

**From:** [Han, James](#)  
**To:** [Lucy Lofrumento](#)  
**Cc:** [Severino, Lori](#); [Downtown West Project](#); [Tu, John](#); [sanjooplan@google.com](mailto:sanjooplan@google.com)  
**Subject:** RE: Request for Documents - Downtown West General Development Plan  
**Date:** Friday, March 12, 2021 10:32:58 AM  
**Attachments:** [Planned Development Zoning District General Development Plan.docx](#)

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Hi Lucy,

Per your request, I went ahead and created a Word document for most of the sections you requested excluding the Land Use Regulations. There are many charts and tables from page 3.02 through 4.05 and seems to be illegible from a Word document standpoint, is the website PDF version not letting you zoom in?

James Han

Planner | Planning Division | PBCE

City of San José | 200 East Santa Clara Street

Email: [james.han@sanjoseca.gov](mailto:james.han@sanjoseca.gov) | Phone: (408)-535-7843

For More Information Please Visit: <http://www.sanjoseca.gov/planning>

San José City Hall is closed in response to COVID-19.

I am working remotely in accord with governor's and City's direction.

I will monitor email during this time.

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**From:** Han, James

**Sent:** Friday, March 12, 2021 8:26 AM

**To:** 'Lucy Lofrumento' <lal@lmalp.com>

**Cc:** Severino, Lori <Lori.Severino@sanjoseca.gov>; 'sanjooplan@google.com' <sanjooplan@google.com>; 'Downtown West Project' <downtownwest@esassoc.com>; Tu, John <john.tu@sanjoseca.gov>

**Subject:** RE: Request for Documents - Downtown West General Development Plan

Hi Lucy,

Your request has been sent to the applicant.

Thank you,

James Han

Planner | Planning Division | PBCE

City of San José | 200 East Santa Clara Street

Email: [james.han@sanjoseca.gov](mailto:james.han@sanjoseca.gov) | Phone: (408)-535-7843

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**From:** Lucy Lofrumento <[lal@lmallp.com](mailto:lal@lmallp.com)>

**Sent:** Wednesday, March 10, 2021 6:37 PM

**To:** Han, James <[James.Han@sanjoseca.gov](mailto:James.Han@sanjoseca.gov)>

**Cc:** Severino, Lori <[Lori.Severino@sanjoseca.gov](mailto:Lori.Severino@sanjoseca.gov)>

**Subject:** Request for Documents - Downtown West General Development Plan

**Importance:** High

[External Email]

Hello James,

I am trying to review the attached Development Plan that was posted March 1. However, I am visually challenged, and it is very difficult for me to read this document because the print is so small, and I can't seem to enlarge it on my screen or print it in a way that makes it feasible for me to read. Could you please send me a separate document or documents (preferably in WORD but PDF is OK) that can be printed on 8½ x 11 in. paper, containing the text of the following sections in at least 12 point black font:

- Development Standards, Maximum Allowable Development, Land Use Regulations, appearing on Sheet 3.02 through and including Sheet 4.05
- Zoning/Design Conformance Review Process, appearing on Sheet 8.01 and 8.02

I am copying Lori on this because she previously helped me with another visual challenge issue regarding the color of the font on various environmental review documents (thank you Lori!) so if you are not the right person to ask perhaps Lori can help.

Thank you both very much,  
Lucy

**Lucy Lofrumento**

Attorney at Law

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## Page 3.02

### Development Standards

Development within Sub-Area 1 and Sub-Area 3 of the Downtown West PD Zoning District shall conform to the Downtown West PD Permit. The DWDSG was approved as part of the Downtown West PD Permit and regulates development within Sub-Area 1 and Sub-Area 3. A subsequent PD Permit for Sub-Area 2 would be required to implement the Downtown West PD Zoning District as to Sub-Area 2. Subsequent amendments to provisions of the San Jose Municipal Code that relate to development standards identified in Sheet 3.02 (which include but are not limited to Titles 11, 13, 14, 19, 20, 21 and 23) and result in additional or modified development standards following the enactment of the Downtown West PD Zoning District may be permitted to apply to property within the Downtown West PD Zoning District upon request by the project sponsor, which identifies the specific standard and rationale for the request, pursuant to the terms of the Development Agreement for the Downtown West Mixed-Use Plan (herein referred to as the Development Agreement). The Downtown West PD Zoning District, including this GDP, and the Downtown West PD Permit contain illustrative figures, plans, and sections, provided for conceptual purposes only. The development standards set forth in this GDP and the DWDSG shall take precedence over illustrative figures, plans, or sections in the event of a conflict.

## Page 3.03

### Maximum Allowable Development

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

## Page 8.01

### Zoning / Design Conformance Review Process

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

### Vertical Improvement and Open Space Conformance Review Process

**Overview.** The GDP authorizes and establishes the Downtown West PD Zoning District / Design Conformance Review process (Conformance Review) to ensure that development of vertical improvements and open space within the Downtown West PD Zoning District substantially conforms to

the requirements of the GDP and applicable standards and guidelines of the DWDSG, the DDG, and other applicable planning documents.

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

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

The Implementation Guide identifies the specific Conformance Review application submittal requirements for Vertical and Open Space Improvements, including requirements specific to Vertical Improvements, Project sponsor-owned Open Space, and City-dedicated Open Space. The Implementation Guide sets forth the procedures for reviewing a Vertical Conformance Review Application and Open Space Conformance Review Application. The Implementation Guide establishes the permitted time frames for City review and action on a Vertical Conformance Review Application and Open Space Conformance Review Application.

**Standard of Review.** Compliance with applicable standards in the Downtown West PD Permit, including the DWDSG, shall be required under the Conformance Review Checklist. The project sponsor shall consider DWDSG guidelines. Conformance Review shall be approved notwithstanding that guidelines have not been implemented where the project sponsor provides information showing the subject application achieves the applicable design intent set forth in the chapter of the applicable guideline. The project sponsor's decision not to implement a guideline shall not be grounds for disapproving a Conformance Review application if the project sponsor demonstrates that the application achieves the design intent set forth in the chapter of the applicable guideline. The project sponsor shall provide a narrative that identifies the applicable guideline(s), describes the reason(s) why implementation of the guideline is not feasible, and describes how the subject application achieves the design intent in the chapter of the applicable guideline without implementation of the applicable guideline. The Director of PBCE shall approve a Conformance Review application if the Conformance Review application (i) is consistent with the General Plan; (ii) is consistent with the GDP and the Downtown West PD Permit; (iii) complies with any applicable requirements of CEQA; and (iv) the project sponsor is in compliance with project sponsor obligations applicable to Conformance Review under the Development Agreement. Pursuant to an amendment to Title 20, adopted by Ordinance No \_\_ the Director of PBCE's decision on a Conformance Review application shall be final and shall not be appealable to the Planning Commission,

the City Council, or other City decision making body. For appealability of CEQA determination in connection with a Conformance Review determination, see Table 8.01.1

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

2. Consistency with this GDP and Downtown West PD Permit. The Conformance Review application shall include a form document for Planning staff to complete as part of Conformance Review (Consistency Check Form, Appendix A to Implementation Guide) to determine consistency with the GDP and Downtown West PD Permit. The following principles shall apply to guide a consistency determination with the GDP and Downtown West PD Permit:

- a. Diagrams and figures in the GDP and DWDSG illustrate the general arrangement and relationships among future land uses, streets, and open spaces within the PD Zoning District. Blocks, lots, street alignments, and open space configurations are subject to refinement through the Conformance Review and subdivision mapping/improvement plan process;
- b. Conformance with the GDP and DWDSG shall be construed in a manner that acknowledges adaptive solutions to unforeseen or unique development constraints that arise over an extended built-out to ensure that the full development program and objectives of the approved Project and the City's objectives of promoting growth within the Downtown Growth Area can be fully implemented.
- c. The project sponsor may demonstrate compliance with standards and guidelines related to materials, palettes and design specifications through drawing notations at the time of conformance review.

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

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

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

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

Minor adjustments to the design documents are expected as design progresses from Conformance Review to the building permit stage. Minor adjustments include the following: Adjustments of equal to or less than 10% from any dimensional, numerical, or other quantitative specification identified in the drawings, site plans, data charts, and other materials submitted as part of a Conformance Review Application; or

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

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

The Director of PBCE may approve, in their reasonable discretion, adjustments that are greater than 10% from any dimensional, numerical, or other quantitative specification identified in the drawings, site plans, data charts, and other materials submitted as part of a Conformance Review Application, if the requested adjustment is consistent with the General Development Plan and applicable DWDSG standards and intent and does not affect the use, intensity, general character, architectural style, circulation or other site function of Downtown West.

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

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

The Director of PBCE shall be responsible for making a determination, reflecting the City's independent judgment, regarding the appropriate environmental clearance for a Conformance Review application. The Director of PBCE shall determine whether a Conformance Review application should be approved in reliance on the Downtown West Final Environmental Impact Report (Final EIR), or in reliance on an Addendum to the Final EIR, or if a Supplemental or Subsequent EIR is required to support that approval.

The Director of PBCE shall have jurisdiction over a Conformance Review application if the Director of PBCE determines that a Conformance Review application can be approved in reliance on the Final EIR

(without or with an Addendum), or that a Supplemental or Subsequent EIR, if required, does not identify any new or substantially more severe significant environmental effects, following mitigation, than those identified in the Final EIR.

Pursuant to an amendment to Title 21, the Director of PBCE's determination regarding the appropriate form of environmental clearance for a Conformance Review application shall not be appealable to the Planning Commission, the City Council, or any other City decision making body. Pursuant to an amendment to Title 21, adopted by Ordinance No \_\_, the Director of PBCE's reliance on an Addendum in support of a Conformance Review application also shall not be appealable to the Planning Commission, the City Council, or any other City decision making body.

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

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

**Table 8.01.1 Determination Authority**

DECISION / APPROVAL	DECISION MAKER	APPEALABLE?
Determination regarding scope of CEQA compliance (whether subsequent approval may be approved in reliance on the Downtown West Final EIR, Addendum to the Final EIR, or Subsequent or Supplemental EIR)	Director of PBCE Sources: GDP § 8.01; Muni Code §§ 20.100.220, 21.04.110 & 21.04.140A.	No, pursuant to an amendment to Title 21 via the PD Zoning Ordinance
Determination that project proposed in Conformance Review or other Subsequent Approval application are within the scope of the Downtown West Final EIR	Director of PBCE	No, pursuant to an amendment to Title 21 via the PD Zoning Ordinance
Determination that project may be approved in reliance on an Addendum to the Downtown West Final EIR	Director of PBCE	No, pursuant to an amendment to Title 21 via the PD Zoning Ordinance
Certification of Subsequent or Supplemental EIR for project that does not identify any new or substantially more severe	Director of PBCE Sources: Pub. Res. Code §21151(c); Muni Code § 21.07.040.	Yes. Under CEQA, if a nonelected decision-making body of a local lead agency certifies an EIR, that

significant environmental effects, following mitigation, than those identified in the Downtown West Final EIR		certification may be appealed to the agency's elected decision-making body (i.e., City Council).
Certification of Subsequent or Supplemental EIR for project that identifies one or more new or substantially more severe significant environmental effects, following mitigation, than those identified in the Downtown West Final EIR	Planning Commission Recommendation; City Council Certification Source: Muni Code § 20.100.220, footnote 1	N/A because City Council becomes the initial decision maker under these circumstances.

### Horizontal Conformance Review Process

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

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

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

The project sponsor shall apply for approval of phased final maps and 100% improvement plans pursuant to the procedures described in Title 19 of the Municipal Code and the standards referenced in any ordinances governing the design and permitting of subdivisions and improvements applicable to the

PD Zoning District. During the final mapping and improvement plan process, the project sponsor shall submit 100% improvement plans; a summary matrix documenting how each comment received as part of the Horizontal Review Process has been addressed, or, why any particular comment has not been incorporated; final map checkprint; a matrix of the tentative map conditions and identify in writing how the proposed final map or other documents satisfy the conditions of approval; and a Horizontal Improvement Conformance Review Checklist which identifies all DWDSG standards applicable to horizontal improvements shall be submitted when required pursuant to the Implementation Guide.

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

## Page 8.02

**Table 8.02.1 Authorized Relief from DWDSG Standards**

TYPE OF RELIEF	DESCRIPTION	STANDARD OF REVIEW	DECISION MAKER*
Minor Modification	The Project Sponsor may request Minor Modifications from DWDSG standards if certain criteria are met. A Minor Modification consists of the following: Quantitative Standard. A deviation of less than 10% from any dimensional or numerical standard in the DWDSG; or Qualitative Standard. A deviation from any qualitative standard in the DWDSG where the project sponsor demonstrates that the proposed deviation: 1. Does not materially affect the general character or architectural style of the site; AND 2. Is necessary to: a. Comply with a Project condition of approval or mitigation measure; OR b. Address topographical, geologic, or environmental factors on the site; OR c. Implement an alternative, innovative, new or emerging practice that achieves similar or better outcomes in terms of circulation, sustainability, or the design or performance of buildings or infrastructure; OR d. Reduce impacts on natural habitat or other resources.	The Director of PBCE shall approve a Minor Modification if the following criteria are satisfied: 1. The Minor Modification will not result in a new or more significant environmental impact than previously analyzed under the Downtown West Final Environmental Impact Report; 2. The Minor Modification will not be injurious to public health or safety; and 3. As applicable, a. The deviation is less than 10% from a dimensional or numerical standard (if the proposed deviation is from a Quantitative Standard; or b. The project sponsor has demonstrated that the proposed deviation from a Qualitative Standard: • Does not materially affect the general character or architectural style of the site; AND • Is necessary to: o Comply with a Project condition of approval or mitigation measure; OR o Address topographical, geologic, or environmental factors on the site; OR o Implement an alternative, innovative, new or emerging practice thanmt [measurably]	Director of PBCE (non-appealable)

	<p>Deviations that do not meet the criteria above may be processed as an Exception request at the project sponsor's election.</p> <p>Deviations from DWDSG standards that require an Amendment (identified below) shall not be subject to a Minor Modification. In addition, a Minor Modification shall not operate to:</p> <ul style="list-style-type: none"> <li>• Increase the maximum number of residential units or maximum gross non-residential square footage permitted under the GDP; or</li> <li>• Expand the limits of allowable conversion of gross square footage beyond the limits established in the GDP</li> </ul>	<p>achieves similar or better outcomes in terms of circulation, sustainability, or the design or performance of buildings or infrastructure; OR o Reduce impacts on natural habitat or other resources.</p>	
Exception	<p>An Exception includes the following: 1. A request to waive the application of a particular DWDSG standard to a Conformance Review application; or 2. A deviation that does not meet the criteria for a Minor Modification or is not a Deferral or Amendment</p>	<p>An exception to a DWDSG standard may be approved if the project sponsor demonstrates all of the following: 1. There is a physical constraint, unique situation, or unforeseen circumstance; 2. Approving the exception will maintain the integrity and character of the neighborhood in which the subject property is located. An exception maintains the integrity and character of the neighborhood if the effect of the exception would not be materially detrimental to public welfare, neighboring property, or nearby improvements and will not create a safety hazard. 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>	<p>Director of PBCE if Conformance Review application, with the requested Exception, can be approved in reliance on the Downtown West Final Environmental Impact Report (EIR), an Addendum to the EIR, or a Supplemental or Subsequent EIR that does not identify any new or substantially more severe significant environmental effects, following mitigation, than those identified in the EIR. If, in order to approve the Conformance Review and accompanying Exception, a Supplemental or Subsequent EIR is required and identifies one or more new or substantially more severe significant effects, following mitigation, the Planning Commission shall hold a hearing on the Conformance Review application and make a recommendation to the City Council regarding certification of the Supplemental or Subsequent EIR.</p>
Deferral	<p>A request to defer compliance with a DWDSG</p>	<p>A request to defer compliance with a DWDSG</p>	<p>Director of PBCE if Conformance Review</p>

	<p>standard. Approved Deferrals: A request for deferral shall not be required for deferred DWDSG standards identified on the Vertical and Open Space Compliance Checklist approved by the City at the time of Project approval. Planning staff's review of the project sponsor's compliance with deferrals approved by the City at the time of Project approval will be deferred to Building Permit review as described below. . The project sponsor shall demonstrate compliance with previously approved deferred DWDSG standards prior to obtaining a Building Permit for the applicable building. Additional Deferral Requests: As part of a Conformance Review Application, the project sponsor may request the deferral of additional DWDSG standards. The project sponsor shall provide the following information in a request for deferral of a DWDSG standard: 1. Reason(s) why compliance with the standard cannot be accomplished at Conformance Review; and 2. Proposed schedule for compliance with DWDSG standard; and 3. A table or matrix identifying all DWDSG standards that have been deferred and the status of such deferred items. Planning staff's review of the project sponsor's compliance with deferrals approved by the City at the time of Project approval will be deferred to the Building Permit application review process as described below. The City's approval of a Deferral may include a finding that compliance with Deferred standards shall occur during the Building</p>	<p>standard may be granted if the project sponsor demonstrates that the requested deferral: 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. The Director of PBCE may condition the approval of future Conformance Review applications by requiring substantial evidence that the project sponsor demonstrates progress on deferred standards.</p>	<p>application, with the requested Deferral, can be approved in reliance on the Downtown West Final EIR, an Addendum to the EIR, or a Supplemental or Subsequent EIR that does not identify any new or more severe significant environmental effects, following mitigation, than those identified in the original EIR. If, in order to approve the Conformance Review and accompanying Deferral, a Supplemental or Subsequent EIR is required and identifies one or more new or substantially more severe significant effects, following mitigation, the Planning Commission shall hold a hearing on the Conformance Review application and make a recommendation to the City Council regarding certification of the Supplemental or Subsequent EIR.</p>
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	<p>Permit application process as set forth in the Conformance Review process. The City's approval of a Conformance Review application shall otherwise be deemed final. Project Sponsor Compliance with Deferrals: Prior to concurrent with submitting a Building Permit application for a building where a Deferral was granted, the project sponsor shall submit to Planning staff a checklist with the Deferred standards demonstrating that the previously deferred DWDSG standard has been satisfied. The project sponsor shall indicate on a Building Permit application that it has complied with all applicable DWDSG standards for the subject Building Permit application and shall include a notation of any Deferred standards on the plans, specifications, or diagrams submitted with the Building Permit application. The Building Permit application plans and specifications shall be reviewed by the building official, including any Deferred standards. Deferred standards identified on plans may also be reviewed by Planning staff, as necessary. If Planning staff reviews the Building Permit plans and specifications, such review shall be limited to the Deferred standards.. The project sponsor may submit a demolition and/or foundation-only permit without this verification. The building official shall approve the plans and specifications and issue a Building Permit pursuant to the Municipal Code. If a Building Permit application includes a Deferred standard, the project sponsor may seek an</p>		
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	<p>adjustment to an approved Conformance Review application ("Conformance Approval Adjustment"). The Vertical and Open Space Conformance Review Checklist identifies DWDSG standards that the City approved for Deferral at the time of Project approval. The project sponsor shall submit an updated Vertical and Open Space Checklist demonstrating compliance with these approved Deferrals prior to submitting the applicable Building Permit application. A request for Deferral is not required for DWDSG standards that the City approved for Deferral at the time of Project approval.</p>		
Amendment	<p>The project sponsor may request an amendment for the following: 1. A permanent deviation from any standard in the DWDSG that would be applied to the design and development of all property within the PD Zoning District; or 2. A deviation from the following DWDSG standards identified below. An Amendment may be approved through Conformance Review where the Director of PBCE makes all of the following findings: 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,</p>	<p>An Amendment may be approved through Conformance Review where the Director of PBCE makes all of the following findings: 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, shadow, and odor, which, even if insignificant for</p>	<p>Director of PBCE if Conformance Review application, with the requested Amendment, can be approved in reliance on the Downtown West Final EIR, an Addendum to the EIR, or a Supplemental or Subsequent EIR that does not identify any new or substantially more severe significant environmental effects, following mitigation, than the original EIR. If, in order to approve the Conformance Review and accompanying Amendment, a Supplemental or Subsequent EIR is required and identifies one or more new or substantially more severe significant effects, following mitigation, the Planning Commission shall hold a hearing on the Conformance Review application and make a recommendation to the City Council regarding certification of the Supplemental or Subsequent EIR. Appeal of PD Permit Amendment: Director of PBCE approval of a PD Permit Amendment in</p>

	<p>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, shadow, and odor, which, even if insignificant for purposes of CEQA, will not have an unacceptable negative effect on adjacent properties. 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. Director of PBCE if Conformance Review application, with the requested Amendment, can be approved in reliance on the Downtown West Final EIR, an Addendum to the EIR, or a Supplemental or Subsequent EIR that does not identify any new or substantially more severe significant environmental effects, following mitigation, than the original EIR. If, in order to approve the Conformance Review and accompanying Amendment, a Supplemental or Subsequent EIR is required and identifies one or more new or substantially more severe significant effects, following mitigation, the Planning Commission shall hold a hearing on the Conformance Review application and make a recommendation to the City Council regarding</p>	<p>purposes of CEQA, will not have an unacceptable negative effect on adjacent properties. An Amendment shall not operate to increase the maximum number of residential units or maximum gross non-residential square footage, to decrease the overall amount of open space, or to increase maximum building heights established by the GDP. An Amendment also shall not expand the limits of allowable conversion of gross square footage beyond the limits established in the GDP.</p>	<p>reliance on an Addendum is appealable to the Planning Commission. If the Director of PBCE approves a PD Permit Amendment in reliance on a Subsequent or Supplemental EIR (regardless of whether it identifies one or more new or substantially more severe significant environmental effects following mitigation) and the Director of PBCE's certification of the Subsequent or Supplemental EIR and approval of the PD Permit are both appealed, City Council shall hear the appeal.</p>
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	<p>certification of the Supplemental or Subsequent EIR. Appeal of PD Permit Amendment: Director of PBCE approval of a PD Permit Amendment in reliance on an Addendum is appealable to the Planning Commission. If the Director of PBCE approves a PD Permit Amendment in reliance on a Subsequent or Supplemental EIR (regardless of whether it identifies one or more new or substantially more severe significant environmental effects following mitigation) and the Director of PBCE's certification of the Subsequent or Supplemental EIR and approval of the PD Permit are both appealed, City Council shall hear the appeal. • Section 3.2: Zoning and Land Uses; • Section 3.4: Building Demolition and Retention; • The following DWDSG standards for open space design: o Minimum open space acreage requirements set forth in S4.5.1 and S4.5.2; o Location and access of mid-block passages set forth in S4.6.1 and S4.6.3; o S4.7.2 Art within riparian setbacks o Riparian Setback requirements under S4.8.1 and S4.8.3 and other Riparian Setback dimensions relating to the Riparian Corridor under S4.8.2 and S4.8.4 o Standards related to required open space programmatic elements for City-dedicated parks (Los Gatos Creek Connector, Los Gatos Creek Park, Social Heart, St. John Triangle, and Northend Park and Los Gatos Creek Multi-use Trail which occurs in Los Gatos Creek Park and Los Gatos Creek East), including S4.11.1 and related standards in Sections 4.12, 4.13, 4.15, 4.19, and 4.21 •</p>		
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	<p>The following DWDSG standards for building design: o Building extents relative to the Los Gatos Creek and Guadalupe River Riparian Corridors per S5.5.6, S5.5.7, and S5.6.2; o Building height limitations below FAA maximum per S5.6.2 and S5.6.3; o Skyline level change in plane per S5.10.1 and skyline level separation per S5.10.4; o Occupiable projections in the podium and skyline levels per S5.9.2, S5.9.3, S5.10.2, S5.10.3, S5.17.4, with the exception of deviations from occupiable projection requirements for Project sponsor-owned open space under S5.9.2, S5.10.2 and S5.10.3 which are subject to the Minor Modification and Exception processes; o Requirements of buildings with facades greater than 350 feet in length per S5.9.5 and Section 5.11 : Skyline Level Long Facades; o Section 5.15: Historic Resources; o Section 5.16: Low-Rise Context; o S5.17.1 and S5.17.2 in relation to Los Gatos Creek;</p>		
DWDSG DISC Process	<p>Pursuant to S4.9.2, S5.5.5, and S6.3.4, if a DISC Partner Agency takes significant steps in furtherance of the acquisition or condemnation of any portion of Downtown West, the DWDSG authorizes the project sponsor to seek deviations from DWDSG standards as necessary to avoid the acquisition areas while maximizing development potential without requiring an Amendment to the DWDSG. Deviations are permitted pursuant to the DISC standards if the requested deviation is consistent with the General Plan and GDP and compliance with CEQA has</p>	<p>The Director of PBCE shall approve a deviation requested pursuant to the DISC standards if the proposed deviation is consistent with the General Plan and GDP and compliance with CEQA has been demonstrated.</p>	<p>Director of PBCE</p>

	<p>been demonstrated (including the completion of any additional necessary environmental review). Such deviations may include, without limitation, changes to required land uses, reconfiguration of the street network, and reconfiguration and proportional reductions in open space. Deviations that result in inconsistency with the General Plan or GDP (e.g. further reduction in the riparian setback) would require an Amendment. The project sponsor may process a clerical update to the DWDSG to memorialize any deviations made pursuant to S4.9.2, S5.5.5, and S6.3.4</p>		
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