



Memorandum

TO: PLANNING COMMISSION
SUBJECT: GP19-009, PDC19-039, PD19-029, HP20-002, and PT20-027
 (Downtown West Mixed-Use Plan)

FROM: Chu Chang
DATE: April 21, 2021

COUNCIL DISTRICT: 3 & 6

List of Entitlements	General Plan Amendment, Diridon Station Area Plan Amendment, Title 20 Amendment, Planned Development Rezoning, Planned Development Permit, Historic Preservation Permit Amendment, Vesting Tentative Map, Development Agreement, Major Encroachment Permits, Construction Impact Mitigation Plan, and Historic Preservation Permit Amendment
Demolition	Up to 7 residential units and approximately 755,000 GSF of non-residential uses
Proposed Land Uses	Residential, Office, Active Uses, Hotel, Limited Term Corporate Accommodations, Open Space, Event and Conference Center, Logistics/Warehouse, and Infrastructure
New Residential Units	Up to 5,900 units
New Non-Residential Square Footage/Rooms	A maximum of up to 7.3 million GSF of office, a up to 500,000 GSF of active uses (retail, restaurants, arts, cultural, live entertainment, institutional, childcare and education, maker spaces, non-profit, small-format offices), up to 300 hotel rooms, up to 800 limited-term corporate accommodations, up to 100,000 GSF of event and conference space, up to 100,000 GSF of logistic centers, a district systems approach to delivery of on-site resources within designated infrastructure zones with on-site centralized utility plants totaling up to 130,000 gsf.
Open Space	Approximately 15 acres of parks, plazas, and open space
Additional Policy Review Items	Riparian Corridor Protection and Bird-Safe Design (Policy 6-34, Section A) LTA Council Policy 5-1, City Council Policy 6-30: Public Outreach Policy
Tree Removals	Up to 254 ordinance size trees and 283 non-ordinance size trees
Project Planners	James Han and John Tu
CEQA Clearance	Downtown West Mixed-Use Plan Environmental Impact Report (EIR)

CEQA Planners	Shannon Hill and David Keyon
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RECOMMENDATION

Staff recommends that the Planning Commission recommend to the City Council to take all of the following actions:

1. Adopt a Resolution certifying the Downtown West Mixed-Use Plan Environmental Impact Report and make certain findings concerning significant impacts, mitigation measures and alternatives, and adopting a statement of overriding considerations and a mitigation monitoring and reporting program, all in accordance with the California Environmental Quality Act, as amended (CEQA); and
2. Adopt a Resolution by 2/3 majority making certain findings required by California Public Utilities Code Section 21676 that Proposed General Plan Amendment File No. GP19-009 and Planned Development Rezoning File No. PDC19-039 are consistent with the purposes set forth in California Public Utilities Code Section 21670 and overruling the Santa Clara County Airport Land Use Commission’s (ALUC) determination that the proposed project is inconsistent with the ALUC noise and height policies as defined by the Comprehensive Land Use Plan for the San José International Airport (CLUP); and
3. Adopt a Resolution amending the Envision San José 2040 General Plan to revise the land use designation of the project site, amend General Plan policies LU-6.1 and LU-1.9, and implement other text amendments and amendments to General Plan diagrams related to the Downtown West Mixed-Use Plan; and
4. Adopt a Resolution amending the 2014 Diridon Station Area Plan, a component of the General Plan, to revise the land use designation for the project site, expand the Diridon Station Area Plan boundary, and implement other text amendments and amendments to diagrams related to the Downtown West Mixed-Use Plan; and
5. Approve an Ordinance amending Title 20 to add Section 20.70.700 to clarify that project-specific ordinances for the Downtown West Mixed-Use Plan shall govern development within the Downtown West Planned Development Zoning District and supersede any conflicting provisions in Title 20; and
6. Approve an Ordinance rezoning an approximately 80-gross acre site on certain real properties extending approximately one mile from north to south, and generally bounded by: Lenzen Avenue and the Union Pacific Railroad tracks to the north; North Montgomery Street, Los Gatos Creek, the Guadalupe River, State Route 87, Barack Obama Boulevard, and Royal Avenue to the east; Auzerais Avenue to the south; and the Caltrain rail corridor and Cahill Street to the west from the HI Heavy Industrial, LI Light Industrial, A(PD) Planned Development , PQP Public/Quasi-Public, Commercial Neighborhood, DC Downtown Primarily Commercial, CG Commercial General, CIC Combined Industrial/Commercial to the DC(PD) Planned Development Zoning District, to allow developing up to 5,900 residential units; up to 7,300,000 gross square feet (GSF) of office space; up to 500,000 GSF of active uses such as retail, cultural, arts, civic etc.; up to 300 hotel rooms; up to 800 limited-term corporate accommodations; up to two event and conference centers totaling up to 100,000 GSF; up to two central utility plants totaling

approximately 130,000 GSF; logistic/warehouse(s) totaling approximately 100,000 GSF and approximately 15 acres of open space; and

7. Adopt a Resolution approving, subject to conditions, a Planned Development Permit, including the Downtown West Design Standards and Guidelines (DWDSG), the Downtown West Improvement Standards, the Conceptual Infrastructure Plan Sheets, and Conformance Review Implementation Guide, to allow up to 5,900 residential units; up to 7,300,000 gross square feet (gsf) of office space; up to 500,000 GSF of active uses such as retail, cultural, arts, civic etc.; up to 300 hotel rooms; up to 800 limited-term corporate accommodations; up to two event and conference centers totaling up to 100,000 GSF; up to two central utility plants totaling approximately 130,000 GSF; logistic/warehouse(s) totaling approximately 100,000 GSF and approximately 15 acres of open space on an approximately 78-gross acre site extending approximately one mile from north to south, and generally bounded by Lenzen Avenue and the union pacific railroad tracks to the north; North Montgomery street, Los Gatos Creek, the Guadalupe River, State Route 87, Barack Obama Boulevard, and Royal Avenue to the east; Auzerais Avenue to the south; and the Caltrain rail corridor and Cahill street to the west; and
8. Adopt a Resolution approving, subject to conditions, the Vesting Tentative Map to subdivide 136 lots into no more than 178 lots and allow up to 5,900 residential condominiums and up to 20 commercial condominiums on an approximately 84-gross acre site; and
9. Approve an Ordinance approving a Development Agreement between the City of San José and Google LLC for the Downtown West Mixed-Use Plan; and
10. Adopt a Resolution authorizing Major Encroachment Permits for District Systems at various locations within the Downtown West development area; and
11. Adopt a Resolution approving the Construction Impact Mitigation Plan; and
12. Adopt a Resolution amending the Historic Preservation Permit HP16-002 (File No. HP20-002) to revise the terms of the Permit to be consistent with the Downtown West Mixed-Use Project, which includes the San José Water Works City Landmark at 374 West Santa Clara Street

PROPERTY INFORMATION

Location	Approximately 80 gross acres extending approximately one mile from north to south, and generally bounded by: Lenzen Avenue and the Union Pacific railroad tracks to the north; North Montgomery Street, Los Gatos Creek, the Guadalupe River, State Route 87, Barack Obama Boulevard, and Royal Avenue to the east; Auzerais Avenue to the south; and the Caltrain rail corridor and Cahill Street to the west
Assessor Parcel Nos.	264-15-015, -016, -017, -018, -019, -063, -064, -065 261-37-016, -020, -021, -023, -029, -030, -031 259-47-038, -040, -077, -079, -080 261-35-002, -003, -006, -007, -010, -014, -027 259-48-011, -012, -013, -052, -053 259-38-009, -010, -011, -014, -015, -018, -019, -027, -028, -029, -036, -039, -040, -041, -042, -085, -087, -088, -089, -090, -109,

	-110, -113, -114, -116, -117, -118, -119, -121, -122, -123, -124, -128, -129, -130, -132, -133, -134, -135, -139, -141, -142, -145, -146, -147, -148 259-28-031, -041, -043, -044 259-27-003, -007, -008, 009, -010, -011, -014, -015, -016, -017 259-26-017, -022 261-34-020
Existing General Plan	Transit Employment Center, Public/Quasi-Public, Open Space, Parklands and Habitat Commercial Downtown, Downtown and Combined Industrial/Commercial
Proposed General Plan	Downtown and Commercial Downtown
Growth Area	Downtown Growth Area; Diridon Station Area Plan (DSAP)
Existing Zoning	HI Heavy Industrial, LI Light Industrial, A(PD) Planned Development, PQP Public/Quasi-Public, Commercial Neighborhood, DC Downtown Primarily Commercial, CG Commercial General, CIC Combined Industrial/Commercial
Proposed Zoning	DC(PD) Planned Development Zoning (File No. PDC19-039)
Historic Resource	Yes
Annexation Date	Original City and March 15, 1911 (Gardner)
Council District	3 and 6
Acreage	Approximately 80-gross acre site
Proposed Density	Varies (up to 800 dwelling units per acre and up to 30 Floor Area Ratio (FAR) within the Downtown land use designation; up to 15 FAR within the Commercial Downtown land use designation)

PROJECT BACKGROUND

In 2017, Google expressed interest in being the master developer to implement key aspects of the Diridon Station Area Plan. On December 4, 2018, the City Council adopted a Memorandum of Understanding (MOU) between the City of San José and Google, that memorialized shared goals and community input gathered in 2018. The MOU sets forth the guiding principles for collaboration between the City and Google and shared goals for a future mixed-use, transit-oriented development, consistent with the DSAP vision. The MOU provides a framework for moving forward on development in and around the Diridon area.

In furtherance of the project, Google submitted its initial application for the "Downtown West Mixed-Use Plan" (the Project) to the City's Planning, Building, and Code Enforcement Department on October 10, 2019, which started the formal development review process. Since the initial submittal Google and the City have worked with various stakeholders to shape the application and Project to meet the objectives set out in the MOU framework, in addition to objectives set by the community as part of the public engagement process.

On December 13, 2019, Governor Gavin Newsom certified the Project as an environmental leadership development project under Public Resources Code Section 21178 et seq., the Jobs and Economic Improvement through Environmental Leadership Act of 2011 (Assembly Bill [AB] 900, as amended by Senate Bill 734 [2013], AB 246 [2017], and Senate Bill 7 [2021], which is currently pending approval in the California State Legislature), and AB 246).

Planning Application

The scope of the project application includes:

- Up to of 7.3 million gross square feet (gsf) of commercial office space
- Up to of 5,900 residential units
- Up to of 500,000 gsf of active uses (commercial retail/restaurant, arts, cultural, live entertainment, community spaces, institutional, childcare and education, maker spaces, non-profit, and small-format office space)
- Up to of 300 hotel rooms
- Up to of limited-term corporate accommodations
- Up to of 100,000 gsf of event and conference space
- Up to of 4,800 publicly accessible commercial parking spaces and up to 2,360 unbundled parking spaces for residential use
- A "District Systems" approach to delivery of on-site resources, including designated infrastructure zones with up to two (2) on-site centralized utility plants totaling up to 130,000 gsf
- One or more on-site logistics centers to serve the commercial on-site uses that would occupy a total of approximately 100,000 gsf
- A total of approximately 15 acres of parks, plazas and open space, including 4.8 acres of public parkland and 10.2 acres of private open space that will include areas for outdoor seating and commercial activity (such as retail, cafes, and restaurants), green spaces, landscaping, mid-block passages, riparian setbacks, and trails.
- Various other improvements to the public realm to improve transit access and pedestrian and bicycle circulation and facilitate connectivity, both within the site and to and from surrounding neighborhood

SURROUNDING USES

The below context maps illustrate the proposed Project site in context of surrounding General Plan land use designations, zoning, and existing land uses.

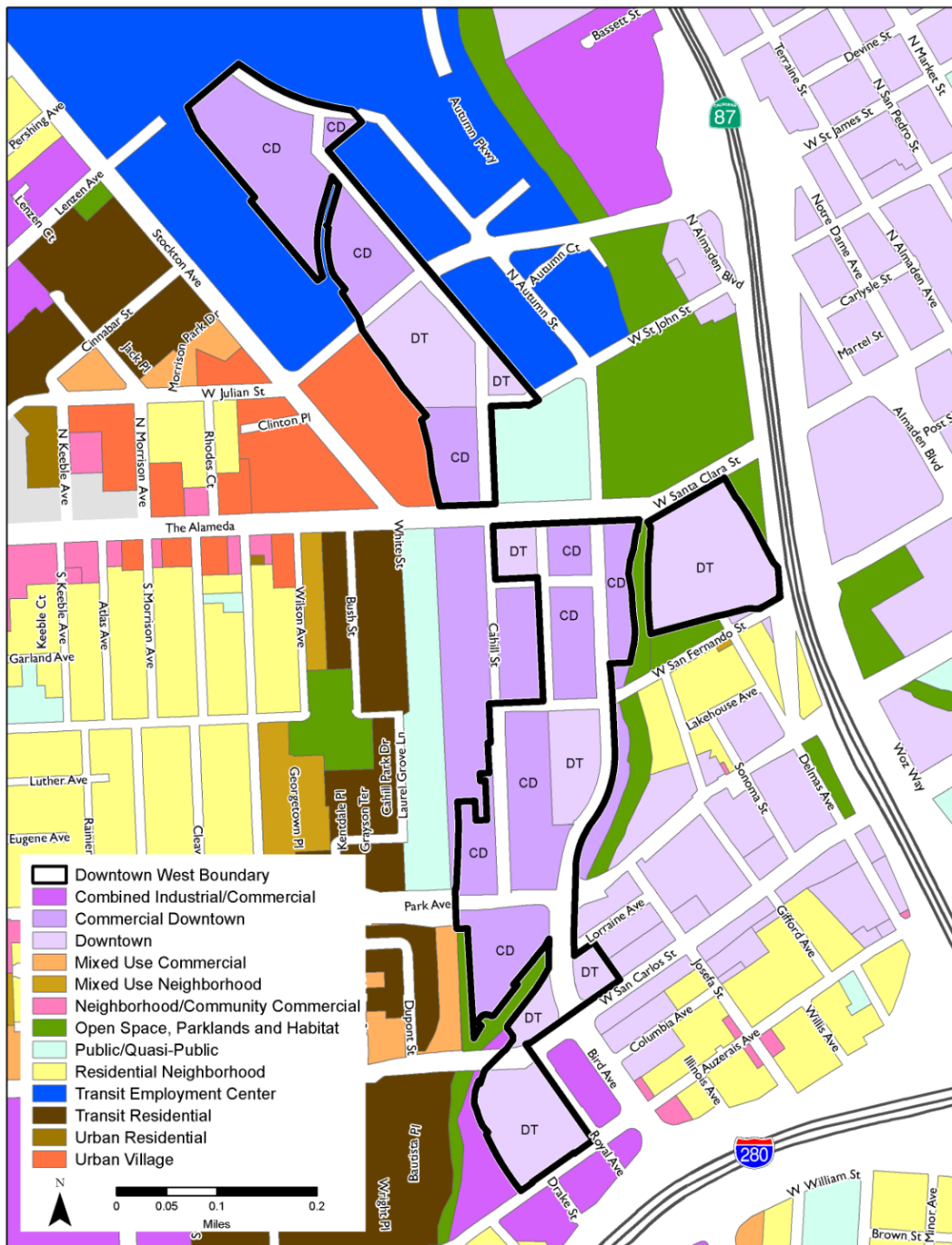


Figure 1: Proposed General Plan Designation for Downtown West Site and Surrounding General Plan Designations

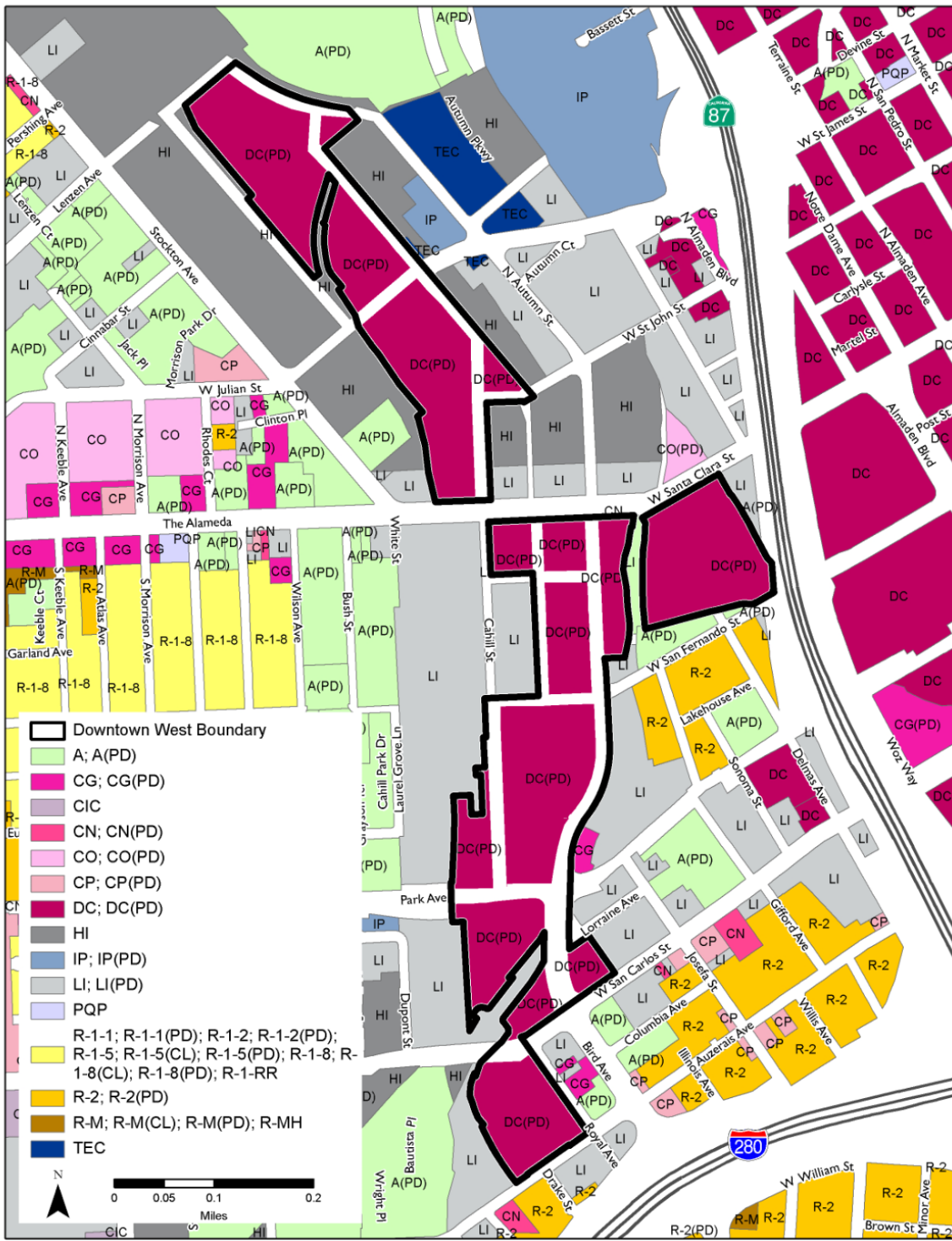


Figure 2: Proposed DC(PD) Planned Development Zoning District for the Downtown West Site and Surrounding Zoning Districts



Figure 3 Illustration of Surrounding Existing Uses

The Project site is located adjacent to Diridon Station and the SAP Center. The Project site is also located within the vicinity of several established residential neighborhoods: Autumn-Montgomery to the northeast; Delmas Park (including Lakehouse, Park/Lorraine, and Auzerais/Josefa), Gardner, and North Willow Glen to the southeast; Garden Alameda, St. Leo's, Midtown, and Shasta–Hanchett Park to the west; and the Horace Mann, Hensley, and Market Almaden neighborhoods east of SR 87.

Several existing City parks are also located within the vicinity of the Project site, including Cahill Park, on West San Fernando Street just west of Diridon Station (about 500 feet west of the Project site); Guadalupe River Park, and its Arena Green, immediately across West Santa Clara Street from the Project site's eastern most extent (about 100 feet from the site); Del Monte Park, about 550 feet southwest of the Project site at Auzerais Avenue and Los Gatos Creek; John P. McEnery Park (part of the Guadalupe River Park), south of West San Fernando Street and immediately east of SR 87 from the site's easternmost extent (about 275 feet east of the project site); and portions of the linear Guadalupe River Park, located east of the Project site.

Site Location

The Project site for the EIR and the Downtown West PD Zoning consists of approximately 80 acres, including approximately 100 individual parcels (the total acreage also includes some public rights-of-way between or adjacent to project parcels). The Project site 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 Avenue), and Royal Avenue to the east; Auzerais Avenue to the south; and Diridon Station and the Caltrain railroad tracks to the west. Most of the land being studied as part of the project as described above is owned by the project applicant.

The Project site is in an area of Downtown San José that accommodates manufacturing, light industrial, and business service land uses intermixed with limited residential and commercial uses. The built environment of the Project site and vicinity is characterized by a pattern of one and two-story buildings that cover only portions of their lots, with the remaining unbuilt lot space used as surface parking. The total floor area of the buildings currently on the Project site accounts for approximately 755,000 square feet; many of the existing buildings, comprising more than one-third of total building space, are vacant.

In all, approximately 40 percent of the Project site is currently devoted to parking lots, a portion of which includes Lots A, B, and C, adjacent to the SAP Center, which provide 1,422 stalls. The site also includes Lot D, south of West Santa Clara Street between South Montgomery and South Autumn Streets, which provides 228 spaces. Lots A, B, C, and D provide parking for use by the SAP Center and for daytime public parking. The Project site also includes VTA-owned parking lots west of South Montgomery Street; two large parking lots south of West Santa Clara Street on both sides of Delmas Avenue; and several other smaller parking lots, some publicly available and some dedicated to specific retail, restaurant, and other uses.

ENTITLEMENT SUMMARY

As listed above in the recommendation, there are several approvals necessary to entitle a project of this size and scale, each of which is further outlined in the sections below:

Certification of the Downtown West Mixed-Use Plan Environmental Impact Report

The City's compliance with the California Environmental Quality Act (CEQA) is described below under the heading CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA). Pursuant to CEQA, prior to making a decision on the Project, the City of San Jose, as the lead agency for the Project, must certify the Final Downtown West Mixed-Use Plan Environmental Impact Report (Final FEIR). The advisory body concerning certification of the Final EIR is the Planning Commission, which is responsible for making a recommendation to the City Council concerning certification of the Final EIR. City Council is the final decision-making body concerning certification of the Final EIR, and the Council must adopt a resolution certifying the Final EIR, including certain findings regarding significant effects, a Statement of Overriding Considerations finding that the benefits of the project outweigh its identified significant and unavoidable effects, and a Mitigation Monitoring and Reporting Program describing required mitigation measures, responsible entities, and timing for implementation and monitoring.

Adopting Overriding Findings Regarding Santa Clara County Airport Land Use Commission's Determination of Inconsistency for the Project

As portions of the project fall within the Airport Land Use Commission (ALUC) Airport Influence Area surrounding Mineta San José International Airport (SJC), the General Plan Amendment (land use designations) and Planned Development Rezoning were referred to the ALUC. On December 16, 2020 the ALUC found the General Plan and Planned Development Zoning inconsistent with certain ALUC noise and height policies as defined in the "Comprehensive Land Use Plan for San José International Airport" (CLUP). The ALUC found the rezoning and general plan amendment would be inconsistent with the CLUP Noise Policy N-4 and Table 4-1 because a portion of the site would permit residential outdoor patios or outdoor activity areas within the CLUP's 65 A-weighted decibels (dBA) Community Noise Equivalent Level (CNEL) noise contour.

The ALUC found the proposed rezoning and general plan amendment were also inconsistent with the CLUP H-1 height policy, as the project may propose building heights that exceed FAR Part 77 Surfaces. The CLUP height policy references FAR Part 77 Surfaces to determine compatible land uses in the Airport Influence Area

On February 19, 2021 the City notified the ALUC and the Caltrans Division of Aeronautics of the City's intention to overrule the determination by the ALUC with a two-thirds vote of the City Council, providing a draft City resolution (see Attachment B.6.) making specific findings that the proposed action is consistent with the purposes set forth in Section 21670 of the California Public Utilities Code (Section 21670).

The City received Caltrans comments on March 23, 2021 and ALUC comments on April 15, 2021. The original draft resolution has been updated to attach these comments and respond to them. See Attachment B.1.

The Project is Consistent with All ALUC Safety Policies:

Regarding safety, the Caltrans letter asserts, incorrectly, that the ALUC found the proposed GPA and rezoning inconsistent with CLUP safety policies. The ALUC asserts that the City's proposed resolution should delete or amend findings that the project is located outside the CLUP safety zones. The City's proposed findings regarding safety are accurate, are directly relevant to stated purposes of the Aeronautics Act to prevent the creation of new safety problems and minimize the public's exposure to safety hazards, and match findings in previous overrule resolutions.

Indoor Residential/Hotel Noise Is Addressed by Mitigation Measure NO-3:

Caltrans asserts that acoustical analysis should be required prior to building permit issuance to ensure the Building Code's interior noise standard is met. Project Mitigation Measure NO-3 already required this and is part of the MMRP.

Outdoor Residential/Hotel Noise Does Not Create New Noise Problems:

Caltrans and the ALUC do not acknowledge all of the requirements described in the proposed resolution supporting the conclusion that allowing outdoor use areas at residential and hotel buildings would not create new noise problems. As to noise, the City's difference with the CLUP pertains only to the ability to provide outdoor use areas such as balconies at residential and hotel uses within the 65 dBA CNEL noise contour; the City concludes, based on evidence described in the proposed resolution, that providing such areas is consistent with the purposes of the Aeronautics Act to avoid creating new noise problems.

Building Heights Are Subject to FAA Review:

Caltrans and the ALUC take issue with the City's reliance on the FAA's regulatory process to ensure that building heights have been studied by the FAA as required by federal regulation and receive a determination of no hazard. The FAA is the only authoritative source on airspace utilization. FAR Part 77 and its imaginary airspace surfaces are used by the FAA to identify structures requiring aeronautical studies and airspace determinations. If a proposed building exceeds Part 77 surfaces, then the FAA is required to determine the potential aeronautical effect. The FAA's studies account for all known and proposed structures in the airport environment and consider both project-specific and cumulative effect. Caltrans expresses concern that the building heights permitted by the project would constrain future Airport

development, but the City's Airport Department has examined the project and considers it consistent with Airport planning, safety and economic interests.

Amendment to Envision San José 2040 General Plan

The project's General Plan Amendment would amend the existing land use designations from Transit Employment Center, Public/Quasi-Public, Open Space, Parklands and Habitat Commercial Downtown, Downtown and Combined Industrial/Commercial to Downtown or Commercial Downtown, as depicted on Attachment C.2. Additionally, the General Plan Amendment modifies Policy LU-6.1 to provide that lands located within the DSAP may be re-designated from mixed industrial-commercial land to mixed residential-commercial or non-employment uses, consistent with the Downtown or Commercial Downtown land use designations for the Project site. The amendment modifies Policy LU-1.9 to authorize lands designated Public/Quasi-Public within the DSAP to be re-designated to other land use designations that advance the City's employment growth or housing goals. The General Plan Amendment proposes the re-designation of the following streets as further depicted in Attachment C.2.: South Montgomery Street (between West Santa Clara Street to West San Fernando Street) from a Grand Boulevard to Main Street; and North Montgomery Street (between West Julian Street to West St. John Street) from a Local Connector to On-Street Primary Bicycle Facility. Additionally, the amendment includes various text and diagram amendments as further set forth in Attachment C.2., including but not limited to text amendments clarifying that the DSAP is not an "Urban Village" and describing changes that have occurred since the City's adoption of the DSAP in 2014, and diagram amendments showing changes to the street network, and diagram amendments showing changes to the street network, including through the abandonment of public streets and public easements, and changes to street typology.

Amendment to Diridon Station Area Plan

The City adopted the Diridon Station Area Plan ("DSAP") in 2014, which is a component of the General Plan and implements the goals and policies of the General Plan within the DSAP area. The majority of the project site is located in the 2014 DSAP boundary.

The Project-specific DSAP Amendment modifies the 2014 DSAP to be consistent with the General Plan amendments described above, and to update the 2014 DSAP to reflect City planning efforts that have evolved since the adoption of the DSAP in 2014, including the following: the City is no longer planning a major league ballpark; the City Council adopted the San Jose Downtown Design Guidelines and Standards in 2019; the City Council approved a policy to allow for greater height limits in Downtown, including within the DSAP in March 2019. In parallel the City is proposing their own DSAP amendment that would update the plan for the entire DSAP area and incorporate modifications to reflect the Downtown West project. The Project-specific DSAP Amendment is attached as Attachment D.2. In summary, the Project-specific DSAP Amendment would:

- Expand the existing 240-acre DSAP boundary to include the approximately 10-acre area bounded by West Santa Clara Street, Los Gatos Creek, Guadalupe River, and West San Fernando Street.
- Amend the land use designations for the Project site from the existing designations of Transit Employment Center, Public/Quasi-Public, Open Space, Parklands and Habitat Commercial Downtown, Downtown and Combined Industrial/Commercial to the land use

designations of Downtown or Commercial Downtown, consistent with the General Plan amendments.

- Amend the street typology for the following streets to align with the General Plan, South Montgomery Street (between West Santa Clara Street to West San Fernando Street) from a Grand Boulevard to Main Street; and North Montgomery Street (between West Julian Street to West St. John Street) from a Local Connector to On-Street Primary Bicycle Facility.
- Amend the street typology for the following streets: St. John Street (east of North Montgomery) from Local Connector to On-Street Primary Bicycle Facility; North Montgomery from Bicycle Boulevard and Local Connector to On-Street Primary Bicycle Facility; and Post Street (between South Montgomery and South. Autumn Street) from Bicycle Boulevard to Local Connector.
- Further clarify that certain design standards, including but not limited to open space, circulation, public art, parking, and building heights, for Downtown West are set forth and governed by the Project's approvals and documents.
- Remove references to the ballpark since the City is no longer pursuing a Major League Baseball park.
- Remove references to the "test fit" which was a 2014 DSAP planning tool.

Rezone to Planned Development Zoning District and approval of Downtown West General Development Plan

The purpose of a Planned Development Zoning District is to allow for specifically tailored development standards to meet the unique needs of the zoned area, while maintaining consistency with the City's General Plan. Given the size and integrated, mixed-use nature of the project, the project's Planned Development Zoning District and General Development Plan include various development standards to provide for the proposed development and occupancy of the site pursuant to the standards, requirements, and procedures of the Downtown West PD Zoning District, including but not limited to the intensity, mix of land uses and allowable conversion of land uses and transfer of square footage, building heights, and subsequent review process. Modifications to the development standards require City Council action unless otherwise specified in the Planned Development Zoning District and/or General Development Plan.

The Planned Development Zoning District's General Development Plan includes:

- Development standards applicable to development within the Planned Development Zoning District, which in conjunction with the Planned Development Permit, which include the Downtown West Design Standards and Guidelines, the Downtown West Improvement Standards, Conceptual Infrastructure Plan Sheets, and Conformance Review Implementation Guide, govern the land uses, design, and layout of the Project site (e.g. maximum allowable development, setbacks, parking, building heights)
- Allowable land uses within the Planned Development Zoning District, including Interim Uses, Special Events and Limited-Term Uses
- Use regulations and conditions applicable to certain land uses, and Project review processes for use permits (e.g. Administrative Permits, Interim Uses, Special Events and Limited-Term Uses).

- Conceptual land use plan, block plan, open space plan, circulation plan, infrastructure plan, grading and renderings.
- Existing conditions exhibits (e.g. parcels, trees, waterways).
- Establishes the Zoning/Design Conformance Review (Conformance Review) process, which shall govern the subsequent review of the design for vertical improvements, open space, and horizontal improvement as design progresses for the Project. During the Conformance Review process, the project sponsor may request relief from DWDSG standards, including Minor Modifications, Exceptions, Deferrals and Amendments, as further set forth in the GDP. The project sponsor may also request modifications from DWIS specifications, and amendments to the Infrastructure Plan pursuant to the terms of the DWIS and Infrastructure Plan, respectively. The Director of PBCE is the approval body for a Conformance Review application for vertical improvements and open space. The Director of Public Works reviews plans submitted as part of the Conformance Review process for horizontal improvements. The GDP further establishes the appropriate approval body for Conformance Review applications and an associated CEQA determination. The Conformance Review Implementation Guide, a component of the Planned Development Permit, establishes the Conformance Review application requirements and applicable City review timeframes.
- To allow development within the Planned Development Zoning District to respond to potential unavailability of land, fluctuation in demand for building types, allowable changes to phasing, and related considerations, the GDP authorizes the project sponsor to request the transfer of residential units and/or non-residential square footage from one Sub-Area to another, subject to compliance with CEQA and other conditions identified in the GDP. The GDP also authorizes the project sponsor to convert up to 500,000 square feet of one or more land uses allowed under the GDP to one or more different land uses allowed under the GDP, subject to compliance with CEQA and other conditions identified in the GDP, and provided that no conversion shall result in the reduction of allowable Active Uses to below 500,000 square feet in the aggregate.

Amendment to Title 20 of the City of San José Municipal Code

As described above, pursuant to [Section 20.10.070](#) of the San José Municipal Code, a Planned Development Zoning District shall be individually designed to meet the needs of the territory so zoned and development of the subject property can occur only pursuant to an effective Planned Development Permit issued in conformity with the General Development Plan. To ensure that development within the Planned Development Zoning District shall be allowed in a manner that is consistent with the standards, requirements, and procedures set forth in the Planned Development Zoning District, including but not limited to intensity, height, land uses, and subsequent review and approval procedures, Title 20 will be amended to create a new Section 20.70.700 which provides that development within the Planned Development Zoning District shall not be subject to provisions of Title 20 that conflict with, or would interfere with development and occupancy of the real property as set forth in the Planned Development Zoning District. The intent of the Title 20 amendment is to ensure that the standards and requirements set forth in the Planned Development Zoning District, the San Jose Municipal Code, and all Project approvals and documents should be construed in a manner that fully

implements development of the Project consistent with the standards, requirements and procedures set forth in the Planned Development Zoning District and the GDP.

Approval of Downtown West Planned Development Permit, including the Downtown West Design Standards and Guidelines, the Downtown West Improvement Standards, the Conceptual Infrastructure Plan Sheets and the Downtown West Conformance Review Implementation Guide.

The Planned Development Permit effectuates the Planned Development Zoning and consists of the following documents: Downtown West Design Standards and Guidelines (DWDSG); Downtown West Improvement Standards (DWIS); Conceptual Infrastructure Plan Sheets; and Conformance Review Implementation Guide (Implementation Guide). The Planned Development Permit establishes a site-specific set of standards and guidelines that govern the phased design and buildout of the site as further described below.

The real property subject to the Planned Development Permit includes Sub-Area 1 and Sub-Area 3 as generally depicted in the GDP. Sub-Area 2 is not subject to the Planned Development Permit. The GDP identifies the maximum allowable development in each Sub-Area, subject to the allowable transfers and conversion established in the GDP. Up to 5,900 residential units are permitted within the real property subject to the Planned Development Permit pursuant to the allowable transfers and conversions under the GDP.

The Downtown West Design Standards and Guidelines (DWDSG) describes the vision for the development of the 78-acre property subject to the Planned Development Permit. The following summarizes key components of the DWDSG:

- The DWDSG establishes mandatory standards and subjective guidelines in the areas of land use, open space, buildings, mobility, lighting and signage, and sustainability. Compliance with standards is required while compliance with guidelines is not required as set forth in the DWDSG.
- The DWDSG standards and guidelines balance innovation and evolution within Downtown West with specificity to ensure the delivery of high-quality urban spaces and building design. The DWDSG implements a design framework that builds on the adjacent and greater Downtown area as it relates to connectivity, public realm, land use, massing and architecture.
- The DWDSG builds upon the Downtown Design Guidelines (DDG) and Complete Streets Design Standards and Guidelines (CSDSG) with standards and guidelines tailored to site-specific conditions. The DDG continues to apply to development of the site unless a DDG or CSDSG standard or guidelines is superseded by the DWDSG. DDG and CSDSG standards and guidelines superseded by the DWDSG are identified in Appendix D and E of the DWDSG.
- Since the design of the Project is intended to be an iterative process that occurs in phases, the DWDSG identifies other regulatory documents that may be applicable to the evaluation of future building, open space, and streetscape design.
- In furtherance of the Conformance Review process established through the Planned Development Zoning, the DWDSG includes Conformance Review Checklists to be used during the Conformance Review process to facilitate the review of subsequent designs for vertical improvements, open space, and horizontal improvements.

Downtown West Improvement Standards (DWIS) and Conceptual Infrastructure Plan Sheets: The DWIS describe the standards and specifications used to evaluate horizontal improvements within the PD Zoning District. The City's "standard specifications" as defined in Chapter 19.08.400 of the Municipal Code are the Standard Details and Standard Specifications, both as adopted by the City's Public Works Department in July 1992 (1992 Standards). The DWIS incorporates the 1992 Standards by reference and supersedes or modifies certain terms of the 1992 Standards as further set forth in the DWIS. The Conceptual Infrastructure Plan Sheets are conceptual level designs that describe the anticipated floodplains, grading, utility layout and stormwater improvements within the public right-of-way.

Downtown West Conformance Review Implementation Guide (Implementation Guide): The Implementation Guide, combined with the General Development Plan, explains the detailed process for subsequent approvals for horizontal improvements, vertical improvements or open spaces and includes specific submittal requirements for Conformance Review applications, as well as the City's review and approval process for those applications.

Development Agreement for Downtown West Mixed-Use Plan

On December 4, 2018, City Council approved a Memorandum of Understanding (MOU) with Google to guide collaboration on a mixed-use development project moving forward. The MOU outlined guiding principles and shared goals for a mixed-use, transit-oriented development to be proposed by Google. The MOU was based on extensive community input and provided a foundation for the City's review of Google's application.

Development Agreements are common tools for large and complex development projects that require many years to be constructed. They are negotiated with the application as part of the entitlement process and are typically approved along with the other City actions comprising the project. The purpose of Development Agreements is to establish "vested" project approvals (e.g., traffic capacity, design guidelines, affordable housing plan) and provide certainty about the rules, regulations, and responsibilities that govern both parties over the length of the Development Agreement. Development Agreements pose opportunities for the City to derive public benefits beyond City requirements.

The staff-recommended Draft Development Agreement for the Downtown West project was released April 6, 2021 for public review. If approved, the Development Agreement for the Downtown West project would be legally binding and enforceable over a 30-year term. It would deliver on public benefits in four main ways:

- Establishes the vested project approvals that lock in how the project will fulfill City requirements including requirements related to affordable housing, parkland, transportation, and infrastructure;
- Includes \$200 million in Community Benefits that address the City's top priorities and supports ongoing community involvement;
- Secures commitments on project features, such as local hire, privately-owned publicly accessible parkland, and environmental features such as a district systems approach to utilities; and

- Provides incentives for the timely delivery of public benefits through performance measures.

The Draft Development Agreement addresses the shared goals in the MOU, which were reinforced through extensive community engagement from 2018 through the present. As directed by City Council, the Community Benefits outline in the Draft Development Agreement address the top priorities of affordable housing, anti-displacement, and economic opportunity. The Draft Development Agreement also addresses other topics that are important to the community, including parks and open space, transportation, and environmental sustainability. As shown in the table below, the Community Benefits include a “Community Stabilization and Opportunity Pathways Fund”, an early payment for job readiness and anti-displacement programs, additional affordable housing beyond the City requirement, land dedication, and additional funds for City Council to allocate. The first-of-its-kind “Community Stabilization and Opportunity Pathways Fund” could generate up to \$155 million over 30 years, as Google builds out up to 7.3 million gross square feet of office space. The Fund spans the interdependencies between housing, education, and jobs. The Fund, as proposed puts decision making in the hands of those who have lived experience of displacement or homelessness and experts who provide services or education and training in related fields. Refer to Exhibit H in the Draft Development Agreement for details.

As summarized in section ___ of this staff report and described in the Draft Development Agreement, the project includes land dedication to the City for affordable housing construction, payment of commercial linkage and inclusionary housing in-lieu fee obligations, and construction of affordable units integrated into market-rate housing. Through this combination of voluntary project features, fulfillment of City requirements, and Community Benefits, the project supports the goal for 25% affordable housing in the Diridon Station Area.

Notably, the project would deliver over \$1 billion in infrastructure and project features with no subsidy from the City; an unusual feature for a project of this scale, leaving more General Fund money for the City to capture from the project. The project would also provide the equivalent of approximately \$265.8 million in requirements including affordable housing land dedication sites, moderate inclusionary housing, commercial linkage fees, local transportation improvements, and turnkey city parkland. At full buildout, the total amount of Community Benefit contributions is expected to be \$200 million on top of the \$1 billion in infrastructure and project features and \$265.8 million in requirements proposed by Google.

These investments provided by the project include approximately 15 acres of parks, plazas, and green spaces; new walking and biking paths; historic preservation; ecological restoration; infrastructure improvements; year-round free entertainment programming and more. The Development Agreement details how the Downtown West project would provide 10.2 acres of well maintained, activated, and publicly accessible privately own publicly accessible open spaces, and how the project would meet park and recreational requirements through building and dedicating 4.8 acres of turnkey parkland and trail connections. The following table summarizes the Downtown West overall public benefits provided through city requirements, community benefits and voluntary project features.

City Requirements		Community Benefits (Negotiated)		Voluntary Project Features
IHO Land Dedication	\$40.5M	Community Stabilization and Opportunity Fund	\$154.8M	10% construction DBE goal, 30% local hire goal
IHO Moderate Units	\$39.8M	Early Payment for Jobs/Community Stabilization	\$7.5M	10.2 ac. of POPOs & funded ongoing programming
Commercial Linkage Fee	\$87.6M	30 Additional Moderate-Income Units	\$7.0M	4,000 housing units
Parks and Open Space	\$67.9M	Land Transfer to the City ¹	\$8.4M	Multi-modal transportation improvements
Transportation Improvements	\$30.0M	Currently Unallocated CB Commitment	\$22.3M	Net zero energy
<i>Plus:</i> Green building code, TDM program, impact fees, ongoing taxes				Infrastructure for 80 acres delivered without public financing
Subtotal	\$265.8M	Subtotal	\$200.0M	Subtotal: \$1B+

(1) The City is considering changing the land use designations and zoning of the Autumn Street site (located outside of the Downtown West project site but within the Diridon Station Area) to allow for residential uses and approximately 200 affordable housing units, subject to subsequent clearances and discretionary approvals.

Through an innovative district systems approach to utilities, LEED certification, and other environmental commitments, the project would set a new standard for climate action — generating zero net new greenhouse gas emissions during construction and 30 years of operations.

The Development Agreement also facilitates ongoing coordination with the Diridon Integrated Station Concept Plan (“DISC”) in support of planned transit investments, and includes a “Transit Project Buffer Zone” developed in collaboration with the DISC partners.

The following table illustrates the value of the Community Benefits by category. One of the distinguishing factors of this agreement is that all Community Benefits are focused on equity and are directed at low-income individuals, in the form of related anti-displacement and opportunity components. This Development Agreement also achieves parks and sustainability goals, but as part of meeting baseline requirements or voluntary project features, not as Community Benefits. Some of the Community Benefits will be delivered early on, while others are tied to the development of office space and will be delivered over time.

Community Benefit	Community Benefit Value (at 7.3M SF)	\$/per GSF of Office	Timing
Community Stabilization and Opportunity Fund	\$154.8 Million	\$ 21.20	As office gets built (TCO)
Early Payment for Job Readiness and Community Stabilization	\$7.5 Million	\$ 1.03	120 days after Final Approval ²
30 Additional Moderate-Income Units	\$7.0 Million	\$ 0.96	With market rate development
Land Transfer to the City (0.8 acres for consideration of affordable housing) ¹	\$8.4 Million	\$ 1.15	3 months after Final Approval ²
Currently unallocated Community Benefit commitment	\$22.3 Million	\$ 3.06	As office gets built (TCO)
Total	\$200 Million	\$ 27.40	
<p>(1) The City is considering changing the land use designations and zoning of the Autumn Street site (located outside of the Downtown West project site but within the Diridon Station Area) to allow for residential uses and approximately 200 affordable housing units, subject to subsequent clearances and discretionary approvals.</p> <p>(2) "Final Approval" means following City Council approval of the project documents and resolution of any legal challenge to those approvals.</p>			

The Development Agreement is legally binding and enforceable and requires an annual review of the performance and compliance by the Planning Director and a report to the Planning Commission. The City cannot force Google to build, but the Development Agreement includes requirements for performance to maintain Development Agreement rights, including milestones at 10 or 20 years, which respectively require completion of a total of 2 and 4 million GSF of office or payment of Community Benefits on the equivalent amount of office GSF. In addition, Google is limited to transferring office development rights/land to no more than 40% of constructed office square footage to ensure growth of jobs and tax base.

For additional information on the Development Agreement, please refer to Attachment I.3.

Vesting Tentative Map for Downtown West

The Vesting Tentative Map facilitates this development through the subdivision of 136 existing lots to allow up to 178 lots, 5,900 residential condominiums and 20 commercial condominiums on an approximately 84-acre site.

The Vesting Tentative Map confers a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards in effect at the time the map application was deemed complete; provided, however, that the vested right conferred with respect to zoning is effective as of the date that the Downtown West PD Zoning Ordinance takes effect. The Vesting Tentative Map shows design and improvements of a proposed

subdivision as well as the existing conditions in and around the proposed subdivision. The subject site consists of the Downtown and Commercial Downtown land use designations on the General Plan Land Use/Transportation Diagram.

The Downtown land use designation allows office, retail, service, residential and entertainment uses at very high intensities, unless incompatible with other major policies within the General Plan. The Downtown land use designation allows a density of up to 800 dwelling units per acre. The Commercial Downtown land use designation allows office, hotel, retail, service, and entertainment uses. The project, as shown on the Vesting Tentative Map, conforms to the General Plan goals and policies.

The Project proposes improvements to the existing street network which extend existing streets and establish strong east-west connectors that link neighborhoods east and west of the rail corridors and prioritize pedestrians and bicyclists. The development of the Project and improvements to the street network require the abandonment of certain streets within the Project site. The Project proposes the abandonment of portions of the following streets within Downtown San José along with public service easements that may exist in the abandoned streets:

- South Montgomery Street (between West San Fernando Street and Park Avenue).
- Otterson Street (between South Montgomery Street and proposed new Cahill Street).
- Delmas Avenue (between West Santa Clara Street and West San Fernando Street).
- North Montgomery Street (between West St. John Street and proposed new Cahill Street).
- Cottage Lane (between North Montgomery Street and the Peninsula Corridor Joint Powers Board rail tracks).
- Cinnabar Street (between proposed North Autumn Street and the Peninsula Corridor Joint Powers Board rail tracks).
- Westerly portion of Royal Avenue between Auzerais Avenue and West San Carlos Street.
- Southerly portion of West San Carlos Street west of Royal Avenue.
- Westerly and easterly portions of South Montgomery Street between West San Carlos Street and Park Avenue.
- Northerly and southerly portions of Park Avenue between South Montgomery Street and the Peninsula Corridor Joint Powers Board rail tracks; westerly portion of South Autumn Street north of West San Fernando Street.
- Northerly portion of Auzerais Street near the Peninsula Corridor Joint Powers Board rail tracks.

Since the development and implementation of the Project is intended to occur in phases, abandonment of the streets within the Project site will occur in phases, corresponding with the anticipated development phasing and the filing of phased final maps. The abandonment of such public streets and public easements, as indicated on the Vesting Tentative Map, will be described on the face of associated phased final maps including by reference to recording data or other official records creating the streets and easements. Upon the approval of phased final maps, and provided that the requirements of the Subdivision Map Act and the conditions of approval to the Vesting Tentative Map are satisfied, the identified streets and public easements will be abandoned.

Approval of Major Encroachment Permits

The Project proposes a District Systems approach to deliver resources through onsite infrastructure for electricity, energy (thermal heating and cooling), wastewater and recycle water. Under the District Systems approach, the project sponsor would design, construct, maintain, repair, and occupy and use privately-owned, subsurface energy (thermal heating and cooling), wastewater, recycled water and electrical systems that will encroach within the public rights-of-way. Chapter 13.37 of the San José Municipal Code requires the issuance of an Encroachment Permit for encroachments located within the public rights-of-way.

The Downtown West Infrastructure Plan dated April 19, 2021 and the Conceptual Encroachment Plan Sheets, dated March 16, 2021, depict the proposed District Systems locations and the public rights-of-way that the project sponsor has proposed to design, construct, and occupy and use privately-owned District Systems infrastructure. The terms and conditions of the Authorization (Exhibit __) and an executed Encroachment Agreement between the City of San José and Google together will constitute a revocable license for each segment of the District Systems located within public right-of-way (Permit). Since the Project will be designed in phases, the Director of Public Works may issue separate Permits for the encroachments if the proposed encroachments are consistent with the Authorization, including the Downtown West Infrastructure Plan, dated April 19, 2021 and the Conceptual Encroachment Plan Sheets, dated March 16, 2021. The Authorization establishes the process for the Public Works Director's issuance of Permits as phases of the Project progress and the Encroachment Agreement sets forth the terms and conditions for allowing the project sponsor to maintain the District Systems encroaching on public rights-of-way.

Construction Impact Mitigation Plan

Pursuant to [Section 13.36.210](#) of Title 13 of the Municipal Code, a major construction project (a project where the construction cost estimate is \$10 million or more) that requires an encroachment permit must provide a Construction Impact Mitigation Plan (CIMP) for approval by the City Council.

The purpose of a CIMP is to help transition residents and businesses through the temporary disruption of major construction projects by requiring the owners of the projects to communicate with the surrounding neighbors prior to and throughout the construction period, and to modify their approach to the project by implementing appropriate mitigation measures in an attempt to avoid or lessen potential impacts arising from the construction.

In the case of Downtown West project, due to the project's extensive scope that will undergo detailed designs, the project includes a CIMP, for approval by City Council that addresses the requirements under the Muni Code [Section 13.36.220](#). The CIMP will guide Downtown West project in creating future site-specific CIMP (Subsequent CIMPS) that will be submitted for each phase as design of the project progresses and address specific timing and construction methodologies for the particular phase and potential construction impacts on and disruption of nearby businesses and residents. Subsequent CIMPS for horizontal improvements will be submitted during the Conformance Review process for horizontal improvements as further described in the Implementation Guide. Subsequent CIMPS for vertical improvements and open space improvements will be submitted during the building permit process. The CIMP includes a general level of detail applicable to the entire site and will provide descriptive summaries of the approach for the Subsequent CIMPS. The CIMP delegates the approval of the Subsequent CIMPS to the Director of Public Works.

Historic Preservation Permit Amendment

The Downtown West Mixed-Use Plan Project includes the San José Water Works City Landmark HS91-57 located at 374 West Santa Clara Street. A Historic Preservation Permit Amendment (HP20-002) is required under San José Municipal Code Chapter 13.48 (Historic Preservation Ordinance) because the project involves changes to a designated City Landmark.

The Historic Preservation Permit Amendment (File No. HP20-002) proposes to amend an existing Historic Preservation Permit (File No. HP16-002) related to a previously entitled project (Trammell Crow) under PDC15-052 and PD15-061. The Planned Development Permit for that project was approved on May 24, 2016 (amended August 24, 2016 and May 19, 2017) to allow Conforming Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District. The project site included the San José Water Works City Landmark within its larger project boundaries and as part of the previously approved project, the HP Permit approved the demolition of noncontributing structures to the main building constructed outside of the period of significant from 1888-1940, the relocation of the Transformer House south of the San José Water Works building, construction of an underground garage and garage access on site, and the construction of landscape and hardscape improvements. The Historic Preservation Permit Amendment (File No. HP20-002) proposes to revise the terms of the existing Permit to be consistent with the Downtown West Mixed-Use Plan Project. The proposed Permit Amendment would retain the existing approval to demolish non-contributing structures on site, to carry out landscape and hardscape improvements and to relocate the Transformer House. The proposed Permit Amendment would remove activities that are no longer proposed under PDC15-052 and PD15-061, such as the underground garage and garage access.

Historic Landmark Boundary Amendments

The City Council would consider the proposed modifications to the boundary of the San José Water Works City Landmark from a 0.96- gross acre site to a 0.31-gross acre site (HL20-005) and the Southern Pacific Depot City Landmark HL94-100 from a 12.5-gross acre site to an 11.54-gross acre site (HL20-004).

The proposed San José Water Works City Landmark boundary amendment would retain the location of the north and east boundaries of the San José Water Works City Landmark and shift the south and west boundaries to contain only the historic resources on site: the 1934 Main Office building (and the 1940 addition), and the 1913 Transformer House, which will be relocated closer to the Main Office building. The Main Office building and the Transformer House are the only structures on site that convey the historic significance of the landmark and its period of significance from 1888 to 1940. The modified boundary would remove the portion of the site that currently contains the non-contributing elements of the City Landmark that have been approved for demolition under an existing Historic Preservation Permit (HP16-002) issued for a previous entitlement for the site under PDC15-052 and PD15-061). The boundary modification is conditional upon the removal of the non-contributing elements and relocation of the Transformer House.

The Southern Pacific Depot City Landmark boundary amendment would realign portions of the boundary at the north and southeast corners of the property to reflect the current context of the site and assessor parcel boundaries. The boundary was originally drawn in line with the National Register Historic District boundary, which includes the train station and contributing buildings and features to the historic district. Along the northern end, the landmark boundary included the Santa Clara Underpass and the Herder's Shack. At the southern end, the landmark boundary reflected the eastern projection of the parcel, which included the Car Cleaner's Shack and Water Tower. Since the City Landmark designation in 1995, the Compressor building was demolished, the Herder's Shack and Water Tower were relocated outside the City Landmark boundary (both existing and proposed), and assessor parcel configurations changed. The proposed amendment would realign the City Landmark designation to correspond with the two Assessor's Parcels owned by the Peninsula Corridor Joint Powers Board, which maintains jurisdiction over the Diridon Station property. The areas proposed to be removed from the City Landmark do not contain any historic resources and no contributing structures on site would be affected.

The two City Landmark boundary amendments are subject to Title 13, [Chapter 13.48](#) (Historic Preservation Ordinance) and are not governed by [Title 20, Chapter 20.100](#) which addresses application processing procedures, including concurrent review. The HLC conducted a public hearing on March 17, 2021 and recommended the City Council adopt a resolution to modify the boundary of the San José Water Works City Landmark and the Southern Pacific Depot City Landmark. The HLC recommendations and comments will be forwarded directly to City Council for consideration as part of the Downtown West Mixed-Use Plan project and no action is required by the Planning Commission.

Summary of Other Key Topics of Interest

The previously described documents touch on multiple disciplines including land use, infrastructure, design, etc. The following section focuses on summarizing Downtown West's approach to four key areas of interest: housing, open space, district systems and transportation.

Housing

The City Council and community have consistently prioritized affordable housing production and preservation, as well as anti-displacement strategies, as the top issues to address when

planning for the Google Project and future of the Diridon Station Area. The Development Agreement includes multiple elements to meet and exceed the affordable housing requirements for the proposed development. The applicant's proposed development includes 4,000 new housing units. Consistent with the Memorandum of Understanding, the affordable housing package supports the goal for 25% of new housing in the DSAP to be affordable at a mix of affordability levels by supporting the provision of 1,000 new affordable units. 600 of these units will be located on three parcels dedicated by Google within the Project and available to households earning between 30% and 80% of AMI. Another 200 units will be integrated into market rate development and available to moderate-income households (100% of AMI). Google is also dedicating a fourth parcel to the City located outside of the Project boundary that could provide an additional 200 units, which units could be available to households earning between 30 and 80% of AMI.¹ Land dedication by Google and early release of three of these four sites allows the City to leverage external funding sources to achieve lower income limits (i.e., deeper affordability). The City expects that 40 to 45% of the units built on dedicated housing sites will be available to extremely low-income households earning under 30% of the Area Median Income (AMI). The proposed 7.3 million square feet of commercial space also will trigger the Commercial Linkage Fee, providing additional resources to finance new affordable housing.

The section below outlines the components of the affordable housing plan:

Inclusionary Housing Ordinance Requirements – Google will meet the obligations under the Inclusionary Housing Ordinance by building 170 moderate income housing units dispersed within new housing built and will meet the remaining fee obligation of \$18.70 (escalated annually) by dedicating three sites identified as H1, H5 and H6 in the Development Agreement. The City will work with the applicant to ensure outstanding lease agreements are resolved, demolition of existing buildings is complete and title issues are removed prior to transfer. Responsibility for environmental cleanup, specifically for H1, is documented in the Development Agreement. Any remaining fee obligation will be paid. As part of the City Council meeting adopting the MOU in December 2018, Council directed staff to prepare a Citywide strategy for residential anti-displacement and an implementation plan for the Diridon Station Area.

Since then, the City adopted the [Residential Anti-Displacement Strategy](#) on March 30, 2021 and prepared a Draft Diridon Affordable Housing Implementation Plan, which is going to City Council for approval as part of the comprehensive planning process this Spring.

Highlights of the Downtown West project as it relates to housing include the following:

- The project application includes General Plan amendments and zoning changes to allow for residential uses throughout the site, given that existing regulations limit residential development.
- The Downtown West project proposes to build about 4,000 housing units as part of the project (and allows up to 5,900).

¹ The City is considering changing the land use designations and zoning of the Autumn Street site (located outside of the Downtown West project site but within the Diridon Station Area) to allow for residential uses and approximately 200 affordable housing units, subject to subsequent clearances and discretionary approvals.

- The affordable housing package supports the goal for 25% of new housing in the DSAP to be affordable by supporting the production of 1,000 affordable units at a mix of affordability levels, ranging from extremely low-income to moderate income. This will be accomplished through compliance with City’s Inclusionary Housing Ordinance (IHO), payment of required Commercial Linkage Fee for office construction, and provision of community benefits as follows:
 - As documented in the Development Agreement, the project will comply with the IHO by: a) Dedicating three pad-ready sites to the City (to be used for the construction of approximately 600 units for extremely low to low-income households); b) Providing 5% of the units built on-site for moderate income households (170 total) — to be integrated with market-rate housing; and c) Paying IHO fees for residential development if the credit from the dedicated land sites is exhausted.
 - Commercial Linkage Fee - The commercial office portion of the project will pay the required \$12 per square foot (escalated annually) Commercial Linkage Fee for office construction, which could generate up to \$87.6 million for affordable housing as the 7.3 million gross square feet of office space is built out. The Development Agreement specifies that the City, subject to City Council appropriation of funding, will use a good faith effort to direct CLF generated from commercial development within the project site to the production of affordable housing on land transferred from Google to the City for affordable housing development and then to affordable housing production within the DSAP.
 - As part of the Community Benefits package, the applicant will a) Provide: early dedication to the City of an additional 0.8-acre site located in the DSAP, outside of the Downtown West project and b) Provide an additional 30 moderate-income units, integrated on-site within market-rate housing. The City is proposing to rezone the above mentioned 0.8 acre site as part of the Citywide DSAP Amendment and, if approved, could allow for potentially 200 units of affordable housing.
- The Community Benefits package also includes establishing a new “Community Stabilization and Opportunity Pathways Fund” (Fund). The Fund is a community-directed resource to minimize displacement from rising costs (Community Stabilization) and to maximize opportunities for youth and adults to participate in job opportunities through training education and support (Opportunity Pathways). The project would contribute \$21.20 per gross square foot of office to the Fund as office buildings are completed (up to \$154,760,00 million if the commercial office capacity of 7.3 million gross square feet is built out, of which at least 50% will be used for Community Stabilization).

In addition to the items presented above, the Developer will make contributions as outlined in Section 4.4 of the Development Agreement for the construction of up to 800 Limited Term Corporate Accommodations. The contribution for housing shall be \$18.70 square feet per new square foot, consistent with the Affordable Housing Impact Fee.

Please refer to the Development Agreement for additional information about the Affordable Housing plan and Community Benefits.

Parks and Open Space

To meet its parkland obligation, the Project proposes to develop a unique and expansive open space system spanning the entire proposed development, emphasizing design around the natural and urban feature of the area. The Project accomplishes this through a combination of public and privately owned open space that totals approximately 15 acres. Approximately 4.8 acres of open space will be City-dedicated improved parkland and trails to meet the Project's parkland obligation with the Park Impact Ordinance (SJMC 14.25 PIO) and the Parkland Dedication Ordinance (SJMC 19.38 - PDO).

The gross parkland obligation for 4,000 housing units is \$64,096,000. Low and moderate income units that are deed restricted are eligible for a 50% fee reduction credit per unit. Providing 800 deed restricted units for moderate and low-income families provides a credit of \$8,268,000 off the gross obligation, leaving a net obligation of \$55,828,000. It is important to note that the net obligation of \$55,828,000, includes the value of the parkland obligation for the affordable housing units that are proposed to be developed by the City on the parcels that will be dedicated to the City. This will reduce the construction cost for the City-sponsored affordable housing in the project area and supports the City's overall affordable housing goals for the Diridon Area.

- The net parkland obligation will be met through a combination of land dedication, construction of park improvements, payment of fees, and potentially through the future use of private recreation credits. It should be noted that the project would be eligible for up to 50% credit towards parkland obligation through the provision of private recreation amenities, but the developer has elected to not apply for this credit program until certain benchmarks are met with regard to the construction of the publicly dedicated parks.

The 4.8 acres of City-dedicated improved open spaces include five parks and two off-road alignments of the Los Gatos Creek Multi-Use Trail that will be constructed at various stages over term of the Development Agreement. Each of these properties will be transferred to city ownership after the park or trail construction is complete, with clear title other than exceptions outlined in Exhibit E9. The "Social Heart" park space will be located above a proposed underground publicly accessible parking structure and the city will own the air space parcel on which the park is located, while the developer retains ownership of the below grade parcel for the parking structure.

The remaining 10.2 acres of open space will be Project sponsor-owned open space (also referred to as Privately -owned- publicly accessible open space in the Development Agreement) that is provided as a project feature and will not receive any credit against the Project's parkland obligation under the PDO/PIO. Approximately seven acres of the Project sponsor-owned open space (the Privately-owned Public Parks, Los Gatos Creek Riparian Setback, and Los Gatos Creek Riparian Corridor sub-types) will be subject to a recorded restrictive covenant as further described in the Development Agreement. The Privately Owned Parks will operate in a manner similar to City Owned parks.

The remaining three acres of project sponsor-owned open space will support public life with uses such as café and restaurant seating and passageways that provide opportunities to engage in public life.

The design of the open spaces will be guided by the DWDSG. On March 8, 2021, the Parks and Recreation Commission voted to recommend to City Council approval of the open space concept in the DWDSG (5-2-0). All City-dedicated parks and Project sponsor-owned open spaces will have additional community outreach to gather more input about the design and naming as described in the Implementation Guide.

Please refer to the main body of the Development Agreement for additional information about the project sponsor-owned open spaces, and the Parkland Agreement (Exhibit E of the Development Agreement) for additional information about the City-dedicated open spaces, and how the Project is meeting the parkland obligation. Refer to the DWDSG for the design vision for each of the open spaces.

In addition to the items presented above, the Developer will make contributions as outlined in Section 4.4 of the Development Agreement for the construction of up to 800 Limited Term Corporate Accommodations. The contribution for parks shall be \$4,850 per bedroom and shall be spent within nexus.

District Systems

The Project proposes a district systems approach to deliver resources via onsite infrastructure for energy, wastewater, recycled water and solid waste flows. District systems include the development of an onsite generation or treatment of resources locally with an accompanying network separate from, though sometimes linked to, the City or regional utility networks. The district system would serve the Project area via a utility corridor (“utilidor”) which would be constructed within private parcels and would cross public right-of-way at some locations. The Project would include the construction and operation of central utility plants (CUPs) in up to two infrastructure zones on the Project site to allow for consolidated collection and/or processing. The documents under consideration by Council incorporate City goals related to District Systems to maintain proper design review, permitting, and oversight of the onsite wastewater treatment and electrical infrastructure; continuity of District Systems services; properly maintained and operated infrastructure; rate equity.

The District Systems advance the Project's sustainability targets as part of its certification as an environmental leadership development project (summarized earlier in this staff report), the City's Envision San José 2040 General Plan's Measurable Environmental Sustainability, Environmental Resources, and Infrastructure goals, and Climate Smart San José goals.

Transportation

A Transportation Analysis was performed for this project in regard to the following CEQA issues: consistency with plans, ordinances, and policies governing the circulation system; Vehicle Miles Traveled (VMT); hazards from geometric design features; and emergency access. The analysis also included description of the existing environmental setting for transportation facilities and the applicable regulatory framework, then described the approach to the analysis and evaluated the potential transportation impacts of project construction and operation. Feasible mitigation measures were identified to avoid or reduce potentially significant impacts and concluded that the subject project will be in conformance with the City of San José Transportation Policy (Council Policy 5-1) and a determination for less than significant impacts can be made with respect to transportation impacts.

As part of the EIR's air quality impacts and to reduce project-generated vehicle traffic, the project is required to implement mitigation measure AQ-2h which requires implementation of a Transportation Demand Management Plan. The TDM program includes an array of transportation strategies intended to reduce vehicle trips and vehicle miles traveled (VMT). Consistent with Mitigation Measure AQ-2h, the TDM Program has the following tiered non-SOV requirements and will be subject to annual monitoring requirements:

- Achieve a non-SOV rate of 50% for office uses, which is estimated to be equivalent to a 24% reduction of daily vehicle trips from the City model, assuming currently available public transit service levels; and
- Achieve a non-SOV rate of 60% for office uses, which is estimated to be equivalent to a 26% reduction of daily vehicle trips from the City model following completion of service enhancements related to Caltrain Electrification; and
- Achieve a non-SOV rate of 65% for office uses, which is estimated to be equivalent to a 27% reduction of daily vehicle trips from the City model following commencement of BART service to Diridon Station.

The project's TDM Plan was also prepared and attached as part of the project documents.

The project also performed a Local Transportation Analysis (LTA) in a separate document that analyzed non-CEQA transportation issues. These non-CEQA transportation issues were evaluated for informational purposes only in accordance with San José Council Policy 5-1 and included local transportation operations, intersection level of service (LOS) at CMP and City identified intersections, site access and circulation, and neighborhood transportation issues such as pedestrian and bicycle access, construction period access/circulation, intersection and freeway capacity and recommended transportation improvements. The Project will provide \$30M in Transportation Improvement Projects to address adverse effects identified in the LTA and further detailed below.

LTA Construction and Financial Contributions			
Improvement/Description	LTA Construction Contribution	LTA Financial Contribution	Improvements Phasing
Focused Local Transportation Analysis improvements such as intersection improvements, new signals, at-grade rail crossing modifications and complete street improvements. For Block E, this will include restriping Delmas between San Fernando Street and Park Avenue from one to two lanes.	\$10,000,000		As necessary based on Focused Local Transportation Analysis (FLTA) findings
Studies: <ul style="list-style-type: none"> Connector from the Airport to Stevens Creek Boulevard to Diridon Station Area Santa Clara dedicated public service lane within existing right-of-way from 17th Street to Interstate 880 Transit and light rail improvements within the project area, particularly at San Fernando Street and Delmas Avenue. 		\$1,100,000	Temporary Certificate of Occupancy for the earlier of either 1m gsf Office or 1,400 residential units
Feasibility study and concept design of the Bird Avenue/Interstate-280 bicycle and pedestrian multimodal connection from Diridon Station area to Garner community		\$500,000	Temporary Certificate of Occupancy for the earlier of either 1m gsf Office or 1,400 residential units
Protected bikeway improvement on Bird Avenue between I-280 and West San Carlos Avenue		\$1,860,000	Temporary Certificate of Occupancy for the earlier of either 1m gsf Office or 1,400 residential units
Bird Avenue/Interstate-280 bicycle and pedestrian multimodal connection from Diridon Station area to the Gardener community.		\$4,840,000	Temporary Certificate of Occupancy for 4m gsf Office
Taylor Street and State Route 87 improvements programmed by the City of San Jose and Caltrans.		\$220,000	Temporary Certificate of Occupancy with the last Office building that with completion represents full build out (anticipated to be 7.3m gsf Office)
Goodyear Street and First Street and First Street and Alma Street intersection improvements per the Story-Keys Complete Streets Corridor and Better Bike Plan 2025.		\$490,000	Temporary Certificate of Occupancy with the last Office building that with completion represents full build out (anticipated to be 7.3m gsf Office)
Multimodal and neighborhood transportation management improvements and transit studies at the discretion of the City		\$3,680,000	50% will be paid at Temporary Certificate of Occupancy for 4m gsf Office, the remaining 50% at Temporary Certificate of Occupancy for the last Office building that with completion represents full build out (anticipated to be 7.3m gsf Office) unless otherwise mutually agreed upon by Developer and City
Footbridge over the Los Gatos Creek north of West San Fernando Street	\$3,000,000		Construction completion in accordance with PIA timing for the improvements serving E1
At-grade signalized-trail crossing at West Santa Clara Street and Diridon Station Area.	\$400,000		Construction completion in accordance with PIA timing for the improvements serving E1
Protected bikeway connection along Auzerais Avenue from Los Gatos Creek Trail to Bird Avenue. Does not include project frontage improvements or rail crossing modifications.	\$800,000		Construction completion in accordance with PIA timing for the improvements serving 4m gsf Office or if later, frontage improvements along H3/H4
Sidewalk extension under Highway 87 at Auzerais Avenue and Delmas Avenue. Improvements include a bulb-out at the north east quadrant.	\$1,110,000		Construction completion in accordance with PIA timing for the improvements coinciding with the last Office building that with completion represents full build out (anticipated to be 7.3m gsf Office)
Bicycle connection and removal of the pork-chop island at the southwest corner at Coleman Avenue and Taylors Street.	\$2,000,000		Construction completion in accordance with PIA timing for the improvements coinciding with the last Office building that with completion represents full build out (anticipated to be 7.3m gsf Office)
Subtotal	\$17,310,000	\$12,690,000	
Total	\$30,000,000		

The project shall also perform and submit subsequent Focused Local Transportation Analyses (Focused LTA) consistent with the specific topics identified in the Project's Conformance Review Implementation Guide. The Focused LTAs will include, but not be limited to, analyses for internal roadway circulation, site access and operations, street network changes and other metrics consistent with Council Policy 5-1 and the City's Transportation Analysis Handbook. In addition, the following documents were also prepared by the project:

- Neighborhood Traffic and Parking Intrusion Monitoring Plan - prepared consistent with Council Policy 5-6 which provides an approach to monitoring and reporting on neighborhood cut-through traffic and spillover on neighborhood streets and methodology for the project's contributions to improvement projects if thresholds are exceeded.
- Supplemental Analysis Supporting the Closure of Delmas Memo - Supplemental Analysis Supporting the Closure of Delmas - Memo presenting analysis to support the closure of Delmas Ave between West Santa Clara and West San Fernando streets.
- Site-wide Focused LTA – The project completed a site-wide Focused LTA to analyze the roadway network changes contemplated in the VTM for informational purposes. Focused LTAs will be required of the project to further analyze the network changes.
- TDM Effectiveness Memo (EIR Appendix) - Memo which illustrates the effectiveness of the project's TDM commitments and demonstrates that the project has committed to the maximum feasible trip reduction achievable through implementation of TDM measures.
- Parking Demand Evaluation (LTA Appendix) - Evaluation of the parking demand generated by the project's land uses and evaluation of the ability of the proposed parking supply to meet the demand.

ANALYSIS

The proposed project is analyzed with respect to conformance with:

1. Envision San José 2040 General Plan
2. Diridon Station Area Plan
3. Zoning Ordinance
4. City Council Policies
5. Downtown Design Guidelines
6. California Environmental Quality Act (CEQA)

Envision San José 2040 General Plan Conformance

The General Plan land use designations for the area as proposed in the DSAP and General Plan Amendment are Downtown and Commercial Downtown, pursuant to the General Plan. The Downtown land use designation allows office, retail, service, residential and entertainment uses at very high intensities, unless incompatible with other major policies within the General Plan. The Downtown land use designation allows a density of up to 800 dwelling units per acre and a floor-area ratio (FAR) up to 30.0. The Commercial Downtown land use designation allows office, hotel, retail, service, and entertainment uses. Residential uses are not allowed in the Commercial Downtown designation. The Commercial Downtown land use designation allows a

FAR up to 15.0. The proposed uses and land use in the Planned Development Zoning and Planned Development Permit are uses consistent with these designations.

General Plan Goals and Policies

The scope of the project is extensive given the diversity of proposed land uses, design, layout and aspects of the project. The project is consistent with many of the goals and policies in the Envision San José General Plan. The list of policies and analysis is fully listed and analyzed in Exhibit B of the General Plan Resolution (See Attachment C.3.). In summary the project furthers the following goals and policies areas of the General Plan.

- Land Use and Employment Growth and Retention
- Fiscally Sustainable Land Use
- Environmental Leadership
- Infrastructural Improvements
- Attractive City
- Transportation Connectivity
- Pedestrian Activation
- Downtown Urban Design
- Growth Area Development
- Historic Preservation
- Housing

Diridon Station Area Plan Conformance

The DSAP adopted by the City in 2014 covered an approximately 240-acre area located primarily within the Downtown Growth Area Boundary, in anticipation of major transportation investments and a major league ballpark; and since the City's adoption of the DSAP in 2014, the City engaged in a community outreach process regarding the community's vision for the DSAP, resulting in several key changes, including the following: the City is no longer planning for a major league ballpark; the City Council adopted the San José Downtown Design Guidelines and Standards ("DDG"); the City Council approved a policy to allow for greater height limits in Downtown. The project includes projects specific amendments to update the DSAP to reflect the current city direction and reflective of community input on the portions of the DSAP within the DTW boundary. The project was found to be consistent with the following key DSAP goals:

- a. Create an urban district in the Station Area that maximizes height potential. The Station Area should accommodate a mix of uses including commercial and office, residential and active uses.

The Project consists of a complementary mix of uses that create a vibrant, transit-oriented urban neighborhood and destination. The development program optimizes development density, which consists of up to 7.3 million gsf of commercial office space; up to 5,900 residential units; up to 500,000 gsf of active uses (commercial retail/restaurant, arts, cultural, live entertainment, community spaces, institutional, childcare and education, maker spaces,

non-profit, and small-format office space); up to 300 hotel rooms; up to 800 limited-term corporate accommodations; up to two event and conference centers totaling up to 100,000 gsf; a "District Systems" approach to delivery of on-site utilities, including designated infrastructure zones with up to two (2) on-site centralized utility plants totaling up to 130,000 gsf; one or more on-site logistics centers to serve the commercial on-site uses that would occupy a total of about 100,000 gsf; a total of approximately 15 acres of parks and open spaces. The DWDSG includes standards and guidelines that distribute land uses throughout the Project site in a manner that is compatible with adjacent uses, surrounding neighborhoods, and adjacent open spaces (DWDSG Chapter 3). Residential uses are generally located near existing residential neighborhoods and office uses are generally located along the existing rail track. DWDSG standards (Chapter 3) requires certain land uses on certain development blocks, while allowing for flexibility on other blocks to promote the development of Downtown West into a mixed-use, transit-oriented site. The DWDSG also includes standards and guidelines that distribute active uses throughout Downtown West to create a vibrant public realm. Active use shall be required, at a minimum, along 30 percent of the ground floor frontage of certain blocks to activate streets and open spaces within Downtown West.

The Project also maximizes height potential within the Project Site. The City Council approved a policy to allow for greater height limits in Downtown, including within the DSAP in March 2019. The Project proposes allowable building heights that range from 160 feet to 290 feet above ground level (AGL), contingent on required Federal Aviation Administration (FAA) review clearance. The DWDSG (Section 5.6) establishes standards and guidelines that establish maximum building heights throughout the Project site. The Project maximizes allowable building heights, while in certain blocks setting heights lower than the maximum height only as needed to establish variation in the skyline and to better respond to contextual adjacencies, including historic resources, existing single-family residential neighborhoods, and Los Gatos Creek and the open space program. For instance, the DWDSG establishes standards that limit building heights at Creekside Walk and on certain blocks to respond to contextual adjacencies.

- b. Establish and strengthen connections to surrounding districts and within the planning area for pedestrians, bicyclists, and motorists, with emphasis on east- west connectivity across SR-87 and the rail corridor.

The Project, located adjacent to Diridon Station, enhances connections to nature, surrounding neighborhoods, and the greater Bay Area region, by strengthening links to Downtown and surrounding neighborhoods. The Project includes improvements to the public realm, including maximizing space for active streetscape - which includes sidewalk, bike lanes and planting areas - to optimize connections to nearby regional transit services. Streets designed in Downtown West prioritize pedestrians and bicyclists with generous sidewalks, protected bike lanes, and traffic calming measures in alignment with the City's CSDSG. The Project's proposed street network extends the existing street network to enhance connections to the surrounding neighborhood and proposes mid-block passages to optimize walkability. The Project also proposes improvements to east-west connectors, including West Santa Clara Street, West San Fernando Street, Park Avenue, West San Carlos Street, West Julian Street, West St. John Street (new street), West Post Street (new street),

and Auzerais Avenue, to provide pedestrian and bicycle priority streets to link neighborhoods east and west of the rail corridor.

The DWDSG (Chapter 6) includes standards and guidelines for the design and development of Downtown West streets that prioritize pedestrians and cyclists and support walking, biking, and public access and ridership. The DWDSG standards include requirements to extend the street network, including Cahill Street north of West Santa Clara Street to North Montgomery Street; Cahill Street south of West San Fernando Street to Park Avenue; West St. John Street to the Cahill Street extension; West Post Street between Cahill Street and Barack Obama Boulevard; North Montgomery Street north of Cinnabar Street to North Autumn Street; and North Autumn Street from the Union Pacific Railroad to Lenzen Avenue. The DWDSG also establishes standards and guidelines for the sidewalk, including minimum overall active streetscape widths and other requirements related to the various sidewalk zones (e.g., frontage zone, through zone, furnishing zones), that enhance pedestrian safety and support safe crossing. The DWDSG establishes standards and guidelines for east-west connectors that link Downtown West to adjacent neighborhoods. East-west connectors within Downtown West include West Santa Clara Street, West San Fernando Street, Park Avenue, West San Carlos Street, West Julian Street, Auzerais Avenue and new street extensions such as West St. John Street and West Post Street.

c. Prioritize pedestrian circulation and transit.

The Project prioritizes pedestrian space within streets to promote walkability. The street network supports walking, biking, and public transit access and ridership to and from Downtown West. The pedestrian network is enhanced with active street elements, protected bike lanes, and dynamic lanes. The DWDSG includes standards and guidelines for the various sidewalk zones to improve pedestrian experience and increase safety for people walking and biking within Downtown West and to adjacent neighborhoods. The DWDSG further enhance transit access and ridership by leveraging the Project's proximity to Diridon Station, a regional transit hub. The DWDSG includes standards for anticipated transit access streets, shuttle routes, and shuttle stops to provide safe and convenient connections to and from the Project site.

d. Provide a range of commercial and residential uses.

The Project provides a balanced mix of commercial and residential uses that create a vibrant, mixed-use transit-oriented neighborhood. Commercial uses include up to 7.3 million gsf of commercial office space; up to 500,000 gsf of active uses (commercial retail/restaurant, arts, cultural, live entertainment, community spaces, institutional, childcare and education, maker spaces, non-profit, and small-format office space); up to 300 hotel rooms; and up to 100,000 gsf of event and conference space. Other commercial land uses are distributed throughout the Project to be compatible with adjacent uses and the surrounding neighborhood.

The Project proposes up to 5,900 residential units. Residential uses are generally located near existing residential neighborhoods within areas with the Downtown land use designation as further set forth in the DWDSG. The Project also provides for a robust affordable housing program, as further set forth in the Development Agreement for the Downtown West Mixed-Use Plan. The Project's affordable housing program, which assumes development of 4,000

residential units, could include up to 1,000 affordable housing units, and furthers Google's and the City's shared goal that development within the DSAP results in twenty-five percent (25%) of all residential units as affordable housing. The DWDSG (Chapter 3 Land Use) includes standards that intentionally distribute a mix of land uses throughout the site to relate to context and to create an active public realm. The DWDSG requires certain land uses on certain development blocks, while allowing for flexibility on other blocks to promote the development of Downtown West into a mixed-use, transit-oriented site. The DWDSG also includes standards and guidelines that distribute active uses - which include commercial, retail/restaurant, arts, cultural, live entertainment, community center, institutional, childcare and education, maker spaces, non-profit, and small-format office spaces - throughout Downtown West to create a vibrant public realm. Active uses are required, at a minimum, along 30 percent of the ground floor frontage of certain blocks to activate streets and open spaces within Downtown West.

- e. Enhance and expand access to open space and recreational opportunities in the Station area and establish an open space system integrated with Los Gatos Creek and Guadalupe River Park.

The Project will provide a total of approximately 15 acres of parks and open space, consisting of both City-Dedicated Open Space (Los Gatos Creek Multi-Use Trail and City-Dedicated Park) and Project Sponsor-Owned Open Space (Privately-Owned Public Park, semi-public open space, Los Gatos Creek Riparian Setback, Los Gatos Creek Riparian Corridor, Mid-Block Passages).

The Project will enhance and expand access to open space as the open space program includes a park or plaza at nearly every major intersection, near each neighborhood, and no more than one block away from any location in the Project. The open space program integrates with the surrounding communities and provides areas for outdoor seating and commercial activity (such as retail, cafes, and restaurants), green spaces, landscaping, mid-block passages, riparian setbacks, and trails. The open space network also improves access and connectivity along the riparian corridors and supports biodiversity within a high-density urban context through ecologically beneficial landscape design. As set forth in the DWDSG, the design character of open spaces ranges from natural to more urban, with each open space relating to its adjacent surroundings.

- f. Activate the streets, parks, and Station with art that engages visitors and residents alike. Integrate art into infrastructure to humanize and enliven standard features.

Art is encouraged throughout Downtown West to engage visitors and residents, help share gathering places, and to be used as a tool for learning about culture and history and the regional nature and creek ecology. The DWDSG includes standards, guidelines, and contextual considerations that promote the use of art as appropriate within the Project site. For instance, the Project includes mid-block passages to provide more pedestrian connectivity and optimize walking between neighborhoods. The DWDSG includes guidelines that encourage art in mid-block passages and contextual considerations to incorporate different forms of art into certain mid-block passages to further activate the space. The DWDSG also includes guidelines that encourage the use of art to add a sense of destination, inspire thought and dialogue, commemorate important individuals and events, and connect to the natural environment. Within Downtown West, art is intended to be used as a tool not

only for activating streets, parks, and the Diridon Station area, but to engage visitors and residents by conveying information about the culture and history of the City. While art within Downtown West is encouraged, the DWDSG includes standards regarding art within the riparian setback to protect against environmental disruption within the riparian setback along Los Gatos Creek and Guadalupe River.

- g. Disperse parking in different locations in the planning area and beyond to ensure easy walking access to destinations.

The Project provides safe, convenient, and strategically located parking throughout Downtown West. Off-street parking is intended to support a walkable environment and Downtown West includes public, district-serving garages near entries to the site that service office, active use, and SAP Center events. Additional parking is located within individual residential buildings or clustered buildings. The Project allows up to 4,800 publicly accessible commercial parking spaces and up to 2,360 unbundled parking spaces for residential use. The GDP establishes residential parking and a Required Parking Ratio for commercial/public parking as further described in Exhibit K of the Development Agreement. The DWDSG includes standards and guidelines for parking facilities within Downtown West to provide for vehicular access from adjacent streets, and to design parking garages as an integrated component of a building's overall design. The DWDSG also includes off-street parking standards that promote shared district parking that are accessible to the various mixed uses within Downtown West, nearby transit and the SAP Center.

Ordinance Conformance

Section 20.10.070 of the City of San José's Municipal Code, a Planned Development Zoning District is intended to be individually designed to meet the needs of the subject property, with the uses and requirements of the Planned Development Zoning District reflected in a General Development Plan (GDP) adopted as part of the Planned Development Zoning District ordinance. With the scope and size of the project, a conventional zoning district would not be sufficient to encapsulate all the proposed uses and functions of the site. The project includes an extensive Planned Development Zoning District including all the required elements of the Planned Development Zoning District, e.g. land uses, development standards, setbacks, heights etc. The Planned Development Permit incorporates the elements of the development standards into an extensive and detailed Downtown West Design Standards and Guidelines document that requires conformance to the General Development Plan.

Permit Findings

Planned Development Permit Findings

[Chapter 20.100.940](#) of the San José Municipal Code (SJMC) establishes required Findings for issuance of a Planned Development Permit. In order to make the Planned Development Permit findings pursuant to Section 20.100.940 of the SJMC and recommend approval to the City Council, Planning Commission must.

1. The Planned Development Permit, as issued, is consistent with and furthers the policies of the General Plan; and

Analysis: As described above and as fully listed and analyzed in Exhibit B of the General Plan resolution, the project is consistent with and would further the policies of the General Plan.

2. The Planned Development Permit, as issued, conforms in all respects to the Planned Development Zoning of the property; and

Analysis: The project site is located within the Downtown West PD Zoning District, a DC(PD) Planned Development Zoning District. The land use regulations and development standards for development within the Downtown West PD Zoning District are reflected in the Downtown West General Development Plan ("GDP"). The GDP establishes the permitted uses, development standards, and use regulations applicable to the Downtown West PD Zoning District and authorizes transfers of square footage and conversion of land uses between Sub-Areas subject to the conditions and criteria established in the GDP, including but not limited to compliance with CEQA.

The Downtown West PD Zoning District consists of three (3) sub-areas, identified as Sub-Area 1, Sub-Area 2, and Sub-Area 3 in the GDP, which are generally depicted in the GDP. Sub-Area 2 is included within the boundaries of the Downtown West PD Zoning District but is not included within the Downtown West PD Permit. Development within Sub-Area 2 shall be subject to the requirements of the base zoning district and entitled with issuance of a subsequent Planned Development Permit for Sub-Area 2.

The Downtown West PD Permit is consistent with and implements the GDP. The DWDSG and DWIS establish design standards, guidelines, and specifications that apply to the design and development of vertical, open space, and horizontal improvements within Downtown West. The Implementation Guide establishes the process, submittal requirements, and City review timeframes for the Conformance Review process that is applicable to vertical improvements, open space, and horizontal improvements established and authorized through the GDP.

DWDSG standards are requirements, and compliance is mandatory, subject to the relief mechanisms established and authorized in the GDP. Such relief mechanisms include minor modifications (deviation of less than 10% from a numerical standard or minor deviation from a qualitative standard), exceptions (waiver of a DWDSG standard), deferrals (deferring compliance of a DWDSG standard), and amendments to the Downtown West PD Permit. DWDSG guidelines must be considered by the project sponsor; however, 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 of how the subject application achieves the design intent in the chapter of the applicable guideline without implementation of the applicable guideline.

As described in the DWDSG, the DDG and CSDSG also apply to Downtown West unless a DDG or CSDSG standard or guideline is expressly superseded by the DWDSG.

The DWIS describes the standards and specifications used to evaluate horizontal improvements within the Downtown West PD Zoning District, including certain provisions of the 1992 Standards, and provides that the DWIS supersedes other provision of the 1992 Standards. As authorized in the GDP, the project sponsor may request modification from DWIS specifications. The DWIS shall also apply to street improvements, utility infrastructure,

and utilidors that are located outside the Downtown West PD Zoning District but are necessary to serve property within the Downtown West PD Zoning District.

Downtown West shall be designed and developed in phases. The Conformance Review process, which is further detailed in the GDP and the Implementation Guide, ensures that the subsequent design and development of vertical improvements, open space, and horizontal improvements are consistent with the GDP, Downtown West PD Permit, and other applicable Project approvals and documents. As described in the GDP and the Implementation Guide, the Conformance Review process provides the Director of PBCE (vertical and open space improvements) and the Director of Public Works (horizontal improvements), each in consultation with applicable City departments, the authority to review, comment on, and approve vertical, open space, and horizontal improvements as design of the Project progresses, to ensure conformity with the GDP, Downtown West PD Permit, and other applicable project approvals and documents.

3. The Planned Development Permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency; and

Analysis: As described below in the City Council conformance section, the Downtown West PD Permit is consistent with Council Policy 6-34: Riparian Corridor Protection and Bird-Safe Design (Section A), Council Policy 5-1: Local Transportation Analysis, and Council Policy 6-30: Policy for Pending Land Use Development Proposals.

4. The interrelationship 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

Analysis: The interrelationship between the orientation, location, mass and scale of the building's volumes and elevations has been planned through the DWDSG to be appropriate, compatible, and aesthetically harmonious. The Project provides a complementary mix of uses that create a vibrant, transit-oriented urban neighborhood and destination. The DWDSG focuses on distributing land uses throughout the Project site in a manner that is compatible with adjacent uses, surrounding neighborhoods, the open space program, and the street network. Residential uses are generally located next to existing residential communities, office uses are generally located along the existing rail, and active uses are distributed throughout the Project site to create a more vibrant public realm. The DWDSG promotes varied building form, height, and rooflines to create a compelling skyline. To respond to contextual adjacencies - historic resources, existing single-family residential neighborhoods, Los Gatos Creek and proposed open spaces - building heights on certain blocks are set lower than the maximum allowable height. The DWDSG further aims to integrate existing buildings, historic resources and new development within Downtown West to complement the surrounding neighborhood. The Project's ground floor design, including transparency, articulation, and high-quality materials, support activity along streets. Podium level and massing and architectural design of skyline level facades further create an aesthetically harmonious and positive visual impact on the public realm.

5. The environmental impacts of the project, including, but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable

negative effect on adjacent property or properties.

Analysis: An Environmental Impact Report (EIR) was prepared for the Downtown West Mixed-Use Plan in compliance with CEQA and the CEQA Guidelines. The Project's impacts are discussed in Resolution No. ____, where City Council certified the FEIR and adopted related findings, a Mitigation Monitoring and Reporting Program, and a Statement of Overriding Considerations. Based on the findings of the EIR, the City determined that the project would result in significant unmitigated or unavoidable impacts associated with project-specific and cumulative emissions of criteria air pollutants; project-specific and cumulative effects related to health risks from toxic air contaminants and fine particulate matter; project-specific and cumulative effects on cultural (historic architectural) resources associated with demolition of historic buildings; a project-specific impact due to incompatible alterations to the Hellwig Ironworks Building at 150 South Montgomery Street; project-specific and cumulative land use effects associated with a conflict with a policy on airport noise in the Comprehensive Land Use Plan for Mineta San José International Airport; project-specific and cumulative construction noise impacts; project-specific and cumulative impacts resulting from increases in traffic noise; project-specific and cumulative effects associated with exposure of persons to airport noise; and a cumulative impact associated with the jobs/housing imbalance identified in the 2040 General Plan EIR.

The City adopted Statement of Overriding Considerations (Resolution No. ____), finding that the Project has eliminated or substantially lessened all significant effects on the environment where feasible, and finds that the remaining significant, unavoidable impacts of the project are acceptable in light of the economic, legal, environmental, social, technological or other considerations, because the benefits of the Project outweigh its significant adverse environmental impacts. The Project will not have an unacceptable negative effect on adjacent property as the Project will result in certain substantial public benefits as set forth in the Statement of Overriding Considerations adopted by Resolution No. ____.

Tree Removal Findings

Chapter 13.32 of the San José Municipal Code establishes required findings for Tree Removals. In order to make the Tree Removal findings pursuant to [Section 13.32.100](#) of the San José Municipal Code and recommend approval to the City Council, Planning Commission must determine that:

1. That the condition of the tree with respect to disease, danger of falling, proximity to an existing or proposed structure, and/or interference with utility services, is such that preservation of the public health or safety requires its removal.
2. That the location of the tree with respect to a proposed improvement unreasonably restricts the economic development of the parcel in question; or

Analysis: The Project proposes the removal of all existing trees within the public right-of-way and on private property, which includes up to 254 ordinance size trees and up to 283 non-ordinance size trees. Approximately 2,280 new trees will be planted throughout Downtown West. The location of trees within the existing public right-of-way have been verified by a surveyor and are generally depicted in the GDP. The project sponsor commissioned an Arborist Report (dated March 25, 2020), which included conducted a tree inventory and determined that a significant number of trees were in declining health. Of the 537 trees inventoried, 254 of the

trees are classified as Ordinance Trees under [Section 13.32.020](#) of the San José Municipal Code. The removed trees would be replaced according to tree replacement ratios required by the City. The tree replacement ratios under the City's requirements would require a total number of 1,507 replacement trees. The Project proposes to provide 2,280 new trees, which exceeds the number of replacement trees required under the City's requirements. The removal of the street trees would not frustrate the purpose of [Chapter 13.32](#), which is to promote the health, safety, and welfare of the City by controlling the removal of trees, since trees enhance the scenic beauty of the City, significantly reduce the erosion of topsoil, contributed to increased storm water quality, reduce flood hazards and risks of landslides, increase property values, reduce the cost of construction and maintenance of drainage systems through the reduction of flow and the need to divert surface waters, contribute to energy efficiency and the reduction of urban temperatures, serve as windbreaks, and are prime oxygen producers and air purification systems. The Project will not frustrate the purpose of Chapter 13.32 as the project sponsor intends to provide approximately 2,280 new trees within Downtown West, which, along with the approximately 15 acres of parks and open spaces, would improve pedestrian spaces and the public realm. The approximately 2,280 new trees will support biodiversity and complement the riparian corridor while contributing to energy efficiency and the reduction of urban temperatures. The DWDSG includes standards and guidelines related to street trees and plantings within the public-right-of way that aim to avoid the use of non-native species and plants of low ecological value. Rather, the DWDSG encourages the use of native species that are appropriate for the site conditions to improve local and regional native biodiversity, facilitate wildlife movement, and reduce the need for irrigation after the plan establishment period.

Tentative Map Findings

In accordance with Section 66474 of the Government Code of the State of California, the Director of Planning, Building, and Code Enforcement (PBCE) of the City of San José, in consideration of the proposed subdivision shown on the Vesting Tentative Map with the imposed conditions, shall deny approval of a Vesting Tentative Map, if it makes any of the following findings:

1. That the proposed map is not consistent with applicable General and Specific Plans as specified in Section 65451.

Analysis: As detailed above, the Vesting Tentative Map is consistent with the General Plan and the applicable specific plan, the DSAP, as amended.

2. That the design or improvement of the proposed subdivision is not consistent with applicable General and Specific Plans.

Analysis: As detailed above, the design and improvement of the subdivision is consistent with the General Plan and the applicable specific plan (both as amended), and conformance of design will be further assured through satisfaction of the Conformance Review Procedures mandated by the PD Permit.

3. That the site is not physically suitable for the type of development.

Analysis: The site is physically suited for the type of development. The FEIR evaluated potential environmental impacts associated with the development. All required mitigation measures in the FEIR's Mitigation Monitoring and Reporting Program apply to the Vesting Tentative Map as a condition of approval. The FEIR and corresponding mitigation measures address, among other issues, geotechnical and soils considerations, flooding, hazards, and hazardous materials. The site is in an area of Downtown San José that accommodates manufacturing, light industrial, and business service land uses mixed with limited residential and commercial uses. Locate adjacent to Diridon Station, development of the Project will enhance connections to nature, surrounding neighborhoods, and the greater Bay Area region, strengthening links to Downtown and surrounding neighborhoods. Development of the site, which is primarily vacant, will revitalize the site with a complementary mix of uses that create a vibrant, transit-oriented urban neighborhood.

4. That the site is not physically suitable for the proposed density of development.

Analysis: The site is physically suited for the density of development, including up to 5,900 residential condominium units and the anticipated commercial development. Potential impacts associated with density and development intensity were evaluated in the FEIR, and as described above, compliance with all applicable mitigation measures is a condition of approval of the Vesting Tentative Map. The site is in an area of Downtown San José that accommodates manufacturing, light industrial, and business service land uses mixed with limited residential and commercial uses. Locate adjacent to Diridon Station, development of the Project will enhance connections to nature, surrounding neighborhoods, and the greater Bay Area region, strengthening links to Downtown and surrounding neighborhoods. Development of the site, which is primarily vacant, will revitalize the site with a complementary mix of uses that create a vibrant, transit-oriented urban neighborhood.

5. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

Analysis: Neither the design of the subdivision nor of the proposed improvements are likely to cause substantial environmental damage or to substantially and avoidably injure fish or wildlife or their habitat subject to the incorporation of mitigation as otherwise required in the conditions of approval. The FEIR incorporates a comprehensive evaluation of biological resources, including fish and wildlife and their habitat. The required mitigation measures identified in the Mitigation Monitoring and Reporting Program would reduce any of the biological impacts to less than significant and is include in the to the Vesting Tentative Map as a condition of approval.

6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.

Analysis: Neither the design of the subdivision nor of the type of improvements are likely to cause serious public health problems. Issues of public health, including, e.g., geotechnical and soils stability, hazardous and hazardous materials, and air quality impacts were evaluated in the FEIR. All required mitigation measures identified in the Mitigation Monitoring and Reporting Program apply to the Vesting Tentative Map as a condition of approval.

7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Analysis: Neither the design of the subdivision nor of the types of improvements will conflict with easements acquired by the public at large for access through, or use of, property within the subdivision. The abandonment of any easements necessary to effectuate the development contemplated by the subdivision is addressed in City Council Resolution No. _____, pursuant to which the City Council adopted findings relating to the vacation of such easements under the Streets and Highways Code, and subject to conditions of approval. Further, as shown on the Vesting Tentative Map, Subdivider will be required to dedicate new public easements for access through and use of portions of the subject property.

Subdivision Ordinance Findings

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

Analysis: As described above, design or improvement of the proposed subdivision is consistent with the General Plan and the site is physically suitable for the proposed type of development and density of development. The design and improvement of the proposed site will provide adequate access, water supply, fire protection, and sewage or drainage facilities to serve the subdivision. As set forth above, the Vesting Tentative Map is consistent with the Downtown West PD Zoning Ordinance.

Non-Residential Condominium Findings

Chapter 20.175 of the San José Municipal Code establishes required findings for condominiums governed by the Commercial and Industrial Common Interest Development Act. In order to make the non-residential condominium findings pursuant to [Section 20.175.050](#) of the San José Municipal Code and recommend approval to the City Council must determine that:

1. Minimum unit size for nonresidential condominium units shall be seven hundred fifty square feet; and
2. The proposed common interest development will not adversely impact the economic viability of large-scale commercial and industrial uses in the vicinity of the development, or in the city as a whole; and
3. The proposed common interest development includes sufficient provisions for governance, funding and capitalization, and enforcement mechanisms to ensure that the common area continues to be adequately and safely maintained and repaired for the life of the common interest development; and

4. The proposed common interest development includes sufficient provisions for the retention of such common areas for the use of all owners of separate interests therein.

Analysis: The Vesting Tentative Map, approved by Resolution No. ____, authorizes up to twenty commercial condominiums to be identified on future phased final maps and created through condominium plans. The Vesting Tentative Map includes a condition of approval that requires nonresidential condominium units to be a minimum of seven hundred fifty square feet. The Vesting Tentative Map (Resolution No. ____) also includes a condition of approval that, if the subdivider of a future phased final map elects to create commercial condominiums subject to the Commercial and Industrial Common Interest Development Act, the Subdivider will submit the governing common interest development documents for review by the City to confirm that provisions for the governance, funding, capitalization, and enforcement are properly addressed, as well as any required deeds for the reciprocal easement rights, all as contemplated by Chapter 20.175 of the Municipal Code. As the project is proposing a significant amount of non-residential development on an approximately 80-acre site, 20 commercial condominiums would not adversely impact the economic viability of large-scale commercial and industrial uses in the vicinity of the development, or in the city as a whole.

Evaluation Criteria for Demolition

Chapter 20.80 of the San José Municipal Code establishes evaluation criteria for issuance of a permit to allow for demolition. These criteria are made for the project based on the above-stated findings related to General Plan, Zoning and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in the Resolution.

1. The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;

Analysis: Figure 3.6 within the DWDSG generally depicts the locations of the existing buildings to be demolished on the site, which would include up to 7 residential units and approximately 755,000 gross square feet of non-residential uses. Demolition would occur in phases as each portion of the project is developed. Many of the existing buildings on the site are vacant. As generally shown on Figure 3.6 of the DWDSG, certain existing historic buildings will be retained, and other existing buildings may be relocated within the Project Site. Certain existing buildings may be used for interim uses, special events and limited-term uses (as defined in the GDP) during the project's phased development, pursuant to the standards set forth in the GDP. The existing buildings proposed to be demolished would result in the creation or continued existence of a nuisance, blight or dangerous condition.

2. The failure to approve the permit would jeopardize public health, safety or welfare;

Analysis: As discussed above, the continued creation or existence of the existing buildings (as generally depicted in Figure 3.6 of the DWDSG) that the project sponsor intends to demolish would jeopardize public health, safety, or welfare. A number of the existing buildings on site were built more than 50 years ago and are in poor condition, creating public safety and health hazards. Removal of the existing buildings, many of which are vacant, is necessary to deter potential attractive nuisances, loitering, trespassing, and break-ins. Demolition of the existing buildings will mitigate potential blighting influences, including high vacancies, abandoned, deteriorated and dilapidated buildings, incompatible land uses, and inadequate or deteriorated public improvements, facilities and utilities. Removing the existing buildings

will eliminate impediments to development of the Project, which will be a critical step in facilitating the development of a modern, integrated mixed-use transit-oriented neighborhood with improved pedestrian and vehicular circulation within Downtown West and its vicinity and which will provide affordable housing and public benefits to the City, including approximately 15 acres of parks and open spaces.

3. The approval of the permit should facilitate a project which is compatible with the surrounding neighborhood;

Analysis: Demolition of the existing buildings would allow for the implementation of the Project. The existing condition of the site includes one and two-story buildings that cover portions of the existing lots, with the remaining portion consisting of unbuilt area and/or surface parking. The total floor area of the existing buildings currently on the site is approximately 755,000 square feet. Many of the existing buildings on the site are vacant. Demolition of the existing buildings on the site would facilitate the development of the Project, which would implement the General Plan policies and DSAP goals of establishing Downtown San José as a vibrant, transit-oriented urban neighborhood and destination.

4. The approval of the permit should maintain the supply of existing housing stock in the City of San José;

Analysis: The project site currently contains 7 residential units; however, only one unit is occupied. The occupant has made arrangements to relocate prior to commencement of construction. The Downtown West PD Permit would increase the City's housing stock. The demolition of the existing buildings would facilitate the construction of higher-density residential uses, as the Project proposes to build up to 5,900 residential units. The Downtown West PD Permit includes real property within Sub-Area 1 and Sub-Area 3 as generally depicted in the GDP. The GDP identifies the maximum allowable development in each Sub-Area, subject to the allowable transfers and conversion established in the GDP. Up to 5,900 residential units are permitted within the real property subject to the Planned Development Permit pursuant to the allowable transfers and conversions under the GDP. The Project's affordable housing program, which assumes development of 4,000 residential units, supports the production of up to 1,000 affordable housing units, furthers Google's and the City's shared goal that development within the DSAP results in twenty-five percent (25%) of all residential units as affordable housing.

5. Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible;

Analysis: Existing buildings identified as CEQA historic resources, including 374 West Santa Clara Street, 40 South Montgomery Street, and 150 South Montgomery Street, and 559, 563, and 567 West Julian Street, as well as the historic Stephen's Meat Product Sign, shall be retained. Some of these resources will be relocated on-site to facilitate their retention. In addition, 35 Barack Obama Boulevard, a Structure of Merit, shall be relocated along Barack Obama Boulevard, south of the VTA tracks. In addition, the Project will fund off-site relocation of the eligible Structure of Merit at 91 Barack Obama Boulevard to a receiver site within the River Street City Landmark District. Pursuant to the conditions of approval to this Downtown West PD Permit, certain eligible Structures of Merit must be advertised for relocation prior to the issuance of a demolition permit. In the scenario that a property owner

responds to the relocation advertisement of eligible Structures of Merit, the project sponsor will pay the equivalent in demolition cost in support of relocating the resource.

6. Rehabilitation or reuse of the existing building would not be feasible; and

Analysis: Certain existing buildings will be retained and integrated with new development within Downtown West. During the project's phased development, certain existing buildings on the site will be used for interim uses pursuant to the standards set forth in the GDP. The Project also provides for the expansion and adaptive reuse of certain existing buildings where feasible and appropriate as generally depicted on Figure 3.6 of the DWDSG. For instance, 150 South Montgomery Street will be expanded and reused to accommodate new arts and cultural use. The San José Water Company building (374 West Santa Clara Street) has previously been approved for adaptive reuse and is anticipated to be renovated for commercial use. Existing buildings along Creekside Walk shall also be rehabilitated or altered pursuant to standards set forth in the DWDSG. Existing buildings located at 559, 563, and 567 West Julian Street shall also be relocated within Creekside Walk pursuant to the applicable standards in the DWDSG. 35 South Autumn Street shall also be relocated along Autumn Street, south of the VTA tracks. Portions of the Sunlite Bakery building facade (145 South Montgomery Street) will be salvaged and re-incorporated into the Project onsite.

The rehabilitation or reuse of the existing buildings proposed for demolition is not feasible given the location and nature of the existing buildings. Rehabilitation or reuse of the existing buildings proposed for demolition would also be incompatible with the proposed Project, which proposes a high-density, mixed-use neighborhood consistent with the General Plan's strategy of focusing new growth capacity in the Downtown Growth Area.

7. The demolition, removal or relocation of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.

Analysis: The demolition of the existing buildings would not have an adverse impact on the surrounding neighborhood. The proposed project would be compatible with the surrounding neighborhood and would implement the General Plan policies and DSAP goals of establishing Downtown San José as a vibrant, transit-oriented urban neighborhood and destination as further described above.

8. The permit applicant has provided evidence that either the existing Building or Structure is not a Multiple Dwelling or Mobilehome Park or that the permit applicant has complied with all relocation obligations under state and local law, including but not limited to the obligations in Chapters 17.20, 17.23 and 20.200 of the Municipal Code.

Analysis: The site does not contain multiple dwellings or mobilehome parks, and the Project Sponsor has complied with applicable relocation obligations under state and local law, including the obligations in Chapters 17.20, 17.23, and 20.200 of the Municipal Code.

Historic Preservation Permit Amendment Findings

[Section 13.48.330](#) of the Historic Preservation Ordinance allows any HP Permit holder to file for an HP Permit Amendment. An HP Permit Amendment is any addition, deletion, or modification to any HP permit, provided that such amendment does not alter the general character, use, or intensity of nor degrade the protections of the historic elements of a structure or site provided through the HP permit to be amended. The review of the application is limited to consideration

of the conditions or specifications proposed to be amended in the application.

The proposed HP Permit Amendment (File No. HP20-002) would not alter the general character, use, or intensity of the San José Water Works City Landmark, nor degrade protections of the historic elements of any buildings on site. The property maintains the “Downtown” Envision San José 2040 General Plan Land Use/Transportation Diagram designation, which supports a range of uses and redevelopment at high intensities such as hotel, office, retail, residential and entertainment uses in Downtown. The development within the Downtown designation should enhance the “complete community” in downtown, support pedestrian and bicycle circulation, and increase transit ridership. Similarly, the Downtown West Mixed-Use Plan designated the San José Water Works City Landmark for “Active” use. Under Downtown West Mixed-Use Plan, “Active” uses include retail, restaurants, small businesses, cultural and other community-oriented uses. Any future work on the site would be required to be consistent with the Secretary of the Interior’s Standards for the Treatment of Historic Properties. All buildings within the modified parcel would retain the local protections afforded to designed City Landmarks, including being subject to the HP Permit process

As required by the Historic Preservation Ordinance, the Historic Landmarks Commission (HLC) conducted a public hearing at a special meeting on March 17, 2020. The proposed Historic Preservation Permit Amendment (HP20-002) was analyzed with respect to conformance with: 1) the Envision San José 2040 General Plan; 2) the Historic Preservation Ordinance; and 3) and the Secretary of the Interior’s Standards for the Treatment of Historic Properties. The HLC recommended the City Council adopt a resolution to approve the Historic Preservation Permit Amendment to revise the terms of the Permit to be consistent with the Downtown West Mixed-Use Plan Project. For additional information, please refer to the staff report presented to the HLC. (See Attachment L.2). As the designated body in the Historic Preservation Ordinance to make recommendations on historic preservation permits, the HLC made its recommendation to City Council. The Planning Commission may make its own recommendation to City Council because this application is being reviewed concurrently in accordance with Municipal Code Section 20.100.040 (B) and (C) (Concurrent Review) in Chapter 20.100, which includes Historic Preservation Permits in the list of applications that may be reviewed and acted on in a unified process.

City Council Policy Conformance

[Riparian Corridor Protection and Bird-Safe Design Policy 6-34](#)

Portions of the Project located within 300 feet of riparian corridors are subject to Section A of City Council Policy 6-34, Riparian Corridor Protection and Bird-Safe Design (“Policy 6-34”). Based on the following findings, the Project is consistent with Policy 6-34.

Policy 6-34 permits riparian setbacks of less than 100 feet for projects that are located within the boundaries of the Downtown area, as is the Project (Section A.2.a). The City may require a report certifying that the reduced setback will not significantly reduce or adversely impact the Riparian Corridor and/or that the proposed uses are not fundamentally incompatible with riparian habitats (Section A.3.b & A.3.c.). Section 6.2 of the FEIR concludes, based on reports by qualified professionals, that with its 50-foot riparian corridor setbacks for new buildings and its 50-100-foot ecological enhancement zones, and with implementation of Standard Conditions of Approval SCA BI-1 and SCA BI-2 and Project Mitigation Measures BI-1a - BI-1c, BI-2a-, BI-2c , BI-

2d, BI-3 and BI-4, which apply minimum requirements for construction practices and also require monitoring and corrective actions around biological resources, the Project will cause no significant impact to riparian corridors or riparian habitats. DWDSG sections 4.8, 5.5, 5.6, 5.17 and 6.8 prohibit new buildings, active outdoor uses and streets within 50 feet of riparian corridors; require native riparian plantings and increased pervious surfaces in riparian corridors and riparian setbacks, and encourage both in ecological enhancement zones; impose special height limits on the portions of buildings that are permitted within the ecological enhancement zone; and prohibit replacement of existing buildings that are within riparian setbacks in their existing locations. Standard Conditions of Approval require compliance with the Santa Clara Valley Habitat Plan and with the City's tree replacement ordinance. Mitigation measures include fish and wildlife protection measures; a restricted in-water construction schedule; restriction of riparian corridor construction to the smallest possible areas; monitoring of shading and heat island effects during project operation.

Policy 6-34, Sections A.4 - A.6, provide that material and lighting design should reduce light and glare impacts to Riparian Corridors; lighting should not be directed into Riparian Corridors; restoration and rehabilitation of Riparian Corridors are strongly encouraged; and erosion control should avoid soil erosion and minimize runoff. Sections 3.2 and 3.8 of the FEIR, as well as Standards S4.7.2, S4.8.1 - S4.8.7, S4.16.3 - S4.16.5, S4.17.1 - S4.17.3, S4.17.5, S4.18.5, S5.5.7 - S5.5.9, S7.4.1 - S7.4.7, and S7.5.2 of the DWDSG which regulates design features within riparian setback areas, demonstrate that the Project meets these requirements. Regarding light and glare, DWDSG standards prohibit lighting directed into riparian corridors, require dark-sky building lighting, and otherwise regulate building, trail, footbridge and art lighting to minimize impacts to riparian corridors. As described above, DWDSG standards require extensive riparian planting in riparian setbacks and EIR mitigation measures require restoration wherever the project causes impacts to the riparian corridor. Hydrology and Water Quality mitigation measures include construction Best Management Practices as well as revegetation and ongoing monitoring of the riparian corridor following construction; regulatory requirements include preparation and implementation of a stormwater control plan. These requirements ensure soil erosion will be avoided and runoff will be minimized.

[LTA Council Policy 5-1: Local Transportation Analysis](#)

Consistent with the City of San Jose Transportation Analysis Policy, the Local Transportation Analysis (LTA) demonstrates conformance with multimodal transportation strategies, goals, and policies in the General Plan. The LTA analyzes the effects of the Project on transportation, access, circulation, and related safety elements, providing additional information that supplements the VMT analysis. The LTA identified adverse effected and proposed transportation improvement projects in accordance with the City of San Jose's Transportation Analysis Handbook in coordination with the Santa Clara Valley Transportation Authority (VTA) which serves as the congestion management agency for Santa Clara County. The City will also require Focused LTAs as the project progresses in accordance with the Implementation Guide.

[City Council Policy 6-30: Public Outreach Policy for Pending Land Use Development Proposals](#)

Under City Council Policy 6-30, the project is considered a large development proposal. Following City Council Policy 6-30, the applicant has posted 15 on-site signs throughout the project site to inform the neighborhood of the proposed project. The project held several

formally noticed community meetings as well as several informal small community meetings hosted by the City or the applicants. Additionally, the project has been presented at various Station Area Advisory Group meetings. The City has presented before several commission bodies (Historic Landmarks, Planning, and Parks and Recreation Commissions) and City Council for study sessions or referrals of the application. Staff have received many comments in many forms, including verbally at community meetings, in online surveys, and in email correspondence and comments on the project's EIR; written comments are included as Attachment N. The public hearing notices were mailed to a 1,000-foot radius. The staff report is also posted on the City's website. Additionally, current and previous versions of the applicant's project materials have been updated on the project website. Staff has been available to respond to questions from the public.

Downtown Design Guidelines Conformance

The vision for the future of Downtown San José has come from a variety of plans and public involvement over multiple years. Implementing the vision will require both public and private investment and action, and the Downtown Design Guidelines document is a tool to help achieve the vision. Many key elements of Downtown will be governed by other documents and public investments and actions. The Design Guidelines, in coordination with other plans, work toward the vision with specific requirements and clear direction for new buildings and major exterior modification to existing buildings. The Downtown Design Guidelines are intended to guide buildings toward design excellence, sustainable urbanism, and a sense of place that is unique to San José.

The Downtown West Design Standards and Guidelines (DWDSG) describes the vision for the Downtown West Mixed-Use Plan and provides requirements and recommendations for new development within the approximately 78-acre Project site.

The DWDSG establishes objective and mandatory standards and subjective guidelines. These standards and guidelines balance new development flexibility, which allows for innovation and evolution, with specificity to ensure the delivery of high-quality urban spaces and building design.

As the design process is iterative and complex by nature, the standards and guidelines provide room for massing, architecture, and public realm creativity. The City of San José shall evaluate new buildings, open spaces, and streets for consistency with the standards and guidelines of the DWDSG. The standards and guidelines in the DWDSG are separate from — yet expand upon — the Downtown Design Guidelines (DDG) standards and guidelines developed for Downtown San José and the Diridon Station Area Plan (DSAP) area and the Complete Streets Design Standards and Guidelines (CSDSG).

- The DDG applies to new development in Downtown West, except those DDG standards and guidelines that are expressly superseded by the DWDSG. Appendix D (within the DWDSG): DDG Standards and Guidelines That Do Not Apply to Downtown West identifies those DDG standards and guidelines that are inapplicable to Downtown West and will be reflected in a Director Update of the DDG following the approval of the DWDSG. Appendix C.1 (within the DWDSG): Vertical Improvement Conformance Review Checklist and Appendix C.2 (within the DWDSG): Open Space Conformance Review Checklist include those DDG standards and guidelines that remain applicable to Downtown West. Compliance with applicable DDG

standards and guidelines is demonstrated during the Downtown West PD Zoning District / Design Conformance Review (hereafter, Conformance Review) process for the development of vertical improvements and open space.

- The CSDSG applies to new development in Downtown West, except those CSDSG standards and guidelines that are made inapplicable to Downtown West through approval of the Project and the DWDSG. Appendix E (within the DWDSG): CSDSG Standards and Guidelines That Do Not Apply to Downtown West identified those CSDSG standards and guidelines that are inapplicable to Downtown West. Appendix C.3 (within the DWDSG): Horizontal Improvement Conformance Review Checklist includes those CSDSG standards and guidelines that remain applicable to Downtown West. The project sponsor will demonstrate compliance with applicable CSDSG standards and guidelines as part of the horizontal improvement, subdivision mapping, and improvement plan process.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The City of San José, as the lead agency for the proposed project, prepared a Draft Environmental Impact Report (DEIR), which was circulated for public review and comment from October 7, 2020 to December 8, 2020, including a 15-day extension in response to requests from the public. The total duration of the public review period was 62 days. A First Amendment to the DEIR was prepared that provided responses to public comments submitted during the public circulation period along with revisions to the text of the DEIR made in response to comments, as necessary. The First Amendment together with the DEIR constitute the Final Environmental Impact Report (FEIR) for the proposed project.

The following discussion outlines the environmental impacts discussed in the DEIR.

Identified Significant Unavoidable Impacts

The DEIR identified the following impacts that cannot be reduced to a less than significant impact even with the implementation of mitigation measures:

Impact	Mitigation
Air Quality – Cumulatively considerable net increase of a criteria pollutant	Construction Emissions Minimization Plan, Construction Equipment Maintenance and Tuning, Heavy-Duty Truck Model Year Requirement, Super-Compliant VOC Architectural Coatings during Operations, Best Available Emissions Controls for Stationary Emergency Generators, Operational Diesel Truck Emissions Reduction, Electric Vehicle Charging, Enhanced Transportation Demand Management Program
Air Quality – Exposure sensitive receptors to substantial pollutant concentrations	All measures listed above, except Super-compliant VOC Architectural Coatings, and Exposure to Air Pollution—Toxic Air

	Contaminants (incorporation of health risk reduction measures)
Air Quality - Cumulatively considerable contribution to significant cumulative regional air quality impacts	All measures listed for first impact, in addition to Hydrogen Sulfide and Odor Management Program for the Potential Water Reuse Facility(s)
Air Quality - Cumulatively considerable contribution to significant cumulative health risk impacts on sensitive receptors	Same as measure for second listed air quality impact
Cultural Resources – Demolition or relocation of identified historic architectural resources	Documentation, Relocation, Interpretation/Commemoration, Salvage
Cultural Resources - Construct one or more additions to and adaptively reuse 150 South Montgomery Street (Hellwig Ironworks)	Documentation, Interpretation/Commemoration
Cultural Resources - Cumulatively considerable contribution to previously identified significant citywide cumulative adverse impact on historical resources	Same measures as first Cultural Resources Impact
Land Use - Exposure to airport noise for future residents (project-level and cumulative)	Exposure to Airport Noise (Noise section)
Noise and Vibration – Operational traffic noise, including cumulative	Traffic Noise Impact Reduction (provide sound insulation treatments)
Noise and Vibration – Construction noise, including cumulative	Master Construction Noise Reduction Plan
Noise and Vibration – Exposure to excessive airport noise, including cumulative	Exposure to Airport Noise (noise reduction plan)
Population and Housing – Cumulative contribution to citywide jobs/housing imbalance	No mitigation measures feasible (same as Envision San José 2040 General Plan EIR, Downtown Strategy 2040 EIR)

A Statement of Overriding Considerations will need to be adopted by City Council for this project for these identified significant and unavoidable impacts. The Statement of Overriding Considerations, which will be included in the City Council resolution certifying the EIR, is a statement that finds that the benefits of the project outweigh its significant adverse environmental impact.

Identified Impacts Reduced to Less than Significant with Mitigation

The DEIR identified the following significant impacts which can be reduced to less than significant with the incorporation of identified mitigation measures:

Impact	Mitigation
Air Quality – Compliance with adopted air quality plans	Construction Emissions Minimization Plan, Construction Equipment Maintenance and Tuning, Heavy-Duty Truck Model Year Requirement, Super-Compliant VOC Architectural Coatings during Operations, Best Available Emissions Controls for Stationary Emergency Generators, Operational Diesel Truck Emissions Reduction, Electric Vehicle Charging, Enhanced Transportation Demand Program, Reduction of Exposure to Air Pollution—Toxic Air Contaminants, Hydrogen Sulfide and Odor Management Program for the Potential Water Reuse Facility(s)
Air Quality – Odors from potential on-site water re-use facility	Hydrogen Sulfide and Odor Management Program
Biological Resources – Impacts to candidate, sensitive, or special-status species	General Avoidance and Protection Measures, In-Water Construction Scheduling, Native Fish Capture and Relocation, Western Pond Turtle Protection Measures, Avoidance of Impacts on Nesting Birds, Roosting Bat Surveys
Biological Resources – Impacts to riparian habitat or other sensitive communities	General Avoidance and Protection Measures, In-Water Construction Schedule, Native Fish Capture and Relocation, Avoidance of Impacts on Riparian Habitat, Frac-Out Contingency Plan, Monitor Effects of Shading and Heat Island on Riparian Vegetation and Stream Temperature, Avoidance and Protection of Creeping Wild Rye Habitat,
Biological Resources – Impacts to wetlands	General Avoidance and Protection Measures, Avoidance of Impacts on Riparian Habitat, Avoidance and Protection of Creeping Wild Rye Habitat, Avoidance of Impacts on Wetlands and Waters,
Biological Resources – Wildlife movement	Avian Collision Avoidance Measures,
Biological Resources – Compliance with habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat	General Avoidance and Protection Measures, In-Water Construction Schedule, Native Fish Capture and Relocation, Avoidance of Impacts on Riparian Habitat

conservation plan	
Biological Resources – Cumulative impacts	All measures identified above to mitigate project impacts
Cultural Resources – Impacts to historic resources (40 South Montgomery Street [Kearney Pattern Works and Foundry])	Relocation On-site, Compliance with the Secretary of the Interior’s Standards,
Cultural Resources – Construction-related vibration impacts to historic resources	Construction Vibration Operation Plan for Historic Structures
Cultural Resources – Impacts to historic resources (105 South Montgomery Street [Stephen’s Meat Products sign])	Sign Relocation
Cultural Resources – Impacts to archaeological resources	Cultural Resources Awareness Training, Archaeological Testing Plan, Archaeological Evaluation, Archaeological Resources Treatment Plan,
Cultural Resources – Disturbance of human remains	Cultural Resources Awareness Training
Cultural Resources – Impacts to tribal cultural resources	Cultural Resources Awareness Training, Archaeological Testing Plan, Archaeological Evaluation, Archaeological Treatment Plan
Geology/Soils/Paleontological Resources – Impacts related to earthquakes	Seismic Damage and Seismic-Related Ground Failure, including Liquefaction (standard engineering and seismic safety design, geotechnical investigation, compliance with California Building Code)
Geology/Soils/Paleontological Resources – Construction of buildings on a geologic unit or soil that is unstable or potentially unstable	Geotechnical Report for improvements in question
Geology/Soils/Paleontological Resources – Destruction of a unique paleontological resource or site or unique geologic feature	Project Paleontologist, Worker Training, Paleontological Monitoring, Significant Fossil Treatment
<u>Geology/Soils/Paleontological Resources – Cumulative impacts related to geology, soils, or paleontology</u>	Project Paleontologist, Worker Training, Paleontological Monitoring, Significant Fossil Treatment
Greenhouse Gas Emissions – Compliance with applicable plans, policies, or regulations	Construction Emissions Minimization Plan, Construction Equipment Maintenance and Tuning, Heavy-Duty Truck Model Year Requirement, Best Available Emissions Controls for Stationary Emergency Generators, Diesel Truck Emissions Reduction, Electric Vehicle Charging,

	Enhanced Transportation Demand Management Program, Compliance with AB 900 requirements
Hazards and Hazardous Materials – Potential of hazardous emissions or handling of hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school	Health and Safety Plan, Site Management Plan
Hazards and Hazardous Materials – Potential to be located on a site which is included on a list of hazardous materials sites	Land Use Limitations, Health and Safety Plan, Site Management Plan, Vapor Mitigation
Hazards and Hazardous Materials – Safety hazards or excessive noise from air traffic	Exposure to Airport Noise (noise reduction plan and specifications)
Hazards and Hazardous Materials – Cumulative impacts related to hazardous materials	Health and Safety Plan, Site Management Plan, Vapor Mitigation
Hazards and Hazardous Materials – Cumulative impacts related to proximity to airports	Exposure to Airport Noise ((noise reduction plan and specifications)
Hydrology and Water Quality – Conflict with or violation with water quality standard or waste discharge requirements or otherwise substantially degrade surface or groundwater quality	Water Quality Best Management Practices during Construction Activities in and near Waterways, General Avoidance and Protection Measures (Biological Resources section); Avoidance of Impacts on Riparian Habitat; Health and Safety Plan; and Site Management Plan
Hydrology and Water Quality – Impacts to existing drainage pattern of the site or area	General Avoidance and Protection Measures (Biological Resources section), Water Quality Best Management Practices during Construction Activities in and near Waterways, Flood Risk Analysis and Modeling, Plan for Ongoing Creek Maintenance
Hydrology and Water Quality – Increase runoff exceeding capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff, or impede or redirect flood flows	Water Quality Best Management Practices during Construction Activities in and near Waterways, Flood Risk Analysis and Modeling, Plan for Ongoing Creek Maintenance
Hydrology and Water Quality – Impacts associated with risk release of pollutants in a flood hazard zone	Flood Risk Analysis and Modeling, Plan for Ongoing Creek Maintenance
Hydrology and Water Quality – Compliance with water quality control plans or sustainable groundwater management plans	Health and Safety Plan, Site Management Plan

Hydrology and Water Quality – Cumulative impacts on hydrology and water quality	Water Quality Best Management Practices during Construction Activities in and near Water, General Avoidance and Protection Measures (Biological Resources section), Avoidance of Impacts on Riparian Habitat, Health and Safety Plan, Site Management Plan
Hydrology and Water Quality – Cumulative impacts related to flood hazards	Flood Risk Analysis and Modeling, Plan for Ongoing Creek Maintenance
Noise and Vibration – Compliance with local general plan or noise ordinance, or applicable standards of other agencies for operational noise	Operational Noise Performance Standard,
Noise and Vibration – Impacts associated with groundborne vibration or groundborne noise levels	Master Construction Vibration Avoidance and Reduction Plan, Master Construction Vibration Avoidance from Compaction
Public Services and Recreation – Impacts associated with construction or expansion of recreational facilities	Refer to mitigation measures to reduce project impacts to air quality; biological resources; cultural and tribal cultural resources; geology, soils, and paleontological resources; greenhouse gas emissions; hazards and hazardous materials; hydrology and water quality; and noise and vibration
Transportation – Impacts to average travel speed on transit corridors	Enhanced Transportation Demand Management Program (Air Quality section)
Transportation – Cumulatively considerable contribution to a significant transportation impact	Enhanced Transportation Demand Management Program (Air Quality section)
Utilities and Service Systems – Impacts associated with construction or relocation of new or expanded water facilities; wastewater treatment facilities; stormwater drainage facilities; or electric power, natural gas, or telecommunications facilities	Refer to mitigation measures to reduce project impacts to air quality; biological resources; cultural and tribal cultural resources; geology, soils, and paleontological resources; greenhouse gas emissions; hazards and hazardous materials; hydrology and water quality; and noise and vibration

Alternatives

As required by CEQA, Chapter 5 of the DEIR evaluated several alternatives to the project that would reduce or eliminate one or more of the identified significant and unavoidable impacts:

1. No Project/DSAP Development Alternative: This alternative assumes development on the site would proceed within the development capacities in the 2014 Diridon Station Area Plan.
2. Historic Preservation Alternative: This alternative would retain, adaptively reuse, and avoid adverse effects on all nine of the historical resources identified on the project site.

3. Historic Preservation/CLUP Noise Compliance Alternative: This alternative combines aspects of the Preservation Alternative and the proposed project to avoid significant impacts to all but one of the historical resources on the project site and would also avoid significant noise and land use effects related to non-compliance with the CLUP airport noise exposure policies.
4. 150 South Montgomery Street Preservation Alternative: This alternative would be identical to the proposed project except that it would not include the proposed project's alterations and additions to the building at 150 South Montgomery Street (Candidate Landmark building Hellwig Ironworks).
5. Reduced Office Alternative: This alternative would retain the same amount of housing as the project but reduce the amount of office space by 60% to 3 million sq. ft. of office to reduce the project's contribution to the cumulative jobs/housing impact identified in the DEIR.
6. Reduced Intensity Alternative: Alternative would reduce development by approximately 55 percent less overall development, measured by building floor area, to reduce criteria air pollutant emissions from project operations.

None of these alternatives would meet all of the applicant's and City's objectives for the project as discussed in Section 2.14 of the DEIR.

Circulation and Public Comments

The DEIR was initially circulated for a 45-day period from October 7, 2020 to November 23, 2020. At the request of the public, the City extended the public comment period by an additional 15 days to December 8, 2020. The total duration of the review period was 62 days, including the extension. The City received 35 comment letters during the public comment period. Comments were submitted by nine individuals and the following agencies and organizations:

State Agencies

- California Department of Transportation, District 4
- California High-Speed Rail Authority
- California Public Utilities Commission
- California Regional Water Quality Control Board, San Francisco Bay Region 2

Regional and Local Agencies

- Bay Area Air Quality Management District
- Caltrain
- City of Santa Clara
- Santa Clara County Roads and Airports
- Santa Clara Valley Transportation Authority
- Santa Clara Valley Water District

- San José Historic Landmarks Commission (*summary of commissioners' comments*)

Organizations and Companies

- California Native Plant Society – Santa Clara Valley
- Catalyze SV
- Diridon Area Neighborhood Group
- Guadalupe River Park Conservancy
- Law Foundation of Silicon Valley
- PG&E
- Plant 51 Homeowners Association
- Preservation Action Council of San José
- Sharks Sports & Entertainment
- Shasta/Hanchett Park Neighborhood Association
- Sierra Club – Loma Prieta Chapter
- Santa Clara Valley Audubon Society
- Silicon Valley De-Bug
- Union Pacific Railroad

Comments were submitted on both CEQA and non-CEQA issues. As required under CEQA, the City responded to all comments on CEQA issues. While response to comments on non-CEQA issues is not required under CEQA, the City also provided information in response to comments on non-CEQA issues where possible. Issues raised in these comment letters include, but are not limited to the following:

- Specificity of the project description.
- Adequacy of analysis, considering effects of the COVID-19 pandemic.
- Impacts to riparian habitat along Los Gatos Creek and the Guadalupe River, adequacy of setbacks smaller than 100 feet.
- Preservation of identified historic resources on site.
- Coordination of construction efforts with other projects in the DSAP, including DISC, BART extension, High Speed Rail, and other development projects.
- Opportunity for public input in the Subsequent Review process, including opportunities to review and provide input on the preparation of Focused LTAs and Site Specific Construction Impact Mitigation Plans (CIMP) and Recommended Temporary Traffic Control Plans (RTTCPs).
- Shade and shadow on parks and open space, including Arena Green in the Guadalupe River Park.
- Adequacy of parking supply to support proposed development and the SAP Center,

especially after development on the surface lots currently serving the SAP Center (Lots A, B, and C).

- Effectiveness of Transportation Demand Management measures to adequately reduce single-occupancy vehicle trips generated by the project.

The City responded to all comments received on the DEIR and incorporated these responses into the First Amendment to the DEIR published on April 16, 2021. The First Amendment, taken together with the DEIR, constitutes the Final EIR. The DEIR and First Amendment to the DEIR are available for review on the project page on the City's Active EIRs website at:

<https://www.sanjoseca.gov/your-government/department-directory/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/active-eirs/downtown-west-mixed-use-plan>.

In addition, as noted in Chapter 1, *Introduction*, of the First Amendment to the DEIR, since publication of the DEIR, the Project has undergone minor adjustments. Some of these adjustments were made in direct response to public comments. Adjustments made to the Project with potential to change environmental impacts include the following:

- **Riparian setback from Los Gatos Creek:** All new, replacement, and relocated structures would be required to be outside the 50-foot riparian setback. In contrast, the Project as described in the Draft EIR would have allowed replacement of any of the buildings currently within the 50-foot riparian setback with new buildings at the existing building sites.
- **Riparian setback from Guadalupe River:** No new building development would occur within 50 feet of the Guadalupe River. Instead, the only project improvements within this 50-foot setback would be new open space with a pedestrian pathway, as well as a new private street extending north from West San Fernando Street in the southern portion of this block. The vehicular access area of the private street would be outside the minimum setback of 35 feet that is specified in the Santa Clara Valley Habitat Plan's Condition 11. These changes would represent an increase from the 30-foot setback described in the Draft EIR, which was based on the City's determination in 2016, following consultation with the Santa Clara Valley Habitat Agency, that Condition 11 did not apply in this area..
- **Alterations to the treatment of some historical resources:**
 - The Project applicant would relocate to a site within the Creekside Walk portion of the Project, on Barack Obama Boulevard, north of the VTA rail corridor, south of 450 West Santa Clara Street, and outside the 50-foot riparian setback, the group of three residential buildings at 559, 563, and 567 West Julian Street that together comprise a historical resource under CEQA. Although this change would not alter the conclusions of the Draft EIR, the severity of the impact would be reduced when compared to demolition of these buildings as described in the DEIR.
 - The Project applicant would salvage the main Art Moderne-style entryway, along with the three arched window openings to either side, of the Sunlite Baking Co. building at 145 South Montgomery Street, a historical resource under CEQA. This change would not alter the conclusions of the Draft EIR. However, it would incrementally reduce, but not eliminate, effects on the resource.
 - The project applicant would salvage and retain on-site a metal hopper tower that rises

above a non-historic portion of the Kearney Pattern Works and Foundry complex, to the rear of the historic building at 40 South Montgomery Street. This change would not alter the conclusions of the Draft EIR because it would incrementally reduce, but not eliminate, effects on historic architectural resources.

- The project applicant would relocate an existing residence at 35 Barack Obama Boulevard (formerly South Autumn Street) to a site at 74 Barack Obama Boulevard, where an existing non-historic building would be demolished (Block D13). The relocated building was determined to be eligible as a Structure of Merit. This change would not alter the conclusions of the Draft EIR because it would have no effect on historic architectural resources under CEQA, Structures of Merit are included on the City's Historic Resources Inventory (HRI) but not considered historic resources under CEQA.
- The project applicant would provide funding for off-site relocation of another eligible Structure of Merit at 91 Barack Obama Boulevard, which currently houses the Poor House Bistro. The project applicant would coordinate with a non-profit organization to move the Poor House building to a receiver site within the River Street City Landmark District. The receiver site is occupied by a non-contributing resource to the landmark district and therefore the demolition of that structure would not adversely affect the landmark district. The Poor House building would be compatible with contributing resources within the district (some of which were themselves relocated to the district) and with the landmark district itself.
- **Block E reconfiguration:** The project applicant no longer proposes acquisition of an access easement over a portion of Caltrans-owned property adjacent to SR 87 on the north side of West San Fernando Street. Instead of an emergency vehicle access and service road, the area along the Guadalupe River is now proposed for open space and a pedestrian pathway, and the vehicular access area of the new roadway is now proposed to be set back 35 feet from the Guadalupe River (consistent with the minimum setback required in Condition 11 of the Santa Clara Valley Habitat Plan, although, as noted above, the City determined in 2016 that this Condition did not apply to this area).
- **Location of childcare facilities:** In accordance with a recommendation from the Bay Area Air Quality Management District, the project applicant would not locate childcare facilities within the 500-foot buffer of I-280, which would incrementally reduce the health risk for childcare facility users.
- **Locations of amplified sound:** The project applicant proposes to allow for outdoor events—with amplified sound—at locations within open spaces other than enclosed pavilions, as well as on public and private streets. However, all events with amplified noise would be outside the 50-foot riparian setback from Los Gatos Creek and the Guadalupe River. All events occurring in either the public-right-of way or parks dedicated to the City would follow the City's standard permitting processes. For events in applicant-owned open spaces or on private streets that are anticipated to result in sound levels in excess of 60 decibels (dBA), measured at the property line of noise-sensitive uses, a permitting process is spelled out in Section 4.05 of the General Development Plan. The permitted events with amplified sound above 60 dBA based on an hourly average noise level (hourly L_{eq}) would comply with City of San José permit requirements, thereby avoiding any new or substantially more

severe significant noise impacts than were identified in the Draft EIR.

EIR Recirculation Unnecessary

The comments received do not identify substantive inadequacies in the DEIR or new previously unidentified significant impacts that require recirculation. In addition, minor adjustments to the project would not result in any new, significant environmental impacts. The recirculation of an EIR is required when significant new information is added to the EIR after public notice is given of the availability of the Draft EIR for public review but before certification. "Information" can include changes in the project or environmental setting as well as additional data or other information. New information added to an DEIR is not "significant" unless the DEIR is changed in a way that deprives the public of meaningful opportunity to comment on a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (CEQA Guidelines Section 15088.5).

In accordance with CEQA Guidelines Section 15088, the First Amendment to the DEIR for the project includes written responses to all comments received during the public review period for the DEIR. As required by Section 15132 of the CEQA Guidelines, the responses in the First Amendment to the DEIR address significant environmental points and comments on the content and adequacy of the EIR. The responses and comments provide clarification and refinement of information presented in the DEIR and, in some cases, correct or update information in the DEIR. No significant new information has been added to the EIR since publication of the DEIR; therefore, the EIR does not need to be recirculated.

PUBLIC OUTREACH

Staff followed Council Policy 6-30: Public Outreach Policy in order to inform the public of the proposed project. Staff distributed a notice of the public hearing to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. The staff report is also posted on the City's website.

Given the size of the project, the outreach has been extensive and involved both City and the applicant sponsor outreach and coordination. The community engagement process began in early 2018, when the City established the Diridon Station Area Advisory Group (SAAG) to advise the City on issues affecting the Diridon Station Area, including the Google development project. Since then, staff has conducted five rounds of outreach and engagement, with each round including a variety of methods. Google began their own outreach in 2018 as well.

2018: The first major milestone in the public process was the Diridon Station Area Civic Engagement Report (October 2018), which outlined a set of Desired Outcomes for the Diridon Station Area and Google project across six topic areas. It documented SAAG discussions and input from the general public conducted between February and October 2018. The MOU with Google was based on the input gathered through the 2018 process and was the foundation for the City's review of the proposed project, as it included a shared vision and goals.

2019-2020: Staff completed additional public outreach and community engagement before and after Google submitted its development application. The main objectives of this outreach were to increase understanding of the planning and development review processes and secure feedback on initial and draft concepts under consideration. This occurred over several rounds

of Diridon Station Area outreach and engagement. In 2019, Google expanded its outreach and engagement efforts to understand community priorities and concerns, ultimately holding over 100 meetings and having conversations with thousands of local residents. This input informed the design and programmatic aspects of their application. In Spring 2020, the City conducted an online survey on draft concepts for the DSAP Amendment and trade-offs related to Community Benefits to inform the Downtown West project review and Development Agreement processes.

2020-2021: In Fall 2020, staff held or participated in more than 20 meetings about the Downtown West project and the related efforts, including six hosted by the City's community partners. This Phase was focused on collecting feedback on the draft plans made available in October 2020, including the Draft Downtown West Design Standards and Guidelines and updated application documents. In 2021, the City has continued with focused outreach and engagement to prepare for the public hearing processes. In April, the City held SAAG and Community meetings to collect comments on the staff-recommended Draft Development Agreement, released April 6, 2021; there is currently an online comment form available at www.diridonsj.org/downtownwestda.² Google also continued holding its own design workshops (pre-COVID) and has continued hosting virtual engagements and sharing informational videos (post-COVID).

Broad Outreach and Engagement Efforts: A consistent goal of the City's engagement process for the Diridon Station Area has been to hear from the full range of the San José community. The City completed grant agreements with seven community-based organizations to help reach and involve underrepresented populations in the engagement process. These community partners are African American Community Services Agency, Catalyze SV, Friends of Caltrain, Latino Business Foundation, San Jose Jazz, SOMOS Mayfair, and Trinity Episcopal Cathedral.

The COVID-19 pandemic in March 2020 curtailed in-person outreach. Staff adjusted to continue outreach and engagement using online methods — enhancing diridonsj.org, creating videos, implementing online surveys, and hosting virtual meetings.

Since the beginning of the coordinated Diridon Station Area engagement process in February 2018, the City has hosted 19 SAAG meetings, 14 SAAG small group discussions, 31 community meetings, and partner events, three online surveys (2,260 responses), nine pop-ups at community events, and five virtual office hours. There have been 93,000+ web page views and 36,000+ visitors on diridonsj.org.

Collectively, the initial and ongoing community input over the last three years has helped shape the overall vision, shared goals, and top priorities for the project and its Community Benefits. The SAAG has been instrumental in representing a variety of needs and interests — including the many San José residents struggling with the high cost of living who need more affordable housing options, protections from displacement, and educational, job training, and employment opportunities. The SAAG has also been a key venue for convening neighborhood leaders, who have put in many hours to understand the proposed Downtown West project and the City's proposals and to advocate for consideration of local impacts and benefits. Many of the SAAG organizations have convened their own events over the past three or more years to hear from their community members and have reflected their needs, aspirations, and ideas

² Staff will post the comments gathered through the meetings and online form on the website and provide them to the Planning Commission prior to the April 28th meeting.

during the SAAG meetings.

Feedback on the Draft Development Agreement received at these two meetings and through the online comment forms has been largely positive. SAAG and community members commended the City and Google for being responsive to community input in developing the Community Benefits and affordable housing approach. Several SAAG members suggested that project should serve as a model for other agreements and developments. There has been praise for the structure of the “Community Stabilization and Opportunity Fund”, as well as questions about oversight and the selection process for the Fund’s Community Advisory Committee. The full meeting summaries and online comment form submissions will be posted at www.diridonsj.org/downtownwestda. Community input, including the work of the SAAG, has been instrumental in shaping the Development Agreement. Doing this work well takes time and effort. The City is grateful for the thoughtful civic contributions of these individuals and organizations. The City also recognizes the significant outreach and engagement effort that Google has led and their responsiveness to incorporating community feedback into the Downtown West project.

Project Manager: James Han and John Tu

Approved by: /s/ , Deputy Director for Chu Chang, Acting Director of Planning, Building and Code Enforcement

**GP19-009, PDC19-039, PD19-029, HP20-002, and PT20-027 (Downtown West
Mixed-Use Plan):
Links to Attachments**

Attachment A:	Downtown West Mixed-Use Plan Environmental Impact Report <ol style="list-style-type: none">1. EIR Draft Resolution and Mitigation Monitoring Reporting Program (MMRP)2. Draft Environmental Impact Report and First Amendment (Response to Comments)
Attachment B:	ALUC Override <ol style="list-style-type: none">1. ALUC Draft Resolution Override2. ALUC Referral and County Staff Report Dec 16, 20203. ALUC Determination Letter4. City Override Referral Letter to ALUC5. City Override Referral Letter to Department of Transportation of Aeronautics6. City Override Referral Draft Resolution Feb 19, 20217. ALUC Staff Report for March 24, 20218. Department of Transportation of Aeronautics Comments on Override Referral9. ALUC Comments on Override Referral
Attachment C:	Amendments to Envision San José 2040 General Plan (GPA) <ol style="list-style-type: none">1. General Plan Amendment Draft Resolution2. Exhibit A: Amendments3. Exhibit B: General Plan Consistency Findings
Attachment D:	Amendments to Diridon Station Area Plan (DSAP) <ol style="list-style-type: none">1. DSAP Draft Resolution2. Exhibit A: Project Specific DSAP Amendment3. Project Specific DSAP Amendment (Redlined)
Attachment E:	Amendments to Title 20 <ol style="list-style-type: none">1. Title 20 Amendment Draft Ordinance
Attachment F:	Planned Development Rezoning (PD Zoning) <ol style="list-style-type: none">1. PD Zoning Draft Ordinance2. Exhibit A: PD Zoning Legal Description3. General Development Plan
Attachment G:	Planned Development Permit (PD Permit)

	<ol style="list-style-type: none"> 1. PD Permit Draft Resolution 2. Exhibit A: PD Permit Legal Description 3. Downtown West Design Standards and Guidelines (March 1, 2021) 4. Downtown West Design Standards and Guidelines Errata 5. Downtown West Improvement Standards 6. Infrastructure Plan Sheets 7. Conformance Review Implementation Guide
Attachment H:	<p style="text-align: center;">Vesting Tentative Map (VTM)</p> <ol style="list-style-type: none"> 1. VTM Draft Resolution 2. Exhibit A: Vesting Tentative Map Legal Description 3. Vesting Tentative Map and Cross Sections
Attachment I:	<p style="text-align: center;">Development Agreement (DA)</p> <ol style="list-style-type: none"> 1. Development Agreement Draft Ordinance 2. City Memorandum on Draft Development Agreement 3. Draft Development Agreement 4. DA Exhibit I: Infrastructure Plan (supersedes draft DA version)
Attachment J:	<p style="text-align: center;">Major Encroachment Permits</p> <ol style="list-style-type: none"> 1. Encroachment Draft Resolution 2. Exhibit A: Encroachment Agreement 3. Exhibit B: Conceptual Encroachment Plan Sheets 4. Exhibit C: Encroachment Permit Criteria
Attachment K:	<p style="text-align: center;">Construction Impact Mitigation Plan (CIMP)</p> <ol style="list-style-type: none"> 1. CIMP Draft Resolution 2. Construction Impact Mitigation Plan
Attachment L:	<p style="text-align: center;">Historic Preservation Permit Amendment (HPA)</p> <ol style="list-style-type: none"> 1. HPA Draft Resolution 2. Historic Landmarks Commission Staff Report San José Water Works March 17, 2021 3. HPA Submittal
Attachment M:	<p style="text-align: center;">Landmark Designation Boundary Amendments</p> <ol style="list-style-type: none"> 1. San José Water Works Boundary Amendment Draft Resolution 2. Southern Pacific Depot City Landmark Amendment Draft Resolutions 3. Historic Landmarks Commission Staff Report San José Water Works March 17, 2021 4. HLC Staff Report Southern Pacific Depot City Landmark Amendment Boundary March 17, 2021 5. San José Water Work Boundary Amendment Submittal 6. Southern Pacific Depot Boundary Amendment Submittal
Attachment N:	<p>Planning Public Correspondence as of April 20, 2021</p>

Attachment O: [Memorandum of Understanding December 4, 2018](#)

Attachment P:

Maps

1. [Aerial of Site](#)
2. [Existing General Plan Land Use Designation](#)
3. [Proposed General Plan Lan Use Designation](#)
4. [Exisiting Zoning District](#)
5. [Proposed Zoning District](#)

[Correspondence Received After April 21, 2021](#)