



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jacky Morales-Ferrand
Jim Shannon

**SUBJECT: ACQUISITION OF PROPERTY
LOCATED AT 258 MCEVOY STREET**

DATE: April 3, 2023

Approved

Date

4/12/23

COUNCIL DISTRICT: 3

RECOMMENDATION

- (a) Adopt a resolution authorizing the City Manager, or designee, to negotiate and execute a purchase and sale agreement, and all other documents including deed acceptance related to the property transfer to the City, by First Community Housing or its affiliate (collectively, FCH) for the purchase by the City of approximately 1.137 acres of land located at 258 McEvoy Street and 699 W. San Carlos Street (Property), and related reports for a total price not to exceed \$13,451,344.
- (b) Adopt the following Fiscal Year 2022-2023 Appropriation Ordinance amendments in the Inclusionary Fee Fund:
 - (1) Decrease the Housing Project Reserve appropriation by \$13,451,344; and
 - (2) Establish a Housing Loans and Grants appropriation to the Housing Department in the amount of \$13,451,344.

SUMMARY AND OUTCOME

Approval of the recommended action will authorize the City to negotiate and execute a purchase and sale agreement to acquire the site located at 258 McEvoy Street and 699 W. San Carlos Street from FCH. After the acquisition is complete, the City will conduct a Request for Proposal (RFP) or Request for Qualifications (RFQ) for the potential development of affordable housing on the site (*See Attachment A – Site Map*).

BACKGROUND

On June 28, 2021, the Housing Department issued a \$75,000,000 Notice of Funding Availability (NOFA) for the development of affordable housing for extremely low-income, very low-income, and low-income individuals and families. The NOFA prioritized projects that provide housing for households experiencing homelessness, achieve cost effectiveness, and leverage additional

non-City sources of financing. FCH submitted a proposal for 224-unit affordable housing development called ‘McEvoy Apartments’. Staff recommended, and City Council approved, a \$20 million City loan commitment in August 2021. In December 2021, the development received an allocation for approximately \$64 million of the 2021 State Ceiling on Qualified Private Activity Bonds from the California Debt Limit Allocation Committee. As the impact of the pandemic led to unstable market conditions and rising costs, the development could not secure additional financing to move forward with the project. Due to the infeasibility of the development’s financial structure, a decision was made in May 2022 to return the bond allocation back to the California Debt Limit Allocation Committee. The Committee has now reallocated this allocation for new City of San José projects.

The development’s progress has been delayed since FCH was not able to resolve the funding gap. The borrower is not current on its acquisition and predevelopment loans from Google Endeavor, administered by Housing Trust Silicon Valley. FCH has agreed to use the funding from the sale of this property for the purpose of paying down a portion of the debt owed to Google Endeavor (*see Table 1a below*). The existing deed of trust securing the Housing Trust loan will be removed prior to the City acquiring the property.

Table 1a - McEvoy Acquisition/Predevelopment Loan with Housing Trust Silicon Valley

Property	Google Endeavor Loan Amount as of 11/30/2022	Origination Date	Maturity Date	City's Purchase Offer	Remaining Balance with Google Endeavor
258 McEvoy/ 699 W. San Carlos Street	\$29,272,560	10/27/2020	10/27/2022	\$13,451,344	\$15,716,420

Table 1b - City's Funding Breakdown

Property	Unentitled Land Value	Funding of Environmental Study Costs	City's Purchase Offer
258 McEvoy/ 699 W. San Carlos Street	\$13,130,000	\$321,344	\$13,451,344

* Unentitled Land Value as of Appraisal Report Dated November 18, 2022
 Environmental Reports, Impact, Hazmat and Geotech assessments

It would benefit the City to purchase this site due to its potential for the development of affordable housing apartments in the Downtown West Transit Village Area. After acquiring the site, the City will issue an RFP or RFQ to select a developer to build an affordable housing development for extremely low- and low-income residents.

The Diridon Station Area Plan and Google's Downtown West Mixed Use Plan

The subject property is located within the Diridon Station Area Plan (DSAP), which is on the western edge of Downtown San José. In 2014, the City Council adopted the DSAP in anticipation of major transportation investments. The plans propose creating a mixed-use urban destination with a dynamic downtown near public transit. In May 2021, the City Council approved the [Amended DSAP](#) to align it to current market conditions and to provide the proper framework to support the final [Google Downtown West Mixed Use Plan](#). The Amended DSAP expanded the 2014 DSAP boundary, added development capacity, increased building height limits, and updated guidelines for land use, urban design, open space, and mobility. (***See Attachment B- Diridon Station Area Plan***)

The City is encouraging high-density, affordable housing projects in this area. Google and the City of San José have partnered to develop a mixed-use residential/commercial project known as [Downtown West Mixed-Use Plan](#) (Downtown West) (***See Attachment C- Downtown West Affordable Housing Plan***). This plan makes up approximately 80 acres of the 250-acre DSPA. The approved project, proposed by Google, allows the construction of up to 7.3 million gross square feet of office space and 15 acres of parks and open space. It also includes 4,000 units of new housing, 25% of which will be affordable.

The Amended DSAP promotes greater equity and guides public and private development. The plan identifies ways to meet the City's goal of having 25% of housing in the Diridon Station Area being restricted affordable by 2040. The property is located within this area and is needed to meet the 25% affordable housing goal.

ANALYSIS

Site Description

The project site is located at 258 McEvoy Street and 699 W. San Carlos Street within the DSAP, north of West San Carlos Street and west of Dupont Street. The underlying site measures approximately 1.137 acres or 49,538 square feet and net site area of 1.074 acres or 46,771 square feet. The site is relatively flat and is currently developed with industrial uses. The site consists of six contiguous parcels located at the north line of West San Carlos Street in San José. The northernmost site parcel (APN 261-38-005) is developed with an industrial warehouse. The center parcels (APNs 261-38-004, -030, -047, -048, and -049) are developed with an industrial warehouse, concrete ancillary building, and paved parking. (***See Attachment D- Description of Real Property***)

The property is located on the western edge of the DSAP and is also adjacent to Midtown San José. West San Carlos Street is a commercial corridor that offers good visibility with a traffic count of 24,599. The road also provides primary access to the site as it intersects McEvoy Street. Secondary access is provided via Dupont Street, which extends from West San Carlos Street and curves under the corridor's overpass to the eastern portion of the site. West San Carlos Street

ascends eastbound in front of the property to cross over the nearby Caltrain and VTA Light Rail tracks. Access is adequate with three curb cuts on the east and west frontages.

In response to a proposal to redevelop the site with a high-density affordable housing project, the City rezoned the property from Heavy Industrial to Multiple-Residence and amended the General Plan designation from Mixed Use Commercial to Transit Residential. Under the State Density Bonus Law a 29% density bonus was granted to permit up to 365 units for the project. Since the site is located in the southern zone of the plan area, near lower density residential communities, the allowed density must be compatible with surrounding uses. The permitted density and development standards are guided by the DSAP. On September 28, 2020, the Governor signed Assembly Bill (AB) 2345. This bill amends the State Density Bonus Law and increases the maximum density bonus from 35% to 50% for affordable projects.

Environmental Site Assessment

A Phase I Environmental Site Assessment (ESA) was completed by Apex Companies, LLC on March 7, 2018, followed by a Phase II ESA on March 23, 2018. Apex completed three updates to the Phase I ESA, on October 30, 2020, July 12, 2021 and April 6, 2022, in which the data collected at the subject property during Apex's Phase II investigation was re-evaluated. These reports provide a summary of environmental conditions associated with the property. The groundwater and soil vapor investigations revealed the potential presence of impacted groundwater and soil vapors migrating beneath the subject property from the south-adjacent property located at 740 West San Carlos Street. The investigations detected residual compound concentrations in soil, soil vapor, and groundwater samples at concentrations above their respective 2019 Environmental Screening Levels (ESL). Apex has recommended the installation of a vapor intrusion mitigation system. In addition to this, the City's environmental services department has recommended disposal of the shallow soil which has hazardous levels of lead. This is expected to cost several hundred thousand dollars. The reports and recommendations will be disclosed when the City releases the RFP/RFQ's for development of this site. It is not uncommon for the City to acquire sites that need remediation as almost all sites that are redeveloped require some level of environmental clean-up and/or remediation. When this site is released for acquisition, the City will require updated Phase I and II reports from the awarded developer and require a site remediation and execution plan.

Site Acquisition

Staff recommends approval of up to \$13,451,344 for the acquisition of this site. This memorandum requests authority for the Director of Housing to negotiate and execute documents and amendments that will be needed or helpful in connection with the City's acquisition. These may include, but are not limited to, option agreements, grant deed acceptance, rights of entry, and purchase and sale agreements. Prior to execution of the purchase and sale contract with the seller, the City will require that the site be free and clear of any deeds of trust or mechanic's liens recorded against the site.

The September 29, 2022 property report by Valbridge Property Advisors states the market rate value of this land as \$21,900,000, or \$60,000 a unit. This valuation is based on the entitled

project at 321 units per acre with a 29.2% bonus density over the maximum density of the Transit Residential land use designation of the General Plan. The property is assumed at its highest and best use under current zoning and General Plan designation with no affordability restrictions recorded on the land.

However, a high-rise affordable housing development has yet to be successful in securing the financing necessary to fund a high-rise building, especially in the current construction cost and interest rate environment. Because the existing entitlements will not be used, the City’s offer price is based on the property’s unentitled land value. The November 18, 2022 update to the report indicates the property’s hypothetical value, as if unentitled, is \$13,130,000.

Staff is anticipating a mid-rise building will be constructed on the site that will require new entitlements. The November 18, 2022 update report indicates the hypothetical value of the property, as if entitled for a medium-density development, is \$17,090,000, or \$46,822 a unit. Building codes typically require any building with an occupied level more than 75 feet above grade to be constructed to high-rise standards. That makes the construction economically challenging. Therefore, this report values the property under the hypothetical condition that the site is entitled for redevelopment for a mid-rise five to seven story development at 159 units per acre.

The difference between the entitled high-rise, and hypothetical unentitled and mid-rise appraised values are outlined in Table 2

Table 2 – Valuation of the property

Component	High Density Entitled Value	Unentitled Value	Medium Density Entitled Value
Value Type	As-Is Market Value	Hypothetical Market Value	Hypothetical Market Value
Property Rights Appraised	Fee Simple	Fee Simple	Fee Simple
Effective Date of Value	September 29, 2022	November 18, 2022	November 18, 2022
Value Conclusion	\$21,900,000	\$13,130,000	\$17,090,000
	\$442.08 psf	\$265.05 psf	\$344.99 psf

Property Acquisition Summary of Key Terms

The City’s offer is \$13,451,344. This price was derived by adding the hypothetical appraised value of the property as unentitled land, \$13,130,000, to the amount FCH invested in obtaining reports, such as the Impact, Hazmat and Geotech assessments, that the City could use for any hypothetical development under the City’s ownership, which is \$321,344. The following are the key terms of the proposed purchase:

- Purchase price of \$13,451,344 reflects a \$271.59 per square foot value;

- As-is sale;
- Property must have clean title and be free and clear of encumbrances such as deeds of trust or other liens;
- Closing costs are to be paid by seller according to Santa Clara County custom;
- Environmental Site Assessment (ESA) Phase 1 update will be paid by the City; the Director intends to take action under her Delegation of Authority under Municipal Code Section 5.06.390 for the necessary pre-purchase ESA update; and
- Transaction to close within 90 days of execution of a purchase and sale agreement and satisfaction of closing conditions.

EVALUATION AND FOLLOW-UP

The Housing Department will execute a purchase and sale agreement, and all other documents including deed acceptance related to the property transfer to the City once the land is free and clear. After the purchase is complete, staff will work on publishing an RFP/RFQ to assess proposals for the potential redevelopment of this site into affordable multifamily housing. The RFP/RFQ will request a proposal that maximizes the potential use of this site in terms of density and affordability mix. When an applicant is selected, the Department will return to Council for approval of the selected proposal and a possible funding commitment for this new potential development.

COST SUMMARY/IMPLICATIONS

Costs to facilitate the recommended land acquisition of \$13,451,344 will be funded by the Inclusionary Fee Fund. Budget adjustment actions recommended in this memorandum to decrease the Housing Project Reserve and establish a Housing Loans and Grants appropriation will support this action.

BUDGET REFERENCE

The table below identifies fund and the appropriations proposed to fund the actions recommended as part of this memorandum.

Fund #	Appn. #	Appn. Name	Current Total Appn	Rec. Budget Action	Amount for Purchase	2022-2023 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)
451	8437	Housing Project Reserve	\$30,000,000	(\$13,451,344)	N/A	1004	06/21/2022, Ord. No. 30790
451	0070	Housing Loans and Grants	\$0	\$13,451,344	\$13,451,344	N/A	N/A

COORDINATION

This memorandum has been coordinated with the City Attorney's Office and the City Manager's Office of Economic Development and Cultural Affairs.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the April 25, 2023 Council Meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

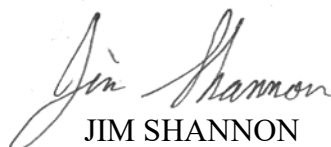
CEQA

Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. Any future development on the property by a private developer or the City would be subject to separate CEQA review.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/
JACKY MORALES-FERRAND
Director, Housing Department


JIM SHANNON
Director, Budget

For questions, please contact Rachel VanderVeen, Assistant Director of the Housing Department at (408) 535-8231.

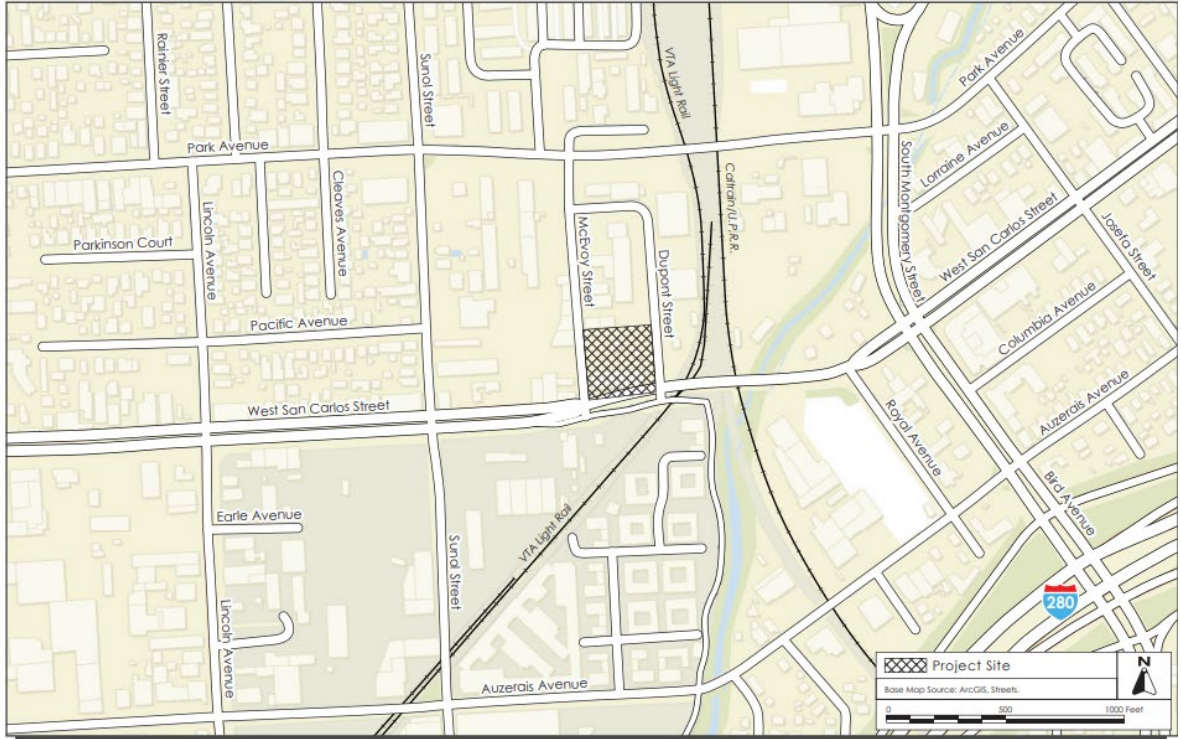
Attachments

- Attachment A: 258 McEvoy and 699 W. San Carlos Street Site Map
- Attachment B: Diridon Station Area Plan (Amended)
- Attachment C: Downtown West Affordable Housing Plan Site Map
- Attachment D: Description of Real Property

ATTACHMENT A
258 MCEVOY STREET AND 699 W. SAN CARLOS STREET
SITE MAP




Attachment A
258 McEvoy Street and 699 W. San Carlos Street Site Map

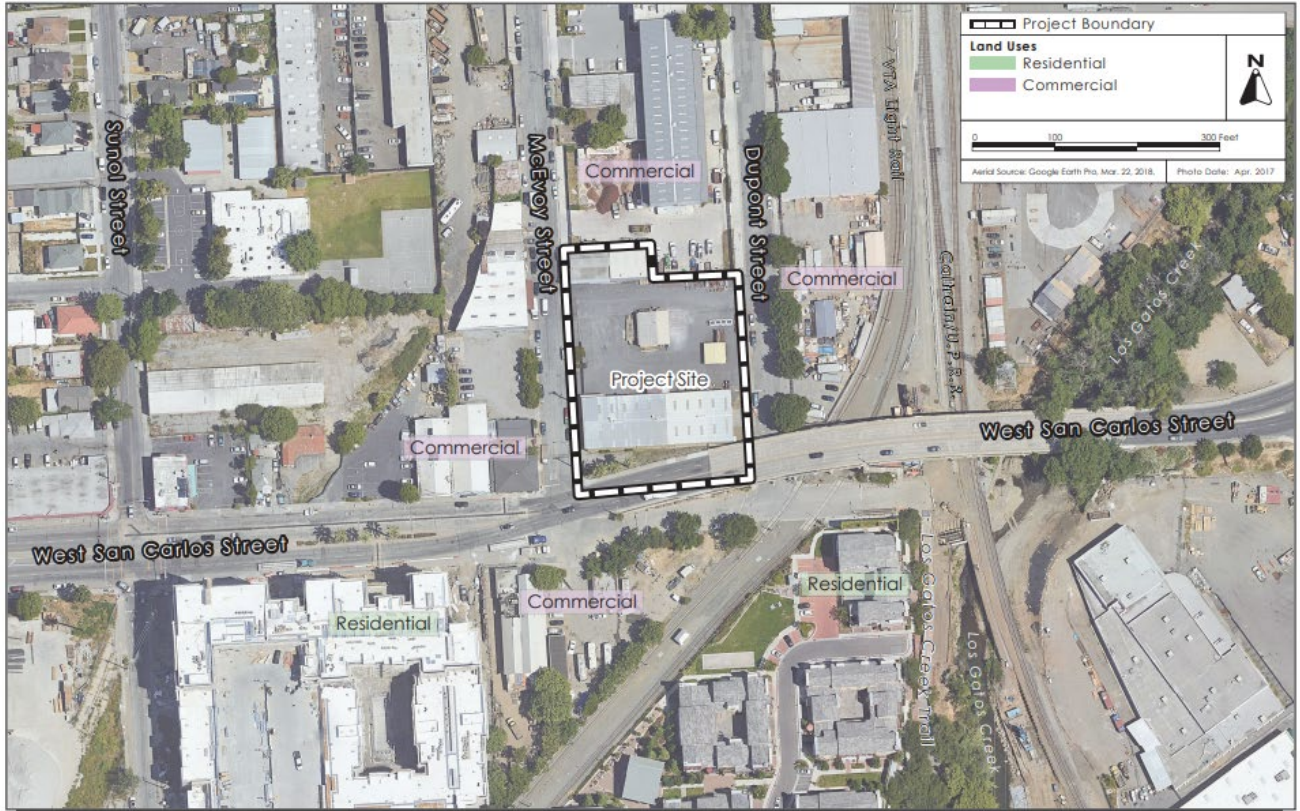


Attachment A
 258 McEvoy Street and 699 W. San Carlos Street Site Map



 3478 BUSKIRK AVENUE, SUITE 100 PLEASANT HILL, CA 94523	669 WEST SAN CARLOS ST SAN JOSE, CA			SITE AND ADJACENT PROPERTIES PLAN		
	FILE NAME	DATE 2/20/18	DR. BY PJ	APP. BY	PROJECT # 093-FCH-001	FIGURE # 2

Attachment A
258 McEvoy Street and 699 W. San Carlos Street Site Map

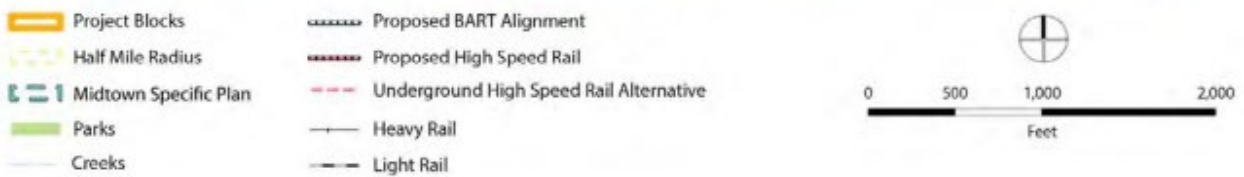


AERIAL PHOTOGRAPH AND SURROUNDING LAND USES

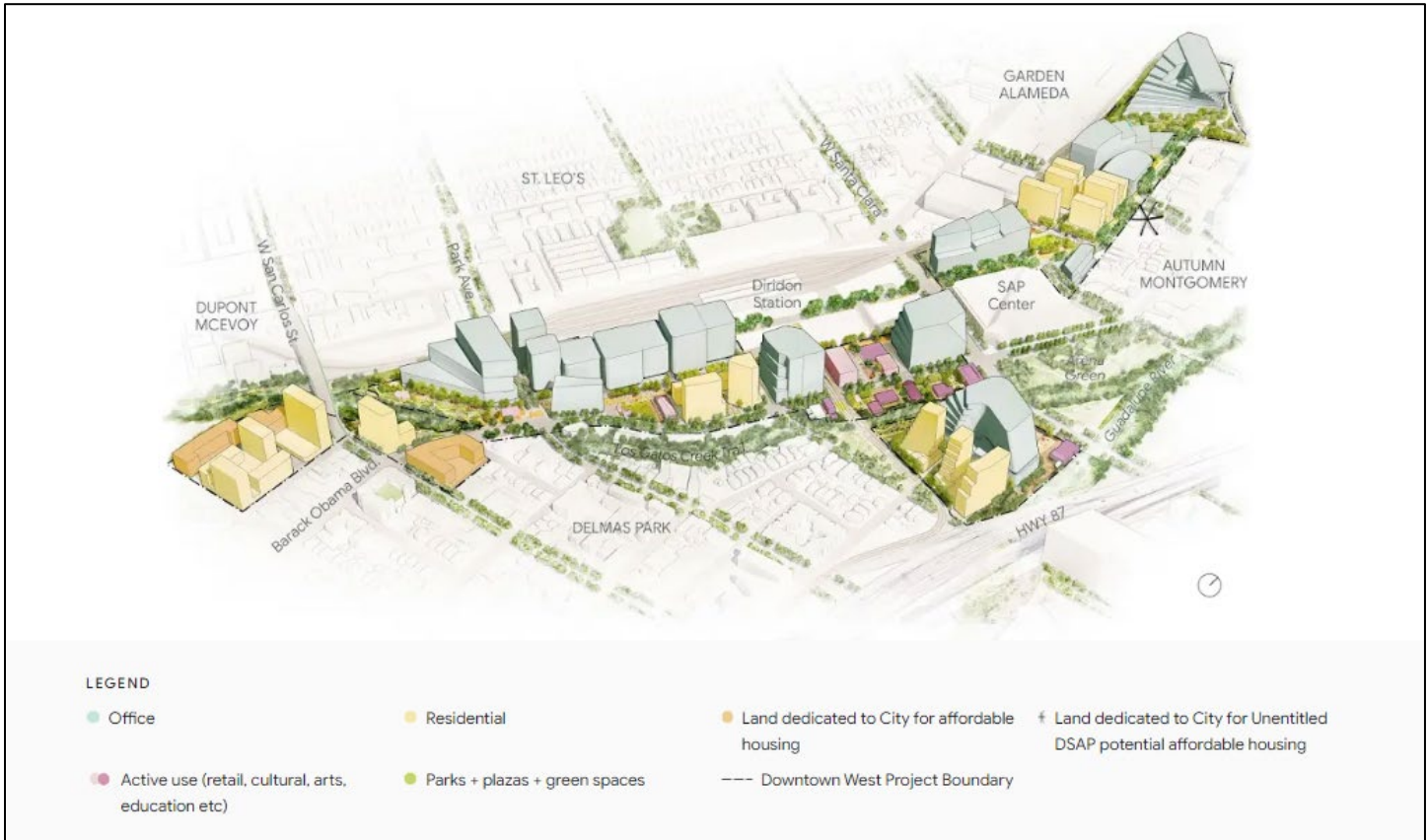
FIGURE 3.1-3

ATTACHMENT B

DIRIDON STATION AREA PLAN (AMENDED)



ATTACHMENT C
DOWNTOWN WEST AFFORDABLE HOUSING PLAN
SITE MAP



ATTACHMENT D

Description of Real Property

Valbridge Property Advisors Report

The McEvoy site is located along the northern side of West San Carlos Street between McEvoy Street and Dupont Street on the western edge of Downtown San José. The property contains 1.137 gross acres or 49,538 square feet. However, approximately 0.064 acres or 2,767 square feet lie below the West San Carlos bridge. The gross and net site area of the project is summarized in following table:

APN	Street Address	Land Area		
		(SF)	(Acres)	(Acres)
261-38-001	McEvoy Street	9,345	0.215	0.151
261-38-004	McEvoy Street	4,153	0.095	0.095
261-38-030	277 Dupont Street	4,160	0.096	0.096
261-38-047	258 McEvoy Street	4,120	0.095	0.095
261-38-048	McEvoy Street	4,120	0.095	0.095
261-38-049	699 W San Carlos Street	23,640	0.543	0.543
Total		49,538	1.137	1.074

Site Characteristics

Gross Land Area:	1.14 Acres or 49,538 SF
Usable Land Area:	1.07 Acres or 46,771 SF
Usable Land %:	0.9441
Shape:	Mostly Rectangular
Average Depth:	200 feet
Topography:	Level
Drainage:	Assumed adequate
Grade:	At street grade
Utilities:	All available to the site
Off-Site Improvements:	Sidewalk, curbing, streetlights, utility poles, street signs, and a fire hydrant. There is a pedestrian curb cut at the southwest corner of McEvoy Street and San Carlos Street. San Carlos Street is a four-lane thoroughfare of Downtown San José that ascends as an overpass along the property's frontage. McEvoy and Dupont streets are two-lane collector roadways.
Interior or Corner:	Double Corner
Signalized Intersection:	No
Surplus Land:	None

Summary of Salient Facts

Property Identification

Property Name	Residential Land (Multifamily)
Property Address	258 McEvoy Street & 699 W. San Carlos St. San Jose, Santa Clara County, California 95126
Latitude & Longitude	37.324355, -121.904072
Tax Parcel Numbers	261-38-001, 261-38-004, 261-38-030, 261-38-047, 261-38-048 and 261-38-049
Property Owners	McEvoy Street, LP

Site

Zoning	Multiple Residence District (R-M)
General Plan	Transit Residential (TR)
FEMA Flood Map No.	06085C0234H
Flood Zone	D
Gross Land Area	1.137 acres
Usable Land Area	1.074 acres

Valuation Opinions

Highest & Best Use - As Vacant	Develop with a high-density residential use
Highest & Best Use - As Improved	Redevelop with High Density Residential
Reasonable Exposure Time	6 to 9 months

Value Indications

Approach to Value	Unentitled Land	Medium Density
Sales Comparison	\$13,130,000	\$17,090,000
Cost	N/A	N/A
Income Capitalization	N/A	N/A

Value Conclusions

Component	Unentitled Land	Medium Density
Value Type	Hypothetical Retrospective Market Value	Hypothetical Retrospective Market Value
Property Rights Appraised	Fee Simple	Fee Simple
Effective Date of Value	September 15, 2022	September 15, 2022
Value Conclusion	\$13,130,000	\$17,090,000
	\$265.05 psf	\$344.99 psf

Attachment D
Description of Real Property

Value Indications

Approach to Value	As Is
Sales Comparison	\$21,900,000
Cost	Not Developed
Income Capitalization	Not Developed

Value Conclusion

Component	As Is
Value Type	Market Value
Property Rights Appraised	Fee Simple
Effective Date of Value	September 15, 2022
Value Conclusion	\$21,900,000
	60,000 per Unit