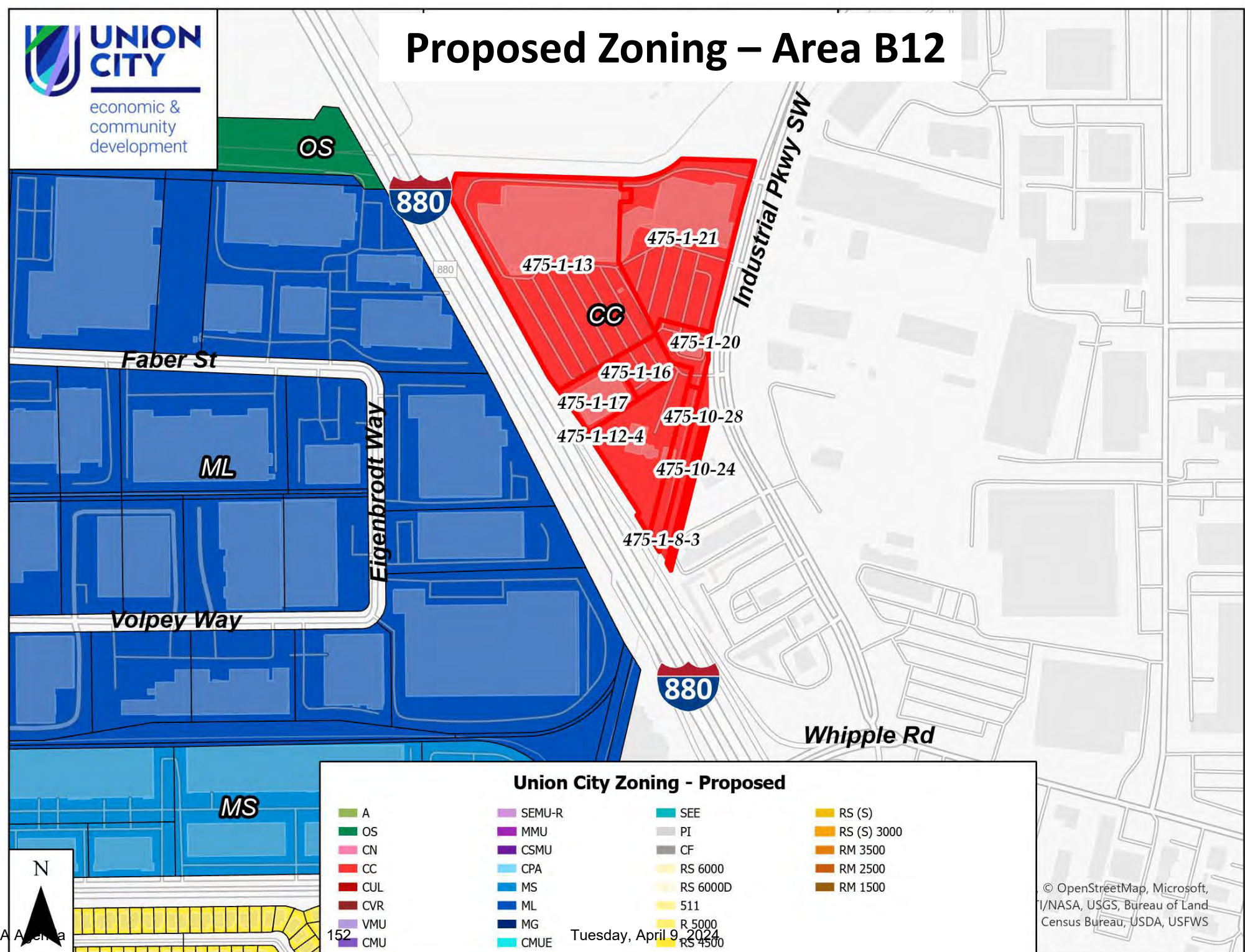
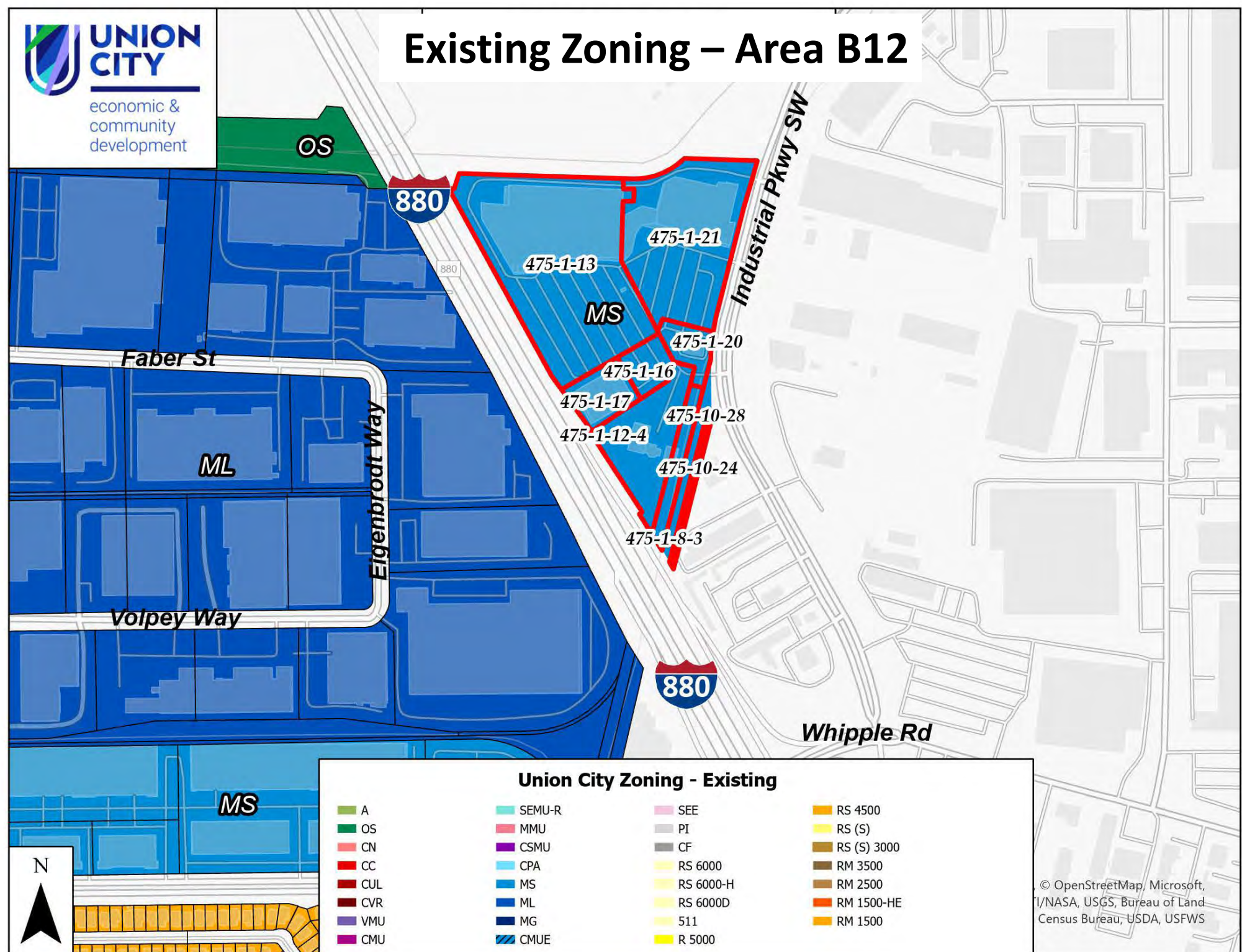


# Exhibit B: Existing and Proposed Zoning





# Exhibit B: Existing and Proposed Zoning





### 3 EIR CONFORMITY EVALUATION

As described in the Introduction, the purpose of this EIR conformity evaluation is to review relevant environmental topic areas for any changes in circumstances or substantial new information as defined under State CEQA Guidelines Section 15162 (stated above), as compared to the environmental impacts identified in the certified EIR prepared for the General Plan. Most environmental issue areas were dismissed from more detailed evaluation (see Introduction for the reasons why each section was eliminated from the detailed conformity evaluation). The General Plan EIR identified several environmental resource areas where development under the 2040 General Plan would result in significant and unavoidable environmental impacts. These areas included the following and are evaluated in greater detail below to determine if the project would increase the severity of these already identified impacts, or result in new impacts that would be significant and unavoidable:

- ▶ Aesthetics
- ▶ Greenhouse Gas Emissions
- ▶ Noise
- ▶ Transportation

### 3.1 AESTHETICS

The General Plan EIR anticipated that development under the 2040 General Plan would have significant and unavoidable impacts on the visual resources in some areas of the city, specifically those with a view of the hillside area, marshlands along the bay, or other open space areas and in the existing urbanized areas of the city. The following goals and associated policies from the 2040 General Plan Community Design Element and Resource Conservation Element would reduce potential impacts to views of scenic open space in the city and provide protection of open space areas in the city, including scenic vistas of these areas.

#### Community Design Element Goals and Policies

- ▶ Goal CD-2: Protect and enhance the visual and physical access to the hillsides, Baylands, and creeks.
  - Policy CD-2.1 Frame Visual Access to Hillside Views. As the city redevelops, the City shall use the layout of streets, blocks, and pedestrian corridors to provide visual access to hillside views.
  - Policy CD-2.2 Minimize Hillside Viewshed Impacts. The City shall minimize the viewshed impacts of development at the base of the hillsides.
  - Policy CD-2.5 Minimize Visual Impact on Baylands. The City shall ensure that new development near the Baylands respects its natural setting by maintaining visual harmony with the Baylands and using buffers such as pedestrian trails, linear parks, and landscaped rights-of-way.
  - Policy CD-2.8 Provide Visual Access to Creeks. Wherever practical, new development shall provide visual access to creeks.

#### Resource Conservation Element Goals and Policies

- ▶ Goal RC-1: To provide for a continuous system of open spaces for the preservation, enhancement, and protection of open space land.
  - Policy RC-1.1 Provide for a Variety of Open Spaces. The City shall provide a variety of open spaces including open space for public use and enjoyment and for the protection of agricultural uses including grazing, wildlife habitats, and scenic vistas.
  - Policy RC-1.2 Protect Scenic Views. The City shall strive to protect areas of outstanding natural scenic qualities and outstanding views of natural or man-made significance, such as ridgelines and valley sides in the eastern hillsides and the critical wetland areas at the western end of the city through regulation, public acquisition, or dedication of development rights or scenic easements.
  - Policy RC-1.3 Observation Areas. The City shall encourage observation areas with outstanding vistas be provided in coordination with recreational trails

The General Plan EIR indicated that the 2040 General Plan would have less than significant impacts related to new sources of light and glare. The General Plan EIR indicated that the 2040 General Plan would have less than significant impacts related to damage of other scenic resources within a state scenic highway.

The General Plan EIR concluded that development under the General Plan would result in a significant and unavoidable impact related to scenic views, including hillside views. The EIR also concluded that there were no mitigation measures available to reduce the potential visual impact associated with increased maximum height limits to a less than significant level. However, the applicable goals and policies in the 2040 General Plan, listed above, would address and minimize the potential intrusion into scenic vistas. The General Plan EIR indicates that non-residential development facilitated through the 2040 General Plan could result in buildings ranging in height from 40 to 75 feet in the City's business parks and up to 160 feet in the Greater Station District (Union City 2019a). The EIR's analysis assumes that new residential development would be between three and eight stories (Union City 2019a: 4.1-10); this equates to a building height between 30 and 80 feet. Therefore, even in the event that a structure was developed on one of the rezoned sites at the proposed maximum allowed height of 55 feet, it would still be

consistent with the analysis of the General Plan EIR and would not result in an increase in severity of a significant impact.

The project would include the rezoning of multiple parcels for consistency with the 2040 General Plan. The project would also include multiple parcels proposed for a different land use designation in the 2040 General Plan Land Use Diagram, as well as an associated rezoning on the Official Union City Zoning Map. These actions would be taken in order to better align zoning and general plan boundaries with existing property lines, with existing building locations, and/or with historic and current use of the property. In the event future development projects are proposed for these parcels, they would continue to comply with General Plan policies and will be reviewed through the City's development standards (e.g., Municipal Code and design review process), entitlement process and the CEQA process to ensure consistency with all relevant federal and State policies and related to aesthetic resources.

No substantial changes in circumstances have occurred, nor has any new information of substantial importance been identified requiring new analysis or verification. With the project's approval, the impact on visual aesthetics would not be more severe than the impact identified in the General Plan EIR, and there would be no new impacts beyond what the EIR evaluated.



## 3.2 GREENHOUSE GAS EMISSIONS

The General Plan EIR indicated that there would be significant and unavoidable impacts associated with development facilitated by the 2040 General Plan and the overall generation of greenhouse gas emissions (GHGs). Based on the growth factors prepared by Mintier Harnish (2018), as well as traffic modeling and vehicle miles traveled (VMT) data provided by Hexagon Transportation Consultants (2018), emissions facilitated through the 2040 General Plan would exceed the 2040 efficiency threshold of 1.12 metric tons of carbon dioxide equivalent (MT CO<sub>2e</sub>) per service population per year. Likewise, construction activities associated with buildout of the 2040 General Plan would generate temporary short-term GHG emissions primarily due to the operation of construction equipment and worker and hauling trips.

Goals, policies, and implementation programs included in the Resource Conservation Element, Public Facilities Element, and Mobility Element with the direct purpose of reducing GHG emissions are listed below.

### Mobility Element Goals and Policies

- ▶ Goal M-3: Provide an accessible, sustainable, efficient, and convenient public transit system for residents, workers, and visitors in Union City.
  - Policy M-3.21: Greening the Bus Fleet. The City shall continue to increase the use of alternative fuel vehicles in the bus fleet and shall support opportunities for in-route charging infrastructure for electric transit vehicles.
    - Implementation Program M-3.C: Convert Bus Fleet. The City shall convert the bus fleet to a zero-emission fleet as vehicle replacement funds become available through the Metropolitan Transportation Commission and the Federal Transit Administration.
- ▶ Goal M-4: Establish a safe, convenient, and efficient street network that facilitates vehicle travel throughout Union City.
  - Policy M-4.19: Electric Vehicle Charging Stations. The City shall support electric vehicles and other low-emissions/zero-emissions vehicles by working with third-party vendors to provide easily accessible charging stations within the city.

### Resource Conservation Element Goals and Policies

- ▶ Goal RC-6: The City shall continue to promote programs and initiatives that support and maximize energy conservation and the use of renewable energy in Union City.
  - Policy RC-6.1: Reduced Energy Consumption. The City shall support measures to reduce energy consumption and increase energy efficiency in residential, commercial, industrial, and public buildings.
  - Policy RC-6.2: Renewable Energy. The City shall support measures to reduce energy consumption and increase energy efficiency in residential, commercial, industrial, and public buildings.
  - Policy RC-6.3: Solar Technology on Private Buildings. The City shall encourage the incorporation of solar panels and other solar technology on parking structures and residential, industrial, and commercial buildings.
  - Policy RC-6.4: Solar Panels on City Facilities. The City shall install solar panels on City facilities, as appropriate and feasible.
  - Policy RC-6.5: Use of Landfills for Renewable Energy. The City shall encourage the reuse of closed landfills within the City, including the Turk Island Landfill, as a site for solar or other renewable energy generation.
  - Policy RC-6.6: Energy-Efficient Lighting. The City shall employ energy-efficient lighting technology to reduce the energy required to light parks, streets, and public facilities.
  - Policy RC-6.7: Green Building. The City shall encourage new development to adopt and incorporate green building features included in the CalGreen Tier 1 checklist in project designs, and shall consider future

amendments to the municipal Code to adopt CalGreen Tier 1 requirements consistent with the State building code.

- Policy RC-6.8: Zero Net Energy. The City shall encourage Zero Net Energy (ZNE) building design for new residential and non-residential construction projects, and consider future amendments to the Municipal Code to adopt ZNE requirements consistent with the State building code.
- Policy RC-6.9: Water Heater Replacement. The City shall encourage the use of high-efficiency or alternatively-powered water heater replacements at time of replacement in existing residential development.
  - Implementation Program RC-6.A: High-Efficiency or Alternatively-Powered Water Heater Replacement Program. The City shall provide educational material and information on the City website and through the Building Division on high-efficiency and alternatively-powered water heater replacement options available to current homeowners considering water heater replacement. The City shall streamline the permitting process for high-efficiency and alternatively-powered water heater replacement, and develop appropriate financial incentives by working with energy utilities or other partners. Replacement water heaters could include high-efficiency natural gas (i.e., tankless), or other alternatively-powered water heating systems that reduce or eliminate natural gas usage such as solar heating systems, tankless or storage electric water heaters, and electric heat pump systems.

#### Public Facilities and Services Element Goals and Policies

- ▶ Goal PF-2: To operate and function in a sustainable manner, use public revenues and resources efficiently, and provide professional, high-quality service to residents and businesses.
  - Policy PF-2.13: New Technology in City Facilities. As financially feasible, the City shall incorporate new technology into public buildings and operations on an ongoing basis to increase efficiency and productivity, reduce operating costs, enhance customer service, improve communication with residents, and facilitate access to City services.
  - Policy PF-2.14: Sustainable Practices. The City shall consider the following as part of everyday operations:
    - Implementation of green infrastructure systems that reduce impacts on the environment;
    - Purchasing decisions that minimize the generation of waste;
    - Recycling programs that reduce waste;
    - Energy efficiency and conservation practices that reduce water, electricity, and natural gas use; and
    - Fleet operations that reduce gasoline consumption.
  - Policy PF-2.15: Energy Efficient Buildings and Infrastructure. The City shall continue to improve energy efficiency of City buildings and infrastructure through efficiency improvements, equipment upgrades, and installation of clean, renewable energy systems to achieve climate action goals and reduce operating costs.
  - Policy PF-4.3: Renewable Energy Generation at Wastewater Treatment Facility. The City shall support efforts by Union Sanitary District to supply the energy demand from the wastewater treatment facility through renewable energy generation.
- ▶ Goal PF-7: Ensure the provision of a reliable, efficient, cost-effective, and environmentally-sound gas and electric service within Union City.
  - Policy PF-7.1: Community Choice Energy. The City shall participate in regional efforts to provide competitive electricity rates and cleaner energy that reduces GHG emissions to Union City residents and businesses.
  - Policy PF-7.6: Expedite Solar Energy Installation. The City shall expedite the review and permitting of solar installations.

In addition to the above policies and implementation programs, the 2040 General Plan encourages infill and transit-oriented development and active transportation to reduce overall GHG emissions throughout the city. The 2040

General Plan contains land-use strategies to encourage high-density and mixed-use development adjacent to the Intermodal Station, along transit corridors, and near job centers. The 2040 General Plan further identifies infill development and creative reuse and redevelopment of existing sites as the primary means for accommodating future growth. Although the 2040 General Plan encourages placing services and amenities close to where people live and work, buildout is still anticipated to result in GHG emissions above the per service population target established for the 2040 General Plan to meet statewide goal trajectories. Therefore, the following mitigation measure was included in the General Plan EIR analysis and would continue to apply to subsequent development:

- ▶ Mitigation Measure GHG-1 Update to Climate Action Plan. In accordance with Implementation Program RC-7.A of the 2040 General Plan, the City of Union City shall update its Climate Action Plan (CAP). The updated CAP shall demonstrate a pathway to achieving the GHG reduction targets for Union City's fair share contribution consistent with SB 32 and Executive Order S-3-05. Implementation measures in the updated CAP may include but are not limited to the following:
  - Develop and adopt Zero Net Energy requirements for new residential and non-residential development
  - Develop and adopt a building electrification ordinance
  - Implement VMT reduction measures such as improvements to public transit, full buildout of the Pedestrian and Bicycle Master Plan, and incentivization of transit-oriented development
  - Expand charging infrastructure for electric vehicles
  - Implement carbon sequestration by expanding the urban forest, participating in soil-based or compost application sequestration initiatives, supporting regional open space protection, and/or incentivizing rooftop gardens
  - Purchase carbon offsets from a validated source<sup>1</sup>

Mitigation Measure GHG-1 requires updating the City's CAP to reflect the most recent GHG reduction regulations and establish a Citywide GHG reduction target. In the absence of the updated CAP the General Plan EIR establishes per service population GHG emission thresholds for the year 2040, specific to the 2040 General Plan.

The project would include the rezoning of multiple parcels for consistency with the 2040 General Plan. Future development on these parcels would be consistent with regulations pertaining to GHG emissions, and impacts would be of similar type and severity as what was analyzed in the General Plan EIR. Future development projects will continue to be reviewed through the City's entitlement process and CEQA to ensure consistency with all relevant State policies and consistency with all relevant City General Plan policies related to GHGs.

No substantial changes in circumstances have occurred, nor has any new information of substantial importance been identified requiring new analysis or verification. With the project's approval, the impact on greenhouse gas emissions would not be more severe than the impact identified in the General Plan EIR, and there would be no new impacts beyond what the EIR evaluated.

---

<sup>1</sup> Validated sources are carbon offset sources that follow approved protocols and use third-party verification. At this time, appropriate offset providers include only those that have been validated using the protocols of the Climate Action Registry, the Gold Standard, or the Clean Development Mechanism (CDM) of the Kyoto Protocol. Credits from other sources will not be allowed unless they are shown to be validated by protocols and methods equivalent to or more stringent than the CDM standards.

### 3.3 NOISE

The General Plan EIR indicated that there would be significant and unavoidable impacts related to development projected under the 2040 General Plan and the temporary generation of increased noise levels and groundborne vibrations during construction. The following mitigation measure was included in the General Plan EIR analysis and would continue to apply to subsequent development:

- ▶ Mitigation Measure N-1 Construction Noise Reduction. For projects involving impact pile-drivers that are located within 400 feet of noise-sensitive receptors, projects involving sonic piledrivers that are located within 200 feet of construction, and projects without pile-driving that are located within 175 feet from noise-sensitive receptors, the following mitigation would be required:
  - Equipment Staging Areas. Equipment staging shall be located in areas that will create the greatest distance feasible between construction related noise sources and noise-sensitive receptors.
  - Electrically-Powered Tools and Facilities. Electrical power shall be used to run air compressors and similar power tools and to power any temporary structures, such as construction trailers or caretaker facilities.
  - Smart Back-up Alarms. Mobile construction equipment shall have smart back-up alarms that automatically adjust the sound level of the alarm in response to ambient noise levels. Alternatively, back-up alarms shall be disabled and replaced with human spotters to ensure safety when mobile construction equipment is moving in the reverse direction.
  - Additional Noise Attenuation Techniques. During the clearing, earth moving, grading, and foundation/conditioning phases of construction, temporary sound barriers shall be installed and maintained between the construction site and the sensitive receptors. Temporary sound barriers shall consist of sound blankets affixed to construction fencing or temporary solid walls along all sides of the construction site boundary facing potentially sensitive receptors.

Even after implementation of identified mitigation measures, the General Plan EIR concludes that buildout of the 2040 General Plan would result in significant and unavoidable impacts related to construction noise. The project would include the rezoning of multiple parcels for consistency with the 2040 General Plan and would not change the amount of ground disturbance assumed in the General Plan EIR; therefore, the overall level of construction noise would be substantially similar.

The General Plan EIR concluded that impacts related to new on-site noise sources associated with residential, commercial, and industrial land uses, which considers potential increase traffic noises, are less than significant. Future development projects on the rezoned parcels will continue to be reviewed through the City's noise standards, entitlement process, and CEQA to ensure consistency with all relevant federal and State policies and consistency with all relevant City General Plan policies related to noise and vibration.

No substantial changes in circumstances have occurred, nor has any new information of substantial importance been identified requiring new analysis or verification. With the project's approval, the impact on noise and vibration would not be more severe than the impact identified in the General Plan EIR, and there would be no new impacts beyond what the EIR evaluated.

### 3.4 TRANSPORTATION

The General Plan EIR indicated that the 2040 General Plan would be inconsistent with CEQA Guidelines Section 15064.3, subdivision (B) and have significant and unavoidable impacts on vehicle miles travelled (VMT) in Union City.

New development would also have significant and unavoidable impacts on traffic on roadways in and surrounding the city. Additionally, the General Plan EIR indicated that the 2040 General Plan would have less than significant impacts related to the provision of emergency access; and conflicts with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, and the performance or safety of such facilities.

With limited opportunities for new development in Union City, the 2040 General Plan emphasizes infill and reuse development within the city limits, encourages higher-density and mixed use projects where appropriate, and supports walkable design that compliments the existing natural and built environment to reduce VMT per service population. The 2040 General Plan further provides the policy framework to guide future development toward land uses that support walking, biking, and transit ridership, including a Vision Zero policy. The 2040 General Plan places a greater emphasis on active transportation infrastructure such as protected bike lanes and enhanced pedestrian crossings, improved transit facilities and services, and ADA accessibility. In addition to the 2040 General Plan's land use strategy, the 2040 General Plan contains several policies and implementation programs intended to minimize or avoid VMT generated by Union City residents. While the 2040 General Plan encourages infill development and redevelopment in urbanized areas of the city, including near transit and the BART station, the additional population growth would result in a net increase in the total VMT within the city.

The 2040 General Plan establishes the following goals and policies that are intended to result in roadway designs that safely accommodate all users:

#### Mobility Element Goals and Policies

- ▶ Goal M-1: Design and maintain streets to be safe and accessible for all categories of users.
  - Policy M-1.3: Planning for Complete Streets. The City shall incorporate "complete streets" practices as a routine part of everyday operations, and a factor to be considered in every projects, program, and practice relating to the transportation network for all categories of users, and work in coordination with other departments, agencies, and jurisdictions to maximize opportunities for complete streets, connectivity, and cooperation.
  - Policy M-1.4: Safe Travel for All Users. The City shall ensure complete streets infrastructure sufficient to enable reasonably safe travel along and across the right of way for each category of users is incorporated into all planning, funding, design, approval, and implementation process for any construction, reconstruction, retrofit, maintenance, operations, alteration, or repair of streets, except that specific infrastructure for a given category of users may be excluded if an exception is approved by the Public Works Director.
- ▶ Goal M-2: To provide a robust and interconnected bicycle and pedestrian circulation system throughout the City.
  - Policy M-2.9: Safe Pedestrian Environment. The City shall implement improvements to create a safe pedestrian environment.
  - Policy M-2.11: Minimize Curb Cuts. The City shall require new development to minimize the number and width of curb cuts for vehicle traffic to reduce vehicle conflicts with pedestrians.
  - Policy M-2.12: Safety in Sidewalk Design. The City shall prioritize safety in the design of sidewalk improvements along major arterials, including separating sidewalks from vehicle travel lanes where possible.
- ▶ Goal M-4: Establish a safe, convenient, and efficient street network that facilitates vehicle travel throughout Union City.
  - Policy M-4.5: Require Projects to Address Transportation Impacts. The City shall require developers to address the impacts that their projects will have on the City's transportation system and implement all feasible mitigation measures, including impact fees, street improvements, traffic signal and intelligent transportation systems improvements, transportation demand management, and improvement of non-automobile transportation modes.



- Policy M-4.6: Transportation Impact Fee and Other Funding. The City shall establish a transportation impact fee to ensure new development pays its fair share contributions to transportation improvements and shall continue to explore other funding sources to assist large-scale capital projects.
- Policy M-4.11: Support Quarry Lakes Parkway. The City shall pursue the timely construction of Quarry Lakes Parkway as a partially depressed and at grade parkway from Mission Boulevard to Interstate 880 to resolve current circulation deficiencies, improve the area's regional access and visibility, and stimulate the market for region serving retail, light industrial/ service commercial, and office uses.
- Policy M-4.14: Dyer Street Extension. The City shall plan for the extension of Dyer Street to link the Calaveras Landing and Union Landing shopping centers.

The project would include the rezoning of multiple parcels for consistency with the 2040 General Plan and would not involve changes related to the future site design, access, or circulation and would therefore not result in changes to the Draft EIR's analysis and conclusion related to hazardous design features, inadequate emergency access, or conflicts with a program, plan, ordinance or policy addressing the circulation system.

Increasing residential density in urbanized areas that are well-served by transit and/or within existing employment-rich areas, generally results in a reduction of VMT and impacts on transportation in the city by promoting the enhancement of connectivity (Union City, 2019a). Therefore, the proposed project would not result in an increase in the severity of the impact related to VMT efficiency compared to the level evaluated in the General Plan EIR. No substantial changes would occur beyond what was addressed in the General Plan EIR that would substantially alter city-wide anticipated under the General Plan. Development would be consistent with regulations pertaining to transportation.

Future development projects on the rezoned parcels will continue to be reviewed through the City's entitlement process and CEQA to ensure consistency with all relevant federal and State policies and consistency with all relevant City General Plan policies related to transportation.

No substantial changes in circumstances have occurred, nor has any new information of substantial importance been identified requiring new analysis or verification. With the project's approval, the impact on transportation would not be more severe than the impact identified in the General Plan EIR. Increasing residential density in urbanized areas that are well-served by transit and/or within existing employment-rich areas, generally results in a reduction of VMT; therefore, there would be no new impacts beyond what the EIR evaluated.

Derek Farmer, Planning Manager

## 4 REFERENCES

- Association of Bay Area Governments. 2022 (March). *Final Regional Housing Needs Allocation (RHNA) Plan: San Francisco Bay Area, 2023-2031*. Available: <https://abag.ca.gov/tools-resources/digital-library/finalrhnaallocationreport2023-2031-approved0pdf>. Accessed: September 2022.
- ABAG. See Association of Bay Area Governments.
- California Air Resources Board. 2022 (May). *Draft 2022 Scoping Plan Update. Appendix D: Local Actions*. Available: <https://ww2.arb.ca.gov/resources/documents/2022-scoping-plan-documents>. Accessed September 2022.
- . 2022 (May). *Draft 2022 Scoping Plan Update. Appendix E: Sustainable and Equitable Communities*. Available: <https://ww2.arb.ca.gov/resources/documents/2022-scoping-plan-documents>. Accessed September 2022.
- CARB. See California Air Resources Board.
- City of Union City. 2019a (June). *2040 Union City General Plan Update Draft Environmental Impact Report*. Available: <https://www.unioncity.org/356/General-Plan>. Accessed: September 2022.
- . 2019b (November). *2040 Union City General Plan Update Final Environmental Impact Report*. Available: <https://www.unioncity.org/356/General-Plan>. Accessed: September 2022.
- . 2022 (July). *Revised Public Review Draft Housing Element 2023-2031*. Available: <https://www.unioncity.org/604/Housing-and-Safety-Element-Update>. Accessed: September 2022.
- Mintier Harnish. 2018. Union City General Plan Update Buildout Methodology Memorandum [draft]. September 20, 2018.

This page intentionally left blank.



## ATTACHMENT 2

### CITY COUNCIL RESOLUTION NUMBER XXXX-24

#### **RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY APPROVING GENERAL PLAN AMENDMENT, AG-24-001, TO UPDATE THE LAND USE DIAGRAM TO BETTER ALIGN WITH EXISTING PARCEL LINES, BUILDING LOCATIONS AND HISTORIC AND CURRENT LAND USES**

**WHEREAS**, by Resolution No. 5549-19, duly adopted by the City Council of Union City on December 10, 2019, there was adopted documents consisting of text, maps, and charts, entitled Union City 2040 General Plan, dated December 10, 2019, which included the reports in support thereof as the General Plan of Union City; and

**WHEREAS**, staff initiated amendments to the General Plan Land Use Diagram (AG-24-001) and Official Zoning Map (A-24-001) for multiple sites, both for consistency with the 2040 General Plan and to better align with existing parcel lines, building locations, and historic and current land uses or to address a parcel that has an incorrect designation (“Project”); and

**WHEREAS**, the General Plan amendments are shown in Exhibit A, attached hereto and made a part hereof; and

**WHEREAS**, pursuant to the California Environmental Quality Act (CEQA), an Addendum to the 2040 General Plan was prepared for the Project; and

**WHEREAS**, pursuant to Section 65854 of the Government Code, the Planning Commission held a duly noticed public hearing on the Project on March 21, 2024 at which time all interested parties had the opportunity to be heard. The Planning Commission considered and adopted Resolution No. 4-24 recommending adoption of the CEQA Addendum prepared for the Project and Resolution No. 5-24 recommending approval of the Project. The Staff Report, Desk Item and Planning Commission Resolutions are incorporated herein by reference; and

**WHEREAS**, the City Council reviewed the Project and Addendum at a noticed public hearing on April 9, 2024, at which time all interested parties had the opportunity to be heard; and

**WHEREAS**, the City Council adopted **Resolution XXXX-24**, dated April 9, 2024, and incorporated herein by reference, adopting an Addendum to the 2040 General Plan Environmental Impact Report for the Project; and

**NOW, THEREFORE, BE IT RESOLVED**, that the foregoing recitals are true and correct and made a part of this resolution.

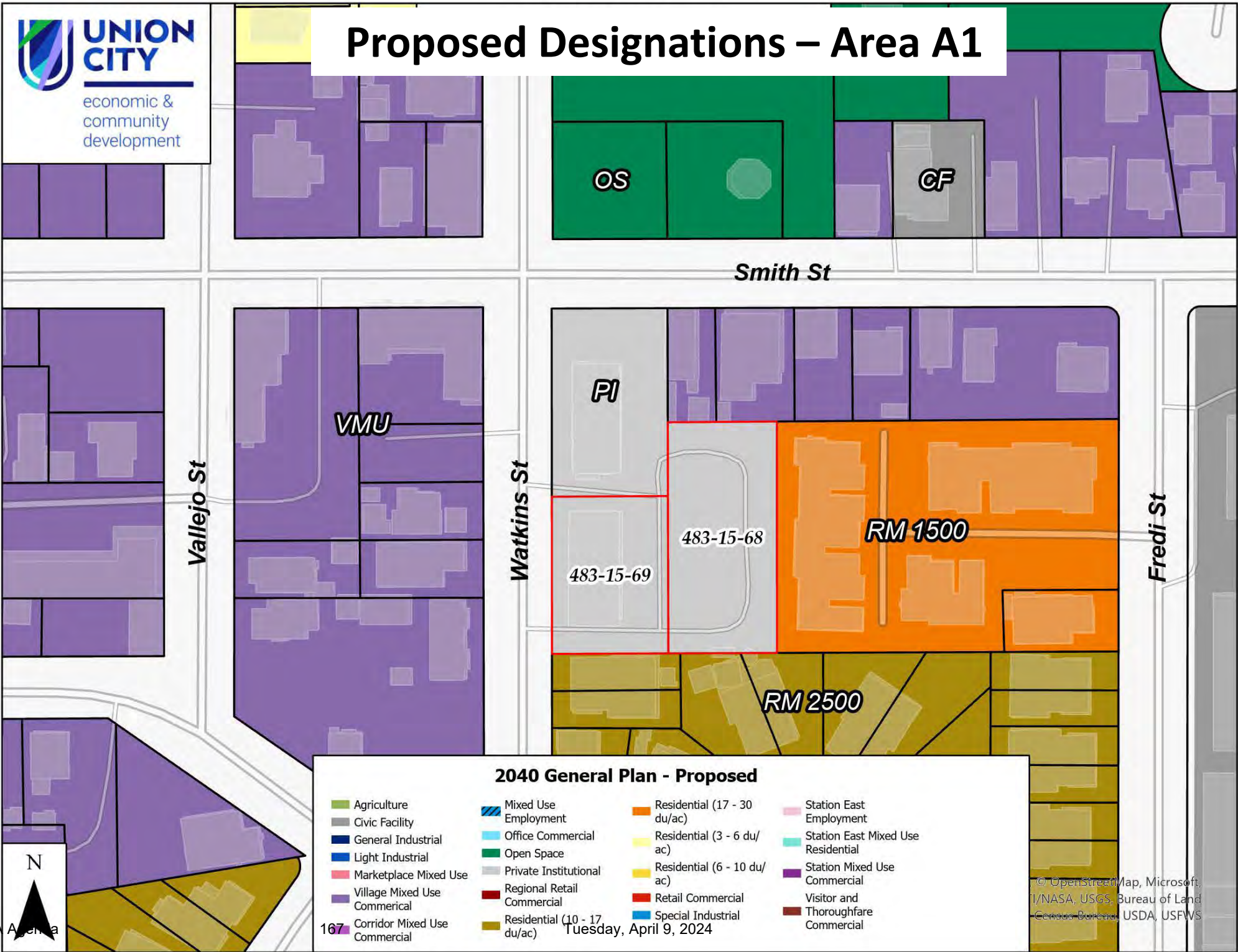
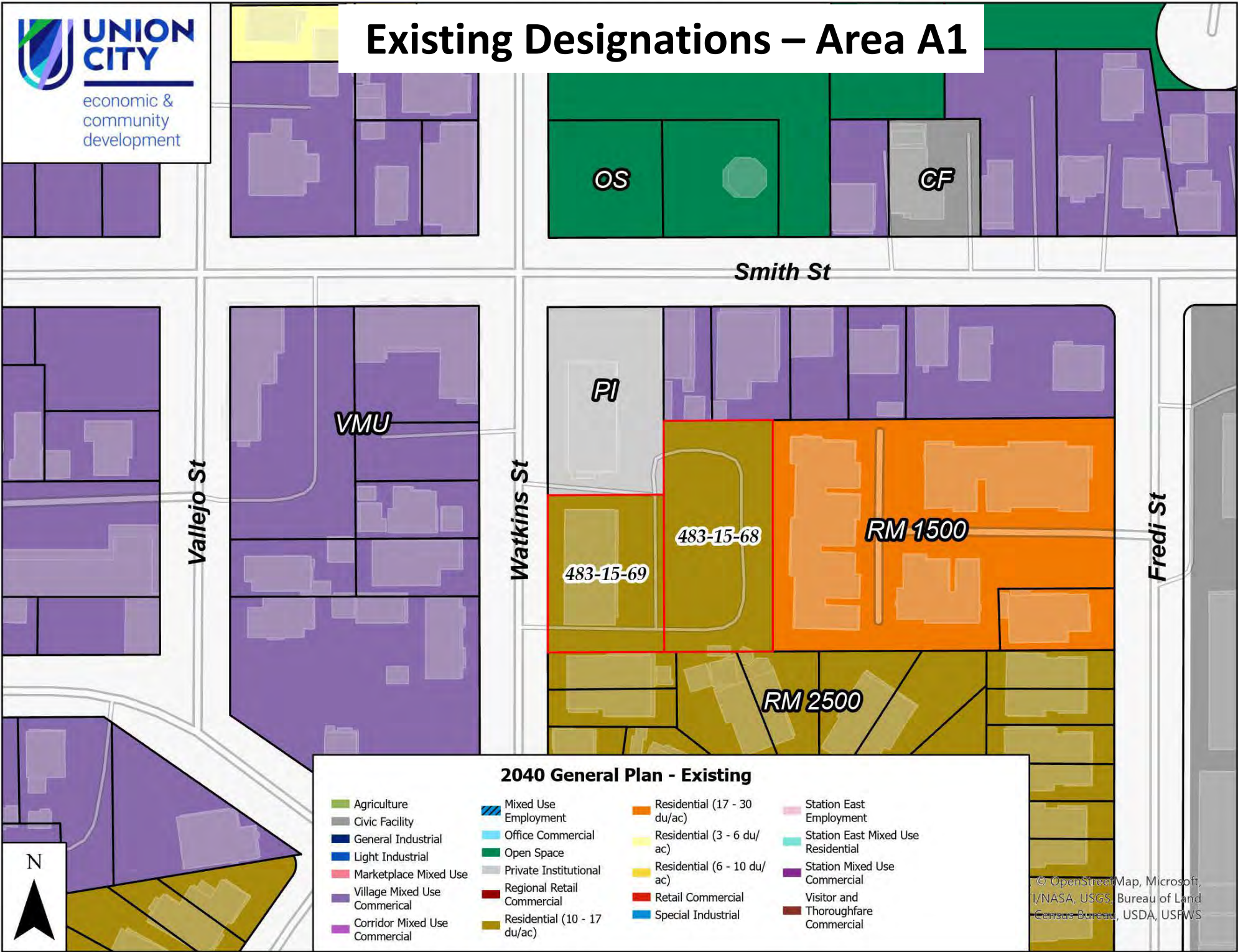
**BE IT FURTHER RESOLVED** that the City Council of the City of Union City hereby approves General Plan Amendment, AG 24-001, to amend the General Plan Land Use Diagram as contained in Exhibit B and does hereby find as follows:

1. Pursuant to Government Code Section 65358(a), that the proposed General Plan amendment will update the Land Use Diagram to better align with existing parcel lines,

building locations, and historic and current land uses. This will provide certainty to future property owners and staff regarding what general plan designation applies to a property where it is currently ambiguous and will also ensure that a site's general plan designation reflects what the site historically and currently has been used for.

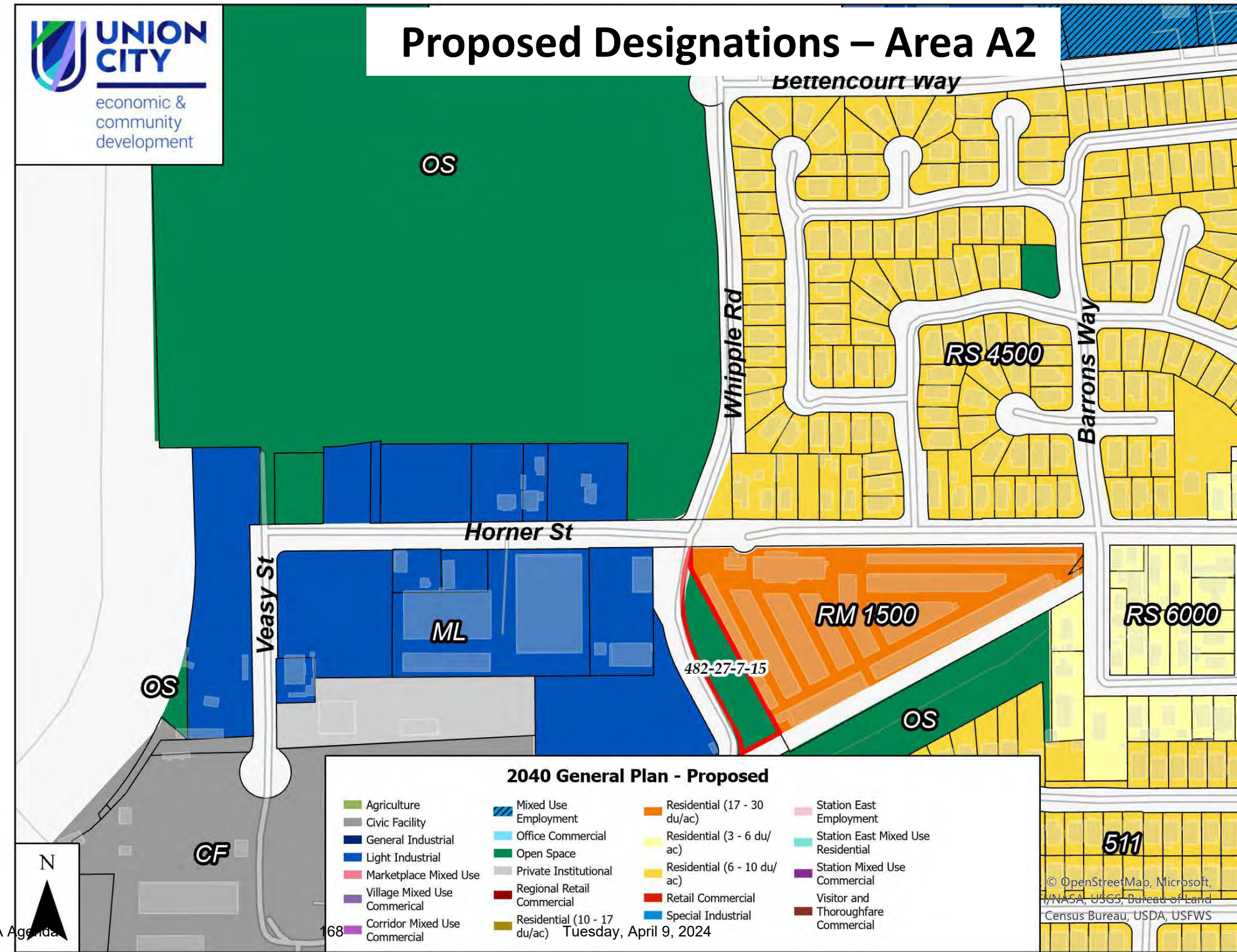
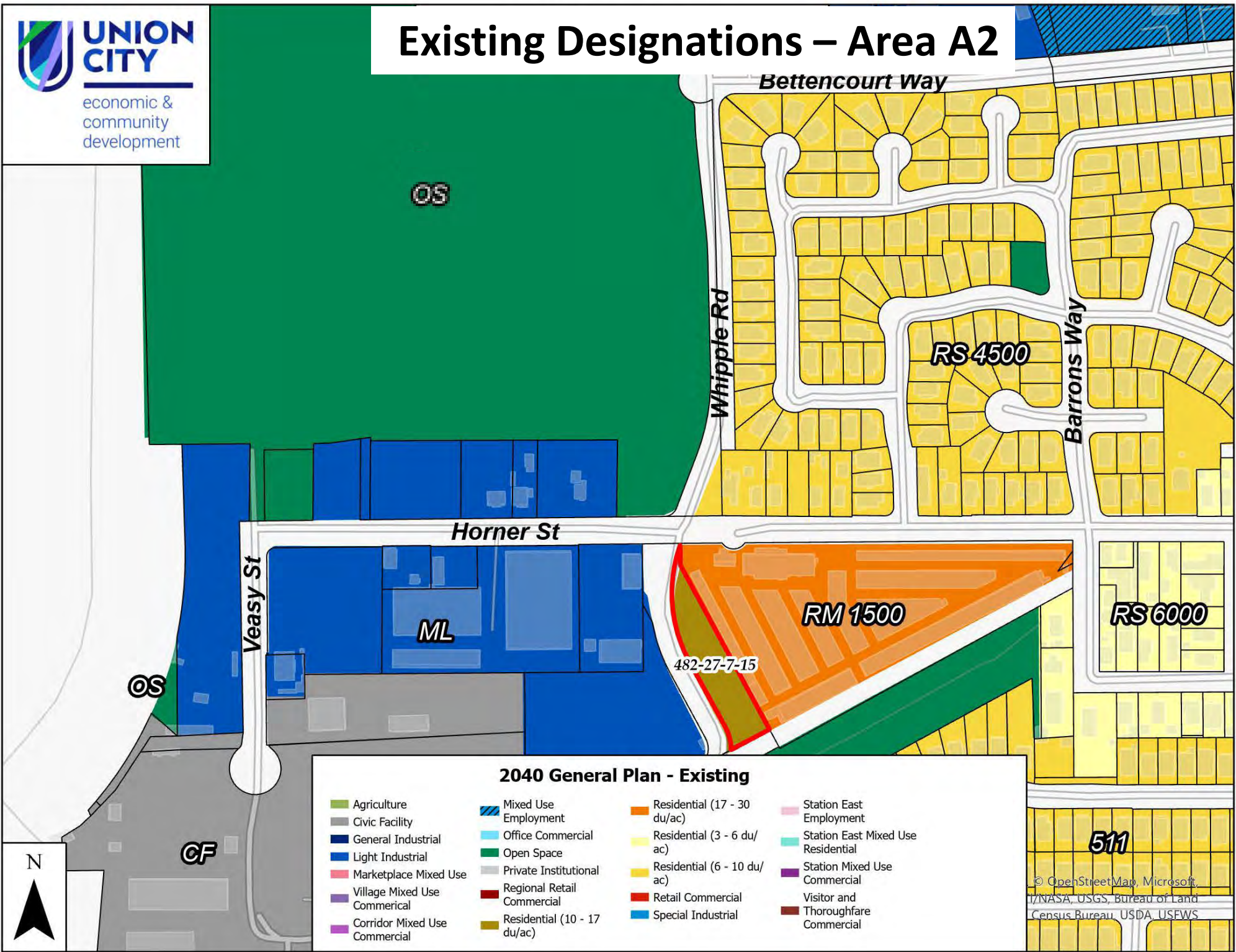


# Exhibit A: Existing and Proposed General Plan Designations



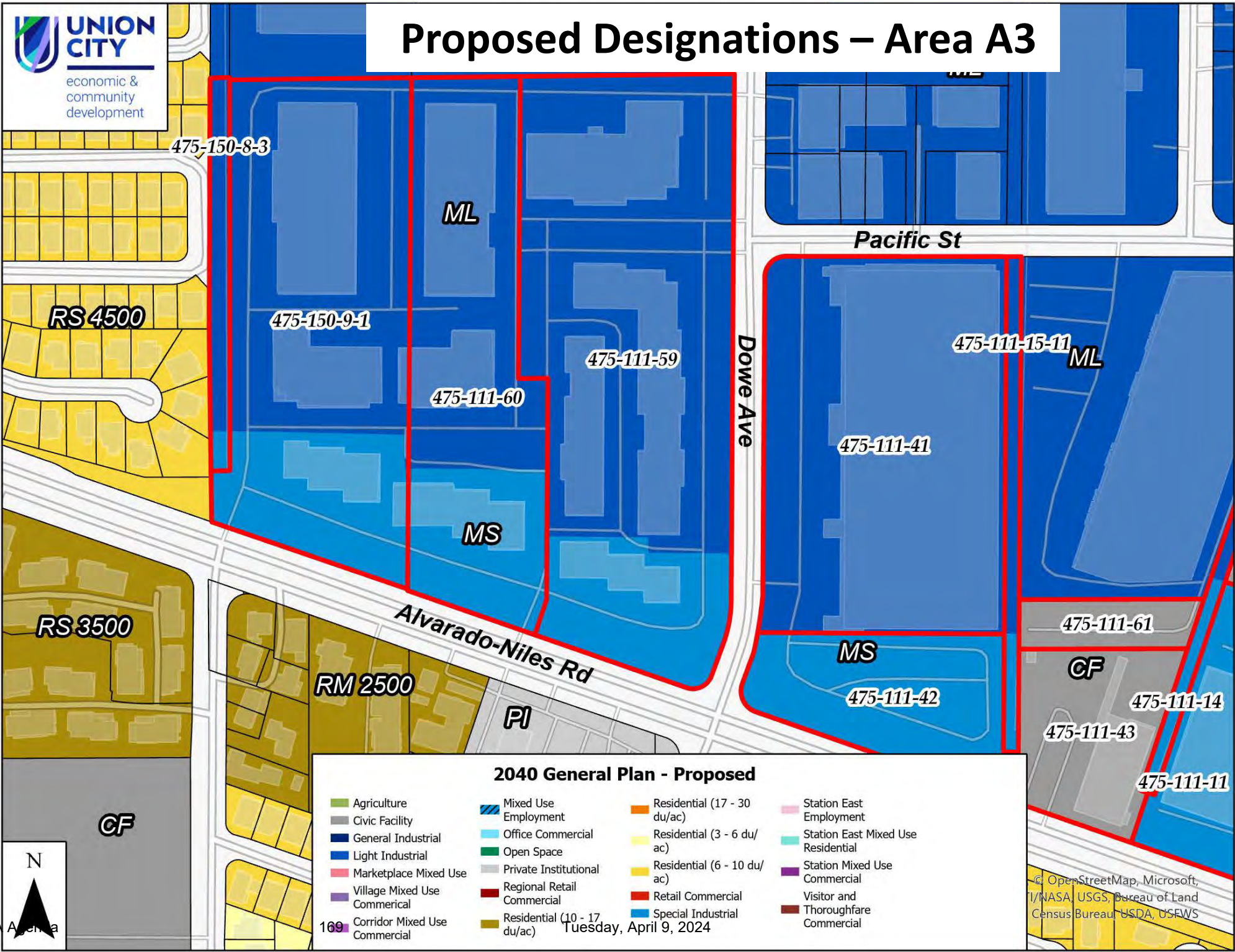
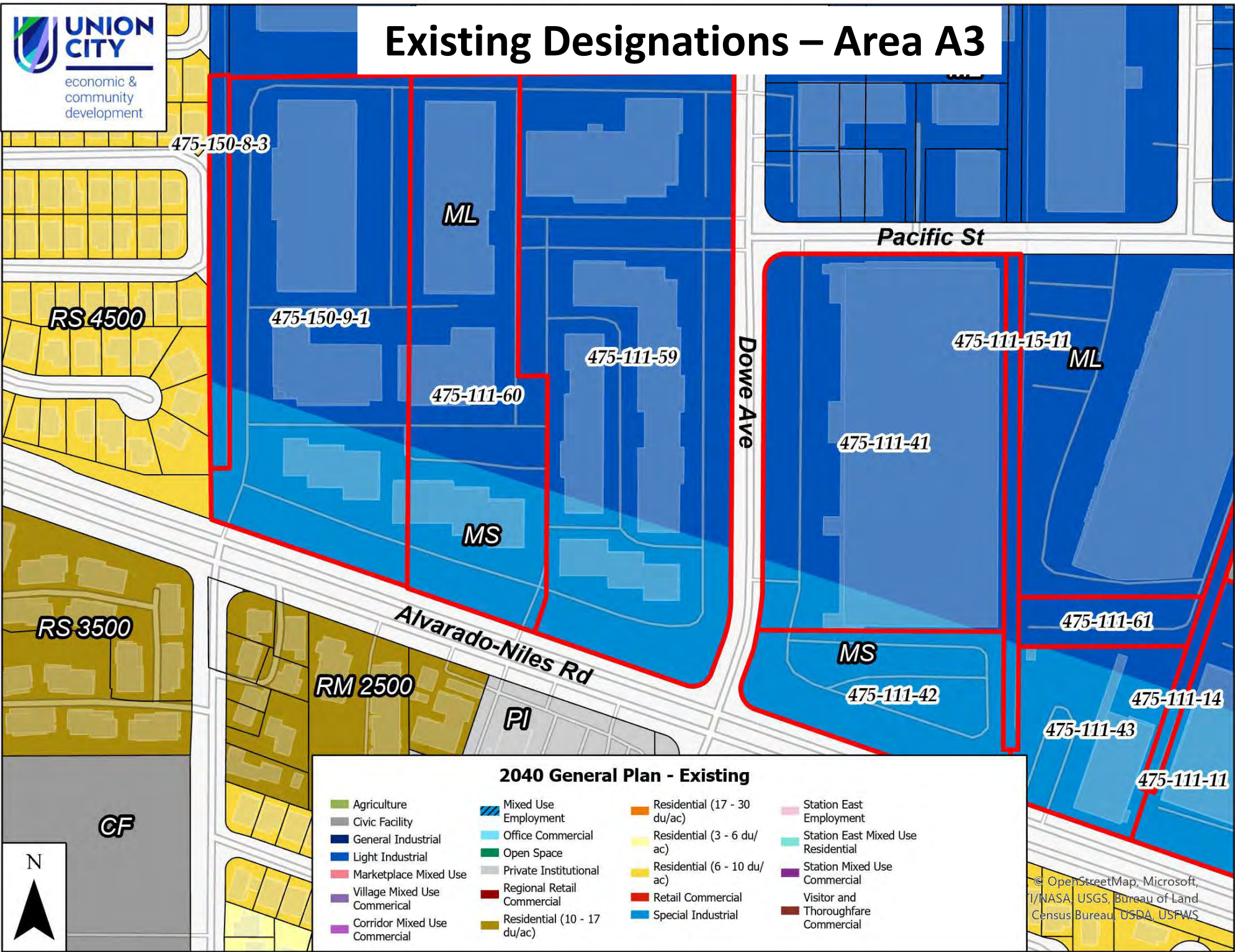


# Exhibit A: Existing and Proposed General Plan Designations



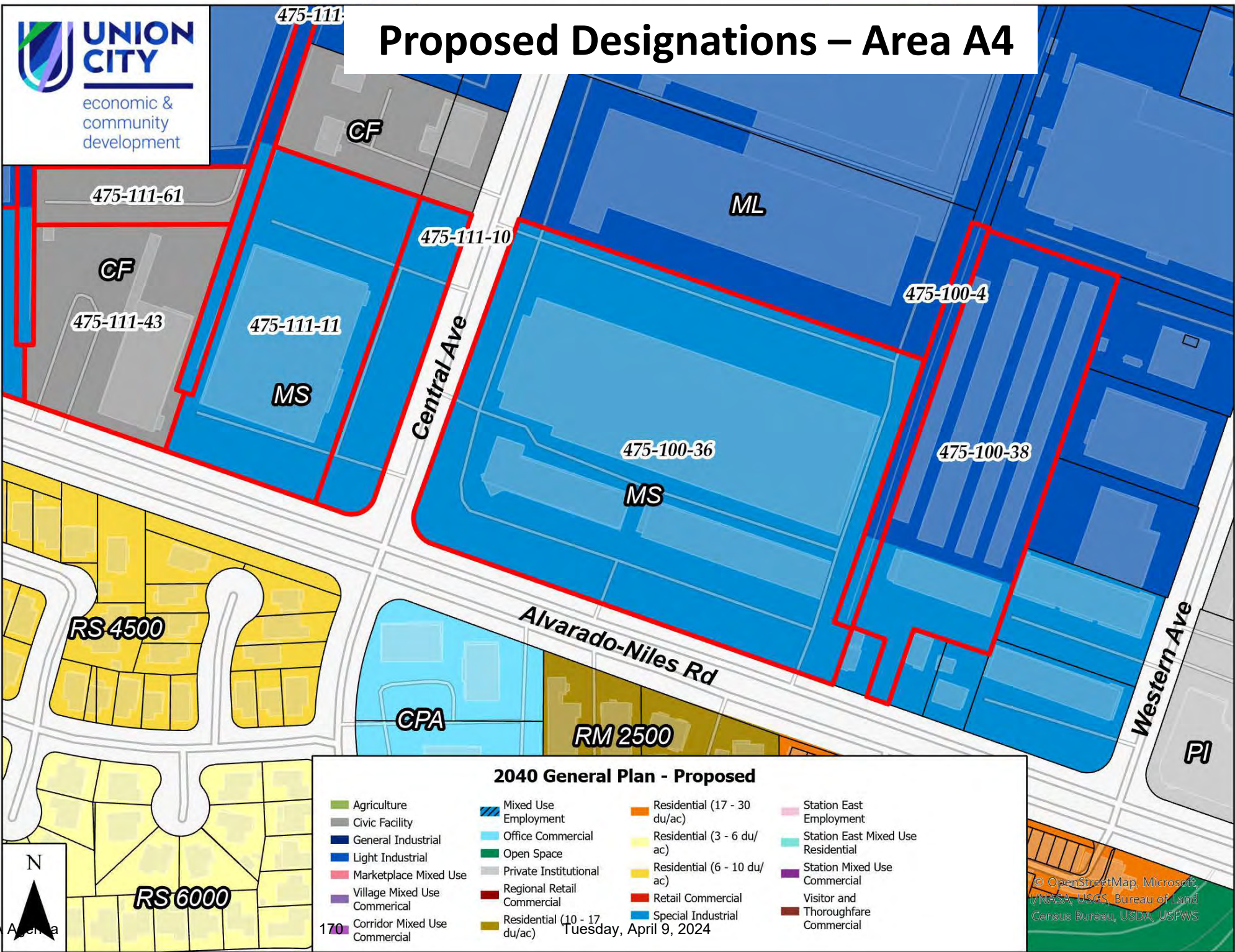
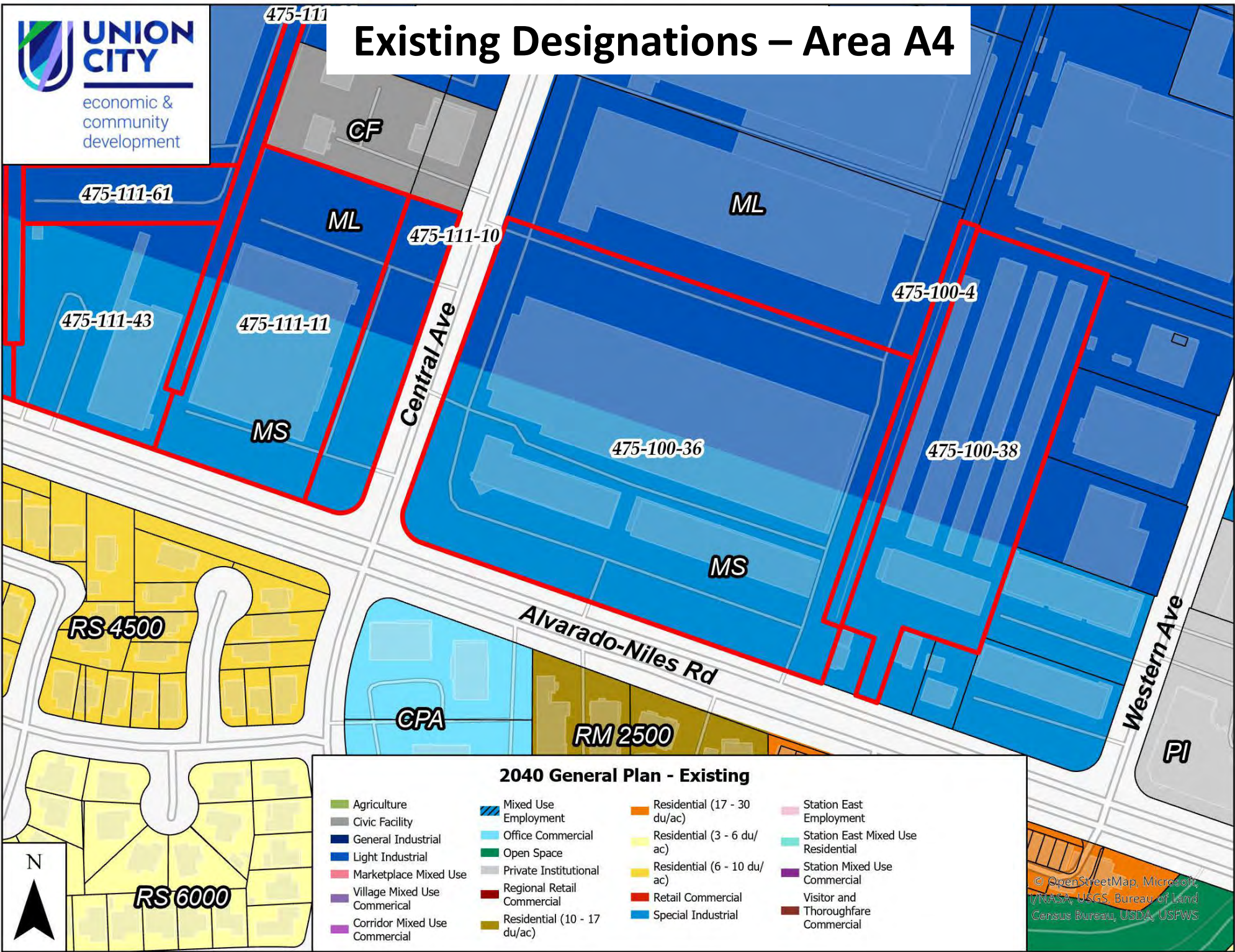


# Exhibit A: Existing and Proposed General Plan Designations





# Exhibit A: Existing and Proposed General Plan Designations





## **ATTACHMENT 3**

### **ORDINANCE NO. XXX-24**

#### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UNION CITY ADOPTING AMENDMENTS TO THE CITY'S OFFICIAL ZONING MAP (A-24-001) FOR CONSISTENCY WITH THE 2040 GENERAL PLAN**

**WHEREAS**, the California Constitution, Article XI, Section 7, provides cities and counties with the authority to enact ordinances to protect the health, safety, welfare, and morals of their citizens; and

**WHEREAS**, the City's Zoning Code currently regulates all development within the City; and

**WHEREAS**, staff initiated amendments to the General Plan Land Use Diagram (AG-24-001) and Official Zoning Map (A-24-001) for multiple sites, both for consistency with the 2040 General Plan and to better align with existing parcel lines, building locations, and historic and current land uses or to address a parcel that has an incorrect designation ("Project"); and

**WHEREAS**, the City Council desires to amend the City's Official Zoning Map as detailed in the attached Exhibit B, attached hereto and made a part hereof, and

#### **PLANNING COMMISSION REVIEW**

**WHEREAS**, the Planning Commission held a duly noticed public hearing on the Project on March 21, 2024, at which time all interested parties had the opportunity to be heard. The Planning Commission considered a staff report and Desk Item dated March 21, 2024 and all written and oral testimony, and adopted Resolution No. 4-24 recommending adoption of the CEQA Addendum prepared for the Project and Resolution No. 5-24 recommending approval of the General Plan and Zoning amendments. The Staff Report, Desk Item and Planning Commission Resolutions are incorporated herein by reference; and

#### **CITY COUNCIL REVIEW**

**WHEREAS**, the City Council held a duly noticed public hearing on the proposed amendments on April 9, 2024, at which time all interested parties had the opportunity to be heard. The City Council considered a staff report dated April 9, 2024 (including background reports), incorporated herein by reference, the Planning Commission recommendation, and all written and oral testimony before taking action on the amendments; and

#### **THE CITY COUNCIL OF THE CITY OF UNION CITY DOES ORDAIN AS FOLLOWS:**

**SECTION 1. Recitals.** The above recitals are true and correct and made a part of this Ordinance.

**SECTION 2. CEQA.** The City Council adopted **Resolution XXXX-24**, dated April 9, 2024, and incorporated herein by reference, adopting an Addendum to the 2040 General Plan

Environmental Impact Report for the amendments to the City's Official Zoning Map (A-24-001).

**SECTION 3. Findings.** The City Council makes the following findings in support of approving this Ordinance, based on the whole of the record before it.

1. The proposed Municipal Code Amendments are consistent with the General Plan,
2. The proposed Municipal Code Amendments are necessary and desirable to achieve the purposes of Title 18.

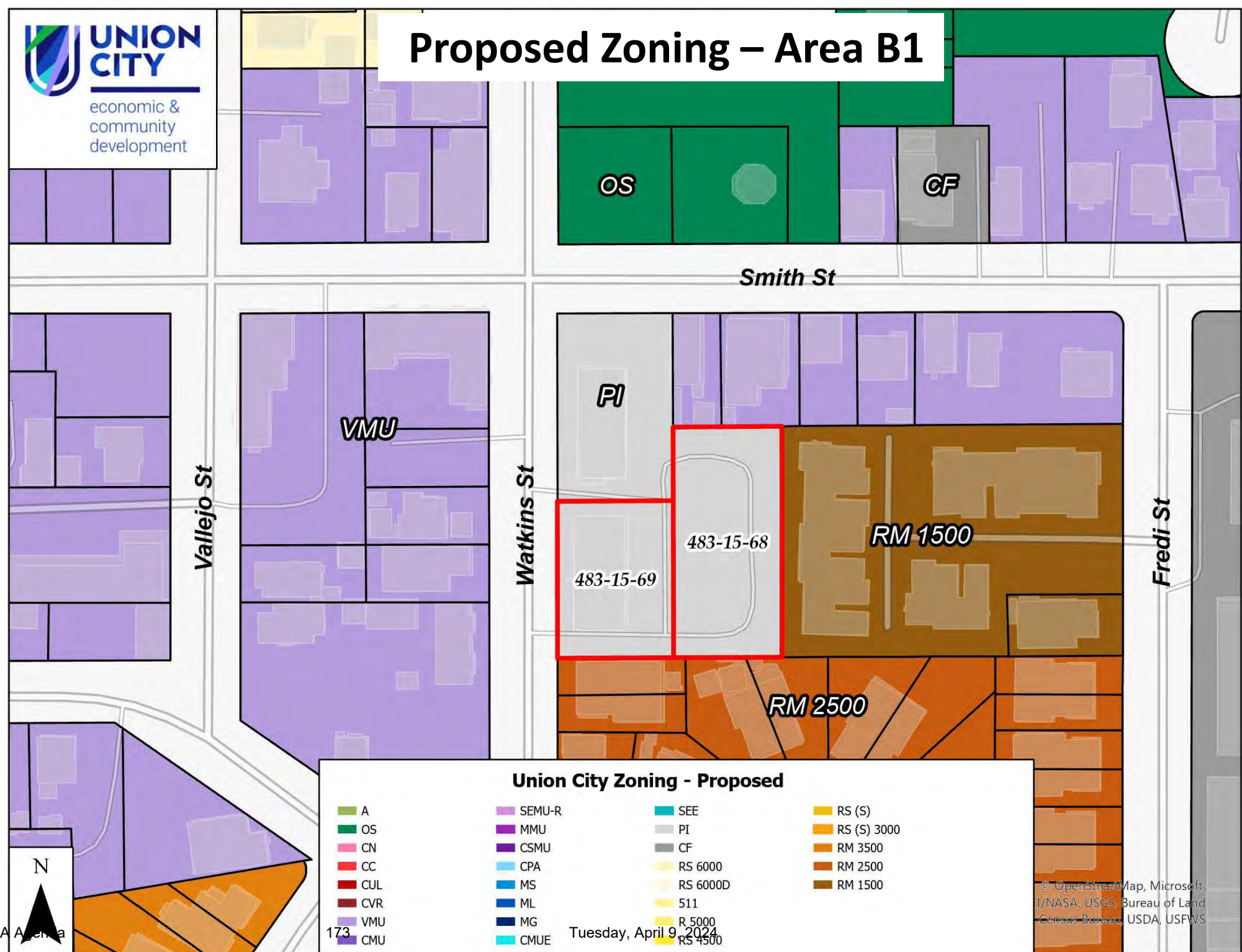
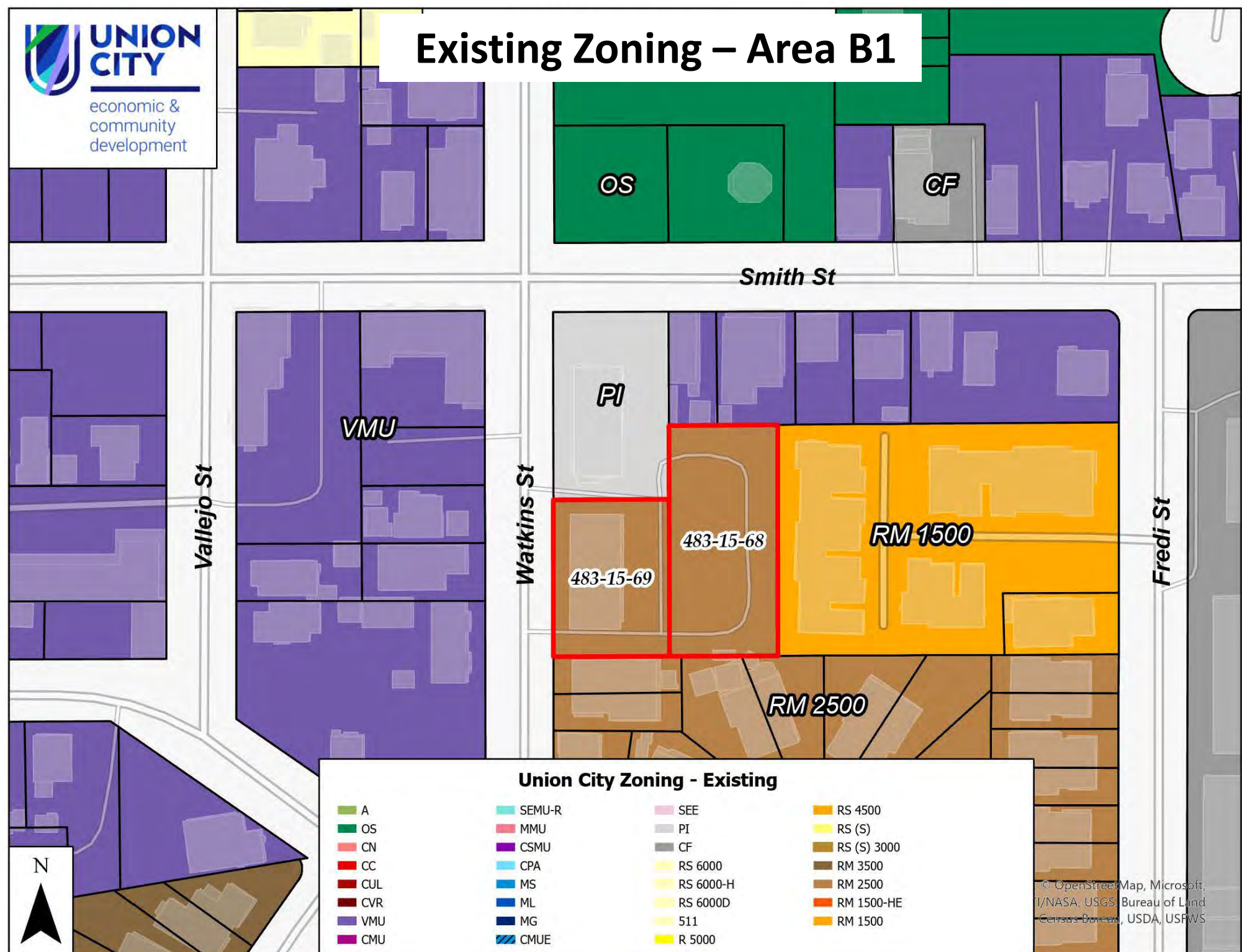
**SECTION 4. Approval.** The City Council hereby approves the amendments to the City's Official Zoning Map, labeled Exhibit B, which is incorporated herein by reference and available for review in the City Clerk's office during normal business hours.

**SECTION 5. Severability.** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

**SECTION 6. Publication and effective date.** Within fifteen (15) days from and after adoption, this Ordinance shall be published once in the Tri-City Voice, a newspaper of general circulation printed and published in Alameda County and circulated in the City of Union City, in accordance with California Government Code Section 36933. This Ordinance shall take effect and be enforced thirty (30) days after its adoption.

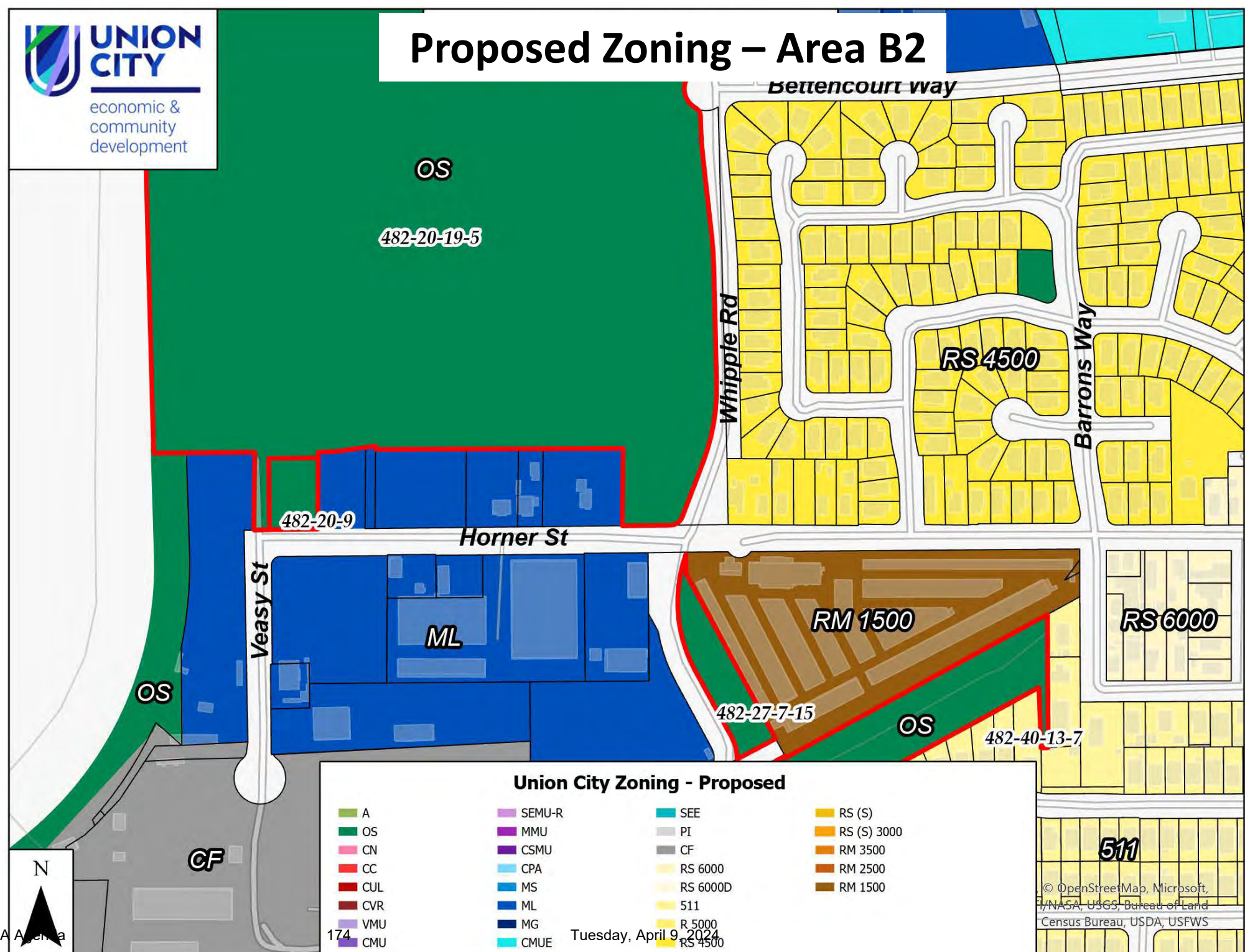
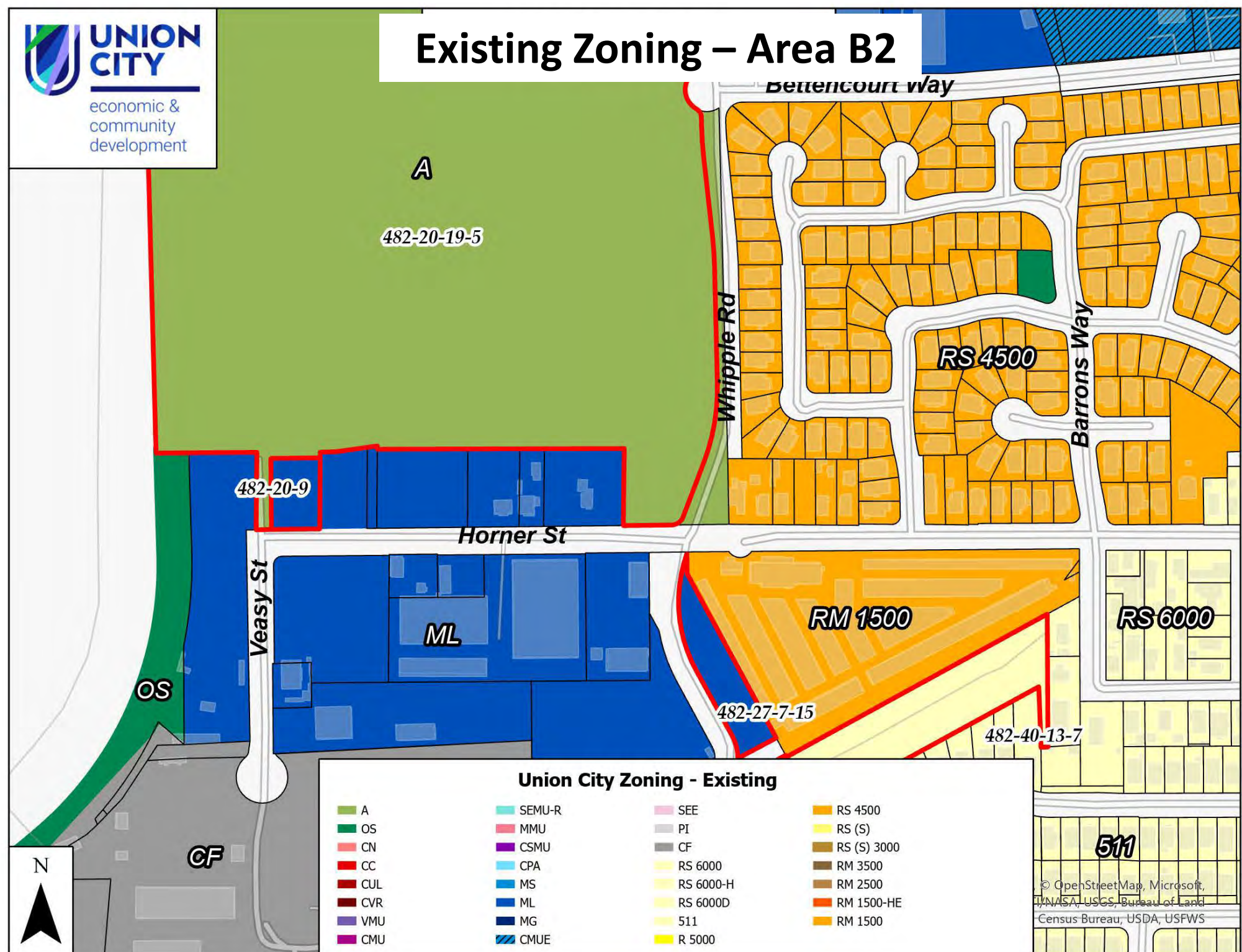


# Exhibit B: Existing and Proposed Zoning



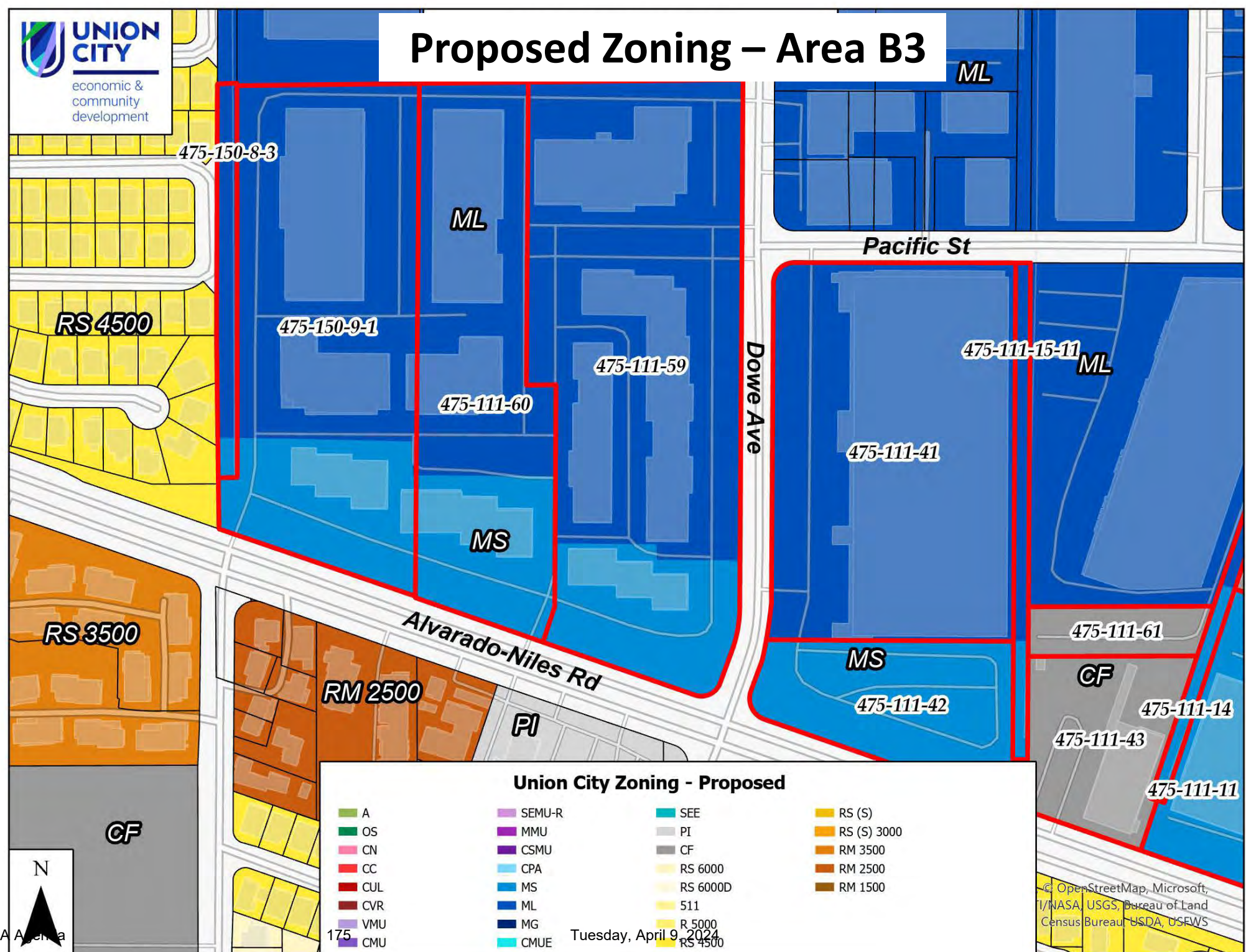
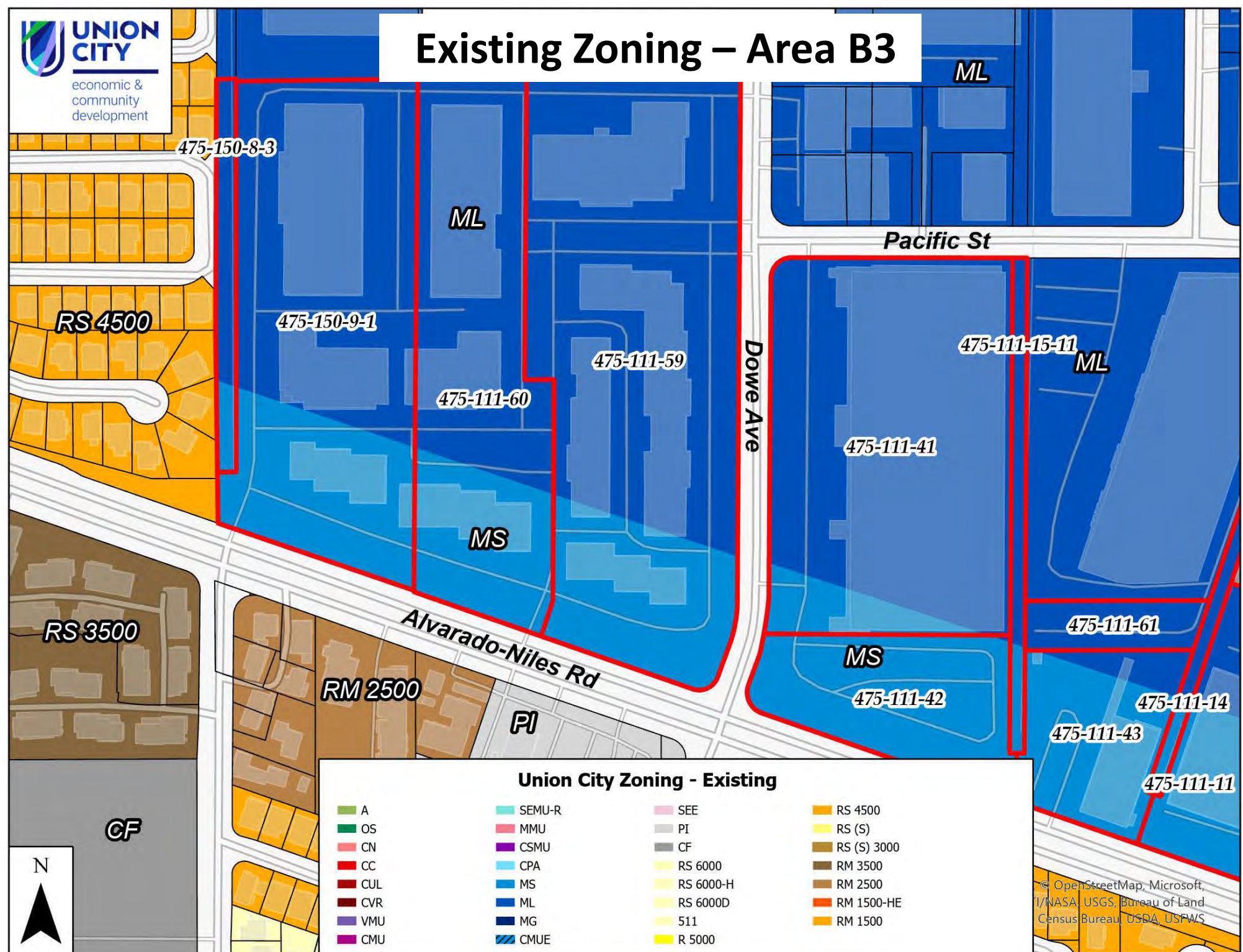


## Exhibit B: Existing and Proposed Zoning



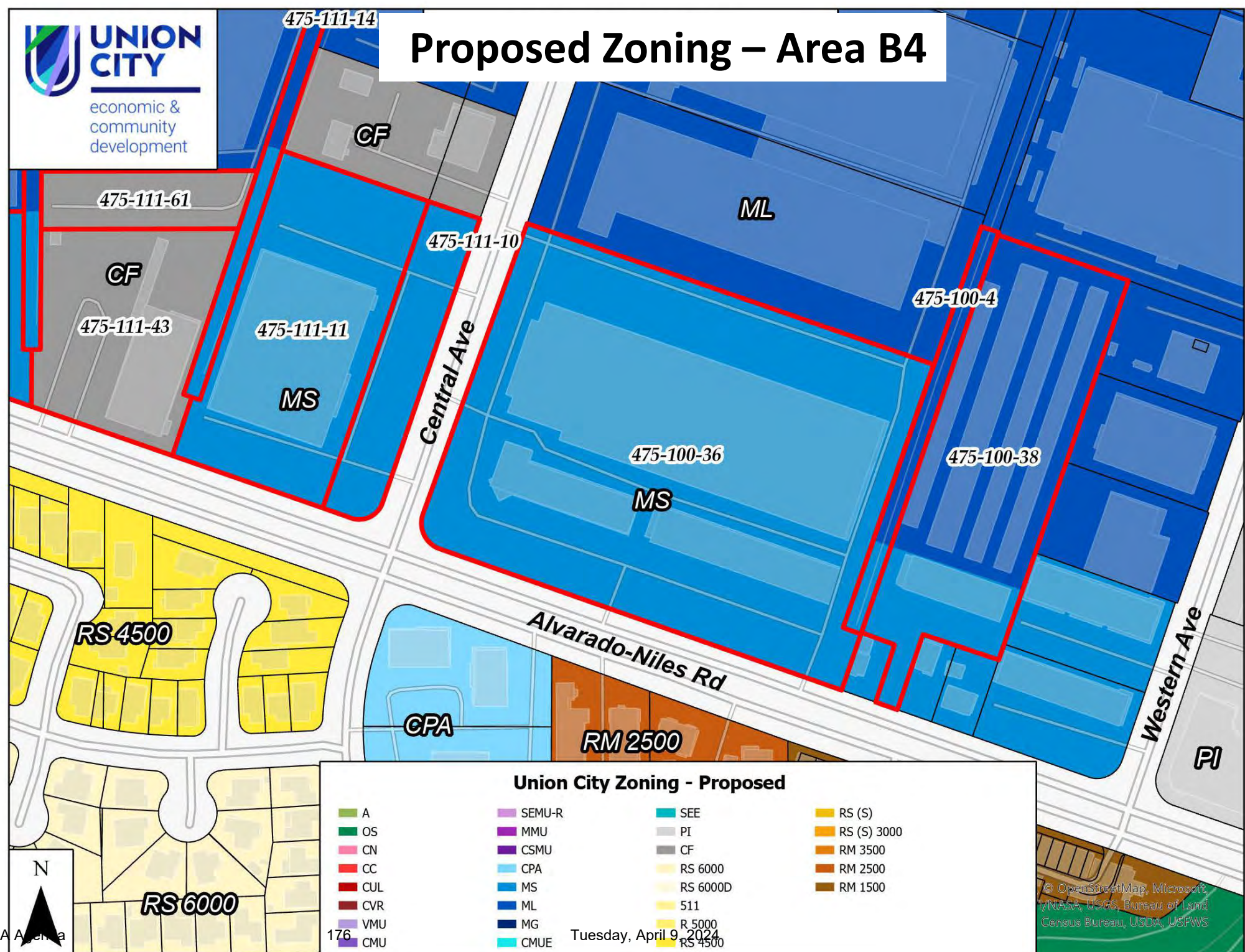
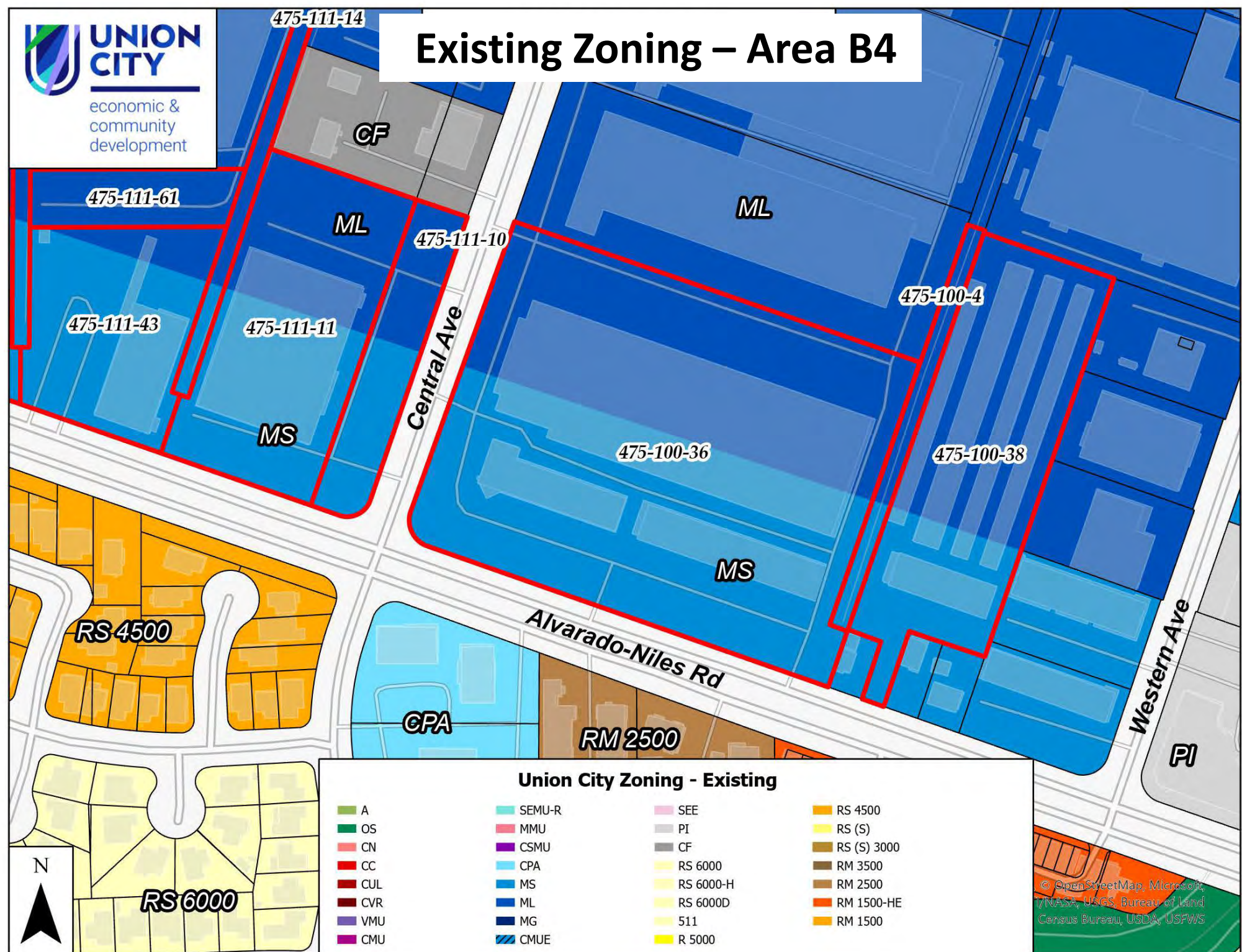


# Exhibit B: Existing and Proposed Zoning



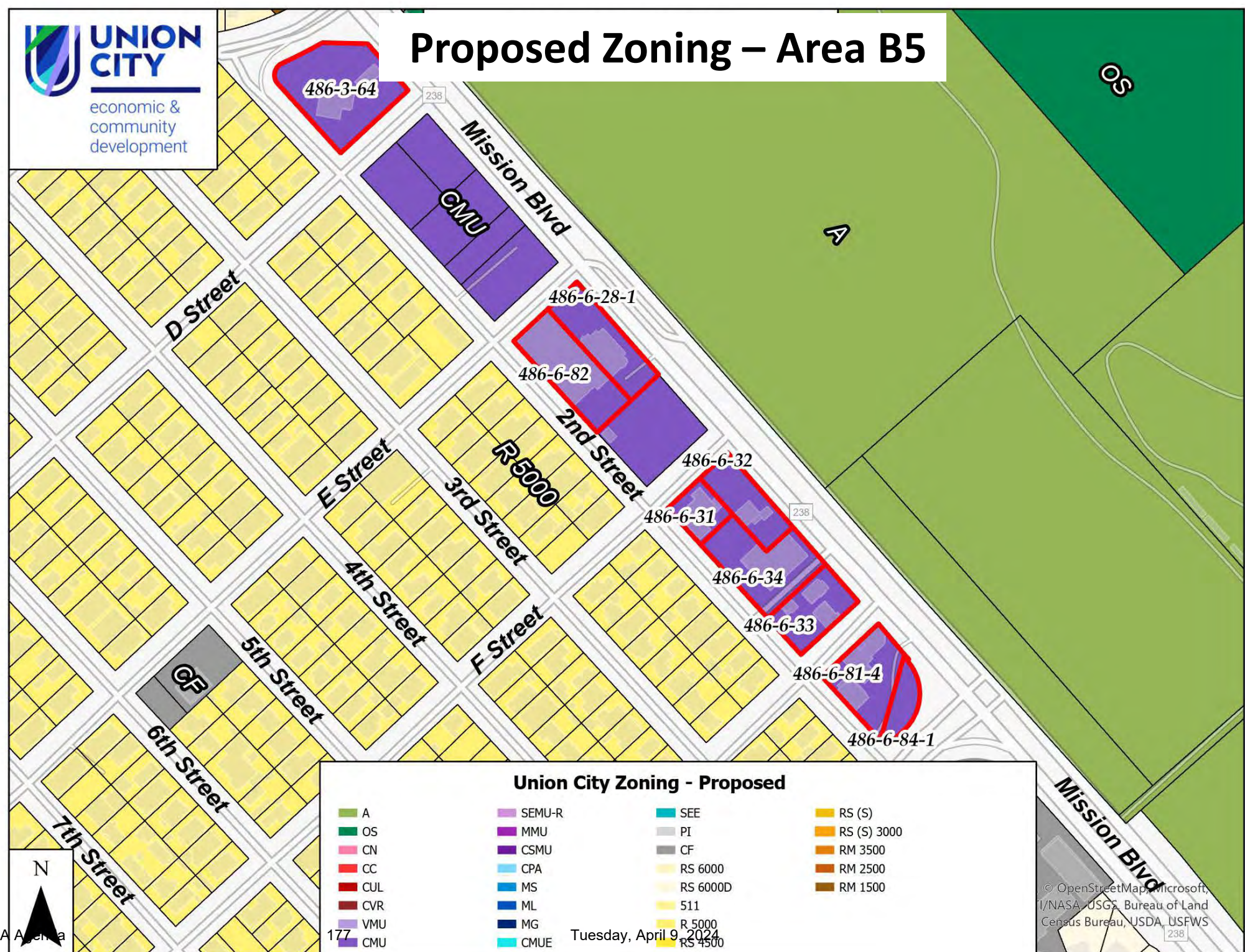
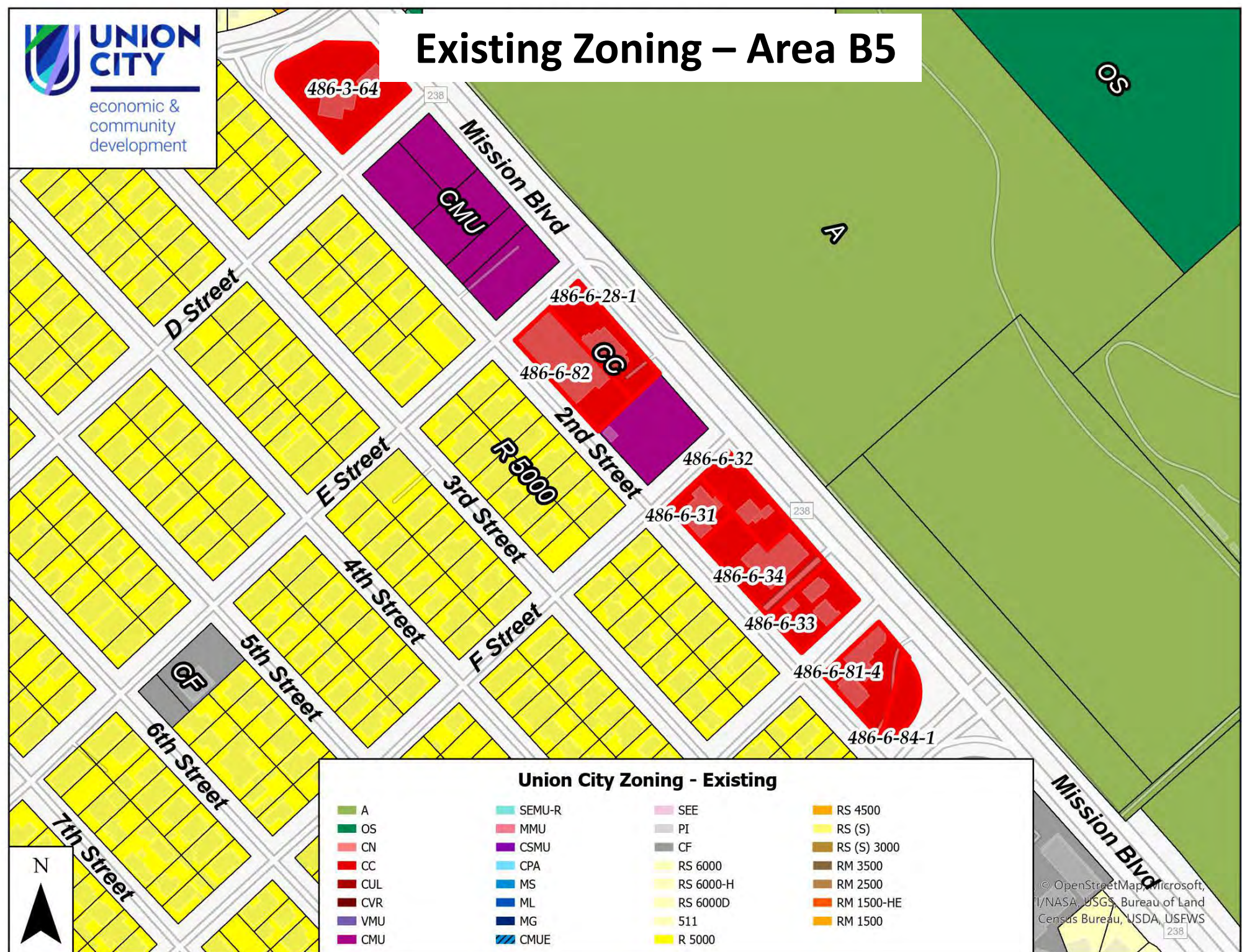


# Exhibit B: Existing and Proposed Zoning



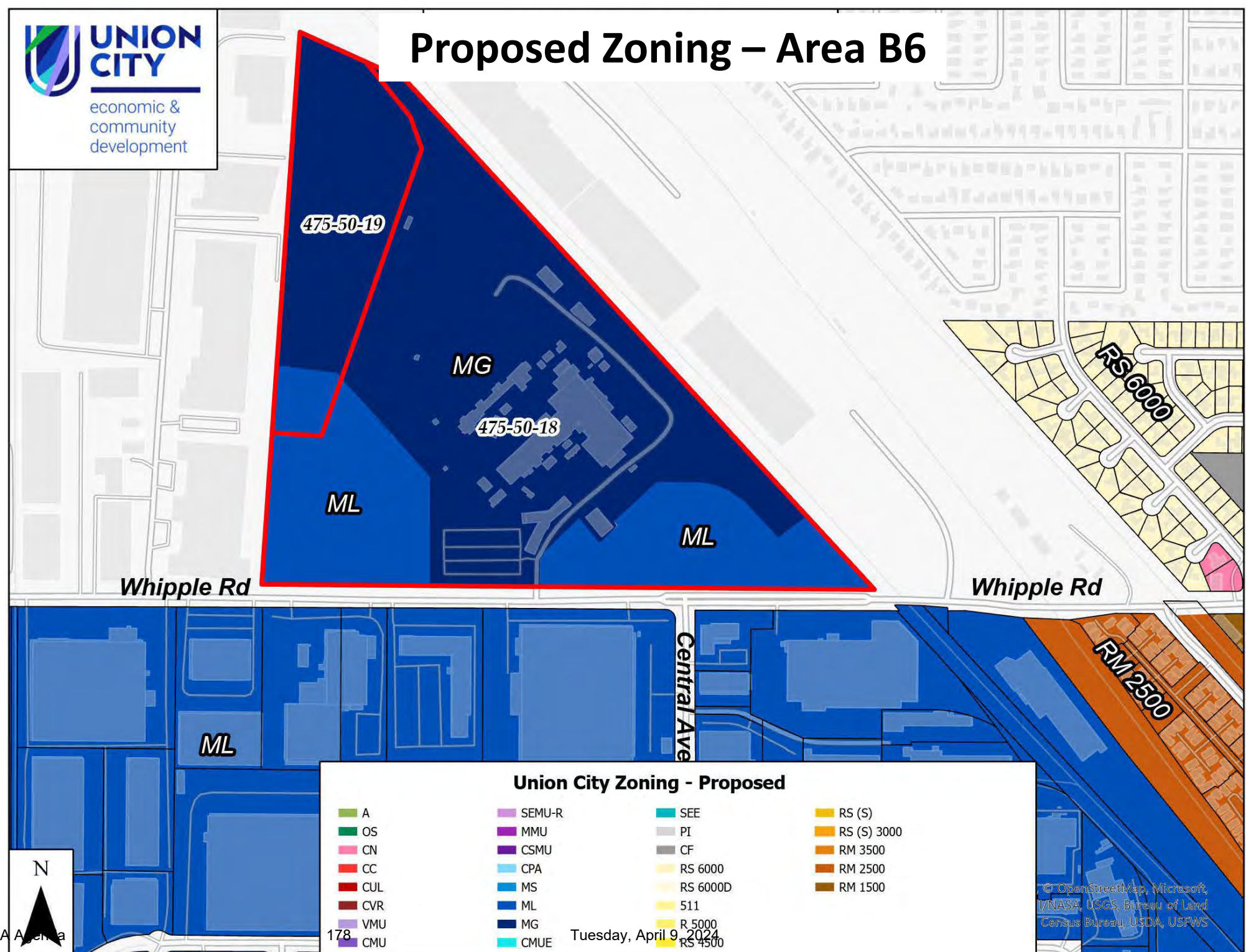
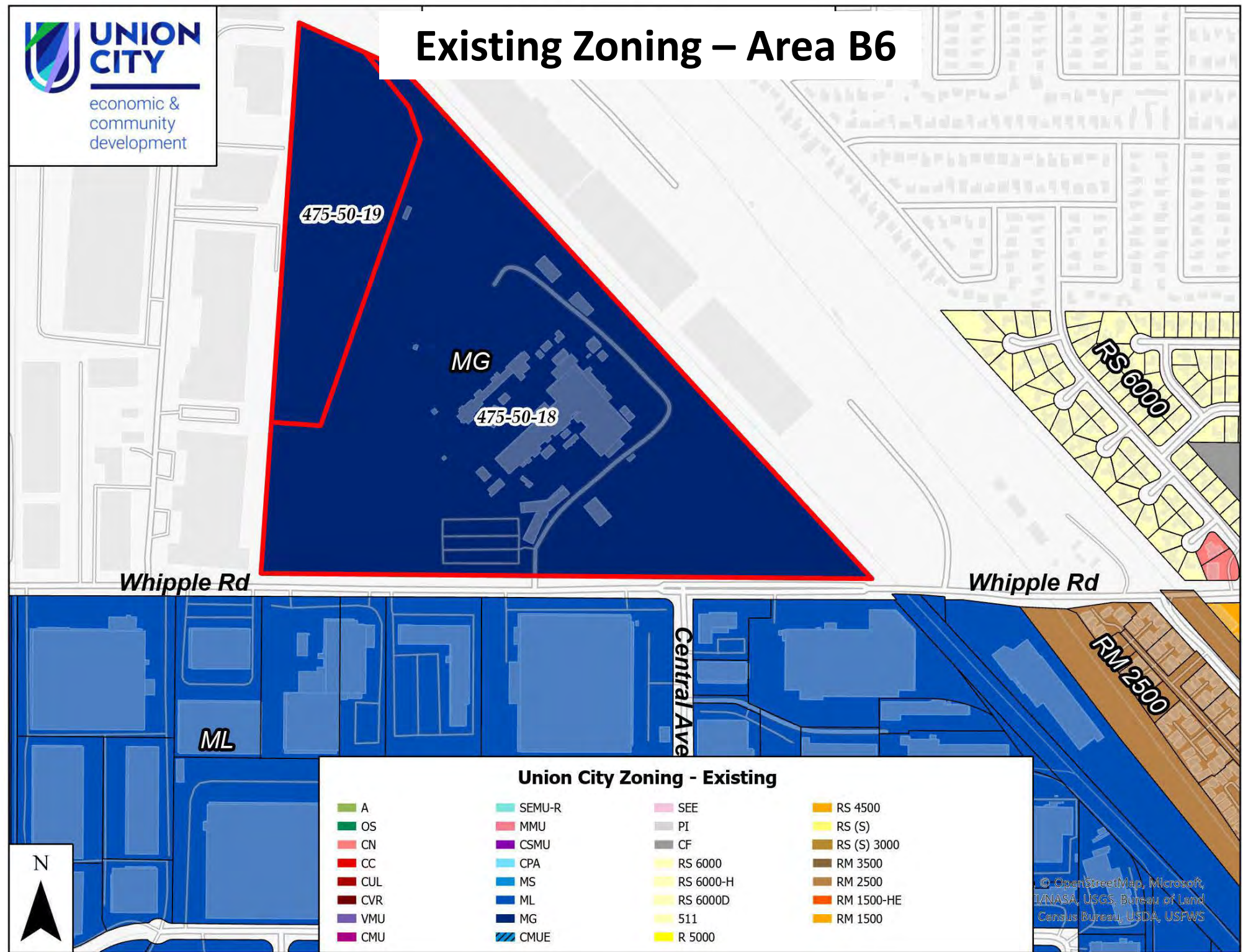


# Exhibit B: Existing and Proposed Zoning



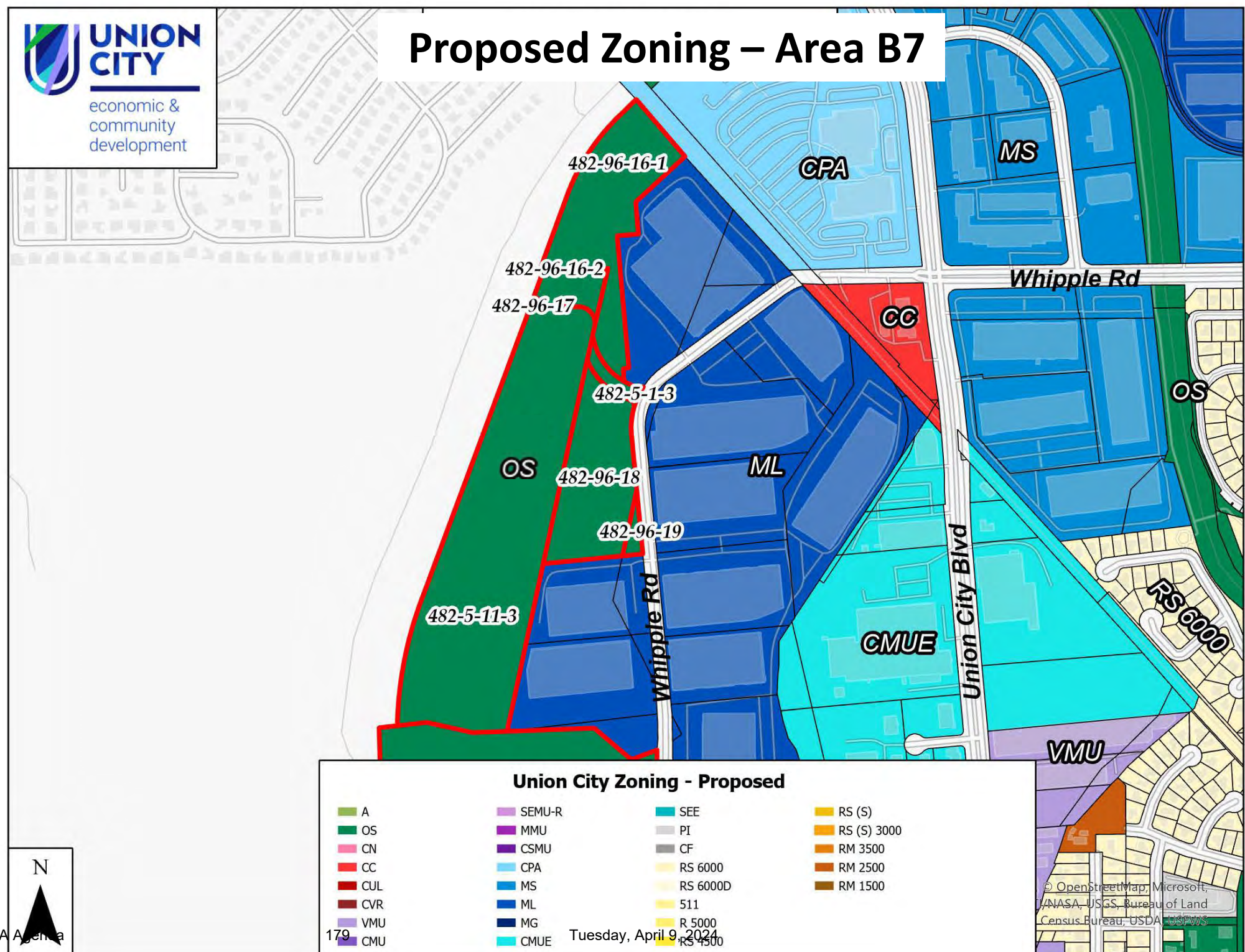
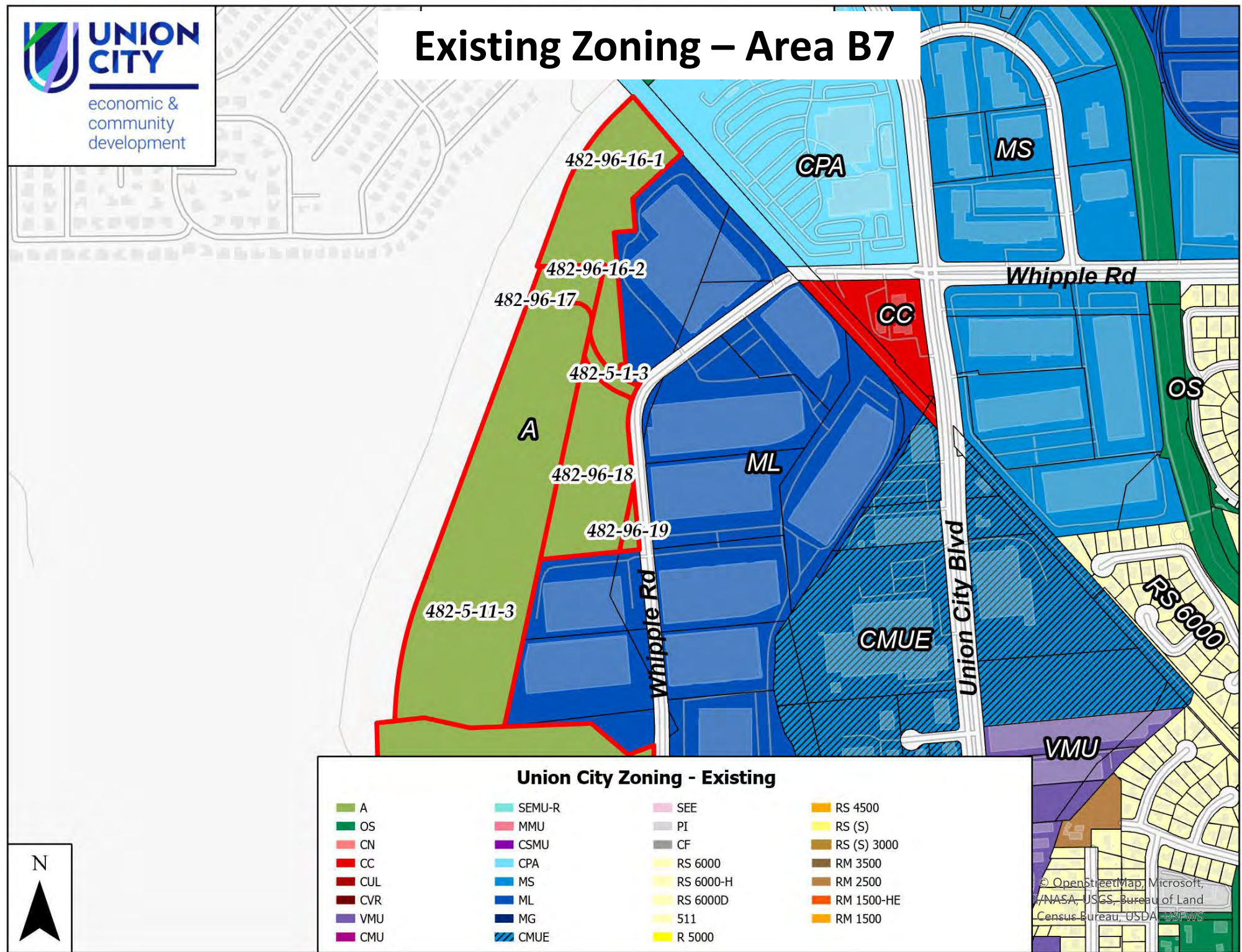


# Exhibit B: Existing and Proposed Zoning



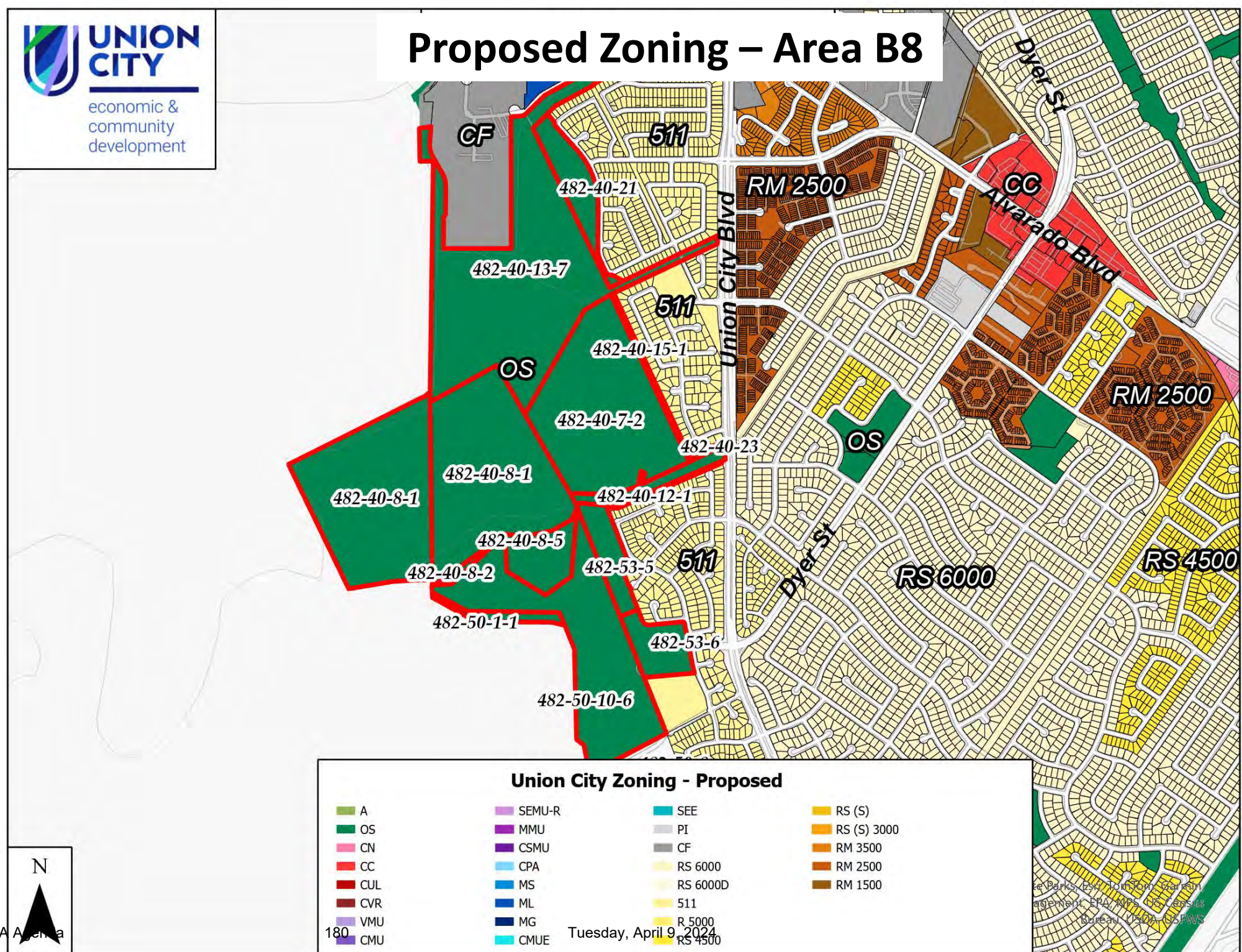
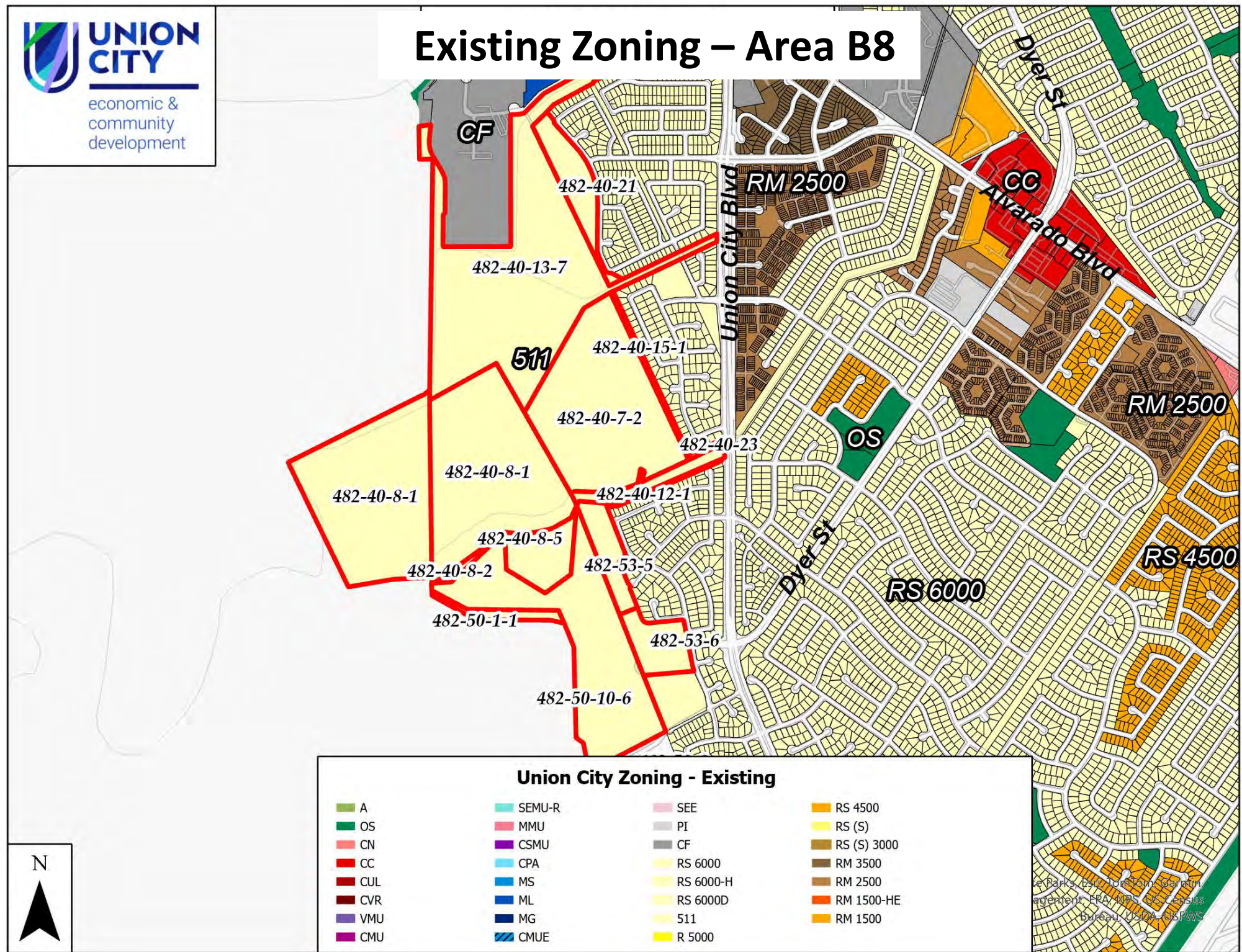


# Exhibit B: Existing and Proposed Zoning



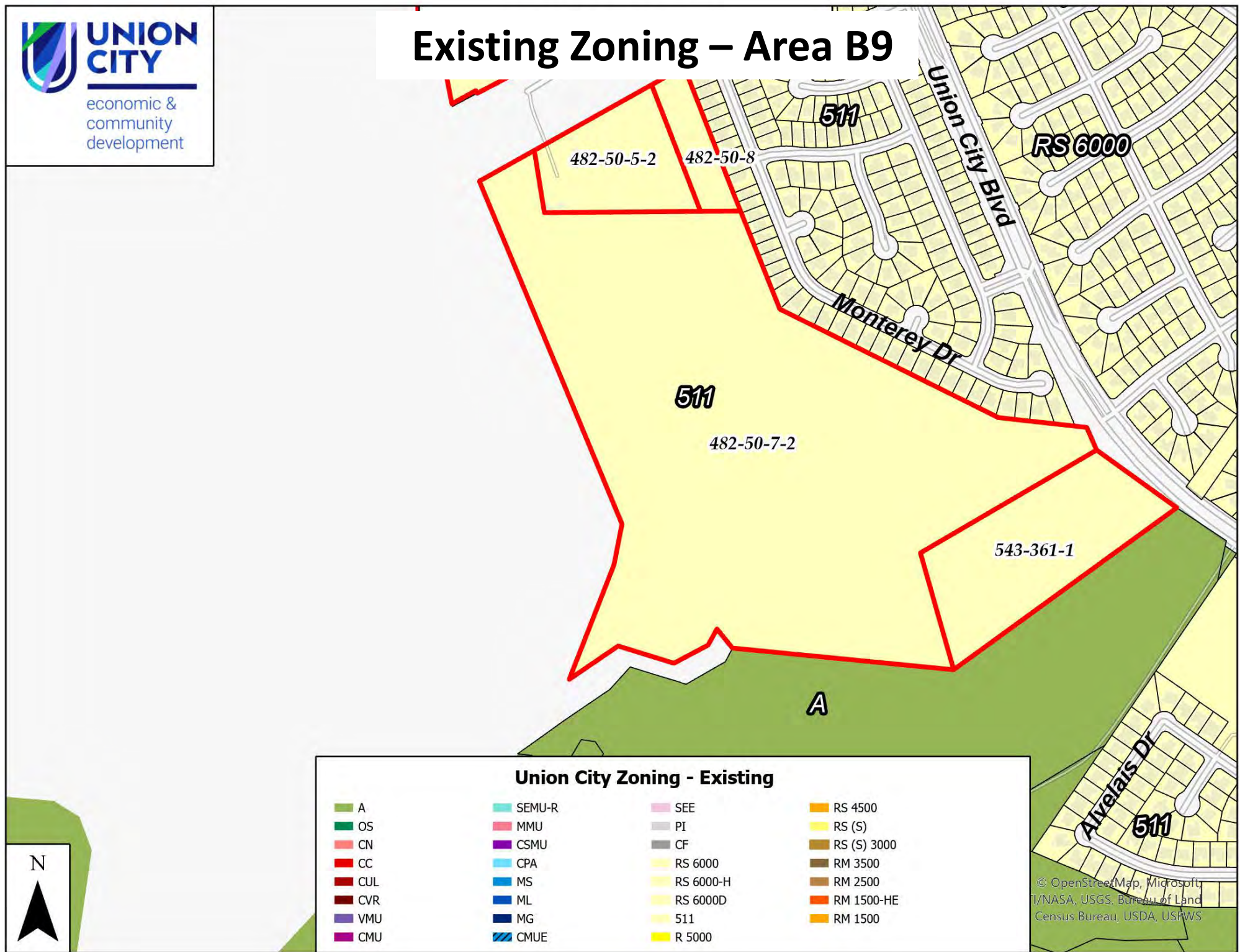


# Exhibit B: Existing and Proposed Zoning



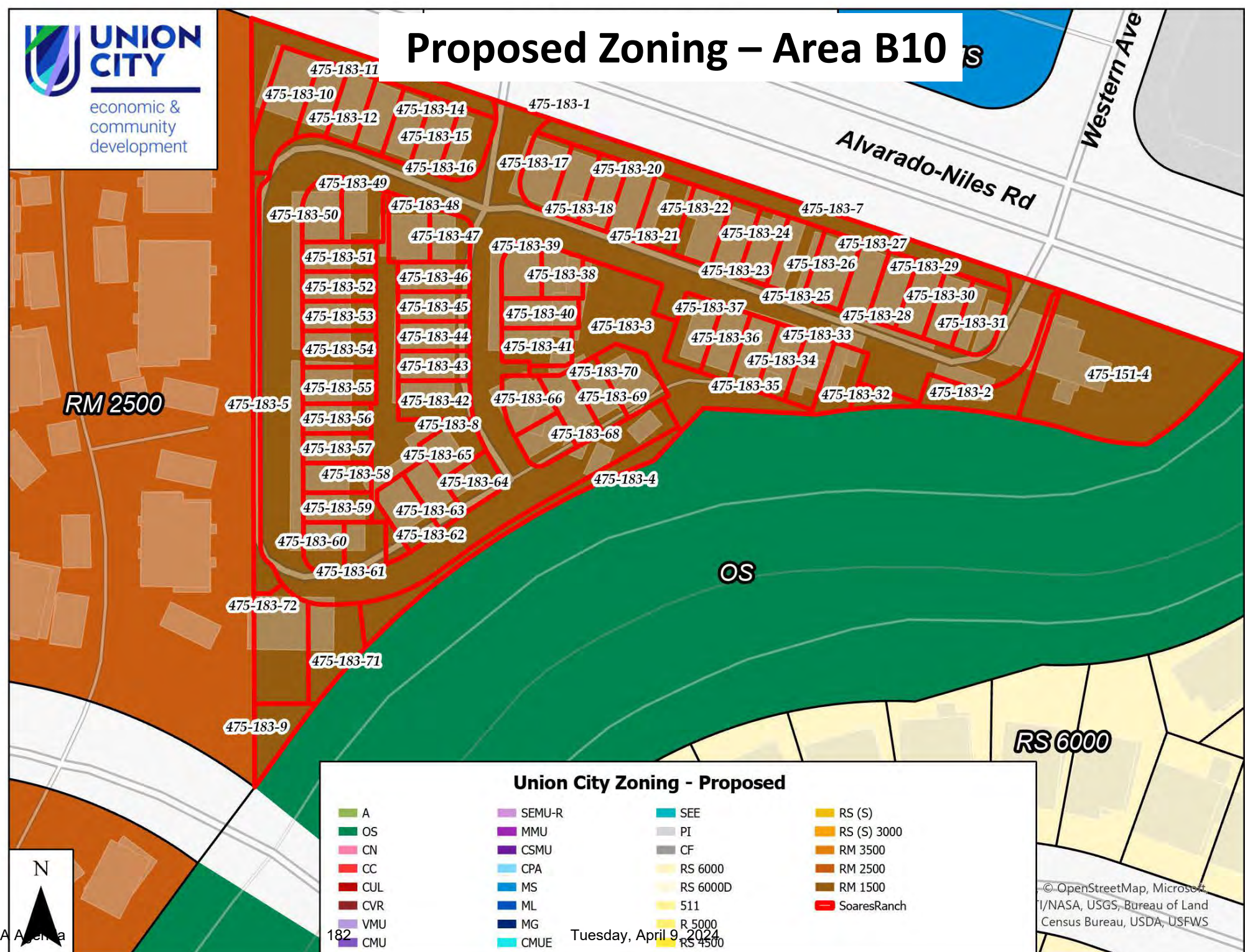
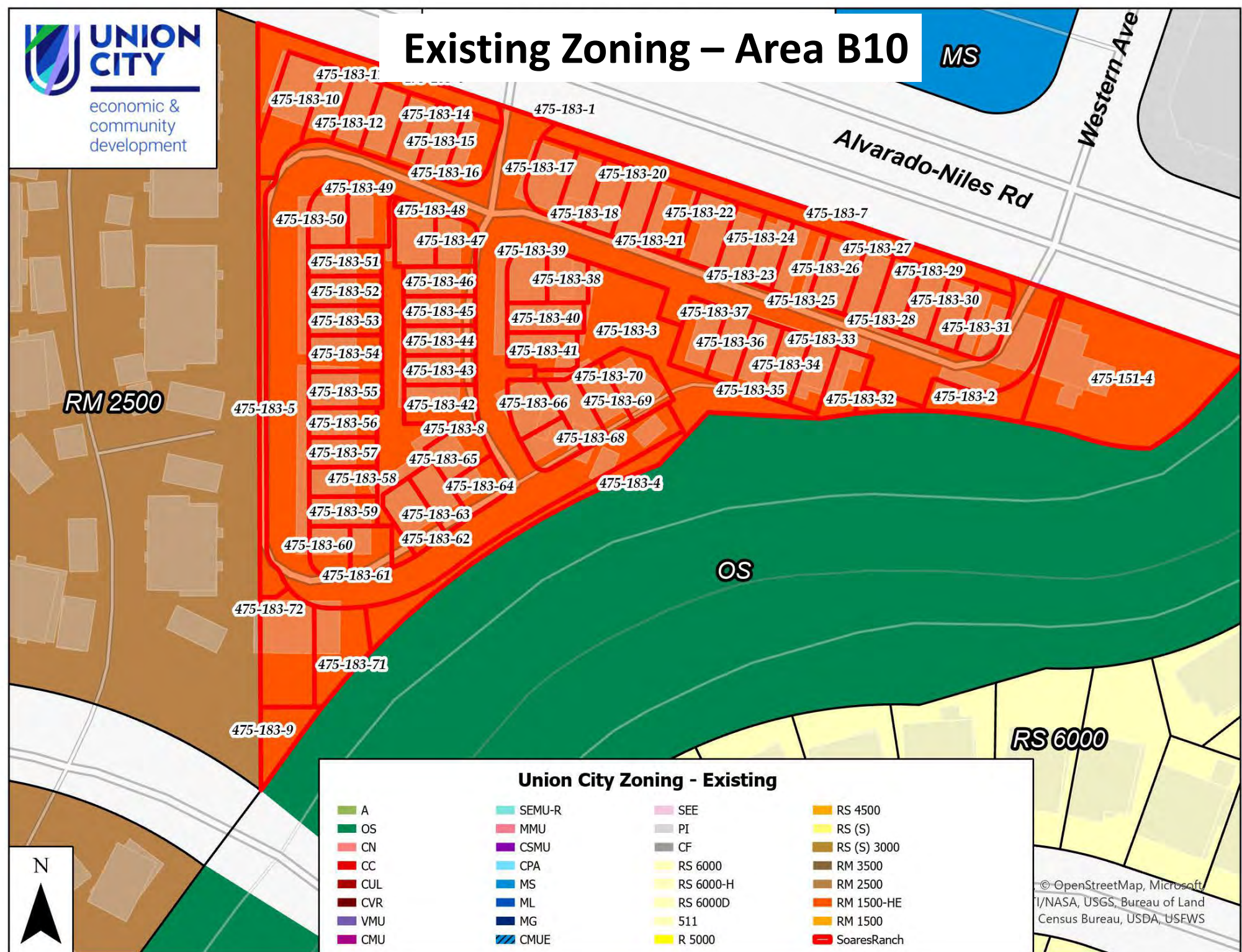


# Exhibit B: Existing and Proposed Zoning



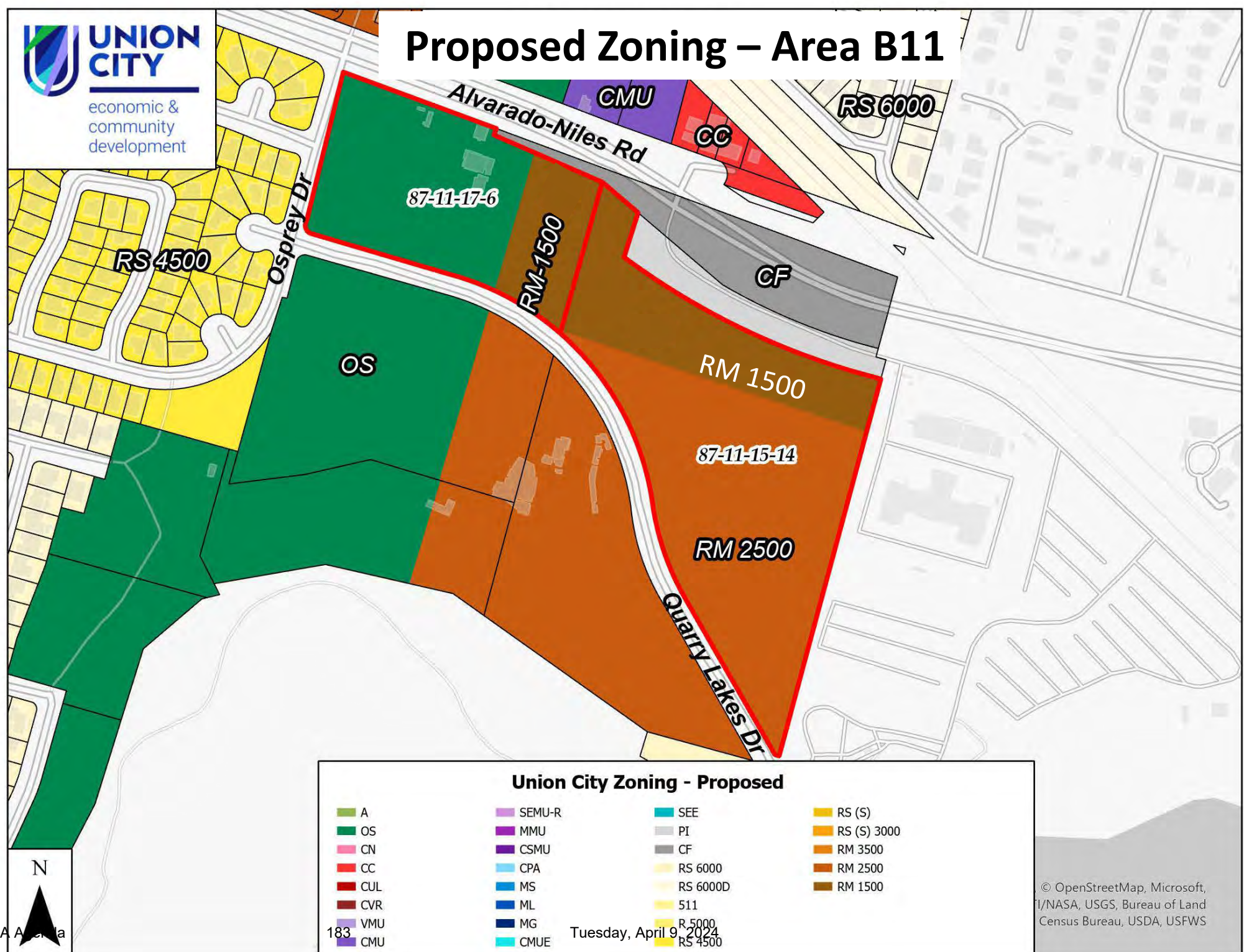
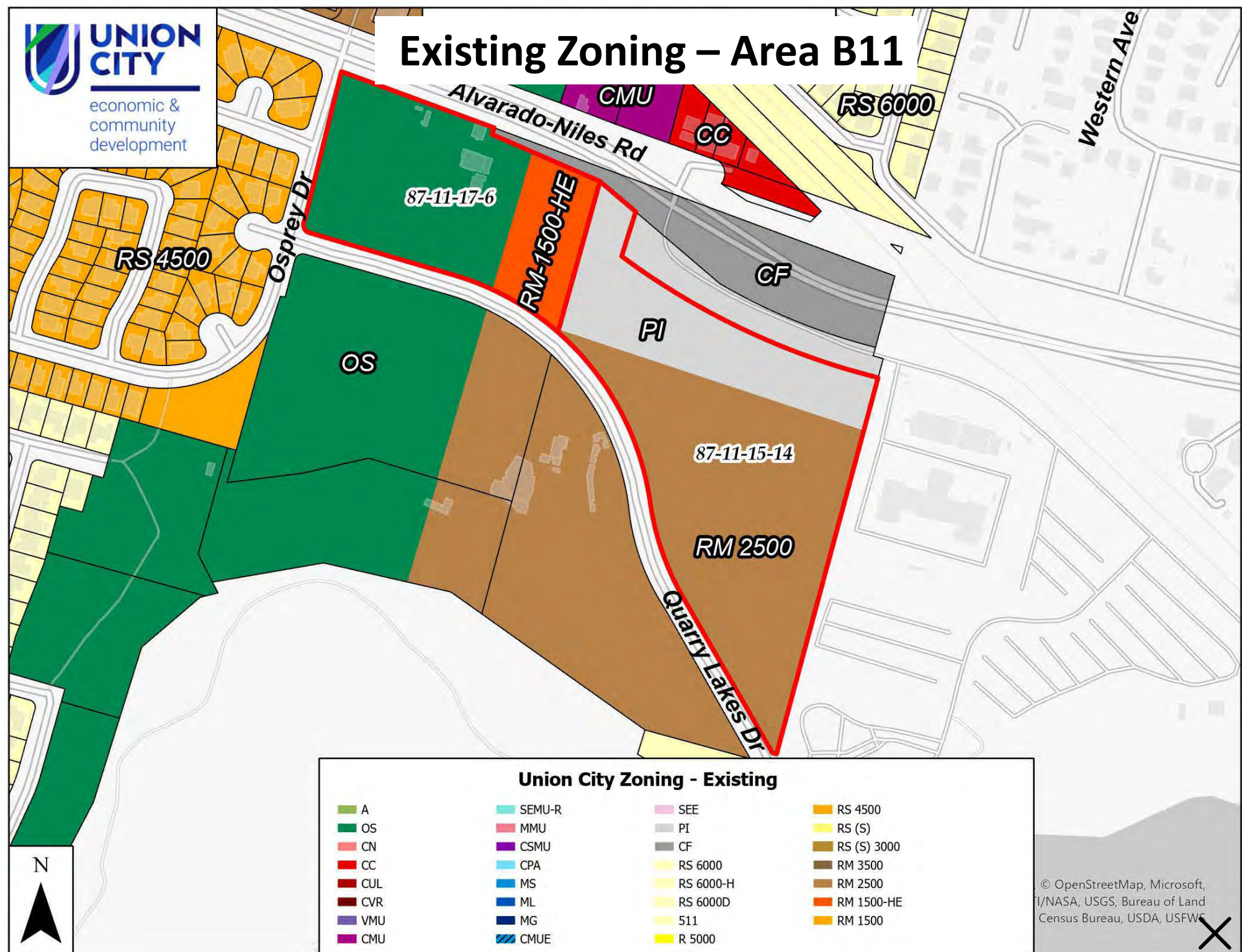


# Exhibit B: Existing and Proposed Zoning



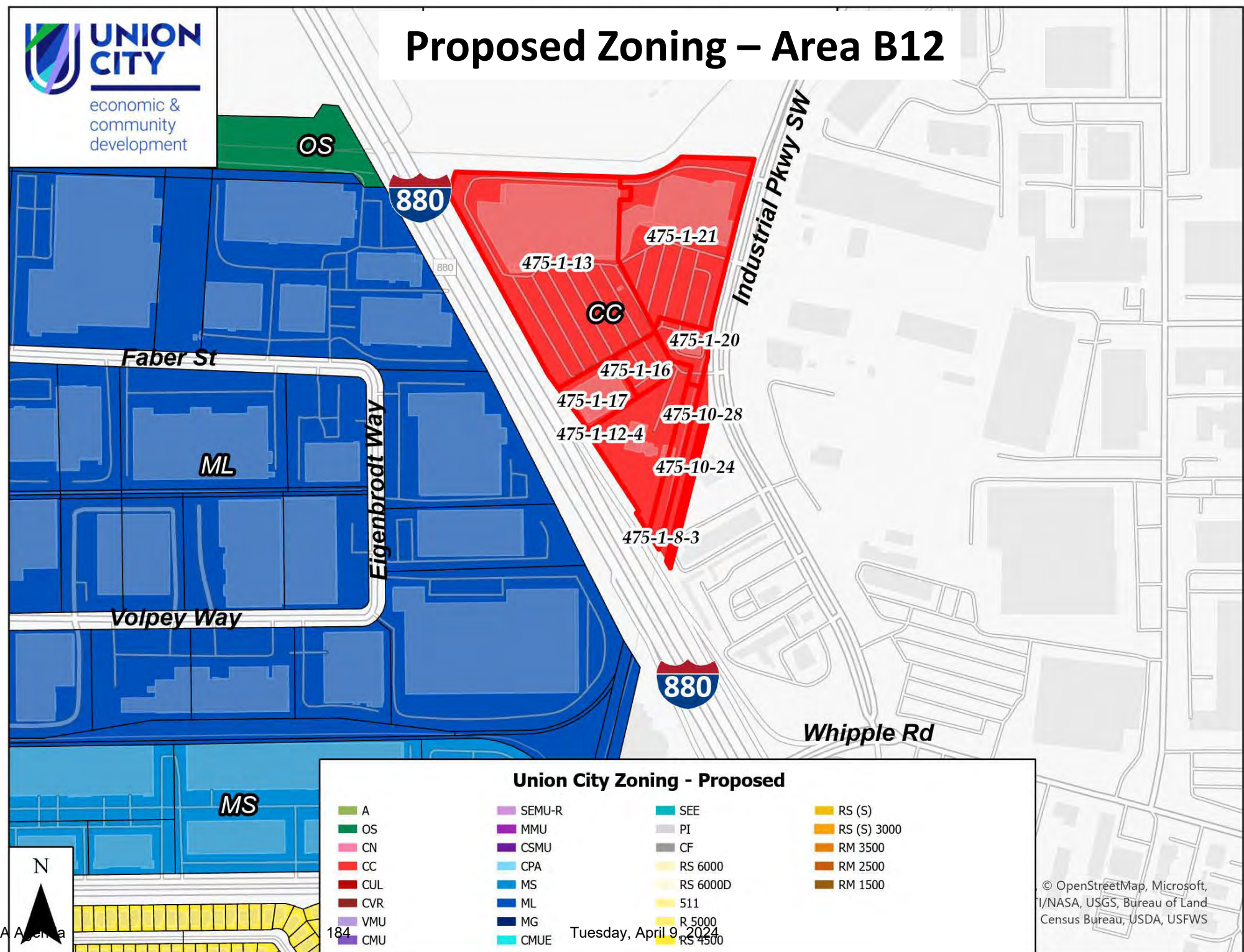
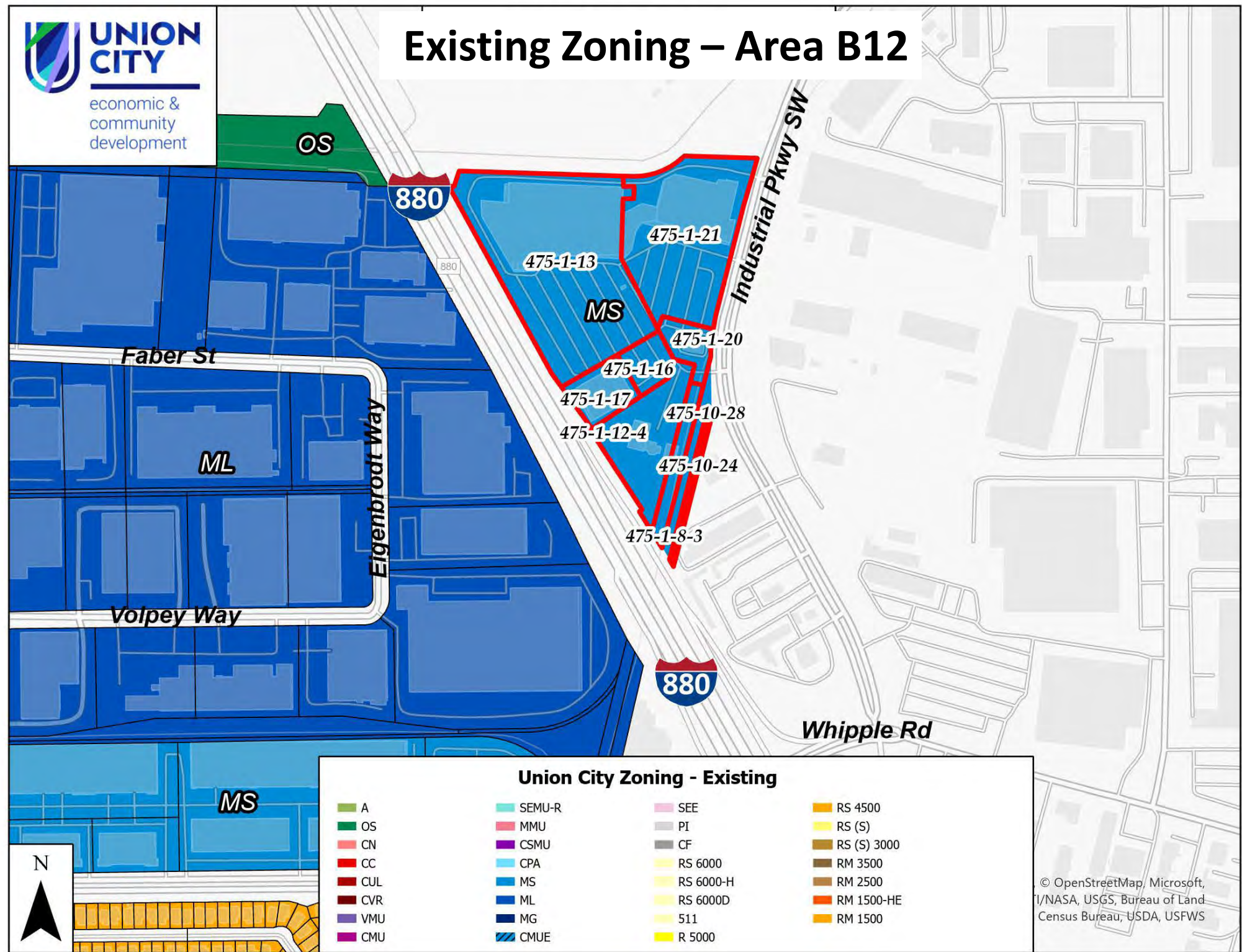


# Exhibit B: Existing and Proposed Zoning





# Exhibit B: Existing and Proposed Zoning







## Agenda Item

**DATE:** MARCH 21, 2024

**TO:** PLANNING COMMISSION

**FROM:** CARMELA CAMPBELL, ECONOMIC AND COMMUNITY DEVELOPMENT DIRECTOR

**SUBJECT:** AMENDMENTS TO THE GENERAL PLAN LAND USE DIAGRAM (AG-24-001) AND THE OFFICIAL ZONING MAP (A-24-001)

**APPLICANT:** THE CITY OF UNION CITY

**REQUEST:** The City of Union City is proposing amendments to the General Plan Land Use Diagram and Official Zoning Map

**LOCATION:** Multiple locations

### ENVIRONMENTAL ASSESSMENT:

An Addendum to the 2040 General Plan Environmental Impact Report (EIR) (State Clearinghouse No. 2018102057) has been prepared consistent with Section 15164 of the California Environmental Quality Act (CEQA) Guidelines, and is included in this staff report as Exhibit C. The Addendum has demonstrated that the project would not result in any new significant impacts, nor would it substantially increase the severity of previously identified significant impacts.



The City of Union City is proposing to amend the General Plan Land Use Diagram (AG-24-001) and Official Zoning Map (A-24-001) for multiple sites, both for consistency with the 2040 General Plan and to better align with existing parcel lines, building locations, and historic and current land uses. Only map amendments are proposed; there are no text amendments proposed for either the General Plan or the Zoning Ordinance. Diagrams showing the proposed amendments are attached to this staff report and labeled Exhibit A and Exhibit B. For more information regarding the land use and zoning designations included in this report and the exhibits, see the General Plan 2040 Land Use Chapter ([https://www.unioncity.org/DocumentCenter/View/10972/2040-GP---Chapter-3-Land-Use\\_102623-update](https://www.unioncity.org/DocumentCenter/View/10972/2040-GP---Chapter-3-Land-Use_102623-update)) and Title 18, Zoning, of the Union City Municipal Code (<https://ecode360.com/43313269#43313269>).

## **I. BACKGROUND**

### **Project Overview**

The proposed amendments can be broken down into two categories. The first category includes amendments to a site's land use designation shown on the 2040 General Plan (2040 GP) Land Use Diagram, as well as the zoning designation shown on the Official Union City Zoning Map. Exhibits labeled Area A1-A4 show the general plan amendments and the Exhibits labeled Area B1-B4 shows the related zoning map amendments.

These “clean-up” actions are proposed to better align zoning and general plan boundaries with existing property lines, with existing building locations, and/or with historic and current uses of the property. In addition, there is one parcel (APN 482-27-7-15) that is incorrectly identified as Residential (10-17 du/ac) in the General Plan and Light Industrial (ML) on the Zoning Map but was intended to be Open Space on both the General Plan Land Use Diagram and Zoning Map, since the property is used as a drainage canal. The Official Zoning Map legend is also proposed to be updated for clarity as detailed in Exhibit B.

The second category includes parcels proposed to be rezoned for consistency with the 2040 GP adopted December 10, 2019. These changes are shown in Exhibits labeled Areas B5-B12. State law requires that the Official Zoning Map be consistent with the adopted General Plan Land Use Diagram.

## II. DISCUSSION

### General Plan Land Use Diagram Amendments

Amendments are proposed to update the general plan and zoning designations shown on the 2040 GP Land Use Diagram and the Official Zoning Map for the parcels identified in Table 1. Table 1 also includes the reason for the proposed update. As detailed above, Exhibit labeled Areas A1-A4 show the general plan amendments and Exhibits labeled Areas B1-B4 show the corresponding zoning map amendments.

**Table 1. Proposed General Plan Land Use Diagram Changes**

Exhibit A Map No.	APN	Existing GP Designation	Proposed GP Designation	Rationale for Change
A1	483-15-68	Residential (10-17 du/ac) (R 10-17)	Private Institutional (PI)	Align with current and historic property use
	483-15-69	R 10-17	PI	Align with current and historic property use
A2	482-27-7-15	R 10-17	Open Space (OS)	Align with use as a drainage canal
A3	475-150-8-3	Special Industrial (MS) & Light Industrial (ML)	MS & ML	Ensure designation does not split a building
	475-150-9-1	MS & ML	MS & ML	Ensure designation does not split a building
	475-111-60	MS & ML	MS & ML	Ensure designation does not split a building
	475-111-59	MS & ML	MS & ML	Ensure designation does not split a building
	475-111-15-11	MS & ML	MS & ML	Ensure designation does not split a building
	475-111-41	MS & ML	ML	Ensure designation follows property line
	475-111-42	MS & ML	MS	Ensure designation follows property line
	475-111-61	ML	Civic Facility (CF)	Align with current and historic property use
	475-111-43	MS & ML	CF	Align with current and historic property use
	475-100-4	MS & ML	MS & ML	Ensure designation does not split a building

	475-100-38	MS & ML	MS & ML	Ensure designation does not split a building
	475-111-11	MS & ML	MS	Ensure designation follows property line
	475-111-10	MS & ML	MS	Ensure designation follows property line
	475-100-36	MS & ML	MS	Ensure designation follows property line
A4	475-111-14	MS & ML	MS & ML	Align designation boundary with adjacent property
	475-111-11	MS & ML	MS	Ensure designation follows property line
	475-111-10	MS & ML	MS	Ensure designation follows property line
	475-100-36	MS & ML	MS	Ensure designation follows property line
	475-100-4	MS & ML	MS & ML	Ensure designation does not split a building
	475-100-38	MS & ML	MS & ML	Align designation boundary with adjacent property

See below for some additional detail regarding the proposed general plan and zoning amendments. The corresponding area number from the exhibits is shown for ease of review.

- Dowe Business Park, Central Plaza, Provender Business Park, and Tarlton Properties, Alvarado-Niles Road (Area A3, A4, B3 and B4)** Along portions of Alvarado-Niles Road generally between Western Avenue and Hop Ranch Road, the first 90 feet of frontage on the easterly side of Alvarado-Niles Road has a general plan and zoning designation of Special Industrial (MS) and the remaining portion of the property has a general plan and zoning designation of Light Industrial (ML). This configuration results in the boundary between the two designations going through sites and /or buildings and staff having to make an interpretation on which designations to apply. Staff is proposing to relocate the boundary lines of the two designations, so they better align with property lines and reflect the designations historically applied to the property by Planning



Division staff. The update will also facilitate the expansion of a long-term Union City business, Elite Badminton Facility, located in the Central Plaza development.

- **US Post Office, 33168-31170 Alvarado-Niles Road (Area A3, B3).** The Post Office site is proposed to be redesignated from MS/ML to City Facility (CF) consistent with all public buildings/sites within Union City.
- **Masjid Al-Huda, 3880 Smith Street (Area A1 and B1).** The site has split designations, which correspond to underlying parcel lines. A portion of the site, which accommodates parking and some support buildings, has a general plan and zoning designation of RM 2500, which permits multi-family residential development. The remainder of the site has a Private Institutional (PI) general plan and zoning designation. The City is proposing to update the designation from RM 2500 to PI to better align the existing use with zoning/general plan designations for the remainder of the site. The use is considering some upgrades to their site and this update will remove the requirements for enhanced setbacks associated with the current residential zoning designation.

### **Zoning Map Amendments**

As part of implementation of the 2040 GP, the City is proposing several amendments to the Official Zoning Map. Aside from the proposed zoning map amendments discussed in the section above, the majority of the zoning map amendments are proposed to ensure a subject property's zoning designation is consistent with its' general plan designation, which is required by State law. See Exhibit B showing all parcels where a change to the Official Zoning Map is proposed. Table 2 below identifies each of these parcels, along with a rationale for each change proposed. See below for some additional detail regarding some of the proposed amendments included in Table 2.

- **Monarch At Soares Ranch, Alvarado Niles Road / Madelyn Terrace (Area B10).** The site, which accommodates 63 townhomes and related common areas, was included in the City's previous Housing Element, which covered the period from 2015-2023, as a future site for housing. Consistent with State law and the prior Housing Element, the site was rezoned from RM 1500, which is a multi-family residential designation to RM 1500-HE. The addition of "HE" to the site's base zoning designation of RM 1500 was to make it clear that the site, which was vacant at the time, had to be developed at a specific density, which it was. Now that the

City has adopted an updated Housing Element and the project site has been developed, staff is proposing to rezone the property back to its prior designation of RM 1500.

- **511 Open Space (Area B8 and B9).** The term “511” applies to a 511-acre (+/-) neighborhood generally bounded by Union City Boulevard to the east, Remora Drive to the north and Union City’s westerly and southerly boundary lines. The “511 Specific Plan” was adopted in 1987 and informed how the area was built out. You can view the 511 Specific Plan on-line at <https://www.unioncity.org/603/Long-Range-Planning-Projects>. There are several properties, which were set aside as permanent open space / habitat and currently used as such. The City is proposing to amend the zoning designations for these properties from “511” to “Open Space (OS)” consistent with the current General Plan designation of Open Space. This change will have no impact on how the properties are currently used. This change removes any ambiguity that the properties are available for residential development which they are not. In addition, this area accommodates the closed Turk Island landfill. A similar update is proposed to update the zoning designation for this site from 511 to OS.
- **Calaveras Landing (Area B12).** Zoning map updates are proposed to the Calaveras Landing shopping center located along Industrial Parkway SW. The shopping center accommodates a Food Max, Home Depot, Advance Auto Parts, Taco Bell, and several in-line retail stores and restaurants. The site has a zoning designation of Special Industrial (MS). The shopping center obtained a Use Permit in 1990 to allow for commercial uses, which substantially expanded what could be established under the site’s MS zoning designation. As part of the GP 2040 update, the site’s general plan designation of MS was updated to “Regional Retail Commercial” along with the Union Landing Shopping Center. This designation is generally applied to commercial shopping centers serving a citywide or regional market located on large sites along freeways. To better align the zoning with the historic and current uses of the property, staff is proposing to update the zoning designation to Community Commercial (CC), which allows for a variety of commercial uses. This designation is applied to the majority of our major

shopping areas. This will also remove the requirement for new food uses to obtain a Use Permit, which is currently a requirement in the MS zoning district.

**Table 2. Proposed Zoning Map Changes**

Exhibit B Map No.	APN	Existing Zoning District	Proposed Zoning District	Rationale for Change
B1	483-15-68	Multifamily Residential (RM 2500)	Private Institutional (PI)	Align with current and historic property use
	483-15-69	RM 2500	PI	Align with current and historic property use
B2	482-20-19-5	Agricultural (A)	Open Space (OS)	Align with 2040 GP
	482-20-9	Light Industrial (ML)	OS	Align with 2040 GP
	482-27-7-15	ML	OS	Align with use as a drainage canal
B3	475-150-8-3	Special Industrial (MS) & ML	MS & ML	Align with adjacent property boundary
	475-150-9-1	MS & ML	MS & ML	Ensure designation does not split a building
	475-111-60	MS & ML	MS & ML	Ensure designation does not split a building
	475-111-59	MS & ML	MS & ML	Ensure designation does not split a building
	475-111-15-11	MS & ML	MS & ML	Ensure designation does not split a building
	475-111-41	MS & ML	ML	Ensure designation follows property line
	475-111-42	MS & ML	MS	Ensure designation follows property line
	475-111-61	ML	Civic Facility (CF)	Align with current and historic property use
	475-111-43	MS & ML	CF	Align with current and historic property use
B4	475-111-14	MS & ML	MS & ML	Align designation boundary with adjacent property
	475-111-11	MS & ML	MS	Ensure designation follows property line



	475-111-10	MS & ML	MS	Ensure designation follows property line
	475-100-36	MS & ML	MS	Ensure designation follows property line
	475-100-4	MS & ML	MS & ML	Ensure designation does not split a building
	475-100-38	MS & ML	MS & ML	Align designation boundary with adjacent property
B5	486-6-28-1	Community Commercial (CC)	Corridor Mixed Use Commercial (CMU)	Align with 2040 GP
	486-6-31	CC	CMU	Align with 2040 GP
	486-6-32	CC	CMU	Align with 2040 GP
	486-6-33	CC	CMU	Align with 2040 GP
	486-6-34	CC	CMU	Align with 2040 GP
	486-6-81-4	CC	CMU	Align with 2040 GP
	486-6-82	CC	CMU	Align with 2040 GP
	486-6-84-1	CC	CMU	Align with 2040 GP
B6	486-3-64	CC	CMU	Align with 2040 GP
	475-50-18	General Industrial (MG)	MG & ML	Align with 2040 GP
	475-50-19	MG	MG & ML	Align with 2040 GP
B7	482-96-16-1	A	OS	Align with 2040 GP
	482-96-16-2	A	OS	Align with 2040 GP
	482-96-17	A	OS	Align with 2040 GP
	482-5-1-3	A	OS	Align with 2040 GP
	482-5-11-3	A	OS	Align with 2040 GP
	482-96-18	A	OS	Align with 2040 GP
	482-96-19	A	OS	Align with 2040 GP
B8	482-40-21	511	OS	Align with 2040 GP
	482-40-13-7	511	OS	Align with 2040 GP
	482-40-15-1	511	OS	Align with 2040 GP
	482-40-7-2	511	OS	Align with 2040 GP
	482-40-8-1	511	OS	Align with 2040 GP
	482-40-23	511	OS	Align with 2040 GP
	482-40-12-1	511	OS	Align with 2040 GP
	482-40-8-5	511	OS	Align with 2040 GP
	482-40-8-2	511	OS	Align with 2040 GP
	482-53-5	511	OS	Align with 2040 GP
	482-50-1-1	511	OS	Align with 2040 GP

	482-53-6	511	OS	Align with 2040 GP
	482-50-10-6	511	OS	Align with 2040 GP
B9	482-50-5-2	511	OS	Align with 2040 GP
	482-50-8	511	OS	Align with 2040 GP
	482-50-7-2	511	OS	Align with 2040 GP
	543-361-1	511	OS	Align with 2040 GP
B10	475-151-4	Multifamily Residential (1500) – Housing Element (RM 1500-HE)	Multifamily Residential (1500)	Align with 2040 GP and Housing Element
	475-183-1	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-10	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-11	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-12	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-13	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-14	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-15	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-16	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-17	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-18	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-19	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-2	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-20	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-21	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-22	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element

	475-183-23	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-24	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-25	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-26	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-27	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-28	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-29	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-3	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-30	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-31	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-32	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-33	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-34	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-35	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-36	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-37	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-38	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-39	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-4	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-40	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-41	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element



	475-183-42	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-43	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-44	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-45	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-46	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-47	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-48	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-49	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-5	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-50	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-51	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-52	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-53	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-54	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-55	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-56	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-57	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-58	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-59	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-6	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-60	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element

	475-183-61	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-62	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-63	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-64	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-65	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-66	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-68	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-69	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-7	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-70	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-71	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-72	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-8	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
	475-183-9	RM-1500-HE	RM-1500	Align with 2040 GP and Housing Element
B11	87-11-17-6	OS & RM-1500-HE	OS & RM-1500	Align with 2040 GP
	87-11-15-14	RM-2500 & PI	RM-2500 & RM-1500	Align with 2040 GP
B12	475-1-12-4	MS	CC	Align with 2040 GP
	475-1-13	MS	CC	Align with 2040 GP
	475-1-16	MS	CC	Align with 2040 GP
	475-1-17	MS	CC	Align with 2040 GP
	475-1-20	MS	CC	Align with 2040 GP
	475-1-21	MS	CC	Align with 2040 GP
	475-1-8-3	MS	CC	Align with 2040 GP
	475-10-24	MS	CC	Align with 2040 GP
	475-10-28	MS	CC	Align with 2040 GP

## **CEQA**

An EIR was prepared as part of the 2040 General Plan and was certified in November 2019. The EIR evaluated the potential environmental impacts that would result from implementation of the 2040 General Plan. Under CEQA Guidelines Section 15164, preparation of an addendum is appropriate where a previously certified EIR has been prepared and some changes or revisions to the project are proposed, or the circumstances surrounding the project have changed, but none of the changes or revisions to the project would result in significant new or substantially more severe environmental impacts than what were previously analyzed. For the proposed amendments to the General Plan Land Use Diagram and Official Zoning Map, the City determined that an Addendum to the EIR was the appropriate document for CEQA compliance.

The City has prepared this Addendum (Exhibit C) in accordance with State CEQA Guidelines Section 15164 to evaluate whether the proposed project's environmental impacts were adequately examined in the previous environmental analysis in the General Plan EIR or whether any changes trigger supplemental or subsequent review under CEQA Guidelines Section 15162 or 15163. In regard to each environmental topic area analyzed, the Addendum establishes that no substantial changes in circumstances have occurred, nor has any new information of substantial importance been identified requiring new analysis or verification, and no new or more severe environmental impacts would occur as a result of the project beyond what was previously analyzed in the General Plan EIR.

## **Outreach Process**

All owners of properties proposed for rezoning, or a changed general plan land use designation were notified by mail of the proposed action of the City. In addition, a notice of public hearing describing the proposed City actions was placed in the Tri-City voice. To date, staff has not received any inquiries on the proposed action.

Consistent with SB 18, the City notified the list of California Native American tribes, provided by the State Native American Heritage Commission, who have the potential to be impacted by the proposed general plan amendments, an opportunity to consult with the City. Consistent with SB 18, the City provided 90 days for the tribal representative to



reach out. This period concluded on February 28 and the City did not receive any requests for consultation.

### **III. REQUIRED FINDINGS**

#### **CEQA**

The project must comply with the provisions of the California Environmental Quality Act (CEQA) (Public Resource Code Sections 21000-21189.70.10) and CEQA Guidelines (California Code of Regulations Section 15000-15387)

*An Addendum to the 2040 General Plan Final Environmental Impact Report was prepared for the project in compliance with CEQA and the CEQA Guidelines. The following apply to the Planning Commission review of the CEQA Addendum:*

- 1. The decision maker has reviewed and considered the Addendum to the 2040 General Plan Final Environmental Impact Report and finds that none of the conditions requiring preparation of a subsequent EIR or negative declaration have occurred, and that the changes that are part of the project would not result in any significant impacts not considered under the original EIR.*
- 2. The Addendum to the 2040 General Plan Final Environmental Impact Report is the appropriate CEQA document for the project and has been prepared as required by law and the document reflects the independent judgement and analysis of the of the City of Union City, which has exercised overall control and direction of its preparation.*

#### **General Plan Amendment**

Pursuant to Government Code Section 65358(a), that the proposed General Plan Amendment is in the public interest.

*The proposed amendments are in the public interest as they align zoning and general plan boundaries with existing property lines, existing building locations, and/or with historic and current uses of the property. This avoids any confusion regarding the applicable land use designation applied to the property and better reflects how the property has historically been used.*

#### **Zoning Map Amendment**

Municipal Code Section 18.64.060 requires that, when considering Zoning Text Amendments, the Planning Commission shall provide a recommendation to the City Council on the following:

1. Recommendation whether or not the application should be granted or denied, including the reasons for the recommendation;

*Staff recommends the application should be granted. The majority of the zoning map amendments are proposed to ensure a subject property's zoning designation is consistent with its' general plan designation, which is required by State law. The proposed zoning map amendments associated with general plan amendments will align zoning and general plan boundaries with existing property lines, existing building locations, and/or with historic and current uses of the property, which avoids any confusion regarding the applicable land use designation applied to the property and better reflects how the property has historically been used.*

2. The relationship of the application or proposal to the general plan and any applicable specific plans; and

*The proposed zoning map amendments will ensure consistency between the Official Zoning Map and the 2040 GP Land Use Diagram as well as the Station District Specific Plan and 511 Specific Plan.*

3. Whether the change is necessary or desirable to achieve the purposes of Title 18.

*The proposed Zoning map amendment is necessary and desirable to achieve the purpose of Title 18 because the amendment will promote orderly and beneficial development in the City.*

#### **IV. ALTERNATIVES**

1. Recommend approval of the proposed zoning map and general plan amendments to the City Council as proposed;
2. Recommend approval of the proposed zoning map and general plan amendments to the City Council with stated modifications;
3. Recommend denial of the proposed zoning map and general plan amendments to the City Council, stating reasons for denial;
4. Continue the matter for further consideration.

#### **V. RECOMMENDATION**

Staff recommends that the Planning Commission recommend approval of proposed general plan amendments (shown in Exhibit A) and zoning map amendments (shown in Exhibit B) to the City Council based on the following specific findings:

1. That the EIR Addendum is adequate, complete and in compliance with CEQA and CEQA guidelines; and
2. That the proposed amendments are in the public interest as they align zoning and general plan boundaries with existing property lines, existing building locations, and/or with historic and current uses of the property. This avoids any confusion regarding the applicable land use designation applied to the property and better reflects how the property has historically been used; and
3. That the application should be granted. The majority of the zoning map amendments are proposed to ensure a subject property's zoning designation is consistent with its' general plan designation, which is required by State law. The proposed zoning map amendments associated with general plan amendments will align zoning and general plan boundaries with existing property lines, existing building locations, and/or with historic and current uses of the property, which avoids any confusion regarding the applicable land use designation applied to the property and better reflects how the property has historically been use; and
4. That the proposed zoning map amendments will ensure consistency between the Official Zoning Map and the 2040 GP Land Use Diagram as well as the Station District Specific Plan and 511 Specific Plan; and
5. That the proposed Zoning map amendment is necessary and desirable to achieve the purpose of Title 18 because the amendment will promote orderly and beneficial development in the City.

It is further recommended that the Planning Commission adopt resolutions confirming these actions.



**Prepared by**

Carmela Campbell, ECD Director; Derek Farmer, Planning Manager; and Aaron Welch, Contract Planner

**Attachments**

Exhibit A: General Plan Amendments  
Exhibit B: Zoning Map Amendments  
Exhibit C: Addendum to the 2040 General Plan EIR

## Desk Item

**DATE:** MARCH 21, 2024  
**TO:** PLANNING COMMISSION  
**FROM:** CARMELA CAMPBELL, ECONOMIC AND COMMUNITY  
DEVELOPMENT DIRECTOR  
**SUBJECT:** CITY SPONSORED AMENDMENTS TO THE GENERAL PLAN LAND  
USE DIAGRAM (AG-24-001) AND THE OFFICIAL ZONING MAP (A-  
24-001)

Staff received questions/comments from Commissioner Lew regarding AG-24-001 and A-24-001. The following are the questions/comments received and staff's responses (*shown in italicized font*). Please note an older version of Table 1 was inadvertently included in the staff report resulting in some inconsistencies with the exhibits, which are described in more detail below.

1. Staff report, page 3, Table 1, Map No. A3 shows APN 475-15-9-1 but this parcel is not shown in Exhibit A, Map Area A3. Should the parcel number be 475-150-9-1? Please clarify and confirm the proposed designation and rationale for change are correct as shown in the staff report.

*Regarding the comment above, a number was inadvertently left out of an Assessor Parcel Number (APN) resulting in an inconsistency between the staff report and the exhibits. Exhibits for Area A3 and B3 show the correct APN of 475-150-9-1. The number included in the staff report for this APN is incorrect and will be updated in the staff report provided to the City Council.*

2. Staff report, pages 3 to 4, Table 1, APN 475-111-14 is shown in Exhibit A, Map Area A3 but not listed in Table 1 of the staff report. Please explain this omission and clarify what information should be included in the staff report for this APN.

*APN 475-111-14 was inadvertently left out of Table 1. This APN is an unused railroad spur owned by Union Pacific. Staff is proposing to update the zoning and general plan designations to better align with the adjacent property located at 33288 Central Avenue. Table 1 will be updated in the staff report provided to the City Council to add this APN and the related justification. See Figure 2 below showing the APN in its entirety and the relocated boundary between the ML and MS designations.*

3. Staff report, page 4, Table 1, the following parcels are listed as being shown on Map No. A3 but are actually shown on Map Area A4: APN 475-100-4, APN 475-100-38, APN 475-111-11, APN 475-111-10, and APN 475-100-36. Please explain these inconsistencies.

*The APNs listed in the comment above should be included in Table 1 under the heading A4. Table 1 will be updated in the staff report provided to the City Council.*

4. Staff report, page 4, Table 1 shows two parcels listed as shown on Map No. A4, but they have already been listed on Map No. A1. Please explain the duplicate listings.

*Table 1 will be updated in the staff report provided to the City Council.*

5. Table 1 in the staff report is inconsistent with Table 1 in Exhibit C, pages 2-1 through 2-3. Please clarify the needed corrections to ensure consistency between the two documents.

*Table 1 in the Addendum will be updated to reflect Table 1 in the staff report including any updates discussed in this Desk Item. Any Planning Commission motion will need to reference this update to the Addendum.*

6. Exhibit A, Map Area A2 shows an existing agriculture (A) parcel on Whipple Rd., north of Horner St. This same parcel is proposed as open space (OS) but no mention of this parcel is contained in Tables 1 and 2. In addition, the parcel designated as an existing agriculture parcel is inconsistent with the color key. Please explain the errors and omissions regarding this parcel.

*Exhibit A, Existing Designations- Area A2, shows the wrong general plan designation of Agriculture (A) for the parcel referenced in the comment above (APN 482-20-19-5). The parcel is located along the westerly side of Whipple Road between Horner Street and Bettencourt Way. Attached is an updated Exhibit A-Area A2 showing the correct general plan designation of Open Space (OS) consistent with what is shown on the bottom map entitled "Proposed Designations-Area A2". Please note that no changes are proposed to this site's general plan designation. An amendment is proposed to the site's zoning designation from A to OS for consistency with the existing general plan designation, which may have led to the error. An updated Exhibit A is attached showing the change and should be referenced in any actions regarding the project. See figure 1 below, Exhibit A, Area 2, showing the update.*

7. Staff report, page 7, Table 2, Map No. B3 shows APN 475-15-9-1 but this parcel is not shown in Exhibit B, Map Area B3. Should the parcel number be 475-150-9-1? Please clarify and confirm the proposed zoning district and rationale for change are correct as shown in the staff report.





*See staff response #1 above. The number included in Table 2 for this APN is incorrect and will be updated from 475-15-9-1 to 475-150-9-1 in the staff report provided to the City Council. The exhibit is correct.*

8. Staff report, page 7, Table 2, Map No. B4 shows APN 475-111-14, but the parcel as shown on Exhibit B, Map Area B4 is unclear. Please provide a drawing that shows this parcel in its entirety and confirm the proposed zoning and rationale for the change are correct as shown in the staff report.

*See Figure 2 below showing parcel in its entirety and the relocated boundary between the ML and MS general plan and zoning designations, which are part of the proposed amendments. Table 2 of the staff report provided to City Council will be updated to reflect that the change is proposed to better align with the proposed general plan and zoning designations of the adjacent parcel.*

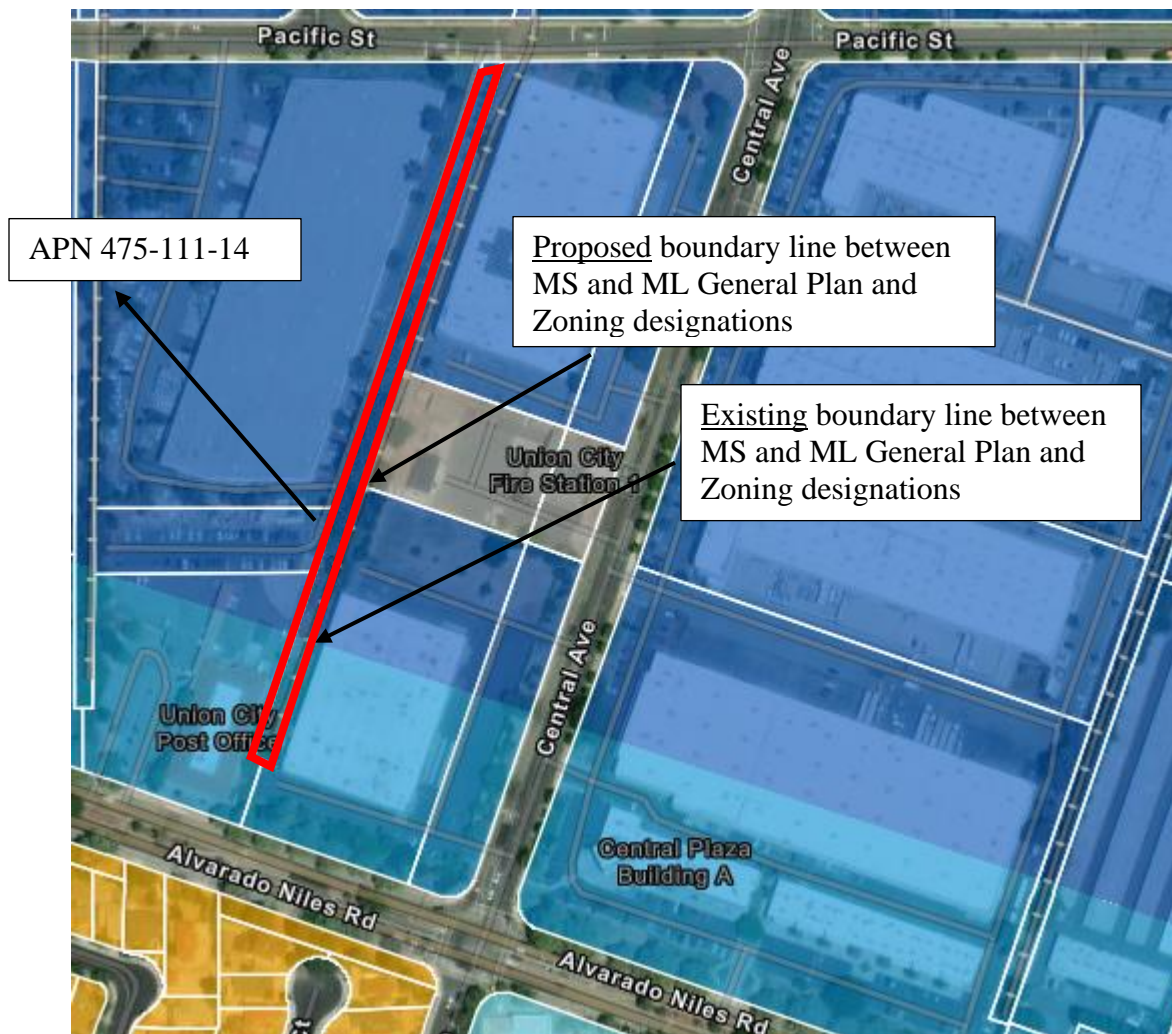


Figure 2

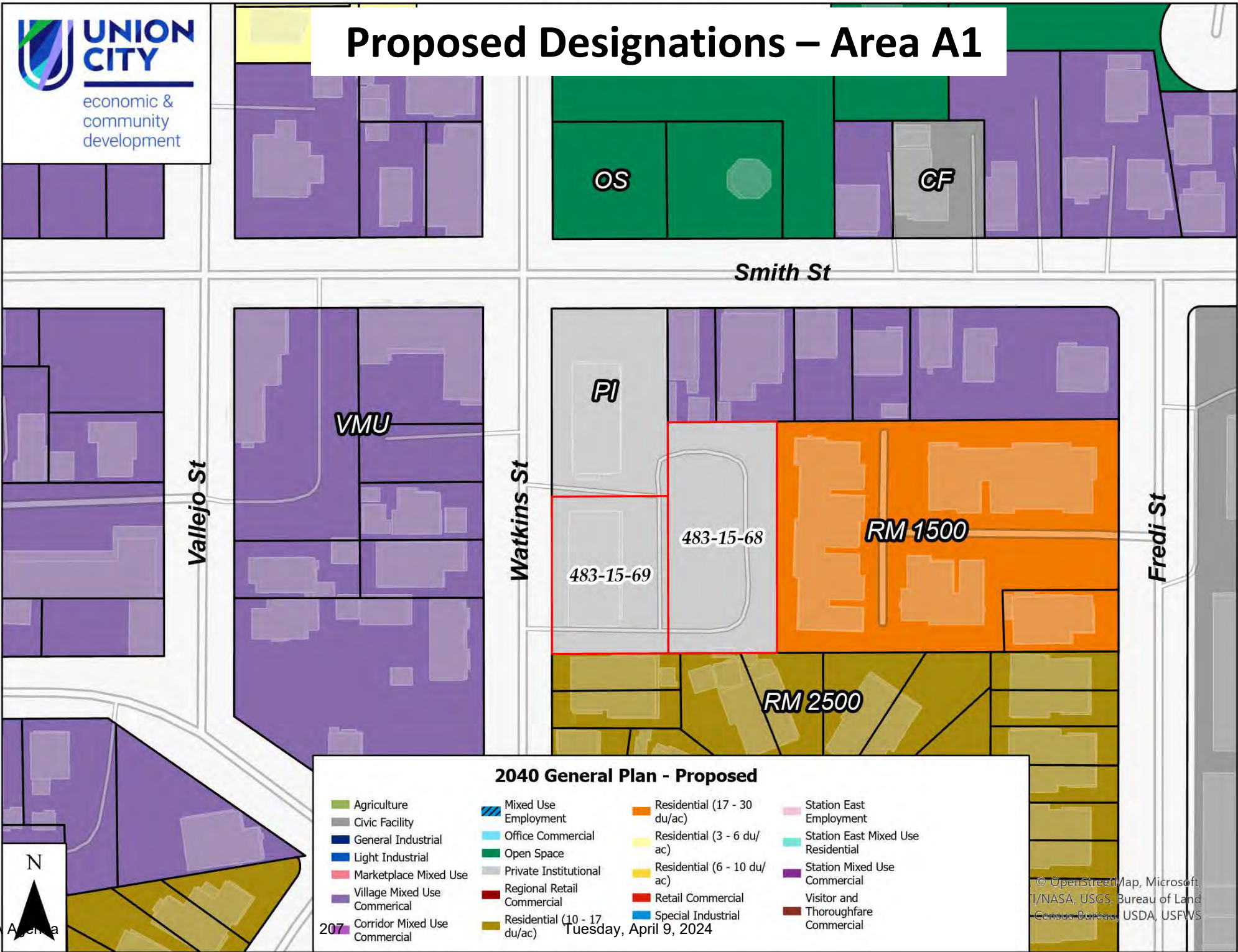
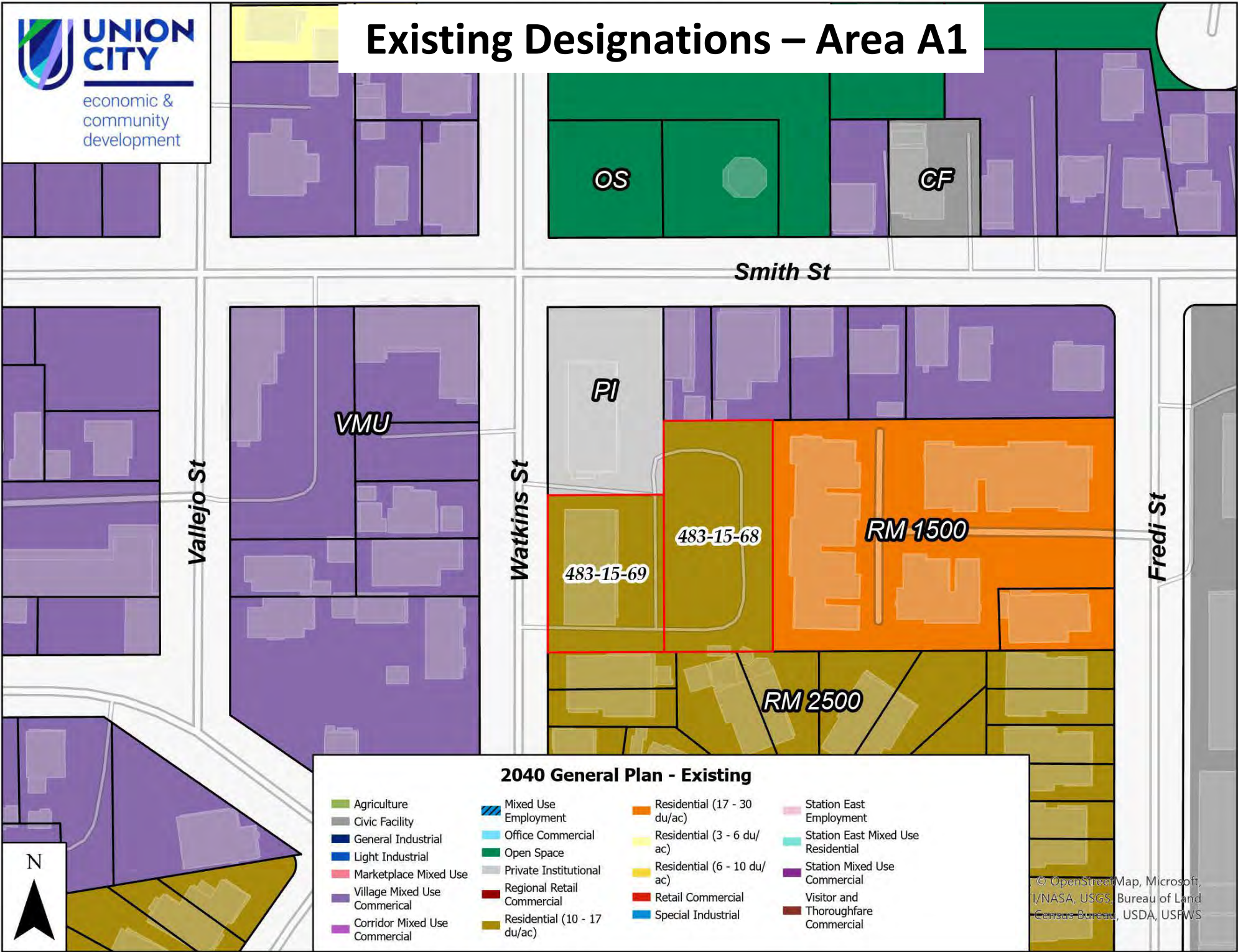
9. Staff report, page 8, Table 2, Map No. B8 shows APN 482-40-8-1 listed once but Exhibit B, Map Area B8 shows two parcels with this number. Please confirm there are two parcels with the same parcel number and they are correctly shown as one parcel in the staff report.

*The map shows APN 482-40-8-1 incorrectly split into two parcels. This is an issue with the City's Geographic Information Systems (GIS) underlying parcel layer and will need to be updated in the system by the City's third-party vendor. For purposes of the proposed amendments, the zoning designation update from 511 to OS will apply to both portions of APN 482-40-8-1 as detailed in the exhibit.*

**Attachment:** Updated Exhibit A showing correction to Area A2 Diagram

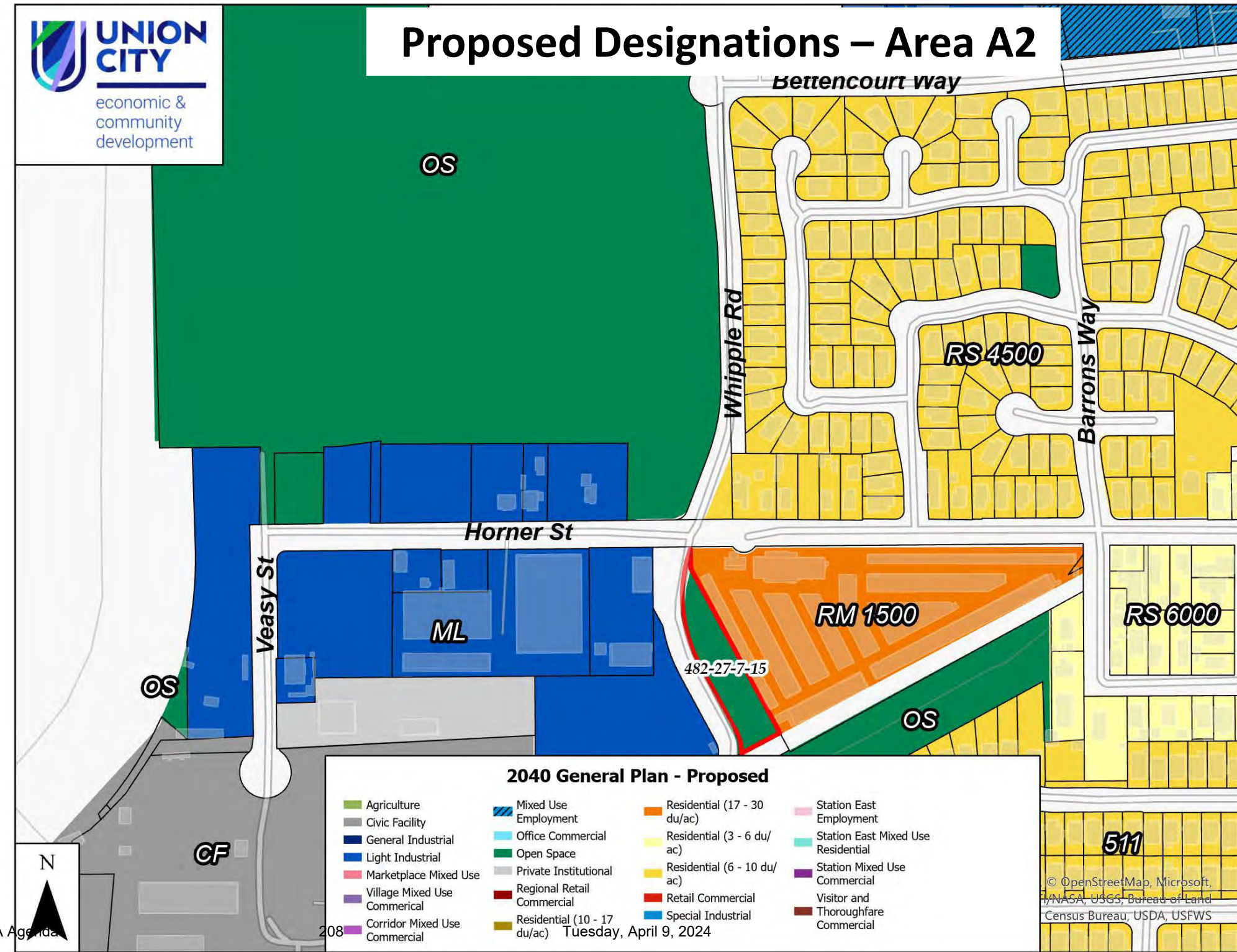
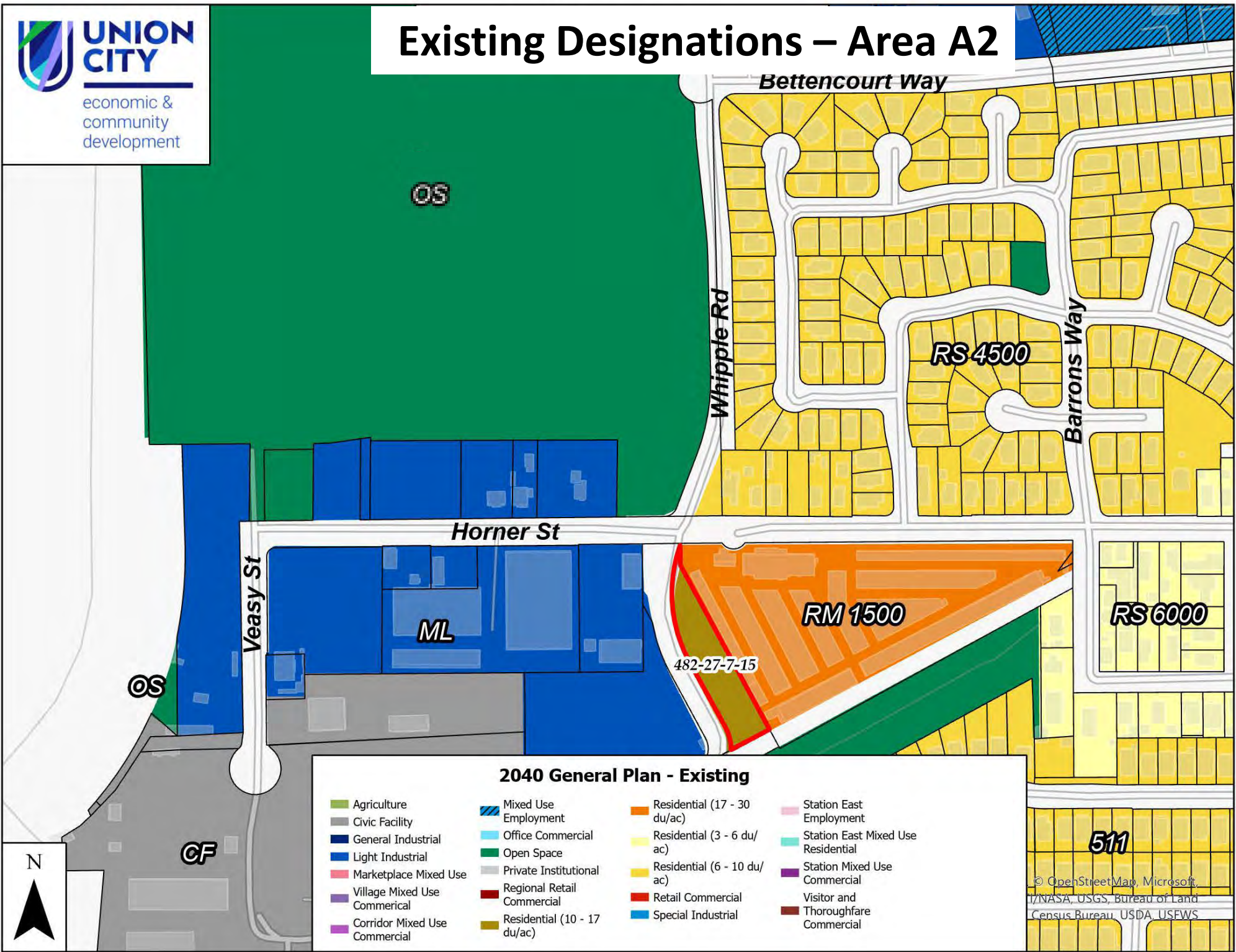


# Exhibit A: Existing and Proposed General Plan Designations



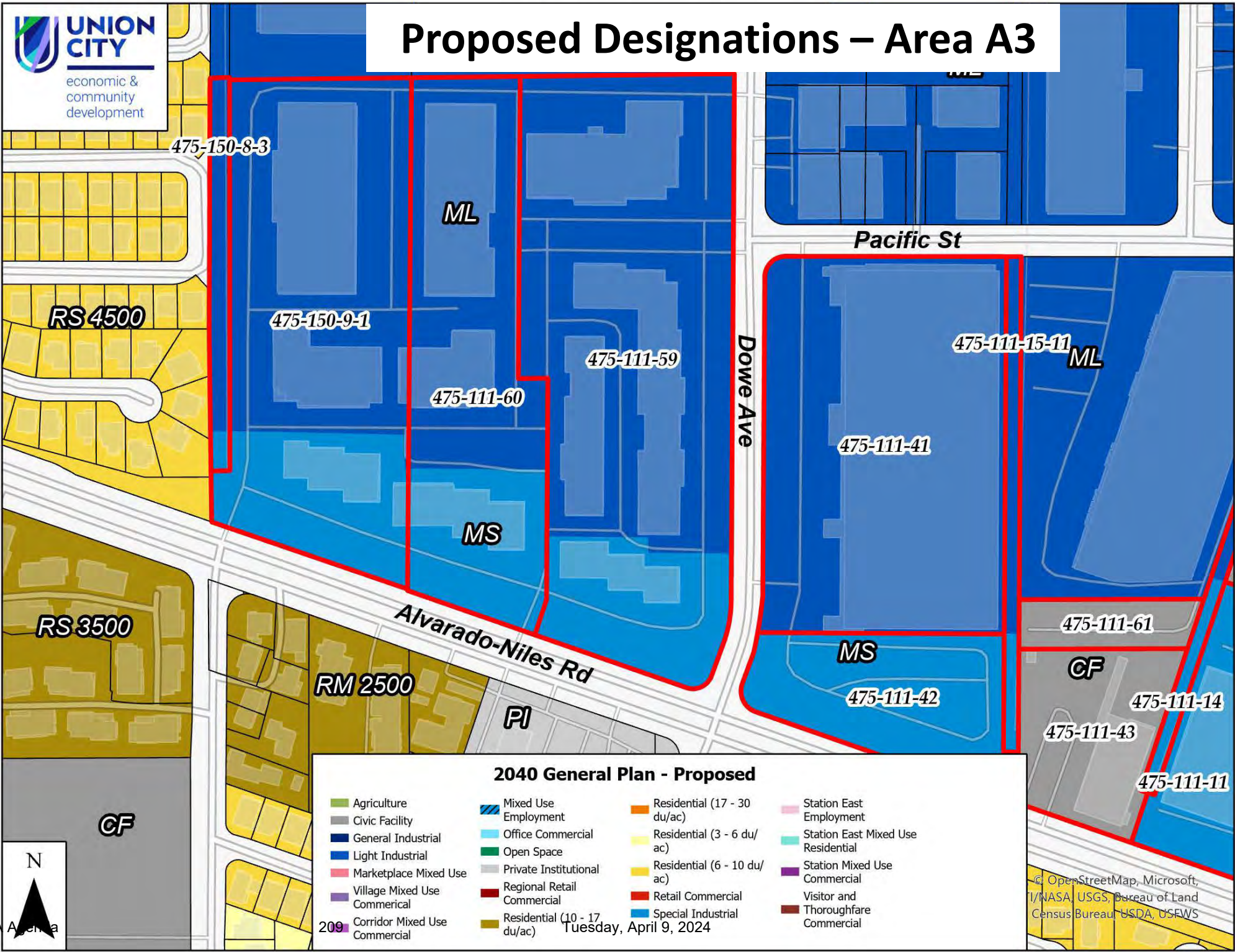
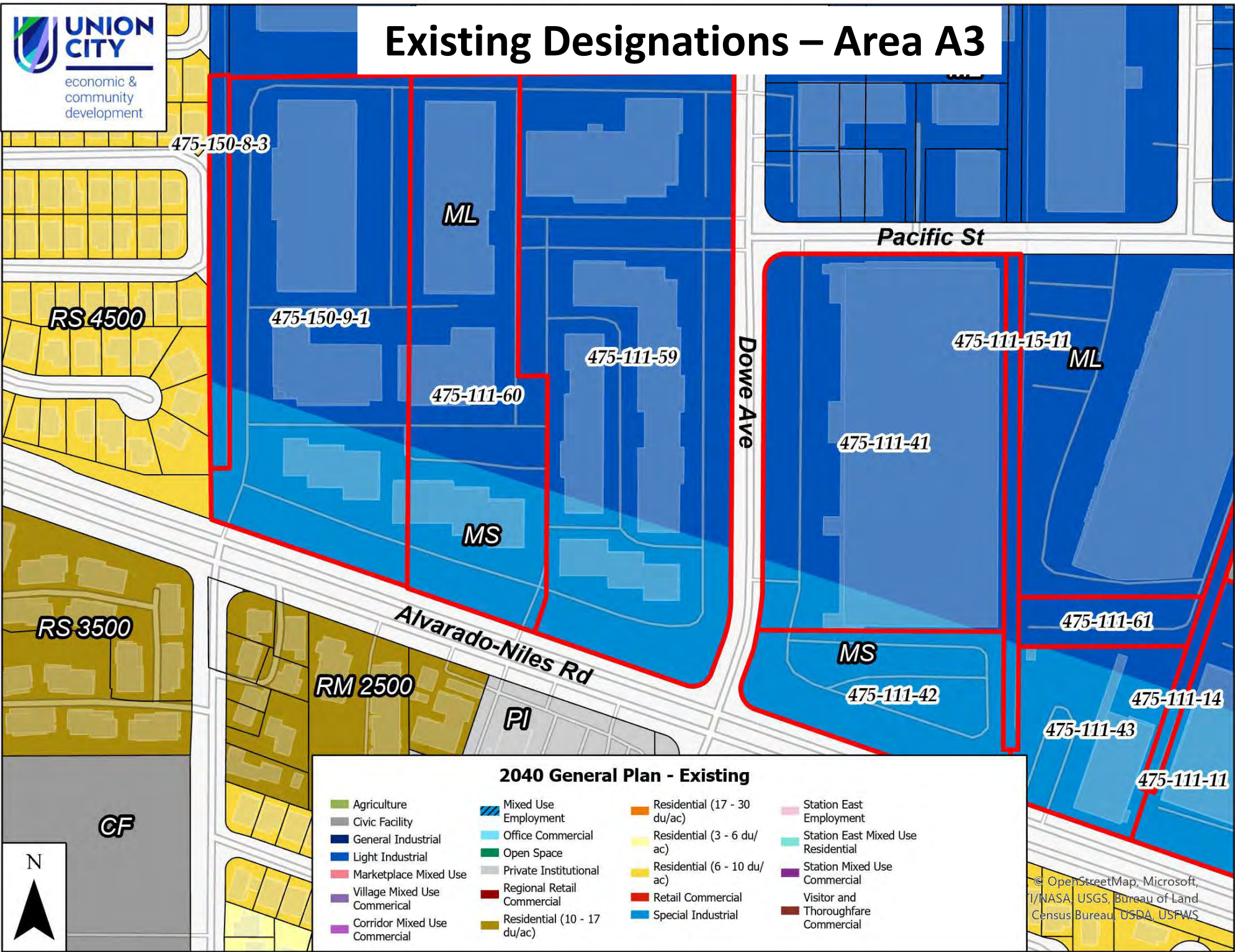


# Exhibit A: Existing and Proposed General Plan Designations



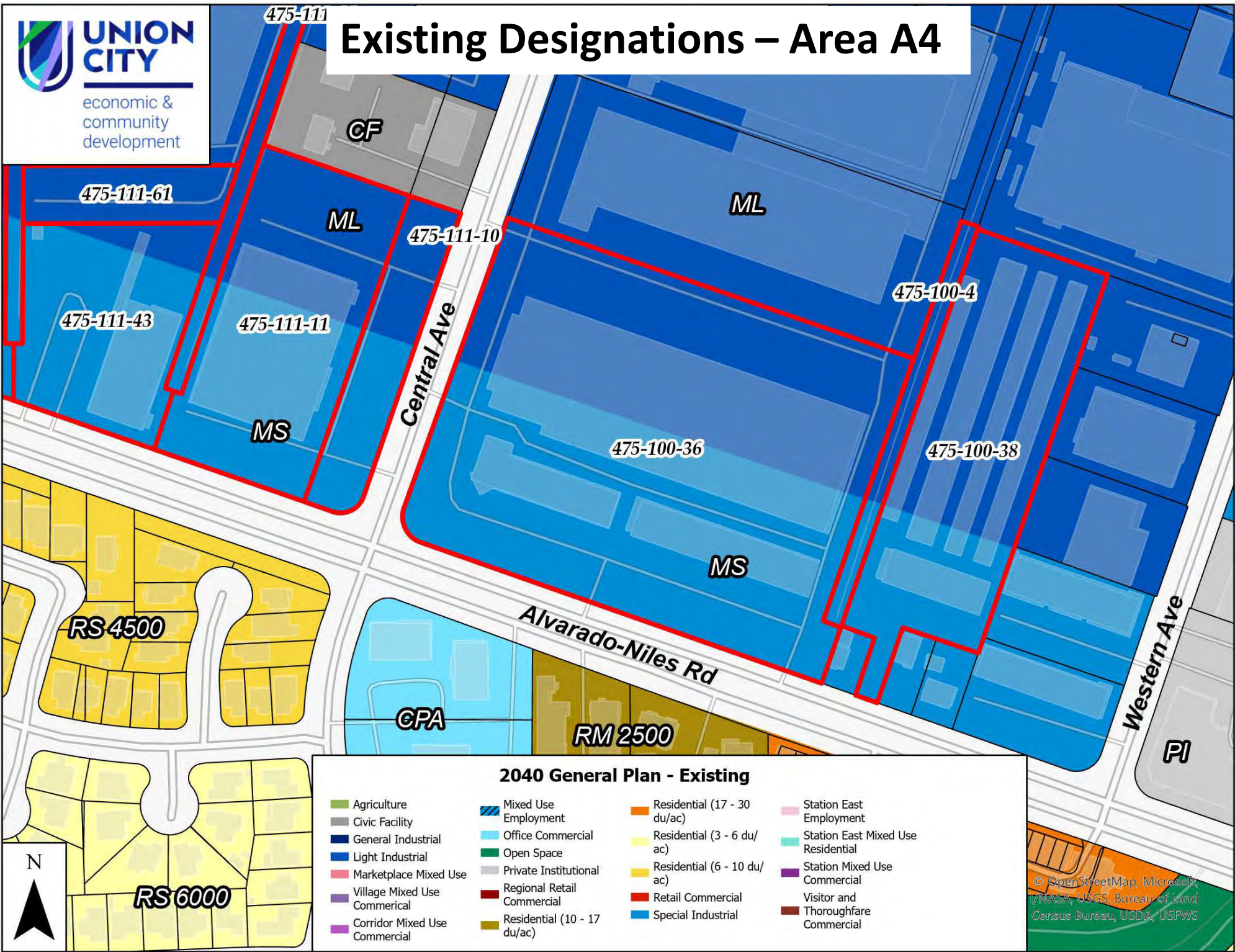


# Exhibit A: Existing and Proposed General Plan Designations





# Exhibit A: Existing and Proposed General Plan Designations





**UNION CITY**  
economic & community development

## Proposed Designations – Area A4

Agriculture

Civic Facility

General Industrial

Light Industrial

Marketplace Mixed Use

Village Mixed Use Commercial

Corridor Mixed Use Commercial

Mixed Use Employment

Office Commercial

Open Space

Private Institutional

Regional Retail Commercial

Residential (10 - 17 du/ac)

Residential (17 - 30 du/ac)

Residential (3 - 6 du/ac)

Residential (6 - 10 du/ac)

Retail Commercial

Special Industrial

Station East Employment

Station East Mixed Use Residential

Station Mixed Use Commercial

Visitor and Thoroughfare Commercial

© OpenStreetMap, Microsoft, NASA, USGS, Bureau of Land Management, Census Bureau, USDA, USFWS

City Council/RSA Agenda

210 Tuesday, April 9, 2024



ATTACHMENT 6

CITY OF UNION CITY  
DRAFT  
MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING  
ON THURSDAY, MARCH 21, 2024 AT 7:00 P.M.  
IN THE COUNCIL CHAMBERS OF CITY HALL  
34009 ALVARADO-NILES ROAD  
UNION CITY, CA 94587

1. CALL TO ORDER

A. PLEDGE OF ALLEGIANCE

B. ROLL CALL

PRESENT: Chairperson Jo Ann Lew, Vice Chairperson Seyi Mclelland, and Commissioners Lee Guio, Ignacio Romero and Amandeep Sandhu

ABSENT: Alternate Commissioners Kevin Finnerty and Praisna Gupta Garg

STAFF: Carmela Campbell (Economic & Community Development Director); Alex Mog (Deputy City Attorney) and Tracey Barragan (Administrative Assistant)

2. APPROVAL OF MINUTES

1. The regular Planning Commission Minutes of February 1, 2024

The minutes of the regular Planning Commission meeting of February 1, 2024 were accepted, as shown.

3. ORAL COMMUNICATIONS: None

4. WRITTEN COMMUNICATIONS: None

5. PUBLIC HEARINGS

A. CONTINUED HEARINGS: None

B. NEW HEARINGS

1. CITY OF UNION CITY, GENERAL PLAN AG-24-001 AND ZONING MAP AMENDMENTS (A-24-001), CITYWIDE. The City of Union City is requesting approval of amendments to the General Plan Land Use Diagram and the Official Zoning Map for multiple sites, both for consistency with the 2040 General Plan and to better align with existing parcel lines, building locations, and historic and current land uses. An Addendum to the 2040 General Plan Environmental Impact Report (State Clearinghouse No. 2018102057) has been prepared consistent with Section 15164 of the California Environmental Quality Act (CEQA) Guidelines. The Addendum has demonstrated that the project would not result in any new significant impacts, nor

**would it substantially increase the severity of previously identified significant impacts.**

Carmela Campbell, Economic & Community Development Director, provided a PowerPoint presentation of the staff report for the project. A Desk Item had been prepared in response to comments from Chairperson Lew. The majority of the comments had been in response to inconsistencies between the Assessor Parcel Numbers (APN) listed in the exhibits and tables in the staff report. The staff report edits would be reflected in the version provided to the City Council and a minor update was needed to an addendum to reflect a typographical error on APN Area 3, and a new Exhibit A had been attached to the Desk Item to update the incorrect zoning designation shown on Area A2.

Ms. Campbell recommended the Planning Commission find that the Environmental Impact Report (EIR) Addendum was adequate, complete and in compliance with the California Environmental Quality Act (CEQA) and the Addendum would be updated to address the minor typographical error shown in the Desk Item; that the Planning Commission recommend approval of the General Plan Amendments to the Land Use Diagram and Zoning Amendments to the Official Zoning Map, as modified by the Desk Item, to the City Council pursuant to the findings included in the staff report and adopt resolutions confirming these actions.

Commissioner Guio referenced Exhibit A, Existing and Proposed General Plan Designations, the Existing Designations for Area A1 and the requirements for a greater setback and asked whether the mosque, as shown in Area A1 and B1, would require a larger setback when developed.

Ms. Campbell explained that if the mosque wanted to add a trash enclosure, as an example, since the property was zoned Residential, the mosque would be required to have a setback of 50 feet from the residentially zoned properties. Since the site functioned as one facility that could be an issue. The site had split designations that corresponded to the underlying parcel lines. A portion of the site that accommodated parking and some support buildings had a General Plan and zoning designation of RM 2500, which permitted a multifamily residential development. The remainder of the site had a Private Institutional (PI) General Plan and zoning designation. The City proposed to update the designation from RM 2500 to PI to better align the use with Zoning and General Plan designations for the remainder of the site. The use was considering some upgrades and the update would remove the requirements for enhanced setbacks associated with the current residential zoning designation.

Commissioner Guio again referenced Exhibit A, the Existing and Proposed General Plan Designations for Area A1 and the properties labeled as 483-15-68 adjacent to RM 1500, and asked whether those properties would require a greater setback due to the proposed amendments, and Ms. Campbell confirmed that an enhanced setback would be required.

Commissioner Guio referenced Exhibit B, Existing and Proposed Zoning, Existing Zoning for Area B5, and commented the legend on this page had shown both Corridor Mixed Use Commercial (CMU) and CSMU categories. He asked for clarification since the diagram had only shown the CMU category along Mission Boulevard.

Commissioner Guio asked for clarification of the special designation for the Monarch at Soares Ranch, Alvarado Niles/Madelyn Terrace in Area B10, which he understood would now have a new zoning designation.

Ms. Campbell explained that the site, which accommodated 63 townhomes and related common areas, had been included in the City's previous Housing Element that covered the period from 2015 to 2023, as a future site for housing. Consistent with State law and the prior Housing Element, the site had been rezoned from RM 1500, which was a multifamily residential designation, to RM 1500-HE.



Ms. Campbell stated the addition of “HE” (Housing Element) to the site’s base zoning designation of RM 1500 was to make it clear that the site, which was vacant at the time, had to be developed at a specific density. Now that the City had adopted an updated Housing Element and the project site has been developed, staff proposed to rezone the property back to its prior designation of RM 1500. That same situation would not come up again with another parcel since the City had adopted the 6<sup>th</sup> Cycle Housing Element and had done all the required rezoning.

Vice Chairperson Mclelland referenced Exhibit C, the Addendum to the 2040 General Plan EIR, and asked for clarification of the Mobility Element Goals and Policies, as shown on Page 3-4 of the Addendum. She also asked for a description of Complete Streets.

Ms. Campbell described the Complete Streets concept where to the extent feasible, streets should be designed for all users, which acknowledged a street could have priorities related to who was using the street. As an example, the industrial area had larger streets designed for truck movement but when doing an overlay zone or development in the area, there should be ways to enhance pedestrian and bicycle connectivity as well and ensure the various users did not conflict.

Vice Chairperson Mclelland again referenced Exhibit C and Goal M-2, Policy M-2.9, Safe Pedestrian Environment, as shown on Page 3-10 of the Addendum, which stated *The City shall implement improvements to create a safe pedestrian environment*. She asked for clarification of that policy.

Ms. Campbell explained the Addendum had reviewed the General Plan and the policies adopted in each element of the General Plan to determine conformance. The intent of Goal M-2 was that the City should be emphasizing a robust and interconnected bicycle and pedestrian circulation system throughout the City. The implementation program of this goal would ensure the Bicycle and Pedestrian Master Plan was up-to-date and there were other policies shown under this section that further implemented the goal.

Vice Chairperson Mclelland referenced Exhibit B, Existing and Proposed Zoning, Existing Zoning, Area B11, and asked what was being changed.

Ms. Campbell stated that Area B11 had three different designations and one APN. She identified the properties in Area B11, one of which was a Housing Element site that had been identified in the 5<sup>th</sup> Cycle Housing Element with a higher density zoning designation and which required the addition of an overlay zone requiring development at a minimum of 20 units. Staff proposed to remove the “-HE” designation and the adjacent PI zoning designation, to be updated and rezoned to Residential, since it had always been identified for housing. The zoning therefore would be changed from PI to the same zoning as the adjacent property, which was RM 1500. She also identified a parcel owned by Bay Area Rapid Transit (BART), which was used by BART to access the site through the Quarry Lakes Regional Park, which had not been proposed to be changed.

Commissioner Sandhu asked for further clarification for the zoning changes proposed to Area B4.

Ms. Campbell explained that the staff recommendation was to move the boundary in Area B4, which included the Dowe Business Park, Central Plaza, Provender Business Park, and Tarlton Properties. Ms. Campbell further explained that along portions of Alvarado-Niles Road generally between Western Avenue and Hop Ranch Road, the first 90 feet of frontage on the easterly side of Alvarado-Niles Road had a General Plan and Zoning designation of Special Industrial (MS). The remaining portion of the property had a General Plan and Zoning designation of Light Industrial (ML). This configuration resulted in the boundary between the two designations going through sites and/or buildings and staff had to make an interpretation on which designations to apply.

Ms. Campbell explained that staff had proposed to relocate the boundary lines of the two designations to better align with property lines and reflect the designations historically applied to the property by Planning Division staff.

The update would also facilitate the expansion of a long-term Union City business, Elite Badminton Facility, located in the Central Plaza development. The zoning change would not impact the existing businesses. She clarified that public storage uses had been eliminated from the Union City Municipal Code (UCMC) about 20-years ago and the storage facility in Area B4, a legal non-conforming use, could remain but not expand.

Commissioner Sandhu requested further clarification for the changes proposed for Area B5 and asked whether the new zoning would allow the development of housing.

Ms. Campbell stated the prior zoning and General Plan for Area B5 had been Commercial. Along Mission Boulevard there had been special provisions in the Zoning Ordinance that would have allowed for the development of Mixed-Use development but at a lower density and the CMU zoning designation increased the amount of residential that could be developed on the site.

Commissioner Romero referenced Attachment A and the legends shown on the land use diagrams and pointed out that some information appeared to be missing. Ms. Campbell explained that the document would be corrected to ensure the legends were accurate.

Chairperson Lew commented she had reviewed the Desk Item and found that everything had been covered.

#### PUBLIC HEARING OPENED

Dylan Veya referenced the properties that were being changed from General Industrial to Light Industrial and asked about the potential impacts.

Ms. Campbell understood the speaker was referring to the U.S. Pipe property on Whipple Road, and noted the change would be consistent with the General Plan designation of Light Industrial, with overlap in the uses. She clarified there were some uses that were allowed in the Heavy Industrial zoning designation but not allowed in the Light Industrial zoning designation.

Deputy City Attorney Alex Mog clarified and emphasized that any use that was allowed in the General Plan that was no longer allowed in the new zoning could continue, but could not expand.

Ms. Campbell expressed the willingness to have a follow-up conversation with the speaker and asked that he provide his contact information to staff.

#### PUBLIC HEARING CLOSED

Vice Chairperson Mclelland thanked staff for the comprehensive report.

Commissioner Romero appreciated the cleanup to ensure accurate and consistent records.

Commissioner Sandhu also thanked staff for the thorough report.

Commissioner Guio moved that the Planning Commission find that the Environmental Impact Report (EIR) Addendum was adequate, complete and in compliance with the California Environmental Quality Act (CEQA) and the Addendum would be updated to address the minor typographical error shown in the Desk Item; that the Planning Commission recommended approval of the General Plan Amendments to the Land Use Diagram and Zoning Amendments to the Official Zoning Map, as modified by the Desk Item, to the City Council pursuant to the findings

included in the staff report and adopted resolutions confirming these actions. Commissioner Mclelland seconded. The motion was carried by the following roll call vote:

AYES: (GUIO, LEW, MCLELLAND, ROMERO, SANDHU)  
NOES: (NONE)  
ABSTAIN: (NONE)  
ABSENT: (FINNERTY, GUPTA, GARG)

The motion passed 5-2.

Ms. Campbell reported the City Council would consider the item on April 9, 2024.

**6. SUPPLEMENTAL STAFF REPORTS: None**

**A. CONTINUED REPORTS: None**

**B. NEW REPORTS: None**

**7. ECONOMIC DEVELOPMENT REPORTS: None**

**8. COMMISSION MATTERS:**

**A. Follow-Up on Planning Commission Referrals to the City Council**

There was no report.

**B. Upcoming Applications for the Regular Planning Commission Meeting on April 4, 2024**

Ms. Campbell reported the Planning Commission meeting of April 4, 2024 would include a new use permit for a physical therapy office and potentially another item.

**9. GOOD OF THE ORDER**

Vice Chairperson Mclelland reported Kennedy Park would hold an Easter Egg Hunt on March 23, 2024 and she encouraged families to participate.

Chairperson Lew reported a Bicycle and Pedestrian Advisory Committee (BPAC) meeting had been held on March 19, 2024 with an update on the Quarry Lakes Project, which would be built in phases. She briefed the Planning Commission on the details of the project, status of each phase and project costs. She supported the mitigation of Alameda Creek and cleaning it up for people to enjoy and walk and added the BPAC met once a quarter on the third Tuesday of the month, with the next meeting tentatively scheduled for April 16, 2024.

Commissioner Sandhu reported the Union City Parks and Recreation Commission would hold an all-day Cornhole Tournament on April 13, 2024.

Ms. Campbell reported on proposed protocol changes related to how staff currently reached out to Planning Commissioners prior to scheduled Planning Commission meetings to gauge attendance. Commissioners were now asked to contact staff to inform staff of a Commissioner's attendance for a meeting, which would be better for planning and for the alternate Commissioners, and the preferred form of communication was via email either to herself, Administrative Assistant Tracey Barragan or to Planning Manager Derek Farmer.



10. **ADJOURNMENT:** 8:13 P.M.

## ATTACHMENT 7

### PLANNING COMMISSION RESOLUTION NUMBER #04-24

#### RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF UNION CITY RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ADDENDUM TO THE GENERAL PLAN ENVIRONMENTAL IMPACT REPORT FOR THE AMENDMENTS TO THE 2040 GENERAL PLAN LAND USE DIAGRAM AND OFFICIAL ZONING MAP

**WHEREAS**, by Resolution No. 5549-19, duly adopted by the City Council of Union City on December 10, 2019, there was adopted documents consisting of text, maps, and charts, entitled Union City 2040 General Plan, dated December 10, 2019, which included the reports in support thereof as the General Plan of Union City; and

**WHEREAS**, pursuant to the California Environmental Quality Act (CEQA) and the CEQA Guidelines, an Environmental Impact Report (EIR) (State Clearinghouse No. 2018102057) for the 2040 General Plan was prepared and certified by the City in November 2019; and

**WHEREAS**, amendments to the 2040 General Plan Land Use Diagram (AG-24-001) are proposed to better align property lines with zoning and general plan designation boundaries, to better align with historic use of the property, or to address a parcel that has an incorrect designation; and

**WHEREAS**, amendments to the Official Zoning Map (A-24-001) are proposed for consistency with the 2040 General Plan, which is required by State law, and

**WHEREAS**, Section 15164 of the CEQA Guidelines provides that an addendum to a previously adopted environmental impact report or mitigated negative declaration may be prepared if only minor technical changes or additions to the project are necessary or none of the conditions described in CEQA Guidelines Section 15162 calling for the preparation of a subsequent environmental impact report or negative declaration have occurred; and

**WHEREAS**, the City has prepared an Addendum to the 2040 General Plan EIR for the amendments to the 2040 General Plan Land Use Diagram and Official Zoning Map ("Addendum"), which determined that none of the conditions described in CEQA Guidelines section 15162 will occur; and

**WHEREAS**, the Addendum was posted to the City's website and referenced in the public notice for the March 21, 2024 Planning Commission public hearing; and

**WHEREAS**, a staff report, dated March 21, 2024 and incorporated herein by reference, described and analyzed the amendments to the 2040 General Plan Land Use Diagram and Official Zoning Map and Addendum for the Planning Commission; and

**WHEREAS**, pursuant to Section 65854 of the Government Code, the Planning Commission reviewed the staff report, and the Addendum at a noticed public hearing on March 21, 2024 at which time all interested parties had the opportunity to be heard; and

**WHEREAS**, the Addendum reflects the City's independent judgment and analysis on the potential for environmental impacts; and

**WHEREAS**, none of the conditions requiring preparation of a subsequent EIR or negative declaration have occurred, and that the changes that are part of the amendments to the 2040 General Plan Land Use Diagram and Official Zoning Map identified in the Addendum would not result in any significant impacts not considered under the original 2040 General Plan EIR; and

**WHEREAS**, the Addendum is available for review on the City's website at <https://unioncity.novusagenda.com/agendapublic/CoverSheet.aspx?ItemID=4198&MeetingID=1746>, and at the Economic and Community Development Department at City Hall during normal business hours. The location and custodian of the Addendum and other documents that constitute the record of proceedings for the amendments to the 2040 General Plan Land Use Diagram and Official Zoning Map is the City of Union City Economic and Community Development Department, 34009 Alvarado-Niles Road, Union City, CA 94587.

**NOW, THEREFORE, BE IT RESOLVED**, that the foregoing recitals are true and correct and made a part of this resolution.

**BE IT FURTHER RESOLVED** that the Planning Commission of the City of Union City hereby recommends the City Council adopt an Addendum to the 2040 General Plan Environmental Impact Report in compliance with CEQA and the CEQA Guidelines and does hereby find as follows:

- A. The decision maker has reviewed and considered the Addendum to the 2040 General Plan Final Environmental Impact Report and finds that none of the conditions requiring preparation of a subsequent EIR or negative declaration have occurred, and that the changes that are part of the project would not result in any significant impacts not considered under the original EIR.
- B. The Addendum to the 2040 General Plan Final Environmental Impact Report is the appropriate CEQA document for the project and has been prepared as required by law and the document reflects the independent judgement and analysis of the City of Union City, which has exercised overall control and direction of its preparation.



**I HEREBY CERTIFY** that the foregoing resolution was introduced and adopted at a regular meeting of the Planning Commission of the City of Union City held on March 21, 2024 by the following vote:

AYES: (Guio, Lew, Mclelland, Romero, Sandhu)  
NOTES: 0  
ABSTAINED: 0  
ABSENT: (Finnerty, Gupta Garg)  
MOVED: Commissioner Guio  
SECONDED: Commissioner Mclelland

**APPROVED**

---

**JO ANN LEW, CHAIRPERSON**

**ATTEST:**

---

**CARMELA CAMPBELL, SECRETARY**

## ATTACHMENT 8

### PLANNING COMMISSION RESOLUTION NUMBER #5-24

#### **RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF UNION CITY RECOMMENDING TO THE CITY COUNCIL OF THE APPROVAL OF GENERAL CITY OF UNION CITY PLAN AMENDMENT AG-24-001 AND ZONING MAP AMENDMENTS A-24-001**

**WHEREAS**, by Resolution No. 5549-19, duly adopted by the City Council of Union City on December 10, 2019, there were adopted documents consisting of text, maps, and charts, entitled Union City 2040 General Plan, dated December 10, 2019, which included the reports in support thereof as the General Plan of Union City; and

**WHEREAS**, staff initiated amendments to the General Plan Land Use Diagram (AG-24-001) and Official Zoning Map (A-24-001) for multiple sites, both for consistency with the 2040 General Plan and to better align with existing parcel lines, building locations, and historic and current land uses or to address a parcel that has an incorrect designation (“Project”); and

**WHEREAS**, the proposed General Plan amendments to the General Plan Land Use Diagram are shown in Exhibit A, attached hereto and made part hereof; and

**WHEREAS**, the proposed amendments to the Official Zoning Map are shown in Exhibit A, attached hereto and made a part hereof; and

**WHEREAS**, pursuant to Section 65854 of the Government Code, the Planning Commission held a duly noticed public hearing on the proposed General Plan and Zoning Map amendments and EIR Addendum on March 21, 2024, at which time all interested parties had the opportunity to be heard; and

**WHEREAS**, the Planning Commission considered a staff report dated March 21, 2024 (including background reports), incorporated herein by reference, the Desk Item, and all written and oral testimony before taking action on the amendments; and

**WHEREAS**, the Planning Commission adopted Resolution 4-24, dated March 21, 2024, and incorporated herein by reference, adopting an Addendum to the 2040 General Plan Environmental Impact Report for the Project; and

**NOW, THEREFORE, BE IT RESOLVED**, that the foregoing recitals are true and correct and made a part of this resolution.

**BE IT FURTHER RESOLVED** that the Planning Commission of the City of Union City hereby recommends to the City Council to approve General Plan Amendment AG-24-001 as contained in Exhibit A and does hereby find as follows:

1. Pursuant to Government Code Section 65358(a), that the proposed General Plan Amendment is in the public interest because it will better align general plan designations

with property lines and locations of buildings and will correct an existing parcel's incorrect land use designation.

**BE IT FURTHER RESOLVED** that the Planning Commission of the City of Union City hereby recommends to the City Council to approve the amendments to the Official Zoning Map A-24-001 as contained in Exhibit B and does hereby find as follows:

1. The proposed Municipal Code Amendments are consistent with the General Plan,
2. The proposed Municipal Code Amendments are necessary and desirable to achieve the purposes of Title 18.



**I HEREBY CERTIFY** that the foregoing resolution was introduced and adopted at a regular meeting of the Planning Commission of the City of Union City held on March 21, 2024 by the following vote:

AYES: (Guio, Lew, Mclelland, Romero, Sandhu)

NOTES: 0

ABSTAINED: 0

ABSENT: (Finnerty, Gupta Garg)

MOVED: Commissioner Guio

SECONDED: Commissioner Mclelland

**APPROVED**

---

**JO ANN LEW, CHAIRPERSON**

**ATTEST:**

---

**CARMELA CAMPBELL, SECRETARY**



## **Item 6.a**

### **Amendments to General Plan Diagram (AG-24-001) and Official Zoning Map (A-24-001)**

# GP and Zoning Amendments

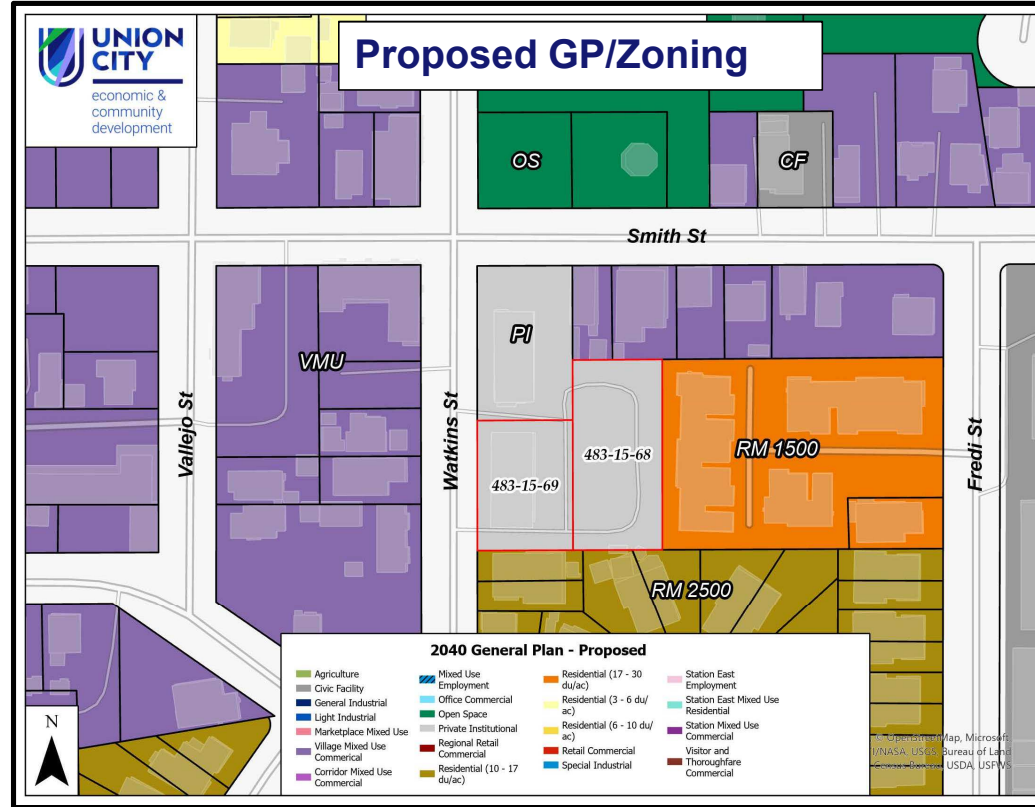
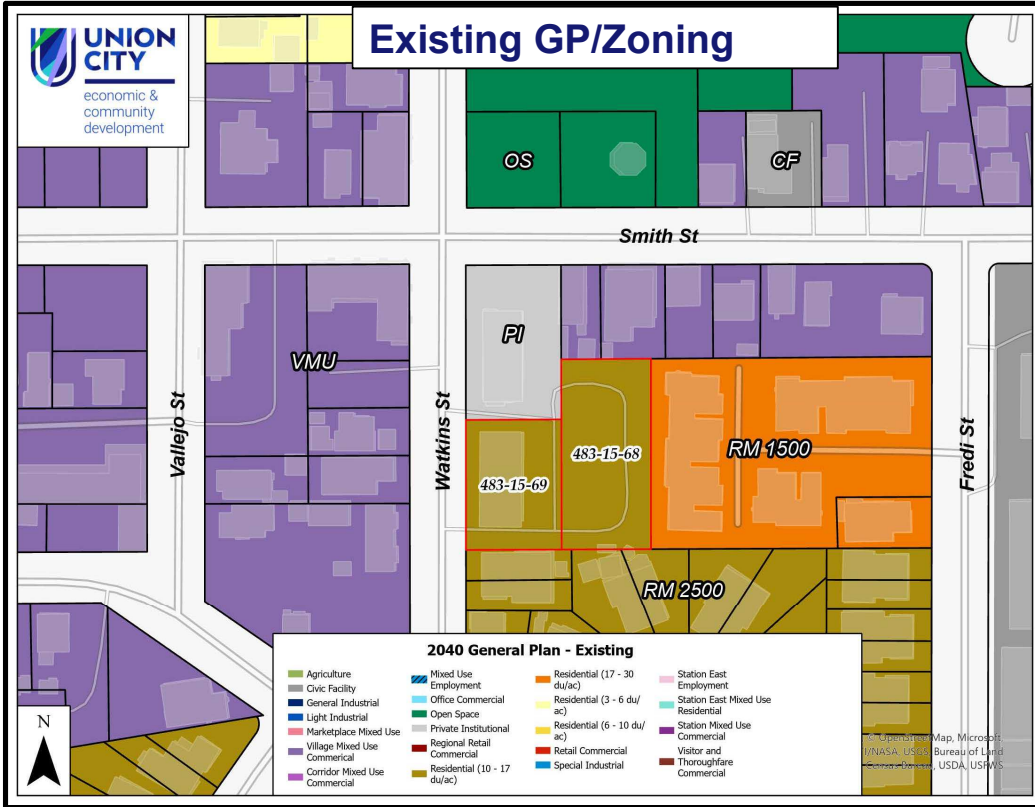
- 19 total parcels affected
- Exhibits - Areas A1-A4 and B1-B4
- Three primary reasons for changes:
  - *Align with current and historic property uses*
  - *Ensure GP designation does not split a building*
  - *Ensure GP designation follows a property line*



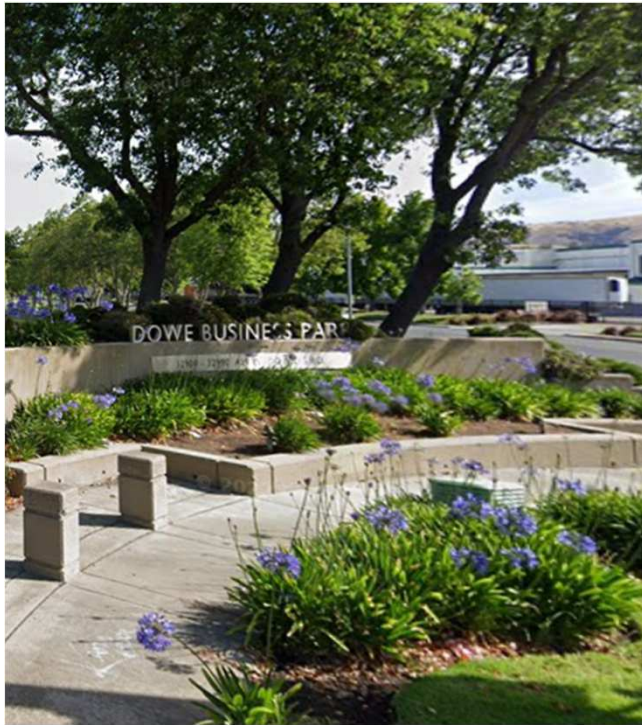


## Area A1 and B1

# Area A1



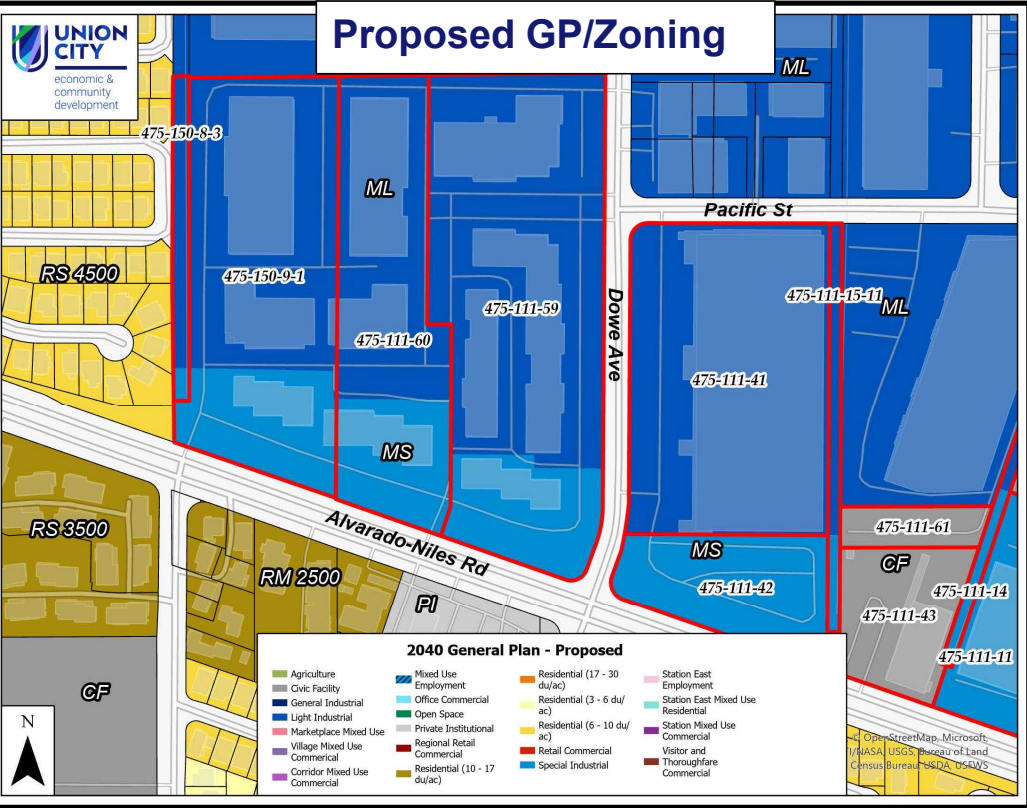
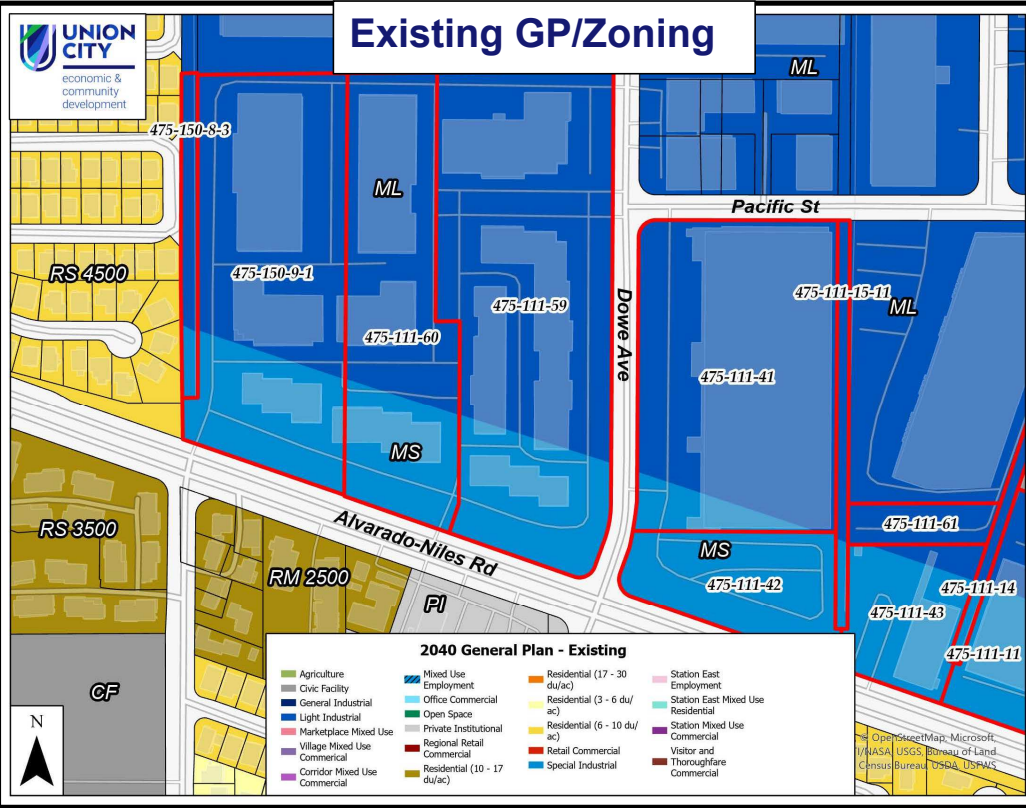




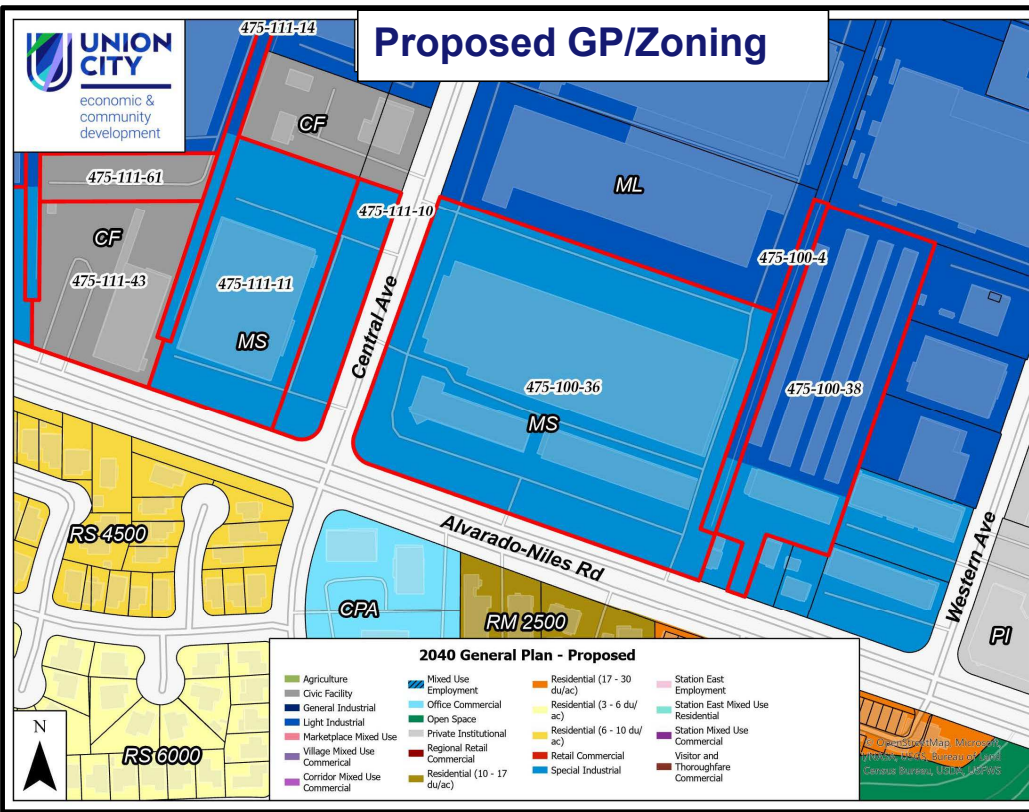
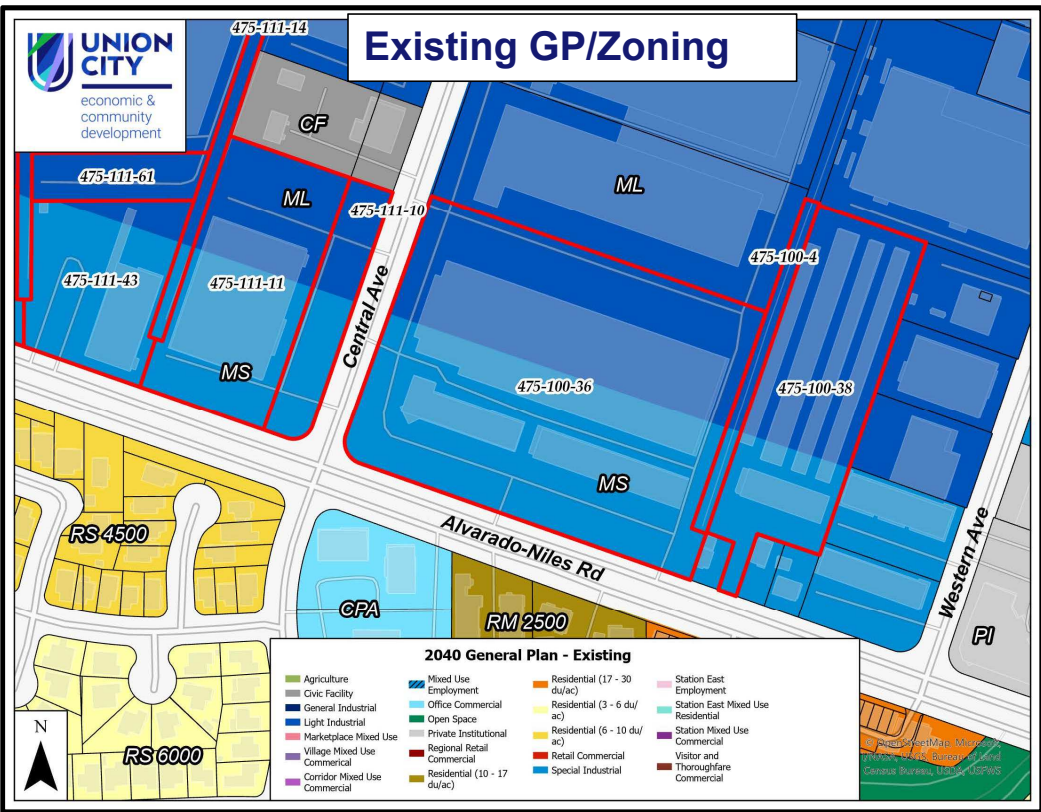
| Area A3 / B3 and A4 / B4



Area A3



# Area A4

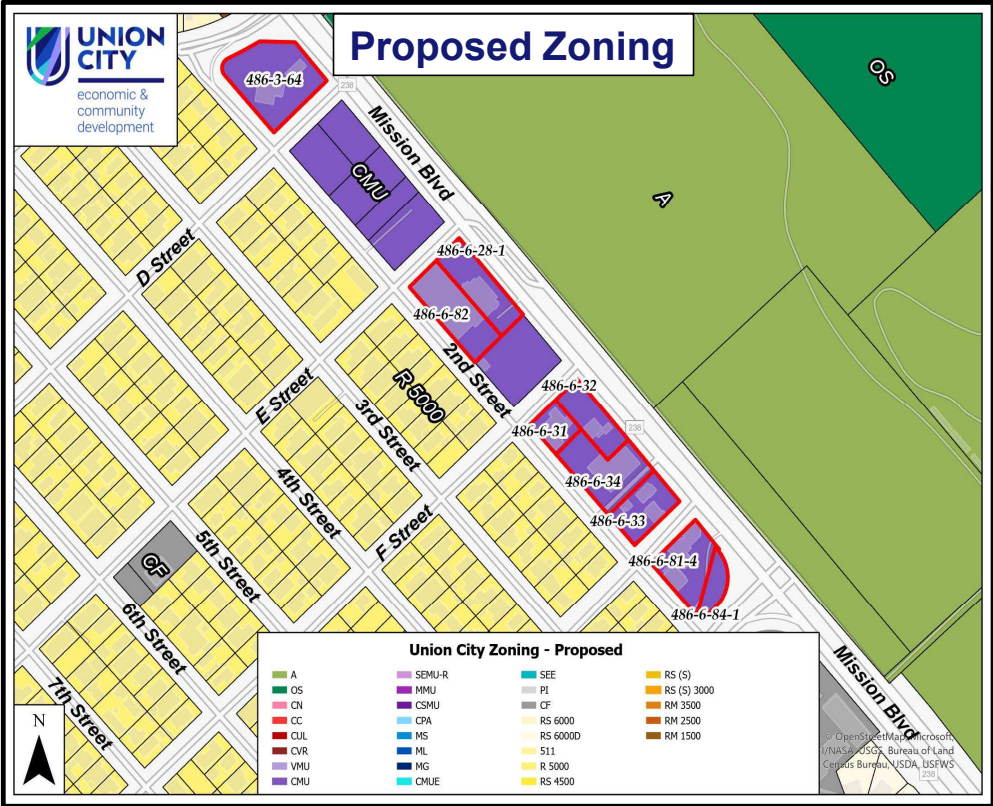


# Zoning Map Amendments

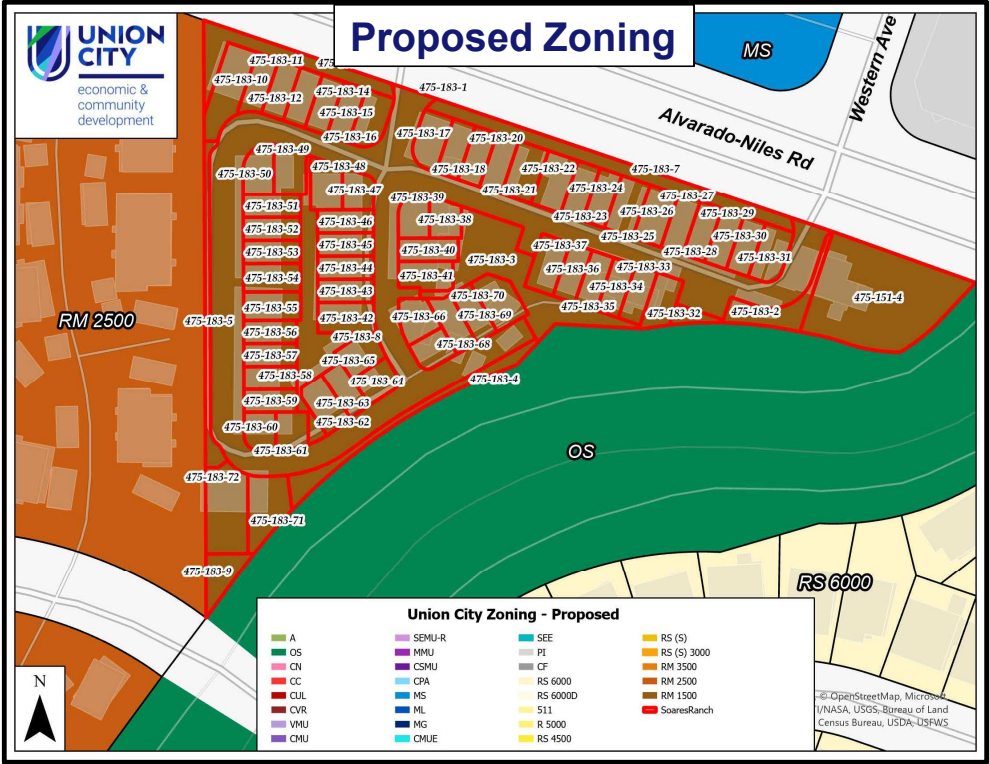
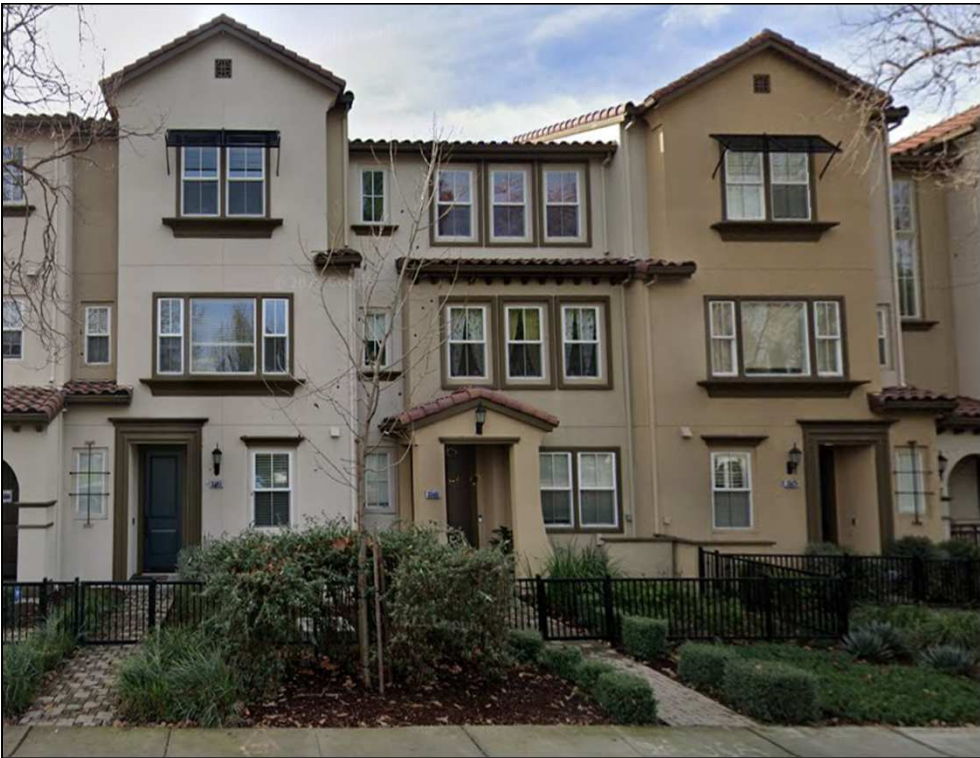
- 138 total parcels affected
- Changes to Areas B5-B12 are for consistency with existing 2040 GP and Housing Element as required by State law
- Also updates Map legend



Area B5

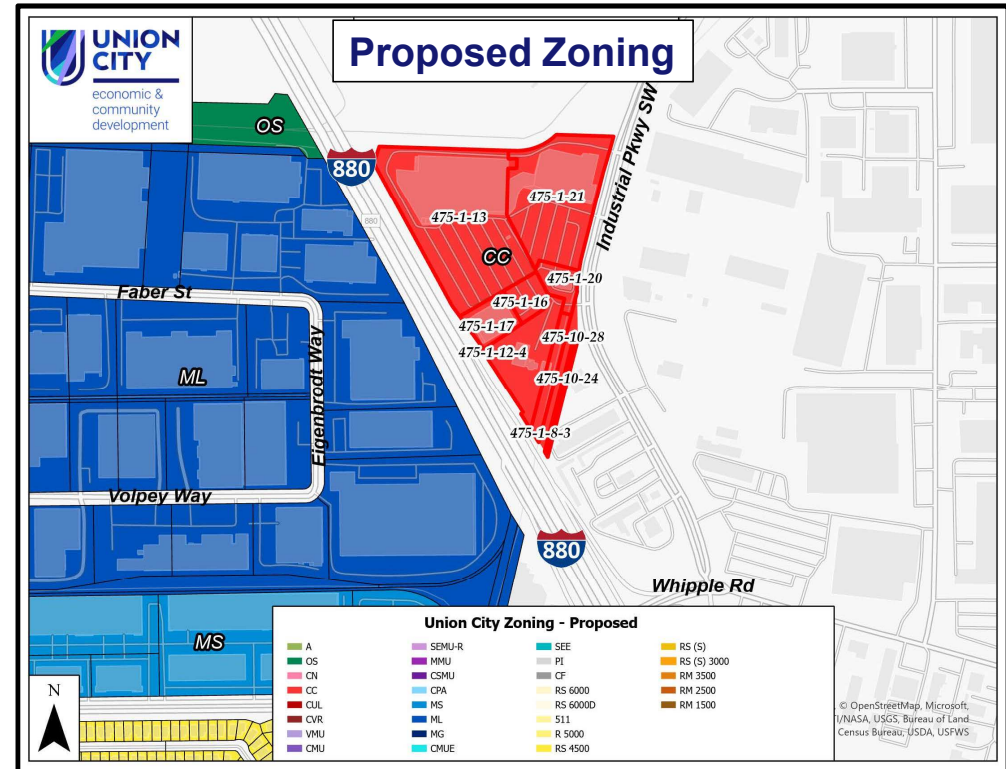


# Area B10





# Area B12





# EIR Addendum

- Evaluates potential environmental impacts associated with proposed amendments
- Compares to those evaluated in General Plan EIR
- Addendum found no substantial changes in circumstances have occurred, nor has any new information of substantial importance been identified requiring new analysis or verification, and no new or more severe impacts would occur beyond what was previously analyzed in the certified General Plan EIR

# Outreach Process



Mailed notifications to all parcels affected



Public hearing notice in Tri-City Voice



Notification of California Native American tribes per SB 18 (no responses received)

# PC Recommendation

- PC recommended approval on a 5-0 vote at their March 21, 2024 meeting
- A Desk Item was prepared in response to comments from PC
  - *Resulted in a few minor updates to the Exhibit C - CEQA Addendum and Exhibit A – Area A2*
  - *Updated exhibits included in CC packet*



# Recommendation

Consistent with the Planning Commission's recommendation, it is recommended that the City Council adopt two resolutions: adopting an Addendum to the 2040 General Plan EIR AND amending the General Plan Land Use Diagram (AG-24-001) and Introduce an Ordinance Amending the Official Union City Zoning Map (A-24-001)



## Agenda Item

**DATE:** 4/9/2024

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**FROM:** KRISTOPHER J. KOKOTAYLO, CITY ATTORNEY

**SUBJECT:** WAIVE FURTHER READING AND ADOPT AN ORDINANCE AMENDING UNION CITY MUNICIPAL CODE CHAPTER 5.42, "TOBACCO RETAILERS" AND/OR PROVIDE FURTHER DIRECTION

The City Council previously held a number of meetings to consider potential amendments to the Union City Municipal Code to amend Chapter 5.42, "Tobacco Retailers" (the "Tobacco Retailers Ordinance"). The City Council most recently voted 5-0 to introduce an ordinance on March 26, 2024. Staff and the City Attorney's Office now recommends that the City Council waive further reading and adopt the proposed ordinance amending the Tobacco Retailers Ordinance.

### **STRATEGIC PLAN ALIGNMENT**

There are no Strategic Plan goals associated with this agenda item.

### **BACKGROUND**

The City Council provided direction and considered amendments to the Tobacco Retailers Ordinance on the following dates: January 9, January 23, February 13, and February 27.

Ultimately, the City Council voted 5-0 at its March 26, 2024 City Council meeting to introduce an ordinance amending the Tobacco Retailers Ordinance. The amendment includes the following provisions:

- 1) Prohibit the sale of single-use vape products.
- 2) Prohibit the sale of flavored tobacco products, consistent with state law.
- 3) Prohibit the sale of tobacco products in pharmacies.
- 4) Amend the minimum single cigar price from \$5 to \$8 with possible annual increases by the Consumer Price Index (CPI).
- 5) Amend the minimum pack size for cigars (unless sold at the single cigar price identified above) to a minimum pack of 10 with a \$15 minimum.
- 6) Prohibit the issuance of tobacco retail licenses within 500 feet of each other.

- 7) Allow the transfer of a tobacco retailers license with the transfer of a business and revise the definition of “arm’s length transaction” to allow for family transfers and other transfers that are outside of the open market.
- 8) Increase the amount for fines related to violations.
- 9) Prohibit the redemption and use of coupons and discounts by tobacco retailers.
- 10) Provide an enforcement date of June 1, 2024.

The City Council also previously referred a number of additional items to the Legislation and Policy Committee for consideration.

## **DISCUSSION**

The proposed ordinance amending the Tobacco Retailers Ordinance is included with this report and is unchanged from the ordinance that the City Council introduced at the March 26, 2024 City Council meeting. The ordinance will become effective 30 days after adoption and enforcement will begin on June 1, 2024.

The City Council also indicated that it may want to obtain a future update regarding program implementation and can provide further direction as it deems necessary.

## **FISCAL IMPACT**

There is no direct fiscal impact from adopting this ordinance.

## **RECOMMENDATION**

Staff and the City Attorney’s Office recommend that the City Council waive further reading and adopt the proposed ordinance amending Union City Municipal Code Chapter 5.42, “Tobacco Retailers” and/or provide further direction.

### **Prepared by:**

Juliet Vaughn, Attorney

### **Submitted by:**

Kristopher J. Kokotaylo, City Attorney

## **ATTACHMENTS:**

Description	Type
<input type="checkbox"/> TRL Ordinance	Ordinance
<input type="checkbox"/> TRL Ordinance Exhibit A	Exhibit
<input type="checkbox"/> Desk Item 7.a. - Written Public Comment	Attachment
<input type="checkbox"/> Item 7.a. Powerpoint	Attachment



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
UNION CITY AMENDING CHAPTER 5.42, "TOBACCO RETAILERS", OF THE  
UNION CITY MUNICIPAL CODE**

**WHEREAS**, the California Constitution, Article XI, Section 7, provides cities and counties with the authority to enact ordinances to protect the health, safety, welfare, and morals of their citizens; and

**WHEREAS**, approximately 480,000 people die in the United States from smoking-related diseases and exposure to secondhand smoke every year, making tobacco use the nation's leading cause of preventable death;<sup>1</sup> and

**WHEREAS**, the World Health Organization (WHO) estimates that tobacco kills 98 million people and causes over 1.4 trillion dollars in economic damage each year;<sup>2</sup> and

**WHEREAS**, 5.6 million of today's Americans who are younger than 18 are projected to die prematurely from a smoking-related illness;<sup>3</sup> and

**WHEREAS**, tobacco use is the number one cause of preventable death in California<sup>4</sup> and continues to be an urgent public health issue; and

**WHEREAS**, tobacco use among priority populations in California contributes to health disparities and creates significant barriers to health equity;<sup>5</sup> and

---

<sup>1</sup> U.S. Department of Health and Human Services. *The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. 2014. Available at: [https://www.ncbi.nlm.nih.gov/books/NBK179276/pdf/Bookshelf\\_NBK179276.pdf](https://www.ncbi.nlm.nih.gov/books/NBK179276/pdf/Bookshelf_NBK179276.pdf)

<sup>2</sup> World Health Organization. *WHO Report on the Global Tobacco Epidemic, 2019: Offer Help to Quit Tobacco Use*. 2019. Available at: <https://apps.who.int/iris/handle/10665/326043>.

<sup>3</sup> *Supra*, Note 1.

<sup>4</sup> California Department of Public Health, California Tobacco Control Program. The #1 Preventable Cause of Death. <http://tobaccofreeca.com/other-tobacco-products/the-number-1-preventable-cause-of-death>. Accessed May 12, 2020.

<sup>5</sup> California Tobacco Control Program. *California Tobacco Facts and Figures 2019*. Sacramento, CA: California Department of Public Health. 2019.

**WHEREAS**, despite the State's efforts to limit youth access to tobacco, youth are still able to access tobacco products in California;<sup>6</sup> and

**WHEREAS**, the federal Family Smoking Prevention and Tobacco Control Act, enacted in 2009, prohibited candy and fruit flavored cigarettes<sup>7</sup> largely because these flavored products are marketed toward youth and young adults,<sup>8</sup> and younger smokers and more likely than older smokers to have tried these products;<sup>9</sup> and

**WHEREAS**, in a 2019 observation survey of 36 tobacco retailers within Union City conducted by the Alameda County Public Health Department, 86% of stores surveyed sold flavored tobacco products; and

---

<sup>6</sup> California Tobacco Control Program. *California Tobacco Facts and Figures 2016*. Sacramento, CA: California Department of Public Health. 2016. California Tobacco Control Program. *California Tobacco Facts and Figures 2019*. Sacramento, CA: California Department of Public Health. 2019. California Student Tobacco Survey, 2017-18. San Diego, California: Center for Research and Intervention in Tobacco Control (CRITC), University of California, San Diego; April 2019; Centers for Disease Control and Prevention. *Best Practices for Comprehensive Tobacco Control Programs — 2014*. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. 2014; Centers for Disease Control and Prevention. *Youth Risk Behavior Surveillance — United States, 2019*. California: Tobacco Use. 2019. Available at: <https://nccd.cdc.gov/youthonline/app/Results.aspx?LID=CA>. Accessed August 31, 2023; Lin C, Baiocchi M, Halpern-Felsher B. Longitudinal trends in e-cigarette devices used by Californian youth, 2014–2018. *Addict Behav*. 2020;108:106459. doi: 10.1016/j.addbeh.2020.106459.

<sup>7</sup> 21 U.S.C. § 387g(a)(1)(A).

<sup>8</sup> U.S. Department of Health and Human Services. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. 2012. Available at: [https://www.ncbi.nlm.nih.gov/books/NBK99237/pdf/Bookshelf\\_NBK99237.pdf](https://www.ncbi.nlm.nih.gov/books/NBK99237/pdf/Bookshelf_NBK99237.pdf); Villanti AC, Collins LK, Niaura RS, Gagosian SY, Abrams DB. Menthol cigarettes and the public health standard: a systematic review. *BMC Public Health*. 2017;17(1):983. doi: 10.1186/s12889-017-4987-z; Institute of Medicine. *Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products*. Washington, DC: The National Academies Press. 2015. Available at: <https://www.nap.edu/catalog/18997/public-health-implications-of-raising-the-minimum-age-of-legal-access-to-tobacco-products>.

<sup>9</sup> U.S. Department of Health and Human Services. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. 2012. Available at: [https://www.ncbi.nlm.nih.gov/books/NBK99237/pdf/Bookshelf\\_NBK99237.pdf](https://www.ncbi.nlm.nih.gov/books/NBK99237/pdf/Bookshelf_NBK99237.pdf).

**WHEREAS**, according to the California Department of Public Health, flavored tobacco products are used by the majority of youth and young adult tobacco users (86.4% and 57.7%) in California;<sup>10</sup> and

**WHEREAS**, mentholated and flavored products have been shown to be “starter” products for youth who begin using tobacco<sup>11</sup> and that these products help establish tobacco habits that can lead to long-term addiction;<sup>12</sup> and

**WHEREAS**, research indicates that the FDA ban in 2009 on all flavored cigarette products (except menthol) led to a 6% decrease in youth tobacco use and a 17% decrease in the likelihood of a youth becoming a cigarette smoker;<sup>13</sup> and

**WHEREAS**, studies indicate that laws prohibiting the sale of flavored tobacco products lead to decreases in youth tobacco use;<sup>14</sup> and

**WHEREAS**, in 2020, California passed SB 793, which amended California Health and Safety Code Section 104559.5 to prohibit the sale of most types of flavored tobacco products, including flavored electronic cigarettes, non-premium flavored cigars, as well as flavored enhancers;<sup>15</sup> and

**WHEREAS**, in 2022, California voters passed Proposition 31, which upheld SB 793;<sup>16</sup> and

---

<sup>10</sup> California Tobacco Control Program. *California Tobacco Facts and Figures 2019*. Sacramento, CA: California Department of Public Health. 2019.

<sup>11</sup> U.S. Department of Health and Human Services. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. 2012. Available at: [https://www.ncbi.nlm.nih.gov/books/NBK99237/pdf/Bookshelf\\_NBK99237.pdf](https://www.ncbi.nlm.nih.gov/books/NBK99237/pdf/Bookshelf_NBK99237.pdf).

<sup>12</sup> *Id.*

<sup>13</sup> Courtemanche CJ, Palmer MK, Pesko MF. Influence of the Flavored Cigarette Ban on Adolescent Tobacco Use. *Am J Prev Med*. 2017;52(5):e139-e146. doi: 10.1016/j.amepre.2016.11.019.

Farley SM, Johns M. New York City flavoured tobacco product sales ban evaluation. *Tob Control*. 2017;26(1):78-84. doi: 10.1136/tobaccocontrol-2015-052418; Pearlman DN, Arnold JA, Guardino GA, Boles Welsh E. Advancing Tobacco Control Through Point of Sale Policies, Providence, Rhode Island. *Prev Chronic Dis*. 2019;16:E129. doi: 10.5888/pcd16.180614.

<sup>15</sup> California Health and Safety Code (HSC) Section 104559.5.

<sup>16</sup> Statement of the Vote Summary Pages. November 8, 2022, General Election. State of California. <https://elections.cdn.sos.ca.gov/sov/2022-general/sov/06-summary.pdf>.



**WHEREAS**, 75.64 percent of voters in Alameda County voted yes to uphold SB 793;<sup>17</sup> and

**WHEREAS**, California Health and Safety Code Section 104559.5 still allows the sale of flavored loose-leaf pipe tobacco and premium cigars with a wholesale price of twelve dollars (\$12.00 or more), as well as flavored shisha/hookah tobacco if sold in licensed stores that only allow people twenty-one (21) years of age on the premises at any time;<sup>18</sup> and

**WHEREAS**, the health effects of non-cigarette tobacco products such as cigars, cigarillos, smokeless tobacco, and shisha are substantial as demonstrated by research that shows that non-cigarette tobacco products have addictive levels of nicotine, harmful toxins, and dangerous carcinogens;<sup>19</sup> and

**WHEREAS**, unlike cigarette use that has steadily declined among youth, the U.S. has seen a surge in teen e-cigarette use, and youth e-cigarette use remains a serious public health concern;<sup>20</sup> and

**WHEREAS**, research has consistently shown that increases in cigarettes prices will result in less smoking across various sociodemographic populations;<sup>21</sup> and

**WHEREAS**, a systematic review by the U.S. Community Preventive Services Task Force found that a 20% price increase would reduce demand for cigarettes by approximately 10.4%, the prevalence of adult tobacco use by 3.6%, and initiation of tobacco use by young people by 8.6%;<sup>22</sup> and

**WHEREAS**, youth are particularly responsive to changes in tobacco prices and evidence suggests that tobacco companies deliberately target youth with price reductions;<sup>23</sup> and

---

<sup>17</sup> Official Election Site of Alameda County. General Election (Certified Final Results) – November 08, 2022. Last Updated: Thursday, December 08, 2022. <https://www.acgov.org/rovresults/248/>.

<sup>18</sup> California Health and Safety Code (HSC) Section 104559.5.

<sup>19</sup> Hoffmann D, Hoffmann I. Chapter 3: Chemistry and Toxicology. In: *Smoking and Tobacco Control Monograph No. 9: Cigars: Health Effects and Trends*. National Cancer Institute; 1998.

<sup>20</sup> Park-Lee E, Ren C, Cooper M, Cornelius M, Jamal A, Cullen KA. Tobacco Product Use Among Middle and High School Students — United States, 2022. *MMWR Morb Mortal Wkly Rep* 2022;71:1429–1435. National Youth Tobacco Survey (NYTS). [https://www.cdc.gov/mmwr/volumes/71/wr/mm7145a1.htm?s\\_cid=mm7145a1\\_w](https://www.cdc.gov/mmwr/volumes/71/wr/mm7145a1.htm?s_cid=mm7145a1_w).

<sup>21</sup> Yao T, Ong MK, Max W, et al. Responsiveness to cigarette prices by different racial/ethnic groups of US adults. *Tob Control*. 2018;27(3):301-309. doi: 10.1136/tobaccocontrol-2016-053434.

<sup>22</sup> Community Preventive Services Task Force. *Reducing Tobacco Use and Secondhand Smoke Exposure: Interventions to Increase the Unit Price for Tobacco Products*. 2012.

<sup>23</sup> U.S. Department of Health and Human Services. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human

**WHEREAS**, although federal and state law ban the sale of individual cigarettes, neither federal nor California state laws restrict the sale of individual little cigars and cigars;<sup>24</sup> and

**WHEREAS**, neither federal nor California law set a minimum price for tobacco products; and

**WHEREAS**, minimum price markups and related laws in other states have been shown to be effective at increasing the price of cigarettes but may remain vulnerable to price manipulation by the tobacco industry without attention to coupons and discounts;<sup>25</sup> and

**WHEREAS**, by selling tobacco products, pharmacies reinforce positive social perceptions of smoking, convey tacit approval of tobacco use, and send a message that it is not so dangerous to smoke;<sup>26</sup> and

**WHEREAS**, the City Council of the City of Union City has a substantial interest in protecting youth and underserved populations from the harms of tobacco use; and

**WHEREAS**, the City Council of the City of Union City finds that a local licensing system for tobacco retailers is appropriate to ensure that retailers comply with tobacco control laws and business standards of the City of Union City in order to protect the health, safety, and welfare of its residents.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF UNION CITY DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1. Recitals.**

The above recitals (“Recitals”) are true and correct and made a part of this Ordinance.

**SECTION 2. CEQA.** Approval of the amendments is exempt from further environmental review under the general rule in California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3) that CEQA only applies to projects that have the potential for causing a significant effect on the environment. As a series of text amendments and additions, it can be

---

Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. 2012. Available at: [https://www.ncbi.nlm.nih.gov/books/NBK99237/pdf/Bookshelf\\_NBK99237.pdf](https://www.ncbi.nlm.nih.gov/books/NBK99237/pdf/Bookshelf_NBK99237.pdf)

<sup>24</sup> 21 C.F.R. § 1140.16(b); Cal. Penal Code § 308.3(a).

<sup>25</sup> Huang J, Chriqui JF, DeLong H, Mirza M, Diaz MC, Chaloupka FJ. Do state minimum markup/price laws work? Evidence from retail scanner data and TUS-CPS. *Tob Control*. 2016;25(Suppl 1):i52-i59. doi: 10.1136/tobaccocon-trol-2016-053093.

<sup>26</sup> Hudmon KS, Fenlon CM, Corelli RL, Prokhorov AV, Schroeder SA. Tobacco sales in pharmacies: time to quit. *Tob Control*. 2006;15(1):35-38. doi: 10.1136/tc.2005.012278.

seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment.

**SECTION 3. Municipal Code Amendment Chapter 5.42.**

Section 5.42 “Tobacco Retailers,” of the Union City Municipal Code is hereby amended to read as displayed in Exhibit A, incorporated and made a part of this Ordinance.

**SECTION 4. Severability.** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

**SECTION 5. Publication and effective date.** Within fifteen (15) days from and after adoption, this Ordinance shall be published once in the Tri-City Voice, a newspaper of general circulation printed and published in Alameda County and circulated in the City of Union City, in accordance with California Government Code Section 36933. This Ordinance shall take effect thirty (30) days after its adoption and shall not be enforced until June 1, 2024.



## EXHIBIT A

### 5.42.010 Definitions.

The following words and phrases, whenever used in this chapter, shall have the meanings defined in this section unless the context clearly requires otherwise:

“Administrator” means the ~~Administrative Services~~Finance Director or designee.

“Arm’s length transaction” means a sale or transfer, in good faith and for valuable consideration ~~that reflects the fair market value in the open market~~ between two informed and willing parties, as determined by the parties, neither of which is under any compulsion to participate in the transaction. A sale or transfer ~~between relatives, related companies or partners, or a sale~~ for which a significant purpose is avoiding the effect of the violations of this chapter is not an arm’s length transaction.

“Coupon” means any voucher, rebate, card, paper, note, form, statement, ticket, image, or other issue, whether in paper, digital, or other form, used for commercial purposes to obtain an article, product, service, or accommodation without charge or at a discounted price. ~~means anything that can be exchanged for or used to acquire an electronic cigarette, electronic cigarette paraphernalia, electronic cigarette or tobacco product, such as a printed piece of paper, voucher, ticket, rebate, rebate offer, check, credit, token, code, password, or anything labeled “coupon” or “coupon offer.”~~

“Department” means the ~~Administrative Services~~Finance Department.

“Drug paraphernalia” shall have the definition set forth in California Health and Safety Code Section 11014.5, as that section may be amended from time to time.

“Electronic smoking device” means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic smoking device includes any component, part, or accessory of the device, and also includes any substance that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine. Electronic smoking device does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act. ~~“Electronic cigarette” means “a device that can provide an inhalable dose of nicotine by delivering a vaporized solution” as defined in California Health and Safety Code Section 119405(b), as that section may be amended from time to time, or any device designed to vaporize a liquid solution that releases flavored vapor.~~

~~“Electronic cigarette paraphernalia” means any device designed to provide an inhalable dose of nicotine or a flavored liquid solution through vaporization, nicotine-based or flavored solution-based cartridges for use with electronic cigarettes, and any other item designed for the vaporization, preparation, storing, or consumption of electronic cigarette products.~~

~~“Electronic cigarette product” means any substance containing nicotine or a flavored liquid solution for vaporization, including any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.~~

“Flavored Tobacco Product” means any tobacco product that imparts:

1. a taste or odor distinguishable by an ordinary consumer, other than the taste or odor of tobacco, either prior to or during the consumption of such tobacco product,

including but not limited to tastes or odors relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, mint, wintergreen, menthol, herb, or spice; or

2. a heating, cooling, or numbing sensation distinguishable by an ordinary consumer during the consumption of such tobacco product.

-“License” means a tobacco retailer’s license as defined below.

-“Licensee” means a tobacco retailer with a tobacco retailer’s license.

“Manufacturer” means any person, including any repacker or relabeler, who manufactures, fabricates, assembles, processes, or labels a tobacco product; or imports a finished tobacco product for sale or distribution into the United States.

“Nominal cost” means the cost of any item that is transferred from one person to another for less than the total of: (1) twenty-five percent of the full retail value of the item exclusive of taxes and fees; plus (2) all taxes and fees previously paid and all taxes and fees still due on the item at the time of transfer.

“Nonsale distribution” means to give, within the jurisdictional limits of the City, a tobacco product or coupon at no cost or at nominal cost to a person who is not a tobacco seller.

“Person” means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

“Pharmacy” means any retail establishment in which the profession of pharmacy is practiced by a pharmacist licensed by the State of California in accordance with the Business and Professions Code and where prescription pharmaceuticals are offered for sale, regardless of whether the retail establishment sells other retail goods in addition to prescription pharmaceuticals.

“Proprietor” means a person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a person has a ten percent or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a person can or does have or share ultimate control over the day-to-day operations of a business.

“Public place” means any place within the City, public or private, that is open to the general public regardless of any fee or age requirement, including, for example, bars, restaurants, clubs, stores, stadiums, parks, playgrounds, taxis, and buses.

“Retailer” means tobacco retailer as defined herein.

“Self-service display” means the open display or storage of ~~electronic cigarettes, electronic cigarette products, electronic cigarette paraphernalia,~~ tobacco products ~~or tobacco paraphernalia~~ in a manner that is physically accessible in any way to the general public without the assistance of the retailer or employee of the retailer and a direct person-to-person transfer between the purchaser and the retailer or employee of the retailer. A vending machine is a form of self-service display.

“Single-use electronic smoking product” means an electronic smoking device that is not refillable or rechargeable and is typically discarded once its contents have been used. It includes without limitation:

1. Any electronic device or delivery system that can be used to deliver an inhaled dose of nicotine, flavorings, chemicals, or other substances in aerosolized or vaporized form for human consumption, including but not limited to an electronic cigarette, cigar, pipe, vape pen, or hookah.
2. Any component, part, or accessory of such a device or delivery system that is used during its operation.
3. Any flavored or unflavored liquid or substance, whether sold separately or sold in combination with any such device or delivery system, that could be used to deliver tobacco products, nicotine, or other substances in aerosolized or vaporized form.
4. Any product for use in such an electronic device or delivery system whether it contains nicotine or tobacco or is derived from nicotine or tobacco.

~~“Tobacco” means leaves of the tobacco plant dried and prepared for smoking or ingestion.~~

~~“Tobacco paraphernalia” means cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for the smoking, preparation, storing, or consumption of tobacco products.~~

~~“Tobacco product” means tobacco and any substance containing tobacco, including, but not limited to, cigarettes, cigars, cigarillos, pipe tobacco, hookah tobacco, snuff, chewing~~

| ~~tobacco, dipping tobacco, snus, bidis, or any other preparation of tobacco; and any product or~~



~~formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.~~

1. any product containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus;
2. any electronic smoking device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or
3. any component, part, or accessory of (1) or (2), whether or not any of these contains tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp wraps, hookahs, mouthpieces, and pipes.

"Tobacco product" does not mean drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

"Tobacco retailer" means any person who sells, offers for sale, or does or offers to exchange for any form of consideration tobacco products. This definition is without regard to the quantity of tobacco products sold, offered for sale, exchanged, or offered for exchange.,  
electronic cigarettes, electronic cigarette products, electronic cigarette paraphernalia, tobacco products or tobacco paraphernalia.

"Tobacco retailing" shall mean means engaging in the activities of a tobacco retailer. the doing of any of these things. This definition is without regard to the quantity of electronic cigarettes, electronic cigarette products, electronic cigarette paraphernalia, tobacco products or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange.

"Tobacco retailer's license" means the license issued pursuant to Section 5.42.050 this chapter that authorizes electronic cigarette or tobacco retailing at a certain location and by a certain tobacco retailer.

#### **5.42.020 Requirements and prohibitions.**

A. Tobacco Retailer License Required. It is unlawful for any person to act as a tobacco retailer in the City without first obtaining and maintaining a valid tobacco retailer's license pursuant to this chapter for each location at which that activity is to occur. Tobacco retailing without a valid tobacco retailer's license is a nuisance as a matter of law.

B. Lawful Business Operation. In the course of tobacco retailing or in the operation of the business or maintenance of the location for which a license issued, it shall be a violation of this chapter for a licensee, or any of the licensee's agents or employees, to violate any local, State, or Federal law applicable to ~~electronic cigarettes, electronic cigarette products, electronic cigarette paraphernalia, tobacco products, tobacco paraphernalia, or tobacco retailing~~ the sale of tobacco products.

C. Display of License. Each tobacco retailer license shall be prominently displayed in a publicly visible location at the licensed location.

D. Positive Identification Required. No person engaged in tobacco retailing shall sell or transfer a ~~n electronic cigarette, electronic cigarette product, electronic cigarette paraphernalia, tobacco product or tobacco paraphernalia~~ to another person who appears to be under the age of

twenty-seven years without first examining the identification of the recipient to confirm that the recipient is at least the minimum age under State law ~~to purchase and possess the electronic cigarette, electronic cigarette product, electronic cigarette paraphernalia, tobacco product or tobacco paraphernalia.~~

E. Minimum Age for Persons Selling Tobacco. Persons employed by a tobacco retailer under this chapter that sell tobacco products must be at least the minimum legal sales age established by state law. ~~No person who is younger than the minimum age established by State law for the purchase or possession of electronic cigarette products or tobacco products shall engage in tobacco retailing.~~

F. Self-Service Displays Prohibited. Tobacco retailing by means of a self-service display is prohibited.

G. False and Misleading Advertising Prohibited. A tobacco retailer or proprietor without a valid tobacco retailer license, including, for example, a person whose license has been revoked:

1. Shall keep all ~~electronic cigarettes, electronic cigarette products, electronic cigarette paraphernalia,~~ tobacco products ~~and tobacco paraphernalia~~ out of public view. The public display of ~~electronic cigarettes, electronic cigarette products, electronic cigarette paraphernalia,~~ tobacco products ~~or tobacco paraphernalia~~ in violation of this provision shall constitute tobacco retailing without a license; and

2. Shall not display any advertisement relating to ~~electronic cigarettes, electronic cigarette products, electronic cigarette paraphernalia,~~ tobacco products ~~or tobacco paraphernalia~~ that promotes the sale or distribution of such products from the tobacco retailer's location or that could lead a reasonable consumer to believe that such products can be obtained at that location.

H. Signage Violations. It is a violation of this chapter for any licensee to violate any local, State, or Federal law regulating exterior, storefront, window, or door signage.

I. Drug Paraphernalia. It is a violation of this chapter for any licensee or any of the licensee's agents or employees, to violate any local, State, or Federal law regulating controlled substances or drug paraphernalia.

J. Nonsale Distribution of Tobacco Products Prohibited.

1. No tobacco retailer nor any agent or employee of a tobacco retailer shall engage in the nonsale distribution of any ~~electronic cigarette, electronic cigarette paraphernalia, electronic cigarette product,~~ tobacco product or coupon in any public place.

2. No person, motivated by an economic or a business purpose, shall knowingly permit the nonsale distribution of any ~~electronic cigarette, electronic cigarette paraphernalia, electronic cigarette product,~~ tobacco product or coupon: (a) anywhere in any public place under the legal or de facto control of the person; or (b) through any agent or employee of the person. This provision shall not apply to coupons incidentally distributed in connection with a printed or electronic publication, such as, for example, magazines, newspapers, and websites, so long as that person's distribution of a publication containing coupons is not primarily motivated by an economic or a business purpose to distribute coupons.

3. No tobacco retailer may honor or redeem, or offer to honor or redeem, a coupon to allow a consumer to purchase a tobacco product for less than the full retail price.

4. No tobacco retailer may sell any tobacco product to a consumer through a multiple-package discount or otherwise provide any such product to a consumer for less than the full retail price in consideration for the purchase of any tobacco product or other item.

5. No tobacco retailer may provide any free or discounted item to a consumer in exchange for the purchase of any tobacco product.

K. Minimum Pack Size for Cigars.

1. Notwithstanding any other provision of this chapter, no tobacco retailer shall sell, offer for sale, or exchange for any form of consideration:

a. Any single cigar, whether or not packaged for individual sale;

b. Any number of cigars fewer than the number contained in the manufacturer's original consumer packaging designed for retail sale to a consumer; or

c. Any package of cigars containing fewer than ~~ten~~five cigars.

d. Cigars at a price of less than fifteen dollars per package of ten cigars, including all applicable taxes and fees.

2. This subsection does not apply to the sale or offer for sale of a single cigar for which the retail price exceeds either ~~eight~~five dollars, including all applicable taxes and fees. ~~This or the dollar amount may be increased annually by the Consumer Price Index, as determined by the City Council and adopted by resolution of the City Council and adjusted from time to time, whichever is higher. The public shall be given notice of any such resolution in the manner notice is given of ordinances of the City.~~

3. This subsection shall apply to cigars, cigarillos and any other cigar product regardless of the terminology used for the product.

L. Sale of Single-Use Electronic Smoking Products. No person may sell or possess with the intent to sell any single-use electronic smoking product within the city.

M. Flavored Tobacco Products. It shall be unlawful for any tobacco retailer to sell any flavored tobacco product.

1. Presumptive flavored tobacco product. There shall be a rebuttable presumption that a tobacco product is a flavored tobacco product if a tobacco retailer, manufacturer, or any employee or agent of a tobacco retailer or manufacturer has taken action directed to consumers that would be reasonably expected to cause consumers to believe the tobacco product is a flavored tobacco product. Any communication by or on behalf of the manufacturer or retailer of a tobacco product that such tobacco product imparts a taste or odor other than the taste or odor of tobacco, or that imparts a heating, cooling, or numbing sensation, constitutes presumptive evidence that the tobacco product is a flavored tobacco product. This includes but is not limited to public statements that a product is flavored, such as describing the product as "chill," "ice," "fresh," "arctic," "sweet," "spicy," or "frost."

#### **5.42.030 Limits on eligibility for a tobacco retailer license.**

A. No license shall be issued to authorize tobacco retailing at other than a fixed location.

B. No license shall be issued to authorize tobacco retailing at a location where ~~electronic cigarettes, electronic cigarette paraphernalia, electronic cigarette products or~~ tobacco products are prohibited from being distributed pursuant to Title 18.

C. No license shall be issued to a location or a tobacco retailer where prohibited pursuant to Section 5.42.110.

D. Proximity to other tobacco retailers. No license may issue, and no existing license may be renewed, to authorize tobacco retailing within 500 feet of a tobacco retailer location already licensed pursuant to this chapter as measured by a straight line from the nearest point of the property line of the parcel on which the applicant's business is located to the nearest point of



the property line of the parcel on which an existing licensee's business is located. This restriction does not apply to an applicant who has been licensed to sell tobacco products as of March 1, 2024.

E. Pharmacies. No license may issue, and no existing license may be renewed, to authorize tobacco retailing in a pharmacy.

#### **5.42.040 Application procedure.**

A. Application for a tobacco retailer's license shall be submitted in the name of each proprietor proposing to conduct tobacco retailing and shall be signed by each proprietor or an authorized agent thereof.

It is the responsibility of each proprietor to be informed regarding all laws applicable to tobacco retailing, including those laws affecting the issuance of a tobacco retailer's license. No proprietor may rely on the issuance of a license as a determination by the City that the proprietor has complied with all laws applicable to tobacco retailing. A license issued contrary to this chapter, contrary to any other law, or on the basis of false or misleading information supplied by a proprietor shall be revoked pursuant to Section 5.42.110(D) of this chapter. Nothing in this chapter shall be construed to vest in any person obtaining and maintaining a tobacco retailer's license any status or right to act as a tobacco retailer in contravention of any provision of law.

All applications shall be submitted on a form supplied by the Department and shall contain the following information:

1. The name, address, and telephone number of each proprietor of the business seeking a license;
  2. The business name, address, and telephone number of the single fixed location for which a license is sought;
  3. A single name and mailing address authorized by each proprietor to receive all communications and notices (the "authorized address") required by, authorized by, or convenient to the enforcement of this chapter. If an authorized address is not supplied, each proprietor shall be understood to consent to the provision of notice at the business address specified in subsection (A)(2);
  4. Proof that the location for which a tobacco retailer's license is sought has been issued a valid state tobacco retailer's license by the California ~~Board of Equalization~~ Department of Tax and Fee Administration;
  5. Whether or not any proprietor or any agent of the proprietor has admitted violating, or has been found to have violated, this chapter and, if so, the dates and locations of all such violations within the previous five years;
  6. A statement signed by each proprietor that no drug paraphernalia is or will be sold at the location for which the license is sought;
  7. Such other information as the Department deems necessary for the administration or enforcement of this chapter as specified on the application form required by this section.
- B. A licensed tobacco retailer shall inform the Department in writing of any change in the information submitted on an application for a tobacco retailer's license within ten business days of a change.
- C. All information specified in an application pursuant to this section shall be subject to disclosure under the California Public Records Act (California Government Code Section 6250 et seq.) or any other applicable law, subject to the laws' exemptions.

#### **5.42.050 Issuance of license.**

Upon the receipt of a complete application for a tobacco retailer's license and the license fee required by this chapter, the Administrator shall issue a license unless substantial evidence demonstrates that one or more of the following bases for denial exists:

A. The information presented in the application is inaccurate or false. Intentionally supplying inaccurate or false information shall be a violation of this chapter;

B. The application seeks authorization for tobacco retailing at a location for which this chapter prohibits issuance of tobacco retailer licenses. However, this subsection shall not constitute a basis for denial of a license if the applicant provides the City with documentation demonstrating by clear and convincing evidence that the applicant has acquired or is acquiring the location or business in an arm's length transaction;

C. The application seeks authorization for tobacco retailing for a proprietor or location for which this chapter prohibits a license to be issued, including the provisions of Section [5.42.110](#);

D. The application seeks authorization for tobacco retailing that is prohibited pursuant to this chapter (e.g., mobile vending), that is unlawful pursuant to this Code or that is unlawful pursuant to any other law;

E. The location for which a tobacco retailer's license is sought lacks a valid state tobacco retailer's license by the California [Department of Tax and Fee Administration](#) ~~Board of Equalization~~.

#### **5.42.060 License renewal and expiration.**

A. Term and Renewal of License. A tobacco retailer's license is invalid if the appropriate fee has not been timely paid in full or if the term of the license has expired. The term of a tobacco retailer license is one year. Each tobacco retailer shall apply for the renewal of his or her tobacco retailer's license and submit the license fee no later than thirty days prior to expiration of the term.

B. Expiration of License. A tobacco retailer's license that is not timely renewed shall expire at the end of its term. To renew a license not timely renewed pursuant to subsection A, the proprietor must:

1. Submit the license fee and application renewal form; and
2. Submit a signed affidavit affirming that the proprietor:

a. Has not sold and will not sell any ~~electronic cigarette, electronic cigarette product, electronic cigarette paraphernalia,~~ tobacco product ~~or tobacco paraphernalia~~ after the license expiration date and before the license is renewed; or

b. Has waited the appropriate ineligibility period established for tobacco retailing without a license, as set forth in Section [5.42.110](#)(A) of this chapter, before seeking renewal of the license.

#### **5.42.070 Licenses nontransferable.**

A. A tobacco retailer's license may not be transferred from one person to another or from one location to another. A new tobacco retailer's license is required whenever a tobacco retailing location has a change in proprietor(s).

B. Notwithstanding any other provision of this chapter, prior violations at a location shall continue to be counted against a location and license ineligibility periods shall continue to apply to a location unless:

1. The location has been fully transferred to a new proprietor or fully transferred to entirely new proprietors; and
2. The new proprietor(s) provide the City with clear and convincing evidence that the new proprietor(s) have acquired or is acquiring the location in an arm's length transaction.

#### **5.42.080 License conveys a limited, conditional privilege.**

Nothing in this chapter shall be construed to grant any person obtaining and maintaining a tobacco retailer's license any status or right other than the limited conditional privilege to act as a tobacco retailer at the location in the City identified on the face of the permit. For example, nothing in this chapter shall be construed to render inapplicable, supersede, or apply in lieu of, any other provision of applicable law, including but not limited to, any provision of this Code, or any condition or limitation on smoking in an enclosed place of employment pursuant to California [Labor Code](#) Section 6404.5. For example, obtaining a tobacco retailer license does not make the retailer a "retail or wholesale tobacco shop" for the purposes of California [Labor Code](#) Section 6404.5.

#### **5.42.090 Fee for license.**

The fee to issue or to renew a tobacco retailer's license shall be established from time to time by resolution of the City Council and shall be included within the City's Master Fee Schedule. The fee shall be calculated so as to recover the cost of administration and enforcement of this chapter, including, for example, issuing a license, administering this chapter, retailer inspection and compliance checks, documentation of violations, and prosecution of violators, but shall not exceed the cost of the regulatory program authorized by this chapter. All fees and interest upon proceeds of fees shall be used exclusively to fund the program. Fees are nonrefundable except as may be required by law.

#### **5.42.100 Compliance monitoring.**

A. Compliance with this chapter shall be monitored by the Police Department. The City may designate any number of additional persons to monitor compliance with this chapter.

B. Compliance checks shall be conducted so as to allow the Police Department to determine, at a minimum, if the tobacco retailer is conducting business in a manner that complies with laws regulating youth access to ~~electronic cigarettes, electronic cigarette paraphernalia, electronic cigarette products or~~ tobacco products. When the Police Department deems appropriate, the compliance checks shall determine compliance with other laws applicable to tobacco retailing.

~~C. The City shall not enforce any law establishing a minimum age for electronic cigarette, electronic cigarette paraphernalia, electronic cigarette product or tobacco product purchases or possession against a person who otherwise might be in violation of such law because of the person's age (hereinafter "youth decoy") if the potential violation occurs when:~~

~~1. The youth decoy is participating in a compliance check supervised by a peace officer or a code enforcement official of the City;~~

~~2. The youth decoy is acting as an agent of a person designated by the City to monitor compliance with this chapter; or~~

~~3. The youth decoy is participating in a compliance check funded in part, either directly or indirectly through subcontracting, by the Alameda County Public Health Department or the California Department of Health Services.~~



**5.42.110 ~~Violations~~ Suspension and revocation of license.**

A. ~~Violations.~~ Suspension or revocation of tobacco retailer license for violation. In addition to any other penalty authorized by law, a Tobacco Retailer License shall be suspended or revoked if the Department finds or a court of competent jurisdiction determines, after the licensee is afforded notice and an opportunity to be heard, that the licensee, or any of the licensee's agents or employees, has violated any provision of this Chapter. ~~If the Administrator has reasonable cause to believe a violation of this chapter exists, or if any court of competent jurisdiction determines the same, the Administrator may issue a notice of violation and begin the revocation process as follows:~~

1. Upon a finding of a first violation of this Chapter at a location within any 5 year period, the License shall be suspended for 30 days. ~~First Violation. After a first violation of this chapter at a location within any sixty month period, the Administrator shall:~~

~~a. Issue a written warning to the licensee, which includes: the facts supporting the finding of a violation, the penalties for further violations of this chapter, and provides thirty days within which the licensee may cure the violation and advise employees of applicable regulations or contact the Administrator to challenge the finding of a violation;~~

~~b. If the licensee contacts the Administrator to challenge the finding of a violation, the Administrator shall provide written notice of a hearing, not less than five business days after the notice, at which the tobacco retailer may show cause, at a time and place specified in the notice, why a violation does not exist. Should the tobacco retailer fail to present evidence at such hearing establishing, in the reasonable determination of the Administrator, that a violation does not exist, the Administrator shall provide written notice to the tobacco retailer that the notice of violation is upheld.~~

2. Upon a finding of a second violation of this Chapter at a location within any 5 year period, the License shall be suspended for 90 days. ~~Second Violation. After a second violation of this chapter at a location within any sixty month period, the license shall be revoked and no new license shall be issued for the location or the tobacco retailer until thirty days have passed from the date of revocation.~~

3. Upon a finding of a third violation of this Chapter at a location within any 5 year period, the License shall be suspended for 1 year. ~~Third Violation. After a third violation of this chapter at a location within any sixty month period, the license shall be revoked and no new license shall be issued for the location or the tobacco retailer until ninety days have passed from the date of revocation.~~

4. Upon a finding of four or more violations of this Chapter at a location within any 5 year period, the License shall be revoked with no new license issued for a five year period. ~~Fourth Violation and Additional Violations. After four or more violations of this chapter at a location within any sixty month period, the license shall be revoked and no new license may issue for the location or tobacco retailer until five years have passed from the date of revocation.~~

B. ~~Revocation Procedures.~~ If the licensee contacts the Administrator to challenge the finding of a violation, the Administrator shall provide written notice of a hearing, not less than five business days after the notice, at which the tobacco retailer may show cause, at a time and place specified in the notice, why a violation does not exist. Should the tobacco retailer fail to present evidence at such hearing establishing, in the reasonable determination of the Administrator, that a violation does not exist, the Administrator shall provide written notice to the tobacco retailer that the notice of violation is upheld. If a license is subject to revocation, the

Administrator shall provide written notice of revocation along with the reasons for revocation, facts suggesting violation, the penalties for violation, and ability to appeal pursuant to subsection C. Within five days of the mailing of notice of revocation, the tobacco retailer shall cease the operation of the business for which the license was issued.

C. **Appeal of Revocation.** A decision of the Administrator to revoke a license is appealable to the City Manager and must be filed with the City Clerk within ten days of mailing of the Administrator's notice of revocation. If such an appeal is made, it shall stay enforcement of the appealed action. An appeal to the City Manager is not available for a revocation made pursuant to subsection D. The date, time, and place of appeal hearings shall be provided in writing to the tobacco retailer with at least ten days' notice and copies of hearing rules. If the tobacco retailer fails to present evidence establishing that tobacco retailer is entitled to retain the license, the City Manager shall uphold the revocation and give written notice to the tobacco retailer. Within five days of the mailing of the notice of upheld revocation, the tobacco retailer shall cease operation of the business for which the license was issued.

D. **Revocation of License Wrongly Issued.** A tobacco retailer's license shall be revoked if the Administrator finds, after the licensee is afforded notice and an opportunity to be heard, that one or more of the bases for denial of a license under Section [5.42.050](#) existed at the time application was made or at any time before the license issued. The decision by the Administrator shall be the final decision of the City. Such a revocation shall be without prejudice to the filing of a new license application.

#### **5.42.120 Enforcement.**

A. ~~Criminal Prosecution.~~ Each incident of violation of this chapter is a misdemeanor. The Department may impose administrative penalties as follows:

1. For a first violation of this Chapter within any 5 year period, two hundred fifty dollars (\$250);
2. For a second violation of this Chapter within any 5 year period, five hundred dollars (\$500); and
3. For a third or subsequent violation of this Chapter within any 5 year period, one thousand dollars (\$1,000). ~~n infraction subject to a one hundred dollar fine or otherwise punishable pursuant to Section 1-16.030 of this Code. Other violations of this chapter may, in the discretion of the City Prosecutor, be prosecuted as infractions or misdemeanors when the interests of justice so require. Enforcement of this chapter shall be the responsibility of the Police Chief or designee. In addition, any peace officer or code enforcement official also may enforce this chapter.~~

B. **Civil Enforcement by the City.**

1. **Fines.** Violations of this chapter are subject to a civil action brought by the City of Union City, punishable by a civil fine not less than two hundred fifty dollars and not exceeding one thousand dollars per violation.

2. **Injunctions, Nuisance Abatement, and Code Enforcement.** In addition to other remedies provided by this chapter or by other law, any violation of this chapter may be remedied by a civil action brought by the City Attorney including, for example, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, and suits for injunctive relief. Where the City pursues a civil action to remedy a violation of this chapter, the prevailing party shall be entitled to recovery of attorneys fees if the City elects, at the beginning

of that action, to seek recovery of its own attorneys' fees pursuant to [Government Code](#) Section 38773.5 as currently drafted or as amended.

C. General Provisions.

1. Cumulative Remedies. The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.

2. Violations. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall also constitute a violation of this chapter. A violation exists for each day on which ~~an electronic cigarette, electronic cigarette product, electronic cigarette paraphernalia,~~ a tobacco product ~~or tobacco paraphernalia~~ is offered for sale in violation of this chapter. A violation also exists for each individual retail ~~electronic cigarette, electronic cigarette product or~~ tobacco product ~~and each individual retail item of electronic cigarette paraphernalia tobacco paraphernalia~~ that is distributed, sold, or offered for sale in violation of this chapter.

3. Nuisances. Violations of this chapter are hereby declared to be public nuisances.

4. No Testimony for Persons Under Eighteen. Whenever evidence of a violation of this chapter is obtained in any part through the participation of a person under the age of eighteen years old, such a person shall not be required to appear or give testimony in any civil or administrative process brought to enforce this chapter and the alleged violation shall be adjudicated based upon the sufficiency and persuasiveness of the evidence presented.



**From:** [Isha Singh](#)  
**To:** [City Clerk](#)  
**Subject:** Public Comment for agenda item 7.a.  
**Date:** Tuesday, April 9, 2024 4:55:22 PM

---

**WARNING: External email. Please verify sender before opening attachments or clicking on links.**

Good evening Mayor and Councilmembers. I am Isha Singh, a resident of Union City and Youth Commissioner, and I am in support of agenda item 7a. I am so glad that action is being taken to protect the youth of Union City, but it is important that we ensure that these policies are making an impact. In order to do this, I ask that the ordinance includes a 6 month report in which the police department goes to tobacco retailers to ensure the policies are being properly enforced. The department should make sure only the permitted tobacco products are being sold and should be citing any violators. Without the enforcement of the ordinance, the work we have been doing for the past 3 years would not be impactful. So in order to ensure that the youth of Union City are protected, I ask that you establish this 6 month report. Thank you.



To: Union City Council Members

From: Eden Youth Center

680 W Tennyson Rd.

Hayward, CA 94544

Date: April 9, 2024

Attn: Public Comment for Union City Council Meeting- Agenda Item #7. a.

Dear Mayor Dutra-Vernaci and Council Members:

With a quickly approaching June 1<sup>st</sup> enforcement date, please consider that proactive compliance checks in all licensed retailers is best practice in ensuring that these stores are monitored and brought into compliance.

Some cities who adopt TRLs but do not have the staff capacity to enforce their ordinances decide to portion TRL fees to outside agencies in conducting enforcement activities. Eden Youth Center is here to inform you that we can offer our assistance in this area.

Eden Youth Center trains youth to support underage sales operations and can even contract with the city to conduct TRL compliance checks, should you want assistance with either aspect of effective TRL enforcement. For example, if Union City determines it does not have the staff capacity to conduct TRL enforcement in-house, it would be an option to earmark a portion of the \$863 annual TRL fee that the city is collecting from retailers for TRL enforcement (approx. \$28,000 annually) to contract with an agency who could conduct sales inspections and youth decoy operations.

This support may be especially helpful as California [STAKE ACT](#) youth decoy operations conducted in 2021 reported that almost a third (29%) of Union City tobacco retailers inspected sold tobacco to minors. Eden Youth Center will be available to explore these options with the city if that is helpful in moving TRL enforcement forward.

Thank you for your consideration.

**From:** [Luis Santos](#)  
**To:** [City Clerk](#)  
**Subject:** Public Comment 7a  
**Date:** Tuesday, April 9, 2024 4:27:18 PM  
**Attachments:** [image001.png](#)  
[Eden YouthxUnion City Comment- Compliance \(FINAL\).pdf](#)

---

***WARNING: External email. Please verify sender before opening attachments or clicking on links.***

Good Afternoon,

I hope all is well. I am writing to formally submit the public comment on behalf of Eden Youth Center for agenda item 7a. "Waive Further Reading and Adopt an Ordinance Amending Union City Municipal Code Chapter 5.42, "Tobacco Retailers" And/Or Provide Further Direction. Attached to this email is a copy of the public comment, should you have any questions or concerns, please feel free to contact me at [lsantos@edenyouth.org](mailto:lsantos@edenyouth.org). Thank you and have a great rest of your day!

Sincerely,  
Luis Santos



Luis Santos Hernandez  
Community Engagement Specialist  
(He/Him/Él)  
[lsantos@edenyouth.org](mailto:lsantos@edenyouth.org)  
O: 510.887.1147  
C: 510.479.2856  
[edenyouth.org](http://edenyouth.org)





## **ORDINANCE AMENDING CHAPTER 5.42 “TOBACCO RETAILERS”**

City Council  
April 9, 2024



## | Amendments

- March 26: The City Council waived full reading and introduced the proposed ordinance.
  - Prohibition on the sale of single-use electronic smoking products.
  - Prohibition on the sale of flavored tobacco products.
  - Prohibition on the sale of tobacco products in pharmacies.
  - Minimum single cigar price of \$8 (increase from \$5) with possible annual increases by the Consumer Price Index (CPI).
  - Minimum pack size of 10 (increase from 5) for cigars with a minimum price of \$15.
  - Increase the amount for fines related to violations.
  - Prohibit the issuance of tobacco retail licenses within 500 feet of each other.
  - Allow the transfer of a tobacco retailers license with the transfer of a business and revising the definition of “arm’s length transaction”. This will allow existing tobacco retailers within 500 feet of each other to continue being a tobacco retailer despite a change in business ownership.
  - Prohibition on discounts.
  - Enforcement date of June 1, 2024.



## Recommendation

Staff and the City Attorney’s Office recommends that the City Council waive further reading and adopt the proposed ordinance amending Union City Municipal Code Chapter 5.42, “Tobacco Retailers” and/or provide any further direction as necessary.





## Agenda Item

**DATE:** 4/9/2024

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**FROM:** JACKIE ACOSTA, FINANCE DIRECTOR

**SUBJECT:** PRESENTATION OF THE FISCAL YEAR 2022-2023 UNAUDITED YEAR-END GENERAL FUND FINANCIAL RESULTS AND FISCAL YEAR 2023-2024 MID-YEAR GENERAL FUND FINANCIAL INFORMATION AND ADOPTION OF A RESOLUTION APPROVING FISCAL YEAR 2023-2024 MID-YEAR GENERAL FUND BUDGET AMENDMENTS

See attached pdf staff report.

### **STRATEGIC PLAN ALIGNMENT**

### **BACKGROUND**

### **DISCUSSION**

### **FISCAL IMPACT**

### **RECOMMENDATION**

Staff recommends that the City Council hear a presentation on the Fiscal Year 2022-2023 Unaudited Year-End General Fund financial results and Fiscal Year 2023-2024 Mid-Year General Fund financial information and adopt a resolution approving the Fiscal Year 2023-2024 Mid-Year General Fund budget amendments.

### **Prepared by:**

Jackie Acosta, Finance Director  
Tim Przybyla, Interim Accounting Manager

**Submitted by:**

Jackie Acosta

**ATTACHMENTS:**

Description		Type
	Staff Report	Staff Report
	Resolution	Resolution
	Item 7.b. PowerPoint	Attachment



## Agenda Item

**DATE:** 4/9/2024

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**FROM:** JACKIE ACOSTA, FINANCE DIRECTOR

**SUBJECT:** PRESENTATION OF THE FISCAL YEAR 2022-2023 UNAUDITED YEAR-END GENERAL FUND FINANCIAL RESULTS AND FISCAL YEAR 2023-2024 MID-YEAR GENERAL FUND FINANCIAL INFORMATION AND ADOPTION OF A RESOLUTION APPROVING FISCAL YEAR 2023-2024 MID-YEAR GENERAL FIND BUDGET AMENDMENTS

### **EXECUTIVE SUMMARY**

Staff recommends that the City Council hear a presentation on the Fiscal Year 2022-2023 Unaudited Year-End General Fund financial results and Fiscal Year 2023-2024 Mid-Year General Fund financial information and also adopt a resolution approving the Fiscal Year 2023-2024 Mid-Year General Fund budget amendments.

### **STRATEGIC PLAN**

This staff report aligns with Goal A: Financial Stability and Sustainability.

### **BACKGROUND**

Due to the cyberattack and significant staff turnover in the Finance Department over the past three years, staff continue to be behind in year-end closings and audits. However, staff is close to being caught up and expect to have a timely close and audit for the current fiscal year which will end on June 30, 2024. The Audit Committee will be presented with the Fiscal Year 2021-2022 audited financial statements in April and then the report will be presented to the full City Council. The year-end close for Fiscal Year 2022-2023 has begun and the audit will commence soon.

### **DISCUSSION**

At the last City Council meeting, staff presented financial information for FY 2021-2022. Tonight, staff will start with the unaudited financial information for FY 2022-2023. Later in this report, staff will also provide mid-year (through December 2023) financial information for FY 2023-2024 and a list of requested mid-year budget adjustments.



## **FY 2022-2023 UNAUDITED FINANCIAL DATA - GENERAL FUND**

Table 1 presents the unaudited year-end financial results in the General Fund, as well as summarized Budget to Actual information.

**Table 1**

<b>GENERAL FUND</b>	<b>FY 2022-2023 ADOPTED BUDGET</b>	<b>FY 2022-2023 AMENDED BUDGET</b>	<b>FY 2022-2023 UNAUDITED YEAR-END EST. ACTUALS</b>	<b>FY 2022-2023 AMENDED BUDGET VS ACTUAL VARIANCES</b>
<b>REVENUES:</b>				
Operating Revenues	\$69,480,200	\$70,358,400	\$72,885,434	\$2,527,034
Transfers-In	8,317,913	8,317,913	7,299,913	(\$1,018,000)
Sale of City Property	0	0	2,137	2,137
Proceeds of Lease Fin.	0	0	511,078	511,078
<b>Total Revenues</b>	<b>\$77,798,113</b>	<b>\$78,676,313</b>	<b>\$80,698,562</b>	<b>\$2,022,249</b>
<b>EXPENDITURES:</b>				
Operating Expenditures	\$72,910,897	\$79,927,778	\$68,499,052	\$11,428,726
Transfers Out	1,465,900	1,465,900	1,465,900	0
<b>Total Expenditures</b>	<b>\$74,376,797</b>	<b>\$81,393,678</b>	<b>\$69,964,952</b>	<b>\$11,428,726</b>
<b>REVENUES IN EXCESS OF EXPENDITURES</b>	<b>\$3,421,316</b>	<b>(\$2,717,365)</b>	<b>\$10,733,610</b>	<b>\$13,450,975</b>

When comparing budget to actual results, FY 2022-2023 revenues are \$2,022,249 more than the amended revenue budget, which is a positive 2.57% variance. FY 2022-2023 expenditures are approximately \$11.4 million less than the amended expenditure budget, which represents a 14.3% variance. Union City realized \$3.8M of salary and benefits savings, \$5.8M of professional and contractual services savings, and \$1.8M of other savings, for the combined total of \$11.4M in expenditure savings. The \$2,022,249 positive variance in revenues was primarily due Property Tax revenues exceeding projections by \$1.27 million, Sales Tax exceeding projections by \$714,279 and Business License Tax exceeding projections by \$248,579. The combined positive variances in revenues and expenditures amount to \$13,450,975 for the betterment of the General Fund, compared to budget. However, with that said, had the City not received \$7M in ARPA funds and had \$11.4M in expenditure savings, the City would have ended FY 2022-2023 with a **shortfall of \$7.7M**.

The next two sections provide budget-to-actual information for FY 2022-2023 to show how our major revenue sources fared compared to the revenue estimates and to demonstrate where the majority of expenditures savings came from.

### **FY 2022-2023 GENERAL FUND REVENUES:**

Again, for FY 2022-2023, total revenues were \$2M more than the amended budget. Most of the City's major revenues performed better than estimated, while one came in under the original revenue estimates. The City's largest General Fund revenue source is Property Tax. For FY 2022-2023, property taxes were \$1,273,513 more than the revenue projection. The City's second and third largest revenue sources are the Bradley-Burns 1% sales tax and the Measure AA 0.5% local sales tax,

respectively. Both of those revenue sources performed better than projected. The Bradley-Burns sales tax was \$714,279 more than estimated and the Measure AA local sales tax was \$105,437 more than estimated. One of the revenues that has still not returned to pre-pandemic levels is Transient Occupancy Tax; it was short of staff's revenue projection by \$641,127. The Utility Users' Tax revenues were \$630,863 more than projected. A summary of the significant budget-to-actual revenue variances is shown in Table 2 below:

**Table 2**

<b>REVENUE SOURCE</b>	<b>FY 2022-2023 AMENDED BUDGET</b>	<b>FY 2022-2023 UNAUDITED YEAR-END EST. ACTUALS</b>	<b>FY 2022-2023 AMENDED BUDGET VS ACTUAL VARIANCES</b>
Property Taxes	\$27,087,300	\$28,360,813	\$1,273,513
Sales Tax (Bradley-Burns)	11,742,000	12,456,279	714,279
Sales Tax (Measure AA)	7,069,000	7,174,437	105,437
Transient Occupancy Tax	2,473,900	1,832,773	(641,127)
Franchise Taxes	5,860,000	5,866,744	6,744
Business License Tax	1,650,000	1,898,579	248,579
Real Property Transfer Tax	220,500	322,712	102,212
Cannabis Tax	588,500	688,917	100,417
Utility Users' Tax	5,665,000	6,295,863	630,863
Licenses & Permits	3,668,300	2,910,310	(757,990)
Fines & Forfeitures	422,500	263,941	(158,559)
Intergovernmental Revenues	822,900	743,234	(79,666)
Charges for Services	2,287,400	2,642,203	354,803
Investment & Rental Income	616,900	1,108,725	491,825
Miscellaneous Revenues	184,200	319,904	135,704
Proceeds from Lease Financing	0	511,078	511,078
Proceeds from Sale of City Property	0	2,137	2,137
ARPA	7,049,913	7,049,913	0
Transfers-In	1,268,000	250,000	(1,018,000)
<b>Total Budget-to-Actual Variance</b>	<b>\$78,676,313</b>	<b>\$80,698,562</b>	<b>2,022,249</b>

#### **FY 2022-2023 GENERAL FUND EXPENDITURES:**

In FY 2022-2023, total expenditures were \$11,428,726 less than budgeted. These significant savings were realized because the City continued to proceed cautiously with regards to City finances due to the lingering impacts of the cyberattack and the ongoing pandemic. The challenges of finding qualified candidates and the lack of staffing continued to slow the City's recovery and the implementation of capital projects and programs in FY 2022-2023. Staff is hopeful that throughout 2024, the City will continue to fill vacancies and to restore services to a pre-pandemic level. However, as the Council is aware, the market for employees is very tight. A summary of the significant budget-to-actual expenditure variances that make up the \$11.4 million expenditure savings is shown in Table 3 on the following page:

**Table 3**

<b>EXPENDITURE TYPE</b>	<b>FY 2022-2023 AMENDED BUDGET</b>	<b>FY 2022-2023 UNAUDITED YEAR-END EST. ACTUALS</b>	<b>FY 2022-2023 AMENDED BUDGET VS ACTUAL VARIANCES</b>
Full-Time Pay	\$24,066,994	\$21,331,611	\$2,735,383
CalPERS Retirement	13,359,152	12,803,488	555,664
Health Insurance	3,412,620	2,932,172	480,448
Professional/Consulting Services	2,774,301	1,004,906	1,769,395
Contractual Services	22,252,665	18,154,937	4,097,728
Utilities	919,000	745,232	173,768
Travel & Training	664,067	341,717	322,350
All Other Expenditure Accounts	13,944,879	12,650,889	1,293,990
<b>Totals</b>	<b>\$81,393,678</b>	<b>\$69,964,952</b>	<b>\$11,428,726</b>

As stated above, had the City not received Federal ARPA funds and not had significant expenditure savings, FY 2022-2023 would have ended with a \$7.7M shortfall (expenditures in excess of revenues).

Table 4 provides a look at how the FY 2022-2023 unaudited year-end financial results will affect the General Fund balance. The positive budget outcome is in line with the long-range budget forecast model that the City Council reviewed in May 2023 and again in November 2023, though the savings are more than expected.

**Table 4**

<b>General Fund Balance at 6-30-2022</b>	<b>\$34,477,681</b>
Plus: FY 2022-2023 Total Revenues	80,698,562
Less: FY 2022-2023 Total Expenditures	(69,964,952)
Net Change in Fund Balance	\$10,733,610
<b>Estimated General Fund Balance at 6-30-2022</b>	<b><u>\$45,211,291</u></b>

### **FY 2023-2024 MID-YEAR BUDGET REVIEW - GENERAL FUND**

As of December 31, 2023, the City of Union City seems to be on track with its General Fund revenues and expenditures. Total Revenues are at approximately 38% of budget, and total expenditures stand at approximately 43% of budget for the first six months of Fiscal Year 2023-2024 (FY 2024). Staff is still confident with the revenue projections and anticipate that we will finish the fiscal year well within the total appropriated expenditures. Further discussion of General Fund revenues and expenditures follows, including comparisons to mid-year for Fiscal Year 2022-2023 (FY 2023).



## **FY 2022-2023 & FY 2023-2024 GENERAL FUND REVENUES:**

<b>SUMMARY</b>	<b>Actual FY 2023</b>	<b>Adjusted Budget FY 2023</b>	<b>6 Months YTD FY 2023</b>	<b>% of Budget</b>	<b>Adjusted Budget FY 2024</b>	<b>6 Months YTD FY 2024</b>	<b>% of Budget</b>
<b>REVENUES</b>							
Property Taxes	28,360,813	27,087,300	12,812,641	47%	29,737,022	13,836,559	47%
Sales Tax	12,456,279	11,742,000	4,127,133	35%	12,131,000	4,029,187	33%
Sales Tax - Measure AA	7,174,437	7,069,000	2,343,365	33%	7,053,000	2,359,998	33%
Transient Occupancy Tax	1,832,773	2,473,900	572,128	23%	1,989,423	441,754	22%
Franchise Tax	5,866,744	5,860,000	1,145,262	20%	6,256,464	1,171,851	19%
Business License Tax	1,898,579	1,650,000	857,430	52%	1,906,687	1,236,879	65%
Real Property Transfer Tax	322,712	220,500	167,476	76%	340,000	167,860	49%
Cannabis Tax	688,917	588,500	169,822	29%	775,000	173,867	22%
Utility Users' Tax	6,295,863	5,665,000	2,317,096	41%	6,220,286	2,330,871	37%
Licenses & Permits	2,910,310	3,668,300	1,183,019	32%	4,070,551	1,389,546	34%
Fines & Forfeitures	263,941	422,500	109,612	26%	286,892	167,548	58%
Intergovernmental Revenues	743,234	822,900	345,903	42%	786,000	555,010	71%
Charges for Services	2,642,203	2,287,400	1,146,291	50%	2,322,538	1,275,312	55%
Investment & Rental Income	1,108,725	616,900	386,846	63%	1,337,200	142,507	11%
Miscellaneous Revenues	319,904	184,200	34,586	19%	210,681	62,858	30%
Proceeds from Lease Financing	511,078	-	-	-	-	-	-
Proceeds from Sale of Property	2,137	-	-	-	2,000	-	0%
Transfers In	7,299,913	8,317,913	7,049,913	85%	818,000	-	0%
<b>Total Revenues</b>	<b>80,698,562</b>	<b>78,676,313</b>	<b>34,768,521</b>	<b>44%</b>	<b>76,242,744</b>	<b>29,341,607</b>	<b>38%</b>
<b>Excluding Transfers In</b>	<b>73,648,649</b>	<b>71,626,400</b>	<b>27,718,608</b>	<b>39%</b>	<b>76,242,744</b>	<b>29,341,607</b>	<b>38%</b>

As depicted in the schedule above, total General Fund revenues as of December 31, 2023 amount to \$29,341,607, or 38%, of projected annual revenues of \$76,242,744. This is a reasonable percentage, given the timing of the receipt of the major revenue sources. The major difference between mid-year revenues for FY 2024 and FY 2023 is the lack of Transfers In revenue for the current fiscal year to date. Over \$7 million of American Recovery Plan Act (ARPA) funds were transferred into the General Fund before Mid-Year in FY 2023, and those funds are no longer available to assist the City's General Fund. No entries had been made by Mid-Year to record any of the \$818,000 of Transfers In that are budgeted for FY 2024, either. When excluding Transfers In, Mid-Year FY 2023 and Mid-Year FY 2024 are generally consistent with each other, with FY 2023 at 39% and FY 2024 at 38% of projected annual revenues. FY 2023 has not been audited yet, and there could be some adjustments to the "actual" figures seen on the left of the table above. However, the current figures for FY 2023 show that actual revenues of \$80,698,562 are approximately \$2 million more than budgeted revenues of \$78,676,313. Based on the analysis of current fiscal year (FY 2024) revenues, staff estimates that revenues could fall about \$400,000, or 0.53%, short of budget for FY 2024. However, estimated expenditure savings, as discussed below, are expected to more than offset this amount of estimated revenue shortfall. As we move closer to the end of FY 2024, staff will gain a better picture of how close to budget the actual revenues will be. However, staff does not see the need to amend the budget for any of the General Fund revenue projections at this time.

## **FY 2022-2023 & FY 2023-2024 GENERAL FUND EXPENDITURES:**

<b>SUMMARY</b>	<b>Actual FY 2023</b>	<b>Adjusted Budget FY 2023</b>	<b>6 Months YTD FY 2023</b>	<b>% of Budget</b>	<b>Adjusted Budget FY 2024</b>	<b>6 Months YTD FY 2024</b>	<b>% of Budget</b>
<b>EXPENDITURES</b>							
<b>Expenditures by Department</b>							
City Council	220,539	235,237	90,441	38%	442,422	138,944	31%
City Manager	1,766,501	2,841,574	714,102	25%	2,655,116	1,165,150	44%
City Attorney	589,477	670,000	145,083	22%	650,725	105,625	16%
City Clerk	699,823	679,048	207,959	31%	385,323	202,333	53%
Finance Department	4,427,006	5,403,265	1,288,023	24%	5,069,207	1,552,431	31%
Human Resources	1,043,681	1,299,513	449,517	35%	1,217,033	545,775	45%
Information Technology	3,050,852	4,328,094	1,166,105	27%	4,945,614	2,145,864	43%
Police Department	31,448,207	33,826,174	14,130,398	42%	31,614,980	15,566,979	49%
Fire Services	11,754,973	12,266,612	3,882,142	32%	13,159,908	5,347,096	41%
Public Works	4,901,992	6,036,764	2,200,876	36%	5,769,582	2,444,935	42%
Community & Rec. Services	4,189,512	5,714,684	1,897,024	33%	5,619,030	2,428,548	43%
Economic & Community Dev.	3,599,621	5,270,130	1,640,044	31%	5,889,325	2,000,847	34%
Non-Departmental	806,868	1,356,682	362,465	27%	(1,528,484)	366,863	-24%
<b>Total Expenditures</b>	<b>68,499,052</b>	<b>79,927,778</b>	<b>28,174,179</b>	<b>35%</b>	<b>75,889,783</b>	<b>34,011,390</b>	<b>45%</b>
<b>Other Financing Uses</b>							
Transfers Out	1,465,900	1,465,900	-	0%	786,149	-	0%
<b>Total Other Financing Uses</b>	<b>1,465,900</b>	<b>1,465,900</b>	<b>-</b>	<b>0%</b>	<b>786,149</b>	<b>-</b>	<b>0%</b>
<b>Grand Total Expenditures + Other Financing Uses</b>	<b>69,964,952</b>	<b>81,393,678</b>	<b>28,174,179</b>	<b>35%</b>	<b>76,675,932</b>	<b>34,011,390</b>	<b>44%</b>
<b>Net Change in Fund Balance</b>	<b>10,733,610</b>	<b>(2,717,365)</b>			<b>(433,188)</b>		

As can be seen above, with total year-to-date expenditures of \$34,011,390, or 44%, of the \$76,675,932 (including Transfers Out) that has been appropriated to the General Fund for FY 2024, mid-year expenditures exceed the 35% of expenditures that were recorded by this time in FY 2023. Staff has reviewed these expenditures in detail and will provide explanations below for the major differences between mid-year expenditures for the two fiscal years.

While total budgeted annual expenditures of \$76,675,932 (including Transfers Out) for FY 2024 are \$4.7 million, or 5.8%, less than FY 2023, \$5.8 million, or 20.7%, more expenditures have been recorded at mid-year in FY 2024, compared to mid-year of FY 2023. The major reason for the higher expenditures for FY 2024 is the fact that the full \$8,348,024 payment of the annual CalPERS Unfunded Accrued Liability (the UAL) was posted in the first half of FY 2024. In prior fiscal years, the UAL payments were posted throughout the fiscal year, as part of the bi-weekly payroll payments. Front-loading this large payment into the first six months of FY 2024 helped to cause a large jump in the percentage of expenditures at mid-year, compared to the prior fiscal year. Some departments' mid-year expenditure percentages have also increased, due to certain increased expenditures related to contractual services and professional services. However, those account for only a very small part of the increases, compared to the change in recording how the UAL payment is posted. Mid-year Fire Service expenditures increased by nearly \$1.5 million from FY 2023 to FY 2024. The main reason for that was because only four months had been paid for those contracted services by December of 2022, while five months of that contract had been paid as of December of the current fiscal year. These are all timing issues, and staff believes that Union City will finish FY 2024 within its General Fund expenditure budget limits.

Just as staff has reviewed the General Fund revenues in detail, staff has also reviewed the General Fund expenditures in detail, and estimates that considerable savings will be realized for FY 2024. In an attempt to bring budgeted expenditures closer to actual expenditures for FY 2024, Union City included projected salary savings of \$2,282,299 in the Non-Departmental budget, as such annual savings are regularly realized due to vacancies in staff positions and the time that it takes to fill such positions. Based on year-to-date salary expenditures and projections for the remaining pay periods for FY 2024, staff estimates that salary savings of over \$2.2 million will be realized this fiscal year. With other potential expenditure savings that staff has identified, staff estimates that an additional \$1.8 million of savings could be realized, which would result in General Fund revenues exceeding expenditures by about \$1.5 million (prior to any proposed budget amendments), rather than having expenditures exceed revenues by \$433,188 as projected in the FY 2024 Adjusted Budget. By comparison, staff's estimations for FY 2023 currently reflect a \$10.7 million increase in Fund Balance, rather than the \$2.7 million decrease in Fund Balance that is reflected in the FY 2023 Adjusted Budget. With careful budgeting and without the \$7 million annual transfer in of ARPA funds that was received in both FY 2022 and FY 2023, staff believes that we will come much closer to budget in FY 2024 and we expect to realize an increase of at least \$1.5 million to the General Fund's Fund Balance (prior to the proposed General Fund Budget amendments).

### **MID-YEAR BUDGET AMENDMENTS**

As part of the Mid-Year Budget Review, City departments look at their expenditure budgets to see if they will require additional appropriations to enable them to complete the fiscal year without going over budget and exceeding their legal limit for such expenditures. These additional appropriations require approval from the City Council, and City staff has identified \$585,575 of budget amendments for which staff is requesting approval from the City Council. Of that amount, \$155,575 will impact the General Fund's operational expenditures and is needed by Public Works for Building Maintenance, with \$8,000 needed for Supplies, \$61,575 needed for Contractual Services, \$1,000 needed for Laundry Services and \$85,000 needed for Electricity costs. An additional \$425,000 that is being requested for Capital Improvement Projects will also impact the General Fund, for a total impact of \$585,575 on the General Fund. The impact of these budget amendments has not been included in the General Fund projections, which have been discussed above. However, with the estimated budget savings that were discussed in the Mid-Year Budget Review – General Fund section of this staff report, there are sufficient funds available to cover these expenditure budget increases. The adoption of these General Fund budget amendments will increase the previously approved expenditures figure from \$76,675,932 (including Transfers Out) to \$77,261,507. The impact of the proposed General Fund budget amendments can be seen in the two tables that follow:



	Adjusted Budget FY 2024	Proposed Budget Amendments	Proposed Amended Budget
<b>SUMMARY</b>			
<b>REVENUES</b>			
Property Taxes	29,737,022	-	29,737,022
Sales Tax	12,131,000	-	12,131,000
Sales Tax - Measure AA	7,053,000	-	7,053,000
Transient Occupancy Tax	1,989,423	-	1,989,423
Franchise Tax	6,256,464	-	6,256,464
Business License Tax	1,906,687	-	1,906,687
Real Property Transfer Tax	340,000	-	340,000
Cannabis Tax	775,000	-	775,000
Utility Users' Tax	6,220,286	-	6,220,286
Licenses & Permits	4,070,551	-	4,070,551
Fines & Forfeitures	286,892	-	286,892
Intergovernmental Revenues	786,000	-	786,000
Charges for Services	2,322,538	-	2,322,538
Investment & Rental Income	1,337,200	-	1,337,200
Miscellaneous Revenues	210,681	-	210,681
Proceeds from Lease Financing	-	-	-
Proceeds from Sale of Property	2,000	-	2,000
Transfers In	818,000	-	818,000
<b>Total Revenues</b>	<b>76,242,744</b>	<b>-</b>	<b>76,242,744</b>

As reflected in the table above, no budget amendments are being proposed for the General Fund revenues. The impact of the proposed General Fund expenditure budget amendments can be seen in the table on the following page:

	Adjusted Budget FY 2024	Proposed Budget Amendments	Proposed Amended Budget
<b>SUMMARY</b>			
<b>EXPENDITURES</b>			
<b>Expenditures by Department</b>			
City Council	442,422	-	442,422
City Manager	2,655,116	-	2,655,116
City Attorney	650,725	-	650,725
City Clerk	385,323	-	385,323
Finance Department	5,069,207	-	5,069,207
Human Resources	1,217,033	-	1,217,033
Information Technology	4,945,614	-	4,945,614
Police Department	31,614,980	-	31,614,980
Fire Services	13,159,908	-	13,159,908
Public Works	5,769,582	580,575	6,350,157
Community & Rec. Services	5,619,030	5,000	5,624,030
Economic & Community Dev.	5,889,325	-	5,889,325
Non-Departmental	(1,528,484)	-	(1,528,484)
<b>Total Expenditures</b>	<b>75,889,783</b>	<b>585,575</b>	<b>76,475,358</b>
<b>Other Financing Uses</b>			
Transfers Out	786,149	-	786,149
<b>Total Other Financing Uses</b>	<b>786,149</b>	<b>-</b>	<b>786,149</b>
<b>Grand Total Expenditures + Other Financing Uses</b>	<b>76,675,932</b>	<b>585,575</b>	<b>77,261,507</b>
<b>Net Change in Fund Balance</b>	<b>(433,188)</b>	<b>(585,575)</b>	<b>(1,018,763)</b>

As seen above, the net impact of the proposed General Fund expenditure budget amendments increases the projected change in Fund Balance from a negative \$433,188 to a negative \$1,018,763. However, with estimated additional savings of \$1.8 million (beyond the \$2.2 million of salary savings that has been built into the budget), staff estimates that Union City's General Fund will end FY 2024 with revenues in excess of expenditures.

## **SUMMARY**

Finance staff continues to work through the challenges we have faced to bring the City current on its financial reporting and audits. This staff report has provided unaudited financial information for FY 2022-2023 and a mid-year update for FY 2023-2024, plus staff's request for approval of mid-year budget amendments.

## **FISCAL IMPACT**

This staff report provides the unaudited year-end financial results of the General Fund for FY 2022-2023 and mid-year budget information for FY 2023-2024. Additionally, if the City Council approves the proposed budget amendments, the FY 2023-2024 General Fund budget will be increased by \$585,575.

## **RECOMMENDATION**

Staff recommends that the City Council hear a presentation on the Fiscal Year 2022-2023 Unaudited Year-End General Fund financial results and Fiscal Year 2023-2024 Mid-Year General Fund financial information and adopt a resolution approving the Fiscal Year 2023-2024 Mid-Year General Fund budget amendments.

### **Prepared by**

Jackie Acosta, Finance Director

### **Submitted by**

Jackie Acosta, Finance Director

### **Attachments**

#### **Description:**

Staff Report  
Resolution approving FY 2023-2024 Mid-Year  
Budget Amendments

#### **Type:**

PDF  
Resolution



**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY  
APPROVING FISCAL YEAR 2023-2024 GENERAL FUND MID-YEAR  
BUDGET AMENDMENTS**

**WHEREAS**, on June 20, 2023, the City Council adopted a resolution approving the Biennial Budget for Fiscal Year 2023-2024 and Fiscal Year 2024-2025 and the Five-Year Capital Improvement Plan (CIP) for Fiscal Year 2023-2024 through Fiscal Year 2027-2028; and

**WHEREAS**, staff has provided the City Council with a Mid-Year budget report regarding Fiscal Year 2023-2024; and

**WHEREAS**, since the budget adoption, some of the estimates and assumptions used to prepare the biennial budget have changed, requiring adjustments to various accounts to better reflect anticipated expenditures; and

**WHEREAS**, the City Council desires that the Fiscal Year 2023-2024 budget reflects expected fiscal activities.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Union City hereby approves the mid-year budget amendments to the Fiscal Year 2023-2024 budget as shown below and directs the Finance Department to cause those changes to be reflected in the appropriate budget line items; and

**BE IT FURTHER RESOLVED** that the City Council of the City of Union City hereby authorizes the appropriation of the amounts listed below in the Fiscal Year 2023-2024 Amended column to the appropriate budget line items as shown on Exhibit A, attached hereto, for expenditure by City staff to carry out the operations and activities of the City of Union City for Fiscal Year 2023-2024.

**FY 2023-2024 MID-YEAR BUDGET AMENDMENTS BY LINE ITEM**

<b>ACCOUNT NUMBER</b>	<b>ACCOUNT DESCRIPTION</b>	<b>FY 2023-2024 CURRENT BUDGET</b>	<b>FY 2023-2024 MID-YEAR AMENDMENT</b>	<b>FY 2023-2024 AMENDED BUDGET</b>
1110-3123-33023-53402	Bldg. Maint.–Bldg, Supplies	\$46,558	\$8,000	\$54,558
1110-3123-33023-54111	Bldg. Maint.-Cont. Svcs.	\$163,425	\$61,575	\$225,000
1110-3123-33023-54125	Bldg. Maint.-Laundry Svcs.	\$5,500	\$1,000	\$6,500
1110-3123-33023-54235	Bldg. Maint.-Electricity	\$360,500	\$85,000	\$445,500
1110-3199-92221-54111	PW-CIP-Historical Museum	\$134,076	\$55,000	\$189,076
1110-3199-92230-54111	PW-CIP-Atrium Garden	\$190,126	\$110,000	\$300,126
1110-3199-XXXXX-54111	PW-CIP-CH Carpet Replacement	\$0	\$200,000	\$200,000
1110-3199-92414-54111	PW-CIP-FS 31 Fence	\$0	\$60,000	\$60,000
1110-5216-52016-51112		\$3,566	\$5,000	\$8,566
<b>Total Mid-Year Budget Adjustments</b>			<b>\$585,575</b>	

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Union City at a regular meeting held on the 9<sup>th</sup> day of April 2024, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

APPROVED:

\_\_\_\_\_  
CAROL DUTRA-VERNACI  
Mayor

ATTESTED:

APPROVED AS TO FORM:

\_\_\_\_\_  
THAI NAM PHAM  
City Clerk

\_\_\_\_\_  
KRISTOPHER J. KOKOTAYLO  
City Attorney



## **Item 7.b.**

Presentation of the Fiscal Year 2022-2023 Unaudited Year-End General Fund Financial Results and Fiscal Year 2023-2024 Mid-Year General Fund Financial Information and Adoption of a Resolution Approving Fiscal Year 2023-2024 Mid-Year General Fund Budget Amendments

**April 9, 2024**





## | FY 2022-2023 & FY 2023-2024 Financial Updates

- At the last City Council meeting, staff provided financial results for the General Fund for Fiscal Year 2021-2022.
- Tonight, staff will present the unaudited financial results for the General Fund for Fiscal Year 2022-2023, and Mid-Year financial information for the General Fund for Fiscal Year 2023-2024.
- Additionally, staff is requesting the City Council's approval on a few mid-year budget adjustments.



## | FY 2022-2023 Unaudited Year-End General Fund Results

<b>GENERAL FUND</b>	<b>FY 2022-2023 ADOPTED BUDGET</b>	<b>FY 2022-2023 AMENDED BUDGET</b>	<b>FY 2022-2023 UNAUDITED YEAR-END EST. ACTUALS</b>	<b>FY 2022-2023 AMENDED BUDGET VS ACTUAL VARIANCES</b>
<b>REVENUES:</b>				
Operating Revenues	\$69,480,200	\$70,358,400	\$72,885,434	\$2,527,034
Transfers-In	8,317,913	8,317,913	7,299,913	(\$1,018,000)
Sale of City Property	0	0	2,137	2,137
Proceeds of Lease Fin.	0	0	511,078	511,078
<b>Total Revenues</b>	<b>\$77,798,113</b>	<b>\$78,676,313</b>	<b>\$80,698,562</b>	<b>\$2,022,249</b>
<b>EXPENDITURES:</b>				
Operating Expenditures	\$72,910,897	\$79,927,778	\$68,499,052	\$11,428,726
Transfers Out	1,465,900	1,465,900	1,465,900	0
<b>Total Expenditures</b>	<b>\$74,376,797</b>	<b>\$81,393,678</b>	<b>\$69,964,952</b>	<b>\$11,428,726</b>
<b>REVENUES IN EXCESS OF EXPENDITURES</b>	<b>\$3,421,316</b>	<b>(\$2,717,365)</b>	<b>\$10,733,610</b>	<b>\$13,450,975</b>



## | FY 2022-2023 Unaudited Year-End General Fund Results

- Total GF revenues exceeded the budget estimate by \$2M.
- Total GF expenditures were under budget by \$11.4M.
- This created a net positive variance of \$13.4M.
- Looking at it another way:
  - The amended budget anticipated a \$2.7M shortfall.
  - Actual results were a \$10.7 surplus.
  - Net positive variance = \$13.4M.





# | FY 2022-2023 Unaudited Year-End General Fund Results

## FY 2022-2023 Budget vs Actual Revenues:

- Revenues were \$2,022,249 more than budgeted (positive variance)

REVENUE SOURCE	FY 2022-2023 AMENDED BUDGET	FY 2022-2023 UNAUDITED YEAR-END EST. ACTUALS	FY 2022-2023 AMENDED BUDGET VS ACTUAL VARIANCES
Property Taxes	\$27,087,300	\$28,360,813	\$1,273,513
Sales Tax (Bradley-Burns)	11,742,000	12,456,279	714,279
Sales Tax (Measure AA)	7,069,000	7,174,437	105,437
Transient Occupancy Tax	2,473,900	1,832,773	(641,127)
Franchise Taxes	5,860,000	5,866,744	6,744
Business License Tax	1,650,000	1,898,579	248,579
Real Property Transfer Tax	220,500	322,712	102,212
Cannabis Tax	588,500	688,917	100,417
Utility Users' Tax	5,665,000	6,295,863	630,863
Licenses & Permits	3,668,300	2,910,310	(757,990)
Fines & Forfeitures	422,500	263,941	(158,559)
Intergovernmental Revenues	822,900	743,234	(79,666)
Charges for Services	2,287,400	2,642,203	354,803
Investment & Rental Income	616,900	1,108,725	491,825
Miscellaneous Revenues	184,200	319,904	135,704
Proceeds from Lease Financing	0	511,078	511,078
Proceeds from Sale of City Property	0	2,137	2,137
ARPA	7,049,913	7,049,913	0
Transfers-In	1,268,000	250,000	(1,018,000)
<b>Total Budget-to-Actual Variance</b>	<b>\$78,676,313</b>	<b>\$80,698,562</b>	<b>2,022,249</b>



## | FY 2022-2023 Unaudited Year-End General Fund Results

- Total GF revenues exceeded the budget estimate by \$2M
  - Property taxes +\$1,273,513
  - BB sales tax +\$714,279
  - TOT -\$641,127
  - Business License Tax +\$248,579
  - Utility Users' Tax +\$630,863



# | FY 2022-2023 Unaudited Year-End General Fund Results

## FY 2022-2023 Budget vs Actual Expenditures:

- Expenditures were \$11.4M less than budgeted (positive variance)

<b>EXPENDITURE TYPE</b>	<b>FY 2022-2023 AMENDED BUDGET</b>	<b>FY 2022-2023 UNAUDITED YEAR-END EST. ACTUALS</b>	<b>FY 2022-2023 AMENDED BUDGET VS ACTUAL VARIANCES</b>
Full-Time Pay	\$24,066,994	\$21,331,611	\$2,735,383
CalPERS Retirement	13,359,152	12,803,488	555,664
Health Insurance	3,412,620	2,932,172	480,448
Professional/Consulting Services	2,774,301	1,004,906	1,769,395
Contractual Services	22,252,665	18,154,937	4,097,728
Utilities	919,000	745,232	173,768
Travel & Training	664,067	341,717	322,350
All Other Expenditure Accounts	13,944,879	12,650,889	1,293,990
<b>Totals</b>	<b>\$81,393,678</b>	<b>\$69,964,952</b>	<b>\$11,428,726</b>





## | FY 2022-2023 Unaudited Year-End General Fund Results

- Total GF expenditures were \$11.4M less than budgeted
  - FT Salaries -\$2,735,383
  - CalPERS -\$555,664
  - Health Insurance -\$480,448
  - Professional/Consulting -\$1,769,395
  - Contractual Services -\$4,097,728



## | FY 2022-2023 Unaudited Year-End General Fund Results

- Net result: revenues exceeded expenditures by \$10,733,610.
  - However, included in that amount is the second ½ of the Federal ARPA funding of \$7,049,913.
  - Had the City not received the ARPA funding, revenues would have exceeded expenditures by only \$3,683,697.
  - And, had the City spent its entire FY 2022-2023 budget of \$81M and not had significant salary & benefits, professional services and contractual services savings, the year-end results would have been a (\$7.7M).



## **| FY 2022-2023 Unaudited Year-End General Fund Results**

### **FY 2022-2023 Net Change in General Fund Balance:**

<b>General Fund Balance at 6-30-2022</b>	<b>\$34,477,681</b>
Plus: FY 2022-2023 Total Revenues	80,698,562
Less: FY 2022-2023 Total Expenditures	<u>(69,964,952)</u>
Net Change in Fund Balance	<u>\$10,733,610</u>
<b>Estimated General Fund Balance at 6-30-2022</b>	<b><u>\$45,211,291</u></b>

- The analysis of how much of the estimated GF balance of \$45.2M is restricted, reserved or assigned will be done upon the completion of the audit.
- The calculation of the 50% of surplus funds to set aside to pay down the UAL, per our Financial Principles, will be done after the completion of the audit.





## | FY 2023-2024 Mid-Year Budget Review

- The charts presented on the following slides for the Mid-Year Budget Review for Fiscal Year 2023-2024 include these columns:
  - Actuals for FY 2022-2023
  - Adjusted Budget for FY 2022-2023
  - 6 Months YTD Actuals (July – December) for FY 2022-2023
  - % of Budget spent in the first 6 months
  - Adjusted Budget for FY 2023-2024
  - 6 Months YTD Actuals (July – December) for FY 2023-2024
  - % of Budget spent in the first 6 months
- This allows us to compare where the GF is in the first 6 months of FY 2023-2024 to where the GF was in the first 6 months of FY 2022-2023.

# FY 2023-2024 Mid-Year Budget Review

## FY 2022-2023 & FY 2023-2024 GENERAL FUND REVENUES:

SUMMARY	Actual FY 2023	Adjusted Budget FY 2023	6 Months YTD FY 2023	% of Budget	Adjusted Budget FY 2024	6 Months YTD FY 2024	% of Budget
<b>REVENUES</b>							
Property Taxes	28,360,813	27,087,300	12,812,641	47%	29,737,022	13,836,559	47%
Sales Tax	12,456,279	11,742,000	4,127,133	35%	12,131,000	4,029,187	33%
Sales Tax - Measure AA	7,174,437	7,069,000	2,343,365	33%	7,053,000	2,359,998	33%
Transient Occupancy Tax	1,832,773	2,473,900	572,128	23%	1,989,423	441,754	22%
Franchise Tax	5,866,744	5,860,000	1,145,262	20%	6,256,464	1,171,851	19%
Business License Tax	1,898,579	1,650,000	857,430	52%	1,906,687	1,236,879	65%
Real Property Transfer Tax	322,712	220,500	167,476	76%	340,000	167,860	49%
Cannabis Tax	688,917	588,500	169,822	29%	775,000	173,867	22%
Utility Users' Tax	6,295,863	5,665,000	2,317,096	41%	6,220,286	2,330,871	37%
Licenses & Permits	2,910,310	3,668,300	1,183,019	32%	4,070,551	1,389,546	34%
Fines & Forfeitures	263,941	422,500	109,612	26%	286,892	167,548	58%
Intergovernmental Revenues	743,234	822,900	345,903	42%	786,000	555,010	71%
Charges for Services	2,642,203	2,287,400	1,146,291	50%	2,322,538	1,275,312	55%
Investment & Rental Income	1,108,725	616,900	386,846	63%	1,337,200	142,507	11%
Miscellaneous Revenues	319,904	184,200	34,586	19%	210,681	62,858	30%
Proceeds from Lease Financing	511,078	-	-	-	-	-	-
Proceeds from Sale of Property	2,137	-	-	-	2,000	-	0%
Transfers In	7,299,913	8,317,913	7,049,913	85%	818,000	-	0%
<b>Total Revenues</b>	<b>80,698,562</b>	<b>78,676,313</b>	<b>34,768,521</b>	<b>44%</b>	<b>76,242,744</b>	<b>29,341,607</b>	<b>38%</b>
<b>Excluding Transfers In</b>	<b>73,648,649</b>	<b>71,626,400</b>	<b>27,718,608</b>	<b>39%</b>	<b>76,242,744</b>	<b>29,341,607</b>	<b>38%</b>



## | FY 2023-2024 Mid-Year Budget Review

### Comments on FY 2023-2024 General Fund Revenues:

- Total FY 2023-2024 GF revenues as of December 2023 are at 38% compared to FY 2022-2023 GF revenues as of December 2022 which were at 44%.
  - The primary reason for the difference is that the second \$7M of ARPA funds had been received by December 2022 and there will be no ARPA funds received in FY 2023-2024.
  - When excluding ARPA, the percentage of revenues collected by December 2023 and December 2022, were 38% and 39%, respectively.
  - Therefore, revenues receipts for the first 6 months of each fiscal year are quite comparable.





## | FY 2023-2024 Mid-Year Budget Review

Comments on FY 2023-2024 General Fund Revenues (Cont.):

- 38% is a reasonable percentage for the first 6 months of the fiscal year due to the timing of the receipt of the major revenue sources.
- Based on a preliminary analysis of the current FY 2023-2024 revenues, staff estimates that we could be about \$400,000 short of budget.
- Estimated expenditures savings are anticipated to offset this revenue shortfall, if it materializes.
- Staff will continue to monitor revenue receipts and prepare updated estimates closer to the end of the fiscal year to see how close actual revenues will be to budget.



# | FY 2023-2024 Mid-Year Budget Review

## FY 2022-2023 & FY 2023-2024 GENERAL FUND EXPENDITURES:

SUMMARY	Actual FY 2023	Adjusted Budget FY 2023	6 Months YTD FY 2023	% of Budget	Adjusted Budget FY 2024	6 Months YTD FY 2024	% of Budget
<b>EXPENDITURES</b>							
<b>Expenditures by Department</b>							
City Council	220,539	235,237	90,441	38%	442,422	138,944	31%
City Manager	1,766,501	2,841,574	714,102	25%	2,655,116	1,165,150	44%
City Attorney	589,477	670,000	145,083	22%	650,725	105,625	16%
City Clerk	699,823	679,048	207,959	31%	385,323	202,333	53%
Finance Department	4,427,006	5,403,265	1,288,023	24%	5,069,207	1,552,431	31%
Human Resources	1,043,681	1,299,513	449,517	35%	1,217,033	545,775	45%
Information Technology	3,050,852	4,328,094	1,166,105	27%	4,945,614	2,145,864	43%
Police Department	31,448,207	33,826,174	14,130,398	42%	31,614,980	15,566,979	49%
Fire Services	11,754,973	12,266,612	3,882,142	32%	13,159,908	5,347,096	41%
Public Works	4,901,992	6,036,764	2,200,876	36%	5,769,582	2,444,935	42%
Community & Rec. Services	4,189,512	5,714,684	1,897,024	33%	5,619,030	2,428,548	43%
Economic & Community Dev.	3,599,621	5,270,130	1,640,044	31%	5,889,325	2,000,847	34%
Non-Departmental	806,868	1,356,682	362,465	27%	(1,528,484)	366,863	-24%
<b>Total Expenditures</b>	<b>68,499,052</b>	<b>79,927,778</b>	<b>28,174,179</b>	<b>35%</b>	<b>75,889,783</b>	<b>34,011,390</b>	<b>45%</b>
<b>Other Financing Uses</b>							
Transfers Out	1,465,900	1,465,900	-	0%	786,149	-	0%
<b>Total Other Financing Uses</b>	<b>1,465,900</b>	<b>1,465,900</b>	<b>-</b>	<b>0%</b>	<b>786,149</b>	<b>-</b>	<b>0%</b>
<b>Grand Total Expenditures + Other Financing Uses</b>	<b>69,964,952</b>	<b>81,393,678</b>	<b>28,174,179</b>	<b>35%</b>	<b>76,675,932</b>	<b>34,011,390</b>	<b>44%</b>
<b>Net Change in Fund Balance</b>	<b>10,733,610</b>	<b>(2,717,365)</b>			<b>(433,188)</b>		



## | FY 2023-2024 Mid-Year Budget Review

Comments on FY 2023-2024 General Fund Expenditures:

- Total FY 2023-2024 GF expenditures as of December 2023 are at 44% of budget as compared to FY 2022-2023 GF expenditures as of December 2022 which were at 35%.
  - The main reason for the difference is that the entire \$8.3M (\$6.7M in the GF) for the annual CalPERS UAL (Unfunded Accrued Liability) was posted in the first half of FY 2023-2024, whereas in prior years, the UAL payment was posted throughout the year through the bi-weekly payroll process.
    - This caused a large increase in the percentage of expenditures at mid-year.





## | FY 2023-2024 Mid-Year Budget Review

### Comments on FY 2023-2024 General Fund Expenditures (Cont.):

- Additionally, expenditures for the ACFD fire services contract were \$1.5M higher at mid-year 2023-2024 because in FY 2023-2024, 5 months of payments had been posted and in FY 2022-2023, only 4 months had been posted.
- These are just timing differences and staff estimates that UC will complete FY 2023-2024 within the GF expenditure budget limits.
- Based on a detailed analysis of GF expenditures, staff estimates that approximately \$2.3M of salary savings that are factored into the budget will be realized and additional \$1.8M of savings in other line items may be realized by fiscal year end.
- In total, it is estimated that revenues will likely exceed expenditures by about \$1.5M at fiscal year end, before any budget amendments, or nearly \$1M after the proposed budget amendments.



## | FY 2023-2024 Mid-Year Budget Review

### Proposed Mid-Year Budget Amendments:

- As part of the Mid-Year budget review, departments look at their expenditure budgets to see if they will require additional appropriations to enable them to complete the fiscal year without going over budget.
- While in total mid-year expenditures are only at 44% of budget (and that includes the full UAL cost having been posted in the first 6 months), and staff expects to end the year with expenditure savings, there are a few operational budgets that appear that they will be over budget by year-end without additional budget appropriations.



## | FY 2023-2024 Mid-Year Budget Review

### Proposed Mid-Year Budget Amendments (Cont.):

- Those are in Public Works – Building Maintenance and Community and Recreation Services – Special Needs.
- The requested operational budget amendments are:

Account Number	Account Description	Current Budget	Amendment	Amended Budget
1110-3123-33023-53402	PW-Bldg. Maint.-Building Supplies	\$46,558	\$8,000	\$54,558
1110-3123-33023-54111	PW-Bldg. Maint.-Contractual Services	\$163,425	\$61,575	\$225,000
1110-3123-33023-54125	PW-Bldg. Maint.-Laundry Services	\$5,500	\$1,000	\$6,500
1110-3123-33023-54235	PW-Bldg. Maint.-Electricity	\$360,500	\$85,000	\$445,500
1110-5216-52016-51112	CRS-Special Needs-Seasonal Pay	\$3,566	\$5,000	\$8,566
<b>Total Proposed Operational Budget Amendments</b>			<b>\$160,575</b>	





## | FY 2023-2024 Mid-Year Budget Review

### Proposed Mid-Year Budget Amendments (Cont.):

- Additionally, the City Council previously approved the use of \$2.7M from FY 2020-2021 year-end saving to fund one-time deferred maintenance projects.
- A status of those projects was provided at the last meeting; \$562,482 of the \$2.7M has been spent to date on deferred maintenance projects.
- Two of those projects will exceed their current budgets and need additional appropriations.
- Additionally, funding is being requested for two new projects.



## | FY 2023-2024 Mid-Year Budget Review

### Proposed Mid-Year Budget Amendments (Cont.):

- The requested CIP budget amendments are:

Account Number	Account Description	Current Budget	Amendment	Amended Budget
1110-3199-92221-54111	PW-CIP-Historical Museum	\$134,076	\$55,000	\$189,076
1110-3199-92230-54111	PW-CIP-Atrium Garden	\$190,126	\$110,000	\$300,126
1110-3199-91811-54111	PW-CIP-City Hall Carpet Replacement	\$0	\$200,000	\$200,000
1110-3199-92414-54111	PW-CIP-Fire Station 31 Fence	\$0	\$60,000	\$60,000
<b>Total Proposed CIP Budget Amendments</b>			<b>\$425,000</b>	



# | FY 2022-2023 & FY 2023-2024 Financial Update

## **Staff Recommendation:**

That City Council:

- 1) Receive and file the staff report.
- 2) Adopt a resolution approving the FY 2023-2024 Mid-Year General Fund budget amendments.





## Agenda Item

**DATE:** 4/9/2024

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**FROM:** KRIS KOKOTAYLO, CITY ATTORNEY

**SUBJECT:** INTRODUCTION OF AN ORDINANCE TO AMEND CHAPTER 2.05  
“CAMPAIGN REPORTING REQUIREMENTS” IN THE UNION CITY  
MUNICIPAL CODE FOR ENHANCED CLARITY AND TRANSPARENCY IN  
CAMPAIGN REPORTING

Staff recommends that the City Council waive the full reading and introduce by title only the proposed ordinance amending Chapter 2.05 “Campaign Reporting Requirements” of the Union City Municipal Code. This ordinance aims to clarify the campaign reporting requirements for candidates for elective office, ensuring increased transparency and understanding among candidates and the public. Specifically, the ordinance introduces a more precise filing deadline and clearly defines the coverage period for pre-election campaign statements in accordance with the Political Reform Act of 1974 and the City's commitment to transparent electoral processes.

### **STRATEGIC PLAN ALIGNMENT**

**Goal B. Governance and Organization Effectiveness:** Produce high-quality services to the community through a commitment to local government best practices and employee development, support, and retention.

This Ordinance seeks to enhance the transparency and accountability of the City’s electoral processes by refining campaign finance reporting requirements. This initiative will facilitate candidates' compliance with reporting obligations and contribute to an informed electorate, thereby upholding the integrity of Union City’s elections.

### **BACKGROUND**

Since the enactment of Ordinance No. 410-93, which established foundational campaign reporting requirements, there has been a recognized need for further clarity and specificity in these regulations. This has been highlighted by the evolving requirements of campaign finance reporting and stakeholder feedback, indicating areas for improvement to ensure clarity and ease of compliance.

## **DISCUSSION**

The proposed ordinance amends Chapter 2.05 "Campaign Reporting Requirements" of the Union City Municipal Code to enhance clarity and ensure transparency in campaign reporting by candidates for elective office. This amendment focuses on three main areas:

1. **Precise Filing Deadlines and Coverage Periods:** The amendment specifies that the additional pre-election campaign statement must be filed four (4) calendar days before the election, no later than 2:00 p.m. This clarification ensures that all candidates understand the exact timing for their reporting obligations. Additionally, it defines the coverage period for this statement to extend from the day after the last date of the most recent pre-election statement required by state law to seven (7) calendar days before the election. This adjustment aims to eliminate any ambiguity regarding the reporting timeline, facilitating accurate and timely submissions.
2. **Acknowledgment of Reporting Requirements:** An addition to the ordinance is Section 2.05.015, "Acknowledgment of Requirements." This new section mandates that each candidate must sign and submit a form, provided by the City Clerk, acknowledging their receipt of Union City Municipal Code Chapter 2.05. This is similar to the previous requirement, but now referencing the municipal code instead of Ordinance No. 410-93.
3. **Repeal of Redundant Section:** To streamline the Municipal Code and avoid redundancy, Section 2.05.040 has been repealed and reserved for future use. This section previously required candidates to acknowledge receipt of City Ordinance 410-93, a requirement now comprehensively covered by the newly added Section 2.05.015.

## **FISCAL IMPACT**

The introduction and implementation of the proposed ordinance are not expected to incur any significant fiscal impact on the City. The amendments are designed to refine and clarify existing procedures without requiring additional resources.

## **RECOMMENDATION**

Staff recommends Council to waive the full reading and introduce by title only the proposed ordinance amending Chapter 2.05 "Campaign Reporting Requirements" in the Union City Municipal Code.

### **Prepared by:**




Thai Nam Pham, City Clerk

### **Submitted by:**

Thai Nam Pham, City Clerk

## **ATTACHMENTS:**

Description	Type
 Draft Ordinance - Chapter 2.05	Ordinance

	Exhibit A - Amended Chapter 2.05 - Clean Copy	Exhibit
	Exhibit B - Amended Chapter 2.05 - Redlined Copy	Exhibit
	Item 7.c. Powerpoint	Attachment



## **ORDINANCE NO. XXX-24**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UNION CITY AMENDING CHAPTER 2.05 “CAMPAIGN REPORTING REQUIREMENTS” OF THE UNION CITY MUNICIPAL CODE TO CLARIFY CAMPAIGN REPORTING REQUIREMENTS FOR ELECTIVE OFFICE CANDIDATES**

**WHEREAS**, the City of Union City previously adopted Ordinance No. 410-93, establishing foundational campaign reporting requirements to enhance transparency and accountability in electoral processes; and

**WHEREAS**, comprehensive campaign reporting is essential to inform the public about the sources of electoral funding and how such funds are expended; and

**WHEREAS**, the Political Reform Act of 1974 provides a foundational framework for campaign reporting, yet the City recognizes the need for additional clarity and specificity to better serve the unique needs and expectations of the Union City community; and

**WHEREAS**, in pursuit of continuing transparency and accountability, and to provide clearer guidance to candidates and committees, the City Council finds it necessary to further amend the Union City Municipal Code to refine and clarify campaign reporting requirements; and

**WHEREAS**, the adoption of additional pre-election campaign statement requirements under this ordinance enhances the City's commitment to transparent and accountable election campaigns, ensuring voters are well-informed about candidate funding and spending; and

**WHEREAS**, the City recognizes the importance of keeping pace with evolving best practices in governance and electoral management to foster an informed electorate and fair elections;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF UNION CITY DOES HEREBY ORDAIN AS FOLLOWS:**

#### **SECTION 1. Recitals.**

The above recitals (“Recitals”) are true and correct and made a part of this Ordinance.

**SECTION 2. CEQA.** Approval of the amendments is exempt from further environmental review under the general rule in California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3) that CEQA only applies to projects that have the potential for causing a significant effect on the environment. As a series of text amendments and additions, it can be seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment.

**SECTION 3.** Chapter 2.05 of the Union City Municipal Code entitled "Campaign Reporting Requirements" is hereby amended to read as displayed in **Exhibit A** (clean copy), and for reference **Exhibit B** (redlined), incorporated and made a part of this Ordinance.

**SECTION 4. Severability.** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

**SECTION 5. Publication and effective date.** Within fifteen (15) days from and after adoption, this Ordinance shall be published once in the Tri-City Voice, a newspaper of general circulation printed and published in Alameda County and circulated in the City of Union City, in accordance with California Government Code Section 36933. This Ordinance shall take effect thirty (30) days after its adoption.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Union City at a regular meeting held on this X day of X 2024 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

---

CAROL DUTRA-VERNACI  
Mayor

ATTESTED:

APPROVED AS TO FORM:

---

THAI NAM N. PHAM  
City Clerk

---

KRISTOPHER J. KOKOTAYLO  
City Attorney

**Attachments:**

1. Exhibit A – Amended Chapter 2.05 “Campaign Reporting Requirements”
2. Exhibit B – Amended Chapter 2.05 “Campaign Reporting Requirements” (Red-lined)

## Exhibit A (Clean Copy)

### Chapter 2.05

## CAMPAIGN REPORTING REQUIREMENTS

### § 2.05.010 Campaign Filing and Reporting Requirements

**A. Standard Reporting:** All candidates for elective office in the City of Union City must adhere to the campaign reporting requirements established under the Political Reform Act of 1974, including the filing of campaign statements as prescribed by state law.

#### **B. Additional Pre-Election Statement Requirement:**

(i) **Filing Requirement:** In addition to the state law required filing of campaign statements, each recipient committee formed in conjunction with an election for a municipal office shall file one additional recipient committee pre-election campaign statement with the City Clerk.

(ii) **Filing Deadline:** This statement must be filed four (4) calendar days before the election, no later than 2:00 p.m.

(iii) **Coverage Period:** The additional pre-election statement shall cover the period from the day after the last date of the most recent pre-election statement required by state law to seven (7) calendar days before the election.

**C. Definitions:** For the purposes of this Chapter, all definitions included in the Political Reform Act of 1974 as they relate to reporting requirements shall apply.

### § Section 2.05.015 Acknowledgment of Requirements

Each candidate shall sign and submit a form provided by the City Clerk acknowledging receipt of Union City Municipal Code Chapter 2.05 and understanding of the campaign filing and reporting requirements specified in the Union City Municipal Code.

### § 2.05.020 Contributions included in report.

The reports submitted in accordance with this chapter shall include contributions received and expenditures made by candidates up to midnight of the Wednesday before the scheduled general municipal election.

### § 2.05.030 Applicable definitions.

All definitions included in the Political Reform Act of 1974 as they relate to reporting requirements shall be used by candidates in submitting this additional report.

### § 2.05.040 Reserved

### § 2.05.050 Electronic filing.

A. Any elected officer, candidate, committee, or other person required to file statements, reports, or other documents required by Government Code Chapter 4 (commencing with Section 84100), except an elected officer, candidate, committee, or other person who receives contributions totaling less than two thousand dollars, and makes expenditures totaling less than two thousand dollars in a calendar year, shall file those statements, reports, or other documents online or electronically with the City Clerk.



- B. In any instance in which an original statement, report or other document must be filed with the California Secretary of State and a copy of that statement, report or other document is required to be filed with the City Clerk, the filer may, but is not required to, file the copy electronically.
- C. If the City Clerk's electronic system is not capable of accepting a particular type of statement, report, or other document, an elected officer, candidate, committee or other person shall file that document with the City Clerk in an alternative format.
- D. The electronic filing system will operate securely and effectively and will not unduly burden filers. Specifically, the electronic filing system will ensure the integrity of the data and includes safeguards against efforts to tamper with, manipulate, alter, or subvert data; the electronic filing system will only accept a filing in the standardized record format developed by the Secretary of State and compatible with the Secretary of State's system for receiving an online or electronic filing; and the electronic filing system will be available free of charge to filers and to the public for viewing filings.

Chapter 2.05  
**CAMPAIGN REPORTING REQUIREMENTS**

§ 2.05.010 **Campaign Filing and Reporting Requirements**~~(Reserved)~~

**A. Standard Reporting:** All candidates for elective office in the City of Union City must adhere to the campaign reporting requirements established under the Political Reform Act of 1974, including the filing of campaign statements as prescribed by state law.

**B. Additional Pre-Election Statement Requirement:**

(i) Filing Requirement: In addition to the state law required filing of campaign statements, each recipient committee formed in conjunction with an election for a municipal office shall file one additional recipient committee pre-election campaign statement with the City Clerk.

(ii) Filing Deadline: This statement must be filed four (4) calendar days before the election, no later than 2:00 p.m.

(iii) Coverage Period: The additional pre-election statement shall cover the period from the day after the last date of the most recent pre-election statement required by state law to seven (7) calendar days before the election.

**C. Definitions:** For the purposes of this Chapter, all definitions included in the Political Reform Act of 1974 as they relate to reporting requirements shall apply.

§ Section 2.05.015 **Acknowledgment of Requirements**

Each candidate shall sign and submit a form provided by the City Clerk acknowledging receipt of Union City Municipal Code Chapter 2.05 and understanding of the campaign filing and reporting requirements specified in the Union City Municipal Code.

§ 2.05.020 **Contributions included in report.**

The reports submitted in accordance with this chapter shall include contributions received and expenditures made by candidates up to midnight of the Wednesday before the scheduled general municipal election.

§ 2.05.030 **Applicable definitions.**

All definitions included in the Political Reform Act of 1974 as they relate to reporting requirements shall be used by candidates in submitting this additional report.

§ 2.05.040 **Reserved**~~Receipt of copy of ordinance.~~

~~Candidate shall sign a form acknowledging receipt of a copy of City Ordinance 410-93 requiring the filing of expenditures and contribution reports as required by the Union City Municipal Code.~~

§ 2.05.050 **Electronic filing.**

- A. Any elected officer, candidate, committee, or other person required to file statements, reports, or other documents required by Government Code Chapter 4 (commencing with Section 84100), except an elected officer, candidate, committee, or other person who receives contributions totaling less than two thousand dollars, and makes expenditures totaling less than two thousand dollars in a calendar year, shall file those statements, reports, or other documents online or electronically with the City Clerk.
- B. In any instance in which an original statement, report or other document must be filed with the California Secretary of State and a copy of that statement, report or other document is required to be filed with the City Clerk, the filer may, but is not required to, file the copy electronically.

**Exhibit B**

Formatted: Left: 0.79", Right: 0.39", Top: 0.39",  
Bottom: 0.39"

- C. If the City Clerk's electronic system is not capable of accepting a particular type of statement, report, or other document, an elected officer, candidate, committee or other person shall file that document with the City Clerk in an alternative format.
- D. The electronic filing system will operate securely and effectively and will not unduly burden filers. Specifically, the electronic filing system will ensure the integrity of the data and includes safeguards against efforts to tamper with, manipulate, alter, or subvert data; the electronic filing system will only accept a filing in the standardized record format developed by the Secretary of State and compatible with the Secretary of State's system for receiving an online or electronic filing; and the electronic filing system will be available free of charge to filers and to the public for viewing filings.

**Exhibit B**





## **ITEM 7.C | Amendment of Chapter 2.05 "Campaign Reporting Requirements**

**City Council  
April 9, 2024**



## | Background

- Initial adoption of Campaign Reporting Requirements under Ordinance No. 410-93 for transparency and accountability.
- Ordinance No. 410-93 was not properly codified into the City's Municipal Code



## | Objective of the Amendment

- Not change current practices of campaign reporting, but to provide clear, precise guidelines for campaign reporting by candidates





## | Key Amendments to Chapter 2.05

Codifies existing provisions under Ordinance No. 410-93 and states the following:

- **Precise Filing Deadlines and Coverage Periods:** Specification of submission timelines to eliminate ambiguities
  - 3<sup>rd</sup> Pre-Election Statements deadline is due four (4) calendar days before the election, no later than 2:00 p.m.
  - The coverage period starts the day after the 2nd pre-election statement and lasts until seven (7) calendar days before the election date.
- **Acknowledgement of Reporting Requirements:** Introduction of Section 2.05.015 requiring candidates to acknowledge receipt of Union City Municipal Code Chapter 2.05 instead of Ordinance No. 410-93

## Recommendation

Staff and the City Attorney's Office recommend that the City Council waive the full reading and introduce by title only the proposed ordinance amending Chapter 2.05 "Campaign Reporting Requirements" or provide any further direction as necessary.



## Agenda Item

**DATE:** 4/9/2024

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**FROM:** KRISTOPHER J. KOKOTAYLO, CITY ATTORNEY

**SUBJECT:** ADOPT A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY APPROVING AN AMENDED AND RESTATED EMPLOYMENT AGREEMENT WITH JOAN MALLOY TO SERVE AS CITY MANAGER AND APPROVING AN AMENDMENT TO THE CITY'S SALARY SCHEDULE

Joan Malloy has served as City Manager since July 1, 2019 pursuant to an employment agreement and an amended and restated employment agreement that were previously authorized by the City Council. The City Council approved the amended and restated employment agreement in 2022 that is currently in effect.

Beginning January 2024, the City Council began the process of conducting a City Manager performance review and labor negotiations related to terms and conditions of employment. Following that process, the City Council authorized the City Attorney to prepare an amended and restated employment agreement (the "Agreement").

The City Attorney recommends that the City Council adopt a resolution approving the Agreement with Joan Malloy to serve as City Manager. The proposed resolution authorizes Mayor Dutra-Vernaci to execute the Agreement on behalf of the City. The resolution also amends the City's publicly available salary schedule.

### **STRATEGIC PLAN ALIGNMENT**

This item is aligned with the following provision of the Strategic Plan: Goal B. Governance and Organization Effectiveness.

### **BACKGROUND**

The City Council appointed Joan Malloy to serve as the City Manager beginning July 1, 2019 pursuant to a City Council-approved employment agreement. The City Council subsequently approved an amended and restated employment agreement in 2022. Ms. Malloy has not received any revisions to her compensation since



July 1, 2022.

The City Council began the process of conducting the performance evaluation and labor negotiations for the City Manager in January 2024. The purpose of the labor negotiations was to consider revisions to the terms and conditions of employment for the City Manager. Mayor Dutra-Vernaci and the City Attorney served as labor negotiators on behalf of the City Council. Following the performance evaluation and labor negotiations, the City Council, through its labor negotiators, and the City Manager reached an agreement on revisions to the terms and conditions of employment which are reflected in the Agreement.

## **DISCUSSION**

In evaluating Ms. Malloy's terms of compensation, the City Council considered compensation provided to the city managers of the following comparable cities: Fremont, Hayward, Livermore, Milpitas, Pleasanton, Redwood City, San Leandro and Newark. This evaluation revealed that Ms. Malloy is currently the lowest compensated city manager (in terms of total compensation) of the city managers in the above cities. Additionally, Ms. Malloy is currently receiving total compensation approximately 13% below the City's highest compensated department head, the Chief of Police.

The City Attorney has prepared the Agreement which would result in an increase in salary from \$317,898 annually to \$352,873 annually. Additionally, the Agreement would increase the City's contribution to Ms. Malloy's ICMA/RC or Valic STARS deferred compensation program from \$400 to \$1,700 monthly. Both of these revisions will be effective beginning the first full pay period after January 1, 2024, consistent with compensation adjustments for the City's other employees. Aside from minor revisions to address internal inconsistencies, there are no other changes between the Agreement and the most recent amended and restated employment agreement from 2022. Even with the proposed compensation revisions in the Agreement, Ms. Malloy's total compensation would still be approximately 1% below average (median) of the city managers of the comparable cities and less than 1% above the total compensation of the Chief of Police.

The other key provisions of the Agreement remain unchanged. Namely: Ms. Malloy's employment as City Manager under the Agreement would continue until terminated by either Ms. Malloy or the City; Ms. Malloy's employment would be at will; as an exempt employee under the Agreement, Ms. Malloy would not receive any overtime compensation; Ms. Malloy would receive a contribution of \$800 per month into a CALGOVEBA health account; Ms. Malloy would continue to receive a City vehicle for use as well as other equipment necessary to discharge her duties; Ms. Malloy would be entitled to receive certain benefits that are received by all Department Heads, including: 160 hours of administrative leave annually, bereavement leave, holidays, 3.69 hours per pay period of sick leave, 200 hours of vacation leave annually (which is unlimited for Ms. Malloy), paid healthcare costs up to \$2,000 per month, and City paid life insurance coverage of \$100,000.

Under the Agreement, the City would also pay for reasonable expenses associated with Ms. Malloy's professional development including attendance at professional conferences, continuing education, professional memberships, etc.

The Agreement can be terminated by voluntary resignation of Ms. Malloy upon 60 days' notice or the Agreement can be terminated by the City for any reason (which would require the City to pay 6 months' severance to Ms. Malloy, but only after signing a release of all claims against the City).

The City Attorney prepared the Agreement based upon direction from the City Council.

## **FISCAL IMPACT**

Approval of the Agreement would result in an annual increase in cost to the City of \$57,037.89.

**RECOMMENDATION**

The City Attorney recommends that the City Council adopt the Resolution approving the amended and restated employment agreement with Joan Malloy to serve as City Manager and approving an amendment to the City's Salary Schedule.

**Prepared by:**

Kristopher J. Kokotaylo, City Attorney

**Submitted by:**

Kristopher J. Kokotaylo, City Attorney

**ATTACHMENTS:**

Description		Type
<input type="checkbox"/>	Draft Resolution	Resolution
<input type="checkbox"/>	Amended and Restate Employment Agreement	Exhibit

**RESOLUTION NO. XXXX-24**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
UNION CITY APPROVING AN AMENDED AND  
RESTATED EMPLOYMENT AGREEMENT WITH JOAN  
MALLOY TO SERVE AS CITY MANAGER AND  
APPROVING AN AMENDMENT TO THE CITY'S SALARY  
SCHEDULE IN CONFORMANCE WITH CALIFORNIA  
CODE OF REGULATIONS, TITLE 2, SECTION 570.5**

**WHEREAS**, Joan Malloy has served as City Manager of Union City since July 1, 2019 pursuant to an employment agreement and a subsequently approved amended and restated employment agreement; and

**WHEREAS**, the City Council began the process of conducting a performance evaluation of Ms. Malloy, along with labor negotiations, in January 2024; and

**WHEREAS**, Mayor Dutra-Vernaci and City Attorney Kristopher J. Kokotaylo served as labor negotiators for the purposes of negotiating an amended and restated employment agreement (the "Agreement") with Ms. Malloy. The City Council evaluated comparable executive compensation within the City and in Alameda County and comparable cities and also considered Ms. Malloy's prior work and experience with the City in providing direction to the City Attorney for the Agreement; and

**WHEREAS**, the City Council desires to execute the Agreement with Ms. Malloy that amends the terms and conditions of her employment as City Manager; and

**WHEREAS**, the California Public Employees' Retirement System (CalPERS) requires that all CalPERS employers list their compensation levels on one document, approved and adopted by the governing body, in accordance with California Code of Regulations section 570.5; and

**WHEREAS**, the City of Union City desires to comply with CalPERS reporting requirement by amending the previously approved Salary Schedule to reflect compensation provided to Ms. Malloy as City Manager, effective the first full pay period after January 1, 2024.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Union City as follows:

1. The City Council hereby approves the City Manager Amended and Restated Employment Agreement between the City of Union City and Joan Malloy, substantially in the form attached hereto as **Exhibit "A,"** and authorizes Mayor Dutra-Vernaci to execute the Agreement on behalf of the City, as approved by the City Attorney.

2. The City Council hereby approves an amendment to the City's Salary Schedule to reflect the compensation provided to Joan Malloy as City Manager, effective the first full pay period after January 1, 2024, as reflected below:

<u>Classification Title</u>	<u>Step 1</u>
City Manager	\$29,406



**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Union City at a regular meeting held on this 9<sup>th</sup> day of April 2024 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

---

CAROL DUTRA-VERNACI  
Mayor

ATTESTED:

APPROVED AS TO FORM:

---

THAI NAM N. PHAM  
City Clerk

---

KRISTOPHER J. KOKOTAYLO  
City Attorney

**Attachments:**

1. Amended and Restated Employment Agreement between the City of Union City and Joan Malloy

## **EMPLOYMENT AGREEMENT**

THIS AMENDED AND RESTATED AGREEMENT (this “Agreement”), entered into this 9<sup>th</sup> day of April, 2024, by and between THE CITY OF UNION CITY (“CITY”) and JOAN MALLOY (“MALLOY”) (collectively the “PARTIES”). This Agreement replaces the prior agreement between the PARTIES dated November 8, 2022, as previously amended.

### **RECITALS**

CITY desires to employ MALLOY as City Manager of the City of Union City, California, and Executive Director of the Successor Agency to the Community Redevelopment Agency of the City Of Union City (“Successor Agency”); and MALLOY desires to serve in such capacity.

The City Council, as appointing authority, and MALLOY desire to agree in writing on the terms and conditions of MALLOY’s employment.

NOW THEREFORE, in consideration of the mutual covenants, promises, and representations hereinafter set forth, the PARTIES hereto do now agree as follows:

### **SECTION I** **DUTIES**

(a) CITY hereby agrees to employ MALLOY as City Manager of the CITY and Executive Director of the Successor Agency to perform the functions and duties specified by the general laws of the State of California and by the Union City Municipal Code and other ordinances and resolutions of the CITY, and to perform other legally permissible and proper duties and functions as the City Council or the Successor Agency may from time to time assign.

(b) MALLOY commenced her duties on July 1, 2019.

(c) MALLOY agrees to devote her productive time, ability, and attention to the CITY’s business during the term of this Agreement. MALLOY shall not hold secondary employment, and shall be employed exclusively by the CITY. However, the CITY recognizes that MALLOY may actively participate in community affairs and shall be permitted to volunteer time, energy and expertise, and from time-to-time, to serve and hold office in charitable, non-profit, public service, service club, religious, and/or community area organizations. In addition this Agreement shall not be construed to preclude incidental and occasional teaching, writing, or consulting performed by MALLOY.

### **SECTION II** **TERM**

The term of this Agreement shall be from the date approved by the City Council until terminated by either party in accordance with the provisions of Section III. MALLOY shall serve at the pleasure of the City Council.

The PARTIES recognize and affirm that: 1) MALLOY is an “at will” employee whose employment may be terminated by the CITY with or without cause; 2) there is no express or implied promise made to MALLOY for any form of continued employment; and 3) this Agreement is the sole and exclusive basis for an employment relationship between MALLOY and the CITY.

### **SECTION III**

#### **TERMINATION OF EMPLOYMENT AND SEVERANCE**

City Manager is an at-will employee serving at the pleasure of the City Council as provided in Government Code Section 36506. The position of City Manager is an FLSA-exempt position. MALLOY’s employment as City Manager may be terminated by one of the following means:

- (a) Voluntary Resignation: MALLOY may voluntarily resign by delivering a letter of resignation to the City Council not less than 60 days prior to the effective date of resignation.
- (b) Termination or Forced Resignation by City Council: The City Council may terminate the employment of MALLOY in accordance with the provisions of the Union City Municipal Code and State law, by giving written notice not less than 60 days prior to the effective date of termination, or by causing MALLOY’s resignation by a majority of the City Council requesting MALLOY to resign and MALLOY then volunteering to resign after such action by the City Council.
- (c) Severance: In the event MALLOY is terminated from employment by the CITY Council without cause, or is caused to resign by the City Council pursuant to subsection (b) above without cause, and contingent upon MALLOY’s execution of a comprehensive general release and waiver of all claims of any nature, known or unknown, by MALLOY against the CITY, MALLOY shall be entitled to six (6) month’s severance pay of her annual total compensation, including salary and the value of her benefits. In no event will MALLOY be entitled to a severance agreement absent execution of a comprehensive general release and waiver of all claims in a form acceptable to the City. Such severance shall be paid in full upon the effective date of her termination. MALLOY may elect to receive continued medical/health insurance benefits, in lieu of cash payment for equivalent value thereof.
- (d) Release for Cause: This provision does not confer any property rights on MALLOY, as she remains an at-will employee. The phrase “termination for cause” only pertains to MALLOY’s eligibility for severance as described in this Section. A “termination for cause” may include, but shall not be limited to, the following:
  - (i) Purposefully violate administrative policies and procedures;
  - (ii) Failure to properly perform assigned duties;



- (iii) Theft of CITY property;
  - (iv) Insubordination;
  - (v) Conviction of a felony or misdemeanor with a nexus to the workplace;
  - (vi) Unauthorized absence from employment;
  - (vii) Failure to maintain satisfactory working relationships with other employees or the public;
  - (viii) Improper use of CITY funds;
  - (ix) Unauthorized use of CITY property;
  - (x) Willful misconduct or malfeasance;
  - (xi) Any act of moral turpitude or dishonesty; and
  - (xii) Other failure of good behavior either during or outside of employment such that the Manager's conduct causes discredit to the City.
- (e) Abuse of Office: Pursuant to Government Code section 53243.2, any cash settlement related to the termination of this Agreement received by MALLOY from the CITY shall be fully reimbursed to the CITY if MALLOY is convicted of a crime involving an abuse of her office or position as defined in California Government Code section 53243.4.

#### **SECTION IV** **RESERVED**

#### **SECTION V** **COMPENSATION**

(a) Effective the first full pay period after January 1, 2024, CITY agrees to pay MALLOY for her services rendered at an annual base salary of \$352,873, which sum shall be payable in installments at the same time as other employees of the CITY are paid, and subject to customary withholdings.

In addition, CITY agrees to consider adjusting said base salary and other benefits of MALLOY, in the CITY's sole discretion, subject to the performance evaluation process described in Section VI of this Agreement, which shall be merit based. Provided that MALLOY receives a satisfactory performance evaluation pursuant to Section VI of this Agreement, the CITY will endeavor, in order to avoid compaction, to maintain a minimum of a five percent

differential in annual base salary between Department Heads, including the Chief of Police, and MALLOY. Any action to increase salary or benefits shall comply with Government Code Section 3511.2(a), Government Code Section 54953(c)(3), and Government Code Section 54956(b).

(b) Effective the first full pay period after January 1, 2024, MALLOY shall be entitled to receive the following benefits provided to the CITY's Department Heads pursuant to the Compensation and Benefit Plan for Unrepresented Employees, updated October 10, 2023 (the "Compensation and Benefit Plan"): SECTION 4.00 LEAVE, SECTION 5.00 INSURANCE COVERAGE, SECTION 6.00 RETIREMENT BENEFITS (CalPERS).

The maximum accrual limits for vacation pursuant to SECTION 4.00.K of the Compensation and Benefit Plan shall not apply to MALLOY. Any relevant subsequent revisions to the above identified Sections of the Compensation and Benefit Plan, with the exception of Section 4.00.K, shall apply to MALLOY if approved by the City Council. Any discrepancy or conflict between the Department Heads compensation and this Agreement shall be assumed to be intended and this Agreement shall take precedence.

(c) MALLOY may receive a City-owned vehicle to use in discharging her duties as City Manager and for her personal use. CITY shall provide for all maintenance, repairs, fuel, insurance, and periodic replacement necessary for said City-owned vehicle. MALLOY may also receive other equipment necessary to perform her duties including a City-issued cellular phone and laptop computer which can be used for discharging her duties and for her personal use.

(d) Effective the first full pay period after January 1, 2024, CITY shall contribute \$1700 per month in MALLOY's name to the ICMA/RC or Valic STARS deferred compensation program (as provided in SECTION 5.00.C of the Compensation and Benefit Plan) and \$800 per month in MALLOY's name to the California Government VEBA program (as provided in SECTION 5.00.E of the Compensation and Benefit Plan).

## **SECTION VI**

### **EVALUATION OF PERFORMANCE**

The City Council shall review and evaluate the performance of MALLOY annually or more frequently if requested by the City Council in its sole discretion. Said review and evaluation shall be in accordance with specific criteria developed by the City Council with consultation from MALLOY. Said criteria may be added to or deleted from as the City Council may from time to time determine, in consultation with MALLOY. Further, the City Council shall provide MALLOY with a summary written statement of the findings of the City Council and provide an adequate opportunity for MALLOY to discuss her evaluation with the City Council.

City Council and MALLOY shall annually hold a facilitated meeting to define such goals and performance objectives which they determine necessary for the proper operations of the CITY and in the attainment of the City Council's policy objectives, and shall further establish a relative priority among those various goals and objectives, said goals and objectives to be reduced to writing. They shall generally be reasonably attainable within the time limitations as specified in the annual operating and capital budgets and appropriations provided.

## **SECTION VII** **PHYSICAL EXAMINATION**

It is recognized to be in the best interest of both PARTIES that MALLOY maintain good health and the physical ability to fulfill her duties as City Manager. To this end, the CITY will pay the cost of one complete physical examination conducted annually by the physician of MALLOY's choice.

## **SECTION VIII** **PROFESSIONAL DEVELOPMENT**

CITY acknowledges its interest in the continuing professional development of MALLOY and agrees to pay reasonable expenses associated with attendance at professional conferences, continuing education, professional memberships, books and dues. CITY acknowledges MALLOY's right to engage in other professional activities so long as they do not interfere or conflict with MALLOY's duties as City Manager and are done during time in which MALLOY is on leave or during normal nonworking hours.

## **SECTION IX** **HOLD HARMLESS AND INDEMNIFICATION**

CITY shall defend, hold harmless, and indemnify MALLOY against any tort, professional liability claim or demand, or other legal action, whether groundless or otherwise, arising out of an alleged act or omission of MALLOY made in the course of her performance of duties as City Manager. CITY shall pay the amount of any settlement or judgment rendered therefrom, to the extent specified in the California Government Code.

## **SECTION X** **MISCELLANEOUS**

(a) Binding Agreement: This Agreement shall be binding on the heirs, successors and assigns of the PARTIES.

(b) The Rights of PARTIES: Unless expressly set forth in this Agreement, nothing in this agreement shall abrogate any rights, responsibilities, benefits, or privileges to which either party would otherwise be entitled.

(c) Amendment: This agreement may be amended only in writing by mutual agreement of the PARTIES.

(d) State Law: The rights and obligations of the PARTIES shall be governed by the laws of the State of California.

(e) Abuse of Office: Government Code sections 53243, 53243.1, 53243.2, and 53243.3 are incorporated by this reference as if fully set forth herein.

(f) Recitals: Recitals are incorporated by reference into this agreement.



(g) Failure to Act: Failure to exercise any right or remedy shall not act as a waiver to exercise that right.

(h) Entire Agreement: This Agreement contains the entire agreement between the PARTIES and supersedes any prior agreement.

(i) Severability: Should any paragraph, subparagraph, sentence clause or word included in this Agreement be found invalid by a court of competent jurisdiction, the balance of this Agreement shall remain in full force and effect.

(j) Attorneys' Fees: The prevailing party of any dispute over the terms and conditions of this Agreement is entitled to attorney fees.

(k) Assignment: This Agreement is not assignable by either CITY or MALLOY.

IN WITNESS WHEREOF, the PARTIES hereto have hereunto affixed their signatures as of the date and year first above written.

CITY OF UNION CITY

By: \_\_\_\_\_  
CAROL DUTRA-VERNACI  
Mayor

ATTEST:

\_\_\_\_\_  
THAI NAM N. PHAM  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
KRISTOPHER J. KOKOTAYLO  
City Attorney

\_\_\_\_\_  
JOAN MALLOY