

From: [Phan, Johnny](#)
To: [Downtown West Project](#)
Subject: FW: Google - DW - DA Exhibits
Date: Tuesday, April 6, 2021 3:11:07 PM
Attachments: [Google - DW - Exhibit G Workforce Learning and Education Commitment-c.docx](#)
[Google - DW - Exhibits F2 and F3-c.docx](#)
[Exhibit F3 Figure 1-5-c.pdf](#)
[DA Exhibit C1 Base Requirements and CB Schedule-c.docx](#)
[Exhibit E6 Temporary Construction Right of Entry-c.pdf](#)
[DA - Exhibit N Notice of Completion and Termination-c.docx](#)
[Exhibit C3 Transit Project Buffer Zone-c.pdf](#)

From: Straka, Stephanie <SStraka@coblentzlaw.com>
Sent: Friday, March 26, 2021 6:13 PM
To: Phan, Johnny <Johnny.Phan@sanjoseca.gov>
Cc: Miller, Gregg <gmiller@coblentzlaw.com>
Subject: Google - DW - DA Exhibits

[External Email]

Johnny, the following docs are attached:

- Exhibit G – one minor edit to City draft
- Exhibits F2 and F3 – implemented City edits, confirmed Meander = 50%
- Exhibit F3 Figures 1-5
- Exhibit C1
- Exhibit C3
- Exhibit E6 Construction TCE
- Exhibit N Notice of Completion/Termination

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This message is from outside the City email system. Do not open links or attachments from untrusted

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Exhibit G

Workforce, Learning, and Education Commitment

Section 1. Google Participation with Community-Based Organizations. Following issuance of a Certificate of Occupancy for the first commercial office Building in the Project, and as long as Google LLC or any Google Affiliate occupies commercial office space in the Project during the term, Google shall use, or cause the Google Affiliate to use, Good Faith Efforts:

- a. to promote opportunities for Google employees to volunteer their time with, and to serve as mentors on behalf of community-based organizations that serve San José students from underrepresented backgrounds; and
- b. to provide career exploration and skills development opportunities, such as onsite field trips, career days, and computer science workshops, to students from underserved communities and who have an interest in technology and technology-based careers.

Any Transferee that occupies commercial office space in the Project during the term shall meet and confer with the City regarding how it can use Good Faith Efforts to promote employee volunteer opportunities, provide career and skill development opportunities to students from underserved communities, or otherwise engage with community-based organizations.

Section 2. Local and Minority Business Enterprises; Local Hire.

2.1 Local and Minority Business Enterprises - Project Construction. For the construction of the commercial office Buildings within the Project, Developer will use Good Faith Efforts to achieve, or to cause the general contractor(s) to achieve, an overall LBE, DBE, MBE, WBE, and/or LGBTBE, DOBE, and/or SD/VBO participation goal of 10% of the total cost of all contracts for a commercial office building to be awarded to contractors, subcontractors, suppliers,

and/or consultants that qualify as a LBE, DBE, MBE, WBE, and/or LGBTBE, DOBE, and/or SD/VOB. To advance this goal, Developer will use Good Faith Efforts:

- a. to include in its construction contracts for each commercial office building a requirement that the general contractor shall use Good Faith Efforts to contract with subcontractors, suppliers, and other businesses that qualify as a LBE, DBE, MBE, WBE, LGBTBE, DOBE, and/or SD/VOB;
- b. to notify construction and DBE publications of contracting opportunities;
and
- c. to host an annual development construction fair to bring together prime/general/sub contractors in an effort to increase diversity and inclusion on major construction projects.

2.2 Local and Minority Business Enterprises - Project Operation. In context to the opening of each commercial office Building, prior to the issuance of a Final Certificate of Occupancy for a commercial office Building in the Project, Developer shall use, or cause its affiliate company and/or its vendors to use, Good Faith Efforts:

- a. to hire contractors, subcontractors, suppliers, and/or consultants that qualify as a LBEs, DBEs, MBEs, WBEs, LGBTBEs, DOBEs, and/or SD/VOBs for ongoing service contracts (e.g. maintenance, janitorial, landscaping, security etc.) related to Developer's commercial office Buildings; and
- b. to host two (2) times per year on a semi-annual basis, an informational session targeted to LBEs, DBE, MBEs, WBEs, LGBTBEs, DOBEs, and/or SD/VOBs interested in providing goods and services to Developer's commercial office Buildings.

2.3 Local Hire - Project Construction. Developer will include in its construction contracts for all onsite construction activity a requirement that the contractor or subcontractor shall use Good Faith Efforts to achieve a goal that Local Residents comprise thirty percent (30%) of all new hires for employment opportunities under the applicable construction contract for construction trade positions and entry-level positions related to providing support to the construction industry. This obligation to use Good Faith Efforts shall not limit the ability of a contractor or subcontractor to assess qualifications of prospective workers, to require a contractor or subcontractor to employ a worker not qualified for the position in question, or to employ any particular worker.

2.4 Local Hire - Project Operation. In context to the opening of each commercial office Building, prior to the issuance of a Final Certificate of Occupancy for a commercial office Building in the Project, Developer shall use, or cause the Developer Affiliate to use, Good Faith Efforts:

a. to establish a “Local Community Liaison” who will be responsible for connecting primary building operations contractors (e.g. maintenance, janitorial, landscaping, security, and other non-college IT roles) with the City’s lead Workforce Development Board (e.g. work2future) and other local community-based workforce development organizations, to ensure qualified Local Residents seeking employment are aware of open positions at the Project Site and are considered for the open roles;

b. to encourage building operations contractors that provide services to Developer/affiliate-occupied Buildings to use their Good Faith Efforts to notify the City’s lead Workforce Development Board (e.g. work2future) and other local community based workforce development organizations when the contractor is hiring for positions that service such buildings, and to make Good Faith Efforts to interview and consider referred candidates from the local

workforce agencies with appropriate backgrounds, qualifications, and experience for the open roles;

c. to periodically participate in the City’s lead Workforce Development Board (e.g. work2future) and other local community based workforce development organizations client outreach and recruiting events;

d. to host two (2) times per year on a semi-annual basis, a career development workshop or job fair targeted at local Economically Disadvantaged Communities and Underrepresented Workers;

e. to have a Developer representative serve as a board member on the City’s lead Workforce Development Board (e.g. work2future); and

f. to collaborate on an annual basis with the Community Stabilization and Opportunity Pathways Fund, and with the City’s lead Workforce Development Board (e.g. work2future) and other local community based workforce development organizations to analyze and identify job types, projections for in-demand roles, job readiness and potential career pathways for underrepresented workers leading to economic self sufficiency.

Section 3 Definitions.

The following definitions apply to this Exhibit G (and any term not defined in this Section 3 shall have the meaning provided in the Development Agreement):

3.1 “Disability Owned Business Enterprise (DOBE)” shall mean any business that is an LBE and is at least fifty-one percent (51%) owned and Controlled (as defined in the Development Agreement) by a person or persons with a disability.

3.2 "Disadvantaged Business Enterprise (DBE)" shall mean any business that is an LBE and is at least fifty-one percent (51%) owned and Controlled (as defined in the Development Agreement) by a person or persons who is a socially and economically disadvantaged individual.

3.3 "Economically Disadvantaged Communities" shall mean communities in which the median household income is less than eighty percent (80%) of the county median income, as compared to the nine-county Bay Area region and the respective U.S. Department of Housing and Urban Development income threshold.

3.4 "Good Faith Efforts" shall mean the commercially reasonable efforts that a public company can undertake in light of its fiduciary obligations to its shareholders. Good Faith Efforts shall not obligate Developer to undertake any expenditure, or program relative solely to the cost to implement any particular measure described herein. Additionally, Good Faith Efforts shall in no event be interpreted to mean that Developer is obligated to include any particular term pursuant to this Workforce, Learning, and Education Commitment in any agreement, except as otherwise provided in this Exhibit.

3.5 "LGBT Business Enterprise (LGBTBE)" shall mean any business that is an LBE and is at least fifty-one percent (51%) owned and Controlled (as defined in the Development Agreement) by a person or persons who identifies as a member of the Lesbian, Gay, Bisexual, and Transgender community.

3.6 "Local Business Enterprise (LBE)" shall have the same meaning as set forth in Chapter 4.12 of the City's Municipal Code.

3.7 "Local Resident" shall mean an individual who is domiciled, as defined by Section 349(b) of the California Election Code, as it may be amended, within Santa Clara County for at least seven (7) calendar days before commencing work on a Private Construction Project.

3.8 "Minority Business Enterprise (MBE)" shall mean any business that is an LBE and is at least fifty-one percent (51%) owned and Controlled (as defined in the Development Agreement) by a person or persons who is a member of one or more ethnic minority group.

3.9 "Service-Disabled/Veteran Owned Business (SD/VOB)" shall mean any business that is an LBE and is at least fifty-one percent (51%) owned and Controlled (as defined in the Development Agreement) by a person or persons who is a Service-Disabled Veteran or Service-Disabled Veterans, as defined in section 3(q) of the Small Business Act (15 U.S.C. 632(q)).

3.10 "Underrepresented Worker" shall mean an individual who meets any one of the following conditions:

- (a) The individual is at risk of losing his/her home, the individual is homeless, or the individual is housed within the past twelve (12) months before which he/she was homeless;
- (b) The individual is receiving public assistance;
- (c) The individual is participating in a reentry program or was formerly incarcerated;
- (d) The individual has been continuously unemployed for at least three months over the previous year;
- (e) The individual has a family or household income that falls below the current United States Department of Housing and Urban Development threshold for low income households in Santa Clara County;
- (f) The individual has been emancipated from the foster care system;
- (g) The individual is a veteran of the United States military;
- (h) The individual is participating in a program for "at-risk" youth; or
- (i) The individual is a survivor of labor trafficking.

3.11 "Woman Business Enterprise (WBE)" shall mean any business that is an LBE and is at least fifty-one percent (51%) owned and Controlled (as defined in the Development Agreement) by one or more women.

Exhibit F2

Rules Regarding Public Access

1. Hours of Operation

Except as set forth in Section 2 herein, each of the Privately-Owned Publicly Accessible Open Spaces, excluding the Los Gatos Creek Riparian Corridor, shall be open to the general public every day from sunrise until 9:00p.m.

2. Scope of Permissible Park Use

The public is welcome to access the Privately-Owned Publicly Accessible Open Spaces for the following general uses:

- to enjoy the park during the hours of operation ("park hours")
- to enjoy open spaces during park hours, other than those times reserved for private events or necessary closing
- to engage in commercial activity and revenue generating activities with permission of the Developer/owner
- to enjoy and participate in public, community curated events that do not require payment, which will happen a minimum 6 times annually
- to enjoy the gardens, naturalized areas, and landscaping without entering flowerbeds or damaging vegetation
- to sit on a park chair or one seat on a bench designed for sharing
- to deposit waste in trash or recycling receptacles
- to walk dogs on a leash so long as the person walking the dog cleans up after the dog and deposits waste into appropriate receptacles
- to take souvenir photos; commercial photography by Developer/owner permission only

- to apply to the Developer/owner to host private events, i.e., corporate events, protests, or other special events

Exhibit F3

Rules Regarding Public Events, Private Events, and Temporary Closures

“Public event” and “private event” shall have the meaning set forth in the General Development Plan. Excluding semi-public open space (as defined in the DWDSG) under lease by a business, the Los Gatos Creek Riparian Corridor, and limited-access mid-block passages (as defined in the DWDSG), all spaces are publicly accessible, subject to the following limitations:

- a. All public events and private events require prior Developer/owner permission, and Developer/owner has the authority in its sole discretion to determine whether an event is permitted, consistent with the rules and limitations for public events, private events and/or temporary closures set forth in this Exhibit F3.
- b. All public events and private events permitted by this Exhibit F3 are permitted 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), which permit processes and requirements are set forth in the General Development Plan.
- c. Notwithstanding the limitations regarding partial closures set forth below, each individual Privately-Owned Publicly Accessible Open Space may be closed in its entirety (inclusive of the reservable areas) for a private event a maximum of six (6) times per year, not to exceed eight (8) hours in any month, except as permitted by Paragraph (p). Except for closures described in Paragraph (p), Developer or Owner shall provide notice to the City of each planned closure for a large private event as allowed under this paragraph at least seven (7) days in advance of the closure, and shall

- post notice at the entrance to the subject Open Space least forty-eight (48) hours in advance of such closure to inform the public.
- d. No more than one entire Privately-Owned Publicly Accessible Open Space's reservable area may be reserved for a private event at any one time, except for five (5) days per year, when all Privately-Owned Publicly Accessible Open Space reservable areas may be reserved for no more than five (5) consecutive days, provided that prior notification to the general public via posted signage, and written notification to the City Department of Parks, Recreation & Neighborhood Services (“PRNS”) and other stakeholders. During such closures, public access to all City-Dedicated Park spaces and trails shall be provided unless closure of such City-Dedicated Park space is expressly approved in writing by PRNS.
 - e. Private events held in Privately-Owned Publicly Accessible Open Space reservable areas shall be limited to no more than five (5) consecutive days in one location.
 - f. Events shall be assigned to specific venues within the Privately-Owned Publicly Accessible Open Space network appropriate to the size and nature of the event and where the event will impose the least impact to the level of service on the Privately-Owned Publicly Accessible Open Space or the public's use therefore, as determined by Developer/owner in its sole discretion.
 - g. Non-reservable event areas shall remain open and accessible to the public during private events.
 - h. Events shall maintain a clear public path of travel around the event and through the Privately-Owned Publicly Accessible Open Space, including a safe path of travel marked in accordance with ADA standards shall be maintained.

- i. Private events held during business hours Monday through Thursday shall be encouraged to avoid high public use hours, as determined by Developer/owner.
- j. Private events held during evenings, weekends, and holidays and other hours of high public use should be limited, as determined by Developer/owner, in order to avoid high public use hours, as determined by Developer/owner.
- k. Private events held on weekends shall be limited to one weekend per month per Privately-Owned Publicly Accessible Open Space. As much as possible, as determined by Developer/owner, the event should allow the public to hear, see, or otherwise appreciate the event.
- l. Unless otherwise approved by Developer/owner, event support structures and furnishings shall be located on hardscape areas and shall be selected and arranged with a high regard for the visual and aesthetic quality of the Privately-Owned Publicly Accessible Open Space.
- m. Events involving animal acts, petting zoos, carnival rides, hot air balloons, or helicopter landings shall not be permitted.
- n. Vehicle access through the Privately-Owned Publicly Accessible Open Spaces is prohibited, except that vehicle access for the limited purpose of setting up or dismantling furnishings, decor, or other items associated with a public or private event may be permitted with prior approval of Developer/owner.
- o. Special Events, as defined in the General Development Plans, are permitted with prior Developer/owner permission. Special Events are permitted pursuant to the requirements specified in the Downtown West Planned Development Zoning District and General Development Plan.

- p. Notwithstanding any provision in this Exhibit to the contrary, Privately-Owned Publicly Accessible Open Spaces may be closed, at Developer/owner's reasonable discretion, on short-notice or at any time for security or safety needs, and for maintenance or repair. Any security or safety-related closure lasting longer than seven (7) days shall require written approval from City, a request for which shall be responded to within twenty-four (24) hours of receipt, and the approval of which shall not be unreasonably withheld.

Each of the following Privately-Owned Publicly Accessible Open Spaces may be partially closed for private events as described below (by percentage of total open space, and duration), subject to the rules and conditions above:

- a. Los Gatos Creek Park: A maximum of twenty-five percent (25%) of Los Gatos Creek Park is reservable by the public for private event use for each event zone depicted on Figure 1 for up to fifty-four (54) days per year (15%) from Sunrise to 9:00p.m. The same is reservable by Developer for private event use for each event zone depicted on Figure 1 for up to seventy-three (73) days per year (20%) from Sunrise to 9:00p.m.
- b. The Meander: A maximum of fifty percent (50%) of the total Privately-Owned Publicly Accessible Open Space within The Meander is reservable by the public for event use for each event zone depicted on Figure 2 for up to fifty-four (54) days per year (15%) from Sunrise to 9:00p.m. The same is reservable by Developer for private event use for each event zone depicted on Figure 2 for up to seventy-three (73) days per year (20%) from Sunrise to 9:00p.m.
- c. Creekside Walk: A maximum of thirty-five percent (35%) of the total Privately-Owned Publicly Accessible Open Space within Creekside Walk is reservable by the public for

- event use for each event zone up depicted on Figure 3 for up to fifty-four (54) days per year (15%) from Sunrise to 9:00p.m. The same is reservable by Developer for private event use for each event zone depicted on Figure 3 for up to one hundred twenty-seven (127) days per year (35%) from Sunrise to 9:00p.m.
- d. The Gateway and Los Gatos Creek East: A maximum of thirty-five percent (35%) of the total Privately-Owned Publicly Accessible Open Space within the Gateway and Los Gatos Creek East is reservable by the public for event use for each event zone depicted on Figure 4 for up to fifty-four (54) days per year (15%) from Sunrise to 9:00p.m. The same is reservable by Developer for private event use for each event zone depicted on Figure 4 for up to seventy-three (73) days per year (20%) from Sunrise to 9:00p.m.
- e. Northend Park: A maximum of fifty percent (50%) of the total Privately-Owned Open Space within Northend Park is reservable by the public for event use for each event zone depicted on Figure 5 for up to fifty-four (54) days per year (15%) from Sunrise to 9:00p.m. The same is reservable by Developer for private event use for each event zone depicted on Figure 5 for up to seventy-three (73) days per year (20%) from Sunrise to 9:00p.m.

Figures 1 through 5 *[separate pdf]*

Figure 1: Conceptual Reservable Event Zones for Los Gatos Creek Park

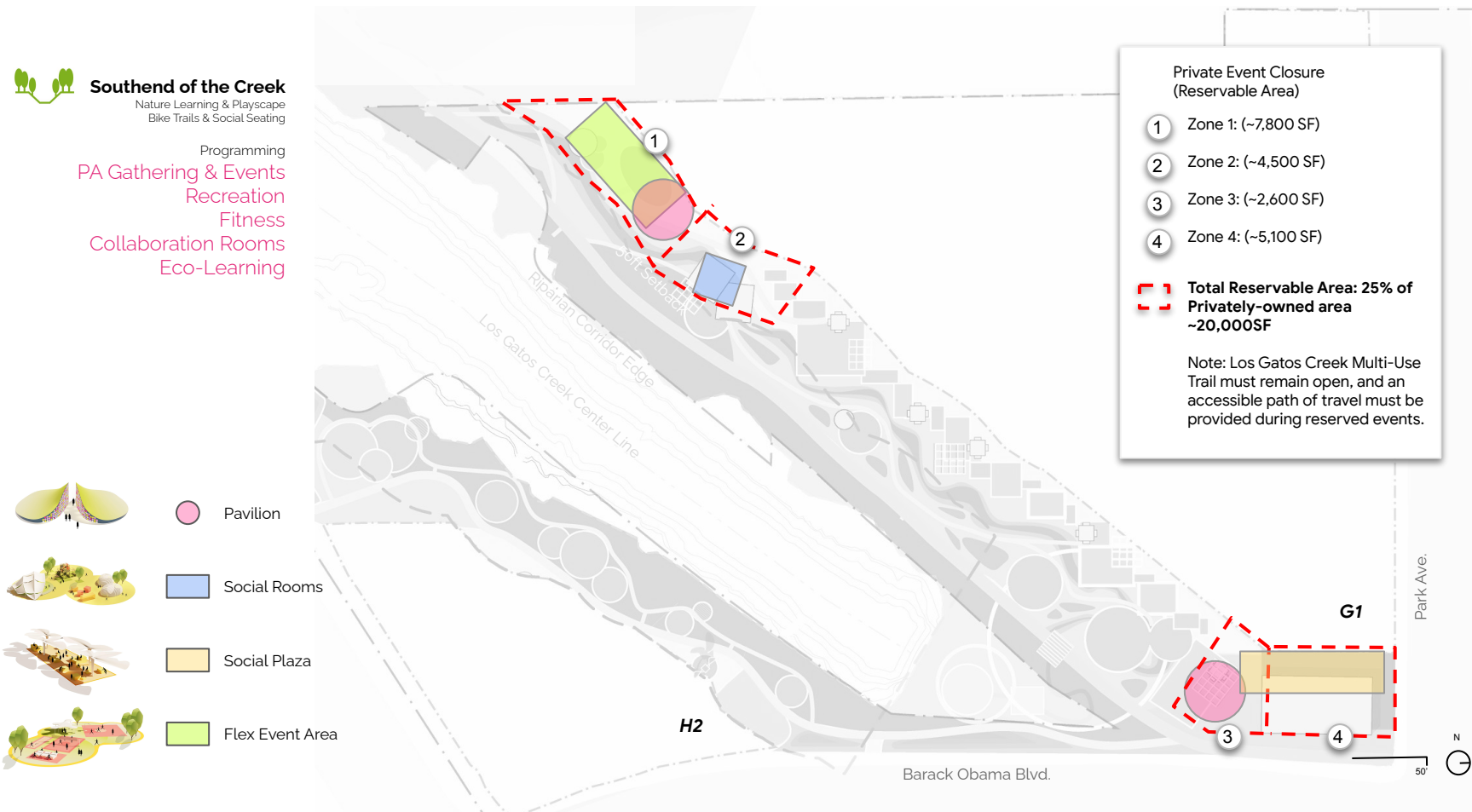


Figure 2: Conceptual Reservable Event Zones for the Meander



The Meander

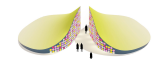
Tech Lab • Learning • Culture
Urban Green Spine

Programming

PA Specialized Events
Tech Talk Spill Out
Social Catered Events
Interactive Tech Exhibition



Kiosks



Pavilions



Social Plazas



Event / Flex Fields

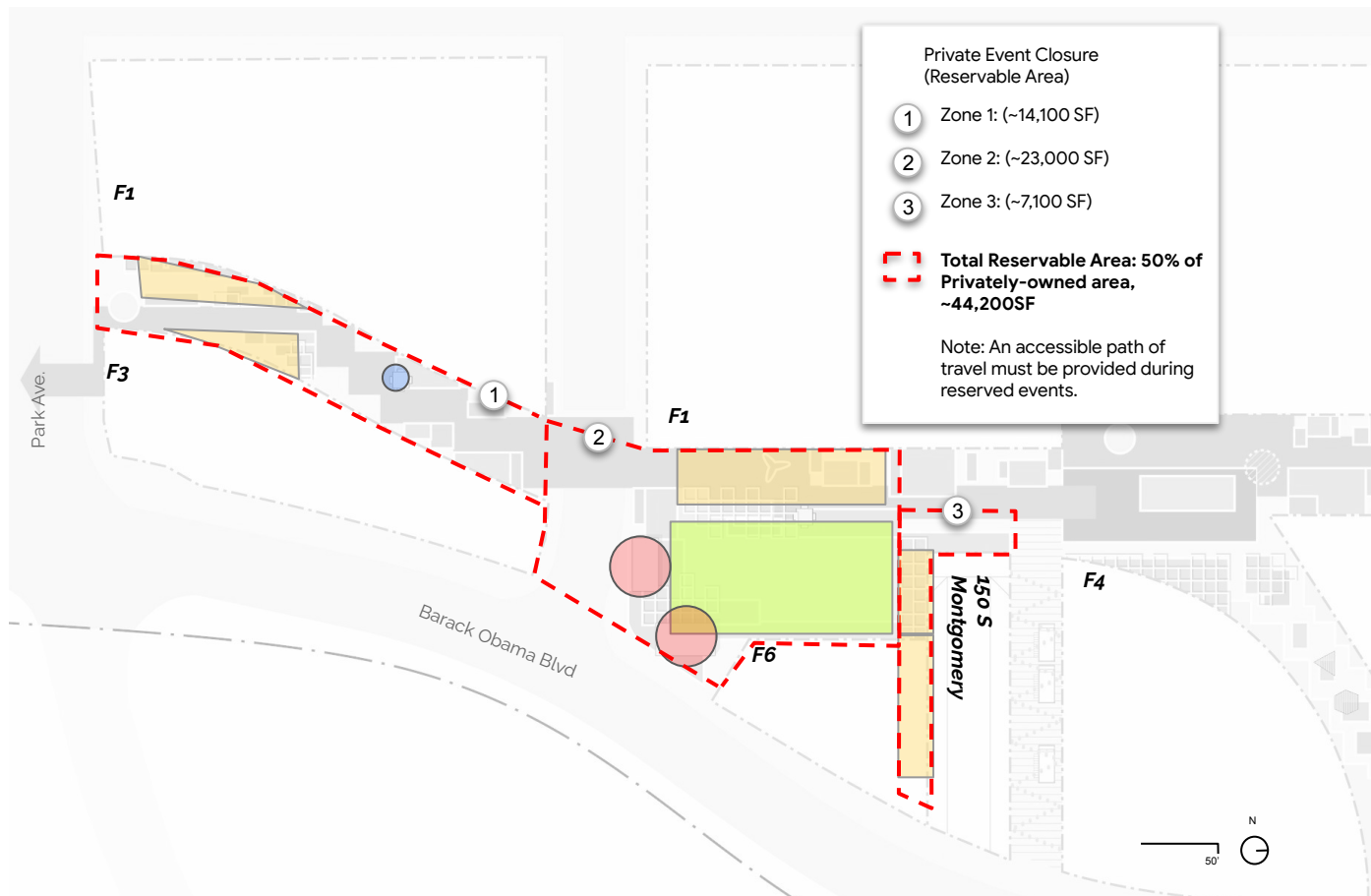


Figure 3: Conceptual Reservable Event Zones for Creekside Walk

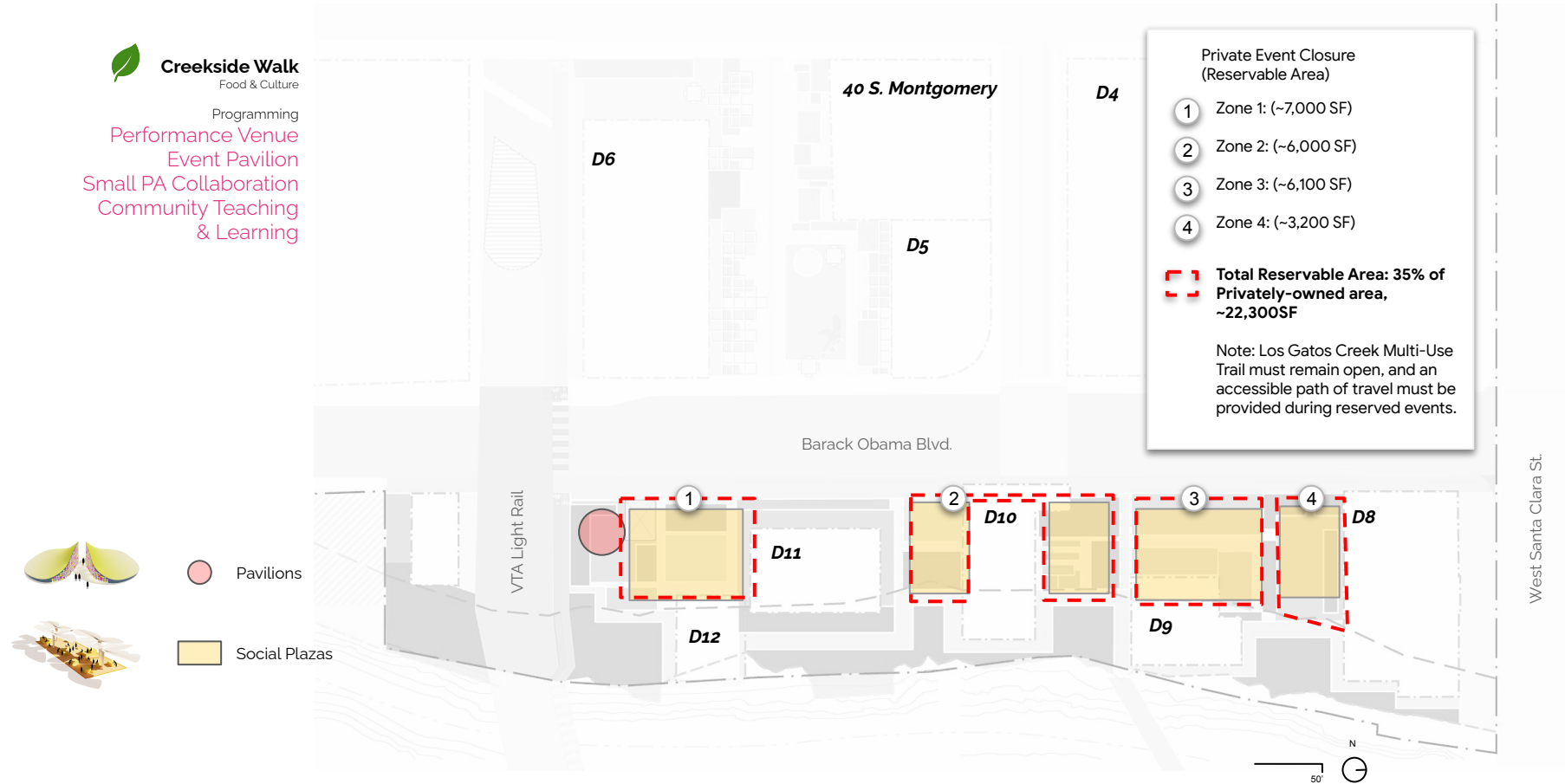


Figure 4: Conceptual Reservable Event Zones for Gateway to San José & Los Gatos Creek East



Gateway to SJ
Google Welcome

Programming

Specialized Event
Exhibition Gathering
Pop-up / Exposition
Tech Learning



Kiosks

Pavilions

Social Plazas



Private Event Closure
(Reservable Area)

- 1 Zone 1: (~19,400SF)
- 2 Zone 2: (~14,600SF)

**Total Reservable Area: 35% of
Privately-owned area,
~34,000 SF**

Note: Los Gatos Creek Multi-Use
Trail must remain open, and an
accessible path of travel must be
provided during reserved events.

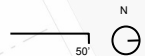


Figure 5: Conceptual Reservable Event Zones - Northend Park



Northend Park
Google Welcome

Programming

Specialized Event
Exhibition Gathering
Pop-up / Exposition
Tech Learning



Blue circle icon: Kiosks

Red circle icon: Pavilions

Yellow rectangle icon: Social Plazas

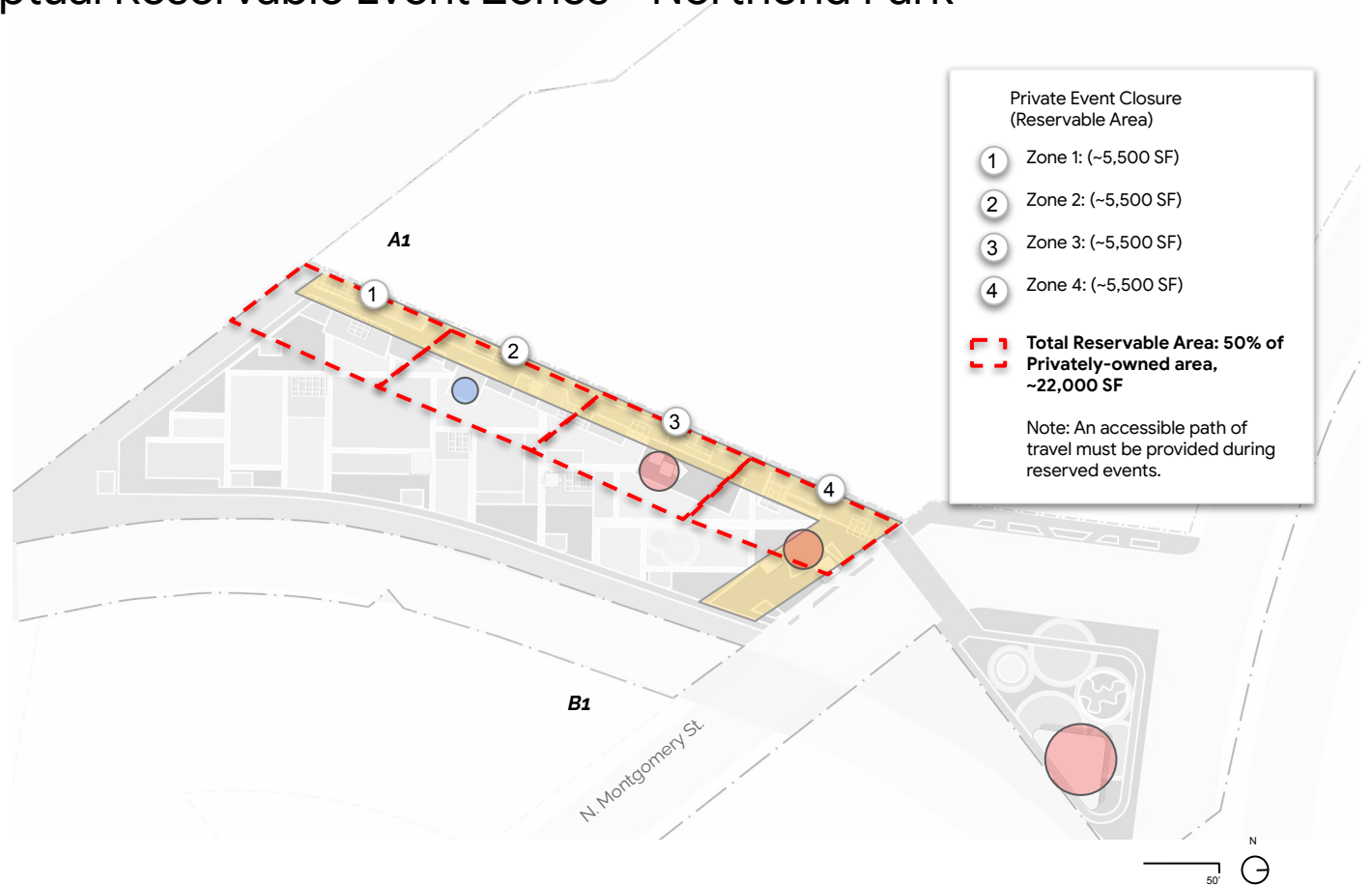
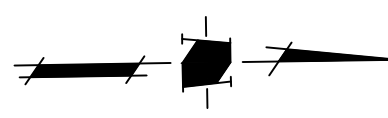


Exhibit C1

Base City Requirements and Community Benefits Schedule

Base City Requirements + Community Benefits	Base Requirement		Community Benefits		Timing and Notes
	Basis	Per 7.3M gsf of Office	Basis	Per 7.3M gsf of Office	
Affordable Housing: IHO “Mixed Compliance Option”	\$18.70/nsf Residential Representing \$5.55/gsf Office	\$5.55 x 7.3M gsf Office: ~\$40,500,000			
Affordable Housing: Moderate Inclusionary Units	170 Units Representing \$5.45/gsf Office	\$5.45 x 7.3M gsf Office: \$39,785,000	30 Units Representing \$0.96/gsf Office	\$0.96 x 7.3M gsf Office: ~\$7,000,000	
Commercial Linkage Fee	\$12/gsf Office	\$12.00 x 7.3M gsf Office: \$87,600,000			Pay at TCO of each office building
Community Stabilization and Opportunity Fund			\$21.20/gsf Office	\$21.20 x 7.3M gsf Office: \$154,760,000	Pay at TCO of each office building
Prepayment for Job Readiness and Stabilization			~\$1.03/gsf Office	~\$1.03 x 7.3M gsf Office: \$7,500,000	Pay 120 days after Final Approval
Unallocated Community Benefit Commitment			\$3.06/gsf Office	\$3.06 x 7.3M gsf Office: \$22,340,000	Pay at TCO of each office building
Autumn Street Parcels			In-kind (\$1.15/gsf Office)	\$1.15 x 7.3M gsf Office: ~\$8,400,000	Fee simple transfer to the City 3 months after Final Approval in the transfer condition described in DA Section 4.1.2(c)
Total Baseline City Requirements + Community Benefits	\$23.00/gsf Office	\$23.00 x 7.3M gsf Office: ~\$167,885,000	\$27.40/gsf Office	\$27.40 x 7.3M gsf Office: ~\$200,000,000	

PARK CONSTRUCTION RIGHT OF ENTRY AREA



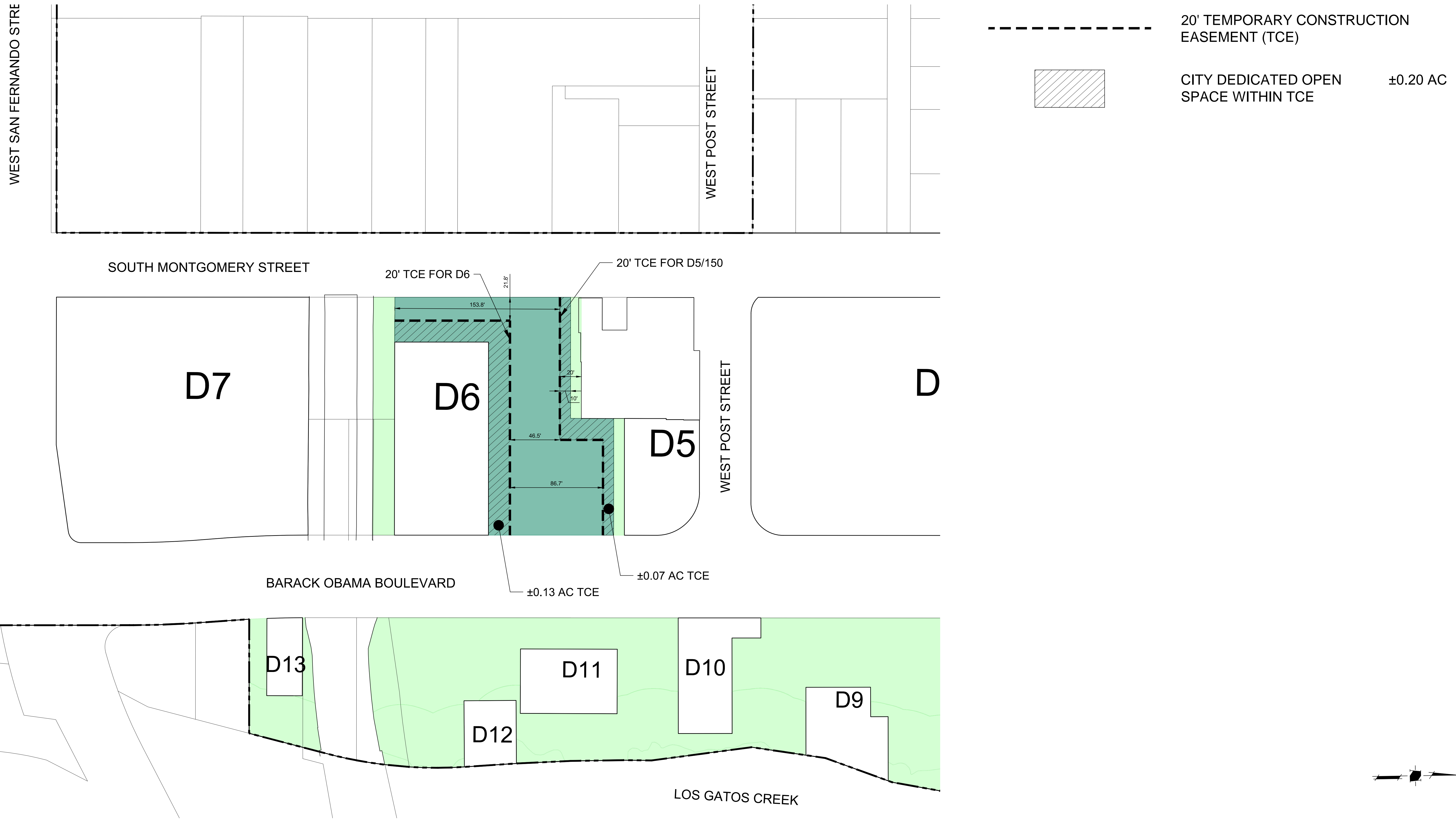
1570 Oakland Road
San Jose, CA 95131
(408) 487-2200
HMHca.com

PLOTTED: 3/26/2021 5:06 PM S:\PROJECTS\571900\PLEXHIBITS\20210211 571900 PARK TCES.DWG

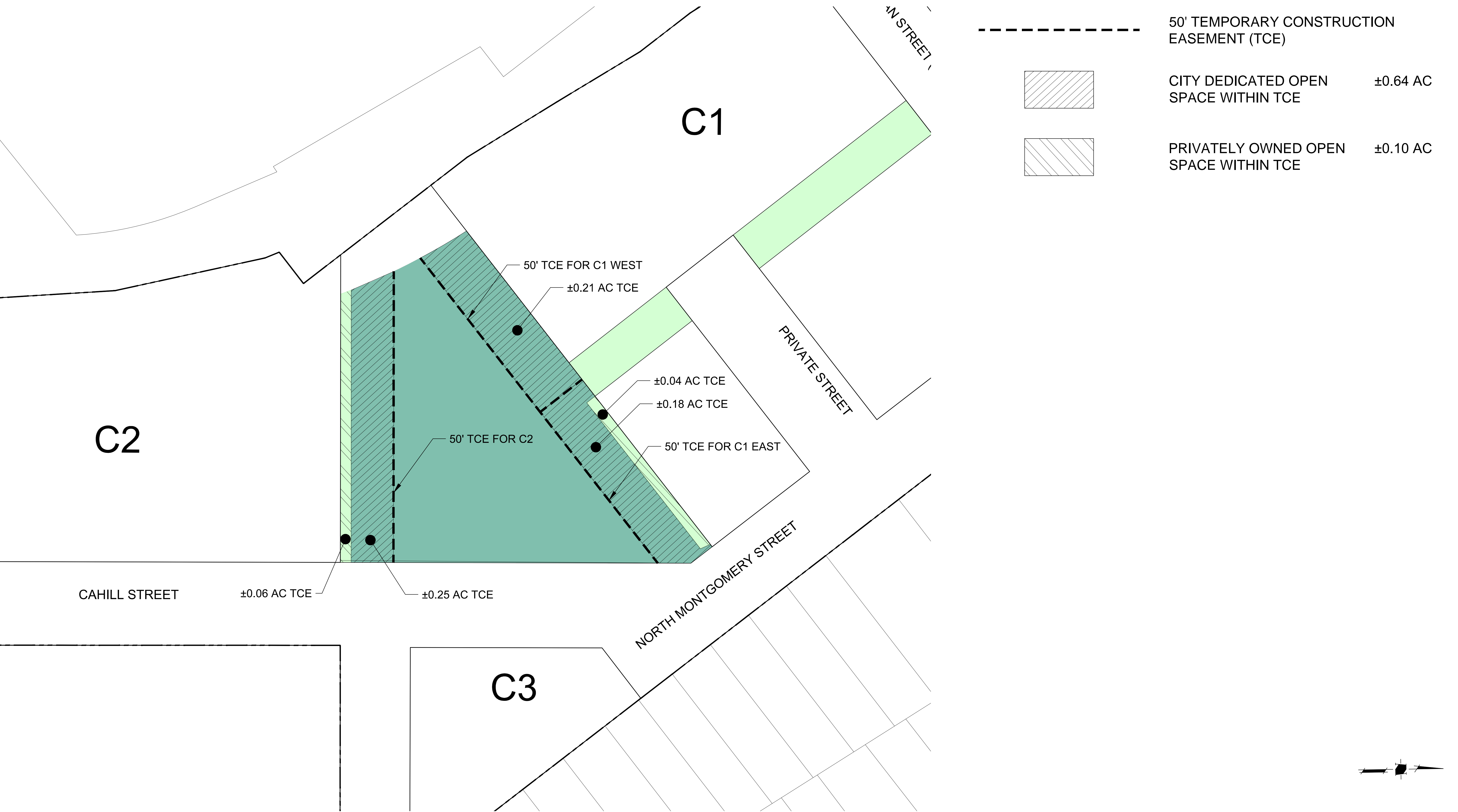
OPEN SPACE TCE - LOS GATOS CREEK TRAIL (BLOCK E)

Scale: 1" = 40'
Drawn: DMJ Reviewed: DM
HMH#5719.00 | 02/11/21

PARK CONSTRUCTION RIGHT OF ENTRY AREA



PARK CONSTRUCTION RIGHT OF ENTRY AREA



1570 Oakland Road
San Jose, CA 95131

(408) 487-2200
HMHca.com

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OPEN SPACE TCE - ST. JOHN TRIANGLE

Exhibit N**Form of Notice of Completion and Termination**

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

[address] _____

Attn: _____

(Space above this line reserved for Recorder's use only)

THIS NOTICE OF COMPLETION OF BUILDING AND ASSOCIATED OBLIGATIONS (this "Notice") dated for reference purposes only as of this ____ day of _____, 20__, is made by and between the CITY OF SAN JOSE, a political subdivision and municipal corporation of the State of California (the "City"), and _____, a _____] ("Developer").

1. The City and Developer entered into that certain Development Agreement dated as of _____, 20__ and recorded in the Official Records of the County of Santa Clara on _____, as Document Number _____ (Book No. ____, Reel No. _____) (the "Development Agreement"). Capitalized terms used in this Notice that are not defined shall have meaning given to such terms in the Development Agreement.

2. Under Section 7.1 of the Development Agreement, when one or more Buildings have been completed and all of the associated Base Requirements, Community Benefits, and Privately-Owned Publicly Accessible Open Space, and other obligations and requirements (collectively "Obligations") tied to those specific Buildings have also been completed, the City agreed, upon Developer's request, to execute and record a notice of completion as it relates to the applicable Building.

3. The City confirms that the Building known as _____, located on the property described in the attached Exhibit A (the "Affected Property"), together with all of the Obligations tied to that Building through the Development Agreement and any and all Approvals (including Subsequent Approvals) granted by the City for the Project, have been completed in accordance with the Development Agreement, which Obligations may, in part or in whole, run with the land, survive Building completion, and/or continue to be binding as to the Building and Affected Property and to any and all parties having or later acquiring any interest in the Affected Property even after recordation of this Notice. All parties with an interest in the Affected Property have the right to rely on this Notice.

CITY:

Approved as to form:

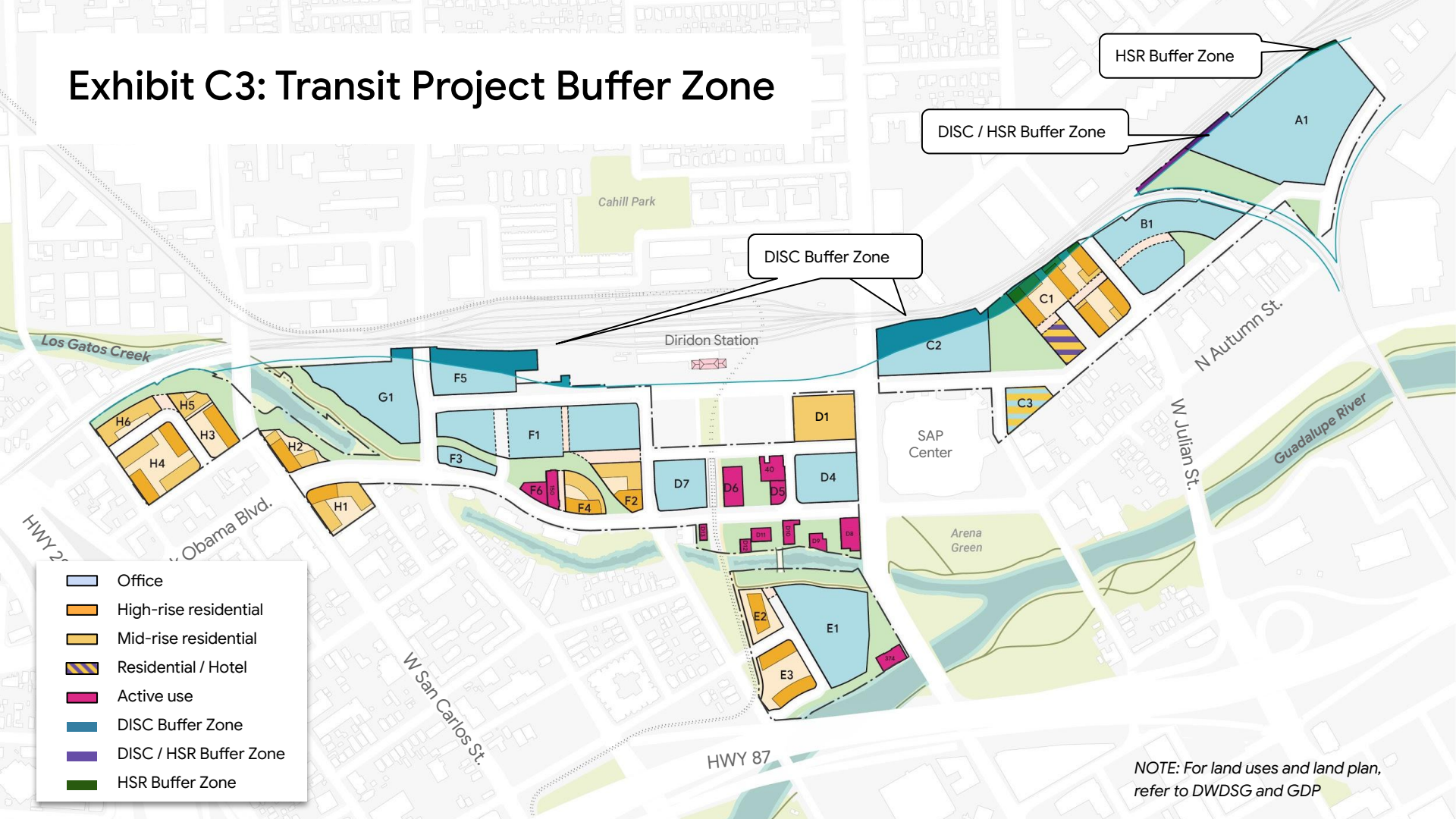
CITY OF SAN JOSE,
a municipal corporation

[_____] , City Attorney

By: _____
Director of Planning, Building
and Code Enforcement

By: _____
Deputy City Attorney

Exhibit C3: Transit Project Buffer Zone



NOTE: For land uses and land plan, refer to DWDSG and GDP