

DOWNTOWN WEST CONFORMANCE REVIEW IMPLEMENTATION GUIDE

This Downtown West Conformance Review Implementation Guide (Implementation Guide) sets forth the procedures for the City of San José's review and approval of Conformance Review Applications for Vertical Improvements, Open Space Improvements, and Horizontal Improvements necessary to implement the Downtown West Mixed-Use Plan (Project). Capitalized terms used but not otherwise defined in this Implementation Guide shall have the meanings for such terms set forth in the Development Agreement between Google and the City of San José and other applicable Project Approvals and Project Documents.

I. INTRODUCTION

The Downtown West Planned Development Zoning District (Downtown West PD Zoning District) establishes the Conformance Review process to ensure that the development of Vertical Improvements, Open Space Improvements, and Horizontal Improvements substantially conform with the requirements of the General Development Plan (GDP), the applicable standards and guidelines in the Downtown West Design Standards and Guidelines (DWDSG), the Downtown West Improvement Standards (DWIS), Infrastructure Plan, and applicable Project Approvals and Project Documents.

The Conformance Review process involves the submission of one or more of the following applications as the design and development of the Project progresses:

- “Vertical Conformance Review Application” which refers to schematic design development level of detail for Vertical Improvements. Specific submittal requirements for a Vertical Conformance Review Application are set forth in Section II.A.
- “Open Space Conformance Review Application” which refers to schematic design development level of detail for Open Space Improvements, which includes Project Sponsor-Owned Open Space and City-Dedicated Open Space as defined in Section 4.5 of the DWDSG. City-Dedicated Open Space includes City-Dedicated Parks and the Los Gatos Creek Multi-Use Trail. Specific submittal requirements for an Open Space Conformance Review Application are set forth in Section III. The submittal of the Open Space Conformance Review Application for a City-Dedicated Park (equivalent to 35% construction drawings) satisfies the 35% Park Improvement Plans under the Parkland Agreement.
- “Horizontal Conformance Review Application” refers to the horizontal review process that consists of the following components: optional preliminary-level conceptual drawings; 35% improvement plans; 65% improvement plans; and 95% improvement plans submitted to the Department of Public Works for review and comment as further described in Section IV.

The project sponsor may submit Conformance Review Applications for Vertical Improvements, Open Space Improvements, and Horizontal Improvements concurrently for City review and approval. For instance, at the project sponsor's election, an Open Space Conformance Review Application for Project Sponsor-Owned Open Space may be submitted concurrently with a Vertical Improvement Conformance Review Application for an adjacent developable area. In the event the project sponsor elects to submit an Open Space Conformance Review Application for

Project Sponsor-Owned Open Space and a Vertical Improvement Conformance Review Application concurrently, the City shall review and process the applications concurrently as if a single application.

For reference, Appendix B identifies applicable Project Documents and City regulatory documents that the City may refer to during the Conformance Review process.

II. VERTICAL CONFORMANCE REVIEW APPLICATION SUBMITTAL REQUIREMENTS

A. Overview

The project sponsor shall submit, and the Director of PBCE¹, shall review and approve or disapprove, a Vertical Conformance Review Application as set forth in Sections IV and V. Each Vertical Conformance Review Application shall consist of the following components, which are further described in this Section II: (a) data charts providing information regarding the proposed land uses, development program square footage, and type and number of residential units; (b) site plans, and drawings, as applicable, for the area that is the subject of the Vertical Conformance Review application; (c) a completed Vertical Improvement Conformance Review Checklist (*DWDSG Appendix C.1*); (d) request(s) for Minor Modification, Exception, Deferral, or Amendment to the Downtown West PD Permit, if applicable; and (e) Focused Local Transportation Analysis (Focused LTA).

Site plans, drawings, and other information provided with a Vertical Conformance Review Application should be presented in the following format:

1. All drawings, except for location map, shall be drawn to scale, at an appropriate scale between project size to sheet size and no smaller than 1/32" - 1'-0".
2. Submittal name and date, North arrow, key plan, project name, project sponsor's name, sheet title and sheet numbers shall all be included in the title block.
3. Drawings shall include dimensions that describe the development envelope and relationship with the property line.

B. Submittal Requirements

Each Vertical Conformance Review Application shall include the following information, as applicable, for the area subject to the Conformance Review Application:

1. Data Chart(s). Each submittal shall include a data chart(s) addressing the following, as applicable, for the area covered under the Vertical Conformance Review Application:
 - a. Name, address, project sponsor contact information, General Plan designation, assessor's parcel number(s).

¹ Pursuant to Sheets 8.01a and 8.01b in the GDP, the Planning Commission or City Council may act as the decision-maker for a CEQA determination in connection with a Conformance Review approval under certain circumstances.

- b. Program of land uses and approximate gross square footage of each use and building open space (as defined on Sheet 4.01 of the GDP).
- c. Proposed total building gross square footage above and below grade.
- d. Anticipated building height and number of floors on a building-by-building basis.
- e. Approximate number of off-street automobile parking stalls (identify private vs. public, type of parking (e.g. stacking, tandem, etc.), and long-term and short-term bicycle storage).
- f. On-Site Inclusionary Units: The total number of below-market rate residential units proposed as part of each Vertical Conformance Review Application, including the corresponding rentable square footage by unit type (bedroom count). Data on below-market rate units should also include tenure and number of units broken down by unit type, location of units, and level of affordability. The data should clearly identify the percentage of affordable units (i.e. percentage of total units proposed as part of the applicable Vertical Conformance Review Application restricted at 100% AMI for compliance with Mixed Compliance Option in Inclusionary Housing Ordinance). The data table should also identify the total cumulative number of market rate units and below-market rate units developed towards the 3,400 total number of market-rate and on-site inclusionary units pursuant to the Affordable Housing Program. The leasing and marketing plan for below-market rate units and a description of the access to amenities and the types of fixtures for the market rate units and the below-market rate units should also be provided consistent with the guidelines in the Affordable Housing Program. If clustering of restricted units is proposed, either within the market rate building or as a separate standalone building, an explanation of clustering benefits shall be provided.

Land Dedication Parcels: The total below-market rate units and corresponding rentable square footage by unit type located on the land dedication parcels identified in the Affordable Housing Program. Data on below-market rate units should also include tenure, number of bedrooms and number of units broken down by bedroom count, location of units, and level of affordability.

- g. Information indicating (i) whether the proposed development requires construction of a City-Dedicated Open Space, as indicated in the Parkland Agreement and exhibits thereto, (ii) the total acreage of City-Dedicated Open Space proposed, if any, including the amount of parkland dedication credits to be provided, (iii) whether the proposed development requires construction of a Project Sponsor-Owned Open Space, as indicated in the Development Agreement and exhibits thereto, (iv) the total acreage of Project Sponsor-Owned Open Space proposed, if any, including whether and how much of such acreage will be subject to a restrictive covenant, (v) an accounting of the total combined square footage of approved (and reasonably expected to be Complete at

Completion of the residential development that is the subject of the Conformance Review application) and Completed City-Dedicated Open Space and privately-owned open space subject to a restrictive covenant that will be provided per unit, and (vi) an accounting of the Project's overall progress with respect to the Parkland Dedication Obligation.

- h. The number of residential units and/or amount of non-residential square footage transferred from one Sub-Area to another, if any as permitted under the GDP. The description shall include information (i) demonstrating that the proposed transfer does not exceed the maximum number of residential units and the total square footage for each non-residential use permitted in the GDP; (ii) showing the reductions in the number of residential units and/or non-residential square footage from a contributing Sub-Area.
- i. A description of any proposed conversions of land uses, if any as permitted under the GDP.
- j. A data table identifying the total square footage of development by land use that has been completed or is under active construction within the Downtown West PD Zoning District, including the total number of residential and commercial/public parking spaces that have been completed or are under active construction. Vertical Conformance Review Applications that include residential uses shall also track the number of residential parking spaces provided within the Sub-Area that is covered by the Conformance Review Application and demonstrate that the number of residential parking spaces meets the residential parking standards under the GDP. Vertical Conformance Review Applications that include office uses shall demonstrate that the number of commercial/public parking spaces meets the Required Parking Ratio identified in the Development Agreement (Exhibit K).
- k. Building occupancy(ies), occupancy separation, type(s) of construction, fire control system.
- l. If a Vertical Conformance Review Application includes Limited Term Corporate Accommodations, the project sponsor shall provide the following information: (1) net square feet of Limited Term Corporate Accommodations (as described in Section 4.4.1 of the Development Agreement) in the applicable Vertical Conformance Review Application; and (2) the total number of bedrooms proposed for the Limited Term Corporate Accommodations in the applicable Vertical Conformance Review Application. If the Limited Term Corporate Accommodations are proposed on a residential parcel, the project sponsor shall also provide the cumulative total net square feet (as described in Section 4.3.3 of the Development Agreement) of Limited Term Corporate Accommodations built or planned to be built to date.
- m. Meet and Confer with Sharks Sports & Entertainment (SSE) on Select Parking-Related Vertical Improvements. At least seven (7) business days before submitting a Conformance Review Application for Vertical

Improvements (schematic level of design) that includes replacement parking facilities proposed by the project sponsor to be made available to SSE, the project sponsor shall provide written notice to up to three SSE representatives, as identified by SSE, of the anticipated Conformance Review Application. If within seven (7) business days of receiving such notice, SSE requests a meet and confer meeting (“Meet and Confer”) with the project sponsor and the City regarding the Conformance Review Application, then the project sponsor shall provide SSE with a copy of the project sponsor’s Conformance Review Application concurrent with its application submittal to the City. The project sponsor and City shall use commercially reasonable efforts to schedule and conduct the Meet and Confer with SSE within seven (7) business days following Conformance Review Application submittal. At the Meet and Confer, SSE may provide the project sponsor with comments on the applicable Conformance Review Application, which comments shall be (1) limited to the design and function of those parking facilities proposed to be publicly accessible, including for SSE and its patrons; and (2) focused on industry best practices relating to the design and function of such parking facilities. The City may in its discretion consider comments provided by SSE during the Meet and Confer as part of the City’s review of the Conformance Review Application pursuant to the timelines set forth in Section IV.B.

2. Site Plan(s) and Drawings. The project sponsor shall submit site plan(s) and drawings that pertain to the area of development included in the Vertical Conformance Review Application, showing where applicable:
 - a. Building relationships to landscaped areas, roads, sidewalks, mid-block passageways, any transit facilities, and open space areas. Include as applicable easements or setbacks. Public right-of-way improvements to be shown and dimensioned for reference only.
 - b. Location of all existing buildings to be retained, existing buildings to be demolished and all proposed buildings.
 - c. Design of parking facilities, which includes location of driveways and garage entrances; sight distance and location of pedestrian and bicycle crossings and access; location of on-street and off-street parking spaces; loading (as applicable); and circulation.
 - d. Fire access plan including fire exits, fire control room location(s), existing and proposed fire hydrants and/or standpipe, and fire truck access route.
 - e. Location of potable water, wastewater and recycled water submeters on all proposed buildings.
 - f. All existing and proposed grading and drainage conditions to be documented including:
 - Topography with pad elevations of the site and properties within 50 feet
 - Trees, sizes, species and condition, and disposition to be removed, if not previously identified

- Contours and top of curb or top of walls as applicable
 - Drainage flows and overland release flows
 - Retaining walls, swales and drainage structure
- g. Proposed utility plan, stormwater control plan, and stormwater hydromodification management report, as applicable. (Refer to the City of San José's Universal Plan Application for detailed requirements.)
- h. Waste Management Plan, including the approximate location and specifications of the solid waste enclosure or room, including dimensions, roofing structures, and drainage; number of waste containers to be placed inside the enclosure or room, the types of containers to be used, and the frequency of collection; the circulation plan for the hauler to enter and exit the site; and waste pick-up location; commercial and residential premises waste management plan in the event of service reduction or termination; locations of, collection plans, and style of public litter cans that would be placed in the public right of way; and, planned handling of special wastes (e.g. biosolids if applicable). Plan must demonstrate compliance with: onsite waste collection space and truck collection access in accordance with the applicable sections of the City's Solid Waste Enclosure Area Guidelines (currently 2011 Version, <https://www.sanjoseca.gov/Home/ShowDocument?id=46404>), City Council Policy 6-29, wherein drainage within a solid waste enclosure or solid waste room should be connected to the sanitary system, SB 1383 for organics handling/ diversion requirements, and Applicable Municipal Code and franchise agreements.
- i. Building elevations, floor plans, and sections sufficient to describe the development proposal, the general architectural character, and materials proposed.
- j. For additions or modifications to existing building(s), clearly identify areas of changes, including materials and exterior elevation changes.
- k. Landscape design drawings showing layouts, materials and intent of landscape elements within the site boundary including but not limited to curb cuts, tree locations, planting area, stormwater flow-through planters, plant species and layouts, paving, material palettes, furnishing elements, hydrozones, and outdoor lighting. Open space and public improvements located outside the boundary of the applicable Vertical Conformance Review Application may be provided for reference only. If the project sponsor submits a combined application for Vertical Improvement and Project Sponsor-Owned Open Space, such open space shall be evaluated for conformance pursuant to the applicable Open Space conformance requirements.
- l. Mid Block Passages. The project sponsor may elect to submit mid-block passages for review with either a Vertical Conformance Review Application or an Open Space Conformance Review Application. If the project sponsor elects to submit mid-block passages for review with a Vertical Conformance Review Application, the project sponsor shall

provide design drawings showing the layout, location, and dimension of the mid-block passage.

- m. For any residential building, if credit for Private Recreation Improvements is sought, include a written summary of all qualifying on site Private Recreation amenities, a table itemizing all proposed Private Recreation amenities by net square footage, location and classification type (active classification, non-active elements classification), dimensioned and labeled floor plans showing all recreational amenities, and photo simulations or other illustrative examples of proposed recreational accessories.
- n. District Systems. Where required, site plans and drawings that show the proposed location and alignment of the utilidor(s) within the development lots serving the building(s); location of pipe network, conduit, cables, other private utility connections to the utilidor; and identification of the private utilities provided through the district systems approach.

The project sponsor shall provide additional renderings, sketches, and other appropriate illustrative materials as reasonably necessary to: illustrate unique building design elements; indicate the architectural character of buildings and the relationship of such buildings to streets and open spaces; or demonstrate conformance with DWDSG standards.

- 3. Vertical Improvement Conformance Review Checklist. The project sponsor shall provide a completed Vertical Improvement Conformance Review Checklist (*DWDSG Appendix C.1*).

The Vertical Improvement Conformance Review Checklist identifies DWDSG standards and guidelines and DDG standards and guidelines that are applicable to development within Downtown West.

Compliance with applicable DWDSG standards is mandatory. The project sponsor shall consider DWDSG guidelines, however, Conformance Review shall be approved without the implementation of guidelines 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 shall provide a narrative that identifies the applicable guideline(s), describes the reason(s) why implementation of the guideline is not feasible, and describe how the subject application achieves the design intent in the chapter of the applicable guideline without implementation of the applicable guideline.

- 4. Minor Modifications, Exceptions, Deferrals and Amendments. The GDP authorizes the project sponsor to request the following types of relief from DWDSG standards: Minor Modification, Exception to a DWDSG standard, Deferral of a DWDSG Standard, or Amendment to the Downtown West PD Permit.

The requirements for a Minor Modification, Exception to a DWDSG standard, Deferral of a DWDSG Standard, or Amendment to the Downtown West PD Permit are set forth on Sheet 8.02 of the GDP. If the project sponsor seeks relief

from one or more DWDSG standards as part of a Vertical Conformance Review Application, the project sponsor shall:

- a. Identify the type of relief requested;
 - b. Describe the rationale for the requested relief; and
 - c. Demonstrate that the criteria for such relief has been satisfied, as set forth on Sheet 8.02 of the GDP.
5. Focused LTAs. The project sponsor shall prepare and submit one or more Focused LTAs to provide additional building-specific analysis to demonstrate conformance with the City's Transportation Analysis Policy (Council Policy 5-1), multimodal transportation strategies, goals and policies in the General Plan and the City's Complete Streets Design Standards and Guidelines (CSDSG) and other relevant City standards. The Focused LTA scope will be limited to ensure that the following topics, which were not previously analyzed in the Local Transportation Analysis Report (Appendix J2 to the Downtown West Environmental Impact Report) dated October 7, 2020, the Site-wide Focused LTA, dated April 16, 2021 and the Closure of Delmas Ave Supplemental Memo, dated April 16, 2021 are consistent with City requirements and standards: bicycle and pedestrian infrastructure design, access, and conformance to existing plans and policies; ADA compliance; sight distance; driveway operations, inclusive of driveway location, number, and design to ensure driveways are safe, visible, and do not conflict with pedestrian or bicycle facilities; and traffic gap analysis. If any changes to the Project are proposed that would materially change the findings of the completed ingress analysis, a future Focused LTA shall include ingress analysis of any potential impact to SAP Center operations. The limited scope of Focused LTAs described in this section will be analyzed pursuant to the City of San José's Transportation Analysis Handbook (April 2020). The Director of PBCE, in consultation with the Director of Public Works, shall review a Focused LTA concurrently with other plans, documents, and information submitted with the associated Vertical Conformance Review Application in the time frames specified under Section IV.B. If a previously submitted Focused LTA includes building-specific analysis for building(s) that are the subject of a Vertical Conformance Review Application, the project sponsor shall identify the previously submitted Focused LTA to the Director of PBCE.
6. Central Utility Plants (CUPs). The design and development of up to two (2) central utility plants proposed for the Project shall be reviewed through the Vertical Conformance Review Application process. The plans will show the location of the CUPs including substations, switching rooms, heating and cooling central plants, energy storage and backup, waste water treatment plant and automatic waste collection system terminals. They also will show any interface with vertical buildings, landscaped areas, roads, sidewalks, mid-block passageways, any transit facilities, and open space areas. In addition to the applicable DWDSG standards, the CUPs are subject to any applicable standards set forth under the Infrastructure Plan and DWIS. The Director of PBCE shall approve a Vertical Conformance Review Application for a CUP, upon consultation with the Director of Public Works, as necessary, to confirm the CUPs are consistent with the Infrastructure Plan and DWIS.

III. OPEN SPACE CONFORMANCE REVIEW APPLICATION SUBMITTAL REQUIREMENTS

The project sponsor shall submit, and the Director of PBCE shall review and approve or disapprove, an Open Space Conformance Review Application as set forth in Sections IV and V. Each Open Space Conformance Review Application shall consist of the following components, which are further described in this Section III: (a) data charts providing information regarding the proposed open space program and associated acreage; (b) site plans, and drawings, as applicable, for the area that is the subject of the Open Space Conformance Review Application; (c) a completed Open Space Conformance Review Checklist (*DWDSG Appendix C.2*); (d) compliance with applicable requirements of the Parkland Agreement if the Open Space Conformance Application includes City-Dedicated Open Space; and (e) request(s) for Minor Modification, Exception, Deferral, or Amendment to the Downtown West PD Permit, if applicable.

Each Open Space Conformance Review Application shall indicate whether the area that is subject to the application includes City-Dedicated Open Space, Project Sponsor-Owned Open Space, or both.

1. Data Chart and Narrative. Each submittal shall include a data chart and narrative addressing the following, as applicable:
 - a. Narrative generally describing the program of open space, including design intent, programmatic elements, and character of the open space(s) included within the application submittal.
 - b. Proposed open space acreage for each open space category, as applicable.
 - c. Amount of City Dedicated Park and/or Los Gatos Creek Multi-Use Trail with such acreages reflected and tracked using Exhibit E7 to the Parkland Agreement (Parkland Dedication Tracking and Verification Table).
 - d. Amount of Project Sponsor-Owned Open Space.
2. Site Plans and Drawings. The project sponsor shall submit site plans and/or drawings that pertain to the area of development included in the Conformance Review Application, showing where applicable:
 - a. Land uses and building heights on blocks adjacent to the Open Space.
 - b. Location of facilities, irrigation systems, and/or structures.
 - c. Anticipated vehicular, bicycle, and pedestrian circulation.
 - d. Open space program and active recreational uses.
 - e. Proposed grading, landscaping, and hardscape surface.
 - f. Locations and sizes of all utility and drainage connections and other service requirements.

- g. Generalized locations for furnishings, lighting, art, and signage.
- h. Palette of open space materials and elements for use in expressing the particular character of the open space, including but not limited to: paving and construction materials; plant materials; site and street furniture; lighting; water features and related art work.
- i. A Conceptual Stormwater Control Plan.
- j. Existing buildings and trees to be removed, if not previously identified.
- k. District Systems. Site plans and drawings that show the proposed location and alignment of the utilidor(s) located within the open space(s); location of piping, cables, other private utility connections to the utilidor; and identification of the private utilities provided through the district systems approach and located within the particular utilidor(s) within the open space(s).

The project sponsor shall provide additional renderings, sketches, and other appropriate illustrative materials as necessary to demonstrate conformance with DWDSG standards.

3. City-Dedicated Open Space (Parkland Agreement Requirements). An Open Space Conformance Review Application that includes City-Dedicated Open Space shall include a description describing compliance with applicable requirements under the Parkland Agreement for City-Dedicated Open Spaces. Pursuant to the Parkland Agreement, the project sponsor's submittal of an Open Space Conformance Review Application shall satisfy the requirement to submit 35% Park Improvement Plans under the Parkland Agreement. Project sponsor shall also refer to the Department of Public Works' Turnkey Project Process and Submittal Requirement (Rev. 11/5/19) and provide any additional items required under the 35% Design Submittal Requirements to the extent not addressed in the Open Space Conformance Review Application for City-Dedicated Open Space. The Design Review Timeline set forth in the Turnkey Project Process and Submittal Requirements shall be superseded by the review timeframes set forth in Section IV below.

The submittal of 65% and 95% Park Improvement Plans shall occur following the Open Space Conformance Review process. The preparation, submittal, and review of the 65% and 95% Park Improvement Plans shall be in accordance with the Parkland Agreement and include the submittal requirements for the 65% Submittal Set and 95% Submittal Set as set forth in the Turnkey Project Process and Submittal Requirements (Rev. 11/5/19).

4. Open Space Conformance Review Checklist. The project sponsor shall provide a completed Open Space Conformance Review Checklist (*DWDSG Appendix C.2*).

The Open Space Conformance Review Checklist identifies DWDSG standards and guidelines and DDG standards and guidelines that are applicable to development within Downtown West.

Compliance with applicable DWDSG standards is mandatory. The project sponsor shall consider DWDSG guidelines, however, Conformance Review shall be approved without implementation of guidelines 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 shall provide a narrative that identifies the applicable guideline(s), describes the reason(s) why implementation of the guideline is not possible, and describe how the subject application achieves the design intent in the chapter of the applicable guideline without implementation of the applicable guideline.

5. Minor Modifications, Exceptions, Deferrals, and Amendments. The GDP authorizes the project sponsor to request the following types of relief from DWDSG standards: Minor Modification, Exception to a DWDSG standard, Deferral of a DWDSG Standard, or Amendment to the Downtown West PD Permit.

The requirements for a Minor Modification, Exception to a DWDSG standard, Deferral of a DWDSG Standard, or Amendment to the Downtown West PD Permit are set forth on Sheet 8.02 of the GDP. If the project sponsor seeks relief from one or more DWDSG standards as part of an Open Space Conformance Review Application, the project sponsor shall:

- A. Identify the type of relief requested;
- B. Describe the rationale for the requested relief; and
- C. Demonstrate that the criteria for such relief has been satisfied, as set forth on Sheet 8.02 of the GDP.

IV. VERTICAL AND OPEN SPACE CONFORMANCE REVIEW PROCESS

A. Priority Project

The development of Downtown West is a priority to the City. Accordingly, the City shall review all Conformance Review Applications as expeditiously as reasonably possible in accordance with the process and timeframes set forth in Section IV.B below.

B. Review Process and Timelines

When a Conformance Review Application for Vertical Improvements or Open Space is submitted, the Director of PBCE shall review the Conformance Review Application pursuant to the process and timelines described below.

Review Process and Action	Timeline
Pre-Submission Conference	Approximately twenty (20) business days before submitting a Conformance Review Application for Vertical Improvements or Open Space, the project sponsor and Planning staff shall hold at least one (1)

	pre-submission conference at a mutually agreeable time.
Determination of Completeness	<p>Planning staff shall review the Conformance Review Application for completeness and within fifteen (15) business days of the application submittal shall either:</p> <ol style="list-style-type: none"> 1. Advise the project sponsor that the application is complete; or 2. Identify with specificity any deficiencies with the application. <p>If Planning staff identifies any deficiencies, it shall notify the project sponsor within seven (7) business days after receipt of any supplemental information requested whether:</p> <ol style="list-style-type: none"> 1. The application is complete; or 2. Any of the previously identified deficiencies remain. <p><u>Community Notification of Conformance Review Application Submittal:</u></p> <ol style="list-style-type: none"> 1. The City shall post a Conformance Review Application on the Planning Division website at the time of Application submittal. 2. An email shall be sent to all subscribing individuals, within seven (7) business days of the submittal.
Director of PBCE Determination Regarding Scope of CEQA Compliance	<p>Within the time period for Planning staff to determine whether the Conformance Review Application is complete, the Director of PBCE shall determine whether the Conformance Review Application can be approved in reliance on the Downtown West Final Environmental Impact Report, if the Conformance Review may be approved in reliance on an Addendum to the Downtown West Final Environmental Impact Report, or if a Supplemental or Subsequent Environmental Impact Report is required.</p> <p>If the Director of PBCE determines that a Supplemental or Subsequent Environmental Impact Report is required based on substantial evidence in accordance with CEQA and identifies one or more significant environmental effects, following mitigation, the Planning Commission shall hold a hearing on the</p>

	<p>Conformance Review Application and make a recommendation to the City Council regarding certification of the Supplemental or Subsequent Environmental Impact Report.</p>
<p>Planning Staff Review of Application</p>	<p><u>Vertical Conformance Application & Open Space Conformance Review Application for Project Sponsor-Owned Open Space</u></p> <p>Within forty-five (45) business days of a determination of completeness, the Planning staff and other applicable City departments shall complete their review of the Conformance Review Application.</p> <p><u>Open Space Conformance Review Application for City-Dedicated Park</u></p> <p>If an Open Space Conformance Review Application includes a City-Dedicated Park, Planning staff shall complete its review of the application within sixty-five (65) business days of a determination of completeness.</p> <p><u>Los-Gatos Creek Multi-Use Trail</u></p> <p>If an Open Space Conformance Review Application includes a component of the Los-Gatos Creek Multi-Use Trail, the Open Space Conformance Review Application shall follow the review duration requirements of the adjacent open space.</p> <p><u>Meet and Confer Process</u></p> <p>Planning staff and the project sponsor shall meet and confer as reasonably necessary during the 45-day review period or 65-day review period for an application with City-Dedicated Park. By the close of the 45-day period or 65-day period, as applicable, Planning staff shall provide the project sponsor with the completed Conformance Review Approval Form (attached hereto as Appendix A) and its recommendation of approval or disapproval of the Conformance Review Application; however, Planning staff shall not publish the Conformance Review Approval Form until the informational community meeting has occurred.</p> <p>If Planning staff recommends disapproval of the Conformance Review Application, the Conformance</p>

	<p>Review Approval Form (Appendix A) shall clearly delineate the reasons for recommending disapproval. For example, if Planning staff determines that the project sponsor is inconsistent with a DWDSG standard, it must provide detailed information outlining reasons for the inconsistency. The project sponsor may request to meet with the Planning staff to discuss the reasons for disapproval; such meeting shall occur within five (5) business days of the project sponsor's request. The project sponsor may resubmit its Conformance Review Application with modifications, and Planning staff shall review the updated Conformance Review Application and provide an updated Conformance Review Approval Form and recommendation for approval or disapproval within twenty-two (22) business days of the resubmittal.</p> <p>The project sponsor may withdraw a Conformance Review Application at any time prior to the Director of PBCE's determination on the application.</p>
<p>Informational Community Meetings</p>	<p><u>Vertical Improvements & Project Sponsor-Owned Open Space</u></p> <ul style="list-style-type: none"> • The project sponsor shall host one (1) community meeting 10-30 business days following a determination of completeness to present schematic design development level of detail prior to Director's Conformance Determination. • Notification of the community meeting shall be posted on the City's website a minimum of seven (7) business days prior to the community meeting and an email shall be sent to all subscribing individuals a minimum of seven (7) business days prior to the community meeting. <p><u>Los-Gatos Creek Multi-Use Trail</u></p> <p>If an Open Space Conformance Review Application includes a component of the Los-Gatos Creek Multi-Use Trail, the Open Space Conformance Review Application shall follow the community meeting requirements of the adjacent open space. For example, an Open Space Conformance Review Application that includes a component of the Los-Gatos Creek Multi-Use Trail that is adjacent to a Project Sponsor-Owned Open Space shall follow the</p>

community meeting requirements for Project Sponsor-Owned Open Space. An Open Space Conformance Review Application that includes a component of the Los-Gatos Multi-Use Trail that is adjacent to a City-Dedicated Park shall follow the community meeting requirement for City-Dedicated Parks.

City-Dedicated Parks

If an Open Space Conformance Review Application includes a City-Dedicated Park, the following informational community meetings must be held:

- Initial Community Meeting Prior to Application Submittal (Initial Community Meeting). The project sponsor shall host the Initial Community Meeting prior to the submittal of an Open Space Conformance Review Application that includes a City-Dedicated Park to discuss initial park concepts and potential park names. The intent of this meeting is to make the community familiar with the proposed park and solicit feedback on park amenities.
- Second Community Meeting. The project sponsor shall host one additional community meeting after the Initial Community Meeting but prior to the submittal of an Open Space Conformance Review Application that includes a City-Dedicated Park. During this community meeting, the project sponsor shall present design options to the community based on feedback provided during the Initial Community Meeting.
- Final Community Meeting. The project sponsor and City staff shall present to the Parks and Recreation Commission the final proposed plan for adoption of the park plan and recommendation to City Council of the park name. Park naming shall comply with City Council Policy 7-5. This meeting shall be held after holding the post-application submittal meeting, but no later than fifty-five (55) business days after a determination of completeness.

Notification of community meetings for an Open Space Conformance Review Application that includes a

	<p>City-Dedicated Park shall be consistent with the public noticing requirements for community meetings under City Council Policy 6-30.</p>
<p>Conformance Review Hearing</p>	<p><u>Director of PBCE</u></p> <p>The Director of PBCE shall schedule a Conformance Review Hearing within ten (10) business days of providing the project sponsor a copy of the completed Conformance Review Approval Form. Conformance Review Hearings shall be agendized separately from Director of PBCE Hearings held for other purposes pursuant to Title 20 of the Municipal Code.</p> <p>Conformance Review Hearings may be held on dates when Director of PBCE Hearings are also scheduled to occur, or they may be scheduled for any other date at the Director of PBCE's discretion.</p> <p>Notice: Notice of the Conformance Review Hearing and the related staff report shall be published on the City's website 72-hours prior to the date of the hearing.</p> <p>Public Comment: The Director of PBCE shall hear and consider all public comments received during the Conformance Review Hearing.</p> <p><u>Planning Commission / City Council (Supplemental or Subsequent EIR Required & Significant Effect Identified)</u></p> <p>If the Director of PBCE determines that a proposed Conformance Review Application requires a Supplemental or Subsequent EIR and results in one or more significant effects, following mitigation, Planning staff shall refer the matter to the Planning Commission within ten (10) business days of providing the project sponsor a copy of the completed Conformance Review Approval Form.</p> <p>The Planning Commission shall hold a public hearing on the Supplemental or Subsequent EIR and make a recommendation to City Council concerning the certification of the Supplemental or Subsequent EIR pursuant to Title 21, as amended via Ordinance No. 30609.</p>

Director of PBCE Decision	The Director of PBCE shall provide the project sponsor with a written determination on the Conformance Review Application within seven (7) calendar days of the Conformance Review Hearing.
Appeal of Director of PBCE Decision	The decision of the Director of PBCE is final and not appealable pursuant to Section 20.70.700 of Title 20 of the San Jose Municipal Code, adopted by City Council Ordinance No. 30608.

C. Building Permits, Site Permits, and Related City Permits

The City shall not issue a building permit or site permit unless the project sponsor has first obtained approval of a Conformance Review Application. The project sponsor may submit a building permit or site permit application to the City pursuant to the process set forth under the City’s Municipal Code. The City shall review building and site permits for all development within Downtown West (residential and non-residential) pursuant to its Special Tenant Improvement (STI) / Industrial Tool Installation (ITI) Plan Review process.

V. STANDARD OF REVIEW FOR VERTICAL AND OPEN SPACE CONFORMANCE REVIEW APPLICATIONS

The Director of PBCE shall complete the Conformance Review Approval Form, attached as Appendix A, as part of the Conformance Review process.

The Director of PBCE shall review and approve or deny a Vertical Improvement or Open Space Conformance Review Application pursuant to the standard of review described in GDP, Sheet 8.01a.

VI. HORIZONTAL CONFORMANCE REVIEW PROCESS

A. Overview

The Vesting Tentative Map will be subject to conditions of approval requiring the project sponsor to complete open space, infrastructure, and any other horizontal improvements consistent with the GDP and PD Permit (DWDSG Chapter 6: Mobility and other applicable standards in the DWDSG), the Downtown West Improvement Standards, Infrastructure Plan (attached to the Development Agreement), the Encroachment Permit approved for the Project pursuant to Council Resolution No. 80024 for utilidoros located within the public right of way, and applicable standards and guidelines in the Complete Streets Design Standards and Guidelines.

The project sponsor will be required to demonstrate that all phased final maps and associated improvements, as described on 100% improvement plans, are consistent with the Vesting Tentative Map conditions of approval. Before submitting any phased final map or 100% improvement plans, the project sponsor shall submit: (1) 35% Improvement Plans as described

in Section IV.C; (2) 65% Improvement Plans as described in Section IV.C; and (3) 95% Improvement Plans as described in Section IV.C.

B. (Optional) Preliminary Concept Document Submittal

Prior to the project sponsor's submission of the 35% Improvement Plans described in Section VI.D below, the project sponsor, in its sole discretion, may elect to submit preliminary-level conceptual drawings ("Preliminary Concept Documents"). The submission of Preliminary Concept Documents shall be a courtesy submittal and shall not be required.

If the project sponsor elects to submit Preliminary Concept Documents, the Director of Public Works shall review the Preliminary Concept Documents and provide the project sponsor with comments. The project sponsor may request a meeting(s) with the Director of Public Works and applicable City departments to review the Preliminary Concept Documents at mutually agreeable times.

C. District Systems Implementation Plan

Prior to, or concurrent with the project sponsor's submittal of the 35% Improvement Plans described in Section VI.D below, the project sponsor shall submit a District Systems Implementation Plan. Vesting Tentative Map Condition of Approval no. 14 outlines the requirements for the District Systems Implementation Plan and the terms for the City's subsequent review and confirmation of the District Systems Implementation Plan.

D. Horizontal Review Process: 35% Improvement Plans

1. 35% Improvement Plan Submittal Requirements

The project sponsor shall submit 35% Improvement Plans that provide the following information:

- a. Cover Sheet: List of drawings (including future sheet to be submitted), abbreviations, and standard notes.
- b. Project Narrative: Include scope of project, site description, summary of infrastructure proposed for public dedication (consistent with the Infrastructure Plan), and a preliminary schedule for design through construction. Narrative will also include a phasing description of how proposed horizontal improvements align with the Infrastructure Plan and integrate into prior and future development phases, as applicable.
- c. Demolition plan showing existing buildings and trees to be removed.
- d. Site Grading and Drainage Plan with existing grades and proposed street grades at beginning of horizontal curves (BC's), end of horizontal curves (EC's), grade breaks, high points, low points, vertical curves (VC), beginning of VC (BVC's) and end of VC (EVC's), pad grades, overland release routes, grade conforms, street centerline grades and drainage devices.
- e. Stormwater Management Plan (private): The Site Grading and Drainage Plan set shall include a Stormwater Management Plan (private) that provides preliminary green stormwater infrastructure calculations and typical details for onsite private

treatment control measures unless otherwise provided in Vertical Conformance Review Application.

- f. Stormwater Management Plan (public streets): Description, preliminary green infrastructure calculations, typical details and plan view layout of how the stormwater management will be achieved within the public ROW.
- g. Utility Plans and Centerline Profiles (public streets): Plans will include existing utilities to be abandoned or relocated. All utilities shown in plan only, except for storm and sanitary sewer. Plans will include all new or reconstructed storm and sanitary mains with pipe slopes, inverts and rim elevations at manholes, on both plan and profile sheets.
- h. Utilidor Crossing and Encroachment Plan: Plan includes a preliminary draft location map, plan view, and elevation showing the dimensions, location, and alignment of the proposed utilidors within the public right of way and its relationship to adjoining properties, and any structures, utilities or improvements. Plan should also show any district systems proposed to be located within the utilidors.
- i. Typical Street Section Plan: Including lane dimensions, sidewalk dimensions, roadway materials, grades, curb heights, and utilities, including all horizontal clearances.
- j. Street Improvement Plan: Including stationing, roadway dimensions, bulb-out locations, traffic calming measures, non-standard roadway conditions for acceptance, horizontal curves, horizontal sight distance studies, transit facilities, street lights, bikeway and trail dimensions, streetscape design and roadway materials. A separate street layout site plan shall be provided for private streets.
- k. Geometric (Signage and Striping) and Traffic Signal Plan: Including final traffic lines and pavement markings including centerlines, lanelines, edgelines, crosswalks, limit lines (stop lines), arrows, words and other appropriate delineation; permanent project signing in the public right-of-way; and new and/or modified traffic signal locations.
- l. Public Landscape Plan: (if median and/or backup landscaping in the public street is proposed).
- m. Street Light Plans: Including new street light locations, new street light electrical systems, existing street light locations and removal and/or modifications to existing electrical systems.
- n. Improvement Plan Checklists. The project sponsor shall submit the following Improvement Plan Checklists to delineate the design components included with the 35% Improvement Plan Submittal: (1) Grading Permit Checklist (Rev. 03-17-17); (2) Parcel/Tract Map Checklist (Rev. 12/15/09); (3) Private Street Improvement Plan Checklist (Rev. 01/05/12); (4) Public Street Improvement Plan Checklist (Rev. 04/19/13); and (5) Planning Stormwater Submittal Checklist (Rev. 03-15-19). Not all checklist items will be completed at the time of the 35% Improvement Plan submittal and the project sponsor shall be permitted to

proceed from 35% to 65% improvements notwithstanding uncompleted checklist items.

- o. Project sponsor's proposed form of Improvement Agreement (as described in Section 19.32.010 of the Municipal Code) for required improvements corresponding with the Improvement Plans and associated phased final map.
- p. A Focused LTA which shall only be required during the Horizontal Improvement Conformance Review process if the project sponsor proposes material deviations from the Vesting Tentative Map that were not previously analyzed in the Site-wide Focused LTA, dated April 16, 2021. If a Focused LTA is required, the PW Director shall review and provide comments pursuant to the timeline for review of 35% Improvement Plans below. The project sponsor shall update the Focused LTA as necessary during the Horizontal Improvement Conformance Review process. The Focused LTA shall be finalized at the 100% Improvement Plan stage.

2. 35% Improvement Plan City Review Process

Upon receipt of the 35% Improvement Plans, the PW Director will distribute the plans electronically to any City departments responsible for permitting, reviewing, or operating any improvement depicted in the plans ("Commenting Departments"). Commenting Departments will review the 35% Improvement Plans and other materials provided under Section VI.D.1 for consistency with the GDP and Downtown West PD Permit (DWDSG Chapter 6: Mobility and other applicable standards in the DWDSG), the DWIS, Infrastructure Plan (attached to the Development Agreement), and applicable standards and guidelines in the Complete Streets Design Standards and Guidelines. The proposed location of utilidors shall be reviewed for consistency with the Conceptual Encroachment Plan Sheets (approved for the Project's Encroachment Permit by Council Resolution No. 80024).

The Commenting Departments will provide any comments on the 35% Improvement Plans to the PW Director within 25 business days of project sponsor's submittal of said plans to the PW Director. The PW Director will compile all comments and provide them to the project sponsor no later than 27 business days of the project sponsor's original submittal of the 35% Improvement Plans to the PW Director. Inclusion of changes from the comments will be in the subsequent submittal phase. Every reasonable attempt should be made to meet these review times. However, the review times are goals and are subject to change at the sole discretion of the Director of Public Works depending on the organizational capacity to meet the review times when the documents are submitted.

E. Horizontal Review Process: 65% Improvement Plans

1. 65% Improvement Plan Submittal Requirements

The 65% Improvement Plans will represent design development, which is intended to further refine the concepts developed during the 35% Improvement Plan phase. The 65% Improvement Plans will be advanced to the point that all major design issues and solutions are represented in the plans. If not already provided with the 35% Improvement Plan submittal, utility potholing is provided at this stage with a survey to verify the preliminary design established in the 35% Improvement Plans is feasible. Descriptions are added for sheets not previously provided during the 35% Improvement Plan phase.

The project sponsor shall submit the following information for Improvement Plans developed to 65%:

- a. Cover Sheet
- b. Project Narrative
- c. Demolition Plan
- d. Site Grading and Drainage Plan
- e. Stormwater Management Plan (private), otherwise provided in Vertical Conformance Review Application.
- f. Stormwater Management Plan (public streets)
- g. Utility Plans and Centerline Profiles
- h. Utilidor Crossing and Encroachment Plan
- i. Typical Street Section Plan
- j. Public Street Improvement Plans
- k. Private Street Improvement Plans
- l. Geometric (Signage and Striping) and Traffic Signal Plan
- m. Public Landscape Plans
- n. Street Light Plans
- o. Erosion Control Plan: Include City standard notes and cover sheet elements, proposed erosion control elements, typical details
- p. Construction Details: Include City Standard Details where applicable for proposed horizontal infrastructure.
- q. Estimate of Costs for Infrastructure Qualified for Reimbursement
- r. Subsequent Construction Impact Mitigation Plan (Subsequent CIMP): The project sponsor shall submit a draft Subsequent CIMP with the submittal of the 65% Improvement Plans. The project sponsor, in its sole discretion, may elect to submit a Subsequent CIMP with the submittal of the 35% Improvement Plans, in which case the Director of Public Works and Commenting Departments shall review the Subsequent CIMP as part of the 35% Improvement Plan submittal.²

² Subsequent CIMPs for vertical improvements and open space will be submitted, as needed, during the building permit process as further described in the CIMP, dated May 2021, approved by Resolution No. 80026.

- s. Improvement Plan Checklists: The project sponsor shall submit the Improvement Plan Checklists identified in Section VI.D.1(n) above and identify the design components included with the 65% Improvement Plan submittal. Not all checklist items will be completed at the time of the 65% Improvement Plan submittal and the project sponsor shall be permitted to proceed from 65% to 95% improvements notwithstanding uncompleted checklist items.

2. 65% Improvement Plan City Review Process

Upon receipt of the 65% Improvement Plans, the PW Director will distribute the plans electronically to all applicable Commenting Departments. Commenting Departments will review the 65% Improvement Plans and other materials provided under Section VI.E.1 for consistency with the GDP and Downtown West PD Permit (DWDSG Chapter 6: Mobility and other applicable standards in the DWDSG), the Downtown West Improvement Standards, Infrastructure Plan (attached to the Development Agreement), and applicable standards and guidelines in the Complete Streets Design Standards and Guidelines. The proposed location of utilidors shall be reviewed for consistency with the Conceptual Encroachment Plan Sheets (approved for the Project's Encroachment Permit by Council Resolution No. 80024).

The Commenting Departments will provide any comments on the 65% Improvement Plans to the PW Director within 20 business days of the project sponsor's submittal of said plans to the PW Director. The PW Director will compile all comments and provide them to the project sponsor no later than 22 business days of the project sponsor's original submittal of 65% Improvement Plans to the PW Director. Inclusion of changes from the comments will be in the subsequent submittal phase. Every reasonable attempt should be made to meet these review times. However, the review times are goals and are subject to change at the sole discretion of the Director of Public Works depending on the organizational capacity to meet the review times when the documents are submitted.

F. Horizontal Review Process: 95% Improvement Plans

1. 95% Improvement Plan Submittal Requirements

The 95% Improvement Plan submittal ("Final Design") shall respond to comments on the 65% Improvement Plan submittal and include final detailed plans, specifications, and estimates for proposed improvements qualified for reimbursement. The Final Design shall also include updated plans showing the location, alignment, and dimension of the utilidors within the public right of way and any district systems intended to be located within the utilidors, ensuring consistency with the Conceptual Encroachment Plan Sheets. At the time of the 95% Improvement Plan submission, the project sponsor shall also submit:

A completed Horizontal Improvement Conformance Review Checklist (*DWDSG Appendix C.3*) to the Director of Public Works to demonstrate that horizontal improvements are consistent with applicable standards in the CSDSG and applicable DWDSG standards (Chapter 6: Mobility).

Improvement Plan Checklists identified in Section VI.D.1(n) above and identify the design components included with the 95% Improvement Plan submittal.

Prior to the submittal of the Final Design, the project sponsor shall submit an updated and final Subsequent CIMP to the Director of Public Works that responds to applicable comments provided by the Director of Public Works and Commenting Departments following the initial submittal of the Subsequent CIMP during the 35% (if applicable) or 65% Improvement Plan stage.

2. 95% Improvement Plan City Review Process

The Commenting Departments will provide any comments on the 95% Improvement Plans to the PW Director within 15 business days of project sponsor's submittal of said plans to the PW Director. The PW Director will compile all comments and provide them to the project sponsor no later than 17 business days of the project sponsor's original submittal of the 95% Improvement Plans to the PW Director. Inclusion of changes from the comments will be in the 100% Improvement Plans. Every reasonable attempt should be made to meet these review times. However, the review times are goals and are subject to change at the sole discretion of the Director of Public Works depending on the organizational capacity to meet the review times when the documents are submitted.

The Director of Public Works and applicable City departments shall also evaluate the Horizontal Improvement Conformance Review Checklist for consistency with the CSDSG and applicable standards in DWDSG Chapter 6: Mobility within the review periods for 95% Improvement Plans identified above. The Director of Public Works and applicable Commenting Departments shall clearly identify any applicable standards that the project sponsor is inconsistent with, provide detailed information outlining reasons for such inconsistency, and identify any additional information or detail that can remedy such inconsistency. The project sponsor shall be permitted to proceed from 95% to 100% improvements notwithstanding inconsistency with applicable CSDSG or DWDSG standards at the Final Design stage provided the project sponsor provides additional information with the final map and 100% Improvement Plan submittal demonstrating consistency with any CSDSG or DWDSG standard that the Director of Public Works has determined it is inconsistent with.

Upon approval of the 95% Preliminary Improvement Plans, the project sponsor will prepare the final 100% Improvement Plans consisting of complete construction documents, incorporating previous comments and including drawings, specifications and schedule as set forth in Section VII.

G. DWIS Modifications; Minor Deviations and Amendments from Infrastructure Plan

1. DWIS Modifications

The project sponsor may request a DWIS Modification (defined in Section 1.5 of the DWIS) during the Horizontal Improvement Conformance Review process. A request for a DWIS Modification shall be reviewed and approved pursuant to Section 1.5 of the DWIS.

2. Infrastructure Plan Amendments

As further set forth in the Infrastructure Plan, minor deviations are expected as improvement plans progress from 35% to 65% to 95% and are permitted provided the deviation will not affect the overall system, its configuration and performance, and is otherwise compatible with the intent of the Infrastructure Plan.

Pursuant to Section 1.8 of the Infrastructure Plan, the project sponsor may request (1) Non-Material Amendments, and (2) Material Amendments from the Infrastructure Plan. The project sponsor may request a Non-Material Amendment or Material Amendment from the Infrastructure Plan during the Horizontal Improvement Conformance Review process, which shall be reviewed and approved pursuant to Section 1.8 of the Infrastructure Plan.

3. Relief from DWDSG and CSDSG

The GDP authorizes the project sponsor to request the following types of relief from DWDSG standards: Minor Modification, Exception to a DWDSG standard, Deferral of a DWDSG Standard, or Amendment to the Downtown West PD Permit.

The requirements for a Minor Modification, Exception to a DWDSG standard, Deferral of a DWDSG Standard, or Amendment to the Downtown West PD Permit are set forth on Sheet 8.02 of the GDP. If the project sponsor seeks relief from one or more DWDSG standards as part of a Horizontal Improvement Conformance Review Application, the project sponsor shall:

- a. Identify the type of relief requested;
- b. Describe the rationale for the requested relief; and
- c. Demonstrate that the criteria for such relief has been satisfied, as set forth on Sheet 8.02 of the GDP.

The project sponsor may also request relief from the CSDSG standards and guidelines pursuant to the processes set forth under the CSDSG.

VII. FINAL MAP(S) AND 100% IMPROVEMENT PLANS

The project sponsor shall apply for approval of subdivision maps and 100% improvement plans pursuant to the procedures described in Title 19 of the Municipal Code and any ordinances governing the design and permitting of subdivisions and improvements applicable to projects within the Downtown West PD Zoning District.

During the final subdivision mapping and improvement plan process, the project sponsor shall demonstrate compliance with all tentative map conditions of approval to ensure that horizontal improvements are consistent with applicable permitting requirements, which include the GDP and Downtown West PD Permit (DWDSG Chapter 6: Mobility and other applicable standards in the DWDSG), the DWIS, Infrastructure Plan, and applicable standards and guidelines in the Complete Streets Design Standards and Guidelines, the Encroachment Permit approved for the Project pursuant to Council Resolution No. 80024 or utilidors located within the public right of way, and other applicable Project approvals and documents.

A. Final Map and Improvement Plan Submittal Requirements.

The project sponsor shall submit the following:

1. 100% Public Improvement Plans. The project sponsor shall also provide a copy of the final form of any District Systems Transaction Documents that are required to be recorded to the PW Director for final confirmation.

2. 100% Public Improvement Plans Checklists. The project sponsor shall demonstrate compliance with the relevant City checklists identified in Section VI.D.1(n).
3. Private Improvement Plans (for those improvements required to serve the residential subdivision).
4. Matrix addressing all Horizontal Review Comments. Concurrent with project sponsor's submittal of 100% improvement plans to the City, project sponsor shall provide a summary matrix documenting how each comment received as part of the 95% Improvement Plans has been addressed, or, why any particular comment has not been incorporated.
5. Final Map Checkprint, including a title report, closure calculations and other map references, pursuant to the Final Map Checklist (Rev. 12/15/09).
6. Tentative Map Conditions of Approval Compliance Matrix. The project sponsor shall prepare a matrix of the tentative map conditions and identify in writing how the proposed final map or other documents satisfy the conditions of approval. The conditions of approval shall require compliance with applicable standards and guidelines in the DWDSG (Chapter 6 (Mobility) and other DWDSG standards designated *[HI]*) in addition to applicable standards and guidelines in the CSDSG, which are identified in the Horizontal Improvement Conformance Review Checklist.
7. Horizontal Improvement Conformance Review Checklist. The project sponsor shall either (1) confirm that the Director of Public Works has determined that the project sponsor is consistent with applicable DWDSG standards (Chapter 6: Mobility) and CSDSG standards; or (2) submit an updated Horizontal Improvement Conformance Review Checklist, with any applicable information, that is limited to those standards that the Director of Public Works has determined the project sponsor is inconsistent with.
8. Updated Maintenance Matrix.

B. Final Map and Improvement Plan Review Process

The City shall process, review and approve the Improvement Plans and final map pursuant to the procedures established in Title 19 of the Municipal Code and any ordinances governing the design and permitting of subdivisions and improvements applicable to the Downtown West PD Zoning District and in accordance with the requirements set forth in the Development Agreement, including the Parkland Agreement. The City will review Final Map Checkprints and provide any comments to the project sponsor within 14 business days of receipt of any Final Map Checkprint or Final Map Checkprint resubmittal.

VIII. CONFORMANCE APPROVAL ADJUSTMENT

As design progresses from Conformance Review to the building permit stage, adjustments to the design documents are expected, including but not limited to architectural elements or

landscape details, relocation of doors, equipment screening, minor changes to landscape furniture and structures.

As further set forth on Sheet 8.01a of the GDP, adjustments to a previously approved Conformance Review Application shall require a Conformance Approval Adjustment prior to the issuance of a Building Permit. These elements are identified on Sheet 8.01a of the GDP. The process for requesting and approving a Conformance Approval Adjustment is described on Sheet 8.01a of the GDP.

IX. MITIGATION MONITORING AND REPORTING PLAN (MMRP)

Pursuant to Section 4.3.1 of the Development Agreement, the project sponsor shall comply with all Mitigation Measures imposed by the MMRP, as applicable, on each Project component, except for any Mitigation Measures that are expressly identified as the responsibility of a different party or entity. The MMRP is attached as Exhibit "A" to Resolution No. ___ certifying the Downtown West Mixed-Use Environmental Impact Report. To the extent any plans or other requirements imposed by the MMRP require compliance prior to or concurrently with the Conformance Review process, the City shall review and process such MMRP plans or requirements diligently and expeditiously as set forth in Section 4.3.1 of the Development Agreement. The City shall review and provide comments on any plans or other requirements imposed by the MMRP within twenty (20) business days following receipt of such plans or requirements.

X. MODIFICATIONS TO IMPLEMENTATION GUIDE

The project sponsor and the Director of PBCE and the Director of Public Works, as applicable, may agree to modify provisions in this Implementation Guide and any attached Appendices. Modifications to this Implementation Guide may be completed administratively, without a public hearing. A modification of this Implementation Guide and any attached Appendices shall not require an amendment to the GDP or the Downtown West PD Permit.

Appendix A
City of San Jose
Downtown West Planned Development Zoning District
Vertical and Open Space Conformance Review Approval Form

A. GENERAL INFORMATION

Project Sponsor: _____

Conformance Review Application Submittal Date: _____

Determination of Completeness Date: _____

Property Subject to Conformance Review Application: _____

B. CONSISTENCY DETERMINATION

1. General Plan Consistency

(a) The Conformance Review Application includes property within the following General Plan land use designation(s):

- Downtown
- Commercial Downtown

(b) The land uses proposed for the area subject to the Conformance Review Application are consistent with the applicable General Plan land use designation(s) above.

- Yes.
- No. The Conformance Review Application is not consistent with the General Plan.

[Include detailed explanation describing why the Conformance Review Application is not consistent with the General Plan.]

(c) The Conformance Review Application is consistent with the permitted density and intensity level of development permitted under the land use designation(s) identified above.

- Yes.
- No. The Conformance Review application is not consistent with the General Plan.

[Include detailed explanation describing why the Conformance Review application is not consistent with the General Plan.]

2. Downtown West PD Zoning District: Consistency with General Development Plan and Downtown West Design Standards and Guidelines

(a) The project sponsor requested a transfer of development square footage from one Sub-Area to another as identified in the GDP.

- Yes

No

(b) If yes to Section 2(a): The requested transfer of development square footage satisfies the requirements under the GDP.

Yes, all of the following conditions have been satisfied:

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

No, the applicant has not satisfied the following requirements for the requested transfer of development square footage:

[Planning staff to identify requirements that the project sponsor did not satisfy and provide a detailed explanation why such condition was not satisfied.]

(c) The project sponsor requested a conversion of development square footage.

Yes

No

(d) If yes to Section 2(c): The requested conversion of development square footage satisfies the requirements under the GDP.

Yes, all of the following conditions have been satisfied:

- Compliance with CEQA has occurred in connection with the proposed conversion;
- The conversion does not result in exceedance of the overall 13,858,000 square foot cap on development;
- The applicant has identified a commensurate reduction in the total number of residential units and/or non-residential square feet of the original land use(s) that were allowed in the Downtown West PD Zoning District prior to the proposed conversion; and

The conversion is consistent with the General Plan and advances the goals and objectives of the Downtown West PD Zoning District

No, the applicant has not satisfied the following requirements for the requested transfer of development square footage:

[Planning staff to identify requirements that the project sponsor did not satisfy and provide a detailed explanation why such condition was not satisfied.]

(e) If a Vertical Conformance Review Application includes office development, the development proposal described in the Application complies with the requirements of Exhibit K to the Development Agreement as follows:

(1) The number of commercial/public parking spaces satisfies the Required Parking Ratio.

Yes
 No

(2) The project sponsor has demonstrated that at least 2,850 "Available" parking spaces will be maintained in the aggregate within the Project boundary and within one-third (1/3)-mile radius of the south entrance to SAP Center (which radius shall be defined to include the entirety of the parking garage proposed to be located on Parcel F, as such Parcel is depicted in the DWDSG). A publicly-accessible parking space is "Available" if it is unoccupied and accessible to SAP Center customers on weekends and after 6:30 PM on weekdays, on SAP Center event days.

Yes
 No

(f) The Conformance Review Application is consistent with the development standards in the General Development Plan.

Yes
 No

(g) The project sponsor's request for clustering of restricted units is approved.

Yes
 No

(h) The Conformance Review Application includes City-Dedicated Parks.

Yes
 No

(i) The project sponsor has completed the ____ Vertical Improvement ____ Open Space Conformance Review Checklist and demonstrated consistency with all applicable DWDSG standards.

- Yes
- No. The Conformance Review application is not consistent with the DWDSG standards identified below for the reasons described. *[Planning staff shall identify each DWDSG standard that the Conformance Review application is not consistent with and the reason why the application is not consistent with such standard.]*

DWDSG Standard	Planning Staff Findings of Inconsistency

- (f) The project sponsor has completed the _____ Vertical Improvement _____ Open Space Compliance Checklist and demonstrated consistency with all applicable DWDSG guidelines or demonstrated that the subject application on balance generally promotes the design intent of the chapter objectives for the applicable guideline.

- Yes
- No. The Conformance Review application does not generally promote the design intent of the chapter objectives for the DWDSG guidelines identified below for the reasons described. *[Planning staff shall identify each DWDSG guideline that the Conformance Review application is not consistent with and the reason why the application does not promote the design intent of the chapter objectives.]*

DWDSG Guideline	Planning Staff Findings of Inconsistency

3. California Environmental Quality Act (CEQA)

- The Conformance Review application is consistent with the Downtown West Final Environmental Impact Report (EIR) and the proposed development will not result in new or more significant impacts than previously analyzed under the EIR. A Subsequent or Supplemental Environmental Impact Report is therefore not required.
- The Conformance Review application will result in new or more significant impacts and a Subsequent or Supplemental Environmental Impact Report is required.

4. Requests for Minor Modifications, Exceptions, Deferrals, and Amendments ***[If applicable]***

The Project Sponsor requested the following Minor Modifications, Exceptions, Deferrals and Amendments:

Requested Minor Modification, Exception, Deferral or Amendment	Planning Staff Recommendation
1.	<input type="checkbox"/> Approve (Standard of Review identified on GDP Sheet 8.02 has been satisfied) <input type="checkbox"/> Deny; see Attachment __ describing reasons for recommended denial.
2.	<input type="checkbox"/> Approve (Standard of Review identified on GDP Sheet 8.02 has been satisfied) <input type="checkbox"/> Deny; see Attachment __ describing reasons for recommended denial.
3.	<input type="checkbox"/> Approve (Standard of Review identified on GDP Sheet 8.02 has been satisfied) <input type="checkbox"/> Deny; see Attachment __ describing reasons for recommended denial.
4.	<input type="checkbox"/> Approve (Standard of Review identified on GDP Sheet 8.02 has been satisfied) <input type="checkbox"/> Deny; see Attachment __ describing reasons for recommended denial.

5. The Conformance Review application includes property within 100 feet of the riparian corridor of Los Gatos Creek or the Guadalupe River.

- Yes
- No

6. If yes, to Item 5 above, the Conformance Review application confirms that the Project will cause no significant impact to riparian corridors or riparian habitats, and therefore is consistent with applicable provisions of the Santa Clara Valley Habitat Plan.

- Yes
- No

RECOMMENDATION

Planning staff recommends:

- Approving the Conformance Review Application.
- Denying the Conformance Review Application. See Attachment __ describing reasons for denying the Conformance Review Application.

DIRECTOR OF PBCE DECISION

The Director of PBCE approves the Conformance Review Application for [Block / Open Space ____].

Appendix B
Conformance Review
Project Documents and Applicable City Regulatory Documents

Project Approvals and Documents

The Director of PBCE, Planning Commission, or Director of Public Works, as applicable, may refer to the following Project Approvals and Project Documents, as approved on May 25, 2021 and June 8th, 2021 (and as such documents may be amended from time to time), during the Conformance Review process:

1. Final Environmental Impact Report for Downtown West Mixed-Use Project (Resolution No. 80018)
 - a. Mitigation Monitoring and Reporting Program
 - b. Statement of Overriding Considerations
 - c. CEQA Findings
2. Overruling the Airport Land Use Commission's Inconsistency Determination (Resolution No. 80019)
3. Envision San José 2040 General Plan (as amended in connection with the Project approved by Resolution No. 80020), vested pursuant to the Development Agreement
4. Diridon Station Area Plan (as amended in connection with the Project approved by Resolution No. 80021), vested pursuant to the Development Agreement
5. Downtown West Planned Development Zoning District and General Development Plan (Ordinance No. 30609)
6. Downtown West Planned Development Permit (Resolution No. 80022)
 - a. Downtown West Design Standards and Guidelines
 - b. Downtown West Improvement Standards
 - c. Conceptual Infrastructure Plan Sheets (for conceptual reference only, as the Conceptual Infrastructure Plan Sheets do not establish governing standards or designs)
 - d. Conformance Review Implementation Guide
7. Development Agreement for Downtown West Mixed-Use Plan (Ordinance No. 30610)
 - a. Affordable Housing Program (Exhibit D), including Schedules D2, D3 and D5
 - b. Parkland Agreement (Exhibit E)
 - c. Park Improvements Value and Costs (Exhibit E1)
 - d. City-Dedicated Open Space and Covenant Privately-Owned Publicly Accessible Open Space Approximate Acreage (Exhibit E2)
 - e. City-Dedicated Open Space Dedication and Improvements Schedule (Exhibit E3.1)
 - f. Park Dedication/Delivery Triggers Figure (Exhibit E3.2)
 - g. Design and Construction Requirements (Exhibit E5)
 - h. Parkland Dedication Tracking and Verification Table (Exhibit E7)
 - i. List of Required Exceptions from Parkland Dedication Ordinance (Exhibit E9)
 - j. Infrastructure Plan (Exhibit I)
 - k. Downtown West Parking Requirements (Exhibit K)
8. Title 20 of the San José Municipal Code, as amended pursuant to Ordinance No. 30608, vested pursuant to the Development Agreement
9. Vesting Tentative Map for Downtown West (Resolution No. 80023)
10. Master Encroachment Permits for District Systems and Streetscape Improvements (Resolution Nos. 80024 and 80025)

11. Construction Impact Mitigation Plan (Resolution No. 80026)
12. Partial Vacation of Portions of a portion of South Montgomery Street, Park Avenue, and Otterson Street with the Reservation of Public Easements Over the Vacated Area in Conjunction with the Downtown West Mixed-Use Plan (City Council Resolution No. 80031)
13. Partial Vacation of Portions of South Montgomery Street with the Reservation of Public Easements Over the Vacated Area in Conjunction with the Downtown West Mixed-Use Plan (City Council Resolution No. 80034)
14. Partial Vacation of Portions of Cinnabar Street with the Reservation of Public Easements Over the Vacated Area in Conjunction with the Downtown West Mixed-Use Plan (City Council Resolution No. 80030)
15. Partial Vacation of Portions of Otterson Street with the Reservation of Public Easements Over the Vacated Area in Conjunction with the Downtown West Mixed-Use Plan (City Council Resolution No. 80032)
16. Partial Vacation of Portions of Otterson Street with the Reservation of Public Easements Over the Vacated Area in Conjunction with the Downtown West Mixed-Use Plan (City Council Resolution No. 80033)

Other Vested Elements

The Director of PBCE, Planning Commission, or Director of Public Works, as applicable, may refer to the following Vested Elements during the Conformance Review process:

1. City of San José Municipal Code, amendments to the Municipal Code as set forth in Ordinance No. 30609
2. Complete Streets Design Standards and Guidelines (May 2018)
3. San José Downtown Design Guidelines and Standards (May 2020)
4. Standard Details and Standard Specifications, adopted by City's Public Works Department (July 1992) ("1992 Standards"), subject to modifications in the Downtown West Improvement Standards

Additional Regulatory Documents

The Director of PBCE, Planning Commission, or Director of Public Works, as applicable, may refer to the following regulatory documents during the Conformance Review process:

1. Santa Clara Valley Habitat Plan
2. San José Green Stormwater Infrastructure Plan
3. County of Santa Clara Green Stormwater Infrastructure Handbook
4. California Manual of Uniform Traffic Control Devices
5. City of San José Public Streetlight Design Guide (2016)
6. Los Gatos Creek Trail Master Plan - Reach 5
7. Trail Signage Guidelines: City of San José Trail Program

Appendix C
Interim Use Application

Project Address:
Block / Lot:

Applicant Information:
Name:
Address:
Email Address:
Telephone:

Use Details

Name of Interim Business:
Name of Primary Contact / Responsible Party During Business Hours:
Telephone Number:
Location of Interim Use:
Duration of Interim Use:
Start Date:
End Date:
Total Number of Days:
Operating Hours:
Frequency of Interim Use within the window of authorization (ex. Every day, weekly, monthly, etc.):
Project sponsor/applicant is seeking:
 Downtown West Use Certificate **Downtown West Use Permit**

Please indicate which use(s) below best describes the proposed Interim Use (select all that apply)

Interim Uses Requiring a Downtown West Use Certificate:

- Mobile food carts
- Retail establishments, including pop-up retail and vendor markets
- Small scale conferences and educational events
- Food and beverage (an ABC permit shall be required if alcohol is served)
- Indoor and outdoor gym and workout area
- Surface parking to support permitted interim uses
- Parks and gardens: including pocket parks, dog parks, playgrounds, community gardens, or nurseries
- Community space
- Site management services, administrative functions, drop-in center and customer amenities
- Retail or sales office incidental to new development

- Art/Culture Exhibitions: including outdoors art galleries, installation art, sculpture park museums, immersive experiences, art installations.
- Workshop and studio space
- Temporary central utility plant, if located on Block E
- Educational and personal enrichment

Interim Uses Requiring a Downtown West Use Permit:

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

If other, please describe. Note: the use may not qualify for this application and may require additional review.

The proposed Interim Use is authorized under the General Development Plan pursuant to a **Downtown West Use Certificate** **Downtown West Use Permit**

Design Standards

The proposed Interim Use meets the building height and lighting and signage design standards in the General Development Plan (Sheet 4.04).

Yes **No**

If no, please describe what does not comply.

Interim Use Application Submittal Requirements

NARRATIVE: Please provide a description of the Interim Use, including as applicable: purpose, entertainment, food and any food preparation, beverages (including alcohol), cleanup plan, any potential impacts on adjacent property, etc. The narrative should indicate whether amplified sound equipment will be used and whether the applicant is requesting that the City provide additional electric power.

SITE DIAGRAM: Detailed drawing depicting the proposed layout and location within the Downtown West PD Zoning District, including the location of booths, tables, stages, tents, fences, lighting, dumpsters, signage, portable toilets as applicable. Diagram must also show adjacent streets and residential units, and indicate the linear feet from the event boundary to streets and residences.

CONCEPTUAL PLANS: Provide conceptual plans that shows, as applicable: proposed buildings, structures or areas required for the Interim Use; location of existing and proposed on-site lighting fixtures; height and elevations of proposed building if applicable; location of on-site utilities and connection points; note all existing and proposed parking spaces, driveways/circulation elements, loading areas, and fences; and any temporary water services, wastewater services, or waste service.

ENVIRONMENTAL INFORMATION (For Downtown West Use Permit Only): Provide information demonstrating the proposed Interim Use complies with the California Environmental Quality Act (CEQA).

PRIVATE PROPERTY LETTER (only applicable if applicant is not the property owner): If the applicant is not the owner of the property where the Interim Use is located, the applicable shall provide a letter from the property owner (or an agent authorized by the owner) with this application. The letter should be on company letterhead acknowledging the property owner's approval of the proposed Interim Use, acknowledgement of the date, time, and activities scheduled to take place. Contact information (address, email, and phone) for this individual should be included in the letter.

OPERATION PLAN: Provide an operation plan that identifies the days of operation, hours of operation, parking layout (if applicable), outdoor uses (if applicable), proposed maintenance plan for public streets and spaces if the Interim Use is located adjacent to a public street or space, security plan (e.g. whether additional security personnel are anticipated), any proposed closure of a public street, measures to prevent disturbing or unreasonable noise that may adversely impact neighboring properties, and whether alcohol and/or food service will be provided.

Declaration

As the authorized representative of the applicant, I hereby declare that the information contained in this application and attachment(s) is true, complete and correct to the best of my knowledge.

Applicant Signature: