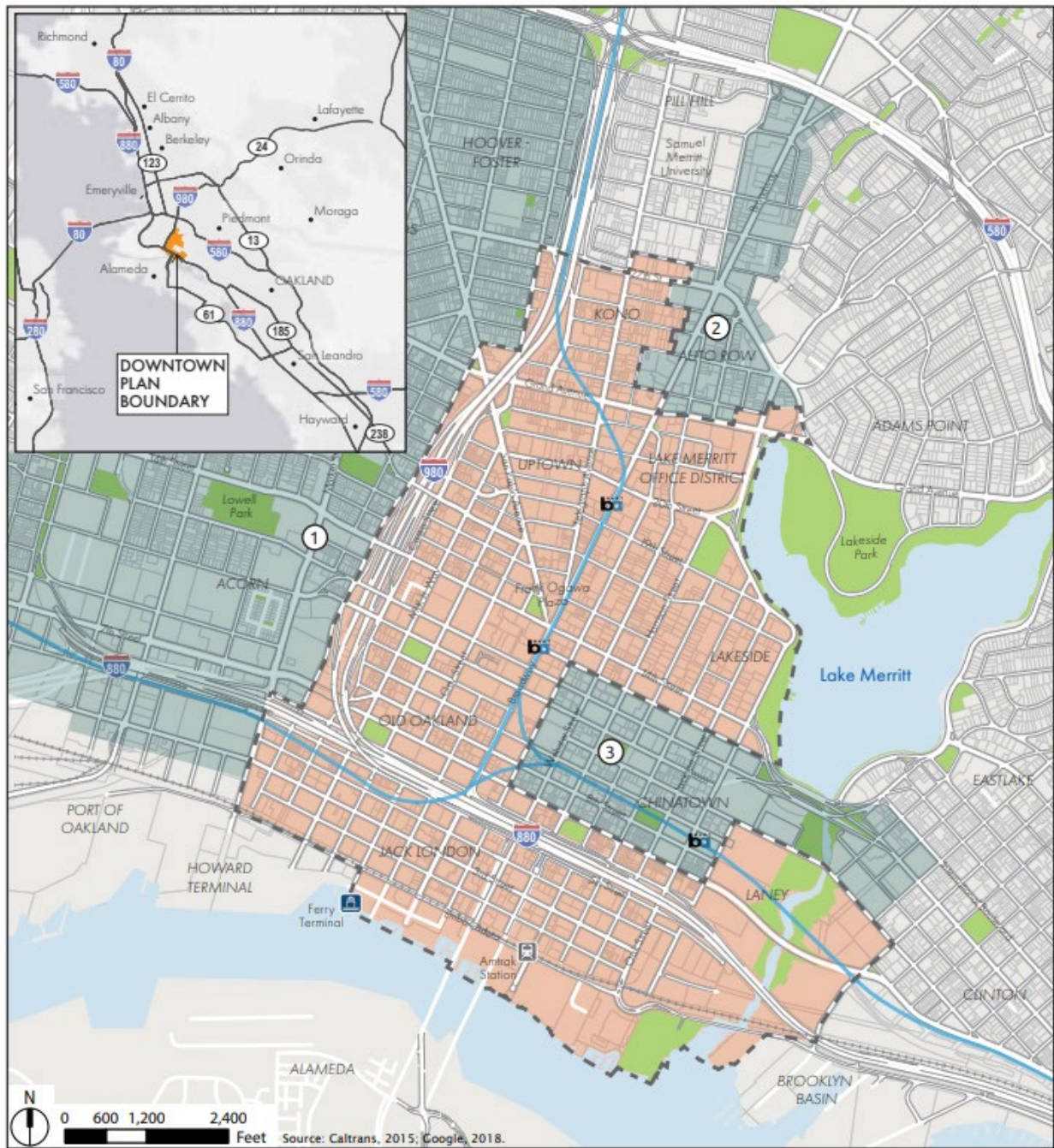


<b>Location:</b>	The DOSP generally encompasses the area bounded by 27th Street to the north; I-980 and Brush Street to the west; the Jack London estuary waterfront to the south; and Lake Merritt, Channel, and 5th Avenue to the east.
<b>Proposal:</b>	Adopt a long-range specific plan for Downtown Oakland (the Downtown Oakland Specific Plan, or DOSP), certify the DOSP’s Environmental Impact Report (EIR), and adopt the Zoning and General Plan amendments that are the first step toward implementing the DOSP. The DOSP plans for new and equitable housing production, economic opportunity, social justice, culture keeping, quality urban form, climate-friendly and accessible transportation and climate-responsive development. It contains objectives, policies and implementation actions to guide policy decisions, resource allocation, departmental workplans, regional and state level plans, advocacy and community partnerships. The DOSP also contains measures of success, including those to address racial inequities and to evaluate progress toward the DOSP’s goals. The EIR provides environmental mitigations to accompany the plan. The Zoning and General Plan amendments provide land use changes needed to implement the plan.
<b>Applicant:</b>	City of Oakland
<b>Case File Numbers:</b>	GP23001, ZA2206, ER18-020 & SP16001
<b>Planning Permits Required:</b>	N/A
<b>General Plan:</b>	<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 <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
<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>Environmental Determination:</b>	The Draft Environmental Impact Report (EIR) for the Downtown Oakland Specific Plan 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, with a 45-day public review and comment period ending October 15, 2019. All comments that were received during the Draft EIR public comment period have been compiled and responded to in the Response to Comments (RTC) contained in the Final EIR, along with non-substantive changes and clarifications to the Draft EIR. The Final EIR, together with the Draft EIR, constitutes the DOSP

	EIR. The Zoning Map and Planning Code amendments are consistent with the DOSP EIR.
<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 Plan and DEIR received public review and comment in 2019 and have subsequently been revised. The Draft Zoning Map and Planning Code Amendments were reviewed by the Landmarks Preservation Advisory Board and the Zoning Update Committee in 2022 and 2023 and forwarded to Planning Commission for review.
<b>Staff Recommendation:</b>	Staff recommends that the Planning Commission conduct a public hearing, receive public comments, discuss and recommend that the City Council: <ol style="list-style-type: none"> <li>1. Adopt the Final Draft Downtown Oakland Specific Plan;</li> <li>2. Adopt amendments to the General Plan to maintain consistency;</li> <li>3. Certify the Final Environmental Impact Report; and</li> <li>4. Adopt amendments to the Planning Code and Zoning Map to implement the Downtown Oakland Specific Plan.</li> </ol>
<b>Finality of Decision:</b>	Recommendation to City Council
<b>For further information:</b>	Contact Project Manager Joanna Winter, Planner IV at <b>510-238-2166</b> or <a href="mailto:jwinter@oaklandca.gov">jwinter@oaklandca.gov</a>

**CITY OF OAKLAND PLANNING COMMISSION**

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**

## **SUMMARY**

Staff recommends that the Planning Commission review the Downtown Oakland Specific Plan (“DOSP”) with its associated Environmental Impact Report (“EIR”) and its General Plan, Planning Code and Oakland Municipal Code (“O.M.C.”) amendments, and recommend the package for City Council adoption. 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 and accessible transportation and climate-responsive development.

The May 15, 2024 Staff Report described the Final Draft DOSP. This report describes the remaining three of the four items being brought as the Downtown Oakland Specific Plan package for consideration, adoption and certification:

- Final Draft Downtown Oakland Specific Plan (“DOSP”),
- General Plan Text and Map Amendments,
- 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.

## **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. It is accompanied by amendments to the Oakland General Plan’s Land Use and Transportation Element (“LUTE”) and Estuary Policy Plan (“EPP”) to bring them and the DOSP into consistency with one another, and an EIR, which provides information about potential environmental impacts as well. It is also accompanied by Planning Code and Zoning Map amendments; developing and adopting these is the first and most immediate of the DOSP’s numerous implementation actions.

### ***Community Process & Engagement***

#### **DOSP & General Plan Amendments**

The development of the DOSP, detailed in the May 15, 2024 Staff Report, included extensive community involvement ranging from large public events such as a 10-day open house and Youth Summit to focus groups and one-on-one interviews led by a team specializing in racial equity and inclusive community engagement. The public reviewed multiple iterations including the Plan Alternatives Report, the Plan Options Memo (which included a racial equity assessment), and the Preliminary Draft Plan. The *Public Review Draft Downtown Oakland Specific Plan* (“Draft DOSP”) was released for public review in late 2019, accompanied by the Draft General Plan Amendments and Draft EIR.

Environmental Review & General Plan Amendments

The City released the Notice of Preparation (“NOP”) of an EIR on the Draft DOSP in January of 2019. Public scoping sessions were held before the Landmarks Preservation Advisory Board (“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.

Zoning Amendments

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 three topic-focused virtual public meetings to discuss key issues with community members. The Draft Zoning Amendments were made available for public review from April 27, 2022 (Part I) and July 6, 2022 (Part II) to May 26, 2023.

Between 2022 and 2023, staff presented to the ZUC, LPAB, the DOSP Community Advisory Group (“CAG”), the Cultural Affairs Commission and a public session of SPUR. Planning staff held focused sessions with Black Arts Movement & Business District (“BAMBD”), Chinatown, and Victory Court area stakeholders, as well as conversations with members from East Bay Housing Organization (EBHO), Alameda County Building Trades Council (“BTC”), and Oakland Heritage Alliance (“OHA”). 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. Additional feedback was collected via an online tool (“Konvieo”) and two in-person chalkboards set up for several weeks in both Franklin Square in Uptown and Lincoln Square Park in Chinatown.

A summary of public comments received on the Draft Zoning Amendments, as well as staff response, is available as **Attachment A**.

History of Planning Commission Review

The Planning Commission initiated its review of the updated DOSP at its May 15, 2024 hearing and is scheduled to continue its review with the DOSP General Plan, Planning Code and Zoning map amendments and FEIR/Response to Comments at its June 5, 2024 hearing. On June 5, 2024, the Planning Commission is asked to consider these documents and finalize its recommendation to Council regarding the DOSP package.



The Planning Commission has provided feedback on the DOSP at many different stages of its development. In April 2016, the Planning Commission reviewed and provided feedback on the Draft Alternatives Report. In 2017, the Planning Commission received two informational Director's Reports to inform the Commission about the shift in the Planning Bureau's approach, addition of a racial equity consultant, and addition of new grant funds to enhance the Plan's transportation, economic and environmental analysis. The Planning Commission held three sessions reviewing the Preliminary Draft Plan in January 2019. The full Planning Commission held a two-session hearing on the Public Review Draft Plan in late 2019.

The Planning Commission's Zoning Update Committee ("ZUC") provided comments on the initial Zoning Incentive Program ("ZIP") Feasibility Study in December 2019. The ZUC then held a public hearing on the Draft Zoning Amendments that began in 2022, was continued twice with requests for further analysis of the Zoning Incentive Program, and was completed in May 2023 when this additional analysis, as well as a technical peer review of the analysis, was available. In May 2023 the ZUC stated that Planning staff had adequately addressed public feedback and passed 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)

The ZUC provided final feedback on the Draft Zoning Amendments in May 2023. On May 6, 2024, LPAB held a meeting to review the Final Draft DOSP, Zoning Code Amendments and mitigation measures addressing aesthetics and cultural resources. LPAB continued the meeting to the next scheduled LPAB meeting on June 3, 2024 to provide the LPAB with more time to make a recommendation to the Planning Commission and City Council.

The Planning Commission process to formally review and develop a recommendation to adopt the DOSP, along with its General Plan and Zoning Amendments, and certify the EIR began with its May 15, 2024 Planning Commission meeting. At the June 5, 2024 meeting, the Planning Commission is asked to consider the DOSP EIR, Planning Code, Zoning Map and General Plan amendments and finalize their recommendation to the City Council regarding the entire DOSP package.

Upon recommendation to Council, the DOSP package and any comments from Planning Commission will be presented to the Council's Community and Economic Development ("CED") Committee, which is scheduled for June 25, 2024. Upon CED recommendation, the DOSP package will be heard by the full City Council, with first and second reading of the legislation anticipated on July 2 and 16, 2024 respectively, prior to the City Council's Summer Recess.

#### **PROJECT DESCRIPTION**

The DOSP provides a vision, goals and strategies to grow downtown in its role as a major regional employment, cultural and residential center while meeting the needs of its most vulnerable stakeholders. It encourages dense development by increasing development capacity and also addresses community priorities for a sense of place, shelter, economic opportunity, cultural belonging, and mobility. Its Implementation Matrix includes developing amendments to the Planning Code and Zoning Maps to implement many of its policies and goals, as well as the Intensity Map that allows for increased development capacity.

***Plan Boundary***

The DOSP generally encompasses the area 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. Chinatown is not included in the DOSP boundary because the Lake Merritt Station Area Plan (“LMSAP”), which includes this integral part of downtown, was completed the same year as the DOSP began. The DOSP, nonetheless, necessarily includes Chinatown in the transportation connections it proposes throughout downtown. There are small areas of overlap at the edges where the DOSP supersedes the LMSAP (see **Attachment B**), largely to provide new planning possibilities along the Broadway, 14th Street, and I-880 freeway corridors, and at the Laney College and Peralta College District Administration sites.

***DOSP***

The DOSP sets forth bold strategies for physical improvement projects and supporting policies to meet the needs of its most vulnerable stakeholders while addressing community priorities for a sense of place, shelter, economic opportunity, cultural belonging, and mobility. It 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.

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 DOSP’s chapters are organized by six key goals (Economic Opportunity, Housing & Homelessness, Mobility, Culture Keeping, Community Health & Sustainability and Land Use and Urban Form) 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.

***General Plan Amendments***

Text and map amendments to the Oakland General Plan’s Land Use and Transportation Element (“LUTE”) and Estuary Policy Plan (“EPP”) (collectively, “General Plan Amendments”) are proposed as part of the DOSP package to ensure consistency with and between the General Plan and the Planning Code.

The DOSP 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 to fulfill the Plan’s vision of creating a dynamic regional employment center in downtown Oakland to capitalize on downtown’s excellent transit assets, flourishing creative community, racial and ethnic diversity and temperate waterfront setting. The General Plan Amendments guide the character and intensity of downtown development, which will be carried out through the updated zoning regulatory framework.

The proposed General Plan Amendments were based on community feedback related to the character and intensity of downtown, which resulted in the DOSP’s character area maps (for land use) and the intensity maps (for height, density, and floor area ratio). The General Plan Amendments were reviewed in 2019 as part of the Public Review Draft DOSP and subsequently revised. They have served as a guide to writing the new zoning regulations to achieve the DOSPs robust development vision.

**Summary of Amendments**

The proposed General Plan Amendments 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 Interstate 880 to better connect and enliven the area south of I-880. Complementary to other improvements to the freeway under-crossings, 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.

The amendments also split the “Central Business District (CBD)” General Plan designation into three different CBD General Plan categories with three different levels of development intensity, as shown in **Table 1**.

**Table 1. Revisions to Central Business District**

	Existing <b>CBD</b>	New <b>CBD-1</b>	New <b>CBD-2</b>	New <b>CBD-3</b>
Nonresidential – Floor Area Ratio (FAR)	20.0	12.0	22.0	30.0
Residential – Density (units per gross acre)	300	250	300	400

These and other changes are reflected in both maps and text changes to the EPP and the LUTE. See **Attachment C** for the proposed General Plan amendments.

Updates to the 2019 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.

***Planning Code and Zoning Map Amendments***

**Summary**

Amendments to the Planning Code of the City’s Municipal Code (O.M.C. Title 17) and the Zoning Map (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 a new Zoning Incentive Program (“ZIP”).

Zoning changes are vital to achieving the objectives of the DOSP, and the proposed Zoning Amendments are intended to be adopted concurrently with the DOSP to ensure that all new development approved subsequent to the DOSP’s effective date meets the intent of the DOSP and abides by the mitigation measures set in the environmental document.

The DOSP Zoning Amendments correspond with the DOSP’s central vision for equity and each of the main goals and objectives through which the Plan is organized. **Table 2** summarizes the highlights of approaches taken in the Zoning Amendments to meet each one of the Plan’s objectives (as described in the DOSP itself and the May 15, 2024 Staff Report):

**Table 2. Key Zoning Approaches to Meet DOSP Objectives**

DOSP Objective	Zoning Approach
<b>Economic Opportunity</b>	<ul style="list-style-type: none"> <li>• Flexibility in ground floor uses</li> <li>• Employment priority overlay zone</li> <li>• Preservation of industrial land &amp; industrial transition in western Jack London, R&amp;D uses in central core</li> <li>• Zoning Incentive Program below market-rate commercial space benefit</li> </ul>
<b>Housing &amp; Homelessness</b>	<ul style="list-style-type: none"> <li>• Increased residential density with community benefits, including affordable housing funds</li> <li>• Allowing high-density residential in Victory Court (South Jack London Area) with sea level rise adaptation</li> <li>• Permitting high-density efficiency units and work/live units</li> </ul>
<b>Mobility, Safety &amp; Connectivity</b>	<ul style="list-style-type: none"> <li>• Green Loop pedestrian/bicycle/landscaping infrastructure improvements</li> <li>• Freeway zones to improve pedestrian experience</li> <li>• Infrastructure improvements (primarily implemented by DOT)</li> </ul>
<b>Culture Keeping</b>	<ul style="list-style-type: none"> <li>• BAMBD Arts &amp; Culture overlay zone to support a thriving district with concentration of relevant activities</li> <li>• Arts &amp; Garage District zoning to protect artists &amp; small-scale manufacturers</li> <li>• Relaxed rules to permit entertainment and performance venues, revised process for alcohol permits</li> <li>• Permitting artisan production commercial activities by right</li> </ul>
<b>Community Health &amp; Sustainability</b>	<ul style="list-style-type: none"> <li>• Sea Level Rise overlay zone to require large scale comprehensive sea level rise adaptation plans</li> <li>• Green Loop to encourage walking, biking, and use of green/recreational space</li> <li>• Standards to protect Lake Merritt Channel for nature and recreation</li> </ul>
<b>Land Use &amp; Urban Form</b>	<ul style="list-style-type: none"> <li>• Revised design standards for towers, storefronts, Green Loop and other key frontages</li> <li>• Trading of development rights (TDR) program to preserve historic buildings</li> </ul>

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, but including additional related amendments in other chapters of Title 17 (Planning Code). Chapter 17.58. D-DT Downtown District Zones Regulations will replace the existing Chapter 17.58 CBD Central Business District Zones. See **Attachment D** (Final Draft Planning Code Amendments). 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 Transfer of Development Rights (“TDR”) program and a Zoning Incentive Program (“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.

The following describes the highlights of the proposed Zoning Amendments and identifies updates to the Draft Zoning Amendments in response to community input:

*Zoning Map Amendments*

- a. Height and Intensity Area Maps
- b. Downtown Zoning Districts
- c. Targeted Height Reductions

*Planning Code Amendments*

- a. Land Use Activities
- b. Special Districts
- c. Transfer of Development Rights (TDR) program
- d. Development Standards
- e. Zoning Incentive Program

Zoning Map Amendments

**Height and Intensity (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 Zoning Incentive Program (ZIP), these have been separated into two maps:

- The “**Base HIA Map**” identifies maximum height and intensity for projects not participating in the ZIP
- 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 that includes three Downtown Core Districts, as proposed in the Draft DOSP (2019); 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). Since release of the Public Review Draft Zoning Amendments (2022), changes were made to the D-DT-P and D-DT-C zone boundaries and limitations to relax restrictions on ground floor spaces in all but key pedestrian areas with the intention of helping fill vacant ground floor commercial spaces.

**Targeted Height Reductions to Protect Historic Character** have been proposed where there is a consistent height context, including at the Fire Alarm Building (FAB) site and the Lakeside/Gold Coast Area. These changes were made in response to community input on the Public Review Draft Zoning Amendments (2022). Additional revisions were detailed as part of the [May 6, 2024, Landmarks Preservation Advisory Board Staff Report](#).

Maps of Base Zoning, Special Districts, Height and Intensity Areas (Base HIA and ZIP HIA) and ZIP fee areas are shown in **Attachment E** (Zoning Maps).

Planning Code Amendments

**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;
- 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; and
- In the downtown zones permitting Alcoholic Beverage Sales, replacing the Major CUP requirement from downtown arts, entertainment, and cultural uses that wish to serve alcohol as part of their ongoing operation with a requirement to instead obtain a newly created “Entertainment Venue” Permit that will replicate the City’s current “Cabaret” permitting process in Oakland Municipal Code (OMC) Chapter 5.12 (described further in the “Municipal Code Amendments” section).

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

- **Sea Level Rise Combining Zone:** Requires Adaptation Plans for new construction & 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. It has been updated since 2022 to include more specific details on required sea level rise adaptation plans.
- **Black Arts Movement and Business District (“BAMBD”) Arts & Culture Combining Zone:** Includes one initial node along 14th as a pilot; requires ground floor activities to be a cultural use, with broad definition to include business; and requires CUP for non-arts & cultural uses on ground floor. Supported by Zoning Incentive Program’s below market-rate commercial space benefit. 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.
- **Employment Priority Sites:** The 2022 draft proposed a requirement that projects at designated key sites near transit include at least 60% of the maximum non-residential FAR. The proposed amount of non-residential FAR required to be allowed to build residential units is now reduced from 60% to 40%.
- **Green Loop & Lake Merritt Channel:** Requires frontage and landscaping elements along the Green Loop and a 60’ landscaped setback from the Lake Merritt Channel.
- **I-880 Freeway Zoning:** Creates three separate zones under the freeway 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.

**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.

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.



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 (“ASI”) 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.

- 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.

Additional design standards will be developed for the downtown through the process underway to create citywide Objective Design Standards. Changes since release of the Public Review Draft Zoning Amendments (2022) include:

- *Changes to the Tower Regulations:* Numerical requirements in Table 17.58.04 of the Planning Code for new 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 since release of the Public Review Draft Zoning Amendments (2022) 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.
- Amendments to Chapter 15.62 (Affordable Housing Trust Fund) and Chapter 15.72 (Affordable Housing Impact Fee) of the O.M.C. to implement the ZIP:
  - Amendments to the AHTF Funding Sources and Use of Funds sections are proposed to allow the AHTF to accept the new funds anticipated to be generated by the ZIP and use them to preserve, protect and produce affordable housing, in

the Downtown District (D-DT) whenever possible toward the explicit goal to maintain downtown as a mixed-income community.

- Amendments to the AHIF Chapter of the OMC accompany the ZIP to clarify that for projects participating in the ZIP, the AHIF must be paid for market-rate units that are part of the base project as well as the bonus housing units that were received from the Zoning Incentive Program. Consistent with State law, the AHIF will not be required for any additional units allowed by the Density Bonus.

**PROPERTY DESCRIPTION**

*Not Applicable*

**GENERAL PLAN ANALYSIS**

The DOSP will be accompanied by General Plan text and map amendments that include conforming changes to ensure that the policies, allowed uses, and allowed densities included in the proposed Planning Code and Zoning Map amendments 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.

***Race and Equity***

The DOSP Zoning and General Plan Amendments are also in conformance with the General Plan Environmental Justice (EJ) Element, which was developed using racial equity assessment tools similar to those utilized in the DOSP development process. The EJ Element “serves as the foundation for achieving equity and environmental justice when planning for future growth and development in Oakland.” The DOSP and its associated environmental mitigation measures and zoning amendments include policy and land use changes that implement EJ Element policies such as zoning for health care, childcare and public restroom facilities (EJ-6.1, 6.2 & 6.3) and supporting accessible neighborhoods (EJ-7.2).

However, the racial equity policies go far beyond environmental justice, as described more fully in the May 15, 2024 Staff Report and in the “Key Issues and Impacts” section of this staff report, touching on economic opportunity, culture keeping and affordable housing.

**ZONING ANALYSIS**

The DOSP package includes revisions to the Oakland Planning Code and Zoning Map that provide specific land use regulations to implement the policies and strategies of the DOSP, including providing maximum heights, densities and Floor Area Ratios (“FAR”) that are consistent with the DOSP’s intensity map, as well as the ZIP and TDR programs. They will also be consistent with, and help implement, the proposed General Plan Amendments. The DOSP’s Planning Code and Zoning Map amendments are proposed to be adopted concurrently with the DOSP so that any new development submitted after the DOSP’s effective date will be subject to regulations that are consistent with the DOSP.

**ENVIRONMENTAL DETERMINATION**

The City of Oakland has prepared an EIR for the DOSP pursuant to the California Environmental Quality Act (“CEQA”) and the State CEQA Guidelines to analyze potential physical environmental

impacts of the proposed DOSP and its implementing Planning Code, Zoning and Height Area Maps, and General Plan text and map amendments.

The DOSP does not propose any specific private development projects, but establishes the DOSP 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 this 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.

**Table 3. Development Program**

<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
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. B. Retail includes Neighborhood Serving Commercial, hotels, and other non-specified commercial uses.			

**Public Review**

The [Draft EIR](#) and [FEIR/RTC Document](#) are available to the public through the City’s website: [oaklandca.gov/dosp](http://oaklandca.gov/dosp). The EIR is also available at no charge at the Oakland Planning and Building Department, Strategic Planning Division, 250 Frank Ogawa Plaza, Suite 3315, Oakland, California, 94612.

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

- Notice of Preparation (“NOP”) of an 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 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 LPAB Meetings 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” was published on 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:**

- Planning Commission to recommend certification of the Final EIR at the June 5, 2024, public hearing;
- Meetings of the Community and Economic Development (“CED”) Committee of the City Council and the full City Council to consider the full DOSP legislative package and certification of the Final EIR are anticipated to be held on **June 25, 2024 (CED Committee)** and **July 2, 2024/July 16, 2024 (Second Reading) (City Council)**, respectively.

***Less-than-Significant Impacts***

As detailed in Chapter 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 (SCA): 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. See **Attachment F** (CEQA Findings) for a description of the less-than-significant impacts and **Attachment G** (SCA/MMRP) for applicable SCA and mitigation measure(s).

***Significant and Unavoidable Environmental Impacts***

The Plan will potentially result in significant and unavoidable impacts with the following environmental impacts: Traffic and Transportation; Air Quality; Cultural and Historic Resources; and 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 these significant unavoidable impacts is provided below and any revisions made in response to comments and shown in ~~strike through~~ and underline.

**Traffic and Transportation**

The City’s current thresholds do not include any thresholds specific to Alameda County Transportation Commission (“CTC”)’s requirements for an assessment of impacts of the regional transportation network. The Alameda CTC reviews land use actions, such as a specific plan, that would cause a net increase of 100 PM peak-hour vehicle trips or more. To assess vehicle delay on the regional CMP roadway segments near the project site, Alameda CTC requires the use of the Alameda CTC Travel Demand Model. Alameda CTC

has not adopted thresholds of significance for CMP land use analysis purposes. In response to this, a fourth criteria is included:

- For the Alameda CTC analysis, the City, based on its professional judgment, has determined that the implementation of the DOSP would have a significant impact on CMP roadways if implementation of the DOSP would cause:
  - A facility operating at LOS E or better deteriorates to LOS F.
  - A facility operating at LOS F continues to operate at LOS F with an increase in the V/C ratio of 0.03 or more.

Impact TRANS-3 and Cumulative Impact TRANS-2 discussed below, are impacts pertaining to Criterion 4.

- **Impact TRANS-2:** Development under the DOSP would generate additional multi-modal traffic traveling across the at-grade railroad crossings that would cause or expose roadway users (e.g., motorists, pedestrians, bus riders, bicyclists) to a permanent or substantial transportation hazard.
  - **Mitigation Measure TRANS-2:** The Specific Plan shall include an implementation measure that requires the City of Oakland within the near-term (1 to 5 years) to undertake and complete a Diagnostic Study as outlined in SCA-TRANS-7: Railroad Crossing (#8082) to identify and implement the suite of improvements to enhance multi-modal safety along the railroad tracks including the elements necessary for a Quiet Zone through Jack London District. The study shall identify the schedule and potential funding for implementing the suite of improvements resulting from the study and the City as the lead agency would design and construct the improvements, relying on outside agency funding. Any proposed improvements must be coordinated with California Public Utility Commission (“CPUC”) and affected railroads; ~~and~~ all necessary permits/approvals must be obtained, including a GO 88-B Request (Authorization to Alter Highway Rail Crossings).
- **Impact TRANS-3:** The development under the Specific Plan would contribute to the significant degradation of several CMP or MTS segments in 2020.
  - I-580 in the eastbound direction between I-80/I-580 and I-980 and between Oakland Avenue and Grand Avenue.
  - I-880 in the northbound direction between 42nd Avenue and 29th Avenue and between 23rd Avenue and Embarcadero.
  - I-880 in the southbound direction between Embarcadero and 42nd Avenue.
  - SR 24 in the eastbound direction between Claremont Avenue and Broadway and between State Route 13 and Contra Costa County.
  - Webster Tube in the westbound direction between the City of Oakland and the City of Alameda.
  - Posey Tube in the eastbound direction between the City of Alameda and the City of Oakland.
  - Telegraph Avenue in the northbound direction between Grand Avenue and 27th Street.
- **Mitigation Measure TRANS-3:** No other feasible mitigation measures, beyond TDM measures, are available to reduce the effect of development under the Specific Plan would have on the adversely affected roadway segments.
- **Cumulative Impact TRANS-1:** Development under the Specific Plan together with cumulative development, would generate additional multi-modal traffic traveling across the at-grade railroad



crossings that would cause or expose roadway users (e.g., motorists, pedestrians, bus riders, bicyclists) to a permanent or substantial transportation hazard.

- **Cumulative Mitigation Measure Cumulative TRANS-1:** Implement Mitigation Measure TRANS-2.
  
- **Cumulative Impact TRANS-2:** The development under the Specific Plan would degrade from LOS E or better to LOS F or increase the v/c ratio by 0.03 or more for segments at LOS F on the following CMP or MTS segments in 2040.
  - I-580 in the eastbound direction between I-80/I-580 and I-980 and Oakland Avenue and MacArthur Boulevard.
  - I-580 in the westbound direction between Fruitvale Avenue Lakeshore Avenue and between Grand Avenue and Oakland Avenue.
  - I-980 in the eastbound direction between 12th Street and 27th Street.
  - I-880 in the northbound direction between 42nd Avenue and Oak Street and between Union Street and 7th Street.
  - I-880 in the southbound direction between 7th Street and Union Street and between Oak Street and 42nd Avenue.
  - SR 24 in the eastbound direction between I-580 and Contra Costa County.
  - Webster Tube in the westbound direction between the City of Oakland and the City of Alameda.
  - Posey Tube in the eastbound direction between the City of Alameda and the City of Oakland.
  - West Grand Avenue in the eastbound direction between I-880 and San Pablo Avenue.
  - West Grand Avenue in the westbound direction between Broadway and Telegraph Avenue.
  - Broadway in the northbound direction between College Avenue and SR 24.
  - Broadway in the southbound direction between 40th Street and 27th Street.
  - Telegraph Avenue in the northbound direction between Grand Avenue and 27th Street.
  - Telegraph Avenue in the southbound direction between 29th Street and 27th Street.
  - San Pablo Avenue in the northbound direction between Castro Street and Powell Street.
  - San Pablo Avenue in the southbound direction between Powell Street and 20th Street.
  - Harrison Street in the northbound direction between 27th Street and Oakland Avenue.
  - Castro Street in the northbound direction between 8th and 12th streets and between 14th Street and San Pablo Avenue.
  - 12th Street in the westbound direction between Broadway and Castro Street.
  - East 8th Street in the eastbound direction between 5th Avenue and 14th Avenue.
  - 7th Street in the eastbound direction between Oak Street and 5th Avenue.
  
- **Cumulative Mitigation Measure TRANS-2:** No other feasible mitigation measures, beyond TDM measures, are available to reduce the effect of development under the Specific Plan would have on the adversely affected roadway segments.

- **Impact AIR-1:** Operation of some large development projects under the Specific Plan could result in a cumulatively considerable net increase of criteria air pollutants for which the region is in nonattainment.
  - **Mitigation Measure AIR-1: Reduce Operation Emissions.** Proposed projects that would exceed the current BAAQMD's screening criteria for operational criteria air pollutant emissions shall retain a qualified air quality consultant to quantify criteria air pollutant emissions and identify measures, as needed, to reduce the project's average daily emissions below 54 pounds per day for ROG, NO<sub>x</sub>, and PM<sub>2.5</sub> and 82 pounds per day for PM<sub>10</sub>, and reduce the maximum annual emissions below 10 tons per year for ROG, NO<sub>x</sub>, and PM<sub>2.5</sub> and 15 tons per year for PM<sub>10</sub>. Quantified emissions and identified reduction measures shall be submitted to the City (and the Air District if specifically requested) for review and approval prior to the issuance of building permits. Such measures may include, but are not limited to, the following:
    - For any proposed refrigerated warehouses or large (greater than 20,000 square feet) grocery retailers, provide electrical hook-ups for diesel trucks with Transportation Refrigeration Units at the loading docks.
    - Use low- and super-compliant VOC architectural coatings in building construction and when maintaining buildings. "Low-VOC" refers to paints that meet the more stringent regulatory limits in South Coast Air Quality Management District Rule 1113; however, many manufacturers have reformulated to levels well below these limits. These are referred to as "Super-Compliant" architectural coatings.
    - Other measures that are shown to effectively reduce criteria air pollutant emissions on-site or off-site if emissions reductions are realized within the SFBAAB. Measures to reduce emissions on-site are preferable to off-site emissions reductions.

The feasibility or effectiveness of Mitigation Measure AIR-1 is unknown at this time. Therefore, impacts associated with implementation of the Specific Plan and reasonably foreseeable development expected to occur in the Plan Area over the next 20 years would be conservatively significant and unavoidable with mitigation. It should be noted that most future development projects in the Plan Area are not expected to exceed the BAAQMD's operational screening criteria (Table V.C-5, as updated by the BAAQMD) and therefore the identification of this significant impact does not preclude the finding of future less-than-significant impacts for subsequent projects that comply with applicable screening criteria or meet the City's significance thresholds for operational emissions of criteria air pollutants. It should also be noted that if a future development project exceeds the City's significance thresholds for operational emissions of criteria air pollutants after implementation of Mitigation Measure AIR-1, the emissions could substantially contribute to and exacerbate existing air quality conditions in the region (specifically ozone), but unlike TACs would generally not pose a health risk that is specific to the local community.

### 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 is a summary of mitigations measures that are proposed to reduce the impacts listed above, but do not reduce the impacts to a less-than-significant level (these mitigation measures are provided in more detail in *Chapter 5, Cultural and Historic Resources*, in the Draft EIR beginning on page 353 and *Chapter 5, Test 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 to include the following implementation measures focused on minimizing impacts to historic resources:
  - Seek additional resources to fund Reinstated 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, the City shall seek other sources for funding, such as grant opportunities, as part of reinstating the program. If reestablished, the Façade Improvement Program fund shall be used to implement the additional mitigation measures identified below, as appropriate.
  - 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 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.
  - 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 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.
- **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, the Chief Fire Official and the Building 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~~ 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~~ 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 measures 1A-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 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 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.
- **CULT-2**: Implement Mitigation Measures CULT 1A-CULT 1F.

### Shadow

- **Impact AES-1: Shadow**: Implementation of the Specific Plan and development that may occur under the Specific 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, Aesthetics* starting on page 397), it cannot be known with certainty that development under the Specific Plan would not cause significant shadow impacts that impair 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 a 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:** To help ensure shadows associated with new development under the Plan are lessened, the City shall adopt a new standard condition of approval (SCA) or incorporate a policy into the Specific Plan that requires project sponsors, on a project-by-project basis to complete a site-specific shadow evaluation at the time that individual projects are proposed if any of the following conditions exist:
  - At or adjacent to buildings and structures that meet the definition of “historical resources” contained in Section 15064.5 of the CEQA Guidelines
  - At or adjacent to a building using passive solar heat collection, solar collectors for hot water heating, or photovoltaic solar collectors
  - At or adjacent to a public or quasi-public park, lawn, garden or other open space

If a shadow study is required it shall address the following:

- If at or adjacent to historic building; an evaluation of how shadow would affect the building or structure which confirm to the Secretary of Interior’s Standards of Historic Properties and Guidelines for Preserving, Rehabilitation, Restoring and Reconstructing Historic Buildings (1995). The Standards require the preservation of character defining features which convey a building’s historical significance, and offers guidance about appropriate and compatible alterations to such structures. This evaluation should be carried out by a professional who meets the Secretary of the Interior’s Standards for Architectural History. The results of the evaluation shall be submitted as a Historic Architectural Assessment Report to the City of Oakland. Once the report is reviewed and approved by the City, a copy of the report should shall be submitted to the Northwest Information Center (NWIC).
- If at or adjacent to a building using passive solar heat collection, solar collectors for hot water heating, or photovoltaic solar collectors an evaluation of how shadow would affect the productivity of the solar units (in terms of how much of the year solar collectors are shaded and what portion of the solar units are shaded).
- If at or adjacent to a public or quasi-public park, lawn, garden, or open space, an evaluation of how shadow would impact the beneficial use (in terms of how much of the year the public or quasi-public park, lawn, garden, open space would be shaded and what portion of the year it is shaded).

The shadow evaluation or Report (if historic building) shall be provided as part of the development approval submittal and the project sponsor shall modify the building design and placement to reduce impacts to the extent feasible. If none of the above conditions are applicable to the project, the project sponsor shall provide documentation to demonstrate such conditions do not exist.

Therefore, impacts associated with implementation of the Specific Plan and reasonably foreseeable development expected to occur in the Plan Area over the next 20 years are conservatively deemed significant and unavoidable related to shadows.

Wind

- **Impact AES-2: Wind Analysis:** Implementation of the Downtown Specific Plan and development that may occur under the Plan may result in adverse wind conditions.
  - **Mitigation Measure AES-2: Wind Analysis: AES-2:** Wind Analysis. Project sponsors proposing buildings 100 feet tall or taller within the entire Plan Area boundary shall conduct a detailed wind study to evaluate the effects of the project. The current definition of downtown within the CEQA Thresholds of Significance defines it as bounded by West Grand Avenue to the North, Lake Merritt

and Channel Park to the east, and Oakland Estuary to the south and I-980/Brush Street to the west. If the wind study determined that the project would create winds exceeding 36 mph for more than one hour during daylight hours during the year, the project sponsor would incorporate, if feasible, measures to reduce such effects, as necessary, until a revised wind analysis demonstrates that the proposed project would not create winds in excess of this threshold. Examples of measures that such projects may incorporate, depending on the site-specific conditions, include structural and landscape design features and modified tower designs: wind protective structures or other apparatus to redirect downwash winds from tall buildings, tree plantings or dense bamboo plantings, arbors, canopies, lattice fencing, etc. It is also noted that the City's threshold is very stringent. The City may modify this threshold in the future and if it does, it would be applicable to the Specific Plan Area; however, it is possible that a significant and unavoidable impact may still occur. At this time, however, there are not sufficient details available to analyze specific impacts and it cannot be known with certainty that a project redesign would eliminate the potential for new adverse wind impacts. Therefore, impacts associated with implementation of the Specific Plan and reasonably foreseeable development expected to occur in the Plan Area over the next 20 years would be conservatively deemed significant and unavoidable related to wind.

- **Cumulative Impact AES-1:** Implementation of the 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 wind and shadow impacts.

As noted above, due to the uncertainty of available mitigation, adoption of and development under the Specific Plan could result in significant and unavoidable impacts related to shadow and wind. Mitigation Measures AES-1 and AES-2 (pertaining to project sponsors preparing wind analyses, elaborated on page 400 of the Draft EIR) are recommended.

### ***Infeasible Mitigation Measures***

The City may reject a mitigation measure recommended in an EIR if it finds that it would be infeasible to implement the measure because of specific economic, legal, social, technological, or other considerations. The City finds Mitigation Measure AES-1 and AES-2 to be infeasible and will have to adopt findings regarding infeasible mitigation measures (see **Attachment F: CEQA Findings**).

### ***CEQA Alternatives***

*Chapter 7, Alternatives*, of the Draft EIR includes the analysis of two alternatives beyond the “No Project Alternative” to the Specific Plan that meets the requirements of CEQA. The other two alternatives would feasibly attain most of the Specific Plan's basic objectives and avoid or substantially lessen many of the Specific Plan's significant environmental effects. The CEQA alternatives analyzed in *Chapter 7* include:

- ***Partially Mitigated Alternative*** – Under this alternative, the Plan Area would be developed at a lower intensity throughout the Plan Area, such that all development (both commercial and residential) would be reduced by 25 percent. The Partially Mitigated Alternative could still result in significant and unavoidable historic resource impacts. The alternative would lessen Impacts CULT-1, CULT-2, and Cumulative Impact CULT-1, but would not entirely eliminate these impacts.
- ***Reduced Office Alternative*** – This alternative analyzes the development program from the January 2019 Preliminary Plan, which includes approximately the same number of residential units with a reduction of 2,814,500 square feet of commercial square footage. The Reduced Office Alternative could still result in significant and unavoidable historic resource impacts. The alternative would

lessen Impacts CULT-1, CULT-2, and Cumulative Impact CULT-1, but would not entirely eliminate these impacts.

The Final EIR concludes that the No Project Alternative is the environmentally superior alternative. In instances where the No Project Alternative is the environmentally superior alternative, CEQA requires that the second most environmentally superior alternative be identified. Comparison of the environmental impacts associated with each alternative indicates that the Partially Mitigated Alternative would represent the next-best alternative in terms of the fewest significant environmental impacts. Implementation of the Partially Mitigated Alternative would result in slightly reduced environmental impacts but could still result in significant and unavoidable impacts to Traffic and Transportation, Air Quality, Cultural and Historic Resources, Shadow, and Wind.

However, this alternative would not meet the City's objectives for the DOSP and would fail to achieve implementation of City of Oakland Resolution No. 85272 C.M.S. directing City Planning staff to develop a Downtown Oakland Specific Plan Downtown to provide sound policy guidance on downtown development linking land use, transportation, economic development, open space, landscape design, historic preservation, cultural arts and social equity. It would also be inconsistent with economic and environmental sustainability policy directives in the Oakland General Plan and Equitable Climate Action Plan to promote Downtown Oakland as a regional hub and support high levels of transit ridership.

City Planning staff therefore recommends the City Council adopt the CEQA findings in **Attachment F** (CEQA Findings), which include certification of the EIR, rejection of two mitigation measures as infeasible, rejection of alternatives as infeasible, and a Statement of Overriding Considerations.

***Responses to Draft EIR Comments (Final EIR)***

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 4 of the Response to Comments and revisions to the Draft EIR are provided in Chapter 5, Text Revisions of the Response to Comments 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.

***Level of Analysis and Streamlining Future Environmental Review***

The EIR is intended to assess the environmental impacts of the Specific Plan. The City intends to use the streamlining/tiering provisions of CEQA to the maximum feasible extent, so that future environmental review of specific projects is expeditiously undertaken without the need for repetition and redundancy, as provided in CEQA Guidelines section 15152 and elsewhere. Specifically, pursuant to CEQA Guidelines Section 15183, streamlined environmental review is allowed for projects that are consistent with the development density established by zoning, community plan, Specific Plan, or general plan policies for which an EIR was certified, unless such a project would have environmental impacts peculiar/unique to the project or the project site. Likewise, Public Resources Code section 21094.5 and CEQA Guidelines Section 15183.3 also provides for streamlining of certain qualified, infill projects. In addition, CEQA Guidelines Sections 15162-15164 allow for the preparation of a Subsequent (Mitigated) Negative Declaration,

Supplemental or Subsequent EIR, and/or Addendum, respectively, to a certified EIR when certain conditions are satisfied. Moreover, California Government Code section 65457 and CEQA Guidelines section 15182 provide that once an EIR is certified and a Specific Plan adopted, any residential development project, including any subdivision or zoning change that implements and is consistent with the Specific Plan is generally exempt from additional CEQA review under certain circumstances. The above are merely examples of possible streamlining/tiering mechanisms that the City may pursue and in no way limit the City's ability to conduct future environmental review of specific projects.

When a specific public improvement project or development application comes before the City, the proposal will be subject to its own, project-specific, environmental determination by the city that either: 1) the action's environmental effects were fully disclosed, analyzed, and as needed, mitigated within the Specific Plan EIR; 2) the action is exempt from CEQA; 3) the action warrants preparation of a (Mitigated) Negative Declaration; or 4) the action warrants preparation of a supplemental or subsequent focused EIR limited to certain site-specific issues. Again, the above are merely examples of possible streamlining/tiering mechanisms that the City may pursue and in no way limit the City's ability to conduct future environmental review of specific projects.

## **KEY ISSUES AND IMPACTS**

### ***Economic/Fiscal Impacts***

Development under the Plan could add approximately 18.3 million sf of new commercial space, 1.3 million sf of new institutional space, and 500,000 sf of new industrial space resulting in approximately 57,000 jobs and \$41 million in Impact Fees to fund affordable housing and transportation improvements. It would also add 29,000 housing units, including approximately 4,000-7,000 income-restricted affordable units, resulting in \$480-544 million in Impact Fees to fund additional affordable housing.

According to an economic report from Hausrath Economics Group, new high-density development downtown generates substantial growth of the City's tax base each year over the life of each development:

- New development increases the value of property generating increased property tax revenue.
- Business activity in new office, hotel, and retail space generates business tax and sales tax revenue.
- Residents of new housing, workers in new commercial space, and visitors staying in new hotels bring increased spending that increases sales tax and business tax revenue in Oakland.
  - Parking operations pay parking tax.
  - New hotels increase transient occupancy tax.
  - New development also pays a number of special taxes, parcel taxes, and other taxes and assessments.

Annual tax revenue from new downtown development is many times larger than tax revenue from existing uses on development sites. The increases in tax revenue from new development in downtown Oakland are attributable to the larger buildings and higher densities of new development as well as greater occupancy, higher levels of activity, and associated increased property values. The higher the density of new development downtown, the more annual tax revenue generated per square foot of land area.

In addition to long-term annual tax revenues, the DOSP anticipates residential development would generate \$480-544 million in one-time impact fees to fund affordable housing and non-residential development would generate \$41 million in one-time impact fees to fund affordable housing and transportation improvements.

Some highlights of the DOSP package that encourage economic development and physical development of housing, commercial and employment buildings include:

- **EIR:** Adoption of the Plan would include certification of an Environmental Impact Report (EIR), which means that any project meeting plan goals and development studied under the EIR will be able to rely on this EIR. This reduces time, money and uncertainty, including reducing the chance of appeal and delay.
- **ZIP:** A Zoning Incentive Program allows increased development capacity in the core of downtown and in the Jack London Victory Court area in return for allowing a developer to select from a clearly defined menu of community benefits. This allows additional capacity and certainty about costs/benefits for both the developer and the community.
- **Victory Court:** General Plan amendments and rezoning of Jack London’s Victory Court area, currently industrial, encourages the development of a mixed-use neighborhood. Requirements for minimum heights, sea level rise infrastructure, a planned unit development program and new street connections all encourage dense development that would not otherwise be possible.
- **Employment Priority:** Key sites with large floor plates proximate to BART stations have been designated Employment Priority Sites to encourage development of Class A office space to bring jobs and business revenues, with the ability to build residential as part of a mixed-use project as an incentive. The minimum required commercial FAR also ensures dense development where it is most efficient to drive economic growth, transit ridership to support downtown, and sustainability.
- **Relaxed Land Use Regulations:** Zoning amendments propose relaxation of land use restrictions and development of a below market-rate leasing program to encourage small businesses, including entertainment venues, to fill vacant ground floor spaces and bring more activity, safety and commerce to downtown.
- **Entertainment Venue Special Permits:** Zoning amendments propose elimination of a Conditional Use Permit (CUP) requirement for alcohol in conjunction with arts, entertainment and culture uses, to be replaced with a new “Entertainment Venue” permit. This is intended to reduce financial and procedural barriers to the success of Downtown Oakland’s existing and emerging dining, drinking, and entertainment districts while creating enforceable and revokable alcohol-related permits with clear operational standards.
- **Jack London Industrial:** A new light industrial General Plan designation and associated zone for western Jack London creates a buffer zone between residential/mixed-use development to the east and heavy industrial to the west to protect and encourage the development of Port-related industrial jobs.
- **Bringing people downtown:**
  - **Streetscape Improvements:** In addition to pedestrian safety improvements throughout the downtown, the plan and zoning identifies and, in some cases, requires development to provide additional streetscape improvements to support pedestrian activity along the Green Loop pedestrian/bike corridor, including enhanced landscaping and pedestrian amenities.
  - **Cultural Districts:** Culture Keeping policies in the plan and the associated zoning encourage arts space, marketing and wayfinding for arts and cultural activities to keep downtown the cultural center of the region, including Black Arts Movement and Business District (BAMBD) Art & Culture Combining Zone requirements to set aside space in new development for arts and cultural activities.

One of the primary purposes of developing the DOSP was to develop a Transit-Oriented Development (TOD) strategy to encourage environmentally sustainable development in Downtown Oakland, which is one of the most transit-rich areas in the region. This was the intent and outcome of the \$750,000 grant from MTC. The DOSP provides policies to encourage dense housing and employment in the service of reducing vehicle miles traveled (VMT) and building transit ridership. Developing needed housing and jobs in this priority development area can redirect development in outlying suburbs and exurbs that are not well-served by transit.

Reducing VMT by siting dense jobs and housing near transit and building up active transportation infrastructure reduces Greenhouse Gas (GHG) emissions that contribute to climate change, poor air quality, increases in chronic disease as well as pedestrian and bicyclist injuries and fatalities. The technical guidance for AB 743 notes that development that leads to more vehicle travel also tends to consume more energy, water, and open space (including farmland and sensitive habitat). This increase in impermeable surfaces raises the flood risk and pollutant transport into waterways.

This approach is consistent with the ECAP, which notes that if downtown service workers cannot afford to live close to Oakland's urban core, they will be forced to commute from ever-greater distances, increasing vehicle miles traveled and worsening health outcomes. If housing is built far from necessary services like grocery stores, banks, healthcare services, and schools, residents will be unable to make use of mobility options like walking and biking.

The DOSP is also consistent with the City's Environmental Justice Element, adopted in 2023, which also calls for reductions in exposure to residents of toxic air contaminants, which disproportionately harm residents of color due to environmental injustices that have located highly polluting freeways near residential neighborhoods.

Policies supporting environmental sustainability through transit-oriented development and transit and active transportation infrastructure are found throughout the DOSP's Housing & Homelessness, Mobility, Community Health & Sustainability and Land Use chapters. Additional policies in the DOSP and the Zoning Amendments address adaptation to the environmental impacts of climate change, including sea level rise.

The DOSP has incorporated many environmental mitigation measures into the plan itself, while others will be made through the EIR's mitigation measures and the City's standard conditions of approval (SCAs). Impacts to cultural resources have also been considered to ensure that dense development does not come at the expense of maintaining Oakland's sense of history. The proposal includes a Transfer of Development Rights program to protect historic buildings from demolition and redevelopment, and Staff has worked with Oakland Heritage Alliance to make targeted height reductions to maintain the historic character of areas of Downtown Oakland where a consistent historic height context exists, while allowing tall buildings in other locations to meet the need for density to support Oakland's economic, environmental and housing goals.

### ***Racial Equity Impacts***

The DOSP's overarching equity goal is to reduce racial disparities by shaping a downtown that provides fair and equitable access to opportunities downtown that support residents throughout Oakland. This includes reducing racial disparities and countering forces that have led to the displacement of people, businesses, cultures, and communities of color. The DOSP includes policies that are explicitly designed to improve racial disparities and measures of success to track the DOSP's impact on the equity indicators over time, as described in depth in the May 15, 2024 Staff Report. These policies and measures are distributed throughout every chapter of the DOSP, with a detailed description of the DOSP's equity framework and

equity indicators and a matrix of the key DOSP policies designed to improve the outcomes measured by these equity indicators (and more generally improve racial equity) is in the Equity Framework section of the introduction on Pages 22-29 of the Final Draft DOSP.

The General Plan Amendments and Planning Code and Zoning Map amendments were developed to implement these equity-informed DOSP policies. The City anticipates that the following proposed zoning amendments will help achieve the DOSP's equity goals:

**Reduce barriers to conducting business:** Unnecessary bureaucratic barriers disproportionately negatively affect people, businesses and organizations with fewer resources; due to institutional racism, this often means Black and other residents of color. Barrier reductions include allowing more flexibility of uses on the ground floor, reducing and in some cases eliminating the requirement for a lengthy and expensive Conditional Use Permit (CUP) process, including raising the square footage threshold under which "Group Assembly" uses (such as nightlife) must get a CUP.

**Support Black business, organizations, art and culture:** The Black Arts Movement and Business District (BAMBD) is Oakland's first officially designated cultural district and provides an opportunity for the City to support Black Oaklanders in building community wealth, celebrating Oakland's Black cultural and political heritage and both preserving and innovating culture, arts and entertainment. The BAMBD Arts & Culture Combining Zone, in tandem with the Zoning Incentive Program (ZIP), to be developed alongside a more comprehensive strategy to develop the district, is a tangible implementation step toward supporting Black-owned businesses and making residents of color feel welcome in the downtown.

**Provide benefits to the existing downtown community:** The City already has policies to address community needs stemming from the impact of new development through impact fees. The Zoning Incentive Program (ZIP) is a program that would be instituted *in addition* to those fees and provide benefits to the downtown community from development projects in return for development capacity over and above what is allowed today. The benefits to be provided were guided by community feedback centered in racial equity. Regardless of which benefit a developer selects to provide on-site (or if they provide a fee instead), they would provide the same value of benefit, which is based on a percentage of the value created by allowing the additional development. The benefits provided through the ZIP are:

- **Affordable housing:** The affordable housing benefit will be provided through fees rather than provided on site in order to provide more housing and/or more deeply affordable housing than could be provided on-site. The fees will be placed in the Affordable Housing Trust Fund and used and leveraged according to the City's Strategic Action Plan policies to focus housing funds on very- and extremely-low income housing to address the homelessness crisis that is disproportionately harming Black Oaklanders. These funds are more flexible than those collected under the Affordable Housing Impact Fee, and where possible, these funds will be used in the DOSP area to maintain Downtown Oakland as a diverse, welcoming neighborhood where people of all incomes can live. This could be through preservation, protection or production, including potential acquisition and rehabilitation of existing buildings for deed-restricted affordable housing.
- **Affordable commercial space:** Space will be provided on site to qualifying tenants at 50% of commercial market rents. A tenanting program building on the City's existing leasing program will be developed to connect tenants with this subsidized space based on equity criteria. This program will be implemented with the help of community partners with experience tenanting businesses and organizations that are locally based and run by and serving women, people of color and other marginalized populations.

- **Streetscape improvements:** Streetscape benefits allowed through the ZIP must be improvements over and above those the City would already require of a development, and can be provided on (or adjacent to) the development site or throughout the downtown through fees. Such improvements must meet the goals of the DOSP and are particularly intended to support cultural districts such as the BAMBD with improvements such as wayfinding, historic markers and outdoor performance spaces. They could also include drinking fountains, which is another recommendation designed to assist unhoused residents downtown while serving other visitors and business patrons as well.
- **Public restrooms:** Restrooms provided, secured and maintained on site are intended to serve pedestrians, shoppers and unhoused residents, and also support businesses by providing needed facilities to promote sanitary streets.
- **Employment training:** Funding for employment training, including a set-aside for construction training, is intended to ensure that *all* Oakland residents are able to benefit from the nearly 60,000 jobs the DOSP aims to bring downtown, as well as to benefit from the jobs available for building the new development projects downtown.

In addition, the ZIP is designed so that it can be used along with the State Density Bonus (SDB), with the SDB layering on top of the ZIP to achieve maximum amounts of affordable housing while also delivering additional community benefits. This structure was informed by analysis conducted by Hausrath Economics Group comparing the ZIP and SDB programs<sup>1</sup> that found:

- The ZIP generates more residential units overall due to its higher density potential;
- The State Density Bonus program requires more on-site affordable housing;
- The ZIP generates substantially more revenue for affordable housing in Oakland;
- Leveraging of impact fee revenue provides substantially more revenue to expand the inventory of affordable housing and the locations where that housing can be produced; and
- The Affordable Housing Trust Fund also benefits from the larger number of market rate units that could be provided under the higher residential densities possible under the ZIP.

Revisions proposed separately under the Oakland Municipal Code clarify that Affordable Housing Impact Fees will still accrue to market-rate units that are part of the base project as well as the bonus housing units that were received from the Zoning Incentive Program (but not the additional units allowed by the Density Bonus).

## **RECOMMENDATIONS**

Staff recommends that the Planning Commission conduct a public hearing, receive public comments, discuss and recommend that the City Council:

5. Adopt the Final Draft Downtown Oakland Specific Plan;
6. Adopt amendments to the General Plan to maintain consistency;
7. Certify the Final Environmental Impact Report; and
8. Adopt amendments to the Planning Code and Zoning Map to implement the Downtown Oakland Specific Plan.

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<sup>1</sup> HEG, [Comparative Analysis of Housing Outcomes: Downtown Oakland Specific Plan Zoning Incentive Program and California Density Bonus Law](#), March 10, 2023



Prepared by:



Joanna Winter  
Planner IV

Reviewed by:



Laura Kaminski  
Strategic Planning Manager  
Bureau of Planning

Approved for forwarding to the Planning Commission:



Ed Manasse Deputy Director  
Bureau of Planning

**ATTACHMENTS:**

- A. Zoning Summary Memo
- B. Map of DOSP and LMSAP Overlap
- C. General Plan Amendments
- D. Planning Code Amendments
- E. Zoning Maps
- F. CEQA Findings
- G. Standard Conditions of Approval/Mitigation Monitoring and Reporting Procedures (SCA/MMRP)