

From: [Han, James](#)
To: [Downtown West Project](#)
Subject: FW: Request for Documents - Downtown West General Development Plan
Date: Friday, March 12, 2021 4:49:54 PM
Attachments: [210301_GDP_Text.pdf](#)

James Han
Planner | Planning Division | PBCE
City of San José | 200 East Santa Clara Street
Email: james.han@sanjoseca.gov | Phone: (408)-535-7843
For More Information Please Visit: <http://www.sanjoseca.gov/planning>

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I am working remotely in accord with governor's and City's direction.
I will monitor email during this time.

From: Hideko Anderson <hidekoanderson@google.com>
Sent: Friday, March 12, 2021 4:38 PM
To: lal@lmalp.com
Cc: Jessica Graham <jessgraham@google.com>; benavidez@google.com; Han, James <James.Han@sanjoseca.gov>
Subject: Re: Request for Documents - Downtown West General Development Plan

[External Email]

Hi Lucy,

I've attached a pdf document that pulls directly from the sheets of 3.02-4.05 with the tables and charts as well. Please let us know if you are able to view this in this format.

Thank you,
Hideko

On Fri, Mar 12, 2021 at 10:32 AM Han, James <James.Han@sanjoseca.gov> wrote:

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
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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>; 'sanjoseplan@google.com' <sanjoseplan@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 | Phone: (408)-535-7843
For More Information Please Visit: <http://www.sanjoseca.gov/planning>

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I am working remotely in accord with governor's and City's direction.
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From: Lucy Lofrumento <lal@lmallp.com>
Sent: Wednesday, March 10, 2021 6:37 PM
To: Han, James <James.Han@sanjoseca.gov>
Cc: Severino, Lori <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
One Almaden Blvd., Suite 700
San Jose, CA 95113
Office: (408) 560-3665 | Cell: (408) 605-3448
Email: lal@LMALLP.com | Web: www.LMALLP.com

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 **Hideko Anderson** | Assistant Development Engagement Manager
Working for Lendlease at Google
Sunnyvale, CA, USA | +1 415 471 4355

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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.

Setbacks

The setbacks shall meet the following minimum requirements:

Table 3.02.1 Required Setbacks

Frontage	Required Setback
Street	None Required
Open Space	None Required

Los Gatos Creek Riparian Setback	<p>Development of new structures along Los Gatos Creek is prohibited within the 50-foot riparian setback. A riparian setback is the limitation of new construction within a certain distance from a riparian corridor and is measured from the edge of the riparian corridor, which is defined as top of bank or edge of existing riparian canopy, whichever is greater.</p> <p>Existing structures on blocks D8, D10, and D11 shall be permitted to be altered (as defined in Muni Code section 24.01.208) so long as the foundation of the building remains. Cosmetic improvements and maintenance (as defined in Muni Code section 24.01.355) are permitted for existing buildings D9, D12, and D13. Improvements include but are not limited to building code compliance, accessibility, safety and other such reasons related to enabling safe and comfortable continued occupancy of the structures in their current location, so long as foundation-related structural work is not required. New building openings, such as windows or skylights, shall be permitted for adequate access to light and air. If any more significant repairs would be necessary or desired, the applicant shall instead remove the building and may replace it with a new building at least 50 feet from the riparian corridor</p> <p>Allowable land uses and design standards applicable to the Los Gatos Creek Riparian Setback and adjacent areas are further set forth in the DWDSG.</p>
Guadalupe River Riparian Setback	<p>Development of new structures along Guadalupe River is prohibited within the 50-foot riparian setback of the Top of Channel (TOC) wall.</p> <p>Allowable land uses and design standards applicable to the Guadalupe River Riparian Setback and adjacent areas are further set forth in the DWDSG.</p>

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

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

- Active use frontage. Active uses—including uses denoted in Table 4.01.1—shall be required, at minimum, along 30 percent of the ground floor frontage facing South Montgomery Street and 30 percent of the cumulative frontage facing Cahill Street and West Santa Clara Street, with a prioritization for active uses on Cahill Street.
- Active use transparency. Active use facades—including uses denoted in Table 4.01.1—between three feet and 12 feet above sidewalk grade shall have a minimum of 70 percent facade area transparency. Glazing units with Visible Light Transmittance (VLT) factor less than 60 percent shall not count toward meeting the required transparent area.

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

Downtown West Improvement Standards

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

Building Heights

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

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

Table 3.02.2 Permissible Building Heights by Sub-Area

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

Minimum Lot Size and Dimensions

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

Parking

Development within the Downtown West PD Zoning District shall provide up to 2,360 residential parking spaces and up to 4,800 commercial parking spaces across the site. Parking for each building may be located in shared parking garages anywhere within the Downtown West PD Zoning District and is not restricted by parcel. District parking strategies that combine parking from multiple blocks in

one location are permitted for both residential and commercial parking, and parking supply shall be counted at the district level and not for the block in which it is located.

The maximum number of commercial and/or residential parking spaces in the Downtown West PD Zoning District may be increased without amendment to this GDP, provided that compliance with CEQA has been demonstrated and any additional necessary environmental review completed.

Documentation of any parking increase pursuant to this section shall be through the Conformance Review process described on Sheet 8.01.

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

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

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

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

Table 3.02.3 Residential Parking (Sub-Area 1)

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

The number of residential parking spaces and corresponding parking ratio identified in Table 3.02.3 for Sub-Area 1 is to allow development in the Downtown West PD Zoning District to respond to

potential unavailability of land, fluctuation in demand for building types, allowable changes to phasing, and related considerations, while still advancing the key goals and objectives of the General Plan and the GDP. Therefore, to the extent the actual number of parking spaces provided in any Group of Sub-Area 1 is less than that Group’s Target, the unused spaces may be subtracted from the Target for that Group and added to any subsequent Group provided the ratio in any such subsequent Group does not exceed 1.0, without amendment to this GDP.

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

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

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

Bicycle Parking: The number of bicycle parking spaces shall be provided in accordance with Municipal Code Section 20.90.060.B. Bicycle parking spaces shall conform with the design standards under Municipal Code Section 20.90.190.

Maintenance Responsibility

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

Environmental Mitigation Measures and Conditions of Approval

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

Easements

The Project includes publicly-dedicated easements (“Public Easements”) and other privately-owned areas subject to limited rights of access for specific purposes that will be created through covenants, declarations or easements concerning only property owners (“Private Easements”), which include, for example, Mid-Block Passages and Project sponsor-owned open space. Public Easements and certain Private Easements will be shown in their approximate locations on tentative maps and vesting

tentative maps. Final locations of Public Easements will be shown on phased final maps, and the Public Easements will be dedicated to the City under Title 19 of the Municipal Code and related provisions of State law. The final locations of Private Easements will be established through covenants, declarations or easements recorded subsequent to the approval of associated phased final maps.

Maximum Allowable Development

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

Maximum Allowable Development in Downtown West PD Zoning District

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

Table 3.03.1 Maximum Allowable Development in Downtown West PD Zoning District

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

Table 3.03.2 Maximum Allowable Development in Each Sub-Area

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

Note:

gsf = gross square feet

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

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

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

implemented, approved, or applied for, will not exceed the maximum development square footage limits for the Downtown West PD Zoning District established in Table 3.03.1.

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

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

Allowable Conversion of Land Uses

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

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

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

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

Land Uses

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

Permitted Uses

Uses within the Downtown West PD Zoning District are identified in Table 4.01.1. Consistent with the City of San José's planning and economic development goals, policies, and objectives for the Downtown Growth Area under the Envision San José 2040 General Plan, the permitted uses are designed to promote and sustain a vibrant urban center. Land uses proposed for a particular building or structure shall be identified as part of the Conformance Review and shall be approved if consistent with this GDP, the applicable PD Permit, and the applicable General Plan land use designation. The Municipal Code definitions of the uses identified in Table 4.01.1 shall apply unless defined in this GDP. Table 4.01.1 additionally includes new uses not currently included within the Municipal Code. New definitions are identified with a plus (+) in Table 4.01.1 and are further defined below:

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

general public. Occupancy of a Limited-Term Corporate Accommodation by any person shall not exceed sixty (60) consecutive days. Kitchen areas, food services, and other related services pertaining to use of the facilities, including but not limited to cleaning and maintenance, are permitted.

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

Downtown West PD Zoning District Use Regulations

Table 4.01.1 Downtown West PD Zoning District Use Regulations

Residential	
<i>Residential GP</i>	
Residential shelter	C ^{GP}
Live / work uses	P ^{GP}
Residential, multiple dwelling	P ^{GP}
Co-living community	P ^{GP}
Residential care facility for seven or more persons	C ^{GP}
Residential services facility, for seven or more persons	C ^{GP}
Hotel supportive housing	C ^{GP}
Single room occupancy (SRO) living unit facility	S ^{GP}
Single room occupancy (SRO) residential hotel	S
<i>Residential Accessory Uses GP</i>	
Accessory buildings and accessory structures	P ^{GP}
Office	
<i>Offices and Financial Services</i>	
Offices, business and administrative (large format) +	P
Research and development	P
Active Uses+	
<i>Offices and Financial Services</i>	
Offices, business and administrative (small format) +	P
Automatic teller machine	P
Business support use	P
Financial services	P
Retail bank	P
<i>General Retail</i>	
Alcohol, off-sales - beer and / or wine only	A*/C
Alcohol, off-sales - full range of alcoholic beverages	A*/C
Alcohol, off-sales - as incidental to a winery, brewery, or distillery	A*

Food, beverages, and groceries	P
Outdoor vending	P*/A*
Outdoor vending - fresh fruits and vegetables	P
Retail bakery	P
Retail art studio	P
Retail sales, goods, and merchandise	P
Seasonal sales	P
Taproom or tasting room in conjunction with a winery, brewery, or distillery	A*
Taproom or tasting room with off-sale of alcohol	A*
Winery, Brewery, Distillery	P
Innovation space and Maker Space+	P
<i>Agriculture</i>	
Certified farmers' market	A*/S/P ^{OS}
Certified farmers' market, small	P
<i>Education and Training</i>	
Day care center	P
Instructional art studios	P
Private instruction, personal enrichment	P
School, elementary - grades K - 8 (public or private)	C
School, secondary - grades 9 - 12 (public or private)	C
School, post-secondary	P
School, trade and vocational	P
<i>Entertainment and Recreation Related</i>	
Arcade, amusement game	P
Health club, gymnasium	P
Lighting display	A*
Movie theater	P
Live Entertainment+	P*/S
Poolroom/billiards establishment	P
Private club or lodge	P
Recreation commercial / indoor	P

<i>Food Services</i>	
Banquet - facility	P
Caterer	P
Commercial Kitchen	P
Drinking establishments	A*/S
Drinking establishment in conjunction with a winery, brewery, or distillery	A*
Drinking establishments with an approved maximum occupancy load of over 250 persons and that operate between 12:00 midnight and 6:00 a.m.	C
Drinking establishments interior to a full-service hotel or motel with 75 or more guest rooms	P
Public eating establishments	P
Public eating establishment in conjunction with a winery, brewery, or distillery	P
<i>General Services</i>	
Laundromat	P
Maintenance and repair of small household appliances	P
Dry Cleaner	P
Nursery, Plant	P
Personal services	P
Printing and publishing	P
<i>Health and Veterinary Services</i>	
Animal grooming	P
Animal boarding, indoor	P
Emergency ambulance service	C
Hospital/in-patient medical facility	C
Medical or dental clinic / out-patient facility	P
Office, Medical	P
Veterinarian	P
<i>Historic Reuse</i>	
Historic landmark structure reuse ^{HP}	S
<i>Public, Quasi-Public and Assembly Uses</i>	

Church / religious assembly	P
Information center	P
Museums and libraries	P
Short term parking lot for uses or events other than on-site	P
Radio and television studios	P
Hotel	
<i>General Services</i>	
Bed and breakfast inn	P
Hotel or motel	P
Limited-Term Corporate Accommodations	
Limited-term corporate accommodations+	P
Event / Conference Center	
Event / conference center+	P
Auditorium+	P*/A*
Infrastructure	
District Systems+	P
<i>Recycling Uses</i>	
Reverse vending machine	S
Small collection facility	S
<i>Transportation and Communication</i>	
Community television antenna systems	P
Wireless communications antenna	P
Wireless communications antenna, building mounted	P
Private electrical power generation facility	P
Solar photovoltaic power system	P
Stand-by / backup facilities that do not exceed noise or air standards	P
Temporary stand-by/backup generators	P
<i>Vehicle Related Uses</i>	
Fuel service station or charge station, no incidental service or repair	P

Logistics / Warehouse	
Logistics hub+	P
Open space	
<i>Public, Quasi-Public and Assembly Uses</i>	
Parks, playgrounds, or community centers	P
Open space+	P
Open space accessory buildings+	P
Accessory structures	P
Outdoor art	P
Open space program activities	P ^{OS}

Legend

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

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

Conditions of Administrative Permits

Uses identified in Table 4.01.1 with A* shall be permitted with an Administrative Permit in accordance with Chapter 20.100 of the Municipal Code. An Administrative Permit issued by the Director of PBCE for the uses identified with A* in Table 4.01.1 shall be subject to the conditions identified in Sheets 4.02 and 4.03 to this GDP. For uses that do not meet the conditions below, the use shall be subject to the use permit identified in Table 20-140 of the Municipal Code for the Downtown Commercial Zoning District as of the effective date of the Downtown West PD Zoning District, unless stated otherwise. Compliance with the conditions identified in Sheets 4.02 and 4.03 shall be the responsibility of the permittee of the Administrative Permit. In the event of noncompliance with a condition required under an Administrative Permit or any subsequent PD Permit issued for a conditional or special use, the Director of PBCE may revoke, suspend or modify the Administrative Permit or subsequent PD Permit or otherwise enforce the requirements of the Administrative Permit and subsequent PD Permit pursuant to the remedies available to the City under the San Jose Municipal Code. A violation of an Administrative Permit or a subsequently issued PD Permit for a conditional or special use shall not, by itself, constitute a violation of the Downtown West PD Permit. The City shall prioritize and exhaust all enforcement remedies first against a non-conforming Administrative Permit holder or PD Permit holder of a subsequently issued PD Permit, including revocation of the Administrative Permit or subsequent PD Permit, and then against the owner of property subject to the nonconforming Administrative Permit or subsequent PD Permit.

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

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

Standard Conditions of Approval

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

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

Off-Sale Alcohol Use Restrictions

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

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

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

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

radius. This condition shall not apply to alcohol off-sales as an incidental use to a winery, brewery, or distillery.

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

Live Entertainment

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

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

Auditorium

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

Drinking Establishment Restrictions

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

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

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

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

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

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

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

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

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

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

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

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

Outdoor Vending

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Farmers' Market

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

- All operations shall fully comply with all federal, state and local laws, regulations and guidelines including without limitation those applicable to the certified farmers' market operations, including without limitation the California Health and Safety Code, the California Food and Agricultural Code, and all regulations and guidelines promulgated by the State of California and the County of Santa Clara thereunder, as the same may be amended from time to time;

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

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

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

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

Prohibited Uses

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

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

Existing Non-Conforming Uses

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

New City Uses and Non-Designated Uses

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

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

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

- Compliance with CEQA has been demonstrated and any additional necessary environmental review has been completed in connection with any proposed New City Use or Non-Designated Use.

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

Table 4.03.1 Summary of Use Permit Process

	APPROVAL / USE PERMIT	DURATION	APPLICABILITY	PROCESS	Approval Body
Permanent Uses¹	Permitted	Unrestricted	Permitted uses are identified on Table 4.01.1 of the GDP. Permitted shall be permitted as of right if such use is consistent with the General Plan, GDP, and Downtown West PD Permit.	Permitted uses will be identified during or after the Conformance Review.	N/A
	Administrative	Minimum of 5 years with option for a 5 year extension, extended durations may be conditioned by Director of PBCE	Uses requiring an Administrative Permit are identified on Table 4.01.1. GDP Sheets 4.02 and 4.03 set forth conditions that are applicable to certain uses requiring an Administrative Permit.	Refer to Muni Code, Title 20, Chapter 20.100, Part 10 for application and review process for an Administrative Permit. The term of an Administrative Permit shall be governed by this Downtown West PD Zoning District. Administrative uses will be identified during or after the Conformance Review. The project sponsor or other applicant shall obtain an Administrative Permit for a specific use, pursuant to the requirements on GDP sheets 4.02 and 4.03, during or after the Conformance Review process.	Director of PBCE

	Special Use	May be time-conditioned , as appropriate, by the Director of PBCE but shall be a minimum of 5 years with an option to extend the permit for an additional 5 years.	Special uses are identified on Table 4.01.1. Special uses shall require approval of a subsequent PD Permit.	Refer to Muni Code, Title 20, Chapter 20.100, Part 8 (Planned Development Permit) for the application and review process. The term of a PD Permit issued for a special use shall be governed by this Downtown West PD Zoning Districts. Special uses will be identified during or after the Conformance Review. The project sponsor or other applicant shall obtain a Special Use Permit for a specific use, pursuant to the requirements on GDP sheets 4.02 and 4.03, during or after the Conformance Review process.	Director of PBCE
	Conditional Use	May be time-conditioned , as appropriate, by the Director of PBCE but shall be a minimum of 5 years with an option to extend the permit for an additional 5 years.	Conditional uses are identified on Table 4.01.1. Conditional uses shall require approval of a subsequent PD Permit.	Refer to Muni Code, Title 20, Chapter 20.100, Part 8 (Planned Development Permit). The term of a PD Permit issued for a conditional use shall be governed by this Downtown West PD Zoning District. Conditional uses will be identified during or after the Conformance Review. The project sponsor or other applicant shall obtain a Conditional Use Permit for a specific use, pursuant to the requirements on GDP sheets 4.02 and 4.03, during or after the Conformance Review process.	Director of PBCE
Interim Uses	Downtown West Use Certificate	Up to 5 years and subject to a 5 year extension	Interim Uses are permitted during the time prior to or concurrent with development of the site. Interim uses authorized upon the issuance of a	The project sponsor or other applicant may obtain a Downtown West Use Certificate for a permitted interim use pursuant to the requirements of the GDP. Standards related to	Director of PBCE

			Downtown West Use Certificate are identified on GDP Sheet 4.04.	interim uses are set forth on GDP Sheet 4.04.	
	Downtown West Use Permit	The term of a Downtown West Use Permit shall be defined in the permit.	Interim Uses are permitted during the time prior to or concurrent with development of the site. Interim uses that require a Downtown West Use Permit are identified on GDP Sheet 4.04. Standards related to interim uses are set forth on GDP Sheet 4.04.	The project sponsor or other applicant may obtain a Downtown West Use Permit for a permitted interim use pursuant to the requirements of the GDP.	Director of PBCE
Special Events and Limited Term Uses	Special Events and Limited-Term Uses on Private Property (as defined on Sheet 4.05)	Special Events on Private Property may last from a few hours to approximately 45 consecutive days, or on a recurring basis (e.g. weekly). Limited-Term Uses on Private Property are short-term transitory uses that shall be permitted to occur for consecutive days, exceeding 45 consecutive days, for a limited duration.	Special Events and Limited Term Uses on Privately Owned Open Space, private streets and structures are Permitted, without any further authorization, permits, or approvals from the City, except to the extent a permit is required under the Fire Code, or the event includes amplified noise that exceeds [60] dBA.	The process for obtaining a fire permit or amplified sound permit for Special Events or Limited-Term Uses on Private Property are set forth on GDP Sheet 4.05.	Fire Department (with coordination of OCA) if a Fire Permit is required; Planning Department if an Amplified Sound Permit is required.
	Special Events and Limited-Term Uses on Public Property (public right of way and City-dedicated Park)	The duration of Special Events or Limited-Term Uses located on the public right-of-way or City Dedicated Park shall be subject to the term limits set forth in the	Special Events and Limited Term Uses located on the public right of way or on City-dedicated Park shall obtain permits from the Police Department or the Fire Department, as required under	Applicable requirements for Special Events or Limited Term Uses on Public Property are set forth on GDP Sheet 4.05.	Fire Department and Police Department , as applicable, in coordination with OCA

		applicable City permits.	the Municipal Code.		
	Downtown West Use Permit	The term of a Downtown West Use Permit for Special Events or Limited-Term Uses shall be established in the permit.	Certain Special Events and Limited-Term Uses identified on GDP Sheet 4.05 require the issuance of a Downtown West Use Permit.	The project sponsor or other applicant may obtain a Downtown West Use Permit for a Special Event or Limited-Term Use pursuant to the requirements of the GDP as set forth on Sheet 4.05.	Director of PBCE

Note:

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

Interim Uses

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

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

Standards Applicable to Interim Uses

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

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

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

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

The following DWDSG Lighting and Signage standards: S7.3.1 (lighting element placement), S7.3.3 (atmospheric lighting), S7.4.1 (lighting in riparian setbacks and the ecological enhancement zone), S7.4.2 (prohibited lighting in riparian setbacks and the ecological enhancement zone), S7.4.6 (lighting for existing, replacement, and new buildings in the ecological enhancement zone), S7.5.1 (non-permitted lighting), S7.7.1 (permitted signage)

Interim Uses Requiring a Downtown West Use Certificate

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

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

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

The Director of PBCE may impose conditions reasonably necessary to ensure compatibility with adjacent uses in relation to the issuance of the Downtown West Use Certificate. The Director of

PBCE shall make a determination regarding the issuance of a Downtown West Use Certificate within thirty (30) days of receipt of the project sponsor's Interim Use Application.

Interim Uses Requiring a Downtown West Use Permit

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

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

Conditions reasonably necessary to avoid or mitigate effects on the environment and/or the surrounding community; and

Conditions reasonably necessary to ensure compatibility with adjacent uses and to avoid interference with the orderly development of the PD Zoning District.

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

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

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

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

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

Non-Designated Interim Uses

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

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

Special Events and Limited-Term Uses

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

Standards Applicable to All Special Events and Limited-Term Uses

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

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

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

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

Access to Project Sponsor-Owned Open Space. Subject to the Rules Regarding Public Access and Private Events/Temporary Closures (Exhibit F3 to Development Agreement), the project sponsor,

in its sole discretion, is authorized to partially close certain Project sponsor-owned open space for Special Events and Limited-Term Uses.

Special Events and Limited-Term Use on Private Property

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

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

- When the project sponsor determines that a Special Event or Limited-Term Use requires a permit under the Fire Code, the project sponsor shall, at least [twenty-five (25) business days] prior to the Special Event or Limited-Term Use and in coordination with OCA, provide the Fire Department a description of the proposed event or use, including information demonstrating consistency with applicable Fire Code requirements ("Special Event or Limited-Term Use Plan").
- Within ten (10) business days of receipt of the project sponsor's Special Event or Limited-Term Use Plan, the San Jose Fire Department shall (i) issue the requested permit if the Special Event or Limited-Term Use Plan is consistent with applicable Fire Code requirements; or (ii) provide written comments describing with particularity any inconsistency with applicable Fire Code provisions and, where such inconsistency can be remedied with additional safety equipment or measures, identifying such equipment or measures.
- The Fire Department's review of the Special Event or Limited-Term Use Plan shall be limited to a determination of consistency with applicable Fire Code requirements. If the Fire Department provides written comments identifying inconsistencies with specific fire and public safety laws, or requests additional information, the project sponsor shall address such comments or provide additional information within five (5) business days of receiving such request.
- The Fire Department shall promptly review the project sponsor's responses to comments or additional information provided. Within five (5) business days of receiving additional information from the project sponsor, the Fire Department shall issue the requested permit if the Special Event / Limited-Term Use Plan is consistent with applicable Fire Code requirements or, alternatively, issue the permit subject to conditions that would bring the Special Event / Limited-Term Use Plan into compliance with Fire Code requirements.

Amplified Sound Permit for Special Events with Amplified Sound Exceeding [60] dBA. The project sponsor shall apply for a noise permit in connection with a proposed Special Event or Limited-Term Use on Private Property that includes amplified noise in exceedance of [60] dBA. The Planning Department agrees to review and approve or conditionally approve applications for amplified sound permits for Special Events or Limited Term Uses on Private Property in accordance with the timelines herein.

- When the project sponsor determines that a Special Event or Limited-Term Use involves amplified sound in exceedance of [60] dBA, the project sponsor shall, at least [twenty-five (25) business days] prior to the Special Event or Limited-Term Use, provide the Planning Department a description of the proposed event or use, including information regarding the proposed use of loudspeakers or sound amplifiers (“Amplified Sound Application”).
- The Planning Department’s review of the Amplified Sound Permit Application shall be limited to determining whether the proposed use of loudspeakers or sound amplifiers will result in a significant adverse impact on sensitive receptors.
- Within ten (10) calendar days of receipt of the project sponsor’s Amplified Sound Permit Application, the Planning Department shall (i) issue the amplified sound permit; or (ii) provide written comments describing with particularity any additional information required to review the Amplified Sound Permit Application. If the Planning Department requests additional information, the project sponsor shall provide additional information within five (5) calendar days of receiving such request.
- The Planning Department shall promptly review the additional information provided. Within five (5) business days of receiving additional information from the project sponsor, the Planning Department shall issue the requested amplified sound permit. An amplified sound permit shall not be unreasonably refused or limited, nor shall any conditions be imposed to the grant or exercise of an amplified sound permit that are not reasonable. The Planning Department may issue the permit subject to reasonable conditions, which shall be limited to the placement and orientation of loudspeakers or sound amplifiers, degree of amplification, and hours for the use of amplified sounds.

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

Special Events and Limited-Term Uses on Public Property

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

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

Events or Limited Term Uses that it expects to hold in the upcoming year and obtain all necessary permits required for such Special Events or Limited Term Uses.

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

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

- Job Training Centers
- Storage sites
- Automobile and truck parking and loading including rideshare drop off and pick up zones
- On-site assembly and production of goods in enclosed or unenclosed temporary structures

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

- Conditions reasonably necessary to avoid or mitigate potentially significant environmental impacts; and
- Conditions reasonably necessary to ensure compatibility with adjacent uses and to avoid creation of a nuisance to the surrounding community.