

# Planned Development Zoning General Development Plan Downtown West

San José, California

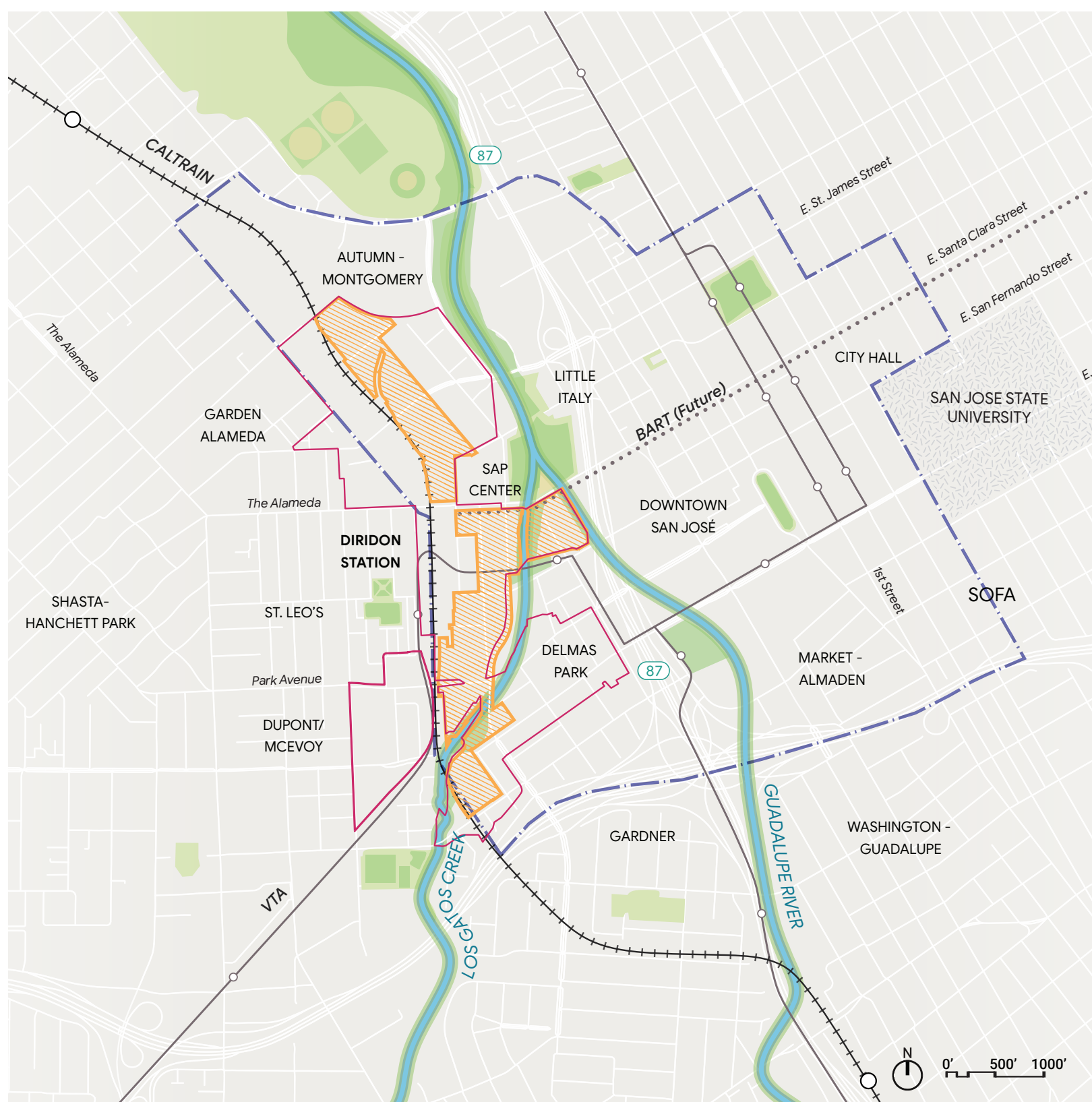


Figure 1.01.1 Project Location Map

## Legend

- Downtown Boundary
- Downtown West Project Boundary
- Diridon Station Area Plan Boundary

## Project Team

### Project Sponsor

Google LLC

### Development Advisor

Lendlease

### Design + Consultant Team

SITELAB urban studio: Urban Design

Heatherwick Studio: Architecture

Grimshaw Architects: Architecture

Kohn Pedersen Fox Associates (KPF): Architecture

Fougeron Architecture: Architecture

Solomon Cordwell Buenz (SCB): Architecture

SHoP Architects: Architecture

Architectural Resources Group (ARG): Historic Resources

West 8: Landscape Design

Sherwood Design Engineers: Civil and Infrastructure

HMH Engineers: Civil

H.T. Harvey & Associates: Ecology

San Francisco Estuary Institute (SFEI): Ecology

Integral Group: Design Analytics

David J Powers: Environmental

Kier & Wright: Surveyor

Prior + Partners: Urban Design and Station Integration

ARUP: Rail, Transportation, and Sustainability

Nelson\Nygaard: Transportation

Johnson Aviation: Aviation

Applied Wayfinding: Signage

Schaaf & Wheeler: Hydrology

## General Plan Designations

- Downtown
- Commercial Downtown

## Existing Zoning Districts

- Light Industrial
- Heavy Industrial
- Industrial Park
- Commercial Neighborhood
- Commercial General
- Downtown Primary Commercial
- Public
- Combined Industrial / Commercial
- Planned Development

## Zoning District

- DC (PD) Planned Development Zoning District

## Site Area

Table 1.01.1 Site Area

	Proposed <sup>1</sup>
Buildable Area	40.9 ac
Open Space and Setbacks	15.0 ac
Other <sup>2</sup>	23.8 ac
<b>Total</b>	<b>79.7 ac</b>

### NOTES:

1. All site areas are approximate, and rounded to the nearest 0.1 acre.
2. Other categories include new and existing streets, and existing rail.

## Development Program

Table 1.01.2 Development Program

Uses	Maximum Development
Residential	Up to 5,900 units
Office	Up to 7,300,000 gross square feet
Active Uses	Up to 500,000 gross square feet
Hotel	Up to 300 rooms
Limited-Term Corporate Accommodations	Up to 800 accommodations
Event Center(s)	Up to 100,000 gross square feet
Central Utilities Plant(s)	Up to 130,000 gross square feet
Logistics / Warehouse	Up to 100,000 gross square feet
<b>Off-Street Parking</b>	
Public and / or Commercial Parking	Up to 4,800 stalls
Residential Parking	Up to 2,360 stalls
<b>Total Parking</b>	<b>Up to 7,160 stalls</b>

## Table of Contents

1.01	Project Description
2.01	Downtown West Planned Development Zoning District
3.01	Sub-Area Boundaries
3.02a	Development Standards
3.02b	Development Standards
3.03	Maximum Allowable Development
4.01	Use Regulations
4.02	Use Regulations
4.03	Use Regulations
4.04	Use Regulations
4.05	Use Regulations
5.01	Existing Assessor's Parcels
5.02	Existing Ordinance Trees, Waterways and Natural Features
6.01	Land Use Plan
6.02	Illustrative Site Plan
6.03	Block Plan
6.04	Open Space Plan
6.05	Circulation Plan
6.06	Infrastructure
6.07	Grading
7.01	Conceptual Character Renderings
8.01	Zoning / Design Conformance Review Process
8.02	Zoning / Design Conformance Review Process

1.01



# Downtown West Planned Development Zoning District

The Downtown West Mixed-Use Plan (Project) is located in the General Plan Downtown Growth Area and within the boundaries of the Diridon Station Area Plan (herein referred to as the DSAP). The Downtown West Planned Development Zoning District (herein referred to as the Downtown West PD Zoning District) consists of approximately 80 acres and is generally bounded by Lenzen Avenue and the Union Pacific Railroad (UPRR) tracks to the north; North Montgomery Street, Los Gatos Creek, the Guadalupe River, Barack Obama Boulevard (formerly South Autumn Street and Bird Ave) , and Royal Avenue to the east; Auzerais Avenue to the south; and Diridon Station and the Caltrain rail tracks to the west. The Project does not include property owned by Caltrain, located between Cahill Street and South Montgomery Street, and West San Fernando Street and West Post Street. The boundaries of the Downtown West PD Zoning District are generally shown on Figure 2.01.1.

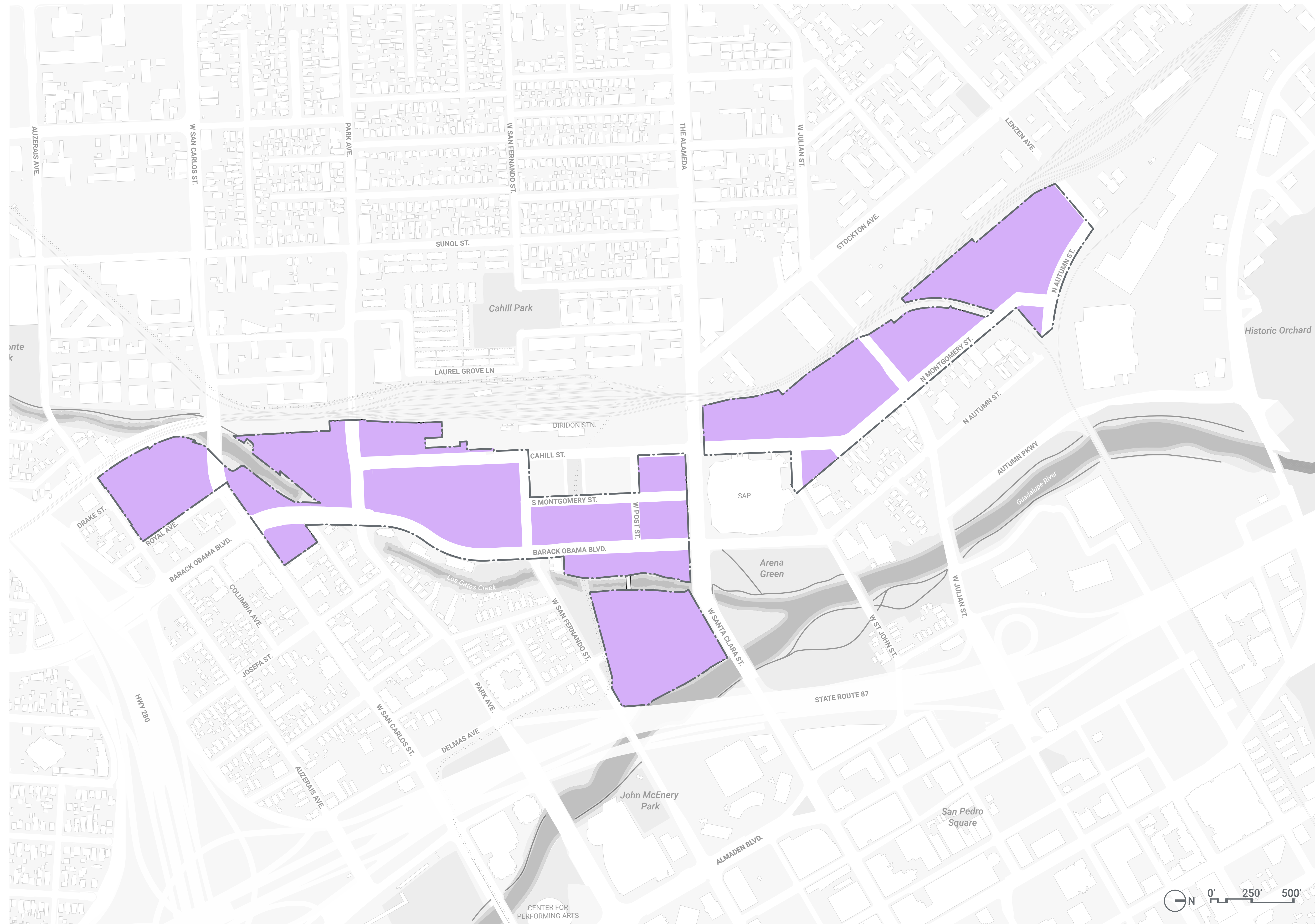


Figure 2.01.1 Proposed Downtown West PD Zoning District

## Legend

- Project Boundary
- DC (PD) Planned Development Zoning District

## Note:

1. Figure 2.01.1 generally depicts the areas subject to the Downtown West PD Zoning District. If the existing public right-of-way, as generally depicted on Figure 2.01.1, is narrowed during development of Downtown West, the additional lands made available for development through the narrowing of the existing public right-of-way shall be zoned Downtown Commercial (PD) consistent with the immediately adjacent development lands.

# 2.01

## Downtown West Planned Development Zoning District

### Downtown West Mixed-Use Plan

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# Sub-Area Boundaries

A Downtown West PD Zoning District is effectuated by a Planned Development Permit (herein referred to as PD Permit\*) issued in conformity with a General Development Plan (herein referred to as GDP). On [Date], City Council approved the Downtown West Planned Development Permit (herein referred to as the Downtown West PD Permit), which includes the Downtown West Design Standards and Guidelines (herein referred to as the DWDSG), the Downtown West Improvement Standards (herein referred to as the DWIS), Conceptual Infrastructure Plan Sheets and Conformance Review Implementation Guide (herein referred to as the Implementation Guide). The Downtown West PD Permit conforms to the requirements of the Downtown West PD Zoning District. The Downtown West PD Permit covers approximately 78 acres of the Downtown West PD Zoning District and excludes the approximately one acre area shown on Figure 3.01.1 and referred to as "Sub-Area 2" in this GDP.

Figure 3.01.1 depicts the area that is subject to the Downtown West PD Permit (Sub-Area 1 and Sub-Area 3) and the area that is not subject to the Downtown West PD Permit (Sub-Area 2). Development within Sub-Area 2 shall be subject to the requirements of the base zoning district DC (Downtown Commercial) until the issuance of a PD Permit for Sub-Area 2. A PD Permit for Sub-Area 2 shall be in compliance with this Downtown West GDP, including the specific development standards applicable to Sub-Area 2 set forth on Sheets 3.02a and 3.02b.

**Note:**

\* The term PD Permit refers to subsequent PD Permit(s) that the project sponsor or other entity may seek pursuant to the requirements in this GDP.

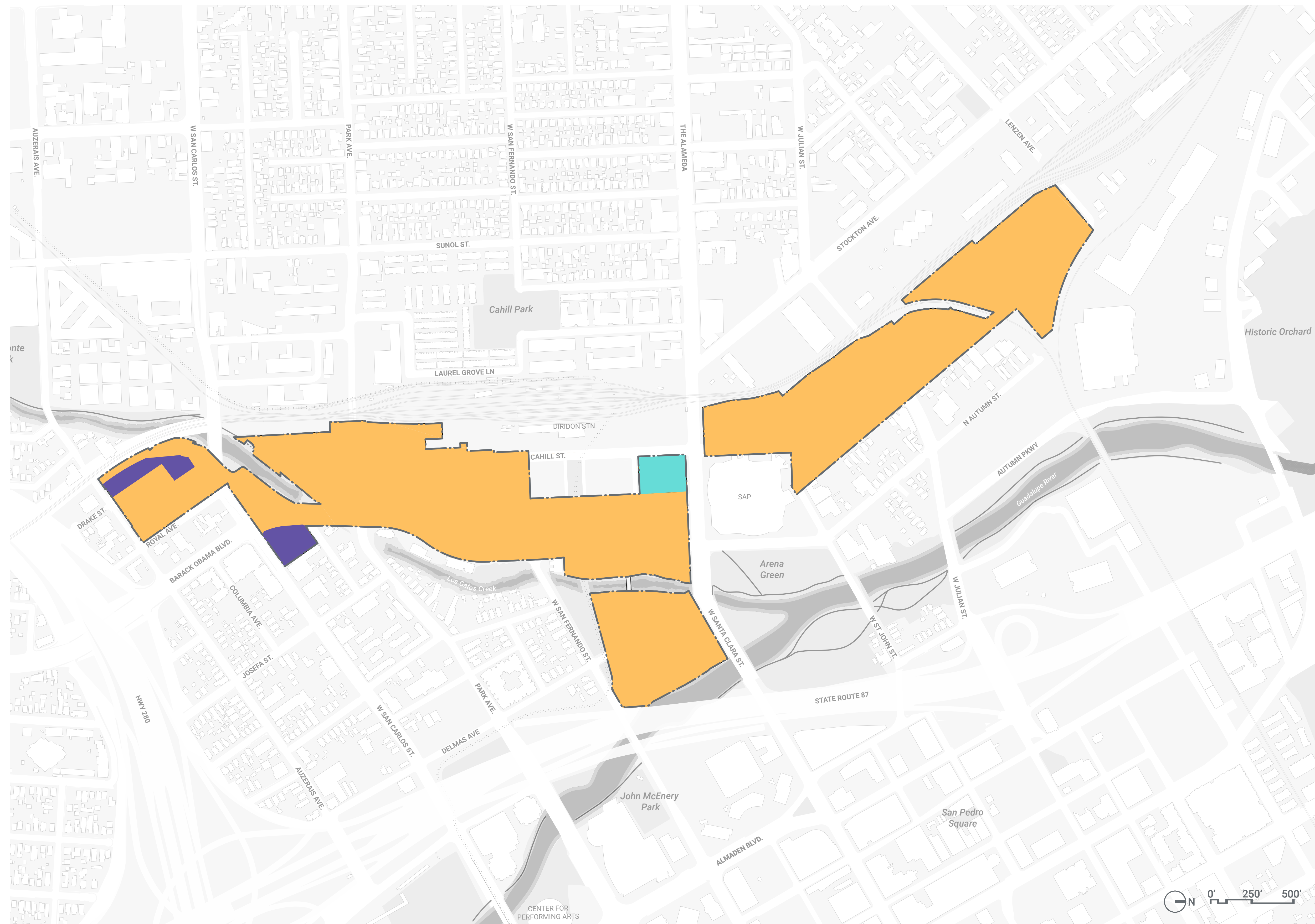






Figure 3.01.1 Illustrative Sub-Area Map

**Legend**

-  Site Boundary
-  Sub-Area 1
-  Sub-Area 2
-  Sub-Area 3



# Development Standards

Development within Sub-Area 1 and Sub-Area 3 of the Downtown West PD Zoning District shall conform to the Downtown West PD Permit. The DWDSG was approved as part of the Downtown West PD Permit and regulates development within Sub-Area 1 and Sub-Area 3.

A subsequent PD Permit for Sub-Area 2 would be required to implement the Downtown West PD Zoning District as to Sub-Area 2.

Subsequent amendments to provisions of the San Jose Municipal Code that relate to development standards identified in Sheets 3.02a and 3.02b (which include but are not limited to Titles 11, 13, 14, 19, 20, 21 and 23) and result in additional or modified development standards following the enactment of the Downtown West PD Zoning District may be permitted to apply to property within the Downtown West PD Zoning District upon request by the project sponsor, which identifies the specific standard and rationale for the request, pursuant to the terms of the Development Agreement for the Downtown West Mixed-Use Plan (herein referred to as the Development Agreement).

The Downtown West PD Zoning District, including this GDP, and the Downtown West PD Permit contain illustrative figures, plans, and sections, provided for conceptual purposes only. The development standards set forth in this GDP and the DWDSG shall take precedence over illustrative figures, plans, or sections in the event of a conflict.

## Setbacks

The setbacks shall meet the following minimum requirements:

### Table 3.02.1 Required Setbacks

Frontage	Required Setback
Street	None Required
Open Space	None Required
Los Gatos Creek Riparian Setback	Development of new structures along Los Gatos Creek is prohibited within the 50-foot riparian setback. A riparian setback is the limitation of new construction within a certain distance from a riparian corridor and is measured from the edge of the riparian corridor, which is defined as top of bank or edge of existing riparian canopy, whichever is greater. Existing structures on blocks D8, D10, and D11 shall be permitted to be altered (as defined in Muni Code section 24.01.208) so long as the foundation of the building remains. Cosmetic improvements and maintenance (as defined in Muni Code section 24.01.355) are permitted for existing buildings D9, D12, and D13. Improvements include but are not limited to building code compliance, accessibility, safety and other such reasons related to enabling safe and comfortable continued occupancy of the structures in their current location, so long as foundation-related structural work is not required. New building openings, such as windows or skylights, shall be permitted for adequate access to light and air. If any more significant repairs would be necessary or desired, the applicant shall instead remove the building and may replace it with a new building at least 50 feet from the riparian corridor. Allowable land uses and design standards applicable to the Los Gatos Creek Riparian Setback and adjacent areas are further set forth in the DWDSG.
Guadalupe River Riparian Setback	Development of new structures along Guadalupe River is prohibited within the 50-foot riparian setback of the Top of Channel (TOC) wall. Existing historic structures and pedestrian circulation elements are permitted within the 35-foot riparian setback. Allowable land uses and design standards applicable to the Guadalupe River Riparian Setback and adjacent areas are further set forth in the DWDSG.

# Specific Development Standards Made Applicable to Sub-Area 2 Through This GDP

In addition to the other requirements of this GDP, any subsequent PD Permit for Sub-Area 2 shall conform to the development standards listed below. This section does not apply to Sub-Area 1 and Sub-Area 3. The specific development standards applicable to Sub-Area 1 and Sub-Area 3 are as described in the Downtown West PD Permit.

- **Active use frontage.** Active uses—including uses denoted in Table 4.01.1—shall be required, at minimum, along 30 percent of the ground floor frontage facing South Montgomery Street and 30 percent of the cumulative frontage facing Cahill Street and West Santa Clara Street, with a prioritization for active uses on Cahill Street.
- **Active use transparency.** Active use facades—including uses denoted in Table 4.01.1 — between three feet and 12 feet above sidewalk grade shall have a minimum of 70 percent facade area transparency. Glazing units with Visible Light Transmittance (VLT) factor less than 60 percent shall not count toward meeting the required transparent area.
- **Ground floor setbacks.** Ground floor facade setbacks shall not exceed a depth greater than one-third of the height of the setback. Transit station frontage shall be exempt from this standard.
- **Loading and service access.** Off-street building loading or parking access shall be prohibited from Cahill Street, South Montgomery Street, and West Santa Clara Street.
- **Podium level preferred materials.** Preferred materials shall be applied to a minimum of 20 percent of the podium level—up to 70 feet as defined in the Downtown Design Guidelines (herein referred to as DDG)—facade area facing Cahill Street, West Santa Clara Street, and South Montgomery Street. Preferred materials shall include wood, earthen materials, metals, and cementitious materials. Material applications shall be architecturally articulated with a minimum depth to adjacent materials of a minimum of nine inches.
- **Skyline level separation.** Skyline level—above 70 feet as defined in the DDG—facades and balconies along South Montgomery Street that exceed 100 feet in width and 50 percent fenestration shall step back 20 feet from the property line.
- **Occupiable projections.** Occupiable projections including balconies and bay windows in the podium and skyline levels shall be permitted up to six horizontal feet beyond the property line along the north and west property lines. Any individual occupiable projection shall not exceed 150 square feet with a minimum horizontal spacing no less than 50 percent of the widest adjacent projection. Individual projections and spacing shall be measured by level.
- **High reflective roof materials.** Buildings shall include roof materials with high albedo (reflectivity) minimum of 0.65 to ensure the least possible heat retention.
- **Residential parking.** Residential parking shall be limited to 0.25 spaces / unit and shall not exceed a total of 125 spaces, which shall count towards the 2,360 maximum number of residential parking spaces permitted within the Downtown West PD Zoning District.

## Downtown West Improvement Standards

Improvements within the Downtown West PD Zoning District, including street and utility infrastructure (e.g., drainage, sanitary sewer and other utility facilities as described in Chapter 19.36 of the San José Municipal Code) required to be completed as a condition of approval of any subdivision map, shall be evaluated for consistency with the DWIS approved as part of the Downtown West PD Permit. The DWIS shall also apply to street improvements, utility infrastructure, and utilidors (as described on Sheet 6.06), that are located outside the Downtown West PD Zoning District and are necessary to serve property located within the Downtown West PD Zoning District (refer to Figure 6.06.1). The DWIS shall be deemed to supersede any conflicting provisions relating to improvements described in Chapter 19.36 of the San José Municipal Code or any City standard specifications. Amendments or modifications to, or waivers from, any standards in the DWIS shall be evaluated pursuant to the requirements described in the DWIS.

# Building Heights

Maximum allowable heights shall be those established by FAA regulations as shown in Table 3.02.2, and for Sub-Area 1 and Sub-Area 3, shown in Figure 5.12 of the DWDSG, which are translated into above ground level (AGL) limits in Section 5.6 of the DWDSG. Project grading could result in allowable heights in excess of the AGL limits referenced in the DWDSG, but heights for Sub-Areas 1, 2, and 3 shall in all cases remain within FAA limits and subject to final FAA Notice of Determination established through completion of 7460 Part 1.

Maximum building heights for individual buildings in the Downtown West PD Zoning District may be increased without amendment to this GDP provided that: (a) such increase correlates to an increase in maximum allowable height authorized by the FAA and approved by City Council following Santa Clara County Airport Land Use Commission review, if applicable; and (b) the Director of Planning, Building and Code Enforcement (PBCE) conducts environmental review of the building’s proposed height increase to determine compliance under CEQA. Documentation of any height increase pursuant to this section shall be through the Downtown West PD Zoning District Design / Conformance Review (Conformance Review) process described on Sheet 8.01.

### Table 3.02.2 Permissible Building Heights by Sub-Area

Sub-Area Maximum Building Height	Maximum Building Height (Above Ground Level)
Sub-Area 1	See Section 5.6 of the DWDSG
Sub-Area 2	Up to 245 feet
Sub-Area 3	See Section 5.6 of the DWDSG

## Minimum Lot Size and Dimensions

Each lot shall contain a minimum area of not less than 6,000 square feet with an average width of not less than 50 feet. Lots located between Barack Obama Boulevard, West Santa Clara Street, Los Gatos Creek, and West San Fernando Street shall be exempt from minimum lot size requirement, but shall not be reduced in size to less than existing building footprints.

# 3.02a

## Development Standards Downtown West Mixed-Use Plan

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# Parking

Development within the Downtown West PD Zoning District shall provide up to 2,360 residential parking spaces and up to 4,800 commercial parking spaces across the site. Parking for each building may be located in shared parking garages anywhere within the Downtown West PD Zoning District and is not restricted by parcel. District parking strategies that combine parking from multiple blocks in one location are permitted for both residential and commercial parking, and parking supply shall be counted at the district level and not for the block in which it is located.

The maximum number of commercial and / or residential parking spaces in the Downtown West PD Zoning District may be increased without amendment to this GDP, provided that compliance with CEQA has been demonstrated and any additional necessary environmental review completed. Documentation of any parking increase pursuant to this section shall be through the Conformance Review process described on Sheet 8.01.

**Commercial / Public Parking:** The project sponsor shall provide publicly accessible off-street parking spaces serving new office development at a cumulative ratio of between 0.5 and .645 spaces for each 1,000 square feet of Floor Area (which shall mean eighty-five percent (85%) of the total gross floor area) of such office buildings (the “Required Parking Ratio”) as described in the Development Agreement. The Required Parking Ratio must be satisfied in part through a minimum of 2,850 parking spaces within the Downtown West PD Zoning District. Existing parking spaces across the site shall count towards the Required Parking Ratio and 2,850 minimum parking space requirement. If the project sponsor develops 7.3 million square feet of office, the required ratio shall be 0.645 spaces and a minimum of 4,000 parking spaces shall be required. The Required Parking Ratio shall no longer apply once 4,000 parking spaces have been provided.

The project sponsor shall demonstrate its compliance with the Required Parking Ratio during the Conformance Review process.

**Residential Parking:** Residential parking is limited to 2,360 spaces; there is no minimum parking requirement. Table 3.02.3, identifies the target number of residential parking spaces and target parking ratio for Sub-Area 1 of the Downtown West PD Zoning District, which are subject to adjustment as set forth in this Parking section. All references to residential parking in Sub-Area 1 shall mean parking for market rate and inclusionary units. Residential parking is permitted to be shared with other uses.

Residential parking will be provided concurrently with phased development. Parking shall meet the parking space requirements set forth under Chapter 20.90, Part 2 of the San Jose Zoning Ordinance. The target number of parking spaces and parking ratio identified in Table 3.02.3 for residential parking shall only apply to Sub-Area 1.

**Table 3.02.3 Residential Parking (Sub-Area 1)**

Residential Units (Sub-Area 1)	Target Number of Parking Spaces	Target Parking Ratio (Spaces per Unit)
Group A Units 1 - 1,400	1425	1.02
Group B Units 1,401 - 2,400	560	0.56
Group C Units 2,401 - 3,400	100	0.10
Group D Units 3,400+	0	0 (see text)

The number of residential parking spaces and corresponding parking ratio identified in Table 3.02.3 for Sub-Area 1 is to allow development in the Downtown West PD Zoning District to respond to potential unavailability of land, fluctuation in demand for building types, allowable changes to phasing, and related considerations, while still advancing the key goals and

objectives of the General Plan and the GDP. Therefore, to the extent the actual number of parking spaces provided in any Group of Sub-Area 1 is less than that Group’s Target, the unused spaces may be subtracted from the Target for that Group and added to any subsequent Group provided the ratio in any such subsequent Group does not exceed 1.0, without amendment to this GDP.

Table 3.02.4 identifies the allocation of parking spaces and corresponding parking ratio for residential units within Sub-Area 2 and Sub-Area 3 within the Downtown West PD Zoning District.

**Table 3.02.4 Residential Parking (Sub-Area 2 and Sub-Area 3)**

Residential Units (By Sub-Area)	Maximum Number of Parking Spaces	Maximum Parking Ratio (Spaces per Unit)
Sub-Area 2	125	0.25
Sub-Area 3	150	0.25

**Bicycle Parking:** **Bicycle Parking:** The minimum number of bicycle parking spaces for land uses permitted within the Downtown West PD Zoning District that are specifically identified in Table 20-190 shall be provided in accordance with Municipal Code Section 20.90.060.B, subject to the following Downtown West specific standards:

- At the project sponsor’s sole discretion, any bicycle parking spaces provided in exceedance of the minimum number of bicycle parking spaces can be provided as either short-term bicycle parking or long-term bicycle parking.
- Bike share parking provided or sponsored by the project sponsor shall be considered short-term bicycle parking.
- New land uses, with the exception of new Active Use land uses, identified on Sheet 4.01 shall provide the minimum number of bicycle parking spaces for a comparable land use identified in Table 20-190 under the Municipal Code.
- Notwithstanding anything to the contrary under Section 20.90.060, for new land uses identified on Sheet 4.01, up to 80% of the minimum number of bicycle parking spaces may be provided in long-term bicycle parking facilities. This is not applicable to the following new land uses identified on Sheet 4.01: Active Uses that are identified as new land uses, Event/ Conference Center Space, and Open Space.
- The minimum number of bicycle parking spaces required for new Active Use land uses shall be 1 per 2,500 square feet of floor area. At least eighty percent (80%) of the bicycle parking spaces shall be provided in short-term bicycle parking facilities and at most twenty percent (20%) shall be provided in long-term bicycle facilities.

Bicycle parking within the Downtown West PD Zoning District is intended to be provided on a district-wide basis. The project sponsor shall identify the minimum number of parking spaces required for the area subject to a Conformance Review Application. If the number of bicycle parking spaces provided for in a particular area under a Conformance Review Application exceeds the minimum number of spaces required, any bicycle parking spaces provided in exceedance of the minimum number of spaces in a particular area under a Conformance Review Application may be applied towards the minimum parking space requirements in a future phase.

Bicycle parking spaces shall conform with the design standards under Municipal Code Section 20.90.190. Standards regarding the location of bicycle parking spaces are set forth in the DWDSG, which shall supersede Section 20.90.195 of the Municipal Code.

# Interim Building Screening

Interim building screening shall be permitted within the Downtown West PD Zoning District pursuant to the requirements set forth in DWDSG S7.8.1. Interim building screening is intended to activate the public realm and encourage creative and artistic use of the site as development progresses and shall not constitute temporary signs or constructions signs under Title 23 of the Municipal Code and shall not be subject to the requirements of Part 7, Title 23 of the Municipal Code.

# Maintenance Responsibility

Maintenance of landscaping and street trees located within the public right-of-way may be assigned pursuant to the Development Agreement, an Encroachment Agreement, or similar instrument to a community facilities district, landscape and lighting district, or homeowners or commercial property association.

# Environmental Mitigation Measures and Conditions of Approval

Development in the Downtown West PD Zoning District shall be implemented in a manner that comports with the Mitigation Monitoring and Reporting Program (MMRP) approved by City Council on [Date] for the Downtown West Mixed-Use Project and with any conditions of approval imposed in connection with approval of the Downtown West PD Permit.

# Easements

The Project includes publicly-dedicated easements (“Public Easements”) and other privately-owned areas subject to limited rights of access for specific purposes that will be created through covenants, declarations or easements concerning only property owners (“Private Easements”), which include, for example, Mid-Block Passages and Project sponsor-owned open space. Public Easements and certain Private Easements will be shown in their approximate locations on tentative maps and vesting tentative maps. Final locations of Public Easements will be shown on phased final maps, and the Public Easements will be dedicated to the City under Title 19 of the Municipal Code and related provisions of State law. The final locations of Private Easements will be established through covenants, declarations or easements recorded subsequent to the approval of associated phased final maps.

# 3.02b

## Development Standards Downtown West Mixed-Use Plan

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## Maximum Allowable Development

The Downtown West PD Zoning District establishes both the overall maximum allowable development within the Downtown West PD Zoning District and the maximum allowable development within each Sub-Area subject to the allowed transfers and conversion described below.

## Maximum Allowable Development in Downtown West PD Zoning District

The maximum allowable development permitted in the Downtown West PD Zoning District is identified in Table 3.03.1. These maximums shall not be exceeded without amendment to the Downtown West PD Zoning District unless authorized through an approved conversion. The maximum allowable development in each Sub-Area is identified in Table 3.03.2 and shall not be exceeded without amendment to the Downtown West PD Zoning District unless authorized through an approved transfer or conversion.

**Table 3.03.1 Maximum Allowable Development in Downtown West PD Zoning District**

Uses	Maximum Development
Residential	Up to 5,900 units (4,838,000 gsf)
Office	Up to 7,300,000 gsf
Active Uses	Up to 500,000 gsf
Hotel	Up to 300 rooms (240,000 gsf)
Limited-Term Corporate Accommodations	Up to 800 accommodations (640,000 gsf)
Event Center(s)	Up to 100,000 gsf
Central Utilities Plant(s)	Up to 130,000 gsf
Logistics / Warehouse	Up to 100,000 gsf

**Table 3.03.2 Maximum Allowable Development in Each Sub-Area**

Uses	Sub-Area 1	Sub-Area 2	Sub-Area 3	Total
Residential	4,800 units	500 units	600 units	5,900 units
Office	7,300,000 gsf	-	-	7,300,000 gsf
Active Uses	474,000 gsf	11,000 gsf	15,000 gsf	500,000 gsf
Hotel	300 rooms	-	-	300 rooms
Limited-Term Corporate Accommodations	800 accommodations	-	-	800 accommodations
Event Center(s)	100,000 gsf	-	-	100,000 gsf
Central Utilities Plant(s)	130,000 gsf	-	-	130,000 gsf
Logistics / Warehouse	100,000 gsf	-	-	100,000 gsf

### Note:

- gsf = gross square feet

## Allowable Transfers of Residential Units and / or Non-Residential Square Footage Between Sub-Areas

To allow development in the Downtown West PD Zoning District to respond to potential unavailability of land, fluctuation in demand for building types, allowable changes to phasing, and related considerations, while still advancing the General Plan's and GDP's key goals and objectives, the maximum number of residential units and maximum non-residential square footage identified for each Sub-Area in Table 3.03.2 may be exceeded through transfer of residential units and / or non-residential square footage, respectively, from other Sub-Areas. Such transfers are authorized by this GDP and shall be approved by the Director of PBCE provided that:

- Compliance with CEQA has been demonstrated and any additional necessary environmental review has been completed in connection with any proposed transfer of residential units or non-residential square footage.
- The transfer does not result in the exceedance of the maximum number of residential units and the total square footage for each non-residential use permitted in the Downtown West PD Zoning District and identified in Table 3.03.1.
- The project sponsor(s) concurrently requests a commensurate reduction in the number of residential units and / or non-residential square footage from any contributing Sub-Area controlled by the project sponsor.
- The written consent to the transfer is provided by the owner(s) of the receiving Sub-Area and the owner(s) of the contributing Sub-Area (if the receiving and contributing Sub-Areas have different owners).
- The project sponsor provides written notice to the Director of PBCE of the transfer that includes a table demonstrating that the proposed permitted transfer, when combined with development already implemented, approved, or applied for, will not exceed the maximum development square footage limits for the Downtown West PD Zoning District established in Table 3.03.1.

A request for transfer pursuant to this section shall be submitted as part of a Conformance Review application. If the project sponsor seeks a transfer, it shall include the information identified above with its Conformance Review application. The Director of PBCE will review the requested transfer as part of the Conformance Review process, which is further described on Sheet 8.01.

In addition to the transfer of residential and non-residential square footage permitted above, upon the earlier of (1) the issuance of a subsequent PD Permit for Sub-Area 2 or (2) issuance of a building permit for Sub-Area 2, any unused development allocated to Sub-Area 2 as identified in Table 3.03.2 shall automatically be transferred to Sub-Area 1. Additionally, upon issuance of a building permit for Sub-Area 3, any unused development allocated to Sub-Area 3 as identified in Table 3.03.2 shall automatically transfer to Sub-Area 1.

## Allowable Conversion of Land Uses

To allow development in the Downtown West PD Zoning District to respond to potential unavailability of land, fluctuation in demand for building types, allowable changes to phasing, and related considerations, the Director of PBCE, in their reasonable discretion, may approve, without amendment to this GDP and upon compliance with CEQA, conversion of up to 500,000 square feet of one or more land uses allowed under this GDP to one or more different land uses also permitted under this GDP, provided that no conversion shall result in the reduction of allowable Active Uses below 500,000 square feet in the aggregate.

Such conversions are authorized by this GDP, subject to the Director of PBCE's determination that:

- Compliance with CEQA has occurred in connection with the proposed conversion;
- The conversion does not result in a reduction of allowable Active Uses below 500,000 square feet and / or the exceedance of the overall development cap of 13,848,000 gross square feet established in the EIR.
- The project sponsor has identified a commensurate reduction in the total number of residential units and / or non-residential square feet of the original land use(s) that were allowed in the Downtown West PD Zoning District prior to the proposed conversion; and
- The conversion is consistent with the General Plan and advances the goals and objectives of the Downtown West PD Zoning District.
- Any other finding that the Director of PBCE reasonably determines is needed to support the conversion.

A request for a conversion pursuant to this section shall be submitted as part of a Conformance Review application. If the project sponsor seeks a conversion, it shall include the information identified above with its Conformance Review application. The Director of PBCE will review the requested conversion as part of the Conformance Review process as further described on Sheet 8.01.

# 3.03

## Maximum Allowable Development Downtown West Mixed-Use Plan

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# Land Uses

The Downtown West PD Zoning District contemplates a mix of land uses consisting of the following land use categories as set forth in Table 4.01.1: residential, office, active use, limited-term corporate accommodation, hotel, event / conference center, logistics / warehouse, district systems including central utility plant(s), and open space. The DWDSG establishes standards for the locations of required uses and design standards that promote the integration of new development within Downtown West with existing buildings, historic resources, and surrounding adjacent neighborhoods. To promote the development of Downtown West into a mixed-use site, the DWDSG also establishes locational and development standards for certain allowed land uses that are supportive of, compatible with, or subordinate to the required structure or designated open space use

# Permitted Uses

Uses within the Downtown West PD Zoning District are identified in Table 4.01.1. Consistent with the City of San José’s planning and economic development goals, policies, and objectives for the Downtown Growth Area under the Envision San José 2040 General Plan, the permitted uses are designed to promote and sustain a vibrant urban center. Land uses proposed for a particular building or structure shall be identified as part of the Conformance Review and shall be approved if consistent with this GDP, the applicable PD Permit, and the applicable General Plan land use designation.

The Municipal Code definitions of the uses identified in Table 4.01.1 shall apply unless defined in this GDP. Table 4.01.1 additionally includes new uses not currently included within the Municipal Code. New definitions are identified with a plus (+) in Table 4.01.1 and are further defined below:

- Active Use:** Active Uses consist of programming that generates pedestrian activity on the ground level of buildings, particularly those fronting streets and open spaces, as well as parks, plazas, and mid-block passages. These uses include, but are not limited to, commercial, educational, artistic, cultural, retail, or institutional uses. Examples include but are not limited to food and beverage, libraries, museums, gymnasiums, daycare centers, movie theaters and entertainment venues, event spaces, maker spaces, non-profit and small-format offices, art studios, and start-up incubators. Active Use includes several land uses as denoted under the Active Use heading of Table 4.01.1.
- Auditorium:** Space set apart in a public building, such as a school, for the audience.
- District Systems:** District Systems is an approach where traditional building-by-building systems are consolidated to supply resources more efficiently from centralized facilities. The District Systems include, but are not limited to heat pumps, geothermal plant, waste water treatment plant, thermal and water storage, automatic waste collection systems, electrical power and communications. The systems are comprised of district-serving equipment in a central utility plant(s) and distribution networks provided within utility corridors (Utilidors). The utilidors provide connections between the central utility plant(s) and buildings / building level connections. The primary central utility plant equipment include chillers, cooling towers, a substation, batteries, generators, transformers, communication hubs, pumps, and tanks.
- Event / Conference Center:** An Event / Conference Center is a facility owned, leased, or made available by a business entity for the purpose of events organized or funded by the business entity, including but not limited to product launches / announcements, corporate meetings, conferences, seminars, small conventions, and screenings.
- Innovation and Maker Space:** An Innovation and Maker Space is a small scale establishment engaged in manufacturing, research and development, product design and light industrial services. Permitted equipment includes, but is not limited to, computers or other related office equipment, woodworking, ceramic, and welding shops, and similar engagements in custom fabrication. Finished, non-combustible products made in the facility may be sold on the premises. One or more floors of the building may include food production and sanitary facilities in conformance with city building standards.
- Limited-Term Corporate Accommodations:** Limited-Term Corporate Accommodations are facilities owned, leased, or made available by a business entity for occupancy by the entity’s officers, employees, consultants, vendors, contractors, or sponsored guests who do not intend to use it as their domicile and who have not entered into a written rental or lease agreement or provided any payment in a fixed amount of money to occupy the unit , provided that employee compensation and benefits received from the business entity shall not be considered payment. Occupancy of a Limited-Term Corporate Accommodation shall not be made available to the general public. Occupancy of a Limited-Term Corporate Accommodation by any person shall not exceed sixty (60) consecutive days. Kitchen areas, food services, and other related services pertaining to use of the facilities, including but not limited to cleaning and maintenance, are permitted. A Limited-Term Corporate

- Accommodation** may include multiple bedrooms.
- Live entertainment:** A building, building complex, and / or an indoor or outdoor area that provides entertainment, including but not limited to theatrical and musical performances, including live music, the presentation of music played on sound equipment, concerts, and exhibitions.
- Logistics Hub:** Logistics Hubs are private facilities that centralize loading, unloading, and warehousing to facilitate efficient movement of goods throughout the development, with a primary focus on office and retail program. Such a system is expected to consolidate large truck movements and reduce distribution-related traffic.
- Open space accessory buildings:** Open space accessory buildings shall mean a separate building located on open space that predominantly contains active use and which shall not contain living space, sleeping quarters, or storage space for commercial vehicles requiring additional registration fees as provided for in the state vehicle code. An “open space accessory building” may include cooking facilities and plumbing fixtures, such as sinks, bathtubs, showers, or toilets. Water heaters, clothes washers, and clothes dryers are considered appliances and are not considered plumbing fixtures.
- Open space:** Open space is defined to include City-dedicated open space and Project sponsor-owned open space. Categories of City-dedicated open space and Project sponsor-owned open space are identified on Sheet 6.04 and the DWDSG.
- Open space program activities:** Open spaces within Downtown West PD Zoning District may include programmatic elements that support community, educational, and active recreational uses, including but not limited to: pop-up programming that may include retail; outdoor vending; outdoor seating and dining; outdoor performances, concerts and events; sports, fitness classes, and exercise activities; educational activities such as lectures, ecology classes and children’s programming; and similar uses. Any programmatic element that complements the function of the open space in which it is located shall be permitted. The DWDSG establishes design standards applicable to improvements associated with programmatic elements and open space program activities. Open space program activities do not constitute “active uses” (as defined in Sheet 4.01) and shall not result in any deduction from allowable “active use” square footage.
- Offices, business and administrative (large format):** Large format office use means single-tenant office space to be used by entities that occupy more than 100,000 square feet of aggregate office space within the Downtown West PD Zoning District. Large format office use includes but is not limited to: executive, administrative, professional and related services, and research and development activities, including but not limited to research, design, engineering, testing, scientific research and product design and other similar activities. Large format office use does not include small format office use (defined below) which is intended to activate the public realm and is considered an Active Use.
- Offices, business and administrative (small format):** Small format office uses are intended to serve nearby neighborhoods generally located on the ground-floor of mixed-use buildings. Small format office uses are Active Uses. Examples of small format office use include but are not limited to offices within which the following services are provided: real estate, insurance, property management, title companies, investment, personnel, travel, and similar services, and include business offices of public utilities or other activities when the service rendered is a service that is customarily associated with small format office services.

# Downtown West PD Zoning District Use Regulations

RESIDENTIAL		
<i>Residential GP</i>		
Residential shelter		C <sup>GP</sup>
Live / work uses		P <sup>GP</sup>
Residential, multiple dwelling		P <sup>GP</sup>
Co-living community		P <sup>GP</sup>
Residential care facility for seven or more persons		C <sup>GP</sup>
Residential services facility, for seven or more persons		C <sup>GP</sup>
Hotel supportive housing		C <sup>GP</sup>
Single room occupancy (SRO) living unit facility		S <sup>GP</sup>
Single room occupancy (SRO) residential hotel		S
<i>Residential Accessory Uses GP</i>		
Accessory buildings and accessory structures		P <sup>GP</sup>

OFFICE	
<i>Offices and Financial Services</i>	
Offices, business and administrative (large format) +	P
Research and development	P
ACTIVE USES+	
<i>Offices and Financial Services</i>	
Offices, business and administrative (small format) +	P
Automatic teller machine	P
Business support use	P
Financial services	P
Retail bank	P
<i>General Retail</i>	
Alcohol, off-sales - beer and / or wine only	A*/C
Alcohol, off-sales - full range of alcoholic beverages	A*/C
Alcohol, off-sales - as incidental to a winery, brewery, or distillery	A*
Food, beverages, and groceries	P
Outdoor vending	P*/A*
Outdoor vending - fresh fruits and vegetables	P
Retail bakery	P
Retail art studio	P
Retail sales, goods, and merchandise	P
Seasonal sales	P
Taproom or tasting room in conjunction with a winery, brewery, or distillery	A*
Taproom or tasting room with off-sale of alcohol	A*
Winery, Brewery, Distillery	P
Innovation space and Maker Space+	P
<i>Agriculture</i>	
Certified farmers' market	A*/S/PO <sup>S</sup>
Certified farmers' market, small	P
<i>Education and Training</i>	
Day care center	P
Instructional art studios	P
Private instruction, personal enrichment	P
School, elementary - grades K - 8 (public or private)	C
School, secondary - grades 9 - 12 (public or private)	C
School, post-secondary	P
School, trade and vocational	P
<i>Entertainment and Recreation Related</i>	
Arcade, amusement game	P
Health club, gymnasium	P
Lighting display	A*
Movie theater	P
Live Entertainment+	P*/S
Poolroom / billiards establishment	P
Private club or lodge	P
Recreation commercial / indoor	P
<i>Food Services</i>	
Banquet - facility	P
Caterer	P
Commercial Kitchen	P
Drinking establishments	A*/S
Drinking establishment in conjunction with a winery, brewery, or distillery	A*
Drinking establishments with an approved maximum occupancy load of over 250 persons and that operate between 12:00 midnight and 6:00 a.m.	C
Drinking establishments interior to a full-service hotel or motel with 75 or more guest rooms	P
Public eating establishments	P
Public eating establishment in conjunction with a winery, brewery, or distillery	P
<i>General Services</i>	
Laundromat	P
Maintenance and repair of small household appliances	P
Dry Cleaner	P
Nursery, Plant	P
Personal services	P
Printing and publishing	P
<i>Health and Veterinary Services</i>	
Animal grooming	P
Animal boarding, indoor	P
Emergency ambulance service	C
Hospital / in-patient medical facility	C
Medical or dental clinic / out-patient facility	P
Office, Medical	P
Veterinarian	P
<i>Historic Reuse</i>	
Historic landmark structure reuse <sup>HP</sup>	S
<i>Public, Quasi-Public and Assembly Uses</i>	
Church / religious assembly	P
Information center	P
Museums and libraries	P
Short term parking lot for uses or events other than on-site	P
Radio and television studios	P

HOTEL	
<i>General Services</i>	
Bed and breakfast inn	P
Hotel or motel	P
LIMITED-TERM CORPORATE ACCOMMODATIONS	
Limited-term corporate accommodations+	P
EVENT / CONFERENCE CENTER	
Event / conference center+	P
Auditorium+	P*/A*
INFRASTRUCTURE	
District Systems+	P
<i>Recycling Uses</i>	
Reverse vending machine	S
Small collection facility	S
<i>Transportation and Communication</i>	
Community television antenna systems	P
Wireless communications antenna	P
Wireless communications antenna, building mounted	P
Private electrical power generation facility	P
Solar photovoltaic power system	P
Stand-by / backup facilities that do not exceed noise or air standards	P
Temporary stand-by / backup generators	P
<i>Vehicle Related Uses</i>	
Fuel service station or charge station, no incidental service or repair	P
LOGISTICS / WAREHOUSE	
Logistics hub+	P
OPEN SPACE	
<i>Public, Quasi-Public and Assembly Uses</i>	
Parks, playgrounds, or community centers	P
Open space+	P
Open space accessory buildings+	P
Accessory structures	P
Outdoor art	P
Open space program activities	PO <sup>S</sup>

## Legend

- P Permitted Use
- C Conditional Use; shall require approval of a PD Permit.
- S Special Use; shall require approval of a PD Permit.
- <sup>GP</sup> Conformance with General Plan land use restrictions for residential
- A Administrative Permit
- A\* Uses authorized upon issuance of an Administrative Permit that incorporates the applicable conditions of approval identified on Sheets 4.02 and 4.03. If an Administrative Permit is not issued, a Conditional Use Permit or Special Use Permit shall be required as identified in Table 4.01.1.
- P\* Uses that are Permitted if the applicable criteria identified on Sheets 4.02 and 4.03 are met. If the applicable criteria on Sheets 4.02 and 4.03 is not met, an Administrative Permit or Special Use Permit shall be required as indicated in the table.
- PO<sup>S</sup> Uses that are Permitted on open space, subject to criteria identified on Sheet 4.03 and 4.05
- + New use as defined on this sheet
- <sup>HP</sup> Within the Downtown West PD Zoning District, any use identified on Table 4.01.1 is allowed in or at a historic landmark structure as a Permitted Use (P), Conditional Use (C), Special Use (S), or Administrative Use (A) as set forth in Table 4.01.1. Uses that are not identified on Table 4.01.1 may be allowed in or at a historic landmark structure subject to a special use permit. The Director of PBCE may issue a special use permit if the findings under Municipal Code Section 20.80.670 can be made.

Note: In instances when two designations are stated, the asterisk shall apply if conditions on Sheets 4.02 and 4.03 are met.



# 4.01 Use Regulations

## Downtown West Mixed-Use Plan

PDC19-039 • APRIL 2021



# Conditions of Administrative Permits

Uses identified in Table 4.01.1 with A\* shall be permitted with an Administrative Permit in accordance with Chapter 20.100 of the Municipal Code. An Administrative Permit issued by the Director of PBCE for the uses identified with A\* in Table 4.01.1 shall be subject to the conditions identified in Sheets 4.02 and 4.03 to this GDP. For uses that do not meet the conditions below, the use shall be subject to the use permit identified in Table 20-140 of the Municipal Code for the Downtown Commercial Zoning District as of the effective date of the Downtown West PD Zoning District, unless stated otherwise.

Compliance with the conditions identified in Sheets 4.02 and 4.03 shall be the responsibility of the permittee of the Administrative Permit. In the event of noncompliance with a condition required under an Administrative Permit or any subsequent PD Permit issued for a conditional or special use, the Director of PBCE may revoke, suspend or modify the Administrative Permit or subsequent PD Permit or otherwise enforce the requirements of the Administrative Permit and subsequent PD Permit pursuant to the remedies available to the City under the San Jose Municipal Code. A violation of an Administrative Permit or a subsequently issued PD Permit for a conditional or special use shall not, by itself, constitute a violation of the Downtown West PD Permit. The City shall prioritize and exhaust all enforcement remedies first against a non-conforming Administrative Permit holder or PD Permit holder of a subsequently issued PD Permit, including revocation of the Administrative Permit or subsequent PD Permit, and then against the owner of property subject to the nonconforming Administrative Permit or subsequent PD Permit.

In addition to the conditions identified in Sheets 4.02 and 4.03, the Director of PBCE may impose reasonable conditions of approval related to the operation of the specific use that is subject to the Administrative Permit to protect the health and safety of the community.

An Administrative Permit issued by the Director of PBCE for the uses identified with A\* in Table 4.01.1 may be time-conditioned, as appropriate, by the Director of PBCE, however, in no event shall the term of an Administrative Permit be less than 5 years, with the option for a 5 year extension. The permit holder may seek renewal of a time-conditioned Administrative Permit by filing a request for renewal to the Director of PBCE. A request for renewal must be filed 90 days prior to the expiration of the Administrative Permit. Once a renewal application has been filed, the expiration date of the Administrative Permit is automatically extended until either the issuance or denial of the application for renewal. Consideration of a request for renewal shall be based on a rebuttable presumption that the use as permitted by the Administrative Permit is in full compliance with all conditions, laws and ordinances. The presumption may be rebutted by substantial evidence of noncompliance with any condition of any prior permit or law or ordinance, or by evidence of any changed condition in the neighborhood, or by evidence that the continued use creates a nuisance, or an impairment of public peace, health, safety, morals or welfare. The Director of PBCE may impose additional conditions of approval that are reasonable and related to the operation of the specific use when approving a renewal request for an Administrative Permit. The Director of PBCE may impose additional conditions of approval that are more restrictive than those identified in Sheets 4.02 and 4.03 only if there has been a changed condition in the neighborhood, or if such condition is required to maintain public health or safety.

## Standard Conditions of Approval

The following conditions of approval shall be applicable to all uses that require the issuance of an Administrative Permit within the Downtown West PD Zoning District. In the event a specific use identified on Sheets 4.02 and 4.03 includes a condition of approval that addresses one of the standard conditions of approval below (for example, operational hours), the condition of approval for the specific use shall govern.

- **Nuisance.** This use shall be operated in a manner that does not create a public or private nuisance, as defined in the Municipal Code. Any such nuisance shall be abated immediately upon notice by the City.
- **Amplified music.** Outdoor areas for entertainment, including areas with roof openings, shall not be allowed where noise adversely impacts the surrounding area. Hours of operation and / or amplified sound shall not be permitted after 10:00 p.m. Additional conditions may be imposed such as direction of speakers, and sound level restrictions.
- **Anti-Graffiti.** The permittee shall remove all graffiti from buildings, fences, and wall surfaces within 48 hours of defacement.
- **Anti-litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. The operator of the proposed use shall clean the public right-of-way immediately adjacent to the subject site before 8:00 am each day, unless it is a participant in a Property Business Improvement District which provides such sidewalk cleaning services for the neighborhood in the vicinity of the project site, including the immediately adjacent public right-of-way. Mechanical equipment used for outside maintenance, including blowers and street sweepers may not be used between 10:00 p.m. and 6:00 a.m. daily. The subject use shall be conducted in full compliance with all local, and state, and federal laws.
- **Refuse.** All trash and refuse storage areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the trash or refuse container(s). Trash areas shall be maintained in a manner to discourage illegal dumping.
- **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the Approved Permit Set.
- **Operational Hours.** This use shall be limited to operation between the hours of 6:00 a.m. to 12:00 a.m. (midnight), unless a use permit, as applicable, is approved by the City for other hours of operation.
- **Term.** If the use authorized by the Administrative Permit is discontinued for a period of 12 months, the permit will expire and the Administrative Permit will no longer be in effect.
- **Loading Activity Hours.** All loading activities shall be limited to the hours of 6:00 a.m. to 9:00 p.m.

## Off-Sale Alcohol Use Restrictions

An Administrative Permit shall be granted for off-sale alcohol establishments if the project sponsor meets the following criteria:

**Location Restrictions.** Off-sale alcohol establishments shall not be permitted within:

- 500 feet of a childcare center, elementary school, or secondary school;
- 500 feet of a social service agency, residential care facility, residential service facility;
- 150 feet of an existing residential use. Residential uses developed as part of the Project shall be exempt from this restriction so long as the project sponsor can establish that the operation of the proposed premises will not interfere with the quiet enjoyment of the property by residents by adhering to the permitted hours of operation and other nuisance-control measures identified in the GDP.

**Adjacency restriction to any such use.** Off-sale alcohol establishments for full range of alcoholic beverages shall not be located within 500 feet of another such use, with a total of no more than four such uses within a thousand foot radius of the proposed location. Alcohol off-sales for beer and / or wine only may be adjacent so long as no more than three such establishments are within a 500-foot radius. This condition shall not apply to alcohol off-sales as an incidental use to a winery, brewery, or distillery.

A Conditional Use Permit shall be required for alcohol off-sales (beer and / or wine, or full range of alcoholic beverages) that does not satisfy the requirements above.

## Live Entertainment

A live entertainment use is permitted if the following requirements are met:

- The use is located on blocks D4, D5, D6, D7 (denoted in Sheet 6.03) and / or within pavilion buildings in the open space.
- The use is permitted to operate between the hours of 11 a.m. - 11 p.m. daily. Start-up, pre-event staging, shut-down, load-in and load-out and cleanup activities are permitted to occur outside the identified operating hours during the hours of 6 a.m. - midnight.
- Up to fifteen events per week are permitted.
- The venue(s) would total, in aggregate, up to 12,000 gsf, with a maximum (aggregate) capacity of approximately 500.

## Auditorium

Auditorium(s) are permitted on block E1 or block F1-F6 in the Downtown West PD Zoning District. If contemplated in another location, an Administrative Permit shall be granted so long as the venue(s) have a maximum capacity of up to 2,000 visitors or attendees.

## Drinking Establishment Restrictions

An Administrative Permit shall be granted for drinking establishments if the project sponsor meets the following criteria:

**Location Restrictions.** Drinking establishments shall not be permitted within 500 feet of an elementary or secondary school.

**Adjacency restriction to any such use.** Drinking establishments shall be limited to the following number and frequency:

- North of W. Santa Clara Street and South of Park Avenue: No more than three such establishments within a 500-foot radius.
- Between W. Santa Clara Street and Park Avenue: No more than four such establishments within a 250-foot radius
- Radii that extend beyond the boundaries defined above shall not restrict the number of such facilities in the geographical areas described.

**Alcohol Service and Sale.** Alcohol service shall be conducted in full compliance with the issued ABC license.

**Outdoor drinking areas.** Outdoor areas serving alcohol shall not be permitted within 150 feet of an existing residential use outside the Project. Outdoor seating areas may be permitted within 150 feet of residential uses developed as part of the Project. Outdoor areas serving alcohol shall be closed to the public by 10:00 p.m Sunday to Thursday and by midnight Friday and Saturday.

**Hours of Operation:** Drinking establishments shall not be open to the public before 11:00 a.m. on all days and shall not be open past midnight Sunday to Thursday and past 2:00 a.m Friday and Saturday. Drinking establishments within 150 feet of existing residential uses shall not be open past 10:00 p.m. Sunday to Thursday and past midnight Friday and Saturday.

**Noise and Acoustics.** The permittee shall prevent disturbing or unreasonable noise which adversely impact neighboring properties. Ambient music provided for the listening enjoyment of customers is exempted.

A Special Use Permit shall be required for a drinking establishment that does not satisfy the requirements above.

## Taproom or Tasting Room and Off-Sale of Alcoholic Beverages in Conjunction with a Winery, Brewery, or Distillery

An Administrative Permit shall be granted for taproom or tasting room and off-sale of alcoholic beverages in conjunction with a winery, brewery or distillery if the project sponsor meets the criteria identified in Section 20.80.478 of the Municipal Code, with the exception of the criteria listed below.

**Hours of Operations:** Taprooms or tasting rooms shall not be open to the public before 11:00 a.m. on all days and shall not be open past midnight Sunday to Thursday and past 2:00 a.m Friday and Saturday. Taprooms or tasting rooms within 150 feet of existing residential uses shall not be open past 10:00 p.m. Sunday to Thursday and past midnight Friday and Saturday.

## Outdoor Vending

An outdoor vending facility that meets the criteria listed below shall not require an Administrative Permit. An outdoor vending facility located on open space shall be Permitted and shall not require an Administrative Permit if it meets the criteria listed below, with the exception of the criteria for distance from other vending facilities and distance from residences which shall not apply to outdoor vending facilities located on open space.

**Height.** The maximum height of any portion of a vending facility, including any folding or collapsible appendage, shall not exceed ten (10) feet.

**Width.** The maximum width of a vending facility or cart, including any folding or collapsible appendage, shall not exceed ten (10) feet.

**Length.** The maximum length of a vending facility or cart, including any folding or collapsible appendage, shall not exceed twenty-four (24) feet.

**Distance from Intersections.** No vending facility shall be placed on or operate within the boundaries of a hypothetical triangular area described by the point of intersection of the curb-line extensions of perpendicular or nearly perpendicular streets, and a line joining two points thirty (30) feet from that point of intersection, measured along those curb-lines.

**Distance from Streets.** No vending facility shall be placed or operate at a location less than fifteen (15) feet from any street right-of-way.

**Distance from Freeway Ingress and Egress Ramps.** No vending facility shall be placed or operate less than one hundred (100) feet from a freeway on or off ramp.

**Distance from Driveways.** No vending facility shall be placed or operate less than twenty (20) feet from a driveway curb cut.

**Distance from other Vending Facilities.** No vending facility shall be placed or operate within five hundred (500) feet of another vending facility operating on private property.

**Distance from Residences.** No vending facility shall be placed or operate within one-hundred fifty (150) feet of a residence.

**Paved Locations.** No vending facility shall be placed or operate on a parcel or lot unless the surface is paved with asphalt, macadam or concrete.

**Mobility of Operations.** No vending facility shall be placed within or operate from a structure or stand which is attached to or bears directly upon or is supported by the surface of the site. Vending facilities shall operate exclusively from vehicles or carts or other conveyances which are fully mobile and have operational wheels in place at all times. Vending facilities shall not connect to temporary or permanent on-site water, gas, electricity, telephone or cable sources.

**Sanitary Facilities.** Persons operating vending facilities shall have unrestrained right of access to toilet and handwashing facilities located on site within reasonable distance of the vending facility's approved location.

**Setback.** Vending facilities shall be located not less than fifteen (15) feet from a parcel or lot line or a public right-of-way.

**Parking.** Vending facilities shall not be located in or obstruct parking spaces required by this title for the operation of any other concurrent use.

**Private Property.** Outdoor Vending facilities on private property must have written permission of the property owner

An Administrative Permit shall be required for an outdoor vending facility that does not satisfy the requirements above.



# Conditions of Administrative Permits (Continued)

## Farmers’ Market

An Administrative Permit shall be granted to a general farmers’ market, comprising sixteen or more certified producers or producers of agricultural products that meets the following criteria:

- All operations shall fully comply with all federal, state and local laws, regulations and guidelines including without limitation those applicable to the certified farmers’ market operations, including without limitation the California Health and Safety Code, the California Food and Agricultural Code, and all regulations and guidelines promulgated by the State of California and the County of Santa Clara thereunder, as the same may be amended from time to time;
- All activities, and the duration of those activities, shall first have been approved and authorized by the owner of the real property on which those activities are planned to occur;
- Any and all permits or approvals from the building division or fire department of the City for any tents or other temporary membranes shall have first been obtained prior to the commencement of use of such tents or temporary membranes;
- All certified farmers’ markets, including small certified farmers’ markets, and each certified producer or producer of agricultural products shall accept as a form of payment for eligible goods or products sold, or shall allow a legitimate and duly authorized third party to occupy space within the certified farmers’ market area to operate a redemption program for, CalFresh electronic benefits transfers, as well as federal farmers’ market nutrition program coupons (both through the special supplemental nutrition program for women, infants and children as well as the seniors farmers’ market nutrition program), all in a manner allowed by, and in conformance with, both federal and state laws and regulations, as those laws and regulations may be amended from time to time, and said legitimate and duly authorized third party redemption program operator who is not a certified producer, producer or vendor shall not constitute a certified producer, producer or vendor for purposes of Municipal Code Section 20.80.255A.1. and / or Section 20.80.255C. ; and
- All certified farmers’ markets, including small certified farmers’ markets, and each certified producer, producer and / or other vendor shall completely remove all equipment, merchandise and other materials, including without limitation waste materials, from the site upon of the conclusion of their respective activities, excepting such interior storage of equipment, merchandise or materials as may be allowed on the site with the permission of the owner or operator of the site.

In addition to the operational requirements above, a certified farmers’ market (general) shall conform with the following operational requirements:

- Shall not operate more than two days per calendar week at the same location;
- Shall neither operate, including any setup or breakdown activities, more than six hours per day nor between the hours of 9:00 p.m. and 7:00 a.m.;
- Shall operate only on paved surfaces and not on landscaped areas nor adversely impact any landscaping or landscaped areas;
- If located on public property, shall not offer for sale or otherwise distribute any alcoholic beverage. This condition shall not apply to farmers markets located on private property;
- Shall not use amplified sound for any purpose, unless otherwise allowed under the GDP (e.g. amplified sound permit);
- Shall operate as a physically cohesive collection of vendors on a site, excepting only those limited physical separations as may be required by state or local law for vendors of non-agricultural products located near a certified farmers’ market;
- Shall not obstruct the safe flow of vehicular or pedestrian traffic on or around the site;
- Shall have secured with the property owner of the site on which the certified farmers’ market plans to operate, and prior to the commencement of any operation of the certified farmers’ market, provision for all of the following services in a manner that comports with state and local laws and regulations, as the same may be amended from time to time:
  - Refuse disposal and sufficient trash and recycling receptacles within the area of the certified farmers’ market;
  - Litter removal within and within three hundred feet of the boundaries of the certified farmers’ market; and
  - Access to adequate sanitary facilities, including restrooms and / or portable sinks and toilets.

A Special Use Permit shall be required for a certified farmers market that does not satisfy the requirements above. A small certified farmers’ market, with fifteen or fewer certified producers / producers of agricultural products shall not require an event or development permit.

## Prohibited Uses

The following uses are prohibited within the Downtown West PD Zoning District:

- Medical cannabis collective
- Medical cannabis collective dispensary site only
- Medical cannabis business
- Non-medical cannabis business
- Pawn shop or pawn broker, incidental to a retail jewelry store
- Payday lending establishment

## Existing Non-Conforming Uses

The City Council does not intend to cause through adoption of this GDP any uses or structures within the Downtown West PD Zoning District lawfully in existence as of the date of adoption of this GDP to become illegal. Accordingly, all such uses and structures, to the extent they do not conform to the requirements of this GDP and / or to a PD Permit issued pursuant to this GDP, are deemed legal non-conforming uses, or legal non-conforming structures, as applicable. To ensure consistency notwithstanding Section 20.150.030 of the Municipal Code, legal non-conforming uses and legal non-conforming structures within the Downtown West PD Zoning District are permitted as temporary structures or uses under this GDP subject to the conditions and limitations applicable to non-conforming uses and structures in Chapter 20.150 of the Municipal Code.

## New City Uses and Non-Designated Uses

If the City subsequently amends Title 20 and authorizes new uses within the Downtown Commercial zoning districts that are not allowed within the Downtown West PD Zoning District (New City Uses), the project applicant may request that the Director of PBCE, in their reasonable discretion, permit such New City Uses within the Downtown West PD Zoning District without further amendment to the GDP subject to the conditions set forth below.

The applicant may also propose new uses that are not specifically identified in the GDP or the Municipal Code (Non-Designated Uses). The Director of PBCE, in their reasonable discretion, may permit Non-Designated Uses without further amendment to the Downtown West PD Zoning District or GDP subject to the conditions below.

The Director of PBCE, in their reasonable discretion, may permit New City Uses or Non-Designated Uses within the Downtown West PD Zoning District provided that:

- Compliance with CEQA has been demonstrated and any additional necessary environmental review has been completed in connection with any proposed New City Use or Non-Designated Use.
- The New City Use or Non-Designated Use is consistent with the General Plan, including its goals and objectives for the Downtown Growth Area.
- The New City Use or Non-Designated Use is compatible with the Permitted Uses authorized within the Downtown West PD Zoning District and does not conflict with requirements of the GDP.
- The New City Use or Non-Designated Use is not injurious to public health or safety.
- Any other finding that the Director of PBCE determines is reasonably necessary before approving the Non-Designated Use or New City Use.

Table 4.03.1 Summary of Use Permit Process

	APPROVAL / USE PERMIT	DURATION	APPLICABILITY	PROCESS	Approval Body
<b>Permanent Uses<sup>1</sup></b>	Permitted	Unrestricted	Permitted uses are identified on Table 4.01.1 of the GDP. Permitted shall be permitted as of right if such use is consistent with the General Plan, GDP, and Downtown West PD Permit.	Permitted uses will be identified during or after the Conformance Review.	N/A
	Administrative	Minimum of 5 years with option for a 5 year extension, extended durations may be conditioned by Director of PBCE	Uses requiring an Administrative Permit are identified on Table 4.01.1. GDP Sheets 4.02 and 4.03 set forth conditions that are applicable to certain uses requiring an Administrative Permit.	Refer to Muni Code, Title 20, Chapter 20.100, Part 10 for application and review process for an Administrative Permit. The term of an Administrative Permit shall be governed by this Downtown West PD Zoning District. Adminstrative uses will be identified during or after the Conformance Review. The project sponsor or other applicant shall obtain an Administrative Permit for a specific use, pursuant to the requirements on GDP sheets 4.02 and 4.03, during or after the Conformance Review process.	Director of PBCE
	Special Use	May be time-conditioned, as appropriate, by the Director of PBCE but shall be a minimum of 5 years with an option to extend the permit for an additional 5 years.	Special uses are identified on Table 4.01.1. Special uses shall require approval of a subsequent PD Permit.	Refer to Muni Code, Title 20, Chapter 20.100, Part 8 (Planned Development Permit) for the application and review process. The term of a PD Permit issued for a special use shall be governed by this Downtown West PD Zoning Districts. Special uses will be identified during or after the Conformance Review. The project sponsor or other applicant shall obtain a Special Use Permit for a specific use, pursuant to the requirements on GDP sheets 4.02 and 4.03, during or after the Conformance Review process.	Director of PBCE
	Conditional Use	May be time-conditioned, as appropriate, by the Director of PBCE but shall be a minimum of 5 years with an option to extend the permit for an additional 5 years.	Conditional uses are identified on Table 4.01.1. Conditional uses shall require approval of a subsequent PD Permit.	Refer to Muni Code, Title 20, Chapter 20.100, Part 8 (Planned Development Permit). The term of a PD Permit issued for a conditional use shall be governed by this Downtown West PD Zoning District. Conditional uses will be identified during or after the Conformance Review. The project sponsor or other applicant shall obtain a Conditional Use Permit for a specific use, pursuant to the requirements on GDP sheets 4.02 and 4.03, during or after the Conformance Review process.	Director of PBCE
<b>Interim Uses</b>	Downtown West Use Certificate	Up to 5 years and subject to a 5 year extension	Interim Uses are permitted during the time prior to or concurrent with development of the site. Interim uses authorized upon the issuance of a Downtown West Use Certificate are identified on GDP Sheet 4.04.	The project sponsor or other applicant may obtain a Downtown West Use Certificate for a permitted interim use pursuant to the requirements of the GDP. Standards related to interim uses are set forth on GDP Sheet 4.04.	Director of PBCE
	Downtown West Use Permit	The term of a Downtown West Use Permit shall be defined in the permit.	Interim Uses are permitted during the time prior to or concurrent with development of the site. Interim uses that require a Downtown West Use Permit are identified on GDP Sheet 4.04. Standards related to interim uses are set forth on GDP Sheet 4.04.	The project sponsor or other applicant may obtain a Downtown West Use Permit for a permitted interim use pursuant to the requirements of the GDP.	Director of PBCE
<b>Special Events and Limited Term Uses</b>	Special Events and Limited-Term Uses on Private Property (as defined on Sheet 4.05)	Special Events on Private Property may last from a few hours to approximately 45 consecutive days, or on a recurring basis (e.g. weekly). Limited-Term Uses on Private Property are short-term transitory uses that shall be permitted to occur for consecutive days, exceeding 45 consecutive days, for a limited duration.	Special Events and Limited Term Uses on Privately Owned Open Space, private streets and structures are Permitted, without any further authorization, permits, or approvals from the City, except to the extent a permit is required under the Fire Code, or the event includes amplified noise that exceeds [60] dBA.	The process for obtaining a fire permit or amplified sound permit for Special Events or Limited-Term Uses on Private Property are set forth on GDP Sheet 4.05.	Fire Department (with coordination of OCA) if a Fire Permit is required; Planning Department if an Amplified Sound Permit is required.
	Special Events and Limited-Term Uses on Public Property (public right of way and City-dedicated Park)	The duration of Special Events or Limited-Term Uses located on the public right-of-way or City Dedicated Park shall be subject to the term limits set forth in the applicable City permits.	Special Events and Limited Term Uses located on the public right of way or on City-dedicated Park shall obtain permits from the Police Department or the Fire Department, as required under the Municipal Code.	Applicable requirements for Special Events or Limited Term Uses on Public Property are set forth on GDP Sheet 4.05.	Fire Department and Police Department, as applicable, in coordination with OCA
	Downtown West Use Permit	The term of a Downtown West Use Permit for Special Events or Limited-Term Uses shall be established in the permit.	Certain Special Events and Limited-Term Uses identified on GDP Sheet 4.05 require the issuance of a Downtown West Use Permit.	The project sponsor or other applicant may obtain a Downtown West Use Permit for a Special Event or Limited-Term Use pursuant to the requirements of the GDP as set forth on Sheet 4.05.	Director of PBCE

### Note:

1. Permanent land uses identified as Permitted, Administrative or Conditional and Special Uses authorized through a PD Permit will be identified during or after the Conformance Review process. Interim Uses, Special Events, and Limited Term Uses may be approved outside of the Conformance Review process pursuant to the Downtown West Use Certificate or Downtown West Use Permit process outlined on Sheet 4.04 and 4.05.



# Interim Uses

Interim Uses are uses permitted for an established duration during the time prior to or concurrent with development of the property within the Downtown West PD Zoning District. Types of Interim Uses include, but are not limited to, arts studios, arts production, arts programming, retail, food and beverage, maker spaces, urban agriculture, creative and small-scale offices, event spaces, community uses, recreation, and entertainment uses. Interim Uses that are integral to development under the Development Agreement, as determined by the Director of PBCE, shall not require separate authorization as an Interim or Limited-Term Use (for example, uses incidental to environmental clean-up, demolition, construction, storage, automobile and truck parking and loading related to construction activities).

Interim Uses are permitted upon the issuance of a Downtown West Use Certificate or a Downtown West Use Permit as further described below. The Director of PBCE may, as appropriate, coordinate with applicable City departments, prior to the issuance of a Downtown West Use Certificate or a Downtown West Use Permit. Interim Uses shall not impede the timely development of Downtown West and the delivery of parks and open spaces as set forth in the Development Agreement, or otherwise interfere or conflict with the project sponsor's rights or obligations under the Development Agreement.

## Standards Applicable to Interim Uses

**Location.** Interim Uses are permitted within: (i) private property outside of riparian setbacks (50 feet from Los Gatos Creek or 35 feet from Guadalupe River); (ii) non-occupiable features; (iii) new temporary structures; and (iv) open space. Interim Uses are not subject to the locational use restrictions identified in Table 3.1 of the DWDSG.

**Duration.** The term of an Interim Use subject to a Downtown West Use Certificate shall be 5 years, subject to a 5-year extension. The term of an Interim Use subject to a Downtown West Use Permit shall be as set forth in the Downtown West Use Permit.

**Design Standards.** Interim Uses are not subject to the standards and guidelines in the DWDSG except for the following standards:

**Building Heights.** Interim Use structures shall be subject to the building height limits set forth in this GDP (Sheet 3.02a); and

The following DWDSG Lighting and Signage standards: S7.3.1 (lighting element placement), S7.3.3 (dark-sky open space lighting), S7.3.4 (atmospheric lighting), S7.4.1 (lighting in riparian setbacks and the ecological enhancement zone), S7.4.2 (prohibited lighting in riparian setbacks and the ecological enhancement zone), S7.4.6 (lighting for portions of structures in the ecological enhancement zone), S7.4.7 (lighting for art), S7.5.1 (non-permitted lighting), S7.5.2 (dark-sky building lighting), S7.7.1 (permitted signage).

## Interim Uses Requiring a Downtown West Use Certificate

A Downtown West Use Certificate is a ministerial confirmation of compliance with applicable provisions of this GDP. The Director of PBCE shall issue a Downtown West Use Certificate for Interim Uses that are within the scope of the Downtown West Final EIR, including but not limited to:

- Mobile food carts
- Retail establishments, including pop-up retail and vendor markets
- Small scale conferences and educational events
- Food and beverage (an ABC permit shall be required if alcohol is being served)
- Indoor and outdoor gyms and workout areas
- Surface Parking to support permitted interim uses
- Parks and gardens: including pocket parks, dog parks, playgrounds, community gardens, or nurseries
- Community spaces
- Site management services, administrative functions, drop-in center and customer amenities
- Retail or sales office incidental to new development
- Art / Culture Exhibitions: including outdoors art galleries, installation art, sculpture park museums, immersive experiences, art installations,
- Workshop and studio spaces
- Temporary central utility plant, if located on Block E
- Educational and personal enrichment
- Other Interim Uses similar in nature to those identified above.

To obtain a Downtown West Use Certificate, the project sponsor shall provide the Director of PBCE an Interim Use Application (attached as Appendix C to the Implementation Guide) demonstrating the proposed Interim Use is allowed pursuant to a Downtown West Use Certificate and is consistent with the location requirements and design standards identified above. The Director of PBCE shall issue a Downtown West Use Certificate upon a determination that the Interim Use is allowed pursuant to a Downtown West Use Certificate and is consistent with the location requirements and design standards.

The Director of PBCE may impose conditions reasonably necessary to ensure compatibility with adjacent uses in relation to the issuance of the Downtown West Use Certificate. The Director of PBCE shall make a determination regarding the issuance of a Downtown West Use Certificate within thirty (30) days of receipt of the project sponsor's Interim Use Application.

## Interim Uses Requiring a Downtown West Use Permit

The Interim Uses listed below may be permitted upon the Director of PBCE's issuance of a Downtown West Use Permit and subject to the Director of PBCE's determination that compliance with CEQA has occurred in connection with the proposed Interim Use.

The Interim Uses requiring a Downtown West Use Permit include, but are not limited to:

- Conditions reasonably necessary to avoid or mitigate effects on the environment and / or the surrounding community; and
- Conditions reasonably necessary to ensure compatibility with adjacent uses and to avoid interference with the orderly development of the PD Zoning District.

The interim uses requiring a Downtown West Use Permit are as follows:

- Classroom / day-care, primary and / or secondary school
- Pre-school or school age educational activities, including but not limited to after-school day camp and summer camps
- Amusement: small festivals, circuses, amusement fairs and rides, musical and theatrical
- concerts and performances, and other live entertainment.
- Recreational facilities including urban beaches, riding center, or sports stadium
- Drinking establishments, and taproom or tasting rooms in conjunction with a winery, brewery or distillery
- On-site assembly and production of goods in enclosed or unenclosed temporary structures
- Storage facility, including battery storage
- Job training center
- Other Interim Uses similar in nature to those identified above.

The Director of PBCE may impose the following in relation to the issuance of a Downtown West Use Permit:

- Conditions reasonably necessary to avoid or mitigate effects on the environment and / or the surrounding community; and
- Conditions reasonably necessary to ensure compatibility with adjacent uses.

To obtain a Downtown West Use Permit, the project sponsor shall provide the Director of PBCE an Interim Use Application (attached as Appendix C to the Implementation Guide). The Director of PBCE shall review and make a determination regarding the issuance of a Downtown West Use Certificate within forty-five (45) business days of receipt of the project sponsor's Interim Use Application.

## Non-Designated Interim Uses

Additional Interim Uses that are not identified in this GDP may be permitted pursuant to Section 20.60.050 of the Zoning Code.

Any authorization granted pursuant to this Interim Use section shall not exempt the project sponsor from obtaining any other permit required by law.

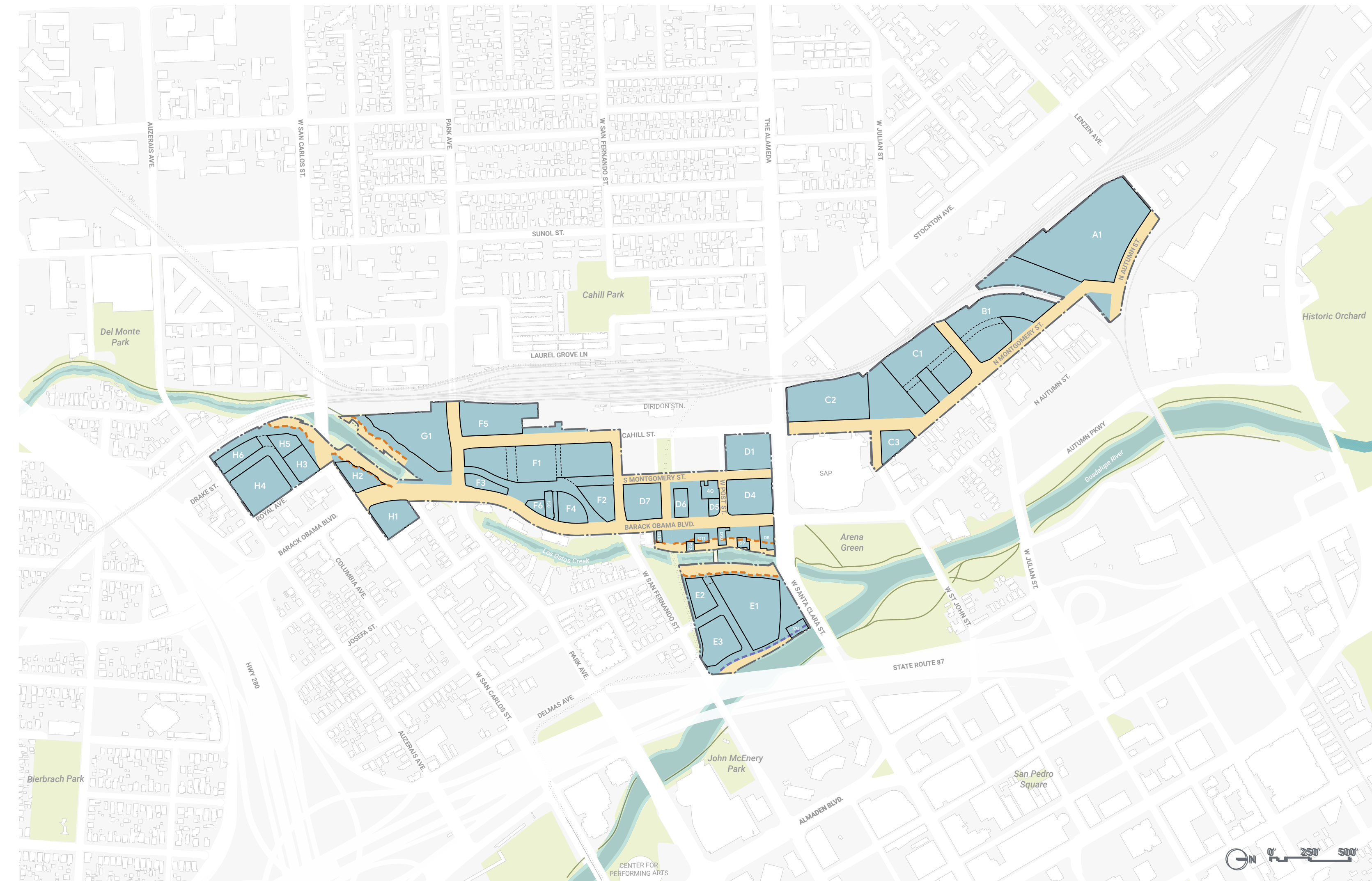


Figure 4.04.1 Permitted and Prohibited Interim Use Locations

### Legend

- Site Boundary
- Permitted Interim Use locations
- Prohibited\* Interim Use locations
- - - 50-foot Los Gatos Creek Riparian Setback
- - - 35-foot Guadalupe River Riparian Setback

### Note:

\* Non-permanent uses located within the existing buildings on Barack Obama Boulevard shall be allowed pursuant to the Special Event and Limited-Term Use requirements on Sheet 4.05.



# Special Events and Limited-Term Uses

Special Events and Limited-Term Uses may occur on the property at any time. Special Event and Limited Term Uses may include, but are not limited to, open space program activities (as defined on Sheet 4.01); markets and fairs (including flea markets, farmers markets, craft markets, vintage shows, antique shows, booths for charitable, patriotic or welfare purposes); open air sales of agriculturally-produced seasonal decorations (Christmas trees and Halloween pumpkins); exhibitions, festivals, circuses, musical and theatrical performances and other forms of live entertainment including setup / load-in and demobilization / load-out; educational activities (including but not limited to after-school day camp, summer camp, and other activities), parking lots related to events of the SAP Arena or the Project; athletic events; meetings rooms and event staging; mobile food and temporary retail establishments; and automobile and truck parking and loading associated with any authorized temporary use. Special Events are short-term transitory uses that may be a one-time event that lasts anywhere from a few hours to approximately 45 consecutive days, or a recurring event (e.g. weekly or monthly) that is not a permanent or interim use or activity within the Downtown West PD Zoning District. Limited-Term Uses are short-term uses that are not permanent or interim uses that can occur on consecutive days for a limited duration exceeding approximately 45 consecutive days (e.g. seasonal).

Special Events and Limited Term Uses include private events and public events. A private event is (i) a paid event that is open to the general public, or (ii) an event open to a select group of individuals by invitation that is not advertised to the general public, which event may be free or paid; a public event is an event that is open to the general public, that may require members of the public to obtain a free ticket or free reservation in advance in order to manage event capacity. Special Events and Limited Term Uses located on Project sponsor-owned open space are subject to the Rules Regarding Public Events, Private Events, and Temporary Closures (Exhibit F3 to Development Agreement).

## Standards Applicable to All Special Events and Limited-Term Uses

The following standards shall apply to all Special Events and Limited-Term Uses within Downtown West:

**Location.** Special Events and Limited-Term Uses are permitted in: (i) existing vacant structures, new vacant structures, private streets, or Project sponsor-owned Open Space (“Private Property”); (ii) the public-right-of way and (iii) City-dedicated Parks.

**Duration.** Special Events on Private Property may occur (1) from a few hours to approximately 45 consecutive days, or (2) on a recurring basis (e.g. weekly). Limited-Term Uses on Private Property shall be permitted to occur for consecutive days (exceeding 45 consecutive days) for a limited duration. Special Events and Limited-Term Uses located on the public-right-of way or City-dedicated Park shall be subject to the duration limits established in the applicable City permit as set forth below.

**Alcohol Service and Sale.** Alcohol service is permitted for purposes of this GDP but shall be conducted in compliance with an issued ABC license, as applicable.

**Access to Project Sponsor-Owned Open Space.** Subject to the Rules Regarding Public Events, Private Events, and Temporary Closures (Exhibit F3 to Development Agreement), the project sponsor, in its sole discretion, is authorized to partially close certain Project sponsor-owned open space for Special Events and Limited-Term Uses.

## Special Events and Limited-Term Use on Private Property

A Special Event or Limited-Term Use shall be permitted on Private Property, including Project sponsor-owned open spaces, without any further authorization, permits, or approvals from the Director of PBCE or any other City department, except to the extent a permit is required under the San Jose Municipal Fire Code (Fire Code) or the event includes amplified noise that exceeds 60 decibels (dBA) .

**Fire Permits Required Under Fire Code.** The project sponsor shall apply for a fire permit in connection with a proposed Special Event or Limited-Term Use on Private Property where the Fire Code requires such a permit. The San Jose Fire Department (Fire Department) agrees to review and approve or conditionally approve applications for fire permits for Special Events or Limited Term Uses on Private Property in accordance with the timelines herein. The Office of Cultural Affairs (OCA) shall assist the project sponsor in coordinating prompt review and approval of such applications by the San Jose Fire Department.

- When the project sponsor determines that a Special Event or Limited-Term Use requires a permit under the Fire Code, the project sponsor shall, at least twenty-five (25) business days prior to the Special Event or Limited-Term Use and in coordination with OCA, provide the Fire Department a description of the proposed event or use, including information demonstrating consistency with applicable Fire Code requirements (“Special Event or Limited-Term Use Plan”).

- Within ten (10) business days of receipt of the project sponsor’s Special Event or Limited-Term Use Plan, the San Jose Fire Department shall (i) issue the requested permit if the Special Event or Limited-Term Use Plan is consistent with applicable Fire Code requirements; or (ii) provide written comments describing with particularity any inconsistency with applicable Fire Code provisions and, where such inconsistency can be remedied with additional safety equipment or measures, identifying such equipment or measures.

- The Fire Department’s review of the Special Event or Limited-Term Use Plan shall be limited to a determination of consistency with applicable Fire Code requirements. If the Fire Department provides written comments identifying inconsistencies with specific fire and public safety laws, or requests additional information, the project sponsor shall address such comments or provide additional information within five (5) business days of receiving such request.

- The Fire Department shall promptly review the project sponsor’s responses to comments or additional information provided. Within five (5) business days of receiving additional information from the project sponsor, the Fire Department shall issue the requested permit if the Special Event / Limited-Term Use Plan is consistent with applicable Fire Code requirements or, alternatively, issue the permit subject to conditions that would bring the Special Event / Limited-Term Use Plan into compliance with Fire Code requirements.

**Amplified Sound Permit for Special Events with Amplified Sound Exceeding 60 dBA.** The project sponsor shall apply for a noise permit in connection with a proposed Special Event or Limited-Term Use on Private Property that includes amplified noise in exceedance of 60 dBA based on an hourly average noise level (hourly  $L_{eq}$ ). The Planning Department agrees to review and approve or conditionally approve applications for amplified sound permits for Special Events or Limited Term Uses on Private Property in accordance with the timelines herein.

- When the project sponsor determines that a Special Event or Limited-Term Use involves amplified sound in exceedance of 60 dBA, the project sponsor shall, at least twenty-five (25) business days prior to the Special Event or Limited-Term Use, provide the Planning Department a description of the proposed event or use, including information regarding the proposed use of loudspeakers or sound amplifiers (“Amplified Sound Application”).

- The Planning Department’s review of the Amplified Sound Permit Application shall be limited to determining whether the proposed use of loudspeakers or sound amplifiers will result in a significant adverse impact on sensitive receptors.

- Within ten (10) calendar days of receipt of the project sponsor’s Amplified Sound Permit Application, the Planning Department shall (i) issue the amplified sound permit; or (ii) provide written comments describing with particularity any additional information required to review the Amplified Sound Permit Application. If the Planning Department requests additional

information, the project sponsor shall provide additional information within five (5) calendar days of receiving such request.

- The Planning Department shall promptly review the additional information provided. Within five (5) business days of receiving additional information from the project sponsor, the Planning Department shall issue the requested amplified sound permit. An amplified sound permit shall not be unreasonably refused or limited, nor shall any conditions be imposed to the grant or exercise of an amplified sound permit that are not reasonable. The Planning Department may issue the permit subject to reasonable conditions, which shall be limited to the placement and orientation of loudspeakers or sound amplifiers, degree of amplification, and hours for the use of amplified sounds.

The project sponsor, in its sole discretion, may submit a single application for a fire permit or noise amplification permit for multiple Special Events or Limited-Term Uses (e.g. multiple Special Events that include amplified noise located on the same Privately Owned Open Space). The Fire Department and Planning Department, as applicable, may issue a single permit authorizing multiple Special Events or Limited-Term Uses pursuant to the process described above. In the event the project sponsor submits a single application for multiple Special Events or Limited-Term Uses, the project sponsor and Fire Department and Planning Department, as applicable, may mutually agree to extend the time frames described above.

**Coordination with Other City Departments.** For Special Events or Limited-Term Uses that require a Fire Permit and/or Amplified Noise Permit, the Planning Department (in consultation with OCA if a Fire Permit is required) shall determine within five (5) business days of receipt of the project sponsor’s complete Special Event or Limited Term Use Plan whether the event requires coordination with the San Jose Police Department (Police Department) and/or the San Jose Department of Transportation (DOT). There shall be a presumption that events that do not substantially disrupt normal residential or business traffic flow, impede emergency ingress or egress, or exceed the capacity limits requiring crowd managers under the Fire Code (e.g. 1,000 individuals for outdoor events), do not require coordination with the Police Department and DOT.

In the event the Planning Department (in consultation with OCA if a Fire Permit is required) determines that an event requires coordination with the Police Department and/or DOT, the project sponsor shall notify the Police Department and DOT as follows:

- A minimum of twenty (20) days prior to the Special Event or Limited-Term Use, the project sponsor shall provide DOT a description of the proposed event and an access and circulation plan (“Access Plan”) for the Special Event or Limited-Term Use that shows the Special Event or Limited-Term Use will not disrupt or impede vehicular access in the area immediately surrounding the Special Event or Limited-Term Use and maintain pedestrian access in the site pursuant to the Rules Regarding Public Events, Private Events, and Temporary Closures (Exhibit F3 of the Development Agreement), subject to permitted closures under Exhibit F3 of the Development Agreement.

- A minimum of twenty (20) days prior to the Special Event or Limited-Term Use, the project sponsor shall provide the Police Department a description of the proposed event and a security plan (“Security Plan”) for the Special Event or Limited-Term Use that shows that adequate security shall be provided to support the event. OCA shall assist the project sponsor in coordinating prompt review of the Security Plan by the Police Department.

The notifications to DOT and the Police Department described above are intended to provide applicable City departments with relevant information regarding large Special Events or Limited-Term Uses to ensure appropriate coordination with other large events in the City to ensure the public safety of event participants, users of City streets, and adjacent property owners. The project sponsor is not required to obtain further authorization, permits or approvals from DOT or the Police Department for Special Events or Limited-Term Uses.

The Police Department (in coordination with OCA) and DOT shall promptly review the Security Plan and Access Plan, respectively. The Police Department and DOT shall each provide the project sponsor with written comments, if any, within [ten (10) business days] of receipt of the Access Plan or Security Plan and shall endeavor to remedy any comments with the project sponsor no later than [fifteen (15) business days] after receipt of the Access Plan or Security Plan.

## Special Events and Limited-Term Uses on Public Property

The project sponsor shall obtain permits from the San Jose Police Department (Police Department) or the San Jose Fire Department, as required under the Municipal Code, for events or uses that are located within the public right of way or on City-dedicated Park.

The project sponsor shall notify OCA of any use proposed in a public right of way or that includes commercial use on a City-dedicated Park that requires a permit from the Police Department or the Fire Department under the Municipal Code. The project sponsor, in coordination with OCA, shall obtain the necessary permits from the Police Department or Fire Department, as applicable, before such use is permitted. OCA shall coordinate with the applicable City departments to expeditiously obtain all necessary permits for Special Events or Limited-Term Uses that are located within the public right of way or include a commercial use on City-dedicated Park. To streamline the process for obtaining any subsequent permits from the Police Department or Fire Department, the project sponsor may elect to meet with the OCA on an annual or more frequent basis to identify all Special Events or Limited Term Uses that it expects to hold in the upcoming year and obtain all necessary permits required for such Special Events or Limited Term Uses.

## Special Events and Limited-Term Uses Requiring a Downtown West Use Permit

The uses listed below may be permitted in the Downtown West PD Zoning District upon the Director of PBCE’s issuance of a Downtown West Use Permit and subject to the Director of PBCE’s determination that compliance with CEQA has occurred in connection with the proposed use.

- Job Training Centers

- Storage sites

- Automobile and truck parking and loading including rideshare drop off and pick up zones

- On-site assembly and production of goods in enclosed or unenclosed temporary structures

The Director of PBCE may impose the following in relation to the issuance of a Downtown West Use Permit:

- Conditions reasonably necessary to avoid or mitigate potentially significant environmental impacts; and

- Conditions reasonably necessary to ensure compatibility with adjacent uses and to avoid creation of a nuisance to the surrounding community.



Table 5.01.1 List of Existing Assessor's Parcels

APN	APN
A Lot(s)	E Lot(s)
259-26-17	259-38-036
259-27-17	259-38-039
B Lot(s)	259-38-040
259-27-003	259-38-041
259-27-007	259-38-042
259-27-008	259-38-109
259-27-009 01	259-38-110
259-27-010	259-38-128
259-27-011	259-38-129
259-27-014	259-38-142
259-27-015	259-38-145
259-27-016	259-38-146
C Lot(s)	259-38-147
259-28-031	259-38-148
259-28-041	F Lot(s)
259-28-043	259-48-011
259-28-044	259-48-012
D Lot(s)	259-48-013
259-38-009	259-48-052
259-38-010	259-48-053
259-38-011	261-35-002
259-38-014	261-35-003
259-38-015	261-35-006
259-38-018	261-35-007
259-38-019	261-35-010
259-38-027	261-35-014
259-38-028	261-35-027
259-38-029	G Lot(s)
259-38-085	261-37-031
259-38-087	H Lot(s)
259-38-090	259-47-038
259-38-088	259-47-040
259-38-089	259-47-077
259-38-113	259-47-079
259-38-114	259-47-080
259-38-116	261-37-016
259-38-117	261-37-020
259-38-119	261-37-021
259-38-121	261-37-023
259-38-122	261-37-029
259-38-123	261-37-030
259-38-124	264-15-015
259-38-132	264-15-016
259-38-133	264-15-017
259-38-134	264-15-018
259-38-135	264-15-019
259-38-139	264-15-063
259-38-141	264-15-064
261-34-002	264-15-065
261-34-003	
261-34-004	
261-34-005	
261-34-006	
261-34-011	
261-34-023	
259-38-130	

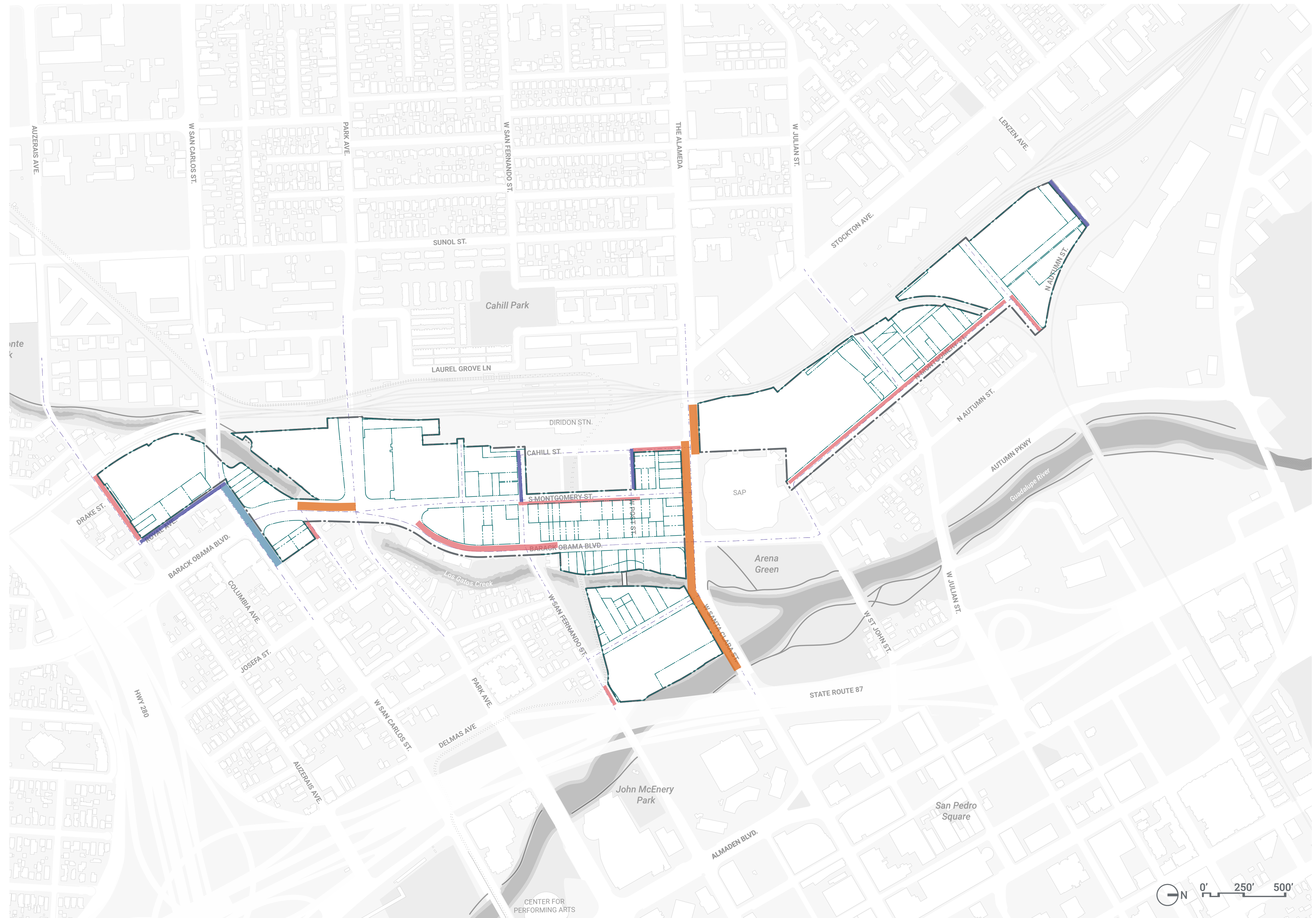


Figure 5.01.1 Existing Assessor's Parcels

Legend

- Development Boundary
- Existing Parcels
- Existing Street Centerlines

- Parcel Edge to Street Centerline Dimensions
- <30 feet
  - 30 - 40 feet
  - 40 - 50 feet
  - 50 - 60 feet



# Existing Ordinance Trees, Waterways And Natural Features

Figure 5.02.1 depicts the location of existing ordinance-sized trees within the public right-of-way and the approximate location of existing ordinance-size trees on private property. The project proposes the removal of all existing trees within the public right-of-way and on private property and approximately 2,280 new trees will be planted throughout Downtown West. Street trees and plantings within the public right-of-way shall comply with the applicable standards in the DWDSG. Pursuant to Municipal Code Section 13.32.080, the Downtown West PD Permit shall serve as the Tree Removal Permit for all existing street trees within Downtown West. The project sponsor is authorized to remove street trees within Downtown West pursuant to the terms of the Downtown West PD Permit.

## Notes:

1. See Sheet 3.02a for setback requirements and exceptions.
2. Location of trees within the existing public right-of-way have been verified by a surveyor.
3. Location of trees on private property are approximate.
4. All trees approved for removal with a PD Permit shall comply with the City of San José's Standard Conditions of Approval (SCA) BI-2.

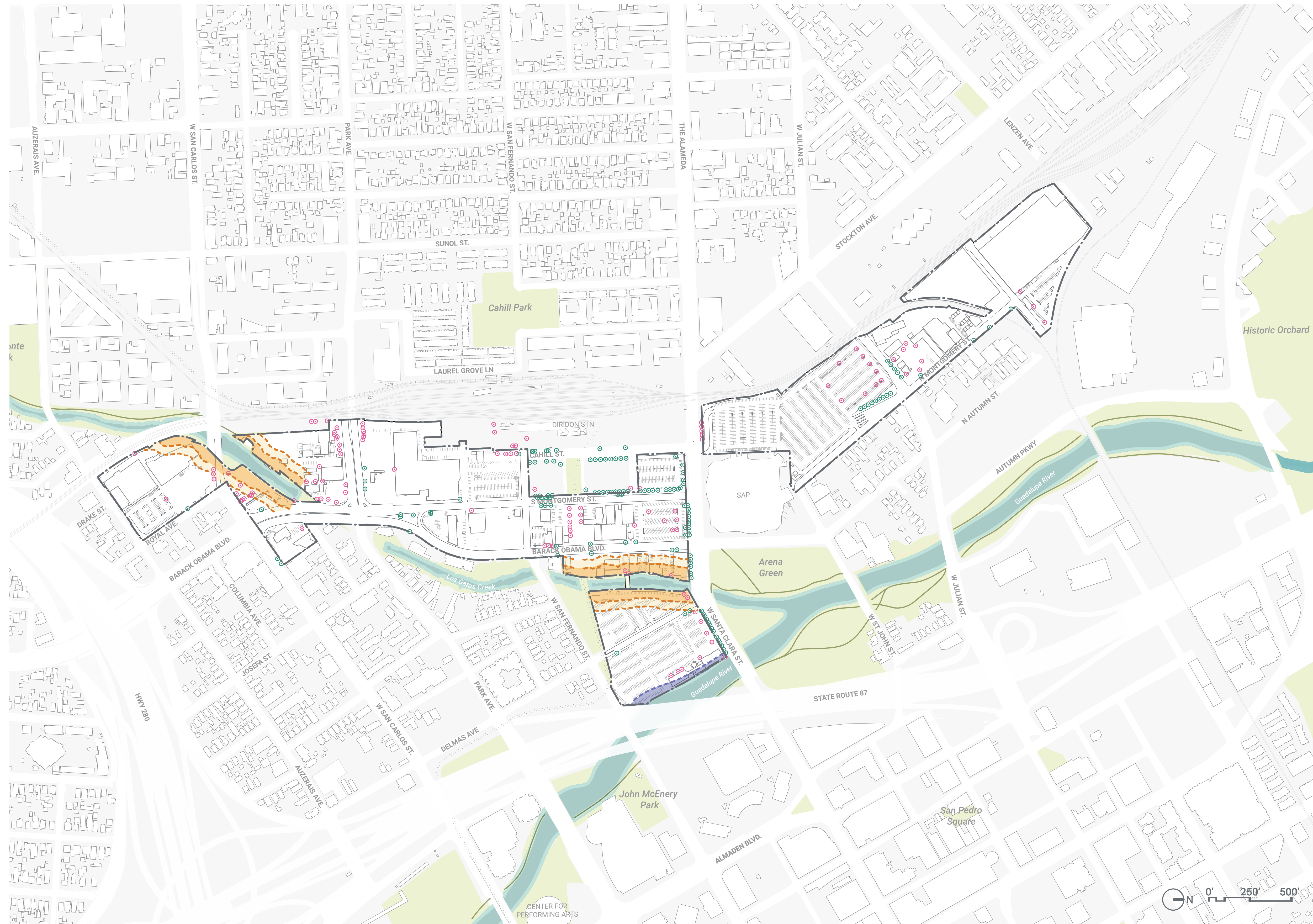


Figure 5.02.1 Existing Ordinance Trees, Waterways And Natural Features

## Legend

- Project boundary
- Waterways / riparian corridor
- 50-Foot riparian setback along Los Gatos Creek<sup>1</sup>
- 50-100-Foot ecological enhancement zone along Los Gatos Creek
- 35-Foot riparian setback along Guadalupe River<sup>1</sup>
- Ordinance-Sized Trees within public right-of-way<sup>2,4</sup>
- Ordinance-Sized Trees on private property<sup>3,4</sup>

# 5.02

## Existing Ordinance Trees, Waterways And Natural Features

Downtown West Mixed-Use Plan

PDC19-039 • APRIL 2021



# Land Use Plan

The proposed locations of land uses shown on Figure 6.01.1 and Figure 6.02.1 are approximate and depict a potential design through implementation of the DWDSG. The uses allowed within the Downtown West PD Zoning District are identified in Sheet 4.01 of this GDP, subject to the allowable transfers and conversions established in Sheet 3.03 to allow development in Downtown West to respond to potential unavailability of land, fluctuation in demand for building types, allowable changes to phasing, and related considerations.

The locations of land uses shall further conform to the applicable standards in the DWDSG regulating the location of land uses. The DWDSG permits a limited range of land use configurations that may differ from Figure 6.01.1. The proposed land uses in particular buildings and the allocation of square footage for each land use shall be provided during the Conformance Review process as further set forth in Sheet 8.01.

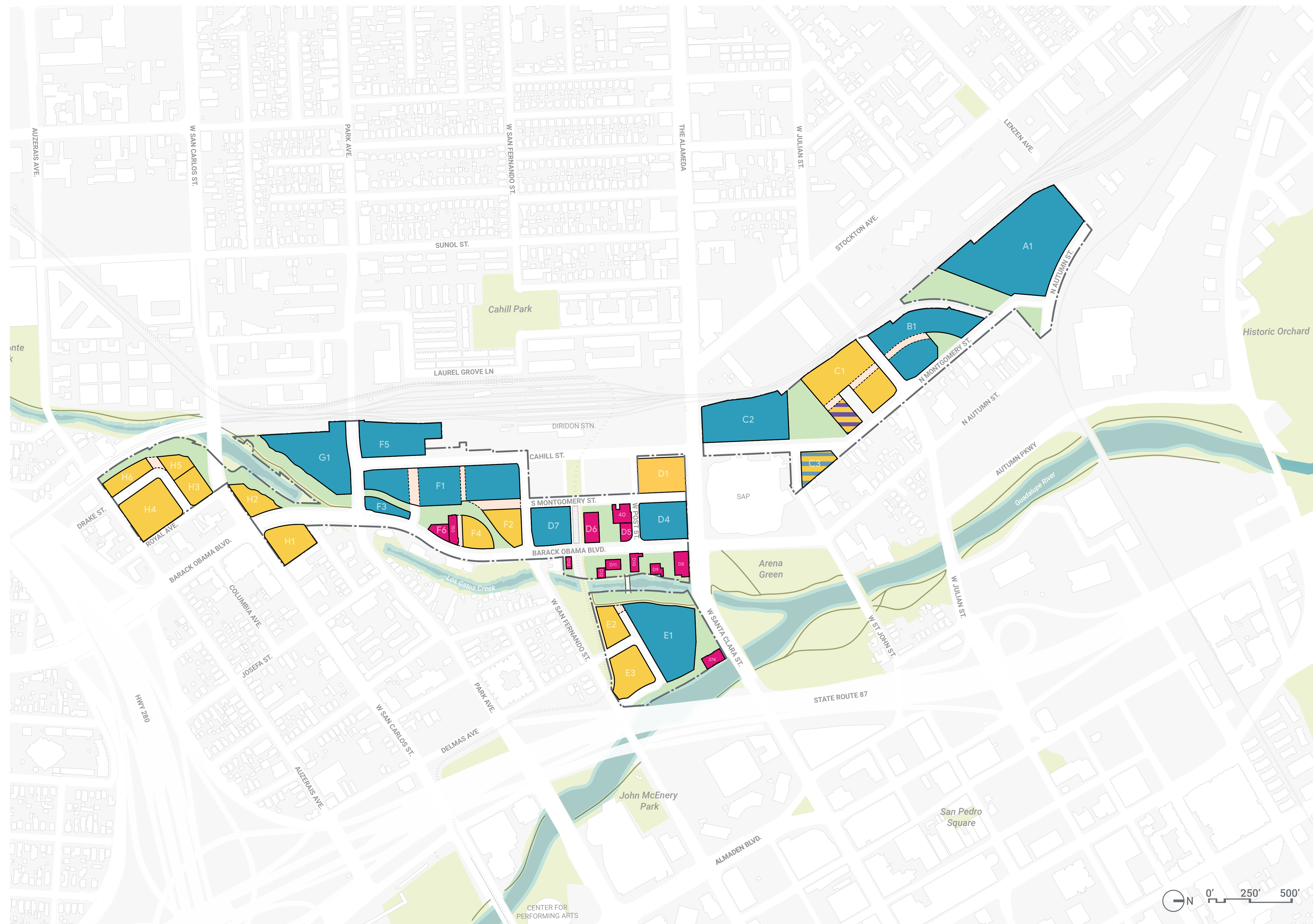


Figure 6.01.1 Conceptual Land Use Plan

## Legend

- Site Boundary
- Office
- Residential
- Residential / Office
- Residential / Hotel
- Active Use
- Open Space
- Mid-block passage



# Illustrative Site Plan

The figures and diagrams shown on Sheets 6.01 to 6.07 are provided for conceptual purposes only to show a potential design that implements the development standards applicable to the Downtown West PD Zoning District. Actual design and implementation of the Project shall follow the DWDSG, DWIS, Infrastructure Plan, DDG, CSDSG, and other applicable Project approvals and documents which were approved as part of the Downtown West PD Permit. Diagrams in this GDP illustrate the general arrangement and relationships among future land uses, streets, and open spaces. These diagrams are subject to refinement by project sponsors pursuant to the Conformance Review process (see Sheet 8.01) and shall be approved pursuant to that process provided they substantially conform to this GDP. Precise parcel configurations and boundary locations shown on Sheets 6.01 - 7.01 shall be established upon approval through the Conformance Review process and / or final maps processed pursuant to the requirements of this GDP.

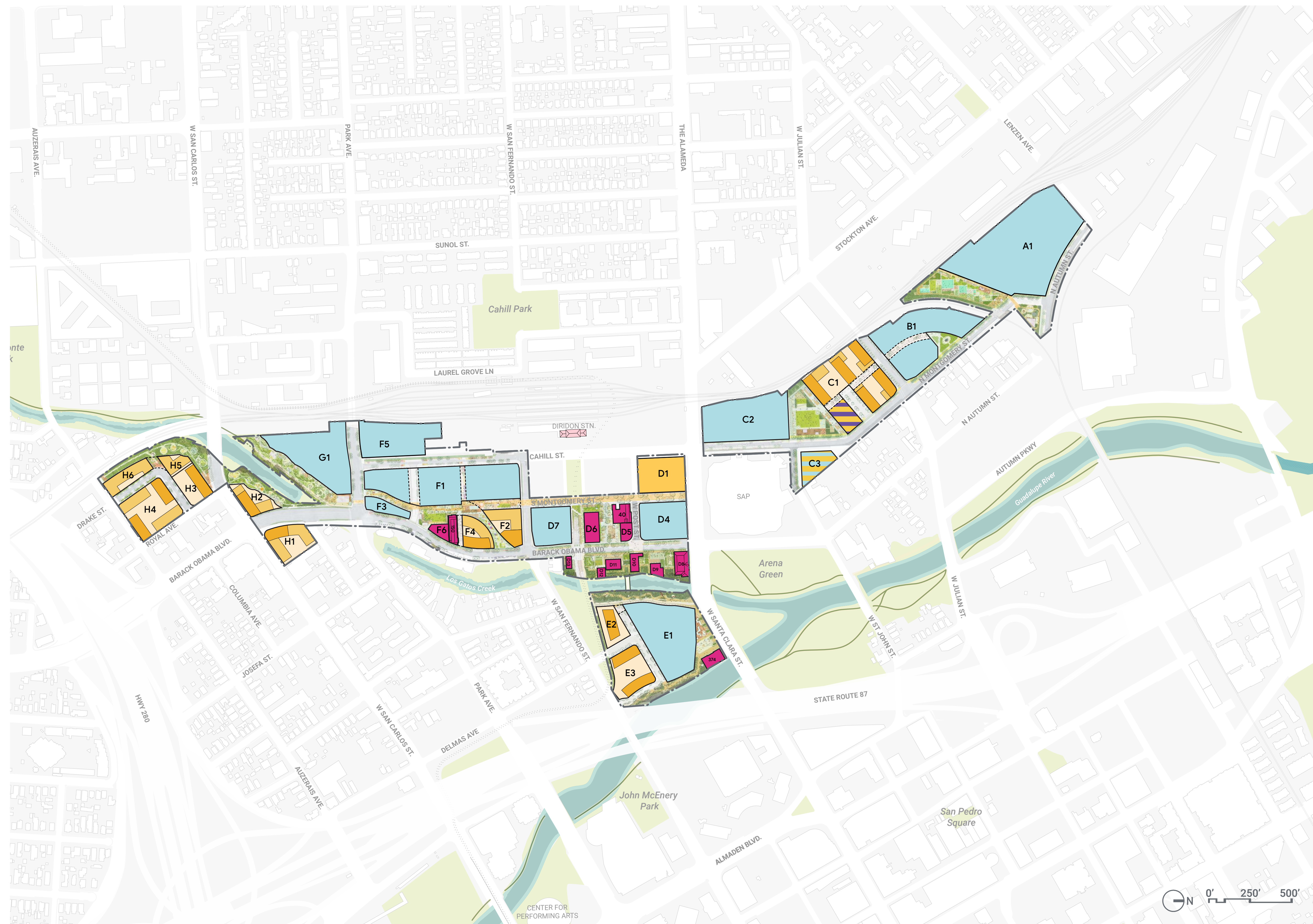


Figure 6.02.1 Illustrative Site Plan

## Legend

- Site Boundary
- Office
- High-rise Residential
- Mid-rise Residential
- Residential / Office
- Residential / Hotel
- Active Use



# Block Plan

The DWDSG includes standards and guidelines that permit a limited range of land use, massing, and circulation designs that may result in a block plan that differs from the one shown on Figure 6.03.1. Precise street boundaries and block layouts for a particular area may be adjusted and shall be identified as part of the applicable final map establishing development lots, streets and open space blocks. Mid-block passages and other open-space areas that will not be dedicated to the City pursuant to Municipal Code Title 19 will be shown on the associated final map with final locations to be described on easements, declarations or covenants providing for public access to be recorded after approval of the final map and prior to issuance of a certificate of occupancy for buildings on lots subject to such privately-owned areas.

The development standards for development within the Downtown West PD Zoning District are established in Sheets 3.02a and 3.02b of this GDP. The standards regulating development of Sub-Area 1 and Sub-Area 3 are further defined in the DWDSG.

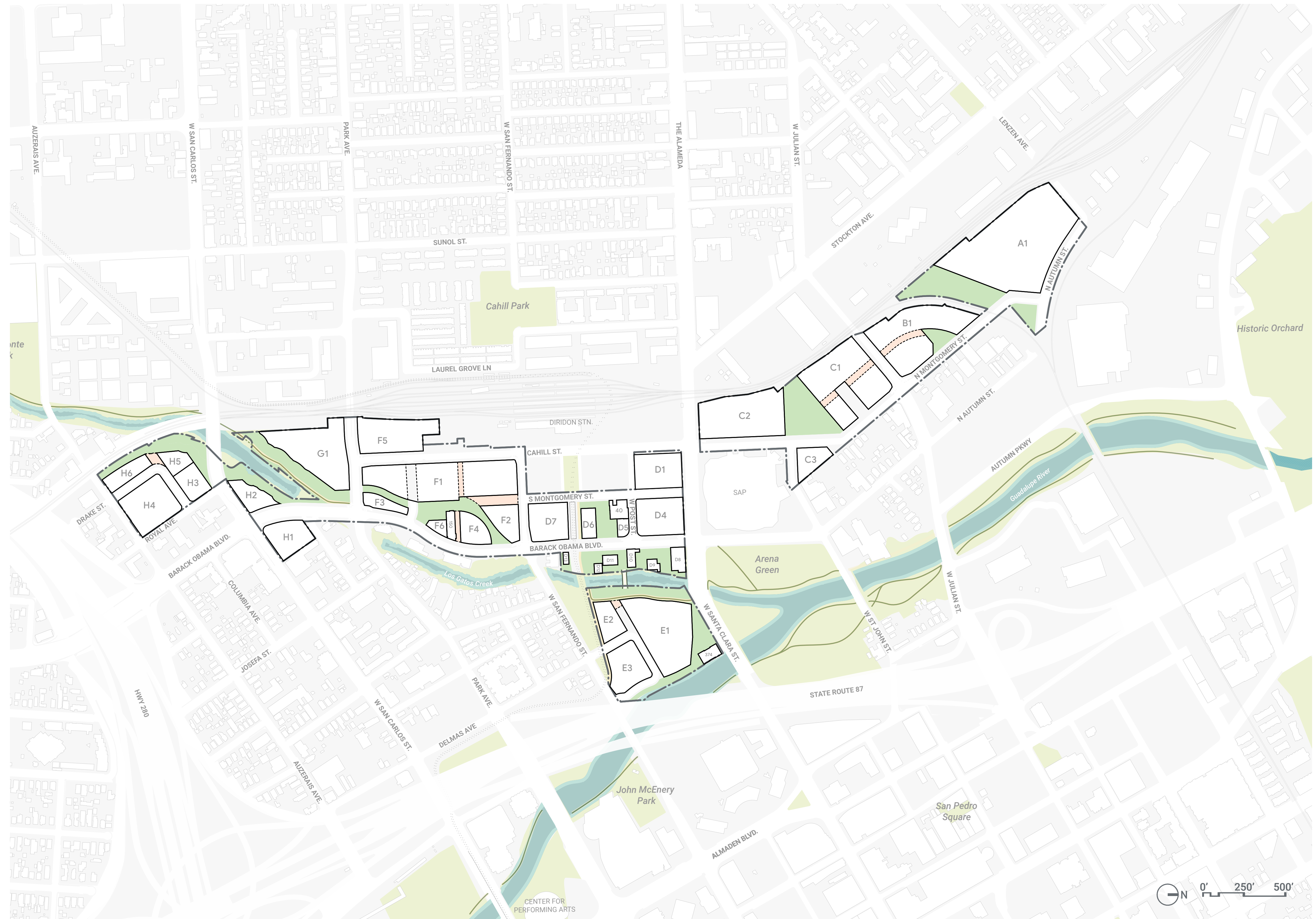


Figure 6.03.1 Conceptual Block Plan

### Legend

- Site Boundary
- Block
- Mid-block passage
- Open Space
- Existing Buildings within Project boundary
- Existing Buildings outside Project boundary



# Open Space Plan

Development within the Downtown West PD Zoning District includes the following categories of open space:

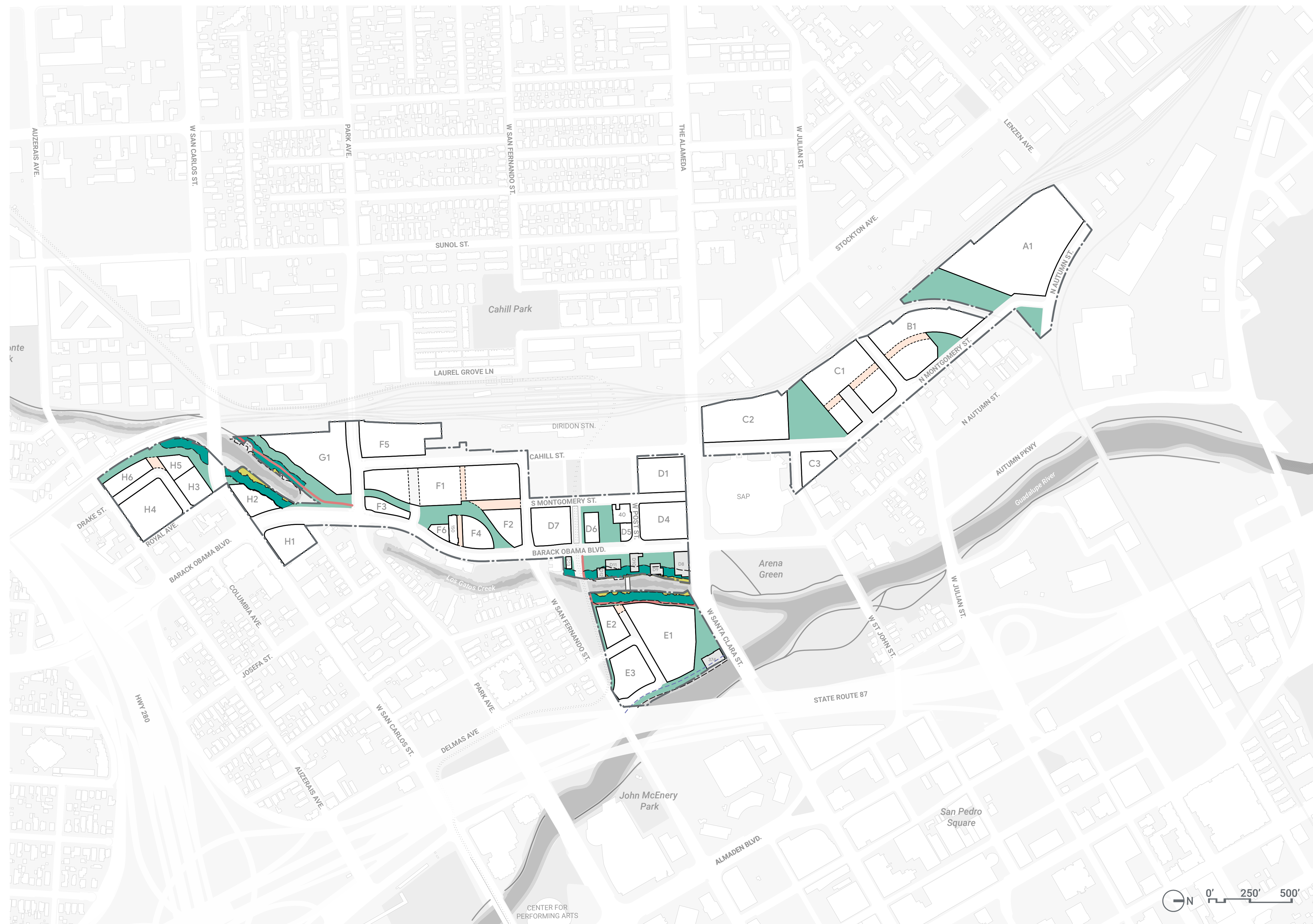
- City-dedicated open space
- Project sponsor-owned open space
- Building open space

Development of open space within the Downtown West PD Zoning District shall be subject to the applicable standards set forth in the DWDSG. The open space typologies for the Downtown West PD Zoning District are identified in Table 6.04.1

**Table 6.04.1 Open Space Areas**

Open Space	Acres	Notes / Components
City-dedicated open space	4.80 Ac	City-dedicated park and Los Gatos Creek Multi-Use Trail
Project sponsor-owned open space	10.20 Ac	Privately-owned public park, semi-public open space, Los Gatos Creek Riparian Setback, Los Gatos Creek Riparian Corridor within Project, and mid-block passage.
<b>Total open space</b>	<b>15 Ac</b>	
<b>Building open space</b>		Private open space (E.g balconies, private patios), semi-private open space (E.g. landscaping, setbacks), common private open space (E.g. rooftops, common courtyards)

The layouts, boundaries, and perimeters of the development lots and open spaces shown on Sheet 6.04 are illustrative. Provided the overall open space acreage identified in Table 6.04.1 is generally maintained, the precise size, location, and configuration of an open space may be adjusted and shall be identified and finally approved at the Conformance Review stage or the processing of a final map that includes the subject open space, whichever occurs first.



**Figure 6.04.1 Illustrative Open Space Plan**

### Legend

- Riparian corridor<sup>1</sup>
- 50' Riparian setback along Los Gatos Creek<sup>2</sup>
- 35' Riparian setback along Guadalupe River<sup>2</sup>
- City-dedicated parks, Privately-owned public parks, or semi-public open spaces
- Los Gatos Creek Riparian Setback
- Los Gatos Creek Riparian Corridor within Project
- Proposed Los Gatos Creek Multi-Use Trail
- Mid-block passage

### Notes:

- San José Municipal Code Section 20.200.1054 defines a riparian corridor as any defined stream channel, including the area up to the bank full-flow line, as well as all characteristic streamside vegetation in contiguous adjacent uplands. Within Downtown West the riparian corridor is defined by the TOB, TOC wall, or edge of existing riparian canopy, whichever is a greater distance from the stream.
- A riparian setback is the limitation to new construction and certain land uses and activities within a certain distance measured from the riparian corridor.



# Circulation Plan

Figure 6.05.1 generally depicts the street layout, the intended circulation pattern, and the relationships of public and private streets to development areas and open spaces. Table 6.05.1 identifies the total right-of-way width for each public street within Downtown West. Final street design for public streets, including the components of each public street, shall be described in improvement plans and approved as part of the final map and improvement plan process. The City Engineer may authorize minor deviations to public streets layouts as part of their approval of improvement plans and associated final maps. Proposals to change a street type or overall right-of-way width as identified on Table 7.03.1 require approval by the Director of PBCE, in consultation with the City Engineer, based on the Director of PBCE's determination that the proposed modifications are consistent with the General Plan and Title 13 of the Municipal Code and incorporate new innovation; accommodate unanticipated transit, pedestrian, bicycle, or similar needs; or otherwise better achieve objectives of the General Plan's Downtown Growth Area.

## Streets Right-of-Way

Table 6.05.1 Street Right-of-Ways

ID	STREET NAME	STREET TYPE	ROW (IN FEET)
A	W. Santa Clara St. (West of Los Gatos Creek)	Grand Boulevard	115
B	W. Santa Clara St. (East of Los Gatos Creek)	Grand Boulevard	100
C	W. San Carlos St.	Grand Boulevard	99
D	Barack Obama Blvd. (formerly S. Montgomery St. south of Park Ave.)	City Connector	108
E	Barack Obama Blvd. (formerly S. Autumn St. between Park Ave. and W. San Fernando St.)	City Connector	75
F	Barack Obama Blvd. (formerly S. Autumn St. between W. San Fernando St. and W. Santa Clara St.)	City Connector	76
G	S. Montgomery St.	Main Street	60
H	Park Ave.	On-Street Bike Primary Bike Facility	80
I	W. San Fernando St.	On-Street Bike Primary Bike Facility	60
J	Cahill St. (Park Ave. to W. San Fernando St.)	On-Street Bike Primary Bike Facility	68
K	Cahill St. (W. Santa Clara St. to N. Montgomery St.)	On-Street Bike Primary Bike Facility	80
L	N. Montgomery St. (Cahill St. to N. Autumn St.)	On-Street Bike Primary Bike Facility	76
M	N. Autumn St. (New Street)	Local Connector	72
N	W. Julian St.	Local Connector	70
O	W. St John St.	Local Connector	60-66
P	W. Post St. (New Street)	Local Connector	48
Q	Royal Ave.	Local Connector	50-55
R	Auzerais Ave.	Local Connector	65

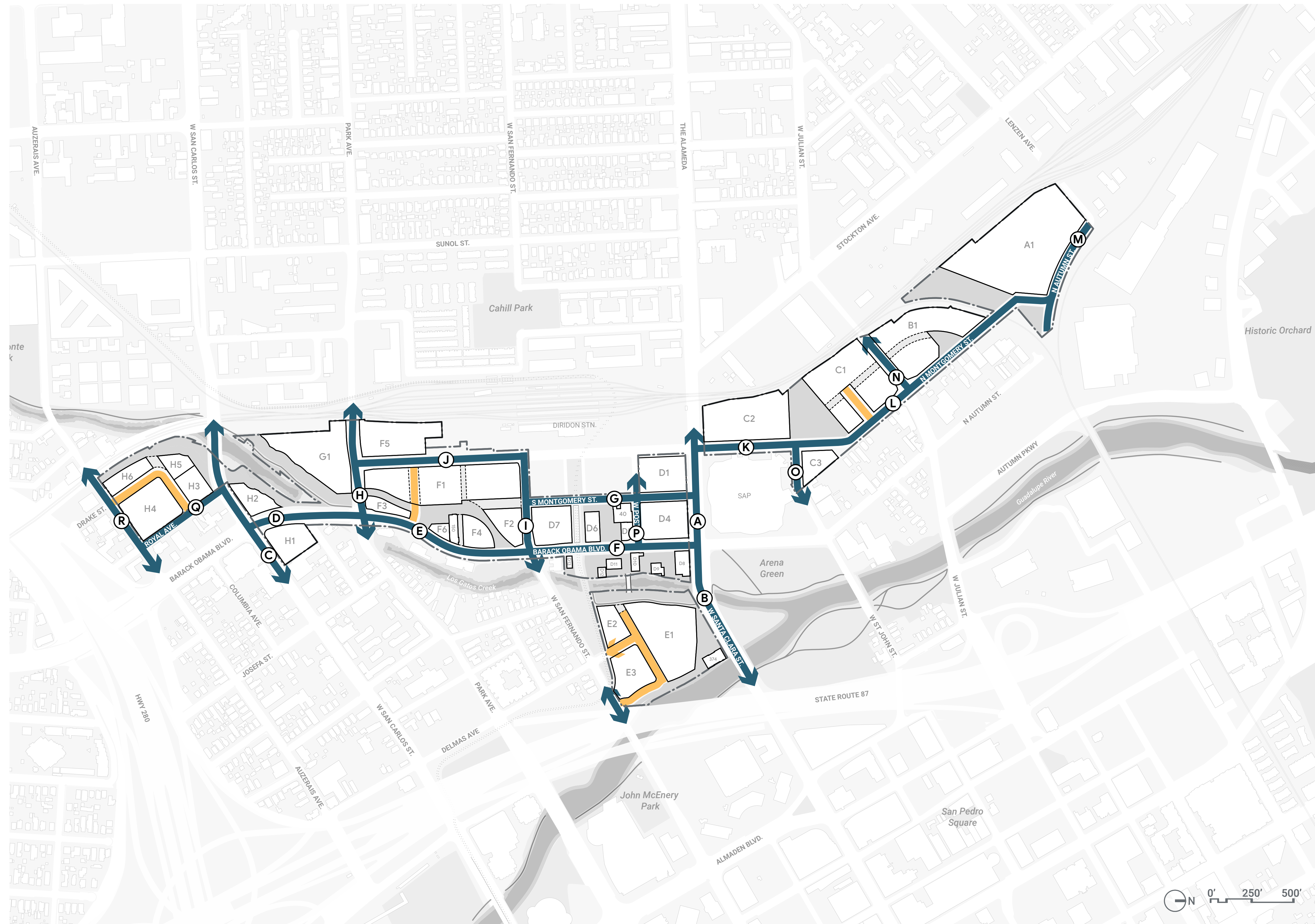


Figure 6.05.1 Conceptual Right-of-Way (ROW) Widths.

### Legend

- Project Boundary
- Public Street
- Private Street

### Notes:

1. Location, dimensions and arrangement of open space, streets and pedestrian mid-block passages are approximate and may change as vertical buildings are developed. Minimum standards will be defined in the DWDSG.
2. Areas where the existing right-of-way will be narrowed, making available additional lands for development are zoned through this GDP consistent with the immediately adjacent development lands.
3. Where landscaping is to serve a particular function, such as a screen or buffer, the particular function and landscape concept shall be identified. Where landscaping is proposed in the public right-of-way, the maintenance responsibility shall be specified.



# Infrastructure

Downtown West proposes a district systems approach to handle certain utilities, which may include building heating and cooling, electricity, wastewater treatment / recycled water service, and solid waste collection that would be handled through shared district-wide infrastructure. The proposed district systems, which are primarily comprised of central utility plants and distribution infrastructure located within utility corridors or "utilidors", would be located within infrastructure zones. Figure 6.06.1 identifies the proposed location of the infrastructure zones: a Southern Infrastructure Zone and a Northern Infrastructure Zone. The Northern Infrastructure Zone may be eliminated as design and planning progresses.

Figure 6.06.1 further identifies proposed locations of new utilidors. The utilidor layouts are illustrative and may be revised to reflect final development requirements. Various typologies are under consideration for the distribution of district utilities, including but not limited to direct bury, utility tunnel and within below grade privately-owned structures.

The DWIS, which were approved as part of the Downtown West PD Permit, establish utility infrastructure requirements within the Downtown West PD Zoning District. The DWIS shall apply to street improvements, utility infrastructure, and utilidors that are located outside the Downtown West PD Zoning District and are necessary to serve property within the Downtown West PD Zoning District. For further information, refer to the DWIS and Infrastructure Plan.

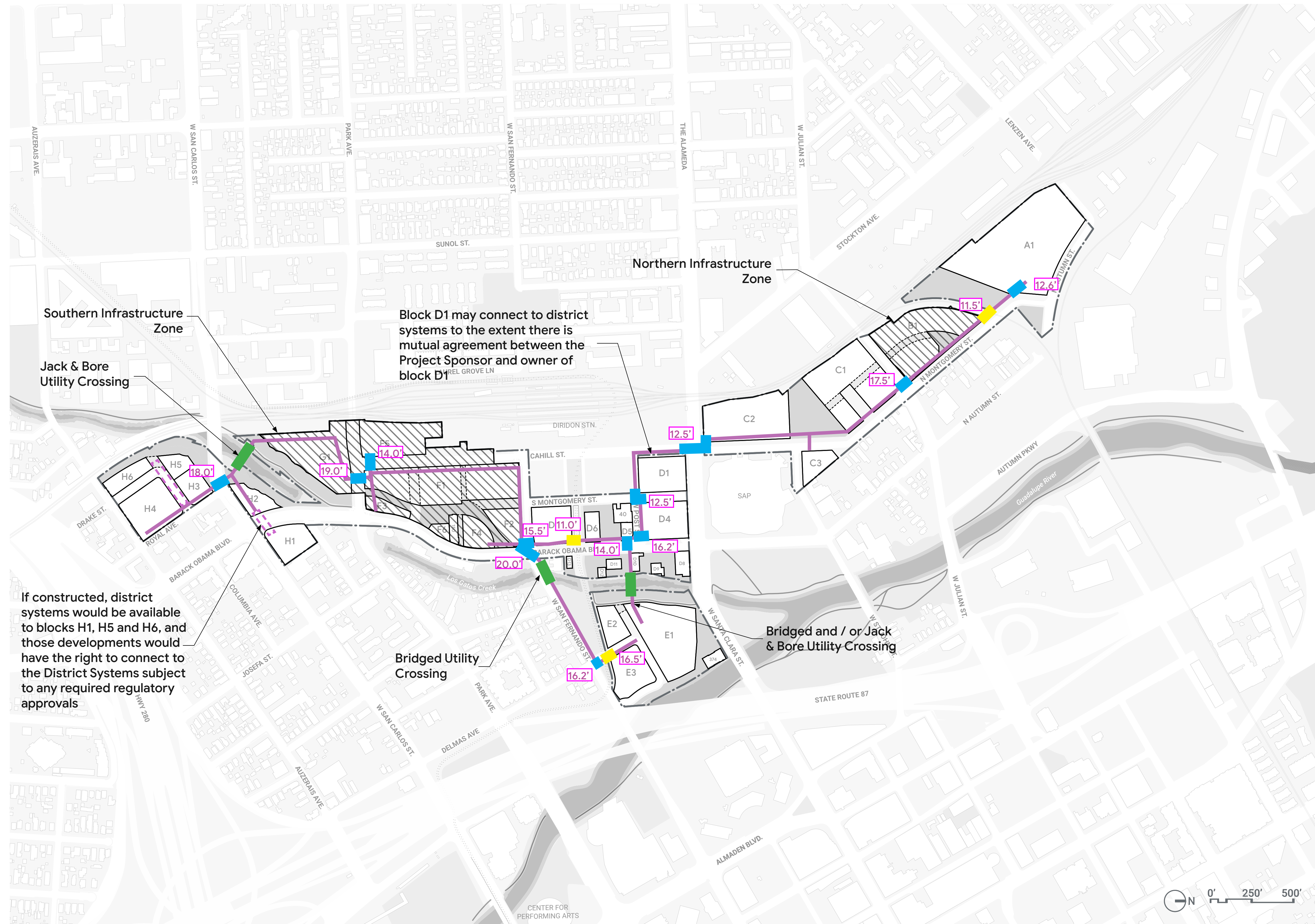


Figure 6.06.1 Proposed Utilidor Plan

## Legend

- Indicative Utilidor Route
- Development Boundary
- Block
- Open Space
- Indicative Location for Infrastructure Zones
- Los Gatos Creek Crossing
- Rail Crossing
- ROW Crossing
- xx.x' Depth to Top of Corridor
- - - Optional connections to Sub-Area 3 development



# Grading

The project sponsor will complete grading in phases as needed to enable development within Downtown West. Interim grading may also occur as necessary to maintain access to existing facilities. Figure 6.07.1 illustrates the proposed grading plan. Existing utility locations shown on Figure 6.07.1 are approximate and shown for reference only. The exact location of pipe structures will be determined following utility surveys.

Building finish floor elevations will be a minimum of 1-ft above the mapped 100-year flood plain or as required by City of San José Municipal Code. Finish floor elevations depicted are based on preliminary study. Grading alternatives are under review and finish floor elevations may be revised until the time of the Building Permit application.

New storm drain and creek outfalls will be constructed per City of San José requirements based on modeling previously prepared for the Diridon Station Area Plan. Final modeling is required to confirm final storm drain design. Refer to Infrastructure Plan - Storm Drain System for further information.

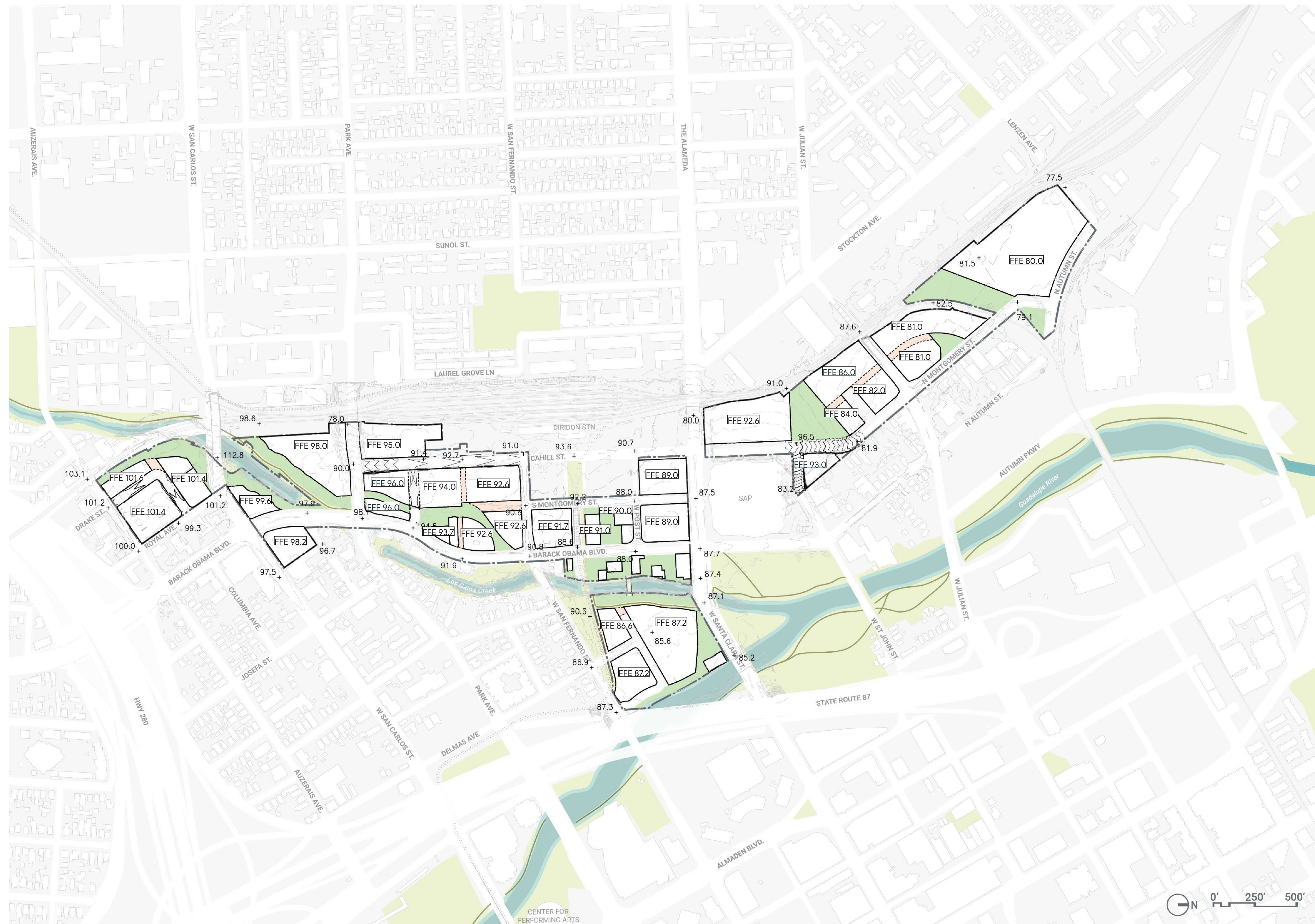


Figure 6.07.1 Conceptual Grading Plan

## Legend

- XX.X + Existing Grade
- Existing Contours
- Proposed Contours
- FFE XX.X Conceptual finish floor elevations
- Development Boundary
- Block
- Open Space

## Notes:

1. The project applicant will complete grading in phases as needed to enable development within Downtown West. Interim grading may also occur as necessary to maintain access to existing facilities. Figure 7.05.1 illustrates the proposed grading plan.
2. All elevations shown are in feet.
3. Building finish floor elevations will be a minimum of 1-ft above the mapped 100-yr flood plain or as required by City of San Jose code. Finish floor elevations depicted are based on preliminary study. Grading alternatives are under review and finish floor elevations may be revised until the time of the Building Permit application.



# Conceptual Character Renderings

Sheet 7.01 includes illustrative building elevations and the architectural style and character for buildings within the Downtown West PD Zoning District. Sheet 7.01 is intended only to provide examples of the size, shapes, massing, materials, and detailing of buildings that may be developed pursuant to this GDP and the Downtown West PD Permit, including the DWDSG. The DWDSG provides extensive and detailed guidance, including both mandatory development standards and qualitative non-binding guidelines, on site and building design, architecture, and relationship to adjacent streets, open spaces, and historic resources. Buildings, open spaces, and improvements proposed within the Downtown West PD Zoning District shall be reviewed under the Conformance Review procedure authorized by this GDP and implemented through the DWDSG (see Sheet 8.01).

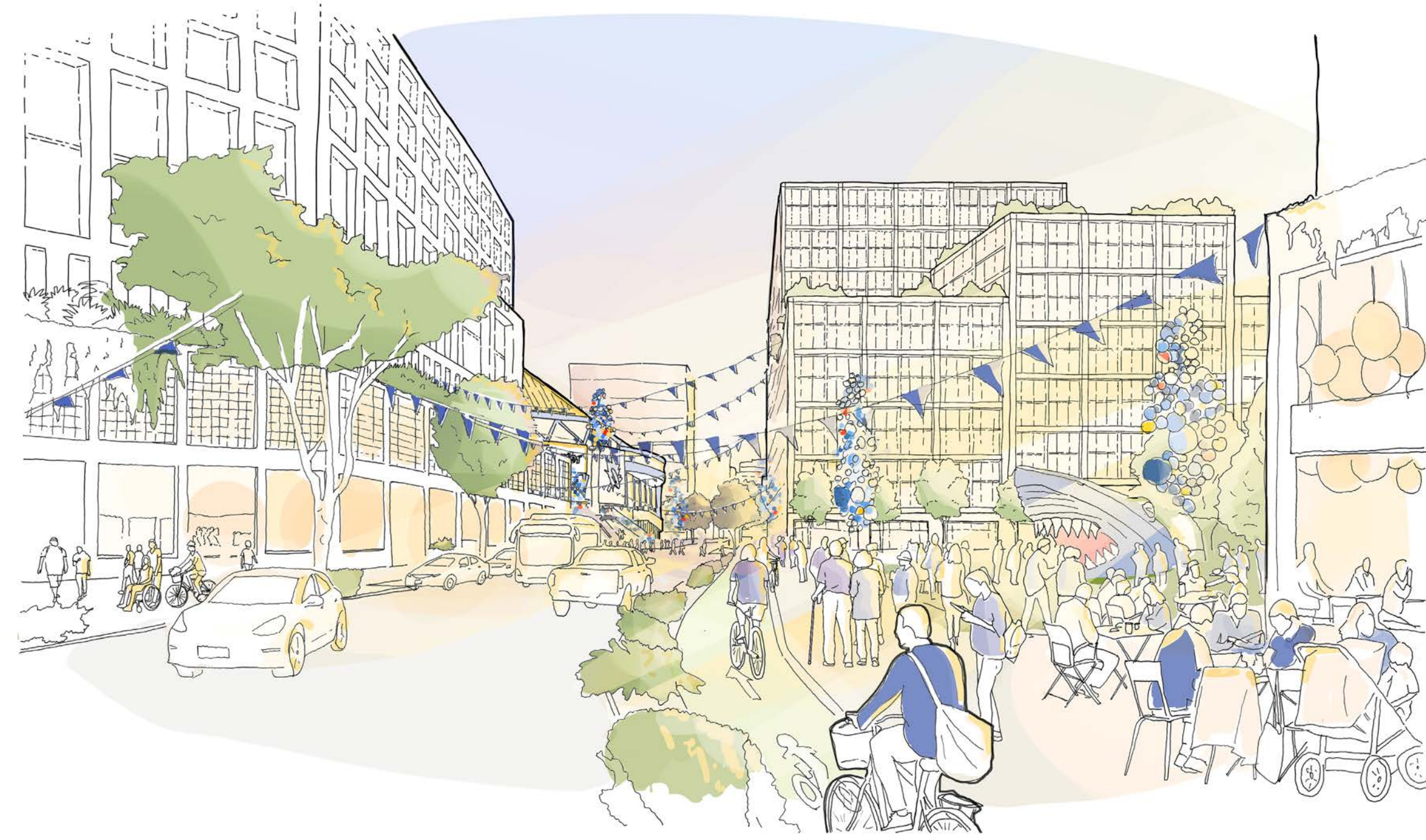


Figure 7.01.1 Conceptual Rendering of Proposed Project from North Montgomery Street Looking South Illustrating Proposed Building Form and Massing



Figure 7.01.2 Conceptual Rendering of Proposed Project from Creekside Walk Looking West towards Diridon Station Illustrating Proposed Building Form and Massing



Figure 7.01.3 Conceptual Rendering of Proposed Project from The Meander Looking North to South Montgomery Street Illustrating Proposed Building Form and Massing

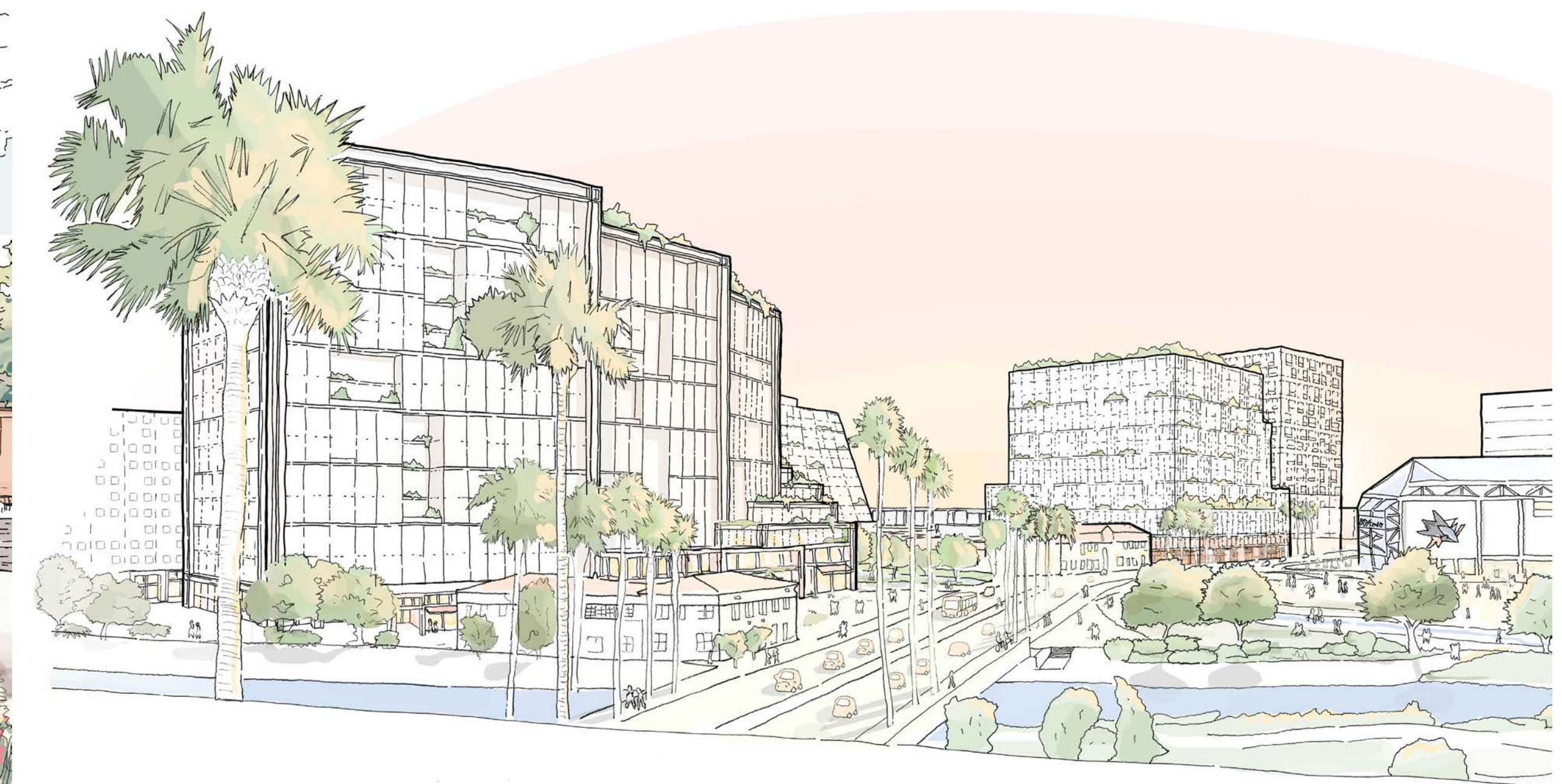


Figure 7.01.4 Conceptual Rendering of Proposed Project from State Route 87 Looking Southwest Illustrating Proposed Building Form and Massing



# Zoning / Design Conformance Review Process

The Downtown West PD Zoning District establishes a subsequent review process for the design and development of vertical improvements, (i.e. buildings, structures and other improvements that are not horizontal improvements), open space, and horizontal infrastructure improvements. This GDP establishes the uses and requirements for development within the Downtown West PD Zoning District. The Downtown West PD Permit, which effectuates the Downtown West PD Zoning District, includes (i) the DWDSG which establish design standards and guidelines for the area subject to the Downtown West PD Permit, (ii) the DWIS which establishes standards for permitting horizontal improvements, (iii) Conceptual Infrastructure Plan Sheets, and (iv) Conformance Review Implementation Guide (Implementation Guide)

## Vertical Improvement and Open Space Conformance Review Process

**Overview.** The GDP authorizes and establishes the Downtown West PD Zoning District / Design Conformance Review process (Conformance Review) to ensure that development of vertical improvements and open space within the Downtown West PD Zoning District substantially conforms to the requirements of the GDP and applicable standards and guidelines of the DWDSG, the DDG, and other applicable planning documents.

**Conformance Review Application Requirements.** The project sponsor shall submit a Vertical or Open Space Conformance Review application for a particular area as design progresses. The GDP and Implementation Guide set forth the application requirements for a Vertical Improvement and Open Space Conformance Review application, which generally includes, as applicable:

1. Data charts providing information regarding the proposed land uses, open space program and acreage, square footage of non-residential uses and / or number of residential units;
2. Site plans and / or drawings pertaining to the area of development;
3. A completed Vertical Improvement or Open Space Conformance Review Checklist which identifies all DWDSG and DDG standards applicable to vertical improvements and open space;
4. Requests, if any, for Minor Modifications, Exceptions, Deferrals and Amendments as defined further in this GDP; and
5. Compliance with Development Agreement’s affordable housing, parking, and Parkland Agreement requirements.

The Implementation Guide identifies the specific Conformance Review application submittal requirements for Vertical and Open Space Improvements, including requirements specific to Vertical Improvements, Project sponsor-owned Open Space, and City-dedicated Open Space.

The Implementation Guide sets forth the procedures for reviewing a Vertical Conformance Review Application and Open Space Conformance Review Application. The Implementation Guide establishes the permitted time frames for City review and action on a Vertical Conformance Review Application and Open Space Conformance Review Application.

**Standard of Review.** Compliance with applicable standards in the Downtown West PD Permit, including the DWDSG, shall be required under the Conformance Review Checklist.

The project sponsor shall consider DWDSG guidelines. Conformance Review shall be approved notwithstanding that guidelines have not been implemented where the project sponsor provides information showing the subject application achieves the applicable design intent set forth in the chapter of the applicable guideline. The project sponsor’s decision not to implement a guideline shall not be grounds for disapproving a Conformance Review application if the project sponsor demonstrates that the application achieves the design intent set forth in the chapter of the applicable guideline. The project sponsor shall provide a narrative that identifies the applicable guideline(s), describes the reason(s) why implementation of the guideline is not feasible, and describes how the subject application achieves the design intent in the chapter of the applicable guideline without implementation of the applicable guideline.

The Director of PBCE shall approve a Conformance Review application if the Conformance Review application (i) is consistent with the General Plan; (ii) is consistent with the GDP and the Downtown West PD Permit; (iii) complies with any applicable requirements of CEQA; and (iv) the project sponsor is in compliance with project sponsor obligations applicable to Conformance Review under the Development Agreement. Pursuant to Section \_\_ of Title 20 of the San Jose Municipal Code, adopted by City Council Ordinance No. \_\_, the Director of PBCE’s decision on a Conformance Review application shall be final and shall not be appealable to the Planning Commission, the City Council, or other City decision making body. For appealability of CEQA determination in connection with a Conformance Review determination, see Table 8.01.1

1. General Plan Consistency. The Director of PBCE’s review of an application for consistency with the General Plan shall be limited to review against the applicable General Plan land use designation (either Downtown or Downtown Commercial) to confirm the (i) proposed land use is allowed; and (ii) the proposed size and intensity of improvements are consistent with the allowable height and floor-area ratio. The Director of PBCE shall also review the application against the applicable DSAP land use designation (either Downtown or Downtown Commercial) and confirm: (i) the proposed land use is allowed; and (ii) the proposed size and intensity of improvements are consistent with the allowable height and floor-area ratio. The Director of PBCE, to the maximum extent practicable under applicable law, shall rely exclusively on the General Plan and DSAP consistency determinations made in connection with approval of the Downtown West PD Zoning District and the Downtown West PD Permit.
2. Consistency with this GDP and Downtown West PD Permit. The Conformance Review application shall include a form document for Planning staff to complete as part of Conformance Review (Consistency Check Form, Appendix A to Implementation Guide) to determine consistency with the GDP and Downtown West PD Permit. The following principles shall apply to guide a consistency determination with the GDP and Downtown West PD Permit:
  - a. Diagrams and figures in the GDP and DWDSG illustrate the general arrangement and relationships among future land uses, streets, and open spaces within the PD Zoning District. Blocks, lots, street alignments, and open space configurations are subject to refinement through the Conformance Review and subdivision mapping / improvement plan process;
  - b. Conformance with the GDP and DWDSG shall be construed in a manner that acknowledges adaptive solutions to unforeseen or unique development constraints that arise over an extended build-out to ensure that the full development program and objectives of the approved Project and the City’s objectives of promoting growth within the Downtown Growth Area can be fully implemented.
  - c. The project sponsor may demonstrate compliance with standards and guidelines related to materials, palettes and design specifications through drawing notations at the time of conformance review.

**Relief from DWDSG Requirements.** During the Conformance Review process, the project sponsor may request the following types of relief from DWDSG standards: Minor Modification (deviation of less than 10% from a numerical standard or minor deviation from a qualitative standard), Exceptions (waiver of a DWDSG standard), Deferral (defer compliance of a DWDSG standard), and Amendments. The DDG has an established process for requesting exceptions to standards which shall continue to govern.

The GDP authorizes, subject to certain enumerated conditions, the project to (1) transfer residential units and non-residential square footage from one Sub-Area to another Sub-Area; (2) adjust the number of residential units and non-residential square footage through conversion of land uses; and (3) increase building heights. The project sponsor may request a transfer or conversion of square footage or increase in building height pursuant to the terms of the GDP. Such a request shall not be deemed a Minor Modification or Amendment as defined in Table 8.02.1

**Conformance Approval Adjustment.** Prior to the issuance of a building permit, the project sponsor shall (1) identify adjustments, if any, that have been made to design documents as design progressed from the approval of a Conformance Review Application to the building permit stage; and (2) request a Conformance Approval Adjustment to the previously approved Conformance Review Application for such adjustments.

To request a Conformance Approval Adjustment, the project sponsor shall identify the applicable approved Conformance Review Application requiring a Conformance Approval Adjustment and provide updated plan sheets, or other information as applicable, depicting the requested adjustment. The project sponsor’s submittal of updated plan sheets, or other applicable information, and the Director of PBCE’s scope of review as part of a Conformance Review Adjustment, shall be limited to items that are the subject of the Conformance Approval Adjustment.

Minor adjustments to the design documents are expected as design progresses from Conformance Review to the building permit stage. Minor adjustments include the following:

Adjustments of equal to or less than 10% from any dimensional, numerical, or other quantitative specification identified in the drawings, site plans, data charts, and other materials submitted as part of a Conformance Review Application; or

Non-quantitative adjustments to architectural elements or landscape details, including but not limited to, materials, plant species, landscape furnishings and structures.

The Director of PBCE shall approve such minor adjustments if the project sponsor demonstrates that the minor adjustments are consistent with the GDP and applicable DWDSG standards.

The Director of PBCE may approve, in their reasonable discretion, adjustments that are greater than 10% from any dimensional, numerical, or other quantitative specification identified in

the drawings, site plans, data charts, and other materials submitted as part of a Conformance Review Application, if the requested adjustment is consistent with the General Development Plan and applicable DWDSG standards and intent and does not affect the use, intensity, general character, architectural style, circulation or other site function of Downtown West.

The Director of PBCE’s decision on a Conformance Approval Adjustment shall not require a hearing or notice. The Director of PBCE’s decision shall be final.

**Compliance with the California Environmental Quality Act (CEQA).** The project sponsor shall provide information to support a determination whether the City’s approval of development under the Conformance Review application is consistent with applicable requirements of CEQA. If necessary, to support that determination, the project sponsor shall provide technical studies.

The Director of PBCE shall be responsible for making a determination, reflecting the City’s independent judgment, regarding the appropriate environmental clearance for a Conformance Review application. The Director of PBCE shall determine whether a Conformance Review application should be approved in reliance on the Downtown West Final Environmental Impact Report (Final EIR), or in reliance on an Addendum to the Final EIR, or if a Supplemental or Subsequent EIR is required to support that approval. The Director of PW is responsible for making a determination that discretionary approvals in connection with the Horizontal Conformance Review process (DWIS Modification and amendments to Infrastructure Plan) comply with the requirements of CEQA. The CEQA procedures applicable to subsequent approvals set forth in City Council Ordinance No. \_\_ shall similarly apply to the Director of PW.

The Director of PBCE shall have jurisdiction over a Conformance Review application if the Director of PBCE determines that a Conformance Review application can be approved in reliance on the Final EIR (without or with an Addendum), or that a Supplemental or Subsequent EIR, if required, does not identify any new or substantially more severe significant environmental effects, following mitigation, than those identified in the Final EIR.

Pursuant to City Council Ordinance No. \_\_, which establishes the CEQA procedures for subsequent approvals for Downtown West, the Director of PBCE’s determination regarding the appropriate form of environmental clearance for a Conformance Review application shall not be appealable to the Planning Commission, the City Council, or any other City decision making body. Pursuant to City Council Ordinance No. \_\_, the Director of PBCE’s reliance on an Addendum in support of a Conformance Review application also shall not be appealable to the Planning Commission, the City Council, or any other City decision making body.

If the Director of PBCE determines that a Supplemental or Subsequent EIR is required and identifies one or more new or substantially more severe significant environmental effects, following mitigation, than those identified in the Final EIR, the Planning Commission shall hold a public hearing on the Conformance Review application and make a recommendation to the City Council regarding certification of the Supplemental or Subsequent EIR. The City Council shall thereafter hold a public hearing to consider certification of the Supplemental or Subsequent EIR for the subject Conformance Review application.

Table 8.01.1 summarizes the decision-making authority for each of the potential CEQA determinations in connection with a Conformance Review approval or any other subsequent approval for Downtown West (Subsequent Approval), and whether each determination is appealable.

**Table 8.01.1 Determination Authority**

DECISION / APPROVAL	DECISION MAKER	APPEALABILITY
Determination regarding scope of CEQA compliance (whether subsequent approval may be approved in reliance on the Downtown West Final EIR, Addendum to the Final EIR, or Subsequent or Supplemental EIR)	Director of PBCE Sources: GDP § 8.01; Muni Code §§ 20.100.220, 21.04.110 & 21.04.140A.	No, pursuant to City Council Ordinance No. ____, which establishes the CEQA procedures for subsequent approvals for Downtown West.
Determination that project proposed in Conformance Review or other Subsequent Approval application are within the scope of the Downtown West Final EIR	Director of PBCE	No, pursuant to City Council Ordinance No. ____, which establishes the CEQA procedures for subsequent approvals for Downtown West.
Determination that project may be approved in reliance on an Addendum to the Downtown West Final EIR	Director of PBCE	No, pursuant to City Council Ordinance No. ____, which establishes the CEQA procedures for subsequent approvals for Downtown West.
Certification of Subsequent or Supplemental EIR for project that does not identify any new or substantially more severe significant environmental effects, following mitigation, than those identified in the Downtown West Final EIR	Director of PBCE Sources: Pub. Res. Code §21151(c); Muni Code § 21.07.040.	Yes. Under CEQA, if a nonelected decision-making body of a local lead agency certifies an EIR, that certification may be appealed to the agency’s elected decision-making body (i.e., City Council).
Certification of Subsequent or Supplemental EIR for project that identifies one or more new or substantially more severe significant environmental effects, following mitigation, than those identified in the Downtown West Final EIR	Planning Commission Recommendation; City Council Certification Source: Muni Code § 20.100.220, footnote 1	N/A because City Council becomes the initial decision maker under these circumstances.

# Horizontal Conformance Review Process

The Conformance Review process for horizontal improvements shall occur prior to the submittal of phased final maps and associated 100% improvement plans and as further described in the Implementation Guide. The project sponsor will submit 35%, 65%, and 95% improvement plans for horizontal improvements to the Director of Public Works (“PW Director”) for review and comment by City agencies as a precondition to submitting any phased final map application or 100% improvement plan set. Prior to the project sponsor’s submittal of the 35% improvement plans, the project sponsor may elect to submit a preliminary-level conceptual drawing (Preliminary Concept Documents) that would provide sufficient information to convey intent in advance of commencing improvement plans. The Conformance Review process for horizontal improvements will provide Public Works and other applicable City departments with an opportunity to review and comment on horizontal improvement plans to ensure conformance with the GDP and PD Permit (DWDSG Chapter 6: Mobility and other applicable standards in the DWDSG), the DWIS, Infrastructure Plan, applicable standards and guidelines in the Complete Streets Design Standards and Guidelines, and other applicable Project approvals and documents. Comments made by Public Works and applicable City departments will be provided to the project sponsor pursuant to the process and time frames outlined in the Implementation Guide. The application requirements, and review and approval timelines applicable to the Horizontal Conformance Review Process are set forth in the Implementation Guide.

The Implementation Guide establishes the submittal requirements for the Horizontal Conformance Review Process and the procedures and the permitted time frames for City review and action on 35%, 65%, and 95% plans.

During the Horizontal Conformance Review Process, the project sponsor may request a DWIS Modification (defined in Section 1.5 of the DWIS), amendments to the Infrastructure Plan pursuant to Section 1.8 of the Infrastructure Plan, relief from applicable DWDSG standards as further defined in Table 8.02.1, and relief from applicable CSDSG standards and guidelines pursuant to the processes set forth under the CSDSG.

The project sponsor shall apply for approval of phased final maps and 100% improvement plans pursuant to the procedures described in Title 19 of the Municipal Code and the standards referenced in any ordinances governing the design and permitting of subdivisions and improvements applicable to the Downtown West PD Zoning District. During the final mapping and improvement plan process, the project sponsor shall submit 100% improvement plans; a summary matrix documenting how each comment received as part of the Horizontal Conformance Review Process has been addressed, or, why any particular comment has not been incorporated; final map checkprint; a matrix of the tentative map conditions and identify in writing how the proposed final map or other documents satisfy the conditions of approval; and a Horizontal Improvement Conformance Review Checklist which identifies all DWDSG standards applicable to horizontal improvements shall be submitted when required pursuant to the Implementation Guide.

The City shall process, review and approve the improvement plans and final map pursuant to the procedures established in Title 19 of the Municipal Code and the standards referenced in any ordinances governing the design and permitting of subdivisions and improvements applicable to the Downtown West PD Zoning District.

# 8.01

## Zoning / Design Conformance Review Process

### Downtown West Mixed-Use Plan

PDC19-039 • APRIL 2021



Table 8.02.1 Authorized Relief from DWDSG Standards

TYPE OF RELIEF	DESCRIPTION	STANDARD OF REVIEW	DECISION MAKER*
Minor Modification	<p>The Project Sponsor may request Minor Modifications from DWDSG standards if certain criteria are met. A Minor Modification consists of the following:</p> <p>Quantitative Standard. A deviation of less than 10% from any dimensional or numerical standard in the DWDSG; or</p> <p>Qualitative Standard. A deviation from any qualitative standard in the DWDSG where the project sponsor demonstrates that the proposed deviation:</p> <ol style="list-style-type: none"> <li>Does not materially affect the general character or architectural style of the site; AND</li> <li>Is necessary to:               <ol style="list-style-type: none"> <li>Comply with a Project condition of approval or mitigation measure; OR</li> <li>Address topographical, geologic, or environmental factors on the site; OR</li> <li>Implement an alternative, innovative, new or emerging practice that achieves similar or better outcomes in terms of circulation, sustainability, or the design or performance of buildings or infrastructure; OR</li> <li>Reduce impacts on natural habitat or other resources.</li> </ol> </li> </ol> <p>Deviations that do not meet the criteria above may be processed as an Exception request at the project sponsor's election.</p> <p>Deviations from DWDSG standards that require an Amendment (identified below) shall not be subject to a Minor Modification. In addition, a Minor Modification shall not operate to:</p> <ul style="list-style-type: none"> <li>Increase the maximum number of residential units or maximum gross non-residential square footage permitted under the GDP; or</li> <li>Expand the limits of allowable conversion of gross square footage beyond the limits established in the GDP.</li> </ul>	<p>The Director of PBCE shall approve a Minor Modification if the following criteria are satisfied:</p> <ol style="list-style-type: none"> <li>The Minor Modification will not result in a new or more significant environmental impact than previously analyzed under the Downtown West Final Environmental Impact Report;</li> <li>The Minor Modification will not be injurious to public health or safety; and</li> <li>As applicable,         <ol style="list-style-type: none"> <li>The deviation is less than 10% from a dimensional or numerical standard (if the proposed deviation is from a Quantitative Standard; or</li> <li>The project sponsor has demonstrated that the proposed deviation from a Qualitative Standard:             <ul style="list-style-type: none"> <li>Does not materially affect the general character or architectural style of the site; AND</li> <li>Is necessary to:                 <ul style="list-style-type: none"> <li>Comply with a Project condition of approval or mitigation measure; OR</li> <li>Address topographical, geologic, or environmental factors on the site; OR</li> <li>Implement an alternative, innovative, new or emerging practice thamt [measurably] achieves similar or better outcomes in terms of circulation, sustainability, or the design or performance of buildings or infrastructure; OR</li> <li>Reduce impacts on natural habitat or other resources.</li> </ul> </li> </ul> </li> </ol> </li> </ol>	<p>Director of PBCE (non-appealable)</p>
Exception	<p>An Exception includes the following:</p> <ol style="list-style-type: none"> <li>A request to waive the application of a particular DWDSG standard to a Conformance Review application; or</li> <li>A deviation that does not meet the criteria for a Minor Modification or is not a Deferral or Amendment.</li> </ol>	<p>An exception to a DWDSG standard may be approved if the project sponsor demonstrates all of the following:</p> <ol style="list-style-type: none"> <li>There is a physical constraint, unique situation, or unforeseen circumstance;</li> <li>Approving the exception will maintain the integrity and character of the neighborhood in which the subject property is located. An exception maintains the integrity and character of the neighborhood if the effect of the exception would not be materially detrimental to public welfare, neighboring property, or nearby improvements and will not create a safety hazard.</li> <li>The project meets the planning objectives of the DWDSG and otherwise achieves the design intent set forth in the DWDSG chapter where the applicable standard appears.</li> </ol>	<p>Director of PBCE if Conformance Review application, with the requested Exception, can be approved in reliance on the Downtown West Final Environmental Impact Report (EIR), an Addendum to the EIR, or a Supplemental or Subsequent EIR that does not identify any new or substantially more severe significant environmental effects, following mitigation, than those identified in the EIR.</p> <p>If, in order to approve the Conformance Review and accompanying Exception, a Supplemental or Subsequent EIR is required and identifies one or more new or substantially more severe significant effects, following mitigation, the Planning Commission shall hold a hearing on the Conformance Review application and make a recommendation to the City Council regarding certification of the Supplemental or Subsequent EIR.</p>
Deferral	<p>A request to defer compliance with a DWDSG standard.</p> <p><b>Approved Deferrals:</b> A request for deferral shall not be required for deferred DWDSG standards identified on the Vertical and Open Space Compliance Checklist approved by the City at the time of Project approval. Planning staff's review of the project sponsor's compliance with deferrals approved by the City at the time of Project approval will be deferred to Building Permit review as described below. The project sponsor shall demonstrate compliance with previously approved deferred DWDSG standards prior to obtaining a Building Permit for the applicable building.</p> <p><b>Additional Deferral Requests:</b> As part of a Conformance Review Application, the project sponsor may request the deferral of additional DWDSG standards.</p> <p>The project sponsor shall provide the following information in a request for deferral of a DWDSG standard:</p> <ol style="list-style-type: none"> <li>Reason(s) why compliance with the standard cannot be accomplished at Conformance Review; and</li> <li>Proposed schedule for compliance with DWDSG standard; and</li> <li>A table or matrix identifying all DWDSG standards that have been deferred and the status of such deferred items.</li> </ol> <p>Planning staff's review of the project sponsor's compliance with deferrals approved by the City at the time of Project approval will be deferred to the Building Permit application review process as described below. The City's approval of a Deferral may include a finding that compliance with Deferred standards shall occur during the Building Permit application process as set forth in the Conformance Review process. The City's approval of a Conformance Review application shall otherwise be deemed final.</p> <p><b>Project Sponsor Compliance with Deferrals:</b> Prior to concurrent with submitting a Building Permit application for a building where a Deferral was granted, the project sponsor shall submit to Planning staff a checklist with the Deferred standards demonstrating that the previously deferred DWDSG standard has been satisfied. The project sponsor shall indicate on a Building Permit application that it has complied with all applicable DWDSG standards for the subject Building Permit application and shall include a notation of any Deferred standards on the plans, specifications, or diagrams submitted with the Building Permit application. The Building Permit application plans and specifications shall be reviewed by the building official, including any Deferred standards. Deferred standards identified on plans may also be reviewed by Planning staff, as necessary. If Planning staff reviews the Building Permit plans and specifications, such review shall be limited to the Deferred standards..</p> <p>The project sponsor may submit a demolition and / or foundation-only permit without this verification.</p> <p>The building official shall approve the plans and specifications and issue a Building Permit pursuant to the Municipal Code. If a Building Permit application includes a Deferred standard, the project sponsor may seek an adjustment to an approved Conformance Review application ("Conformance Approval Adjustment").</p> <p>The Vertical and Open Space Conformance Review Checklist identifies DWDSG standards that the City approved for Deferral at the time of Project approval. The project sponsor shall submit an updated Vertical and Open Space Checklist demonstrating compliance with these approved Deferrals prior to submitting the applicable Building Permit application. A request for Deferral is not required for DWDSG standards that the City approved for Deferral at the time of Project approval.</p>	<p>A request to defer compliance with a DWDSG standard may be granted if the project sponsor demonstrates that the requested deferral:</p> <ol style="list-style-type: none"> <li>Is necessary and will not materially delay the development of the Project;</li> <li>Will not impair the ability of the project sponsor to proceed with design and development of the area subject to Conformance Review; and</li> <li>Will maintain the integrity and character of the neighborhood in which the subject property is located or create a safety hazard.</li> </ol> <p>The Director of PBCE may condition the approval of future Conformance Review applications by requiring substantial evidence that the project sponsor demonstrates progress on deferred standards.</p>	<p>Director of PBCE if Conformance Review application, with the requested Deferral, can be approved in reliance on the Downtown West Final EIR, an Addendum to the EIR, or a Supplemental or Subsequent EIR that does not identify any new or substantially more severe significant environmental effects, following mitigation, than those identified in the original EIR.</p> <p>If, in order to approve the Conformance Review and accompanying Deferral, a Supplemental or Subsequent EIR is required and identifies one or more new or substantially more severe significant effects, following mitigation, the Planning Commission shall hold a hearing on the Conformance Review application and make a recommendation to the City Council regarding certification of the Supplemental or Subsequent EIR.</p>
Amendment	<p>The project sponsor may request an amendment for the following:</p> <ol style="list-style-type: none"> <li>A permanent deviation from any standard in the DWDSG that would be applied to the design and development of all property within the PD Zoning District; or</li> <li>A deviation from the following DWDSG standards identified below.         <ul style="list-style-type: none"> <li>Section 3.2: Zoning and Land Uses;</li> <li>Section 3.4: Building Demolition and Retention;</li> <li>The following DWDSG standards for open space design:             <ul style="list-style-type: none"> <li>Minimum open space acreage requirements set forth in S4.5.1 and S4.5.2;</li> <li>Location and access of mid-block passages set forth in S4.6.1 and S4.6.3;</li> <li>S4.7.2 Art within riparian setbacks</li> <li>Riparian Setback requirements under S4.8.1 and S4.8.3 and other Riparian Setback dimensions relating to the Riparian Corridor under S4.8.2 and S4.8.4</li> <li>Standards related to required open space programmatic elements for City-dedicated parks (Los Gatos Creek Connector, Los Gatos Creek Park, Social Heart, St. John Triangle, and Northend Park and Los Gatos Creek Multi-use Trail which occurs in Los Gatos Creek Park and Los Gatos Creek East), including S4.11.1 and related standards in Sections 4.12, 4.13, 4.15, 4.19, and 4.21, except as permitted by Section 4(G)(a) of the Parkland Agreement.</li> </ul> </li> <li>The following DWDSG standards for building design:             <ul style="list-style-type: none"> <li>Building extents relative to the Los Gatos Creek and Guadalupe River Riparian Corridors per S5.5.6, S5.5.7, and S5.6.2;</li> <li>Building height limitations below FAA maximum per S5.6.2 and S5.6.3;</li> <li>Skyline level change in plane per S5.10.1 and skyline level separation per S5.10.4;</li> <li>Occupiable projections in the podium and skyline levels per S5.9.2, S5.9.3, S5.10.2, S5.10.3, S5.17.4, with the exception of deviations from occupiable projection requirements for Project sponsor-owned open space under S5.9.2, S5.10.2 and S5.10.3 which are subject to the Minor Modification and Exception processes;</li> <li>Requirements of buildings with facades greater than 350 feet in length per S5.9.5 and Section 5.11: Skyline Level Long Facades;</li> <li>Section 5.15: Historic Resources;</li> <li>Section 5.16: Low-Rise Context;</li> <li>S5.17.1 and S5.17.2 in relation to Los Gatos Creek;</li> </ul> </li> <li>Section 6.3: Street Network and Hierarchy excluding S6.3.3, S6.3.4 and S6.3.7;</li> <li>S6.4.8 Sidewalk zone requirements;</li> <li>S6.5.1 Location and type of bicycle lanes;</li> <li>S6.6.1 Transit access lanes;</li> <li>S6.8.6 Private street Guadalupe River Riparian Setback;</li> <li>S6.16.2 Off-street parking supply;</li> <li>Section 7.4: Lighting Adjacent to Riparian Corridors;</li> <li>S7.9.1 interpretative signage at Project resource.</li> </ul> </li> </ol>	<p>An Amendment may be approved through Conformance Review where the Director of PBCE makes all of the following findings:</p> <ol style="list-style-type: none"> <li>The PD Permit, as amended, is consistent with and furthers the policies of the General Plan (as vested under the DA);</li> <li>The Amendment conforms in all respects to the PD Zoning District;</li> <li>The Amendment is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency (as vested under the DA); and</li> <li>The interrelationships between the orientation, location, mass and scale of building volumes, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious; and</li> <li>The environmental impacts of the project, including, but not limited to noise, vibration, dust, drainage, erosion, stormwater, shadow, and odor, which, even if insignificant for purposes of CEQA, will not have an unacceptable negative effect on adjacent properties.</li> </ol> <p>An Amendment shall not operate to increase the maximum number of residential units or maximum gross non-residential square footage, to decrease the overall amount of open space, or to increase maximum building heights established by the GDP. An Amendment also shall not expand the limits of allowable conversion of gross square footage beyond the limits established in the GDP.</p>	<p>Director of PBCE if Conformance Review application, with the requested Amendment, can be approved in reliance on the Downtown West Final EIR, an Addendum to the EIR, or a Supplemental or Subsequent EIR that does not identify any new or substantially more severe significant environmental effects, following mitigation, than the original EIR.</p> <p>If, in order to approve the Conformance Review and accompanying Amendment, a Supplemental or Subsequent EIR is required and identifies one or more new or substantially more severe significant effects, following mitigation, the Planning Commission shall hold a hearing on the Conformance Review application and make a recommendation to the City Council regarding certification of the Supplemental or Subsequent EIR.</p> <p>Appeal of PD Permit Amendment:</p> <p>Director of PBCE approval of a PD Permit Amendment in reliance on an Addendum is appealable to the Planning Commission.</p> <p>If the Director of PBCE approves a PD Permit Amendment in reliance on a Subsequent or Supplemental EIR (regardless of whether it identifies one or more new or substantially more severe significant environmental effects following mitigation) and the Director of PBCE's certification of the Subsequent or Supplemental EIR and approval of the PD Permit are both appealed, City Council shall hear the appeal.</p>
DWDSG DISC Process	<p>Pursuant to S4.9.2, S5.5.5, and S6.3.4, if a DISC Partner Agency takes significant steps in furtherance of the acquisition or condemnation of any portion of Downtown West, the DWDSG authorizes the project sponsor to seek deviations from DWDSG standards as necessary to avoid the acquisition areas while maximizing development potential without requiring an Amendment to the DWDSG. Deviations are permitted pursuant to the DISC standards if the requested deviation is consistent with the General Plan and GDP and compliance with CEQA has been demonstrated (including the completion of any additional necessary environmental review). Such deviations may include, without limitation, changes to required land uses, reconfiguration of the street network, and reconfiguration and proportional reductions in open space. Deviations that result in inconsistency with the General Plan or GDP (e.g. further reduction in the riparian setback) would require an Amendment.</p> <p>The project sponsor may process a clerical update to the DWDSG to memorialize any deviations made pursuant to S4.9.2, S5.5.5, and S6.3.4.</p>	<p>The Director of PBCE shall approve a deviation requested pursuant to the DISC standards if the proposed deviation is consistent with the General Plan and GDP and compliance with CEQA has been demonstrated.</p>	<p>Director of PBCE</p>

Note:

\* The Director of PBCE shall consult with the Director of Public Works, as necessary, for requests for relief from DWDSG standards in Chapter 6 (Mobility) and other DWDSG standards related to horizontal improvements identified in DWDSG Appendix C.3 (Horizontal Improvement Conformance Review Checklist).

# 8.02

## Zoning / Design Conformance Review Process Downtown West Mixed-Use Plan

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