

From: [Phan, Johnny](#)
To: [Downtown West Project](#)
Subject: FW: Downtown West: Subsequent Review Term Sheet (9/1/20)
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Attachments: [DW Subsequent Review Term Sheet \(Submitted to City 9-1-20\).DOCX](#)

From: Gray, Matthew S. (Perkins Coie) <MGray@perkinscoie.com>
Sent: Tuesday, September 1, 2020 3:42 PM
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Subject: Downtown West: Subsequent Review Term Sheet (9/1/20)

[External Email]

Good afternoon, Johnny: Attached please find the Subsequent Review Term Sheet we referenced last week. It describes procedures, review standards, and submittal requirements for the conformance review process proposed for the Downtown West PD Zoning District. We expect John Tu, Tim Rood, and you (and perhaps others) will want to review this draft. We look forward to your comments. If you have questions in the meantime, please don't hesitate to call or email me.

Thank you, Johnny.

--Matt

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Downtown West: Subsequent Review Process Term Sheet

I. Overview of Subsequent Review

The Downtown West Planned Development Zoning District (PD Zoning District) is individually designed to meet the needs of the subject property. The Downtown West General Development Plan (GDP), which is adopted as part of the ordinance approving the PD Zoning District, establishes the uses and requirements of the PD Zoning District. The Planned Development Permit (PD Permit), which effectuates the PD Zoning District, includes the Downtown West Design Standards and Guidelines (DWDSG), the Downtown West Improvement Standards (DWIS), and the Conceptual Infrastructure Plan Sheets. The DWIS establishes standards for permitting certain horizontal improvements and describes permitting procedures for district systems.

The GDP establishes the following subsequent review process for the design and development of vertical improvements, open space, and horizontal improvements within the PD Zoning District:

- A. Conformance Review: Vertical Improvements and Open Space. The GDP establishes the Downtown West PD Zoning / Design Conformance Review process (Conformance Review) to ensure that development of vertical improvements and open space within the PD Zoning District substantially conforms to the requirements of the GDP, applicable standards and guidelines of the DWDSG, the Downtown Design Guidelines (DDG) and other applicable planning documents.
- B. Final Map and Improvement Plans: Horizontal Improvements. During the final subdivision mapping and improvement plan process, the project sponsor shall demonstrate consistency with all tentative map conditions of approval to ensure 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 Complete Streets Design Standards and Guidelines (CSDSG), DWIS, and other applicable infrastructure documents.

Sections II and III of this term sheet address key requirements of the Conformance Review process for Vertical Improvements and Open Space. Section IV addresses key requirements of the subsequent review process for Horizontal Improvements.

II. Key Requirements for Conformance Review Process

A. Vertical Improvement Conformance Review Application Requirements

Each Vertical Improvement Conformance Review application shall include the following documents, site plans, and drawings, as applicable, for the area that is the subject of the Conformance Review application:

- 1. Data Chart. Each submittal shall include a data chart addressing the following, as applicable:

- a. Program of land uses and approximate gross square footage of each use.
 - b. Proposed building gross square footage.
 - c. Anticipated building height on a building-by-building basis.
 - d. Approximate number of off-street automobile parking spaces.
 - e. The number of residential units proposed, including the number of market rate units and below-market rate units.
 - f. The number of residential units and/or amount of non-residential square footage transferred from one Sub-Area to another as permitted under the GDP. The description shall include information (a) 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; (b) showing the reductions in the number of residential units and/or non-residential square footage from a contributing Sub-Area.
 - g. A description of any proposed conversions of land uses as permitted under the GDP.
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. Building relationships to landscaped areas, roads, sidewalks, mid-block passageways, any transit facilities, and open space areas.
 - b. Building elevations, floor plans, and sections sufficient to describe the development proposal, the general architectural character, and materials proposed.
 - c. Location of all existing buildings to be retained, and all proposed buildings.
 - d. Location of driveways.
 - e. Location of parking spaces.
 - f. Landscape design plans showing details and intent of landscape elements, including but not limited to palettes/materials, furnishing elements, and lighting and signage details.

The project sponsor may elect to provide additional preliminary site and civil plans (e.g. preliminary grading and draining plans, utility connections, stormwater plan) related to the area subject to a Conformance Review application. Any preliminary site and civil plans would not be reviewed for approval during the Conformance Review process and would be for informational purposes only.

3. Vertical Improvement Compliance Checklist. The project sponsor shall provide a completed Vertical Improvement Compliance Checklist, which is attached as Appendix C.1 (Vertical Conformance Review Checklist) to the DWDSG.

Compliance with applicable DWDSG standards shall be required.

Pursuant to the requirements of the GDP, the project sponsor shall consider DWDSG guidelines; however, consistency with any particular number of guidelines is not required. Conformance review shall be approved notwithstanding inconsistency with any guideline where the project sponsor provides information showing the subject application generally promotes the design intent set forth in the chapter of the applicable guideline.

4. Minor Modifications, Exceptions, Deferrals and Amendments. The project sponsor may request a Minor Modification, Exception to a DWDSG standard, Deferral of a DWDSG Standard, or Amendment to the PD Permit as part of Conformance Review.
5. Focused Local Transportation Analysis (LTA). The project sponsor shall prepare and submit a Focused LTA addressing consistency of site access, on-site circulation, and bus stop changes necessitated by roadway modifications to ensure they meet City requirements and standards, and to ensure that the closures of portions of Delmas Avenue and Montgomery Street will not cause significant adverse effects to Autumn Street.

B. Open Space Improvement Conformance Review Application Requirements

Each Open Space Improvement Conformance Review application shall include the submittal of the following documents, site plans, and drawings, as applicable, for the area that is the subject of the Conformance Review application:

1. Data Chart. Each submittal shall include a data chart addressing the following, as applicable:
 - a. Program of open space that identifies the individual 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.
 - 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 on blocks adjacent to the Open Space;

- b. Park program and location of facilities and/or structures;
 - c. Anticipated vehicular, bicycle, and pedestrian circulation;
 - d. 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.
3. City-Dedicated Parks (Parkland Agreement Requirements). The project sponsor and the City will enter into a Parkland Agreement for City-Dedicated Parks that will establish requirements for the preparation of Park Improvement Specifications (as defined in the Parkland Agreement). The preparation and submittal of the Park Improvement Specifications shall be in addition to the requirements of the Open Space Conformance Review application outlined in this Section II for City-Dedicated Parks. The submittal of Park Improvement Specifications shall occur following the Open Space Conformance Review process. The preparation, submittal, and review of the Park Improvement Specifications shall be in accordance with the Parkland Agreement.
4. Open Space Compliance Checklist. The project sponsor shall provide a completed Open Space Compliance Checklist, which is attached as Appendix C.2 (Open Space Conformance Review Checklist) to the DWDSG.
- Compliance with applicable DWDSG standards shall be required. Pursuant to the requirements of the GDP, the project sponsor shall consider DWDSG guidelines; however, consistency with any particular number of guidelines is not required. Conformance review shall be approved notwithstanding inconsistency with any guideline where the project sponsor provides information showing the subject application on balance generally promotes the design intent set forth in the chapter objectives of the guideline, where applicable.
5. Minor Modifications, Exceptions, Deferrals, and Amendments. The project sponsor may request a Minor Modification, Exception to a DWDSG standard, Deferral of a DWDSG Standard, or Amendment to the PD Permit as part of Conformance Review.

C. Compliance with the California Environmental Quality Act (CEQA).

The project sponsor shall explain why the City's approval of development under the Conformance Review would be consistent with any applicable requirements of CEQA. If necessary to support that explanation, the project sponsor shall provide technical studies.

The Planning Director shall be responsible for making a determination regarding the appropriate environmental clearance for a Conformance Review application. Pursuant to an amendment to Title 21, any determination made by the Planning Director that a Conformance Review application should be approved in reliance on the Downtown West Final Environmental Impact Report, and that no Supplemental or Subsequent environmental impact report is required to support that approval, shall be final and shall not be appealable to the Planning Commission, the City Council, or any other City decision making body.

The Planning Director shall have jurisdiction over a Conformance Review application if the Planning Director determines that a Conformance Review application can be approved in reliance on the Downtown West Final Environmental Impact Report, or a Supplemental or Subsequent Environmental Impact Report, if required, does not identify any significant environmental effects. Pursuant to an amendment to Title 20, the Planning Director's decision on a Conformance Review application shall be final and shall not be appealable to the Planning Commission, the City Council, or other City decision making body.

If the Planning Director determines that a Supplemental or Subsequent Environmental Impact Report is required and identifies one or more significant effects, the Planning Commission shall hold a hearing on the Conformance Review application and make a recommendation to the City Council regarding certification of the Supplemental or Subsequent Environmental Impact Report. The City Council shall thereafter hold a public hearing to consider certification of the Supplemental or Subsequent Environmental Impact Report for the subject Conformance Review application.

D. Standard of Review

1. Standard of Review. The Planning Director shall approve a Conformance Review application if the Conformance Review application (i) is consistent with the General Plan; (ii) is consistent with the GDP and the Downtown West PD Permit; and (iii) complies with any applicable requirements of CEQA.
2. General Plan Consistency. The Planning Director's review of an application for consistency with the General Plan shall be limited to review against the applicable General Plan land use designation (either Downtown or Downtown Commercial) to confirm the (i) proposed land use is allowed; and (ii) the proposed size and intensity of improvements are consistent with the allowable height and floor-area ratio. The Planning Director shall also review the application against the applicable DSAP land use designation (either Downtown or Downtown Commercial) and confirm: (i) the proposed land use is allowed; and (ii) the proposed size and intensity of improvements are consistent with the allowable height and floor-area ratio. The Planning Director, to the maximum extent practicable under applicable law, shall rely exclusively on the General Plan and DSAP consistency determinations made in connection with the and approval of the Downtown West PD Zone and the Downtown West PD Permit.

3. Consistency with GDP and Downtown West PD Permit. The following principles shall apply to guide a consistency determination with the GDP and Downtown West PD Permit:
 - a. Diagrams and figures in the GDP and DWDSG illustrate the general arrangement and relationships among future land uses, streets, and open spaces within the PD Zoning District. Blocks, lots, street alignments, and open space configurations are subject to refinement through the Conformance Review and subdivision mapping/improvement plan process;
 - b. Conformance with the GDP and DWDSG shall be construed liberally in light of the need for adaptive solutions to unforeseen or unique development constraints that arise over an extended built-out and the City's objectives of promoting growth within the Downtown Growth Area.
4. Consistency Check Form. The Conformance Review application shall include a form document for Planning staff to complete as part of the Conformance Review process (Consistency Check Form).

E. Relief from DWDSG Requirements: Minor Modifications, Exceptions, and Amendments

During the Conformance Review process, the project sponsor may request the following types of relief from DWDSG standards: Minor Modifications, Exceptions, Deferrals, and/or Amendments. The types of relief identified above only apply to DWDSG standards. The DDG has an established process for requesting exceptions to standards which shall continue to govern.

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

Type of Relief	Standard of Review	Decision Maker	Existing City Process
Minor Modification: A deviation (i) of less than 10% from any dimensional or numerical standard in the DWDSG and/or (ii) from any qualitative standard in the DWDSG deemed to be minor. A deviation from any qualitative standard in the DWDSG under (ii) is	Minor Modifications are presumptively allowed through Conformance Review unless there is substantial evidence that such deviation will be injurious to public health or safety. A Minor Modification shall not operate to increase the maximum number of residential	See Section II.C above. Planning Director if Conformance Review application can be approved in reliance on the Downtown West	Muni Code §20.100.500 permits the Planning Director, at his/her sole discretion, to approve an adjustment to a previously issued development permit for certain

<p>deemed minor where the project sponsor demonstrates that the proposed deviation:</p> <ol style="list-style-type: none"> 1. Does not materially affect the general character or architectural style of the site; AND 2. Is necessary to: <ol style="list-style-type: none"> a. Comply with a Project condition of approval or mitigation measure; OR b. Address topographical, geologic, or environmental factors on the site; OR c. Improve circulation, sustainability, or the design or performance of buildings or infrastructure; OR d. Reduce impacts on natural habitat or other resources. 	<p>units or maximum gross non-residential square footage permitted under the GDP, to decrease the overall amount of open space, or to increase maximum building heights established by the GDP. A Minor Modification also shall not expand the limits of allowable conversion of gross square footage beyond the limits established in the GDP.</p>	<p>Final Environmental Impact Report, or a Supplemental or Subsequent Environmental Impact Report, if required, does not identify any significant environmental effects.</p> <p>Planning Commission if a Supplemental or Subsequent Environmental Impact Report is required and identifies one or more significant effects. The Planning Commission shall hold a hearing on the Conformance Review application and make a recommendation to the City Council regarding certification of the Supplemental or Subsequent Environmental Impact Report.</p>	<p>enumerated items. These include “minor modification of architectural elements or landscape details, (including but not limited to minor storefront alterations, relocation of doors, equipment screening, minor landscape furniture and structures, benches, small trellises, and planters) which do not affect the use, intensity, general character, architectural style, circulation or other site function of the project.”</p> <p>A request for adjustment must be submitted on a form provided by the Director, with applicable fees.</p> <p>The Director’s decision to grant, deny, or condition an adjustment is an administrative determination and does not require a hearing or notice. The Planning Director’s decision is final.</p>
<p>Exception: A request to waive the application of a</p>	<p>An exception to a DWDSG standard may be approved if the project sponsor</p>	<p>Same as above.</p>	<p>The DDG includes an exception process:</p>

particular DWDSG standard.	<p>demonstrates all of the following:</p> <ol style="list-style-type: none"> 1. There is a physical constraint or unique situation that is not created by the project sponsor or property owner; 2. Approving the exception will maintain the integrity and character of the neighborhood in which the subject property is located or create a safety hazard. 3. The project meets the planning objectives of the DWDSG and otherwise achieves the design intent set forth in the DWDSG chapter where the applicable standard appears. 		<p>The decision-maker (Planning Director, Planning Commission, or City Council, as applicable) shall only grant an exception if all of the following findings are made:</p> <ol style="list-style-type: none"> a. There is physical constraint or unique situation that: <ol style="list-style-type: none"> 1. is not created by the project sponsor or property owner; and 2. is not caused by financial or economic constraints considerations. b. Approving the waiver will not impair the integrity and character of the neighborhood in which the subject property is located or create a safety hazard. c. The proposed project meets the design standard at issue to the extent physically feasible. d. The proposed project meets all other guidelines and standards in the Design Guidelines.
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<p>Deferral: A request to defer compliance with a DWDSG standard.</p> <p>A request for deferral shall not be required for DWDSG standards identified [on the Vertical and Open Space Compliance Checklist] as standards that require compliance following Conformance Review.</p>	<p>The project sponsor shall provide the following information in a request for deferral of a DWDSG standard:</p> <ol style="list-style-type: none"> 1. Reason(s) why compliance with the standard cannot be accomplished at Conformance Review; and 2. Proposed schedule for compliance with DWDSG standard. <p>A request to defer compliance with a DWDSG standard may be granted if the project sponsor demonstrates that the requested deferral:</p> <ol style="list-style-type: none"> 1. Is necessary and will not materially delay the development of the Project; 2. Will not impair the ability of the project sponsor to proceed with design and development of the area subject to Conformance Review; and 3. Will maintain the integrity and character of the neighborhood in which the subject property is located or create a safety hazard. 	Same as above.	--
<p>Amendment: A deviation of more than 10% from any dimensional or numerical standard in the DWDSG, and any other requested deviation that is not</p>	<p>An Amendment may be approved through Conformance Review where the Planning Director makes all of the following findings:</p>	Same as above.	<p>Muni Code §20.100.950 states that "amendments may be granted at the discretion of the director, planning</p>

<p>approved by Minor Modification, Exception, or Deferral.</p> <p>An Amendment can be specific to the area of development for a Conformance Review, or more broadly applicable to property within the PD Zoning District.</p>	<ol style="list-style-type: none"> 1. The PD Permit, as amended, is consistent with and furthers the policies of the General Plan (as vested under the DA); 2. The Amendment conforms in all respects to the PD Zoning District; 3. The Amendment is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency (as vested under the DA); and 4. The interrelationships between the orientation, location, mass and scale of building volumes, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious; and 5. The environmental impacts of the project, including, but not limited to noise, vibration, dust, drainage, erosion, stormwater runoff, and odor, which, even if insignificant for purposes of CEQA, will not have an unacceptable negative effect on adjacent properties. <p><i>[Note: The above findings are those required under the</i></p>		<p>commission on appeal, or city council as appropriate upon a finding that the amendment does not negate any findings required by Section 20.100.940.”</p>
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	<p><i>Muni Code for a PD Permit amendment.]</i></p> <p>An Amendment shall not operate to increase the maximum number of residential units or maximum gross non-residential square footage, to decrease the overall amount of open space, or to increase maximum building heights established by the GDP. An Amendment also shall not expand the limits of allowable conversion of gross square footage beyond the limits established in the GDP.</p>		
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III. Conformance Review Process and Timelines

When a Conformance Review application for Vertical Improvements or Open Space is submitted, the Planning Director's review and approval of the subject Conformance Review application shall be subject to the following review timelines:

Action	Timeline
Pre-Submission Conference	Approximately thirty (30) calendar 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.
Application Submittal	The project sponsor shall submit a Conformance Review application that includes the information identified in <u>Section II</u> above.
Determination of Completeness	<p>Planning staff shall review the Conformance Review application for completeness and within twenty (20) calendar days of the application submittal: (1) advise the project sponsor the application is complete; or (2) identify with specificity any deficiencies with the application.</p> <p>If Planning staff identifies any deficiencies, it shall notify the project sponsor within ten (10) calendar days after receipt of any supplemental information</p>

	<p>requested whether: (1) the application is complete; or (2) any of the previously identified deficiencies remain.</p> <p>Within the 20-day period, the Planning Director shall also determine whether the Conformance Review application can be approved in reliance on the Downtown West Final Environmental Impact Report, or if a Supplemental or Subsequent environmental impact report is required, does not identify any significant environmental effects. If the Planning Director determines that a Supplemental or Subsequent environmental impact report is required and identifies one or more significant environmental effects, the Planning Commission shall hold a hearing on the Conformance Review application and make a recommendation to the City Council regarding certification of the Supplemental or Subsequent environmental impact report.</p>
Planning Staff Review of Application	<p>Within sixty (60) calendar days of a determination of completeness, the Planning staff and other applicable City departments shall complete its review of the application. If an Open Space Conformance Review application includes a City-Dedicated Park, Planning staff shall complete its review of the application within ninety (90) calendar days of a determination of completeness. Planning staff and the project sponsor shall meet and confer as reasonably necessary during the 60-day review period [90-day review period for an application with City-Dedicated Park]. By the close of the 60-day period [90-day period for an application with City-Dedicated Park], Planning staff shall provide the project sponsor with the completed Consistency Check Form and its recommendation of approval or disapproval of the Conformance Review Application; however, Planning staff shall not publish the Consistency Check Form until the informational community meeting has occurred.</p> <p>If Planning staff recommends disapproval of the Conformance Review application, the Consistency Check Form 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 seven (7)</p>

	<p>calendar 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 Consistency Check Form and recommendation for approval or disapproval within thirty (30) calendar days of the resubmittal.</p> <p>The project sponsor may withdraw a Conformance Review application at any time prior to the Planning Director's determination on the application.</p>
Informational Community Meetings	<p>Vertical Improvements & Project Sponsor-Owned Open Space</p> <ul style="list-style-type: none"> • The project sponsor shall host one (1) community meeting [15-45] calendar days following a determination of completeness. • Notification of the community meeting shall be provided as follows <p>City-Dedicated Parks</p> <p>If an Open Space Conformance Review application includes a City-Dedicated Park, the following informational community meetings must be held:</p> <ul style="list-style-type: none"> • Preliminary Community Meeting Prior to Application Submittal (Preliminary Community Meeting). The project sponsor and/or Conservancy (as defined in the DWDSG) shall host one (1) Preliminary Community Meeting prior to the submittal of an Open Space Conformance Review application that includes a City-Dedicated Park to discuss initial park concepts. • Community Meeting After Application Submittal. The project sponsor and/or Conservancy shall host one (1) community meeting 15 - 45 calendar days following a determination of completeness of an Open Space Conformance Review application that includes a City-Dedicated Park. • The project sponsor shall provide an informational meeting to the Parks and Recreation Commission after holding the post-

	<p>application submittal meeting, but no later than 80 calendar days after a determination of completeness.</p>
Conformance Review Hearing	<p>Planning Director (<i>No Supplemental or Subsequent EIR</i>)</p> <p>The Planning Director shall schedule a Conformance Review Hearing within fourteen (14) calendar days of providing the project sponsor a copy of the completed Consistency Check Form. Conformance Review Hearings shall be agendized separately from Planning Director Hearings held for other purposes pursuant to Title 20 of the Municipal Code. Conformance Review Hearings may be held on dates when Planning Director Hearings are also scheduled to occur, or they may be scheduled for any other date in the Planning Director's discretion.</p> <p><u>Notice:</u> 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><u>Public Comment:</u> The Planning Director shall hear and consider all public comments received during the Conformance Review Hearing.</p> <p>Planning Commission / City Council (<i>Supplemental or Subsequent EIR Required & Significant Effect Identified</i>)</p> <p>If the Planning Director determines that a proposed Conformance Review application requires a Supplemental or Subsequent EIR and results in one or more significant effects, Planning staff shall refer the matter to the Planning Commission within fourteen (14) calendar days of providing the project sponsor a copy of the completed Consistency Check 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.</p>
Planning Director Decision	<p>The Planning Director shall provide the project sponsor with a written determination on the Conformance</p>

	Review Application within seven (7) calendar days of the Conformance Review Hearing.
Appeal of Planning Director Decision	There shall be no appeal of the Planning Director's Conformance Review decision. <i>[Note: This will require amendments via the PD Zoning Ordinance to Title 20 and Title 21 and a conforming addition to Title 20.]</i>

IV. Key Requirements for Horizontal Improvement Subsequent Review Process

The Vesting Tentative Map (and any future 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), 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% tract improvement plans, are consistent with the conditions of approval. However, and to provide for additional City oversight, subdivider will submit "preliminary" improvement plans to the City for review and comment (as described in Section IV.B, below) as a precondition to submitting any phased final map application or 100% improvement plan set.

A. Horizontal Preliminary Review Process

1. Overview

Project sponsor will provide preliminary tract improvement plans for horizontal improvements ("Preliminary Improvement Plans") to the Director of Public Works ("PW Director") for review and comment by City agencies (hereafter "Horizontal Preliminary Review"). Preliminary Improvement Plans submitted to the PW Director shall be developed to [30%]. Upon receipt of Preliminary Improvement Plans, the PW Director will distribute the plans electronically to the heads of any City departments responsible for permitting, reviewing, or operating any improvement depicted in the plans ("Commenting Departments"). The heads of the Commenting Departments will provide any comments on the Preliminary Improvement Plans to the PW Director within [45] calendar 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 [60] calendar days of the project sponsor's original submittal of Preliminary Improvement Plans to the PW Director. The Horizontal Preliminary Review Process will provide Public Works and other Commenting Departments with an opportunity to review and comment on horizontal improvement plans for purposes of ensuring conformance with the Project approvals and controlling City regulations prior to project sponsor's submittal of 100% tract improvement plans for any development phase.

2. Horizontal Preliminary Review Submittal Requirements

The project sponsor shall submit the following information for Horizontal Preliminary Review:

- a. Project Narrative. Include scope of project, site description, a schematic construction layout plan, and a preliminary schedule for design through construction.
- b. [30]% Tract Improvement Plans encompassing all improvements required as a condition of approval for the associated tentative map or vesting tentative map.
- c. Infrastructure Phasing Description that includes a description of how proposed horizontal improvements align with the Infrastructure Plan and tie into prior and future development phases, as applicable.
- d. Site Grading Plan: With existing and proposed street grades, pad grades, overland release routes, grade conforms, street centerline grades and vertical curves.
- e. Description of Public Infrastructure: Summary of all infrastructure proposed for public dedication, including whether such proposed publicly-dedicated infrastructure is consistent with the Maintenance Matrix (Exhibit __ to the Development Agreement).
- f. Preliminary Utility Modeling Reports: Water (San Jose Water Company to provide), Sanitary (City of San Jose to provide), Storm Drain (Applicant to provide).
- g. Typical Street Section Plan: Including lane dimensions, sidewalk dimensions, roadway materials, grades, curb heights, and utilities, including all horizontal clearances.
- h. Street Layout Site Plan: Including roadway dimensions, bulb-out locations, traffic calming measures, non-standard roadway conditions for acceptance, horizontal curves, horizontal sight distance studies, private streets, transit facilities, bikeway and trail dimensions, streetscape design and roadway materials.
- i. Conceptual Stormwater Management Plan: Description, preliminary calculations, preliminary details and plan view layout of how the stormwater management will be achieved

3. City Review of Horizontal Preliminary Review

Commenting Departments will review the Preliminary Improvement Plans and other materials provided under Section IV.A.2 for consistency with the San Jose Municipal Code, the Downtown West Improvement Standards, and any other form-based code requirements or applicable engineering standards. Comments from the Commenting Departments will be provided to

project sponsor as described in Section IV.A.1, and Subdivider will document responses to said comments as described in Section IV.B.1.

B. Final Subdivision Mapping and Improvement Plans

The project sponsor shall apply for approval of subdivision maps and 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 the GDP and PD Permit (DWDSG Chapter 6: Mobility and other applicable standards in the DWDSG), the Downtown West Improvement Standards, Infrastructure Plan, and applicable standards and guidelines in the Complete Streets Design Standards and Guidelines.

1. Final Map and Improvement Plan Submittal Requirements.

The project sponsor shall submit the following:

- a. 100% Improvement Plans.
- b. Matrix Addressing all Horizontal Preliminary 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 Horizontal Preliminary Review has been addressed, or, why any particular comment has not been incorporated.
- c. Final Map Checkprint
- d. 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 Conformance Checklist.
- e. Horizontal Improvement Conformance Checklist. The project sponsor shall provide a completed Horizontal Improvement Compliance Checklist which is attached as Appendix C.3 to the DWDSG. Compliance with applicable DWDSG standards shall be required. Pursuant to the requirements of the GDP, the project sponsor shall consider DWDSG guidelines; however, consistency with any particular number of guidelines is not required. Conformance review shall be approved notwithstanding inconsistency with any guideline where the project sponsor provides information showing the

subject application generally promotes the design intent set forth in the DWDSG chapter where the applicable guideline appears.

2. Final Map and Improvement Plan Review Process

The City shall process, review and approve the improvement plans and final 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 PD Zoning District.

[We are proposing that the City would use standard procedures for review/approval of horizontal improvements.]