

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A VESTING TENTATIVE MAP TO CONSOLIDATE SIX (6) PARCELS INTO (1) PARCEL WITH THREE CONDOMINIUM LOTS FOR A 365-UNIT MULTI-FAMILY RESIDENTIAL APARTMENT DEVELOPMENT ON AN APPROXIMATELY 1.13 GROSS ACRE SITE SITUATED NORTH OF WEST SAN CARLOS STREET BETWEEN MCEVOY STREET AND DUPONT STREET (699 WEST SAN CARLOS STREET)**

**FILE NO. T19-017**

**WHEREAS**, pursuant to the provisions of Chapter 19.13 of Title 19 of the San José Municipal Code, on March 28, 2019, File No. T19-017 was filed by the applicant, Kurt Anderson on behalf of First Community Housing, with the City of San José for a Vesting Tentative Map to consolidate six (6) parcels into (1) parcel with three condominium lots for a 365-unit multi-family residential apartment development on an approximately 1.13 gross acre site on that certain real property situated in the R-M Multiple Residence Zoning District and located on the north side of West San Carlos Street between McEvoy and Dupont streets (699 West San Carlos Street) San José, which real property is sometimes referred to herein as the “subject property”); and.

**WHEREAS**, the subject property is all that real property more particularly described in Exhibit "A", entitled “Legal Description,” and depicted in Exhibit "B," entitled “Plat Map,” which is attached hereto and made a part hereof by this reference as if fully set forth herein; and

**WHEREAS**, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, the Planning Commission conducted a hearing on said concurrent applications on January 29, 2020, notice of which was duly given; and

**WHEREAS**, at said hearing, the Planning Commission gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

**WHEREAS**, at said hearing, the Planning Commission made a recommendation to the City Council respecting said matter based on the evidence and testimony; and

**WHEREAS**, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, this City Council conducted a hearing on said application, notice of which was duly given; and

**WHEREAS**, at said hearing, this City Council gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

**WHEREAS**, at said hearing this City Council received and considered the reports and recommendations of the Planning Commission and the City's Director of Planning, Building and Code Enforcement; and

**WHEREAS**, at said hearing, this City Council received in evidence a development plan for the subject property entitled "Vesting Tentative Subdivision Map", dated received October 23, 2019, said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested, and is attached hereto and made a part hereof by this reference as if fully set forth herein; and

**WHEREAS**, said public hearing before the City Council was conducted in all respects as required by the San José Municipal Code and the rules of this City Council.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:**



After considering all of the evidence presented at the Public Hearing, the City Council finds that the following are the relevant facts regarding this proposed project:

- 1. Site Description and Surrounding Uses.** The project site is located at the northeast corner of McEvoy Street and West San Carlos Street (699 West San Carlos Street). The approximately 1.13-gross acre site currently has two single-story industrial buildings on the site and a paved area for parking and storage. Access to the site is from two driveways along McEvoy Street. The buildings, constructed sometime in the 1980s, are used for metal fabrication, welding, and repair. One building is approximately 815 square feet and the other is approximately 10,565 square feet. Additionally, there are two accessory structures on site. One accessory structure is 576 square feet and the other is 1,444 square feet. All buildings and accessory structures are proposed to be demolished. A large part of the site is paved without any buildings and is used for materials storage and truck loading/unloading.

Land uses to the north, south, and east of the project site are industrial uses, including pipe bending and fitting, a trucking school, and a packaging business, respectively. To the west, there is a gallery, a theater and a surface parking lot.

- 2. Project Description.** The project is to allow the demolition of two industrial buildings, removal of three (3) ordinance-sized trees and one non-ordinance sized tree, for the construction a 100% affordable housing (excluding four market rate manager's units) project with up to 365 multi-family residential apartment units with an alternative parking arrangement, back-up generator, and up to 12.5-foot tall retaining wall, and concessions and waivers under State Density Bonus laws to increase density, increase the building height; reduce the required setbacks along McEvoy Street, Dupont Street, the West San Carlos Street bridge, and reduce the amount of required motorcycle parking.

This Vesting Tentative Map facilitates this development through the consolidation of six (6) parcels with three (3) condominium lots for a 365-unit multi-family residential apartment development on an approximately 1.13-gross acre site situated north of West San Carlos Street between McEvoy Street and Dupont Street (699 West San Carlos Street).

- 3. General Plan Conformance.** The project site has an Envision San José 2040 General Plan designation of Transit Residential and is within an Urban Village. The Transit Residential designation is the primary designation for new high-density, mixed-use residential development sites that are located in close proximity to transit, jobs, amenities, and services. This designation may also be appropriate for some sites within Urban Village areas as identified through an Urban Village Planning process. This designation also supports intensive commercial employment uses, such as office, retail, hotels, hospitals and private community gathering facilities. To help contribute to "complete communities," commercial uses should be included with new residential development in an amount consistent with achievement of the planned job growth and Urban Village Plan for the relevant Urban Village area. The allowable density/intensity



for mixed-use development will be determined using a FAR 2.0 to 12.0 to better address the urban form and potentially allow fewer units per acre if in combination with other uses such as commercial or office. The allowable density for this designation is further defined within the Diridon Station Area Plan (DSAP).

The project site is within the boundaries of Diridon Station Area Plan (DSAP), an adopted Urban Village plan, and is therefore subject to the land use and design standards established within the plan. The Transit Residential designation is intended for transit integrated residential development and/or vertical or horizontal residential/commercial mixed-use development within walking distance of the Station and along key transportation corridors like West San Carlos Street. All development within the Transit Residential Designation is required to be pedestrian oriented with emphasis on activating the ground level; pedestrian entries and windows should be located along the sidewalk and buildings should include architectural elements (like awnings, changes in materials, articulated building façade, etc.) that add visual interest.

The project is consistent with the DSAP, as discussed further below, and is therefore consistent with the Transit Residential General Plan designation.

#### *General Plan Policies*

The project is consistent with the following key General Plan policies:

- a. Major Strategy #5 – Urban Village: The Urban Village Major Strategy promotes the development of Urban Villages to provide active, walkable, bicycle-friendly, transit-oriented, mixed-use urban settings for new housing and job growth attractive to an innovative workforce and consistent with the Plan's environmental goals. The General Plan establishes the Urban Villages concept to create a policy framework to direct most new job and housing growth to occur within walkable and bike friendly Urban Villages that have good access to transit and other existing infrastructure and facilities.

*Analysis:* The subject site is within the Diridon Station Area Plan (DSAP), adopted by City Council on June 14, 2014. The project density would promote urban development and would facilitate the project which encourages an active, bicycle-friendly environment consistent with the Major Strategies, goals, and policies of the General Plan.

- b. Major Strategy #3 - Focused Growth: The Focused Growth Major Strategy plans for new residential and commercial growth capacity in specifically identified "Growth Areas" (Urban Villages, Specific Plan areas, Employment Areas, Downtown) while the majority of the City is not planned for additional growth or intensification. The strategy focuses new growth into areas of San José that will enable the achievement of economic growth, fiscal sustainability, and environmental stewardship goals, while supporting the development of new, attractive urban neighborhoods. While the Focused Growth strategy directs and



promotes growth within identified Growth Areas, it also strictly limits new residential development through neighborhood infill outside of these Growth Areas to preserve and enhance the quality of established neighborhoods, to reduce environmental and fiscal impacts, and to strengthen the City's Urban Growth Boundary.

- c. Growth Areas Goal LU-2: Focus new growth into identified Growth Areas to preserve and protect the quality of existing neighborhoods, including mobile home parks, while establishing new mixed use neighborhoods with a compact and dense form that is attractive to the City's projected demographics i.e., a young and senior population, and that supports walking, provides opportunities to incorporate retail and other services in a mixed-use format, and facilitates transit use.
- d. Growth Area Policy LU-2.1: Provide significant job and housing growth capacity within strategically identified "Growth Areas" in order to maximize use of existing or planned infrastructure (including fixed transit facilities), minimize the environmental impacts of new development, provide for more efficient delivery of City services, and foster the development of more vibrant, walkable urban settings.
- e. Land Use Goal - 9 – High Quality Living Environments: Provide High Quality Living Environments.
- f. Efficient Use of Residential and Mixed-Use Lands Policy LU-10.2: Distribute higher residential densities throughout the City in identified growth areas and facilitate the development of residences in mixed-use development within these growth areas.
- g. Efficient Use of Residential and Mixed-Use Land Use Policy LU-10.3: Develop residentially- and mixed-use-designated lands adjacent to major transit facilities at high densities to reduce motor vehicle travel by encouraging the use of public transit.

*Analysis for Major Strategy 3, LU-2, LU-2.1, LU-9, LU-10.2, LU-10.3: The project is within the DSAP and is approximately 0.38-mile from Diridon Station. The project land use would allow a higher density and intensity of development on the subject site consistent with General Plan major strategy, and policies supporting focused growth and development near transit. Higher density and intensity of development near transit maximizes scarce land near transit and encourages the use of public transit while reducing vehicle miles traveled. Furthermore, the project would facilitate affordable housing development that would provide housing within a bicycle-friendly, and transit-oriented setting consistent with General Plan policies supporting high quality neighborhoods.*

- h. Social Equity and Diversity - Goal H-1: Provide housing throughout the City in a range of residential densities, especially at higher densities, and product types,



including rental and for sale housing, to address the needs of an economically, demographically, and culturally diverse population.

- i. Social Equity and Diversity Policy H-1.2: Facilitate the provision of housing sites and structures across location, type, price, and status as rental or ownership that respond to the needs of all economic and demographic segments of the community including seniors, families, the homeless and individuals with special needs.
- j. Social Equity and Diversity Policy H-1.9: Facilitate the development of housing to meet San José's fair share of the County's and region's housing needs.
- k. Affordable Housing – Goal H-2: Preserve and improve San José's existing affordable housing stock and increase its supply such that 15% or more of the new housing stock developed is affordable to low, very low and extremely low income households.
- l. Affordable Housing Policy H-2.2: Integrate affordable housing in identified growth locations and where other housing opportunities may exist, consistent with the Environs San José 2040 General Plan.

*Analysis for H-1.2, H-1.9, H-2, H-2.2: The project would increase the affordable housing stock within the City by providing a 100% affordable housing community (excluding the four market rate manager's units). The residential apartment project includes 365 studio, junior studio, one, two, and three-bedroom units within the Diridon Station area. The project includes residential amenities, such as roof gardens, children's play areas, and community rooms to provide appealing housing amenities for a wide range of demographic segments of the community. Four market rate units would be reserved for the managers and the remaining would be affordable to households that earn between 30% and 80% or lower of the Area Medium Income (AMI). With a density of 323 dwelling units per acre, this is a dense housing project concentrated in an area where there are growth opportunities for both market-rate and affordable housing.*

- m. Affordable Housing Policy H-2.4: Allow affordable residential development at densities beyond the maximum density allowed under an existing Land Use/Transportation Diagram designation, consistent with the minimum requirements of the State Density Bonus Law (Government Code Section 65915) and local ordinances.

*Analysis: The project density would allow the project site to exceed the site's density limitation of 250 dwelling units per acre by 29% or 83 residential units. Achieving this density is possible by applying the State Density Bonus Law (Government Code sections 65915-65918), which allows an increase in density and waivers to certain development standards, such as height, setback and parking requirements for affordable housing developments. These waivers under the State Density Bonus Law are discussed in detail below.*



- n. Transportation Policy TR-4.1: Support the development of amenities and land use and development types and intensities that increase daily ridership on the VTA, BART, Caltrain, ACE, BRT, and Amtrak California systems and provide positive fiscal, economic, and environmental benefits to the community.
- o. Parking Strategies Policy TR-8.6: Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive TDM program, or developments located near major transit hubs or within Urban Villages and other Growth Areas.
- p. Connections Policy CD-3.5: Encourage shared and alternative parking arrangements and allow parking reductions when warranted by parking demand.

*Analysis for TR-4.1, TR-8.6, CD-3.5: The project is located within the Diridon Station Area Plan and is approximately 2,000 feet from Diridon Station. Additionally, VTA frequent bus route 23 and rapid bus route 523 run along West San Carlos Street, providing local bus services to De Anza College, Downtown, Blossom Hill, and Mountain View. The project location offers many opportunities for residents and visitors to take public transit to and from the project site. Pursuant to Section 20.190.060, projects that qualify for a density bonus are also subject to reduced parking. Further, the project is providing an alternative parking arrangement in the form of car lifts to accommodate parking on-site. These car lifts operate independently of one another, allowing the user to obtain their vehicle without relying on another occupant's vehicle to be moved.*

*The 365-unit residential development includes 94 vehicle parking spaces and 401 bicycle parking spaces.*

4. **Diridon Station Area Plan Conformance.** The subject site is located within the boundary of the Diridon Station Area Urban Village, and thus subject to Diridon Station Area Plan (DSAP). On June 14, 2014, City Council adopted the DSAP and certified the Program Environmental Impact Report. The DSAP analyzes the expansion of the existing Diridon Station and the development of land uses within the 250-acre Area Plan boundary surrounding the station. The DSAP sets forth a residential capacity of 2,588 units, of which there are 972 units remaining. Development of the subject site would need to be consistent with the goals, objectives, and guidelines of the DSAP.

Within DSAP, the subject site is within the Subarea D of the Southern Zone. The Southern Zone is the urban neighborhoods zone consisting predominantly of residential and mixed-use districts. During the development of the DSAP the subject site was intended to be designated as Transit Residential, however; this land use designation was ultimately not adopted by City Council in 2014 and the site maintains its current designation of Mixed-Use Commercial. The City Council voted not to approve the Transit Residential land use designation on this property until an Implementation Financing Plan was adopted. City Council maintained a Mixed-Use Commercial designation because the designation requires a commercial component



with a FAR of 0.5 or greater whereas the Transit Residential land use designation allows for mixed-use development, but would not require any commercial uses.

Although the Transit Residential land use designation was not adopted by City Council, the Transit Residential designation would support the overall vision and intent of the DSAP by allowing high-density, residential development, consistent with the urban design and place-making proposals outlined in the DSAP for the Southern Zone.

#### Design Guidelines

The DSAP's Design Guidelines represent a long-term vision for the area. Various design aspects are discussed in detail below.

Additionally, as discussed below, the project was analyzed for consistency with the Downtown Design Guidelines and Residential Design Guidelines to achieve an attractive residential environment. The new Downtown Design Guidelines and Standards were adopted on April 23, 2019 and amended on May 21, 2019; these guidelines are applicable to any development application submitted after the Effective Date. The project was submitted on November 1, 2017 and is subject to the 2004 Downtown Design Guidelines.

The project complies with the 2004 Downtown Design Guidelines specifically in the following areas:

#### Pedestrian Spaces

Pedestrian activity and bike access are key to the development of the Diridon Station Area as a vibrant urban destination. High levels of pedestrian activity can be achieved by good overall connectivity and an interesting and varying street environment. Wide sidewalks, safe crossings, slow traffic, street trees, street furniture, and mid-block connections all contribute to a walkable and bikeable environment.

Attributes include high-density, active ground floor uses, broken-up building massing and articulated façades at the ground level that respond to the pedestrian scale, as well as small integrated plazas and seating areas.

*As identified in the Residential Design Guidelines section below, there is a plaza with community class space, a fitness center, and a multi-purpose room/computer lab on the south side of the project. The glass storefront system provides transparency and visually opens the building at the ground floor to showcase an active environment, making the pedestrian experience more interesting. Pedestrian connection is provided through the site through a pedestrian path along the southern end of the property to help provide access to transit. Additionally, sidewalks are provided along both McEvoy Street and Dupont Streets. The project would provide 401 bicycle parking spaces. The bicycle parking spaces will help encourage a multi-modal transportation network.*



### Height

Guidelines are provided on the maximum height of buildings in the Diridon Station Area. The building height guidelines in the DSAP for the Southern Zone are intended to ensure the compatibility of new development with the surrounding relatively low-density residential neighborhoods. Guidelines in the DSAP discourage taller buildings adjacent to areas with existing single-family homes and require buildings to set back from the established single-family areas. The Area Plan indicates a maximum of 110 feet for this site.

*The project is adjacent to commercial and industrial uses. The project utilizes design elements such as banding and awnings, having Level 1 be approximately 18 feet tall, and locating the playground to bring the site to a pedestrian scale which provides neighborhood compatibility.*

*The two 13-story residential towers are 164 feet in height, exceeding the maximum height specified in the DSAP. However, on March 12, 2019, the City Council adopted a recommendation by the Community and Economic Development Committee to use Federal Aviation Administration obstruction evaluation determinations on a project-by-project basis in the Diridon Station Area. Pursuant to the Airport Department Memo dated September 25, 2019, the increase in height is acceptable as such heights would be compatible with the City's current airspace elevation restrictions over the site, subject to FAA concurrence. Pursuant to the State Density Bonus Law, a height waiver is being requested to increase the development's maximum height to 164 feet.*

*Additionally, the subject site is surrounded by single or two-story industrial and commercial uses. For compatibility, with these uses, the project includes a plaza and the project is pushed back at the southwestern portion of the property to create room for a plaza across from the commercial uses to the west. For a friendly environment and to create a pedestrian scale, active uses are located on the southern portion of the property fronting Dupont Street and McEvoy Street. To help provide connectivity, and to relate to the surrounding sites, a 10-foot wide sidewalk along the project frontage on McEvoy Street and a 12-foot wide sidewalk along Dupont Street, and a continuous 9-foot wide sidewalk along the south project frontage to connect to the plaza is conditioned. Therefore, the project is consistent with the waiver request.*

### Mix of Uses

A mix of uses on sites and within buildings encourages walking due to a variety of activities that span over more hours during a day. By bringing important destinations close together, a mix of uses also increases convenience for pedestrians, particularly when such sites are co-located with or near their home.

*This affordable housing project provides a mix of active uses on site. The project provides uses for residents including a computer lab, fitness center playground, and tot lot allowing residents easy access to these amenities. Additionally, having these active uses on the ground floor encourage pedestrian activity.*



### Parking Design

The DSAP requires minimization of the visual impact of non-active spaces, such as on-site parking spaces, by placing them behind active uses and landscaping.

*The project will provide 94 parking spaces including car lifts. The car lift would be accessed at Level 1. The lift consists of a puzzle pit design and approximately seven feet of below ground excavation would be needed to accommodate the mechanism and car storage. The ground-floor active uses would screen parking from street view as the parking is accessed from a driveway off of McEvoy Street and is tucked away behind the active use space.*

**5. State Density Bonus Law (California Government Code Section 65915).** The State Density Bonus Law, pursuant to California Government Code Sections 65915-65918 and codified locally in Chapter 20.190 of the San José Municipal Code, is a mechanism that provides private development an opportunity to be granted waivers or concessions from development requirements in order to incentivize the development of affordable and senior housing. The State law code section allows reduced parking, reduced setback and minimum square footage requirements, and the ability to donate land for development of affordable housing to earn a density bonus. Cities and counties are required to grant a density bonus and other incentives or concessions to housing projects which meet one of the following conditions:

- At least 5% of the housing units are restricted to very low income residents.
- At least 10% of the housing units are restricted to lower income residents.
- At least 10% of the housing units in a for-sale common interest development are restricted to moderate income residents.
- The project donates at least one acre of land to the city or county for very low income units, and the land has the appropriate general plan designation, zoning, permits and approvals, and access to public facilities needed for such housing.
- Pursuant to State law, waivers may be requested for a project that includes at least 30% of the units reserved for lower income residents.

The project is a 100% affordable project (excluding the four market rate manager's units) and is restricted to low (80%), and very low (30%) income residents (as defined by the Area Median Income [AMI] table). Per the applicant's waiver request letter dated December 18, 2019, the following development waivers are requested:

- a. An increase in height from the maximum 110 feet, as approved the by Diridon Station Area Plan, to 164 feet. This is an approximately 49% height increase.
- b. A reduction in the amount of required motorcycle parking. The Municipal Code requires one motorcycle parking space per four living units which would require 92 motorcycle parking spaces. The waiver requests a reduction to allow the



provision of 16 motorcycle parking spaces (approximately one space per 22 living units).

- c. A 0.33-foot setback along McEvoy Street in lieu of the required 10-foot setback.
- d. A 0-foot setback along Dupont Street in lieu of the required 10-foot setback.
- e. A 2-foot, 7-inch setback along the West San Carlos Bridge in lieu of the required 10-foot setback.

*The ability to build at a height of 164 feet, with reduced setbacks, and reduced motorcycle parking allows more affordable units on site. As shown in the waiver request letter submitted by the applicant dated 1/17/2020, with these waivers, 113 more affordable housing units could be built. The DSAP, calls for a 110-foot height maximum on the site, and would physically preclude the project at the density requested by eliminating four floors of both towers. By adhering to the height of 110 feet, 118 of the 365 affordable rental units could not be built. Additionally, motorcycle parking, and setback waivers have been requested. The R-M Multiple Residence Zoning District requires a 10-foot front setback, and the this would preclude the construction of the two towers with economically sized units, and required common open space. Without the waivers, a large portion of the affordable rental units could not be built. A significant amount to development costs are fixed, so reducing the number of units would increase the per unit development cost, rendering the project financially infeasible as affordable housing.*

On March 12, 2019, the City Council adopted a recommendation by the Community and Economic Development Committee to use Federal Aviation Administration obstruction evaluation determinations on a project-by-project basis in the Diridon Station Area. Pursuant to the Airport Department Memo dated September 25, 2019, the increase in height is acceptable.

As identified above, a waiver for a motorcycle parking reduction is requested to allow 16 motorcycle parking spaces rather than the 92 required motorcycle parking spaces. According to the Transportation Analysis Memo dated 11/7/19 from Public Works Department, the memo stated that with project conditions, the subject project will be in conformance with City of San José Transportation Analysis Policy (Council Policy 5-1). Therefore, a determination for a negative declaration can be made with respect to traffic impacts. If the waiver is granted motorcycle parking would be consistent with the zoning code.

Pursuant to Section 20.190.100, the applicant has entered into a Regulatory Agreement with the City. In addition, Chapter 20.190.090 requires any project with a Density Bonus or an Incentive to make the following findings:

- a. The Housing Development is eligible for a Density Bonus and any Incentives, waivers or modifications requested.

Analysis: *The project is a 100% affordable housing (excluding the four market rate*

*manager's units) project for households earning between 30% and 80% AMI), as defined in Section 65915 of the Government Code for the State of California, and is therefore subject to the State Density Bonus Law for affordable housing projects.*

*As referenced in the Zoning Section above, pursuant to Section 20.190.060 of the Zoning Code, which allows for a parking reduction, the project is providing 94 vehicle parking spaces. Additionally, pursuant to Zoning Code Section 20.190.070 a waiver request has been submitted for height setbacks, and motorcycle parking reduction. These parking reductions and waivers will allow for an additional 83 units to be built.*

- b. If the Density Bonus is based all or in part on donation of land, a finding that all the requirements for a land transfer Density Bonus that are specified in the State Housing Density Bonuses and Incentives Law have been or will be met.

Analysis: *The project does not include a donation of land or land transfer.*

- c. If the Density Bonus or Incentive request is based all or in part on the inclusion of a Child Care Facility, a finding that all the requirements for a Child Care Facility Density Bonus that are specified in the State Housing Density Bonuses and Incentives Law have been or will be met.

Analysis: *The project is not and does not include a Child Care Facility.*

- d. If the Incentive request is for a Mixed-Use development, a finding that all the requirements for a Mixed-Use Incentive development approval that are specified in the State Housing Density Bonuses and Incentives Law have been or will be met.

Analysis: *The project is a 100% affordable residential housing project with no commercial uses.*

- e. If the Incentive includes a request for approval of condominium conversion, a finding that all the requirements for a condominium conversion Incentive that are specified in the State Housing Density Bonuses and Incentives Law have been or will be met.

Analysis: *The project does not include a request for condominium conversion.*

## **6. Zoning Code Conformance**

### *Land Uses*

Pursuant to the Zoning Code Section 20.120.110, the R-M multiple residence Zoning District is a conforming zoning district to the Transit Residential General Plan Designation. The project site is in the RM Residential Multi-Family Residential Zoning District. The purpose of the R-M Multi-Family Residential Zoning District is to reserve land for the construction, use and occupancy of higher density residential development and higher density residential-commercial mixed-use development. In the R-M Multiple-Residence Zoning District, generators and alternative parking arrangements



can be permitted with a Special Use Permit.

#### *Development Regulations*

The project conforms to the R-M Residential Multi-Family Residential Zoning District Development Standards Zoning Section 20.30.200, except for the requested waivers to height, setback and motorcycle parking. As identified above, the applicant requests height, setback, and motorcycle parking waivers for the project. The waivers will enable the construction of an additional 83 units.

#### *Building Height & Stories*

The project meets the Building Height and Story regulations found in Zoning Code Section 20.75.160 (except that which has been identified as a State Density Bonus Law concession) as shown in the following table. The subject site has three fronts and no rear property lines. The fronts are along West San Carlos Street, McEvoy Street and Dupont Street. The side property line runs along the northern edge of the site.

#### **Zoning Setback and Height Requirements:**

<b>Setback Side</b>	<b>Required</b>	<b>Project</b>
Front (McEvoy Street)	10 feet minimum	4 inches
Front (Existing bridge at West San Carlos)	10 feet minimum	2 feet, 7 inches
Front (Dupont Street)	10 feet minimum	0 feet
Side, Interior	5 feet minimum	5 feet
Workforce Building Height	45 feet maximum	163 feet maximum
Family Building Height	45 feet maximum	164 feet maximum

*The subject site has three fronts and no rear property lines. The fronts are along West San Carlos Street, McEvoy Street and Dupont Street. The side property line runs along the northern edge of the site.*

#### *Parking*

Pursuant to Zoning Code Section 20.190.060, the reduced required parking ratios for Affordable Restricted Units are as follows:

#### *Vehicle Parking:*

As shown in the parking table below, 90 parking spaces are required and 94 parking spaces are provided, so the project parking is consistent.

UNIT TYPE	LOW 70%					VERY LOW 30%					MANAGER UNITS				
	NO. OF UNITS		PARKING RATIO		SUBTOTAL REQUIRED	NO. OF UNITS		PARKING RATIO		SUBTOTAL REQUIRED	NO. OF UNITS		PARKING RATIO		SUBTOTAL REQUIRED
WORKFORCE - STUDIO Parking Ratio	99	x	0.25	=	24.8	43	x	0	=	0					
WORKFORCE -JR 1 BED Parking Ratio	56	x	0.25	=	14.0	24	x	0	=	0	2	x	1.25	=	2.5
FAMILY - 1-BED Parking Ratio	41	x	0.25	=	10.3	17	x	0	=	0					
FAMILY - 2-BED Parking Ratio	26	x	0.5	=	13.0	11	x	0.25	=	2.8					
FAMILY - 3-BED Parking Ratio	31	x	0.5	=	15.5	13	x	0.25	=	3.3	2	x	2.0	=	4
LOW INCOME REQUIRED PARKING					77.5	VERY LOW INCOME REQD. PARKING					MANAGER UNITS REQUIRED				
PROVIDED					79	PROVIDED					PROVIDED				

GRAND TOTAL REQUIRED 90

GRAND TOTAL PROVIDED 94  
4 OF WHICH ARE ACCESSIBLE  
AND A MINIMUM OF  
1 VAN ACCESSIBLE.

Pursuant to Municipal Code Section 20.190.050, residential parking ratios are shown in the table above. The project would require 90 residential parking spaces, and the project provides 94 parking spaces. Therefore, the project meets the vehicle parking requirement by providing 90 vehicle parking spaces and an additional 4 guest vehicle parking spaces.

#### Bicycle Parking:

Use	Ratio for Bicycle Parking	Required	Bicycle Parking Provided
Family Tower- 141 Units	1 per 4 units	36	141
Workforce Tower- 224 Units	1 per 4 units	56	224
Guest Bicycle Parking	N/A	N/A	36
<b>TOTAL</b>	<b>N/A</b>	<b>92</b>	<b>401</b>

#### Motorcycle Parking:

Use	Ratio for Parking	Required	Motorcycle Parking Provided
365 Total Units	1 per 4 units	92 required	16 with waiver to reduce the number of spaces required
<b>TOTAL</b>		<b>92</b>	<b>16</b>



The bicycle parking ratio required by the City's code requires 1 bicycle space per 4 living units. Based on the number of residential units, the applicant would need to provide 92 bicycle parking spaces. The project satisfies and exceeds this requirement as a total of 401 bicycle parking spaces are required.

*Analysis: As identified above, a waiver for a motorcycle parking reduction is requested to allow 16 motorcycle parking spaces rather than the 92 required motorcycle parking spaces. According to the Transportation Analysis Memo dated 11/7/19, states that with project conditions, the subject project will be in conformance with both the City of San José Transportation Analysis Policy (Council Policy 5-1). Therefore, a determination for a negative declaration can be made with respect to traffic impacts. If the waiver is granted motorcycle parking would be consistent with the zoning code.*

#### Alternative Parking Arrangement

Under an alternative parking arrangement, pursuant to Section 20.90.200 in the San José Municipal Code, the project's 94 off-street parking spaces will be accommodated by an automated parking lift system manufactured by City Lift, Model 3LPWP (<https://cityliftparking.com/solutions/puzzle-mechanical-parking>) or equivalent brand and model. The puzzle lift system allows that each space is independently accessed and does not rely on other cars to be moved to bring the requested car forward.

- a. In addition to any other findings required for a Special Use Permit, the City Council may approve such off-street parking facilities arrangements only upon making the following findings, as specified in Section 20.90.200 in the San José Municipal Code:

- i. The number of off-street parking spaces provided in such parking facilities adequately meets the parking requirements of the individual buildings and uses as specified in this Chapter 20.190 of this title.

*Analysis: 90 parking spaces are required under the Municipal Code for affordable housing projects and 94 parking spaces are provided; 401 bicycle parking spaces are proposed, which greatly exceeds the required 92 bicycle parking spaces. With the waiver request to allow 16 motorcycle parking spaces, the parking facilities are adequate.*

- ii. It is reasonably certain that the parking facility shall continue to be provided and maintained at the same location for the service of the building or use for which such facility is required, during the life of the building or use.

*Analysis: The lifts are conditioned to be maintained and operate for the life of the project.*

- iii. The parking facility is reasonably convenient and accessible to the buildings or uses to be served.

*Analysis: The lifts are located on the first level of the building, and the lift allows the desired car to be called to the bottom row without requiring another car to be moved by a different resident.*

#### **Performance Standards:**

Table 20-135 of Section 20.30.700 establishes the maximum decibel level at any property line for any residential or non-residential use. Residential uses adjacent to property used or zoned for industrial uses should have a maximum noise level of 55 decibels at the property line.

Noise from the playground would be minimized by ensuring, as a condition of approval, that use of the playground would only occur between sunrise and sunset, helping to ensure the minimization of noise in the evening hours.

A backup generator that would provide power to residents in case of emergency is proposed as a permit condition.

*To achieve the required 55 decibel level at the property line, the generator is conditioned to be enclosed within the building. Additionally, a permit adjustment must be obtained for a backup generator that is consistent with Section 20.80.2030.*

#### **Retaining Wall:**

Pursuant to Section 20.30.500, walls over 2 feet need to be approved by a development permit. The project includes the installation of a retaining wall that is up to 12.5 feet along the southern portion of the site. The wall is needed because West San Carlos Street begins to elevate at the subject site.

#### **Tree Removals (Title 13.28):**

Three (3) ordinance sized trees and one (1) non-ordinance sized tree for a total of four (4) trees on-site and they are to be removed as shown in the table below. The table also shows the number of replacement trees required.

*Analysis: The three existing Desert Fan Palms at the corner of West San Carlos Street and McEvoy Streets will be removed for the project because of an embankment along the northern edge of the West San Carlos Street Bridge. The embankment starts at the West San Carlos-McEvoy Street intersection and extends east to the bridge columns that permit the West San Carlos Bridge to span over Dupont Street. To construct the project, the embankment needs to be removed and replaced with a retaining wall. The removal of the embankment impacts the three palm trees.*

*The trees are currently planted on the embankment within masonry retaining walls that would be removed as well. Additionally, the three trees also directly conflict with the pedestrian walkway that connects McEvoy and Dupont streets.*

*A fourth tree, a crape myrtle, located on McEvoy Street would be removed as it falls within the footprint of the podium. Based upon the above, and to accommodate the density of the affordable housing project, the tree cannot be preserved.*



*Additionally, ten (10) 15-gallon trees are required to be replanted as replacements for the four trees to be removed. Pursuant to the project landscaping plan, the project would plant a total of sixty (60) 24-inch box trees on site, which exceeds the City's Tree Replacement ratios.*

## **7. City Council Policy Conformance**

### *City Council Policy 6-30: Public Outreach Policy for Pending Land Use Development Proposals*

Under City Council Policy 6-30, the project is considered to be a large development. Following City Council Policy 6-30, the applicant has posted the on-site sign to inform the neighborhood of the project. A community meeting was held to discuss the project on Thursday, March 29, 2019 at the Westminster Presbyterian Hall, 1100 Shasta Avenue, San José. Approximately 7 members of the public were in attendance for the meeting. Comments received during the community meeting and project review are discussed below. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

## **8. Downtown and Residential Design Guidelines**

The project was analyzed for consistency with the Downtown Design Guidelines and Residential Design Guidelines to achieve an attractive residential environment. The new Downtown Design Guidelines and Standards were adopted on April 23, 2019 and amended on May 21, 2019; these guidelines are applicable to any Planning application submitted after the Effective Date. The project was submitted on November 1, 2017 and is subject to the 2004 Downtown Design Guidelines. The project complies with the 2004 Downtown Design Guidelines specifically in the following areas:

### *Urban Form and Massing*

The Downtown Design Guidelines state that a project's massing should consider the larger physical context and urban form. The project consists of two 13-story towers, and there have been design measures to help with massing. Both of the towers utilize a variety of colors and materials, and the tower façades mirror one another. Additionally, the towers are separated by a courtyard with seating areas, a labyrinth and landscaping. The separation between the towers also provides for solar access for most of the units at least part of the day. There is a garden at the top of each tower affording residents with a place to garden and view the surrounding city on the rooftop. All of these design measures help to break up or reduce the massing.

### *Project Base/Street Wall*

The Downtown Design Guidelines encourage the design of the base of buildings to allow for lasting social interaction at the ground through transparency and durable materials. Further, the Guidelines state that building frontage should appear safe, welcoming, and open to the general public. The project design consists of a podium



with two towers. As previously described, the workforce building is designed to be pushed back from West San Carlos Street to accommodate a plaza which can be used for events and class activities. There is a plaza with class space, a fitness center, and a multi-purpose room/computer lab on the south side of the project. Pedestrian connection is provided through the site through a pedestrian path along the southern portion of the property to help provide access to transit. At the project, the elevation of West San Carlos Street begins to increase. At the second level, a playground (grades K-12), a tot lot (ages 2-5), and shade structures where people can rest and visit with one another is proposed. Having these active uses designed at the second level also helps with the pedestrian experience along West San Carlos Street (elevated).

#### *Architecture and Materials*

The glass storefront system provides transparency and opens up the building at the ground floor to showcase an active environment, making the pedestrian experience more interesting. The balconies are designed so that they are different colors at different floors to break up the vertical and horizontal massing. Green to blue metal panel mosaics are provided allowing for more visual interest. Dark gray and green window shades are included in the design, which creates shadow and the appearance of depth.

The project is designed to have the open space and active uses facing West San Carlos Street, which is a Grand Boulevard and the street frontage with the highest pedestrian activity. The towers are oriented in such a way that the separation can also be seen from the Grand Boulevard and solar access to the playground is provided. Storefront window glazing is provided on the ground level, and the parking and vehicle entry is located off McEvoy Street and is tucked behind active uses. Street trees are proposed along McEvoy Street and Dupont Street, which will provide shade for pedestrians. The balconies are designed so that they are different colors at different floors to break up the vertical and horizontal massing.

#### Residential Design Guidelines

Additionally, the project is consistent with the Residential Design Guidelines, and Chapter 25a Transit-Oriented Development. The Guidelines state transit-oriented developments are focused on transit and pedestrian circulation. The project is located within the DSAP area and is high-density multi-family residential development. The project provides street improvements that are conditioned below. To help provide connectivity and to relate to the surrounding sites, the project proposes a 10-foot wide sidewalk along the project frontage on McEvoy Street and a 12-foot wide sidewalk along Dupont Street, and a continuous 9-foot wide sidewalk on the southern portion of the project frontage.

Four hundred and one bicycle parking spaces are provided, which is well over the required 92 bicycle parking spaces. There is one parking space for each unit and



additional parking for guests as identified above. The bicycle parking spaces will help encourage multi-modal connectivity to transit.

Also, a permit adjustment for outdoor lighting that is consistent with the Outdoor Lighting on Private Developments and City of San José Interim Lighting Policy Broad Spectrum Lighting (LED) for Private Development is conditioned below.

## 9. Environmental Review.

The Director of Planning, Building and Code Enforcement prepared an Initial Study in support of an Addendum to the Diridon Station Area Plan (DSAP) Programmatic Environmental Impact Report (PEIR) for the McEvoy Affordable Housing Project, which includes a General Plan Amendment to change the land use designation from *Mixed Use Commercial* to *Transit Residential*, a conforming rezoning from *Heavy Industrial (HI)* district to *Multiple Residence (R-M)* district, and a Special Use Permit for development of the project. The DSAP PEIR contains sufficient information to provide project-level environmental clearance for certain impacts by including standard measures that apply to all projects in San José. The Initial Study did not identify any new impacts beyond those analyzed in the DSAP PEIR. Therefore, the proposed project meets the criteria of an Addendum pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15164 and was completed in compliance with CEQA to reflect the independent judgement of the City.

The Initial Study identified relevant mitigation measures included in the DSAP PEIR for potential impacts to air quality during construction, nesting birds, buried and unknown archaeological resources, contamination during and after construction, and construction vibration impacts on adjacent buildings and businesses. In addition, standard permit conditions are made part of the permit approval. These standard permit conditions include best management practices for controlling dust and exhaust during construction, tree replacement, compliance with the Habitat Plan, uncovering buried archaeological or historic resources and human remains during construction activities, preventing impacts from lead-based paint and asbestos during demolition activities, preventing stormwater pollution during construction, managing mechanical equipment noise, and interior noise levels. The mitigation measures are included in the Mitigation Monitoring and Reporting Program (MMRP) and both the mitigation measures and standard permit conditions are made a part of this permit.

The Initial Study concluded that the proposed project would not result in a substantial increase in the magnitude of any significant environmental impact previously identified in the DSAP PEIR. Therefore, a supplemental or subsequent EIR is not required, and an Addendum to the DSAP PEIR is the appropriate level of CEQA clearance for the project.

The Addendum and supporting Initial Study, associated technical studies (in appendices to the Initial Study) are available on the Planning Division environmental review webpage at:



<https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/active-eirs>.

## 10. Vesting Tentative Map Findings

In accordance with Section 66474 of the Government Code of the State of California, the Council of the City of San José, in consideration of the subdivision shown on the Vesting Tentative Map with the imposed conditions, shall deny approval of a Vesting Tentative Map, if it makes any of the following findings:

1. That the proposed map is not consistent with applicable General and Specific Plans as specified in Section 65451.
2. That the design or improvement of the proposed subdivision is not consistent with applicable General and Specific Plans.
3. That the site is not physically suitable for the type of development.
4. That the site is not physically suitable for the proposed density of development.
5. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

*Analysis: Based on review of the subdivision, for a Vesting Tentative Map to consolidate six (6) parcels into (1) parcel with three condominiums lots for a 365-unit multi-family residential apartment development on an approximately 1.13 gross acre site, the City Council does not make any such findings to deny the subject subdivision. The project is consistent with the General Plan goals, policies, and land use designation. The project complies with the General Plan goals and policies related to Major Strategies, design, and Growth Areas, among others. The General Plan land use designation of Transit Residential allows for higher-density residential projects. The project site is physically suitable for the project and proposed density in that the development intensity is encouraged and envisioned within the DSAP. Furthermore, the project site does not contain historic resources or sensitive habitats or wildlife. The project is required to improve the public sidewalks and a 9-foot wide walking path is proposed along West San Carlos Street.*

*The site is not located within a designated Federal Emergency Management Agency (FEMA) 100-year flood plan. The project site, as well as the surrounding area, are presently developed with structures and do not provide a natural habitat for either fish*



*or wildlife. The subdivision and subsequent improvements are not likely to cause serious public health problems. The project will be required to dedicate a 10-foot sidewalk along McEvoy Street and a 12-foot wide sidewalk along Dupont Street, with tree wells along the McEvoy Street and Dupont Street frontage. Additionally, the project is conditioned so that the common areas will be maintained and that the common areas are retained as common areas for the life of the project.*

## **11. Subdivision Ordinance Findings**

In accordance with San José Municipal Code (SJMC) Section 19.12.130, the City Council may approve the Tentative Map if findings cannot be made for denial in Government Code section 66474 and the Council of the City of San José has reviewed and considered the information relating to compliance of the project with the California Environmental Quality Act and determines the environmental review to be adequate. Additionally, the City Council may approve the project if the Council does not make any of the findings for denial in San José Municipal Code Section 19.12.220. Section 19.12.130 incorporates the findings for denial in Section 66474 of the Government Code specified in Findings Section 1 herein.

*Analysis: As described above, based on review of the proposed subdivision, the Council of the City of San José does not make any such findings to deny the subject subdivision. The vesting tentative map and the development's design are consistent with the San José Envision 2040 General Plan and the DSAP, as discussed above. Assuming the height, setback, and motorcycle parking waiver request is granted, the site is physically suitable for the proposed development as described above.*

In accordance with the findings set forth above, a Vesting Tentative Map to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. This City Council expressly declares that it would not have granted this permit and determination except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use permitted hereby.

### **APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **Acceptance of Vesting Tentative Map.** Per Section 19.12.230, should the Subdivider fail to file a timely and valid appeal of this Vesting Tentative Map within the applicable appeal period, such inaction by the Subdivider shall be deemed to constitute all of the following on behalf of the Subdivider:
  - a. Acceptance of the Vesting Tentative Map by the Subdivider; and

- b. Agreement by the Subdivider to be bound by, to comply with, and to do all things required of or by the Subdivider pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 19 applicable to such Vesting Tentative Map.
2. **Expiration of Vesting Tentative Map.** This Vesting Tentative Map shall automatically expire 48 months from and after the date of issuance hereof by the Director of Planning of the City of San José. The date of issuance is the date this Vesting Tentative Map is approved by the City Council.
3. **Development Rights - Vesting on Approval of Vesting Tentative Map.**
- a. Per San José Municipal Code Section 19.13.070, the approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards described in Government Code Section 66474.2. However, if Section 66474.2 of the Government Code is repealed, the approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards in effect at the time the vesting tentative map is approved or conditionally approved.
  - b. Notwithstanding subsection 3.a., above, any permit, including a building permit, approval, extension, or entitlement may be made conditional or denied if any of the following are determined:
    - i. A failure to do so would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both.
    - ii. The condition or denial is required, in order to comply with state or federal law.
  - c. The rights referred to herein shall expire if a final map is not approved prior to the expiration of the vesting tentative map as provided in Section 19.13.060. If the final map is approved, these rights shall last for the following periods of time:
    - i. An initial time period of one year. Where several final maps are recorded on various phases of a project covered by a single vesting tentative map, this one-year initial time period shall begin for each phase when the final map for that phase is recorded. All of said final maps or parcel maps must be recorded within the time period set forth in Section 19.13.060 or the vesting tentative map approval shall expire for those parcels for which final maps or parcel maps are not timely recorded.
    - ii. The initial time period set forth in 3.c.i. shall be automatically extended by any time used for processing a complete application for a grading permit if such processing exceeds thirty days from the date a complete application is filed.
    - iii. A subdivider may apply to the director for a one-year extension at any time before the initial time period set forth in 3.c.i expires. If the extension is denied, the subdivider may appeal that denial to the city council within fifteen (15) days.



- iv. If the subdivider submits a complete application for a building permit during the periods of time specified in 3.c.i. through 3.c.iii., above, the rights referred to herein shall continue until the expiration of that permit, or any extension of that permit.
4. **Conformance to Plans.** The development of the site shall conform to the approved Planned Development Permit plans entitled, "280 McEvoy Street Residential Apartments," dated revised on October 23, 2019, on file with the Department of Planning, Building and Code Enforcement, as may be amended subject to City's approval, and to the San José Building Code (San José Municipal Code, Title 24), as amended. The plans are referred to herein as the "Approved Vesting Tentative Map Plan Set."
5. **Compliance with Subdivision Ordinance.** The final map shall comply with all of the requirements for final maps in Chapter 19.16 of the San José Municipal Code and shall show and contain all of the data required by San José Municipal Code Section 19.16.110.
6. **Conformance with Other Permits.** The subject Vesting Tentative Map conforms to and complies in all respects with the Special Use Permit File No. SP18-059 on which such Vesting Tentative Map is based. Approval of said Vesting Tentative Map shall automatically expire with respect to any portion of the lands covered by such Vesting Tentative Map on which a Final Map or Tract Map has not yet been recorded if, prior to recordation of a Final Map or Tract Map thereon, the Special Use Permit for such lands automatically expires or for any reason ceases to be operative.
  - a. The Transportation Demand Management Plan measures, as amended, shall be implemented.
7. **Improvements.** Pursuant to the Subdivision Agreement (hereinafter referred to as "Agreement"), the Subdivider shall, before approval and recording of the Final Map, improve or agree to improve all land within the subdivision and all land outside, but appurtenant to, the Subdivision shown on the Vesting Tentative Map for public or private streets, alleys, pedestrian ways and easements to the satisfaction of the Director of Public Works.
8. **Improvement Contract.** In the event subdivider has not completed the improvements required for his proposed subdivision at the time the final map is presented for approval, subdivider shall enter into a subdivision improvement agreement with the City of San José, in accordance with Section 19.32.130 of the San José Municipal Code, and provide the improvement security and insurance required therein.
9. **Public Use Easements.** Subdivider shall dedicate on the final map for public use easements for public utilities, emergency access, open space, streets, pedestrian ways, sanitary sewers, drainage, flood control channels, water systems, and parking in and upon all areas within the subdivision shown on the Vesting Tentative Map for the subdivision to be devoted to such purposes.



10. **Conveyance of Easements.** Subdivider shall convey or cause to be conveyed to the City of San José, easements in and upon all areas as shown on the Vesting Tentative Map outside the boundaries of, but appurtenant to, the subdivision. Should a separate instrument be required for the conveyance of the easement(s), it shall be recorded prior to the recordation of the Final Map. Such easements so conveyed shall be shown on the Final Map, together with reference to the Book and Page in the Official Recorder of Santa Clara County, where each instrument conveying such easements is recorded.
11. **Distribution Facilities.** The Subdivider shall, at no cost to the City, cause all new or replacement electricity distribution facilities (up to 40KV), telephone, community cable, and other distribution facilities located on the subject property to be placed underground.
12. **Covenant of Easements.** Prior to recordation of the Final Map, the Subdivider shall offer to the City of San José a Covenant of Easement for joint use and emergency access purposes, reciprocal rights for shared parking, ingress, and egress in accordance with Part 1 of Chapter 20.110 of Title 20 of the San José Municipal Code, across lots 1-64, as shown on the Approved Plan Set. Said easements shall be binding upon, and all benefits shall insure to, all successors in interest to the affected real property.
13. **Multiple Final Maps.** Multiple Final Maps may be filed for this subdivision if each and all of the following conditions are met with each Final Map:
  - a. All fees associated with development and a part of this approval shall be apportioned and paid for each portion of this subdivision for which a Final Map is being filed, including but not limited to Parkland Dedication, undergrounding of utilities, drainage, area and sewer treatment plan.
  - b. All public streets on which each Final Map has frontage shall be improved or bonded to be improved to the satisfaction of the Director of Public Works.
  - c. All grading, drainage, and easements for drainage, adequate to protect each lot for which a Final Map is requested, and surrounding parcels which could be impacted by such design or lack of design, shall be guaranteed to the satisfaction of the Director of Public Works.
  - d. Any and all off-site improvements necessary for mitigation of impacts brought about by this project shall be apportioned to the degree possible to guarantee adequate mitigation for each area for which a Final Map is being filed, to the satisfaction of the Director of Public Works.
14. **Final Map.** No Final Map or Tract Map shall be approved by City Council unless and until the appeal period for the development permit, City File No. SP18-059 has expired and all appeals have been exhausted.
15. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by Subdivider shall constitute



acknowledgement of receipt of notice by Subdivider that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Regional Wastewater Facility represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to implement this Permit may be suspended, conditioned or denied where the City Manager is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.

16. **Sewage Fees:** In accordance with City Ordinance, all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable to the Department of Public Works prior to Public Works clearance.
17. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Vesting Tentative Map shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance.
18. **Affordable Housing.** The project may be subject to the City's Inclusionary Housing Ordinance (IHO) or Affordable Housing Impact Fee (AHIF). If the development is subject to the referenced IHO or AHIF, the subdivider must execute and record their Affordable Housing Agreement with the City prior to the issuance of any building permits, or any final approval of any final map.
  - a. Permittee must strictly comply with each requirement of the approved Affordable Housing Compliance Plan, the Affordable Housing Agreement, and any other applicable requirements of the IHO.
  - b. Permittee must strictly comply with each requirement of the approved Affordable Housing Compliance Plan, the Affordable Housing Agreement, and any other applicable requirements of the IHO.
  - c. No building permit may issue until the Affordable Housing Agreement is recorded against the property. No building permit may issue except consistent with the requirements of the IHO and the proposed Plan to fulfill the affordable housing obligations.

- d. No Temporary Certificate of Occupancy, Certificate of Occupancy, or Notice of Completion for any units shall be issued until all requirements of the IHO and Affordable Housing Agreement are met.
19. **Parkland Dedication Ordinance.** This development is subject to the requirements of either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San José Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San José Municipal Code,) for the dedication of land and/or payment of fees in-lieu of dedication of land for public park and/or recreational purposes under the formula contained within the parkland dedication ordinance and the associated Fees and Credit Resolutions. Prior to approval of the Final Map or final building permits for this development, the subdivider shall enter a parkland agreement with the City to the satisfaction of the Director of Public Works in order to fulfill the requirements of the Parkland Dedication Ordinance.
20. **Conformance to Mitigation Monitoring and Reporting Program.** This Project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program (MMRP) approved for this development by City Council Resolution No. \_\_\_\_\_.
21. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the subdivider will be required to have satisfied all of the following Public Works conditions as described in the Special Use Permit (SP18-059)
22. **Revocation, Suspension, Modification.** This Vesting Tentative Map is subject to revocation, suspension or modification for violation of any of its provisions or condition.

In accordance with the findings set forth above, a Vesting Tentative Map Permit to use the subject property for said purpose specified above is hereby **approved**.

#### **EFFECTIVE DATE**

The effective date of this Vesting Tentative Map shall be the same effective date of the Conventional Rezoning Ordinance for File No. C18-034 passed for publication on \_\_\_\_\_, 2020 (and shall be no earlier than the effective date of said Rezoning Ordinance.

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ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

\_\_\_\_\_  
SAM LICCARDO  
Mayor

ATTEST:

\_\_\_\_\_  
TONI J. TABER, CMC  
City Clerk

***NOTICE TO PARTIES***

*The time within which judicial review must be sought to review this decision is governed by the provisions of the California Code of Civil Procedure Section 1094.6.*

EXHIBIT A

LEGAL DESCRIPTION PARCEL 1

280 MCEVOY STREET

SAN JOSE, CALIFORNIA

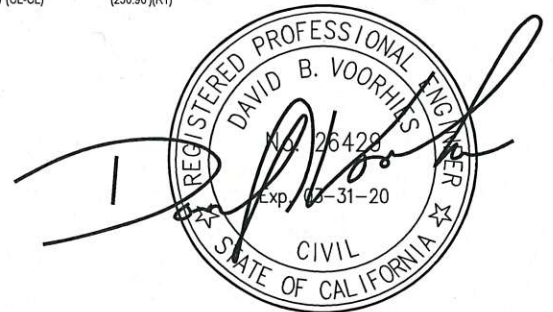
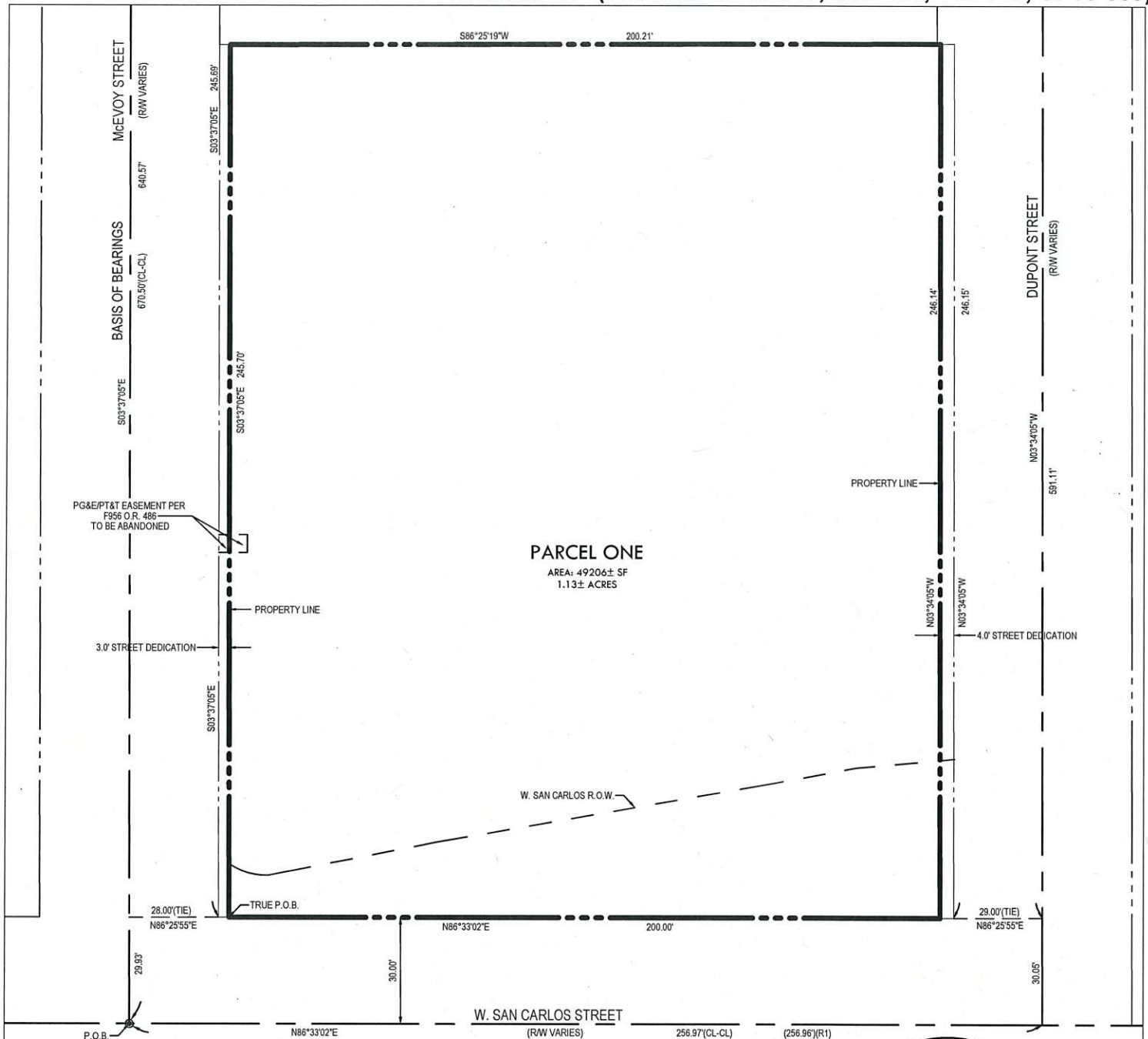
The land referenced to is situated in the County of Santa Clara, City of San Jose, State of California, and is described as follows:

Beginning at the intersection of W San Carlos Street and McEvoy Street AS SHOWN ON Parcel Map filed February 18, 2009, in Book 830 of Maps, at Pages 136 to 137 in the office of the County Surveyor of Santa Clara County; thence northerly along the center line of McEvoy Street N03°37'05"W, 29.93 feet; thence N86°25'55"E, 28.00' to the TRUE POINT OF BEGINNING; thence N86°32'02"E, 200.00'; thence N03°34'05"W, 246.24 feet; thence S86°25'19"W 200.21 feet; thence S03°37'05"E, 245.70 feet to the TRUE POINT OF BEGINNING.

Containing an Area of 49,206± S.F. (1.13± AC.)

END OF DESCRIPTION





OCT 21, 2019



PLAT TO ACCOMPANY LEGAL DESCRIPTION		SCALE	1" = 40'	SHEET  <b>1</b>  OF 2 SHEETS
280 McEVoy STREET		DATE	10.21.2019	
		PRJ. NO.	18-009	
		DRAWN	CM	
		CHECKED	DV	
SAN JOSE	CALIFORNIA			