

<b>Location:</b>	The Downtown Oakland Specific Plan (DOSP) Area, bounded generally by 27th Street to the north, I-980 and Brush Street to the west, the Jack London estuary waterfront to the south, and Lake Merritt and the Lake Merritt Channel to the east.
<b>Proposal:</b>	<p>The City of Oakland seeks to adopt the Downtown Oakland Specific Plan (DOSP), certify the DOSP Final Environmental Impact Report (FEIR), and amend the Zoning Map, Planning Code and General Plan to implement the DOSP.</p> <p>The DOSP contains strategies for physical improvement projects and supporting policies to meet the needs of the DOSP Area’s most vulnerable stakeholders while addressing community priorities for a sense of place, shelter, economic opportunity, cultural belonging, and mobility. The DOSP offers guidance upon which to base future City investments, as well as benchmarks to evaluate success. It contains an implementation plan that includes many implementation mechanisms, including policy revisions, studies, programs, coordination, and oversight of mitigation measures.</p> <p>The FEIR contains measures to mitigate the environmental impacts of development that meets the goals of the DOSP. The amendments to the General Plan change certain specified land uses to meet the goals of the DOSP, including dense, transit-oriented development of property for housing and employment. The amendments to the Zoning Map and Planning Code provide more specific guidance to implement the goals of the DOSP.</p>
<b>Applicant:</b>	City of Oakland
<b>Case File Number:</b>	GP23001, ZA2206, ER18-020 & SP16001
<b>General Plan:</b>	<p><b><u>Land Use and Transportation Element (LUTE)</u></b>                  Business Mix; Central Business District; Community Commercial; General Industry and Transportation; Institutional; Mixed Housing Type Residential; Neighborhood Center Mixed Use; Urban Park and Open Space; Urban Residential.</p> <p><b><u>Estuary Policy Plan (EPP)</u></b>                  Light Industry 1; Mixed Use District; Off-Price Retail District; Parks; Planned Waterfront Development 1; Planned Waterfront Development 4; Produce Market; Retail Dining Entertainment 1; Retail Dining Entertainment 2; Waterfront Commercial Recreation 1; Waterfront Mixed Use; Waterfront Warehouse District.</p>
<b>Zoning:</b>	C-40, C-45, CBD-C, CBD-P, CBD-R, CBD-X, CC-1, CC-2, CC-3, CIX-1A, CIX-1B, D-LM-2, D-LM-3, D-LM-4, D-LM-5, D-OTN, IG, M-20, M-30, M-40, OS(LP), OS(NP), OS(RCP), OS(RCA), OS (AF), OS (AMP), OS(SU), R-80, RU-3, RU-4, RU-5, S-2
<b>Proposed Environmental Determination:</b>	<p>The Draft Environmental Impact Report (DEIR) for the DOSP and associated General Plan Amendments was available for public review (SCH No. 2019012008) on August 30, 2019, and brought before the Planning Commission on October 2, 2019. The Public comment period for the Draft EIR began on August 30, 2019, and was scheduled to end on October 15, 2019. Ultimately, the comment period was extended to November 8, 2019 (from the required 45 days to 70 days) at the direction of the Planning Commission in response to requests of members of the public and the Landmarks Preservation Advisory Board (LPAB).</p> <p>All comments that were received during the DEIR public comment period have been compiled and responded to in the Response to Comments (RTC) Document, along with</p>

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	non-substantive changes and clarifications to the DEIR. The RTC Document, together with the DEIR, constitutes the Final EIR (FEIR) for the DOSP. The Zoning Map and Planning Code amendments are consistent with the FEIR.
<b>Historic Status:</b>	52 Landmarks, 21 Areas of Primary Importance (API); 27 Areas of Secondary Importance (ASI)
<b>City Council district</b>	2, 3
<b>Status:</b>	The Draft DOSP and DEIR received public review and comment in 2019, have subsequently been revised, and will be brought before the Planning Commission on May 15, 2024 and June 5, 2024. The Draft Zoning Map, Planning Code and General Plan Amendments were released for public review in two parts: Part 1 (including the Zoning Map, Activity Table, and Special Districts) was released April 29, 2022, and Part 2 (including height and intensity maps, a Zoning Incentive Program, Transfer of Development Rights Program, and development standards) was released July 5, 2022. The LPAB previously reviewed the Draft DOSP Zoning Map, Planning Code and General Plan Amendments at their August 29, 2022 hearing. The revised Draft DOSP was released for public review on March 22, 2024. The Final Draft Zoning and General Plan amendments were released April 19, 2024, and the FEIR has a planned release date of May 1, 2024. These documents will be reviewed by LPAB on May 6, 2024, and forwarded to Planning Commission for review.
<b>Staff Recommendation:</b>	Provide comments, with a focus on cultural resources, to Planning Commission on the Final Draft DOSP, FEIR, and the General Plan, Planning Code and Zoning Map Amendments that implement the DOSP.
<b>Action to be Taken:</b>	Provide comments, with a focus on cultural resources, to Planning Commission on the Final Draft DOSP, FEIR, and the General Plan, Planning Code and Zoning Map Amendments that implement the DOSP.
<b>For further information:</b>	Contact Project Manager <b>Joanna Winter</b> at (510) 238-2166 or by email at <a href="mailto:plandowntownoakland@oaklandca.gov">plandowntownoakland@oaklandca.gov</a>

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### **SUMMARY**

The purpose of this public hearing is to solicit feedback from the Landmarks Preservation Advisory Board (“LPAB”) on the Final Downtown Oakland Specific Plan (“DOSP” or “Plan”), including proposed changes to the Oakland Planning Code, Zoning Map and General Plan (“Zoning and General Plan Amendments”) to implement the objectives of the DOSP, as well as the Final Environmental Impact Report (Final EIR) and Response to Comments.

This report describes the four items being brought as the Downtown Oakland Specific Plan package for consideration, adoption and certification:

- Final Draft DOSP,
- Final Draft General Plan Text and Map Amendments,
- Final Draft Planning Code and Zoning Map Amendments, and
- Final Environmental Impact Report (“FEIR”) Response to Comments (“RTC”).

These documents together provide policy guidance, an implementation plan, land use changes and environmental mitigation measures that will ensure new development in the project area meets the City, regional and community goals identified through the planning process. This report also summarizes changes that have been made to the final drafts of these documents responding to comments received on the public review drafts.

### **PLAN BOUNDARY**

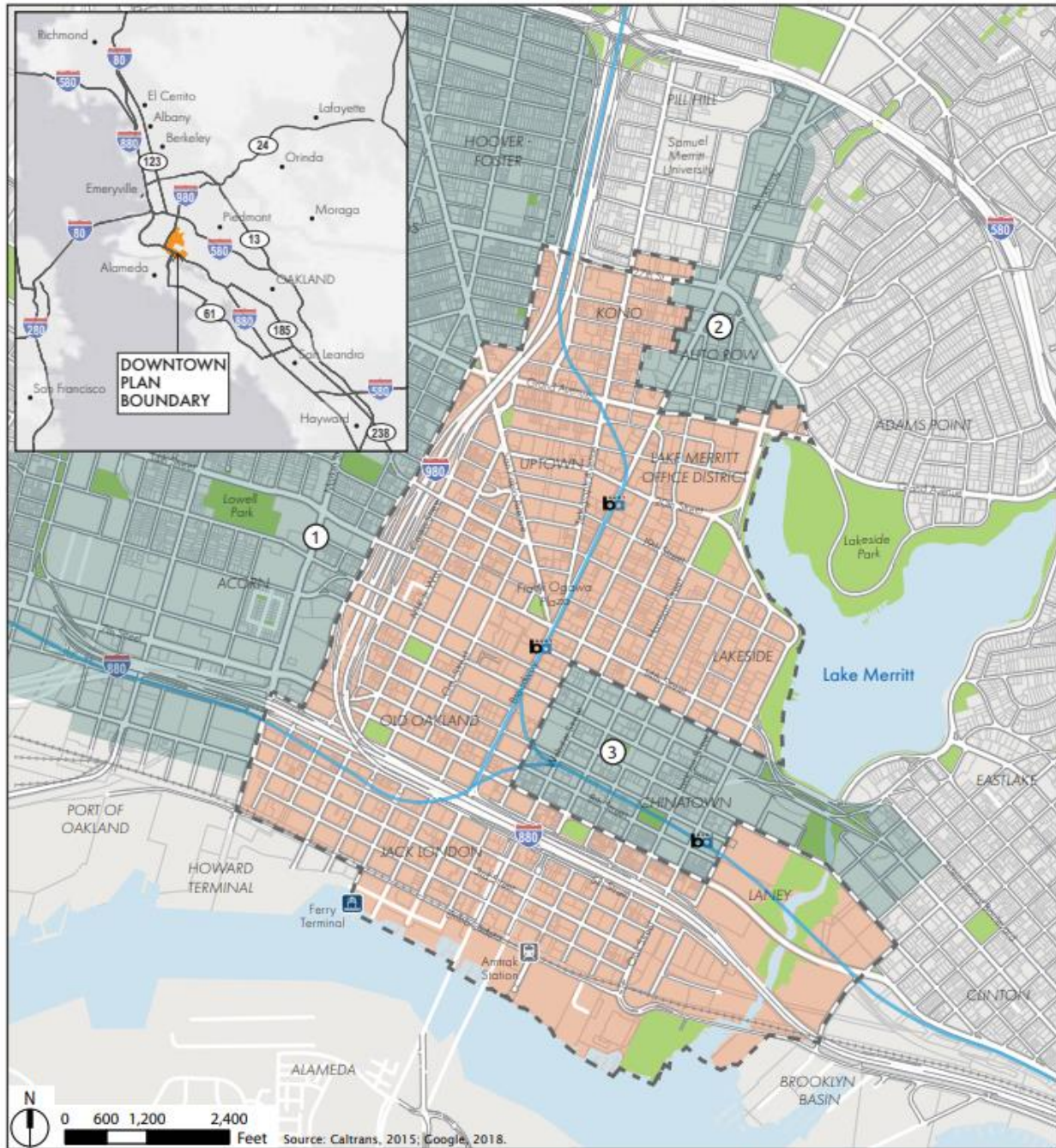
The DOSP encompasses approximately 930 acres, bounded by 27th Street to the north; I-980 and Brush Street to the west; the Jack London estuary waterfront to the south; and Lake Merritt, Channel, and 5th Avenue to the east. Although an integral part of downtown, Chinatown is not included in the DOSP boundary because it was addressed by the Lake Merritt Station Area Plan (“LMSAP”), completed the same year as the DOSP began. The DOSP nonetheless necessarily includes Chinatown in policy relating to connectivity through and throughout downtown. There are small areas of overlap where the DOSP supersedes the LMSAP, largely to provide new planning possibilities for certain downtown sites, such as at Laney College.

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**FIGURE 1. MAP OF PLAN AREA**



- Legend**
- Downtown Plan Boundary
  - Parks
  - BART Station
  - BART Line
  - Railroad
  - Other Specific Plan Areas:
  - ① West Oakland Specific Plan
  - ② Broadway Valdez District Specific Plan
  - ③ Lake Merritt Station Area Plan

**Downtown Oakland Setting Map**

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### **BACKGROUND**

The DOSP is the City's first ever specific plan for Downtown Oakland. It will result in an update to City policies that guide downtown development to meet Oakland's social and environmental needs and accommodate its projected growth needs over the next 20 years. The DOSP is designed to help prevent displacement of both people and culture, while encouraging downtown's development in ways that assist all Oaklanders to safely and affordably access housing, transportation, recreation, healthy lifestyles and good jobs. The DOSP was informed by years of community involvement to fulfill locally relevant objectives such as new and equitable housing production, economic opportunity, social justice, culture keeping, quality urban form, climate-friendly mobility and climate-responsive development.

#### ***Summary of Outreach***

Community engagement in the development of the DOSP and its implementing zoning has stretched over eight (8) years and involved thousands of Oakland residents. Engagement has included a ten-day public charrette and open house; large public presentations held at the Rotunda Building, Paramount Theater and Malonga Casquelourd Center for the Arts; racial equity-focused interviews and focus groups; topic-focused equity working groups, neighborhood design sessions; creative solutions labs; a survey focusing on older adults and people with disabilities; public events such as Lunar New Year, farmers' markets and the Black Joy Parade; general public meetings and hearings in person and online; online surveys; use of an online tool (Konveio) to receive comments on draft documents; focused meetings with groups such as the Black Arts Movement and Business District (BAMBD) and Chinatown stakeholders; staff attendance at standing meetings such as the Chambers of Commerce, Chinatown Coalition, Jack London Improvement District, Neighborhood Councils and SPUR; multiple sessions with UC Berkeley's Y-PLAN program in middle and high schools; a Youth Summit; and an ongoing Community Advisory Group (CAG). The public has reviewed multiple drafts of the DOSP. Comments received through these activities have been catalogued, summarized and addressed through new iterations of the plan, shaping the goals and policies now proposed.

#### ***Project Initiation and Re-launch (2015-2017)***

The process to develop the DOSP began in 2015. The initial phase of the planning process culminated with the [Plan Alternatives Report](#) in Spring 2016, about which the City received thousands of comments from community members, stakeholders, and City partners. Comments included concerns regarding the displacement of communities of color, displacement of small businesses and community-serving non-profits, waning investment appeal downtown, the importance of economic activity downtown as a mechanism for generating revenue for funds critical to public services citywide, and concern that all stakeholder voices citywide be represented in the discussion.

In response, the City initiated a re-launch of the planning process in 2017 focused on engaging a broader, more representative section of the community, including members of the City's most vulnerable communities. Supported by an equity consultant and the City's newly formed Department of Race and Equity, the re-launch included a racial impact equity assessment to guide analysis, outreach, and the creation of equity-related goals and policies to address disparities in life outcomes.



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### ***Draft Plan & EIR (2017-2019)***

The Draft EIR and the Public Review Draft Downtown Oakland Specific Plan (“Draft DOSP”) were released for public review in late 2019. These drafts followed public review of multiple earlier iterations including the Plan Alternatives Report, the Plan Options Memo (which included a racial equity assessment), and the Preliminary Draft Plan. Led by an overarching equity goal to reduce racial disparities, the Draft DOSP includes analysis of existing conditions, as well as goals and implementing policies within the following key areas: housing and affordability, economic opportunity, social and racial equity, culture keeping, preservation and an inclusive public realm, and connectivity & mobility. The Draft DOSP set forth strategies for physical improvement projects and supporting policies to meet the needs of its most vulnerable stakeholders while addressing community priorities. It offered guidance for future City investments and benchmarks to evaluate success. It contained an implementation plan that includes many implementation mechanisms, including policy revisions, studies, programs, coordination, and oversight of mitigation measures.

The City released the Notice of Preparation (“NOP”) of an Environmental Impact Report on the Draft DOSP in January of 2019. Public scoping sessions were held before the LPAB and Planning Commission the following month. The NOP and all relevant environmental comments received in response were addressed and included with the public Draft EIR, which was presented along with the Draft DOSP during Fall 2019 to the Planning Commission, the Zoning Update Committee (“ZUC”), and the LPAB. Proposed General Plan Amendments to implement the Plan were included in the Draft EIR for public comment. The Draft EIR comment period was extended from the required 45 days to 70 days at the direction of the Planning Commission in response to requests of members of the public and the LPAB.

### ***Revised Plan (Final Draft DOSP), Final EIR (FEIR) and General Plan & Zoning Amendments (2020-2023)***

After receiving comments on the Draft DOSP, EIR and General Plan amendments, staff summarized these comments and worked with partner departments and the consultant team to revise these documents to reflect community and commission input, as well as to attend to changed conditions downtown resulting from the COVID-19 pandemic. At the same time, the Planning team began to develop the Draft Zoning Amendments that are intended to be adopted concurrently with the Final DOSP and are the first step toward implementing the DOSP. This included a multi-phase analysis to develop the proposed Zoning Incentive Program; the analysis helped staff understand the potential value of benefits that could be captured through increased development and evaluate the feasibility of requiring community benefits from developers in exchange for increased development capacity, while still incentivizing dense development within key areas of downtown.

In 2022, the City released the Draft Zoning Amendments in two parts and held a series of virtual public meetings to discuss key issues with community members, including proposed changes to Land Use Activities, Zoning Maps, Design Standards, Height and Intensity Areas, and the creation of special districts and a Zoning Incentive Program. The Zoning Amendments are one implementation mechanism out of many that the DOSP’s Implementation Matrix identifies as action steps toward reaching the DOSP’s goals. Informed by an economic feasibility analysis, key elements include new zoning overlays and area-specific regulations, minimum heights and an office priority regulation, new regulations that allow for mixed-use, dense housing development, an expanded Transfer of Development Rights (“TDR”) program, changes to base intensity maps, and the new Zoning Incentive Program (“ZIP”).

In response to LPAB feedback on the Draft Plan and Draft EIR, staff developed an expanded TDR program that is to be implemented as part of the DOSP, reduced by-right intensity within key areas of historical significance, and reviewed opportunity sites with regards to historic issues. These items were included in the Zoning Amendments.

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During 2023, staff presented to the ZUC, LPAB, the DOSP Community Advisory Group (“CAG”), and a public session of SPUR, and held focused sessions with Black Arts Movement & Business District (“BAMBD”), Chinatown, and Victory Court area stakeholders. Additionally, Planning staff reached out to and where possible met with stakeholders associated with the BAMBD, the Malonga Casquelourd Center for the Arts, the Art + Garage District, Chinatown Coalition and the chambers of commerce, including the ethnic chambers.

Staff presented the package of Draft Zoning Amendments to the Planning Commission, the ZUC and the LPAB. The presentations highlighted issues with existing zoning and introduced strategies designed to address these issues. Existing zoning issues include inflexible tower design standards and ground floor requirements, a lack of integration with industrial areas, outdated development capacity, and a lack of focus on equity and culture keeping. During the DOSP zoning presentation, staff introduced ten (10) base zoning districts that are designed to promote and preserve desired activities and allow for spatial transitions between these activities. The base zones facilitate pedestrian activity, preserve industrial activities near the Port, promote waterfront development, support new artisan activities, allow flexible ground floor activities, allow work/live units and protect cultural and historical districts. Additionally, staff introduced new special districts, updated development standards, and the Zoning Incentive Program.

At the close of the August 29, 2022 LPAB Public Meeting, a motion was made and approved to revisit the DOSP Zoning Amendments and present additional changes to LPAB prior to taking the Plan to the Planning Commission and City Council for adoption. In response, staff have scheduled this LPAB meeting and provided this staff report, which presents a summary of changes since the last LPAB meeting. Additionally, key issues and concerns expressed by the Oakland Heritage Alliance (“OHA”), Coalition of Advocates for Lake Merritt (“CALM”) and other community members at the LPAB hearing and via correspondence are addressed on pages 13 through 22 of this Report.

At the final ZUC public meeting on May 10, 2023, staff presented findings from the additional economic analyses as well as changes since the previous August 24, 2022 ZUC meeting, including changes related to historic preservation and the City’s response to OHA and CALM recommendations. Members of OHA expressed appreciation for many of the changes staff had made, but had concerns regarding remaining requests and Planning staff agreed to and carried out a follow-up meeting to discuss further. The ZUC stated that Planning staff had adequately addressed public feedback and a motion was passed to forward the Draft Zoning Amendments, upon revision, to the full Planning Commission for review. Those revisions have been made and are presented in this staff report as the Final Draft DOSP Zoning Amendments.

### ***Adoption Hearings (2024)***

With the ZUC having provided final feedback on the Draft Zoning Amendments in May 2023, the process to formally adopt the DOSP along with its General Plan and Zoning Amendments and certify the EIR continues with review by LPAB on May 6, 2024 and the Planning Commission on May 15 and June 5, 2024. This will be followed by a Community and Economic Development (“CED”) Committee of City Council meeting, anticipated on June 25, 2024, followed by a hearing of the full City Council in July before the recess.

This LPAB meeting allows an opportunity for the LPAB members and the public to advise the Planning Commission on additional zoning changes. Staff will focus the LPAB presentation on topics specific to landmarks. Staff will include any LPAB recommendations received at this meeting in a report provided to Planning Commission.

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### PROJECT DESCRIPTION

#### Plan Area

Downtown Oakland plays many important roles in the City of Oakland and the entire Bay Area, including serving as a regional employment center, transit hub, civic and cultural center, and visitor destination. Downtown is the largest employment center in Oakland and the East Bay and economic activity in Downtown Oakland generates tax revenues that support municipal services throughout the city. Hotel, retail, and office uses, as well as arts, entertainment and nightlife all generate significant fiscal benefits for the entire city since visitors, shoppers, employers, arts patrons and nightlife revelers pay a variety of taxes and fees, as well as supporting local businesses.

While downtown is a resource for all of Oakland and the broader East Bay region, it is also a series of unique neighborhood districts with distinct character, needs and opportunities. Downtown's success as an economic, social, and cultural engine for the city is also dependent on the success of its neighborhoods and commercial hubs. The Plan area is shown in **Figure 1** and described on page 3 of this report.

Historic and Cultural Resources within the Plan area are described in the Environmental Review section of this report, which includes a map of Historic Resources (**Figure 3**).

#### Downtown Oakland Specific Plan (DOSP)

The DOSP sets forth bold strategies for physical improvement projects and supporting policies that balance community priorities, attend to the city's most vulnerable residents, and carefully shape the design of downtown to accommodate necessary growth in housing, jobs, business and cultural innovation while protecting residents and businesses from displacement, preserving our most important historic resources, and activating public spaces that celebrate Oakland's community and unique heritage. The Plan identifies opportunity sites – typically parking lots and low-scale, underutilized buildings – that could be redeveloped over the next 20 years to accommodate job-generating land uses and much-needed housing, while capitalizing on downtown's excellent transit assets, central location, and beautiful waterfront setting.

Equity is a primary focus of this Plan; all the goals, outcomes, and supporting policies meet a shared vision, consider equity impacts, and aim to reduce disparities – or at the very least, not widen them. The Plan's chapters are organized by six key goals and include policy recommendations and regulatory changes for achieving a vision for a Downtown Oakland that serves the needs of all Oaklanders. A seventh goal has been added to address ongoing implementation and engagement following Plan adoption; it contains policies for inclusive implementation, a detailed implementation matrix, and information on concurrent actions the City is undertaking. An Appendix includes detailed project lists and technical appendices that have informed the Downtown Oakland Specific Plan. The full text of the DOSP is shown in **Attachment A**. An overview of the DOSP, the DOSP Handbook, is shown in **Attachment B**.

#### *Central Ideas*

The central ideas of each Plan chapter are summarized below:

**1. Economic Opportunity (E):** *Make downtown a racially and economically diverse regional employment center by identifying employment priority sites, targeting training for living wage jobs to fill those spaces, and by investing in small businesses and businesses owned by women and people of color.*



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Key investments & policies include identifying office priority sites and promoting density at downtown's regional transit hubs; activating ground floor retail/commercial spaces by developing a program to master lease vacant spaces, and sub-lease them to small, local and culturally relevant retailers, artists and artisans; and development of employment training programs to ensure that employment growth benefits the Oaklanders who are most in need of opportunity.

**2. Housing & Homelessness (H):** *Maintain downtown as a collection of unique, livable, and complete neighborhoods where all Oaklanders have an opportunity to live by adding 29,100 new homes by 2040 and expanding income restricted affordable housing units by between 4,365 and 7,275 units.*

Key investments & policies include encouraging growth of housing; prioritizing services and housing for residents experiencing homelessness or at risk of homelessness; implementing tools to prevent displacement as well as funding mechanisms to provide below market housing; and designing units for seniors and people with disabilities.

**3. Mobility (M):** *Connect people across Oakland to downtown and unify downtown by expanding high quality transit, bicycle routes, pedestrian access, and amenities for active street life.*

Key investments & policies are centered on streetscape investments to increase connectivity and safe access to employment, recreational, and civic resources; including landscape, pedestrian and public space improvements, dedicated transit lanes and expansion of downtown's bicycle network.

**4. Culture Keeping (C):** *Leverage and protect Oakland's diverse cultures as an engine for artistic innovation and economic growth by establishing and implementing cultural districts downtown with support for cultural institutions and businesses.*

Key investments & policies include implementation zoning and land use regulations to preserve and enhance existing arts, culture, assembly, and custom production/maker uses throughout downtown, including protections for live/work and Arts & Production space for small-scale uses, as well as increased funding and support for arts & culture programs and organizations, including the establishment of a Citywide Cultural Districts Program.

**5. Community Health & Sustainability (CH):** *Enhance quality of life and health for all Oaklanders by improving and expanding public spaces, strengthening community resilience, implementing urban greening projects, reducing private vehicle trips, and shifting to renewable energy sources.*

Key investments & policies include creating a safe and healthy public realm through improvements to streets, parks, and open space, with a focus on enhancing connections between the Lake Merritt, Channel, and Estuary waterfronts and the rest of downtown, and reducing greenhouse gas (GHG) emissions by investing in improvements to the walking, biking and transit network and eliminating fossil fuels from building systems.

**6. Land Use (LU):** *Foster new development that serves all Oaklanders and addresses housing & employment demand by: preserving historic and cultural assets; creating a lively, interactive, vibrant and culturally relevant public realm; and providing increased building intensity in exchange for pre-defined community benefits.*

Key investments & policies include development and invest in coordinated streetscape improvements to link commercial and residential activity centers with waterfront areas via the proposed "Green Loop"; revising land use & zoning regulations to reflect Plan goals to target new density near transit; designation

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of “Office Priority Sites” and arts/culture districts; as well as creation of a streamlined development incentive program to provide increased building intensity in exchange for pre-defined community benefits.

**7. Implementation and Engagement (IE):** *Residents and stakeholders are included in the ongoing decision making and implementation of the Downtown Oakland Specific Plan, and, with the City, are accountable for current initiatives and for the successful adaptation of the Specific Plan over time as conditions change.*

Based on the goals and objectives, the Plan directs an ambitious set of policies, across a variety of topic areas, to achieve equitable and sustainable development that will take time, additional resources and coordination across a variety of departments, agencies and stakeholders to implement. This chapter includes several mechanisms for Plan implementation such as policy revisions, studies, programs, coordination, and oversight of mitigation measures. Organized into matrices that are based on each of the DOSP goals; each mechanism identifies action steps, a timeframe, a lead agency and potential partners, estimated costs and potential funding sources, as well as related policies and equity indicators.

### ***Cultural and Historic Preservation Approaches***

The DOSP has taken the following approaches to cultural and historic preservation. Below each approach is listed the relevant policies from the plan and their timeline for implementation. For further detail on each policy, please see the appropriate policy in the Final Draft DOSP (**Attachment A**).

<i>Short-Term 0-2 years</i>	<i>Medium Term 5-10 years</i>
<i>Near Term 2-5 years</i>	<i>Longer Term 10+ years</i>

*Revise the Zoning Regulations to reflect community goals and feasible development potential, assert a clear development hierarchy and improve public space, frontage, and building form standards.*

- **LU-1.4 Streetscape & Building Frontage Standards – Near-Term**
- **LU-1.9 Downtown Planning Code Revisions - Immediate**

*Adopt regulations that help preserve and adapt historic buildings downtown in order to help retain and create new spaces for arts and culture uses.*

- **C-1.6 Preserving/Adapting Historic Buildings - Short-Term**
- **LU-2.3 Adaptive Reuse Ordinance - Short-Term**
- **LU-2.4 Transfer of Development Rights - Immediate**

*Draft and adopt adaptive reuse provisions within the Planning Code to facilitate the reuse of older and underutilized buildings by relaxing typical building and zoning requirements and by providing flexibility in the approval and permitting process when buildings are converted to new uses. Encourage the use of the California Historical Building Code (“CHBC”). Explore allowing additional height on parcels adjacent to historic properties that rehabilitate the adjacent historic property, and allowing use conversion of historic buildings when they submit a rehab plan.*

- **C-1.6 Preserving/Adapting Historic Buildings - Short-Term**
- **LU-2.3 Adaptive Reuse Ordinance - Short-Term**

*Review and modify zoning in key areas to prioritize dense employment sites of all kinds in key areas of existing office concentrations near BART such as City Center and the Lake Merritt Office District, and encourage incremental development to fill in gaps in the existing urban fabric.*

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- **E-2.1, LU1.1 Designate ‘Employment Priority Sites’ - Short-Term**
- **E-2.2 Transit Oriented Development - Short-Term**
- **LU-1.10 Infill & Large-Scale Redevelopment - Includes Immediate Planning Code Amendments & Near-Term Inventory of Infill/Redevelopment Sites**

*Update the TDR Program, including floor area ratio (FAR), height limits, residential density changes, and other zoning changes proposed in the Plan to encourage the retention of the smaller-scale buildings that are prevalent in downtown and are at high risk for redevelopment and demolition.*

- **LU-2.4 Transfer of Development Rights - Immediate**

*Develop an Adaptive Reuse Ordinance to facilitate the reuse of older, underutilized buildings by relaxing typical building and zoning requirements and encouraging the use of the CHBC. Create an Adaptive Reuse Ordinance/Overlay Zone with FAR, height limits, residential density changes, and other zoning that would encourage preservation of historic buildings within the Plan Area; delineate which historic buildings or areas in downtown are eligible, with a focus on designated Landmarks, buildings within National Register-listed historic districts, and buildings within APIs. Include a means to expedite project approvals for historic building rehabilitations that would convert vacant or underutilized properties to provide housing, SRO units, live-work units, or cultural activities, including provisions such as reduced permitting costs, ways to accommodate existing floor area ratios, and reduced parking and open space requirements. Note: In peer cities where such ordinances have been implemented, the result has been the creation of new housing units and economic revitalization.*

- **LU-2.3 Adaptive Reuse Ordinance - Short Term**

*Implement zoning and land use regulations to preserve and enhance existing arts, culture, assembly, and custom production/maker uses throughout downtown including protections for live/work units, arts & production space for small-scale uses, as well as increased funding and support for arts & culture programs and organizations, including the establishment of a Citywide Cultural Districts Program. Strengthen and connect downtown’s cultural assets and districts by investing in branding and culturally relevant streetscape elements, such as wayfinding, historical markers, and public art.*

- **C-1.10 Zoning for Arts and Culture Uses - Immediate**
- **E-1.4, C-3.3 Master Lease/Nonprofit Ownership Program for Affordable Arts Space - Includes Short-Term, Near-Term and Ongoing implementation strategies**
- **H-2.18 Protect Live/Work in Cultural Districts - Short Term**
- **E-1.5, C-1.1, LU-2.1 Citywide Cultural Districts Program - Includes Short-, Near-, and Medium-Term implementation strategies**
- **E-3.8, C-1.3 Culturally Relevant Branding & Streetscape Design - Near-Term**

*Identify additional funding for the City Downtown Façade Improvement Program for both commercial and residential properties including SROs. Expand the program to focus on assisting businesses and nonprofit organizations that meet criteria for income, length of the time in the downtown, and location in established cultural districts. The program shall require financial contribution to this fund when historical resources are impacted by future development projects in the Plan Area, and potentially the other Specific Plan areas, based on a formula established by the City. In addition, the City shall seek other sources for funding, such as grant opportunities.*

- **E-1.6: Façade & Tenant Improvement Program - Near-Term**
- **H-2.10 SRO Rehab & Acquisition Partnerships - Ongoing**

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*Adopt regulations and processes for new downtown development projects near current and future public spaces to both enhance and improve access to those community amenities; maintain design, frontage type, and land use requirements for new developments; protect and enhance existing resources, including Lake Merritt and the Channel, estuary waterfront areas, and parks/plazas/open spaces by requiring natural buffer areas and protective setbacks.*

- **M-1.7 Connecting Downtown Neighborhoods & Public Spaces - Immediate & Ongoing**
- **CH-1.1 Public Realm Improvements - Near-Term & Ongoing**
- **CH-1.5 Coordinating Development and Parks/Streetscapes - Short-Term & Ongoing**
- **CH-1.6 Open Space Development Regulations - Immediate and Ongoing**
- **CH-1.7 Access to Public Spaces - Immediate and Ongoing**
- **CH-1.15 Protecting & Enhancing Natural Resource - Immediate & On-going implementation, with Short- & Near-Term funding and protection measures**
- **CH-1.16 Lake Merritt Channel Natural Buffer Area - Immediate**
- **CH-2.13 Shoreline Protection Measures - Near and Longer-Term**
- **LU-1.5 Development Requirements Near Parks/Open Space - Immediate**

*Constitute a DOSP Implementation Committee with inclusive representation and annual review to support implementation and evaluate whether the strategies are achieving the desired equity and other outcomes.*

- **IE-1.4 Annual Review - Ongoing**
- **IE-1.3 Inclusive Committee Representation - Immediate and Ongoing**

### ***Key Changes Since the 2019 Public Review Draft***

Revisions to the 2019 Public Review Draft include new data, strategies & policies, primarily addressing COVID-19 impacts & recovery, preservation of industrial land uses closest to the West Oakland industrial area, updated Affordable Housing targets to reflect the City's new [Permanent Access to Housing \(PATH\) Framework](#), updated maps, a chapter dedicated to Implementation & Engagement, a new illustrated vision for Lake Merritt Blvd., and new Appendices (B & C) detailing development frameworks for Victory Court (a new mixed-use residential community in Jack London, along the Lake Merritt Estuary and Channel) and the Green Loop (a series of streetscape and mobility improvements to fill in gaps within the existing network and connect downtown and surrounding neighborhoods with waterfront, cultural and entertainment areas).

Key changes to the DOSP's development program since the 2019 Public Review Draft include a slight reduction in office and flex commercial space, reduction in retail and neighborhood serving commercial space, and a large increase in light industrial space, with updated maps to reflect changes to land use character and building intensities. Most of these changes were made in the western Jack London District area to encourage an employment-generating light industrial transition between the West Oakland industrial area and the mixed-use areas of the Jack London District. Overall housing projections have remained the same.

There are a limited number of intensity changes to the August 2019 Public Review Draft Plan, all clustered within five small areas. The intensity changes occur within portions of the West of San Pablo Planning sub-area, specifically from Grand Avenue to 20th Street and east to Martin Luther King Jr. Way (height increases from 85 feet to 175 feet in the Final Draft Plan, 7.5 FAR to 12.0, and from 200 square feet of lot area per unit for residential density to 110 square feet of lot area per unit), as well as between 14th and 15th Street between MLK Jr. Way and Jefferson Street (height increases from 175 feet to 275 feet in the Final Draft Plan, 12.0 FAR to 12.0/17.0, and from 110 square feet of lot area per unit for residential density to

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90 square feet of lot area per unit). Several decreases in intensity are also proposed within the Jack London District, Laney College area, and Old Oakland through the Central Core.

### *Planning Code and Zoning Map Amendments*

The DOSP contains policies, a character area map and an intensity map based on analysis and community feedback collected in the development of the DOSP related to the character and intensity of downtown. These have served as a guide to develop both amendments to bring the General Plan into consistency with the new specific plan and new zoning regulations consistent with those General Plan amendments to achieve the DOSP's robust development vision.

#### *Central Ideas*

The Planning Code informs the location of buildings, their form, how they relate to each other and the surrounding context, and how well they are adapted to social and environmental conditions. Zoning changes are vital to achieving the objectives of the DOSP. The Draft Zoning Amendments include amendments to both the Planning Code and Zoning Map, primarily focusing on the creation of a new Downtown District. Chapter 17.58 D-DT Downtown District Zones Regulations (**Attachment D, Planning Code Amendments**) will replace the existing Chapter 17.58 CBD Central Business District Zones. The Zoning Amendments respond to a significant number of the DOSP's objectives and are intended to be adopted in parallel with the Final DOSP to ensure that all new development approved after adoption is consistent with the intent of the DOSP.

The proposed Zoning Amendments include a full rezoning of the entire DOSP Area, as described in the Planning Code with boundaries shown in the Zoning Map, with updated activity tables, changes to height and intensity, new development standards, and several new special districts and programs, including a TDR program and a ZIP. The rezoning includes ten base zoning districts that are designed to promote and preserve desired activities and allow for spatial transitions between these activities. The base zones permit more housing, facilitate pedestrian activity, preserve industrial activities near the Port, promote waterfront development, support new artisan activities, allow flexible ground floor activities, and protect cultural and historical districts.

Many aspects of the Zoning Amendments are designed to support historic preservation of or mitigate impacts to Downtown Oakland's historic resources, particularly the TDR program.

The following sections recapitulate the highlights of the proposed Zoning Map and Planning Code Amendments, and identify the key revisions to these proposals since the August 29, 2022 LPAB meeting in response to key issues and concerns expressed by the OHA, CALM and other community members at the LPAB hearing and via correspondence. The components of these amendments include:

#### *Zoning Map Amendments*

- Height and Intensity Area Maps (updated from existing)
- Downtown Zoning Districts (updated from existing)

#### *Planning Code Amendments*

- Land Use Activities (updated from existing)
- Special Districts (new section)
- Transfer of Development Rights (TDR) program (new section)
- Development Standards (updated from existing)
- Zoning Incentive Program (new section)

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### ***Zoning Map Amendments***

#### **Highlights**

**Height and Intensity Area (HIA) Maps** update an existing map to focus height and intensity in the Lake Merritt Office District, City Center and the new Victory Court mixed-use area between Oak Street and Lake Merritt Channel south of I-880 to accommodate necessary growth, while maintaining lower height and intensity in Old Oakland, the Produce Market and the Art + Garage District to preserve valuable historic and cultural resources. To implement the ZIP, these have been separated into two maps:

- The “**Base HIA Map**” identifies maximum height and intensity for projects not participating in the ZIP; and
- The “**ZIP HIA Map**” identifies maximum height and intensity in the ZIP areas for projects that choose to participate in the ZIP.

The “**Downtown Zoning Districts Map**” revises existing zoning CBD designations that were updated in 2009 to the north of Interstate 880 and older zoning within the Estuary Policy Plan area to the south of Interstate 880, to create a unified system of Downtown District zoning designations.

Three close-up maps of the Base HIAs, one map highlighting the 2024 revisions to the 2022 Draft Base HIA maps, and one ZIP HIA map, are shown in **Attachment E**. Attachment E also includes:

- 2022 Draft Base Zones Map (color)
- 2024 Final Draft Base Zones Map (color)
- Three black and white close-up maps of the Final Draft Base Zones (black and white)
- Three close-up maps of the Final Draft Combining Zones (black and white)

#### **Key Changes to the Zoning Map Amendments**

Key Changes to the Zoning Map Amendments since the prior LPAB hearing include the following:

##### **Downtown Core Districts**

The proposal includes three Downtown Core Districts as previously proposed in the Draft Zoning Amendments (2022); Downtown Core I: Mixed-Use District (D-DT-X), Downtown Core II: Commercial District (D-DT-C), and Downtown III: Pedestrian District (D-DT-P). Changes have been made to the proposed D-DT-P and D-DT-C zone boundaries and limitations to relax restrictions on ground floor land uses in all but key pedestrian areas with the intention of helping fill vacant ground floor commercial spaces.

##### **Fire Alarm Building (FAB)**

The original proposal to increase the FAB height limit from 55’ to 90’ has been revised down to 65’. The 65’ height would allow redevelopment of the site, potentially as a Jazz Museum or as an expansion of the Main Library. This height is consistent with the permitted height for the neighboring Oakland Museum of California, Oakland Public Library, County Courthouse, and the adjacent BAMBD along 14th Street. Additionally, the City owns the land and will have control over design review of this site. This site is not currently under consideration for market-rate housing, as some commentors have feared; it is in the early stages of review to be used for public purposes, as desired by the City and community members.

##### **Lakeside/Gold Coast Area**

The original proposal to increase the height limit from the existing 55’ limit to 90’ has been revised down to 65’ due to concerns about an appearance of a solid wall of buildings along Lake Merritt blocking views of downtown. Although many of the existing lakefront buildings are already taller than 65’, this reduced height limit will allow for desired infill that is consistent with many of the area’s existing beautiful 4- to 6-story multifamily residential buildings.



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**Targeted Height Reductions to Protect Historic Character** have been proposed where there is a consistent height context. These revisions are mapped in Figure 3, on the following page, and shown in three close-up maps, with revisions in **Attachment E: Revisions to Base HIAs** (note that Open Space and areas under the freeway do not have height areas applied.) Staff does not recommend lowering heights for entire neighborhoods of the core of downtown based on the presence of individual or scattered historic buildings. These are locations where dense housing and workplace development is desired, i.e., transit- and service-rich areas. Staff have proposed strategies to protect and restore historic properties through a carefully designed TDR program. In addition, citywide Objective Design Standards (currently under development) will help to preserve visual character by including design transitions between differing height contexts. Where there is a *consistent height context* for historic buildings, targeted reductions have been proposed. These include:

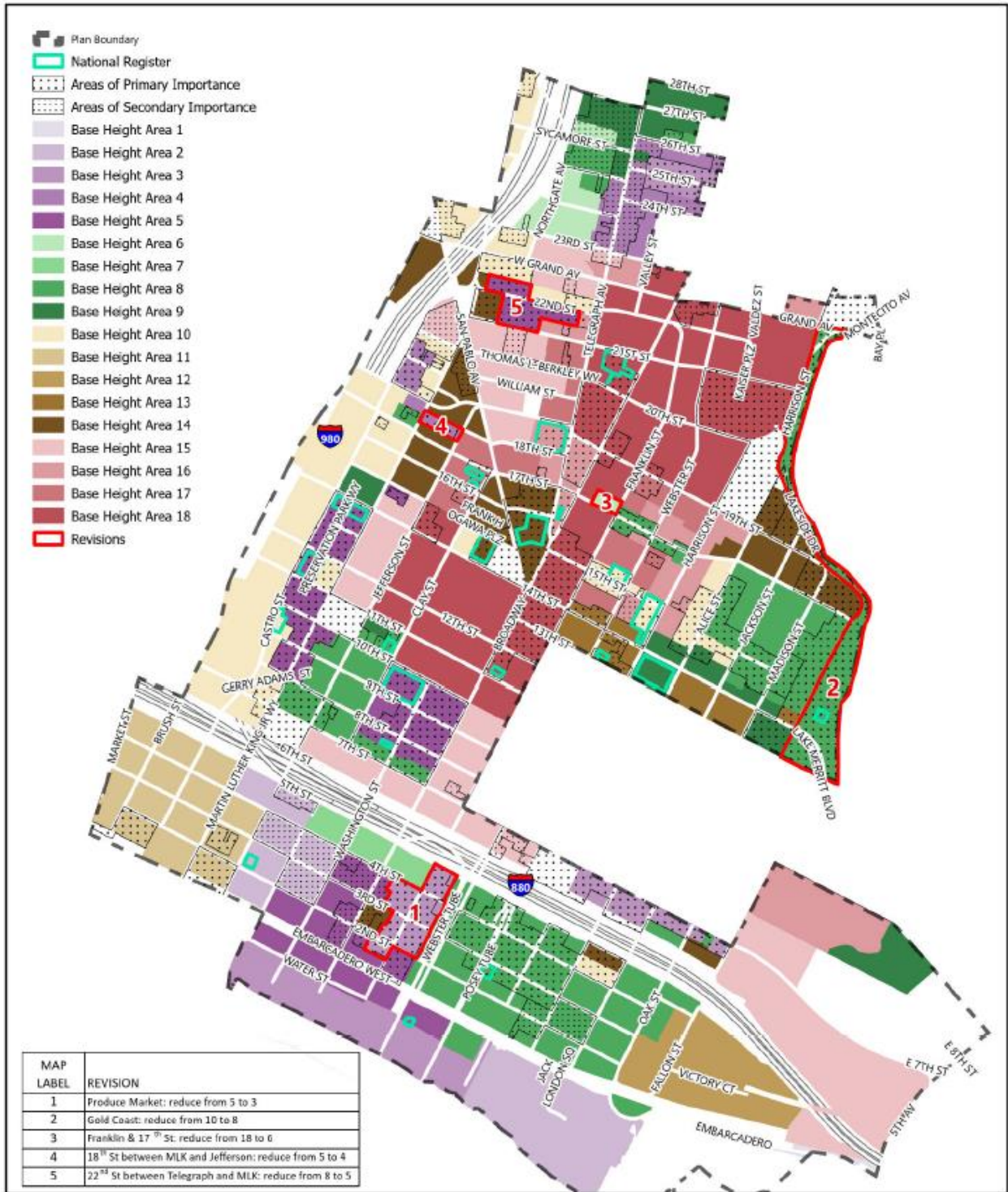
- 17th Street between Franklin and Harrison: Reducing the northeast half of the block between Broadway and Franklin (office building at 426 17<sup>th</sup> St. and church at 1701 Franklin) from HIA 18 (No Limit) to HIA 6 (65’).
- 15<sup>th</sup> Street between Broadway and Harrison: Heights are already proposed to be reduced from the existing “No Limit” to HIA 10 (90’) to be consistent with the other buildings along 15th Street.
- Victorian residential neighborhood on 22nd St. (Telegraph-MLK): Changing HIA 6 (65’) to HIA 5 (55’) where there is a consistent height context in the Area of Primary Importance (API) on the south side of 22<sup>nd</sup> and the north side near MLK. Staff does not recommend reducing the remainder of the block. The HIA 10 (90’) area is auto garage and postal facility that should be redeveloped; it is not part of an API.
- Victorian residential neighborhood on 18th St. (Jefferson-MLK): Changing the south side with Victorians from HIA 5 (55’) to HIA 4 (45’).
- Produce Market: Removing two already-developed parcels from the boundary and then revising the height proposal for this area from HIA 5 (55’, FAR 3.5) to HIA 3 (45’, FAR 2.5), which includes modest change from the existing FAR 1.0 to allow building owners to add second story additions that might help improve the economic viability of maintaining the market buildings; adding design standards for the Produce Market to include a step-back for upper floor additions.

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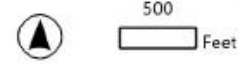
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**FIGURE 2. REVISIONS TO DRAFT BASE MAP MAXIMUM HEIGHT INTENSITY AREAS**



**Revisions to Draft Base Maximum Intensity Areas**  
*Downtown Oakland Specific Plan*



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### ***Planning Code Amendments***

The following section describes key components of the DOSP Planning Code amendments as well as highlights of the changes that were made between the 2022 Draft and the April 2024 Final Draft. The full text of the Downtown Zoning District proposed for amendment into the Planning Code is shown in **Attachment D**.

### **Highlights of Planning Code Amendments and Key Changes Since 2022**

**Land Use Activities and Facilities Tables** have been updated to reflect the proposed Zoning Map. They include additional land use activities such as Artisan Production Commercial and Boat and Marine-Related activities. The limitations have been revised to reflect DOSP zoning goals such as activation of ground floor uses, reserving work/live units for active commercial uses, and reducing restrictions for Group Assembly Commercial activities (such as entertainment venues).

*Highlights of changes to the use tables since the 2022 draft include:*

- Clarifying the definition of Research Services to encompass more types of activities so more research and development uses such as life sciences are allowed in downtown;
- More comprehensively describing what constitutes principal and secondary streets;
- Allowing schools and daycare in most areas by right with a pick-up and drop-off plan;
- Changing the requirement for establishments that serve alcohol from a Conditional Use Permit (CUP), which has high fees and takes a significant amount of time, to a special permit process separate from the Planning Code that is better designed to condition the ongoing activity upon a set of standards;
- Requiring 6' landscaped setbacks for residential facilities;
- Mapping D-DT-P, the most restrictive zone, to fewer areas to create more flexibility on the ground floor in other areas, while tightening restrictions on the ground floor in key areas to promote pedestrian activity and safety;
- Allowing coworking by right on the ground floor (previously office uses were not permitted);
- Increasing threshold for a CUP for Group Assembly from 7,500 sf. to 10,000 sf. to facilitate entertainment uses, while requiring a CUP in residential areas for outdoor Group Assembly;
- Requiring a CUP for large office uses greater than 10,000 sf. in the Produce Market area;
- In the Art + Garage District Zone:
  - Permitting restaurants if they are shared with a cultural space, auto repair or manufacturing (previously the proposal was to permit them if they occupy less than 50% of the total floor)
  - Encouraging arts and cultural activities instead of office uses on the ground floor
  - Allowing auto uses by right, so long as they are indoors;
- Permitting animal care in residential and pedestrian zones;
- Allowing indoor storage more broadly in the D-DT-CPW zone;
- Reduced loading requirements for work/live facilities;
- Added a setback requirement for upper-story additions in the Art + Garage and Produce Market zones;
- Requiring a CUP for non-livestock agricultural uses over 20,000 sf.

**New Special Districts** have been developed and mapped, including:

- Sea Level Rise Combining Zone: Requires Adaptation Plans for new construction, with requirements for planned unit development (PUD) and infrastructure upgrades in Victory Court to allow development in an area that would otherwise be prone to flooding and sea level rise.

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- Black Arts Movement and Business District (BAMBD) Arts & Culture Combining Zone: Includes one initial node along 14<sup>th</sup> and 15<sup>th</sup> Streets between Broadway and Webster as a pilot; requires new ground floor activities to be a cultural use in order to be permitted by right, with broad definition that includes many cultural businesses and other institutions; and requires CUP for non-arts & cultural uses on ground floor. Supported by Zoning Incentive Program's below market-rate commercial space benefit.
- Employment Priority Sites: For projects at designated key sites near transit to establish dwelling units, a project must include at least 40% of the maximum non-residential FAR.
- Green Loop & Lake Merritt Channel: Requires frontage and landscaping elements along the Green Loop and a minimum 60' landscaped setback from the Lake Merritt Channel.
- I-880 Freeway Zoning: Creates three separate zones within the freeway right-of-way to allow broad uses adjacent to industrial areas while providing a more pedestrian-friendly environment in key pedestrian under-crossings. Prohibits storage uses; requires curb, gutter and landscaping requirements for parking facilities; and encourages Caltrans to allow pop-up stores and recreational uses to activate the spaces under and adjacent to the freeway.

*Changes to the proposed special districts since the 2022 draft include:*

Sea Level Rise: Included more specific details on required sea level rise adaptation plans.

BAMBD Arts & Culture Combining Zone: The original proposal required that new development dedicate 50 percent of ground floor space to BAMBD Arts & Culture Activities, defined broadly to include not only arts and entertainment uses, but any culture-enhancing business, such as a restaurant, barbershop or ethnic market, that contributes to the intent of the BAMBD.

The revised Arts & Culture Combining Zone proposal includes three significant changes:

1. Instead of applying to all three originally mapped nodes, the Combining Zone applies to an initial pilot area for applicability of a new requirement for ground-floor uses to be arts & culture-related to be permitted by right, still with broad definition that includes many cultural businesses and other institutions. This area focuses on 14<sup>th</sup> and 15<sup>th</sup> Streets from Broadway to Harrison.
2. Instead of the land use requirements applying only to new development, they instead apply to all ground-floor land uses, in both new and existing buildings.
3. Instead of requiring 50 percent of space be dedicated to BAMBD Arts & Culture activities, all ground floor land uses must be BAMBD Arts & Culture Activities. Other activities would still be allowed, but they will require a minor Conditional Use Permit (CUP) meeting additional findings that the use: 1) will not detract from the character of the BAMBD Combining Zone, 2) will not weaken the concentration and continuity of BAMBD activities at ground level, and 3) where located in a pedestrian zone, will bring customers to the area.

Employment Priority Sites: Reducing the requirement for the amount of non-residential FAR required to be allowed to build residential units from 60% to 40%.

No significant changes were made to the Green Loop & Lake Merritt Channel or I-880 Freeway zones.

**A Transfer of Development Rights (TDR) Program** has been designed to incentivize the protection of historic buildings in the DOSP area by allowing their owners to sell unused development rights, including some or all of the difference between the existing building's height, density, and/or floor area and the maximum allowed by zoning, to owners of sites in less historic areas of downtown.

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The transfer of development rights from a single sending site may be transferred as a group to a single receiving site or in separate increments to several receiving sites. This transfer results in an increase in the number of dwelling units and/or amount of floor area than would otherwise be permitted at the receiving site. The rights can be transferred to the owner or a separate entity that holds them for a subsequent transfer at a different receiving site.

These transfers would be conducted privately, but a maintenance plan for the receiving site must be approved by the City prior to the transfer of development rights, and the principal building(s) on the sending cannot be demolished unless there is an imminent danger to health and safety.

Both the receiving and sending sites must be within a D-DT Zone, and the sending site must be either a Designated Historic Property; rated “A” or “B” by the Office of Cultural Heritage Survey; or any Potentially Designated Historic Property that contributes to an Area of Secondary Importance or Area of Primary Importance (API). The receiving site must be within the D-DT Zoning Incentive Program Area; and neither be a Designated Historic Property, contribute to an ASI or API, nor be rated “A” or “B” by the Office of Cultural Heritage Survey.

Only half the development capacity allowed under the ZIP may be achieved through the TDR program (to also encourage participation in the ZIP and the inclusion of one or more of its defined community benefits that fulfill unmet community objectives). The project at the receiving site must meet the finding that the height and bulk of the proposal for the receiving site is consistent with the desired character of the block and area.

*Changes to the TDR program proposed in 2022 include:*

- A requirement for a maintenance agreement for the sending site;
- A prohibition of the demolition of the principal building at the sending site;
- Allowing any “A” or “B” rated property to be a sending site;
- A clarification that the new density for a receiving site establishes the base density for the purpose of the State Density Bonus Law; and
- A clarification that the additional height above the height maximum for the receiving site is based on the average size of dwelling units and can be achieved through the Design Review process.

**Development Standards** have been revised to update height, intensity, and open space requirements to correspond to the ZIP and HIA Maps and establish development regulations for ground floors, building base and tower design, decrease maximum parking requirements, with the anticipation of additional design standards through Citywide Objective Design Standards.

- Ground floor regulations include fenestration, materials, height, active space, and parking and loading location details for buildings to ensure an engaging pedestrian experience.
- Regulations for tall buildings would require a base between 45 and 95 feet and a 10-foot tower setback from the base on two elevations. The base and height regulations will help to reduce the scale of buildings and provide visual interest; these regulations are sufficiently flexible to allow a variety of designs. Exceptions to base/tower requirements are included for office towers, small lots, transitions to historic buildings, and contextual reasons.
- The regulations require transitions to historic buildings, i.e., the building base must create a transition to adjacent lower scale Designated Historic Properties (DHPs) and Potentially Designated Historic Properties (PDHPs). The regulations state that this should be accomplished through stepping down the base, matching cornice lines and floor heights, and/or creating volumes at the façade of the base that relate to the scale of the historic building.
- Expanses of blank walls on elevations visible from the street are not permitted.

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- Regulations are included to discourage the heavy use of tinted windows and require breaking up of the volume of buildings and creating a building terminus.

*Changes to design standards since the prior LPAB hearing include:*

- *Changes to the Building Tower Regulations:* Numerical requirements in Table 17.58.04 of the Planning Code for new building towers have been retained, with modifications to provide more flexibility. Further modifications will be developed as part of the city's currently underway Objective Design Standards process.

**The Zoning Incentive Program (ZIP)** establishes a mechanism to capture value from development projects receiving additional development capacity, with a defined menu of community benefits that fulfill unmet community objectives. The program is based on an economic analysis that assesses the value created by participation in the ZIP program and the costs of identified benefits. Building on this analysis, maps have been created to identify benefit areas for both residential and non-residential development and Planning Code amendments establish a schedule of community benefits and in-lieu fees to be provided in return for additional development capacity, as well as an associated map of the incentive area and the maximum heights and intensities that may be achieved through participation.

To address stakeholder concerns in response to the draft Zoning Amendments, and particularly the ZIP; staff contracted with Hausrath Economics Group (HEG) to explain the methodology and assumptions behind the ZIP and to conduct further analysis, including a comparison of ZIP and State Density Bonus housing outcomes and an analysis of the benefits of downtown development, comparing the value of the various revenue sources generated through new development.

*Changes to the ZIP since the draft include:*

- Removing the Fire Alarm Building and Main Library from the ZIP; the proposed intensities will be applied to the Base Map instead. Removal will not result in loss of community benefits; these can be required under the development agreement.
- Simplification of the ZIP Benefits Table to facilitate use.
- Requiring that the affordable housing ZIP benefit be provided as an in-lieu fee rather than allowing the developer to choose to provide either on-site or an in-lieu fee for affordable housing, and correspondingly eliminating the 10% on-site discount.
- Re-allocation of in-lieu fees to: 50% for affordable housing, 25% for streetscape/public realm improvements, and 25% for employment training and assistance, setting aside half of the employment training and assistance fees for construction training and apprenticeships.

The following OHA recommendations were considered and not adopted:

*Maintain or Reduce Heights/FARs in APIs and ASIs:*

- Old Oakland API: Staff does not recommend lowering the existing HIA 5 (55') in the interior of the district or the HIA 6 (65') along 7th St., which allows minor height increases to existing buildings and also allows for the redevelopment of a vacant parking lot. In addition, if heights were lowered, buildings in the area would be less likely to be able to take advantage of the TDR program.
- Downtown Oakland National Register District: Staff does not recommend changes to the urban core of Downtown Oakland. Serviced by BART and extensive bus connections; there is no character-defining height context, and it is one of the most appropriate locations in the city for



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high rise, dense development. Heights in the draft amendments are reduced from the highest heights in the areas to the west, north and east of Frank H. Ogawa Plaza. Staff does propose to reduce the height of the property adjacent to City Hall to 95' to maintain the architectural significance and primacy of City Hall.

- Increase by-right intensity in some areas & reduce base intensities in other areas: OHA's recommendation is intended to achieve "no net loss" under SB 330, however the locations proposed are not appropriate for lower intensity. These reductions would remove a large section of the most potentially incentivizing areas from the ability to participate in the ZIP, hampering the viability of the ZIP to provide meaningful benefits to the community. The changes would also limit development intensity exactly where it is needed most to meet the City's sustainability, housing and employment goals; within the most transit and service-rich area of the City.

*Increase intensity in the following areas to allow decreasing it elsewhere:*

- The area roughly bounded by Lake Merritt, Grand Avenue, 20th St. and Broadway
- Much of the area bounded by 14th, 11th, Jefferson and Broadway

This proposal from OHA was intended to increase by-right intensity in some locations to reduce base intensities in other areas to achieve "no net loss" under SB 330, but still be able to require developers to "buy back" their capacity to develop to the same level allowed under current zoning. However, the locations are not appropriate for lower intensity than originally proposed for two reasons: 1) The proposed increases to the base zoning would remove a large section of the most potentially incentivizing areas (i.e. able to add intensity while maintaining the same building type) from the ability to participate in the ZIP, seriously hampering the viability of the ZIP to be able to provide meaningful benefits to the community; and 2) The proposed decreases would also limit intensity of development in exactly where it is needed most to meet the City's environmental sustainability, housing and employment goals, by limiting development in the most transit-rich and service-rich area of the City. This would be inconsistent with Oakland's Equitable Climate Action Plan ("ECAP"), Oakland's Housing Element and State Housing Laws and policy.

*Apply DOSP zoning changes, such as the ZIP, to the LMSAP and Broadway-Valdez Specific Plan*

Changes to the LMSAP and Broadway-Valdez Specific Plan areas can be considered as part of the General Plan Phase II update to the Land Use and Transportation Element ("LUTE"). The current zoning amendments, to be considered as the first implementation step to the DOSP, apply to the DOSP area only.

*Use the highly successful San Francisco program as a starting point for TDR Program*

San Francisco's TDR program is structured very differently and has capacity that Oakland does not, including a separate organization that operates as a TDR broker, among other aspects. They also have a different rating system. Staff added several elements of the San Francisco program, including requiring a maintenance plan for sending sites, permitting third party brokers to buy and sell development rights, and prohibiting the demolition of sending sites. The San Francisco regulations also have highly technical procedural details, which staff believes is better suited to be placed in an administrative instruction after the regulations are adopted by the City Council.

*Base TDRs on floor area rather than number of residential units*

The General Plan and Planning Code uses floor area for commercial and dwelling units for residential. Changing this would require an entire overhaul of the Planning Code and would need to be done through the General Plan update to the LUTE.

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### ***General Plan Amendments***

#### **Summary of General Plan Amendments**

The DOSP and its implementing Zoning Amendments are accompanied by General Plan amendments to ensure consistency between the General Plan and the Planning Code. This includes changes to the Land Use and Transportation Element (LUTE) and the Estuary Policy Plan (EPP). These changes would primarily (1) increase the amount of land designated as Central Business District (“CBD”) and (2) reclassify some parcels under the EPP Land Use designations. This is intended to extend the character of the central area of the downtown across I-880 to better connect and enliven the area south of I-880. Complementary to other improvements to the freeway undercrossings, this is intended to encourage redevelopment that will increase pedestrian activity and with it bring increased safety and connection between north and south of the freeway.

See **Attachment C (General Plan Amendments)** for the proposed General Plan amendments, which include changes to both the LUTE and the EPP.

#### **Key Changes to the General Plan Amendments**

Changes north of I-880 include two areas that were identified in the August 2019 Public Review Draft Plan as Central Business District 2 and are now Urban Park and Open Space. These areas occur along 6th Street between MLK Jr. Way and Jefferson, and along 6th Street between Webster and Franklin.

South of I-880 has received more significant changes since the August 2019 Public Review Draft Plan. In the western part of the Jack London District, the following represent policy changes to create a light industrial and commercial transitional area between the mixed-use central Jack London area to the east and the West Oakland CIX Industrial designations to the west, increasing the overall number of blocks to seven that are designated Industrial west of Broadway:

- The Howard Terminal option has been removed in the Final Draft Plan. The Howard Terminal Option considered higher intensity than the base General Plan amendments.
- The overall number of blocks that are designated Industrial has been increased to seven west of Broadway in the General Plan. This is accomplished by maintaining the full extent of the existing industrially-zoned blocks defined by Market Street, Embarcadero West, Martin Luther King Jr. Way, and 5<sup>th</sup> Street; and adding the three blocks defined by Martin Luther King Jr. Way, Embarcadero West, Jefferson, and 4th Street as ‘Light Industry.’

Additionally, the following changes have been made in the eastern part of the Jack London District:

- Along Webster Street south of the I-880, all the way to Water Street, has been changed from EPP Mixed Use District to EPP Parks.
- The area just south of I-880 on Harrison Street, as well as the area south of 880 on Alice Street has been changed from Mixed Use District to EPP Waterfront Warehouse District.
- The area south of Embarcadero West between approximately Madison Street to Estuary Park was EPP Waterfront Mixed Use has now changed to EPP Mixed Use District west of the Portobello Marina.

### **GENERAL PLAN ANALYSIS**

The proposed General Plan text and map amendments described in the Project Description include conforming changes to ensure that the policies, allowed uses, and allowed densities included in the proposed Planning Code and Zoning Map are consistent with General Plan designations and policies. Adopting these simultaneously with the DOSP will ensure that the DOSP, General Plan, Planning Code and Zoning Map are all in conformance with one another.

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### ENVIRONMENTAL REVIEW

An Environmental Impact Report (EIR) has been prepared for the Downtown Oakland Specific Plan. The DOSP does not propose any specific private development projects, but establishes a Development Program, which represents the maximum feasible development that the City has projected can reasonably be expected to occur in the Plan over a 20-year planning period. The EIR utilizes the Development Program to assess the potential impacts of the development that is likely to occur under the Plan. Since publication of the Draft EIR, the City has refined the Development Program, which is detailed in Table II-1 of the RTC Document (excerpted below), Chapter II. Plan Revisions and Draft EIR Project Description, shown below. The analysis supports that the revisions would not substantially change the findings of the Draft EIR and that they do not trigger recirculation of the Draft EIR.

<b>TABLE II-1 COMPARISON OF FUTURE DEVELOPMENT BY LAND USE BETWEEN AUGUST 2019 PUBLIC REVIEW DRAFT AND FINAL DRAFT PLANS <sup>A</sup></b>			
	<b>Public Review Draft Plan</b>	<b>Final Draft Plan</b>	<b>Difference</b>
Residential (Units)	29,100	29,100	0
Total Commercial (SF)	20,060,000	18,290,000	-1,770,000
Office	16,840,000	15,840,000	-1,000,000
Retail <sup>B</sup>	2,330,000	1,720,000	- 610,000
Flex	890,000	730,000	-160,000
Flex Industrial	260,000	500,000	+240,000
Institutional (SF)	1,310,000	1,300,000	-10,000
Parking (Spaces)	16,000	15,000	-1,000
<p>A. Numbers here show a comparison between the numbers utilized in the Draft EIR based on the August 2019 Public Review Draft Plan, Table III-4, and the numbers in the updated Final Draft Plan.</p> <p>B. Retail includes Neighborhood Serving Commercial, hotels, and other non-specified commercial uses.</p>			

The Final EIR and RTC Document will be available to the public at the project website: [oaklandca.gov/DOSP](http://oaklandca.gov/DOSP). The FEIR will also be available at no charge at the Oakland Planning and Building Department, Strategic Planning Division, 250 Frank Ogawa Plaza, Suite 3315, Oakland, California, 94612. The Cultural Resources and Aesthetics chapters of the DEIR are shown in (**Attachment F**).

A summary of the environmental review for the project is as follows:

- Notice of Preparation (NOP) of an Environmental Impact Report (EIR) - initially published on January 4, 2019. The public comment period for the scope of the EIR lasted from January 4, 2019 to February 21, 2019 and was extended 19 days longer than the 30 days required by the CEQA Guidelines.
- EIR Scoping meeting - held before the Landmarks Preservation Advisory Board on February 6, 2019.
- EIR Scoping meeting - held before the Planning Commission on February 4, 2019 and continued to February 20, 2019.
- “Notice of Availability / Notice of Release of a Draft EIR” - issued and Draft EIR published on

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August 30, 2019.

- Public comment period for the Draft EIR began on August 30, 2019, and was scheduled to end on Tuesday October 15, 2019. Ultimately the comment period was extended to November 8, 2019 (from the required 45 days to 70 days) at the direction of the Planning Commission in response to requests of members of the public and the Landmarks Preservation Advisory Board (LPAB).
- Two Landmarks Preservation Advisory Board Meeting (LPAB) on the Draft EIR - September 23 and October 14, 2019.
- Two Planning Commission hearings on the Draft EIR - October 2 and November 6, 2019.
- Public comment period on the Draft EIR closed on November 8, 2019.
- “Notice of Availability/Release of a Response to Comments (RTC) Document/Final EIR” has a planned release date of May 1, 2024. The RTC together with the Draft EIR constitutes the Final EIR for the Specific Plan.

The following are actions anticipated as part of the environmental review for the project:

- This LPAB meeting to provide cultural-resource related comments on the Final EIR:
- Planning Commission recommendation on certification of the Final EIR will occur during the June 5, 2024 (Zoning and FEIR) public hearing;
- Meetings of the CED Committee of the City Council and full City Council to consider certification of the Final EIR during Summer 2024, in June and July respectively, before the Summer Recess.

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### **Historic Resources in the Plan Area**

The Oakland Cultural Heritage Survey (“OCHS”) prepared in 1997<sup>1</sup> by the City of Oakland rates historic resources such as Landmarks, Areas of Primary Importance (“APIs”), Areas of Secondary Importance (“ASIs”), and Local Register Properties, the presence of each of which is described below. The Planning Area’s historic building range from those of highest (“A” rating) and major (“B” rating”) importance to those of secondary and minor importance (“C and D” ratings). Please note that ASIs are not considered a historic resource under CEQA.

The Local Register of Historic Properties recognizes the City’s most important buildings and districts, including designated Landmarks Preservation Districts, Heritage Properties, and APIs. APIs are areas that appear eligible for the National Register Historic Properties (“NRHP”); although not all are listed as historic districts. ASIs are generally sites and districts of local interest. Potential Designated Historic Properties (“PDHPs”) are all properties that meet minimum significance thresholds. The City considers any property that has at least a contingency rating of C to be of “secondary importance” or contributes or potentially contributes to API or ASI to “warrant consideration for possible preservation.” PDHPs are a large group: a fifth of the buildings in Oakland. They are meant to be “numerous enough to significantly influence the City’s character.”

The CEQA Thresholds continue stating the City of Oakland’s Local Register (Historic Preservation Element Policy 3.8) includes the following:

- All Designated Historic Properties (Landmarks, Heritage Properties, Study List Properties, Preservation Districts, and S-7 and S-20 Preservation Districts, and S-7 and S-20 Preservation Combining Zone Properties); and
- Potential Designated Historic Properties that have an existing rating of “A” or “B” or are located within an Area of Primary Importance.
  - The above resources are shown in Figure V.E-1 of the Cultural and Historic Resources Chapter of the Draft EIR and are included as **Attachment F** to this staff report.

The Final EIR identifies the following resources within the Plan Area (see **Map of Historic Resources, Figure 3**):

- Approximately 50 officially designated City of Oakland Landmarks;
- Approximately 23 City of Oakland APIs;
- Approximately 29 City of Oakland ASIs;
- Approximately 40 NRHP-listed Individual Properties;
- Three NRHP-listed Historic Districts (Downtown Oakland Historic District; Harrison and 15th Streets Historic District; and Oakland Waterfront Warehouse Historic District);
- Two National Historic Landmarks (the Paramount Theater and the Lake Merritt Wild Duck Refuge); and Numerous properties that have been surveyed and ranked using the OCHS rankings and included in the Local Register.

The Historic Building Typology Study and Archaeological Desktop Review was prepared as part of the Draft EIR (see **Appendix D of the DEIR**).

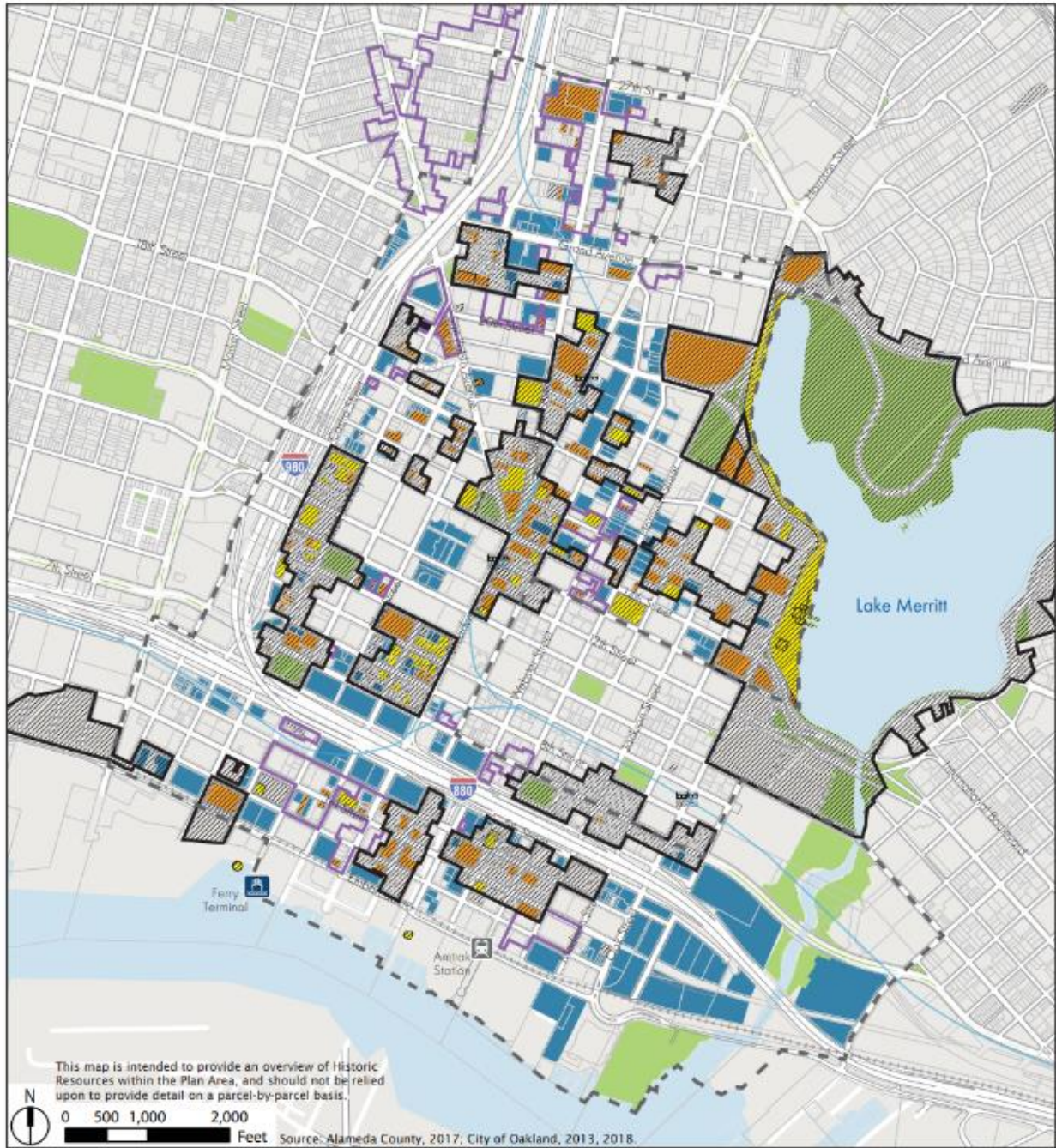


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**FIGURE 3. MAP OF HISTORIC RESOURCES IN THE PLAN AREA**



**Legend**

- |                        |                                     |  |
|------------------------|-------------------------------------|--|
| Downtown Plan Boundary | Parks                               | City of Oakland Designated Landmark                  |
| BART Station           | Opportunity Sites                   | Rated 'A' or 'B' on Oakland Cultural Heritage Survey |
| BART Line              | Areas of Primary Importance (API)   | Historic Resources per CEQA                          |
| Railroad               | Areas of Secondary Importance (ASI) |  |



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### **Impacts to Cultural Resources**

#### **Cumulative Impact CULT-1: Implementation of the Specific Plan and its associated development, Less-than Significant Impacts**

As detailed in Chapter 5 of the Draft EIR and Chapter 5 of the RTC Document, the analysis found that for the following environmental topics there were no impacts or less than significant impacts with incorporation of mitigation measures or implementation of Standard Conditions of Approval (SCAs): Land Use and Planning; Greenhouse Gas Emissions; Aesthetics; Biological Resources; Geology and Soils; Hazards and Hazardous Materials; Hydrology and Water Quality; Noise; Population and Housing; Public Services, Facilities, and Recreation; and Utilities.

#### **Significant and Unavoidable Environment Impacts**

The Plan will potentially result in significant and unavoidable impacts associated with the following environmental topics: Traffic and Transportation; Air Quality; Cultural and Historic Resources; Shadow; and Wind. Therefore, in order to approve the DOSP, the City will have to adopt Statements of Overriding Consideration for these significant unavoidable impacts, finding that the benefits of the DOSP outweigh any significant and unavoidable impacts. A discussion of significant and unavoidable environment impacts related to Cultural and Historic Resources, Shadow, and Wind (that impact Cultural Resources) is provided below and any revisions made in response to comments are shown in ~~strike through~~ and underline.

#### **Cultural and Historic Resources**

- **Impact CULT-1:** Implementation of the Specific Plan and its associated development is anticipated to result in the demolition, destruction, or relocation of some historical resources either as individual resources and/or as contributors to historic districts.
- **Impact CULT-2:** Alterations to Historic Buildings that could occur under the Specific Plan could change the significance and character of historic resources as a result of the Specific Plan.

**Cumulative Impact CULT-1:** Implementation of the Specific Plan and its associated development, combined with cumulative development in the Plan Area and citywide, including past, present, existing, approved, pending, and reasonably foreseeable future development, would contribute to a significant and unavoidable adverse cumulative impact to cultural and historical resources.

The following are the Mitigations that are proposed to respond to the impacts listed above, but do not reduce the impacts to Less than Significant (these Mitigations are provided in more detail in *Chapter 5, Cultural and Historic Resources*, in the Draft EIR beginning on page 353 and *Chapter 5, Text Revision of the Response to Comments Document*):

- **CULT-1:** The following mitigation measures shall be implemented to the extent feasible to minimize impacts to historic resources in the Plan Area and its vicinity. The mitigation measures are identified in order of priority. As many of the measures as feasible shall be implemented:
- **CULT-1A:** The Plan shall be revised when funding becomes available to include the following implementation measures focused on minimizing impacts to historic resources:
  - i. **Seek additional resources to fund Reinstatement and promote the City Downtown Façade Improvement Program**<sup>52</sup> consistent with Action 3.8.1(9) of the Historic Preservation Element of the City of Oakland General Plan for both commercial and residential properties including SROs. The program shall require financial contribution to this fund when historical resources are impacted and unable to be mitigated by future development projects in the Plan Area, and potentially the other Specific Plan areas, based on a formula established by the City. In addition,

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~~the City shall seek other sources for funding, such as grant opportunities, as part of reinstating the program. If reestablished, t~~ The Façade Improvement Program fund shall be used to implement the additional mitigation measures identified below, as appropriate.

- ii. **Revise the City Transfer of Development Rights (TDRs) Ordinance Program.** Draft and include TDR amendments within three years of Plan adoption in the package of Planning Code amendments needed to implement the Plan including floor area ratio (FAR), height limits, residential density changes, and other zoning changes proposed in the Plan to encourage the retention of the smaller-scale buildings that are prevalent in downtown and are at high risk for redevelopment and demolition. The revised ordinance-Planning Code should be accompanied by and include a specific TDR program for building owners and project sponsors within the Plan Area, and potentially the other Specific Plan areas. This program should include identifying potential properties to participate and outreach to these owners so they understand the benefits as well as how this program could fit into a menu of preservation incentives. The transfer enables the owner of the receiving site to develop additional gross floor area, above and beyond what would otherwise be allowed. The use of this TDR program shall be considered when evaluating the current height changes proposed in Downtown Oakland. into the current height changes proposed downtown. A good One model for this program has been on-going ongoing in San Francisco.
  
- iii. ~~Adopt an Encourage Adaptive Reuse Ordinance, within three years of Plan adoption, Elements that would Encourage preservation of historic buildings within the Plan Area will be included in the package of proposed through Planning Code amendments. that include FAR, height limits, residential density changes, and other zoning changes proposed in the Plan. and potentially the other Specific Plan areas. The City of Los Angeles has adopted a highly successful similar program adopted an overlay in 1999 for downtown that was extended into other communities across LA in 2003 through the Adaptive Reuse Incentive Area Specific Plan that can serve as a model. Other elements of the ordinance Elements should include a means to expedite project approvals height limitations for historic building rehabilitations that would convert vacant or underutilized properties to provide housing, SRO units, live-work units, or cultural activities. It should also delineate areas, design standards and delineation of which historic buildings or areas in downtown are eligible for provisions to encourage reuse, with a focus on designated Landmarks, buildings within National Register-listed historic districts, and buildings within APIs and ASIs. Provisions to encourage reuse could include but not be limited to reduced permitting costs, ways to accommodate existing floor area ratios, and reduced parking and open space requirements, when necessary to achieve project goals. Other provisions could include The City will develop expedited review for historic building rehabilitations that would convert vacant or underutilized properties to provide housing, SRO units, live-work units, or cultural activities, as well as expedited review of the use of the California Historical Building Code (CHBC) and ways to encourage projects to meet the Secretary of the Interior's Standards for the Treatment of Historic Properties.~~
  
- iv. Formulate an oral history program for the cultural groups that have played an important role in downtown. Numerous cultural groups and cultural traditions have influenced the development of downtown and its communities. Engage in a public outreach program to formulate a list of groups and stakeholders, key community individuals who can take leadership roles, and develop a program that will inform the oral history project. Partnerships with the Oakland Public Library, Laney College and StoryCorps could bolster this program. The City should strive to be an instigator in this program.

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- **CULT-1B:** Expand public outreach and implementation of the California Historical Building Code (CHBC) for projects that qualify under State law. Dovetail use of the CHBC with the Adaptive Reuse Ordinance as it is implemented. Provide professional development training to the City’s building officials and inspectors on the use of the CHBC so that they can implement project review for qualified buildings within reasonable timeframes. Appoint a Senior Building Official as the CHBC-liaison between the Planning ~~Department~~ Bureau, the Chief Fire Official and the Building Bureau ~~Department~~ so that projects are reviewed with consistency and clarity. Encourage City staff to schedule a seminar with the Office of Historic Preservation’s member of the State Historical Safety Board to provide a thorough background of how the code is implemented.
- **CULT-1C:** Further the Planning Code protections for SROs hotels with additional façade protections for these buildings, perhaps by deeming this specific historic building type eligible for participation in the Mills Act program or by documenting these resources as a thematic grouping of buildings, rather than geographically based API. While Planning Code Chapter 17.153 Demolition, Conversion and Rehabilitation Regulations for Residential Hotels, was adopted in 2018, and provides some protections, additional incentives or protections would further ensure the viability of these resources and mitigate further losses of both their historic use and character.
- **CULT-1D:** As part of the implementation of Plan Policy LU-2-4 that revises the City’s Demolition Findings Requirements to facilitate new compatible development near the outer edges of fragmented APIs and ASIs, require ~~tailored~~ objective design standards guidelines to ~~help~~ ensure architectural compatibility. The standards guidelines should illustrate treatments for rehabilitation of the historic commercial buildings typical in these historic districts, as well as provide strategies for new construction both within and on the immediate periphery or edge of these significant areas. New construction in these areas should take into consideration the historic parcel pattern; assembling lots and creating bulkier building footprints changes the character of the street rhythm. These standards guidelines will help mitigate the impacts of future development on these sensitive areas of downtown. ~~example for this mitigation best practices from other cities is the Historic Downtown Los Angeles Design Guidelines completed in July 2002 by the Los Angeles Conservancy and three downtown Business Improvement Districts (BIDs).~~
- **CULT-1E:** The City shall also consider incorporating the following additional mitigation measures as implementation policies or guidelines in the Plan ~~prior to its adoption~~, although these have a lower priority than Mitigation Measures CULT-1A – CULT-1D.
  - i. Study the feasibility of raising the Mills Act tax loss limits for properties within the Specific Plan, Lake Merritt Station Area Plan and Broadway Valdez Specific Plan boundaries, which would encourage more participation in the program. Currently, Oakland has six Mills Act properties within the Plan Area.
  - ii. Provide City support of efforts at the State level to create a State Historic Tax Credit. This could take the form of pro-active encouragement of state legislation that would enact the tax credit.
  - iii. Update the Oakland Cultural Heritage Survey and as part of that effort include elements that focus on: (1) Downtown’s built environment associated with the Modern Movement or the Recent Past to determine methods to more completely understand the types of resources present and their historic significance. This could take the form of a funded Historic Context Statement for Modern Buildings and Landscapes in downtown or a site-specific survey of resources built between 1940 and 1975; and/or a focused review of the banking cluster near the Lake Merritt office district, venues related to food and entertainment, mid-century courtyard apartments, as

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- well as older commercial buildings in downtown that may have been remodeled to reflect the Modern aesthetic. In recent years, Sacramento, San Francisco, Fresno and Pasadena have invested in this type of preservation planning tool with great success and community interest. Downtown's streetscape includes historic parks that are used to determine methods to more completely understand the types of resources present along the streetscape and in downtown's parks. This could take the form of a funded Cultural Landscape Inventory to document and categorize resources. Good models for this are the City of San Francisco Civic Center Cultural Landscape Inventory and the Market Street Cultural Landscape Inventory.
- iv. As part of any redevelopment or expansion of the Laney College Campus, require to the extent permitted by law that a full historic resources evaluation be conducted as well as any properties slated for redevelopment around the College to fully understand the potential historic resources associated with this educational institution and to understand the significance of the campus within the body of work of Skidmore, Owings & Merrill.
  - v. Prepare and implement an interpretive program of signage within the Webster Green in Jack London Square to inform users of this new greenway of the historic industrial character of the surrounding urban fabric. This could be an extension of the signage already present in the Waterfront Warehouse District.
- **CULT-1F**: Independent of the Specific Plan, the City shall consider the following measures:
    - i. Promote graffiti abatement by including additional abatement trips. Currently, only one "courtesy" abatement trip can be scheduled for private property, due to City staffing issues. Extend this to additional abatement trips, per year, within the Specific Plan area boundary. Further, prioritize graffiti abatement in the Specific Plan Area within the Public Realm, especially on prominent historic buildings. Additionally, understand that sometimes graffiti can acquire a cultural significance as well and encourage a graffiti arts program with partner building owners to engage local artists and deter graffiti. Also, raise awareness of non-destructive graffiti abatement methods so historic materials like brick and terra cotta aren't destroyed.
    - ii. Improve vacant building security through partnerships with the Planning, Building and Police Departments to collaborate on maintaining a list of vacant buildings so that Police Officers know which buildings might be at risk of vandalism or other illegal activity. This would mean an investment in a vacant building inventory in the Specific Plan area.
    - iii. Maintain a list of vacant parcels to assist with building relocation assistance. Additionally, a relocation fund could be established and paid into by projects that demolish historic resources. This could result in the salvage of stand-alone historic resources, especially smaller resources that sit on large lots, which face fierce development pressure. This is more appropriate in areas that are not considered historic districts or groupings of buildings. This can be facilitated via CEQA review by making known Historic Preservation Element Action 3.8.1.2, allowing buildings to be moved to a location consistent with its historic or architectural character.
    - iv. Study the feasibility of amending the Downtown Oakland National Register Historic District to provide a means for more property owners to use the Federal Rehabilitation Tax Credits. The amendment should evaluate an extended boundary and additional contributors, to include more of downtown's significant historic buildings. This would provide a means for more property owners to use the Federal Rehabilitation Tax Credit as owners of resources within a National Register-listed historic district.

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- **CULT-2**: Implement Mitigation Measures CULT 1A-CULT 1F.

### Shadow

**Impact AES-1: Shadow**: Implementation of the Downtown Specific Plan and development that may occur under the Plan may result in substantial new shadow that would shade solar collectors, passive solar heaters, public open space, or historic resources, or otherwise result in adequate provision of adequate light.

Shade and shadow impacts occur when a structure's height or width (or a combination of these two characteristics) reduces the access to sunlight by a public open space area, solar collectors, solar heaters, or historic resources. In a built urban environment like the Plan Area, nearly all land uses create shade and shadow for neighboring structures, and in turn, are subject to shade and shadows from those same structures. Development facilitated by the Specific Plan program could include mid- and high-rise buildings that may cast shadow on public open space, solar collectors, and historic resources. While the exact details associated with future development proposals is unknown as this time, a generalized shadow analysis was prepared based on the 3D height Model. This generalized shadow study should be used as a guiding framework, but is not intended to replace the City's review of individual development project proposals and the design review process, where potential project-level effects related to shadow would be determined according to the City's significance criteria, which considers potential adverse effects of shadow to solar collectors and similar heating facilities, public or quasi-public parks and open spaces, and historic resources. Regarding solar features in particular, the City maintains a list of locations where solar collectors are located throughout the city and issues permits for such facilities, particularly those sited on rooftops. Individual projects will also be assessed for their proximity to historic resources and open space. If a project has potential project-level shadow effects, the City would require mitigation through the standard design review and environmental review process.

Given that there are not enough sufficient details available to analyze specific shadow impacts (beyond larger trends as described in the Draft EIR in *Chapter 5*, it cannot be known with certainty that development under the Specific Plan would not cause significant shadow impacts that impairs the function of a building using passive solar collection; impairs the beneficial use of a public or quasi-public park, lawn, garden, or open space; shadows on an historic resource, or otherwise results in inadequate provision of light. Mitigation Measure AES-1 identified below is recommended; however, it is noted that even with this mitigation measure it cannot be known with certainty that impacts would be mitigated, as such the impact is conservatively SU.

### **Mitigation Measure AES-1: Shadow**:

**Mitigation Measure AES-1**: Implementation of Mitigation Measure AES-1, to minimize and/or avoid impacts related to shadows associated with new development under the Project cast upon solar collectors, passive solar heaters, public open space, or sunlight-sensitive character-defining features of historic resources, is infeasible.

Mitigation Measure AES-1 would require project sponsors with proposed projects to either present evidence that the specified resources are not within the project's potential shadow path or complete a site-specific shadow study when individual projects are proposed. Under this Mitigation Measure AES-1, if the shadow study provides support to determine that the proposed project building design would adversely affect the described resources, the project sponsor would be required to modify the building design and placement and provide a revised shadow study to support the determination that the revised new project shadow would minimize and/or avoid shadow effects adversely affecting the described resources. The effectiveness of Mitigation Measure AES-1 cannot be determined with certainty because there are not sufficient details available to analyze specific impacts. As such, the EIR concludes that adoption of the Proposed Project,

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even with adherence to existing Standard Conditions of Approval (SCAs) and Mitigation Measure AES-1, would result in a significant and unavoidable impact related to shadows. Mitigation Measure AES-1 is infeasible based on it conflicting with the height and density allowed provided under the Oakland Planning Code, as well as conflicting with the objectives of the Proposed Project, including, but not limited to: 1) compliance with ministerial permitting processes under State law and the City's Planning Code; (2) meeting State-mandated approval timelines and requirements for housing projects under several housing laws and the City's Housing Element commitments; 3) removing constraints on the development of housing; 4) encouraging more housing along corridors and in transit-proximate areas; and 5) creating more affordable housing restricted for extremely low-, very low-, low-, and/or moderate-income households. Requiring a project to revise its design in a manner that would reduce the building's height or allowed residential density would be inconsistent with Planning Code requirements, the City's objectives for increased residential and employment center transit-oriented development that the City committed to in its Housing Element and ECAP.

**Cumulative Impact AES-1:** Implementation of the Downtown Specific Plan and development that may occur under the Plan may, in combination with other past, present, and reasonably foreseeable future projects within and around the Plan Area would result in significant cumulative shadow impacts.

As noted above, due to the infeasibility of any mitigation measure to address this impact, development under the Specific Plan could result in significant and unavoidable impacts related to shadows.

### **Responses to Draft EIR Comments (Response to Comments (RTC) Document)**

During the 70-day comment period, which ended on November 8, 2019, the City received written comments from 6 government agencies, 16 organizations or businesses, and 3 individuals. The City also received verbal comments from four public meetings: the Landmarks Preservation and Advisory Board Meetings on September 23, 2019 and October 14, 2019 and the Planning Commission meetings on October 2, 2019 and November 6, 2019. This RTC document includes a reproduction of each written comment letter (or email) received on the Draft EIR in its entirety and a summary of verbal comments made at the public hearing before the LPAB and Planning Commission. Written responses to each comment are provided in *Chapter 5 of the Response to Comments* and revisions to the Draft EIR are provided in *Chapter 5, Text Revision of the Responses to Comment Document*.

None of these changes to the Draft EIR involve a new significant environmental impact, a substantial increase in the severity of an environmental impact, or a feasible mitigation measure or alternative considerably different from that presented in the Draft EIR. Recirculation of the Draft EIR is not warranted prior to certification of the EIR and Plan adoption.

### **KEY ISSUES AND IMPACTS**

Creation of the DOSP represents a careful process to achieve equity while balancing multiple priorities that aim to address the existing and anticipated needs of residents and businesses downtown and citywide, especially those most vulnerable; while enhancing, preserving and celebrating the culture, history, and landscape that uniquely defines Oakland.

Downtown Oakland is a convenient location within the core of the region and the city, and provides vital access to jobs, services, and community destinations through its robust regional transit connections. New development would contribute to as many as 29,100 new homes and 57,000 jobs by 2040, and meet City and State housing, economic and sustainability goals and policies.

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The DOSP values the preservation and reuse of historic buildings as an essential element to maintaining community character and includes polices to preserve and adapt historic buildings downtown. The Plan focuses the vast majority of projected new growth outside of Areas of Primary Importance (API) or Secondary Importance (ASI), but because of the significant amount of total land area within the Downtown Plan boundary covered by these historic designations (22 percent for APIs and 6 percent for ASIs), it would be infeasible to fully avoid materially altering some of these resources given the amount of new development contemplated in the Specific Plan.

Once the DOSP is adopted, residents and stakeholders will be invited to participate in the ongoing decision-making and implementation of the Downtown Oakland Specific Plan, and, with the City, will be accountable for current initiatives and for the successful adaptation of the Specific Plan over time as conditions change. (Implementation policies related to cultural and historic preservation are discussed on pages 9 to 12 of this report).



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**RECOMMENDATIONS**

Staff recommends that the LPAB take public testimony, close the public hearing, and provide cultural-resource related comments on the Final Environmental Impact Report (FEIR), Final Draft Downtown Oakland Specific Plan (Specific Plan), Final Draft Zoning and General Plan amendments, and associated Related Actions.

Prepared by:

Joanna Winter  
Planner IV

Reviewed by:

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ED MANASSE, Deputy Director  
Bureau of Planning

**ATTACHMENTS**

- A. Final Draft DOSP (March 2024)
- B. DOSP Handbook (March 2024)
- C. Final Draft DOSP General Plan Amendments (April 2024)
- D. Final Draft DOSP Planning Code Amendments (April 2024)
- E. Base and ZIP HIA Maps; Revisions and Black & White Versions
- F. DEIR Cultural Resources and Aesthetics Chapters (2019)
- G. Comment Letters Received Following Publication of the Final DOSP and Final EIR