

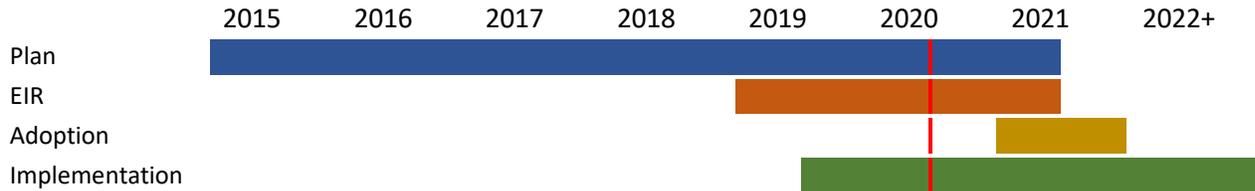
**Downtown Oakland Specific Plan & Zoning**  
**Frequently Asked Questions**

**Sections**

Questions About the Specific Plan.....1  
 Questions about Zoning and the Zoning Incentive Program.....7  
 Questions about Specific Community Benefits .....14

Questions About the Specific Plan

1. Process: Where are we in the Downtown Oakland Specific Plan process?



**Plan:** The City started work on the Downtown Oakland Specific Plan (DOSP) in with a public kick-off meeting in September 2015. The community, boards and commissions reviewed a Preliminary Draft with an equity assessment incorporated in its analysis and outreach in early 2019. The Preliminary Draft was revised to create the Draft Plan, which the community and City boards and commissions reviewed in late 2019. The final version to be presented for adoption in mid- to late 2021 is in the final stages of preparation, based on that community and City board and commission review.

**EIR:** The Draft Environmental Impact Report (DEIR) was prepared for the Preliminary Draft Plan, revised for the Draft Plan, and reviewed during the same period as the Plan in late 2019. The Final Environmental Impact Report (FEIR) that includes a Response to Comments document is in the final stages of preparation for adoption at the same time as the Plan.

**General Plan:** Because the Downtown Oakland Specific Plan is an amendment to the City’s current General Plan, there are several General Plan Amendments that will need to take place concurrent with the adoption of the DOSP. These proposed amendments were included in the DEIR for public comment and have been revised based on these comments. The General Plan Amendments are one of the implementation tools of the DOSP and as stated above, they will be adopted at the same time as the DOSP.

**Planning Code/**

**Zoning:** As part of the implementation of the DOSP, there will be Planning Code Amendments to change the zoning chapters for the Downtown and Jack London areas that are within the DOSP boundaries. These text changes will include what activities and facilities are allowed within different areas of the DOSP; the amount of development that can be built on a parcel (this is controlled through regulations on height, density, and floor area ratio), and development standards for new buildings. The Planning Code Amendments to zoning will also be adopted at the same time as the DOSP.

**Zoning Map:** Another part of the implementation of the DOSP are changes to the Zoning Map itself. The Zoning Map outlines the geographic areas indicating the distinct zones that allow for different activities and facilities. There are separate areas that are outlined with a height/density map that controls the amount of development that can be built on a parcel (including height, density, and floor area ratio). The Zoning Map changes will also be adopted at the same time as the DOSP.

**Adoption:** The DOSP, EIR and implementing General Plan and Planning Code Amendments as well as zoning map changes will be reviewed together for adoption by the Zoning Update Committee of the Planning Commission, the Planning Commission as a whole, the Community and Economic Development Committee of the Oakland City Council and the City Council as a whole.

**Implementation:** The DOSP contains numerous implementation actions, including development of new policies, programs and additional studies. One of the implementing steps is a revision to Oakland's zoning (formally known as the Oakland Planning Code). Although zoning is an implementation step that often is undertaken after DOSP adoption, the City is developing the zoning changes concurrently with the DOSP, to be adopted at the same time, to ensure that new development proposed upon adoption of the DOSP is consistent with its intent and the corresponding zoning. Other implementation steps will be finalized after adoption, throughout the life of the DOSP.

## 2. COVID-19: How will the plan and zoning take into account the uncertain economic future and City budget deficit due to the pandemic?

DOSP revisions are underway to address the significantly different economic environment existing now from that at the start of the DOSP planning process. The prime consultants, Dover, Kohl & Partners, and their subconsultants have been authorized with additional new scope and budget to address the economic effects of the pandemic.

First and foremost, the existing draft policies dedicated to economic equity will be highlighted, prioritized and enhanced to respond to the COVID-19 crisis which continues to evolve, leaving the full economic ramifications unpredictable. Prior to COVID-19, the Housing Chapter was already being revised to "Housing & Homelessness" refocusing goals to address homelessness in the near term. This focus has become even more critical in the wake of the pandemic. The DOSP will respond by building robust monitoring and flexibility into implementation.

### 3. Equity: How has racial equity been incorporated into the Plan?

Equity has been prioritized in the Plan with a set of measurable equity indicators, which track policies, programs, and projects that are intended to reduce disparities over the DOSP implementation, corresponding respectively to these indicators. The equity outcomes are embedded across all DOSP elements and not relegated solely as a separate, stand-alone consideration. These measures shall be reviewed regularly for their performance, efficacy, and continued relevance, including meetings with community stakeholders to give guidance and to ground-truth the equity outcomes.

Also, the DOSP has gone through several iterations to ensure that equity objectives are based on the need to redress measured disparities, as well as including equity measures in the benefits associated with each DOSP component. Staff, with the assistance of equity consultants, took steps to engage outreach that informed these iterations more inclusively through focus groups and interviews focused on people of color, unhoused residents, social equity working group meetings, and meeting community members in places where they live and work, including public events such as farmer's markets, the Black Joy Parade and Lunar New Year Festival; and meetings of community groups such as the Oakland Food Policy Council, Black Arts Movement and Business District, and East Oakland Collective.

Staff will continue to prioritize reducing racial disparities under the Plan's equity framework, which, along with the implementation strategy, calls for the creation of an ongoing steering committee that includes community and agency membership to oversee implementation, adaptation and enforcement of the DOSP. We will look at successful models like the City's equity approach to forming its Capital Improvements Program (CIP) as a means of feedback to establish implementation priorities. The Plan provides clear equity indicators and measures, which City leaders and community members will collaboratively address, report on their progress, and revise as needed.

### 4. Monitoring: How will the DOSP's goals be monitored and updated?

Given the breadth of measures and metrics needed to confirm the effectiveness of the DOSP and the ongoing validity of its assumptions, there will be multiple databases compiled in order to do the tracking and evaluations. Specifically, we will:

- Work across City departments and rely on the expertise of the Department of Race and Equity to interpret how the data reflects outcomes and impacts on our most marginalized communities;
- Track data on demographic changes in the specific geographies of downtown;
- Track the purpose, character, location and extent of development projects, along with their costs, schedules and impacts;
- Track the adoption and implementation of new laws and regulations that have outcomes affecting equity and community benefits; and
- Look at the operations and activities of other public agencies at the state, county, and local levels to measure how their investments and projects are also informed and aligned with the DOSP's intent.

The City will rely on a stakeholder implementation steering committee to help review and ground-truth this data to make it an effective tool for community awareness, participation and guidance.

## 5. Accountability: What accountability and transparency measures will there be to ensure meaningful implementation of equity?

In addition to the equity indicators and measures of success, the DOSP calls for the creation of an ongoing implementation steering committee that includes community and agency membership to assist in coordinating and overseeing implementation of this multi-faceted plan that depends on public, private, institutional, and philanthropic partnerships for its success. This regular convening of stakeholders shall be particularly important given the fact that the DOSP has made racial equity a priority. It will be important for community, business, institutional, philanthropic and city leadership to collaborate in implementing comprehensive services and programs to respond to equity issues with specific solutions.

It is important to realize that the adoption of the DOSP does not mean termination of ongoing planning efforts to implement elements of the plan where contemporaneous timing is propitious. The post-adoption phase will be a dynamic period testing the DOSP's effectiveness; the guidance and transparency of the DOSP's implementation must continue over its entire life. This ongoing stewardship will be even more critical given the changing events that are occurring at the very time of this DOSP's adoption and the ramifications they have in testing assumptions and approaches that were valid at the time of the DOSP's adoption.

## 6. Community Input

Where can we see community comments?

All comments received on the Draft DOSP are available for review in a spreadsheet and summary form on the [Community Input](#) section of the [DOSP website](#). The full text of comments on the Draft DOSP are in a spreadsheet and posted on the Community Input page.

How is the Community Advisory Group's (CAG's) Feedback incorporated?

The CAG's recommendations are a vital source of continuous guidance in the DOSP process. The Final Draft Plan will document how the revisions respond to community comments on the Draft DOSP and Draft EIR, including those provided by the CAG. The CAG will continue to be consulted through the remaining phases toward adoption, with multiple meetings to understand the group's collective: 1) preferences for zoning; 2) priorities, for the outcomes of the zoning incentive program; and 3) advice for structuring zoning amendments including incentives, affordable housing, and transfer of development rights (TDR). This group will also serve an advisory role in the formulation of the steering committee that guides the post-adoption implementation.

What community benefits does the DOSP intend to achieve, and how?

The DOSP contains a comprehensive implementation program targeted at achieving community benefits throughout the entire DOSP area in the areas of housing, homelessness, economic opportunity, public safety, community health, sustainability, land use, mobility, and preservation.

The Plan will also bring benefits such as new jobs, housing, and tax revenue generation to the community by making development more feasible through infrastructure improvements, environmental clearance, and streamlining the review process for projects that meet DOSP goals. Development, when targeted in transit-rich areas such as Downtown Oakland, provides benefits to the community such as increased housing supply, jobs, retail, cultural opportunities, increased transit ridership, tax revenues, reduced driving and therefore pollution, and safe, active streets.

At the same time, the DOSP recognizes that the community has both existing needs and needs generated by the new development that will not be met by the marketplace alone. To ensure that development does meet the community's needs, the DOSP includes policies, development regulations, fees and programs targeted to benefit communities whom government and private development have often excluded from the benefits of development in the past through redlining, discrimination, segregation, predatory lending and other forms of racial and economic restrictions.

Many of the recommended programs in the DOSP will require funding that does not currently exist. The DOSP proposes new and expanded sources of funding. This includes one-time development fees designed to mitigate the impact of the new development (such as the need for additional parks, transportation and fire service improvements). It also includes funds designed to mitigate existing deficits such as affordable housing or parks maintenance, either through bonds, ongoing fees, or tax revenues that are collected in the City's General Fund.

Every chapter of the DOSP proposes new policies, programs and implementation actions to provide benefits to the community through a variety of funding mechanisms. Some of the key benefits the DOSP intends to provide are illustrated in the chart below: *Downtown Oakland Specific Plan Policies and Programs to Provide Community Benefit*. Please see the Draft Plan for a full set of draft policies, programs and implementation actions. The Final Draft Plan will contain a revised set of these based on community input during the Draft Plan public review period in late 2019. These programs are proposed for further analysis and development after adoption.

**Downtown Oakland Specific Plan Policies and Programs to Provide Community Benefit**

<b>Chapters</b>	Economic Opportunity	Housing & Homelessness	Culture Keeping	Mobility	Community Health & Sustainability	Land Use
<b>Implementing Policies &amp; Actions</b>	<p>Master lease and/or land trust program to provide below market rate commercial space to nonprofits, arts organizations, ad local and culturally relevant businesses</p> <p>Funding for façade improvement program, targeting businesses and nonprofits that meet income criteral and in cultural districts</p> <p>Explore co-working and maker space for emerging businesses in an expanded Main Library</p> <p>Youth empowerment zone program to support education, job training and entrepreneurship</p> <p>Zoning incentive program to provide below-market rent commercial space</p>	<p>Supplemental impact fee or inclusionary requirement for affordable housing</p> <p>Enhanded Infrastructure Financing District to reinvest growth in property tax revenue into housing</p> <p>Proactively identify homeowners at risk of foreclosure and direct them to resources</p> <p>Provide storage lockers for unsheltered residents</p> <p>Prioritize affordable housing for people who have been displaced from Oakland for broader economic reasons</p> <p>Zoning incentive program to provide family-friendly units</p>	<p>Arts and cultural districts program to provide economic support, marketing, signage, art, wayfinding, etc.</p> <p>Master lease program to provide below market rate commercial space to culturally relevant businesses</p> <p>Fee to fund improvements to cultural facilities such as the Malonga Center, OACC and AAMLO</p> <p>Land trust model to stabilize cultural businesses, institutions and residents through community ownership of land</p> <p>Zoning incentive program to provide below-market rent commercial space</p>	<p>Safety and ADA improvements to the pedestrian network</p> <p>Link neighborhoods through the Green Loop, West Oakland Walk and other improvements</p> <p>Signal upgrades to reduce delay, accommodate two-way streets</p> <p>Transit priority treatments to improve transit reliability and shorten trips</p> <p>Improved bus stops, lighting, shelters, benches</p> <p>Regional low-income fare or pass for transit</p> <p>Active curbside management to ensure parking for business patrons</p>	<p>Drinking water and restroom facilities in parks and other public spaces</p> <p>Street team of social service professionals to respond to non-violent disturbances and mental health calls for service</p> <p>Parks and public space maintenance via increase to LLAD fees</p> <p>Green Loop to connect parks and access to the Lake Merrit Channel</p> <p>New or expanded Main Library</p> <p>Development requirements to minimize climate change and mitigate sea level rise impacts</p> <p>Electric charging stations</p>	<p>Transfer of Development Rights (TDR) program to allow increased development by protecting historic properties</p> <p>Policy changes to require development provide publicly accessible open space or a parkland dedication fee</p> <p>Coordination of new development to minimize impacts of construction on streets, residents and small businesses</p> <p>Zoning incentive program to allow increased development potential in exchange for community benefits</p>

## Questions about Zoning and the Zoning Incentive Program

### 1. Zoning: What will be contained in the zoning update?

Modified zoning to implement the DOSP will be adopted at the same time as the DOSP, which is currently being revised for final adoption hearings based on public comment received on the Draft Plan in fall 2019. These new zoning provisions will specify not only land uses, building intensities, and development standards, but also metrics, procedures, and requirements for being granted bonus density through a zoning incentive program.

### 2. Zoning Incentive Program: What is a zoning incentive program, and how does it relate to the DOSP?

As part of the implementation of the DOSP the City is recommending creation of a zoning incentive program for downtown. The zoning incentive program would be adopted as part of the Oakland Planning Code and establish a defined approach to ensuring that benefits from new downtown development fulfill unmet community objectives while also providing transparency to the public and certainty for developers.

The zoning incentive program, a draft of which is expected to be available for public review as part of the draft zoning amendments in early 2021, is one of many tools designed to implement the goals of the DOSP, and is only one part of the overall modified zoning that will implement the DOSP, others including updated land use activities, objective design standards and a transfer of development rights program .

The zoning incentive program is a **voluntary** program in which a developer can elect to provide community benefits – many of which may not be achievable through standard zoning requirements – in return for the incentive of increased development potential (height, density, floor area ratio, etc.). Because participation is not required, any benefits that Oakland expects **all** developments to provide by default should be achieved through different means, such as generally applicable development impact fees.

This voluntary program is **over and above** other means of achieving community benefits, including:

- **Existing** zoning requirements for developers to provide benefits such as streetscape improvements adjacent to their project, bicycle parking, and protection of historic buildings;
- **Potential new** requirements for developers, that may include publicly accessible private open spaces, design standards for universal and family-friendly housing, and site changes in response to projected sea level rise;
- **Existing** requirements to pay impact fees for affordable housing, capital improvements (including for parks, libraries, police and fire), and transportation;
- **Existing** requirements to provide art or arts and cultural programming space on-site or on the public right of way, pay an in-lieu fee, or contribute to capital improvements at a nearby City-owned arts facility; and
- **New or expanded** programs and funding sources proposed throughout the Downtown Oakland Specific Plan to provide community benefits such as:
  - An Enhanced Infrastructure Financing District (EIFD) to help pay for affordable housing, transportation, capital improvements, and other downtown needs;
  - Increases to the impact fees for affordable housing, capital improvements and transportation;

- Increases to the Landscape and Lighting Assessment District (LLAD) fee for park and streetscape maintenance;
- A master lease program to provide below market-rate commercial, arts and nonprofit space;
- Partnerships to expand local-hire initiatives, training and apprenticeships; and many other proposed new programs that were reviewed as part of the Draft DOSP, which is available on the DOSP website at <https://www.oaklandca.gov/topics/downtown-oakland-specific-plan>. See Specific Plan Question 8, above, for more examples.

### 3. Downzoning: Will the DOSP downzone to achieve greater community benefits, and if not, why not?

Zoning incentive programs are typically applied only to areas that are gaining new land value through up-zoning. The purpose for this alignment is to capture a portion of this new value the City has created through upzoning to achieve public purposes. Community members have often asked whether the City could instead (or additionally) down-zone parts of the downtown in order to require developers to provide more benefits in order to develop their properties to the same level as allowed under the current zoning.

While it is understandable that a strategy requesting down-zoning would be part of the community's consideration for an incentive-based regulatory approach, this method has several limitations.

City staff and the economic consultants do not recommend imposing lower base intensities for the purpose of increasing the relative value or attractiveness of incentive density bonuses. There are several reasons for this:

- It would be inconsistent with current zoning allowances. Lowering base densities would create uncertainties for the development community, including both property owners that made investments in downtown based on the existing zoning and future investors who might be wary of encountering similar “clawbacks” of development potential.
- It would be inconsistent with the recommendations of the DOSP itself. The DOSP recommends that in the downtown, which is the most transit-rich area in the East Bay, development provide dense housing, jobs and other resources. Reducing the by-right zoning to attempt to force developers to participate in the voluntary incentive program runs the risk that a developer may not opt into the program, meaning development will only occur up to the by-right limit. If they were to follow this path, then they would: 1) leave development potential on the table in Oakland's prime, most transit-oriented sites for density, which would have permanent or at least decades long negative repercussions on the City's ability to add residential density to those sites served most by transit, and 2) Oakland would forego receipt of impact fees (or on-site affordable housing units) that the development would otherwise provide toward affordable housing, transportation, and capital improvements.
- It would be inconsistent with recent State laws that have prohibited broad down-zonings unless there is an explicit, concurrent, and commensurate increase in housing capacity in another area of the city. SB 330, which became effective January 1, 2020, prohibits the City from downzoning parcels of land where housing is an allowable use. Further, general or specific plan land use designations may not be changed to a less intensive use as compared to what was allowed as of January 1, 2018. This

provision includes reductions in height, density or floor area ratio, or other types of increased requirements.

SB 330 does permit downzoning in limited circumstances wherever there are changes in land use designations or zoning elsewhere in the City that ensure no net loss in residential capacity. However, this would require the City to specifically locate areas where there would be a corresponding “upzoning” to increase residential capacity so there is “no net loss” of residential capacity.

SB 330 also permits downzoning for the purpose of facilitating affordable housing projects such as Single Room Occupancy, inclusionary housing, and other types of affordable housing projects. The City does not interpret this provision to permit downzoning for the purpose of *potentially* inducing affordable housing through voluntary density bonus or zoning incentive projects.

It should be noted that the DOSP does decrease intensities in some areas of downtown to be consistent with the development intensity of certain historic areas, but does so selectively and strategically with the intent of increasing—not reducing—the overall allowed density and FAR downtown.

4. Incentive Program Benefits: What is the current menu of benefits (with definitions), and how did we select these benefits?

Benefits: Proposed Benefits

Staff have proposed that the zoning incentive program allow developers to either: 1) provide benefits themselves on-site (or elsewhere in the downtown), or 2) pay into a fund that will provide benefits throughout the downtown area. To participate using option 1, developers will be provided with a limited menu of benefit options.

The prioritized list of benefits for that menu of on-site options as of the July 16, 2020 CAG meeting is shown in the table below:

	Art + Garage District	Lake Merritt Office District	Broadway	Black Arts Movement and Business District / City Center / 14 <sup>th</sup> Street	Jack London West	Jack London East	Victory Court
Affordable and family-friendly housing	X	X	X	X	X	X	X
Homeless Services	X	X	X	X	X	X	X
Economic Opportunity	X	X	X	X	X	X	X
Culture Keeping (including below market rate space)	X	X		X	X		
Neighborhood- and culturally-relevant streetscape and open space			X			X	X

The determination whether benefits will be consistent throughout the zoning incentive program area or differ by sub-area had not been made as of the time of that meeting.

Because the menu will need to provide clear options with specific values attached, staff has recommended these benefit categories, which are not specific enough to be valued monetarily or provide clear guidance for developers, be operationalized as the following specific benefits:

- **Affordable and Family-Friendly Housing:** Inclusion of a minimum percentage of very-low-income and/or low-income housing units on site, with an option to provide a specific percentage of these units with three or more bedrooms to accommodate families.
- **Homeless Services:** Provision of space for homeless services on site (possibly including housing, offices for service providers and/or restrooms), and/or a commitment to fund on-going provision of specific supportive services.
- **Economic Opportunity:** Local hiring, job training and prevailing wage during project construction.
- **Culture Keeping:** Inclusion of a minimum percentage or amount of on-site, below-market rate space for non-profits, locally-owned and culturally relevant businesses, arts organizations and/or childcare.
- **Neighborhood- and Culturally-Relevant Streetscape and Open Space:** Provision of specified streetscape and/or open space improvements that exceed basic City requirements (examples include street tree plantings, park improvements, improvements to adjacent freeway underpasses or street infrastructure, art, or wayfinding supporting cultural districts).

Process: What was the process to develop the menu of benefits?

#### **Process to date**

1. Over a hundred meetings, focus groups, workshops and public events occurred during the process of developing the Draft Plan;
2. The Draft DOSP presented a list based on this input from these convenings;
3. The City hired an economic consultant to conduct an economic feasibility study and provide initial estimates of benefits drawn from the Draft Plan list;
4. The CAG met in December 2019 to review the economic consultant's initial feasibility findings;
5. The CAG met in January 2020 to review the order-of-magnitude cost estimates of benefits and consider initial priorities;
6. After the CAG meeting, the DOSP Working Group and two other respondents (from BART and Oakland Public Library) responded to a survey of initial priorities;
7. These responses were used to revise the list and create broader categories based on the Working Group's recommendations;
8. These benefits were discussed, including whether there were specific districts where specific benefits would be more important, using a survey with participants of the May 14, 2020 meeting; participants followed up with additional comments via the survey;
9. Staff reviewed the prioritization from the survey and compared it against the six equity indicators, and clear priorities emerged; *and*

10/15/2020

10. Because a successful zoning incentive program requires a limited number of benefit options to select from, staff developed a list of one specific benefit, based on DOSP priorities and discussion with CAG members, to operationalize each of these categories.
11. CAG members provided feedback at a meeting on July 16, 2020 with the survey tool for collecting that feedback open for an additional week.

### **Process Remaining (as of July 16, 2020)**

1. The City will conduct additional economic analysis to determine the expected value to development projects created by the program's incentives in order to determine the value of the community benefits to be required in return.
2. Staff will incorporate the zoning incentive program into the zoning amendments that will help implement the DOSP.
3. The zoning amendments, including proposed zoning incentive program, will be reviewed by the CAG and broader community.
4. Staff will concurrently develop, in consultation with the CAG, the DOSP's Implementation Steering Committee, which will help guide the disposition of any funds collected through the program, using established Plan goals and additional equity considerations as criteria for prioritization.

The public will have additional opportunities to provide comments at the Zoning Update Committee, the Planning Commission, and City Council meetings as well as comments, recommendations can be made by the Zoning Update Committee and Planning Commission and changes can be made by the City Council during the adoption process.

#### **Equity: How is equity taken into account in the zoning incentive program?**

See Attachment A to the materials prepared for the July 16, 2020 CAG meeting. This table compares the proposed benefits for on-site/off-site provision by developers with the DOSP's six key equity indicators to ensure that the benefits prioritized target these. These equity indicators will be used throughout plan implementation to guide and prioritize implementation actions and to measure success. This includes disposition of any funds that development projects contribute through the zoning incentive program in lieu of providing community benefits on site. The DOSP has a clear set of policies and programs to close the gaps between racial outcomes in these equity indicators, summarized in the introduction, which, along with the input of an inclusive Implementation Steering Committee, will guide disposition of these funds.

#### **Survey: How many people took the CAG survey regarding incentive program benefits?**

Thirty-five people responded to the recent CAG meeting survey, presented to CAG members on May 14, 2020. It should be noted that this survey was intended to augment the CAG meeting, allowing for more detailed and extended responses, in order to address limitations related to a virtual meeting format. This particular survey was for CAG meeting participants only, to help staff generally understand the range of prioritization of benefits and benefits specific to different areas of downtown, and was not intended to be representative of the full universe of Downtown residents, workers, or other stakeholders.

A summary of the survey used for discussion with the Community Advisory Group (CAG) at their May 14, 2020 meeting is available as an appendix to the [Topics for Discussion](#) prepared for the July 16, 2020 meeting.

5. [Other Benefits: If my favored benefit doesn't make it into the final list for the zoning incentive program, does that mean the community won't receive that benefit?](#)

No. The zoning incentive program is only one part of the Plan's overall strategy to address identified community needs. The DOSP contains a comprehensive program of strategies targeted at achieving community benefits in the areas of housing, homelessness, economic opportunity, public safety, community health, sustainability, land use, mobility, and preservation. Many benefits will be provided by the overall DOSP implementation program, of which the zoning incentive program is only one part (and one that will only provide benefits when a developer elects voluntarily to participate).

6. [Mandatory Benefits: Are there mandatory benefits through the zoning incentive program?](#)

No. Because zoning incentive program is voluntary, the City cannot impose requirements through it. However, the City does separately require a number of mandatory project components and mandatory fees and contributions from developers, which include payment towards the City's Landscaping and Lighting District, as well as impact fees for affordable housing, capital improvements (including for parks, libraries, police, fire, and water services), and transportation in the case of residential and commercial projects (for commercial projects only office and warehouse developments are charged the Jobs/Housing Impact Fee that goes into the Affordable Housing Trust Fund to build affordable housing). The DOSP also proposes an expansion of these project requirements. See Question 3, above, for additional examples.

Whether providing a "first tier" of benefits will be required as part of this voluntary program in order to take advantage of further tiers of incentives is a separate question, which is being considered as part of the development of the zoning incentive program. The draft of this program will be reviewed by the public.

7. [Benefit Areas](#)

[Would benefits be provided throughout the DOSP area, or only in individual districts?](#)

The DOSP contains a comprehensive program of strategies targeted at achieving community benefits throughout the entire Plan area in the areas of housing, homelessness, economic opportunity, public safety, community health, sustainability, land use, mobility, and preservation. The zoning incentive program, which is only one part of the Plan's overall strategy to address identified community needs, applies only in the Plan areas that are gaining new land value through up-zoning. Projects can earn a zoning incentive through either incorporating one or more of the limited menu of on-site benefit options, or pay an equivalent fee that could go toward community benefits anywhere in the overall Plan area.

[How were the zoning incentive program areas determined?](#)

Incentive areas are based on the areas of the downtown that are gaining new land value through the city rezoning process as part of the DOSP, such as increasing the allowed maximum height, density, or floor-area ratio (FAR) as well as allowing uses not previously allowed. These include:

- Areas with existing height limits that can be increased
- Areas that already allow unlimited height, but have limitations on density or FAR (primarily in the central core)
- Previously industrial areas where residential uses will now be clearly and easily permitted (such as parts of the Victory Court area in the east of Jack London)

Historic Areas of Primary Importance are not included in the incentive program in order to preserve their historic character.

These areas were shown in Draft Plan Figure LU-10a: Proposed Maximum Intensity Map and described on p.216 of the Draft Plan. A revised version of the map is available; some additional changes from the Draft Plan include:

- Adding additional density and floor area ratio to some of the properties along the 14<sup>th</sup> Street corridor.
- Stepping down some of the allowed heights along the west side of the Lake Merritt Channel.

The areas subject to the zoning incentive program are those areas that would receive additional development capacity under the DOSP and the related rezoning. These are the areas where voluntary participation in the zoning incentive program would result in extra development potential for developers and owners while also providing benefits to the community.

#### 8. Outreach: what is the outreach process the City is engaging in to solicit community input, and how will that process include the hardest-to-reach community members?

Planning staff have undertaken significant outreach, including attendance at nearly one hundred public hearings, stakeholder meetings and community events, since the Downtown Oakland Specific Plan (DOSP) process was relaunched with a racial equity lens in 2017.

Building on the outreach methods utilized by the City's Office of Race and Equity as well as the equity consulting team brought in during the project relaunch, the DOSP planning staff have changed their approach to community engagement by switching from large public workshops to sending staff to smaller meetings of existing organizations; offering food and childcare whenever we host issue-specific meetings; and attending public events attended by people of all ages, particularly targeting historically underserved communities of color; and requesting demographic information to track participation of underserved populations in order to socialize the DOSP process to constituents who may not attend other scheduled meetings and who would otherwise be unaware of this project. The City will continue to apply and extend principles of inclusion and equity when developing these upcoming DOSP outreach efforts.

With the close of the comment period on the Draft Plan in the fall of 2019, the remaining outreach for the Plan will focus on gathering input on the development of draft zoning amendments, which includes the zoning incentive program and developing an inclusive implementation steering committee.

Staff will focus on increasing turnout at Community Advisory Group (CAG) meetings, and eliciting broad participation in the area-specific community meetings. We shall need ongoing guidance from the CAG to ensure that constituent groups are reached. This more robust outreach with CAG guidance will ensure as the DOSP process approaches this final phase, that outreach efforts effectively inform the

development of draft zoning amendments and zoning incentive program that will implement the DOSP and are intended to be adopted concurrently with the final version of the DOSP. Outreach prior to adoption will also focus on developing an inclusive implementation steering committee to support and guide the long-term implementation and monitoring of the DOSP.

#### 9. Community Benefits Agreements: What is the difference between a zoning incentive program and a community benefits agreement (CBA)?

An adopted zoning incentive program will establish a finite number of pre-defined community benefits that must be provided by developments in exchange for increases in building intensity and will be enforced by the City through Conditions of Approval. Finalizing a zoning incentive program for downtown and its menu of pre-defined benefits will be done in partnership with the community.

Community Benefit Agreements, or CBAs, are not being considered as part of the zoning incentive program, because they often involve protracted singular negotiations toward uncertain benefits. They are one-off agreements negotiated privately. As a result, CBAs do not guarantee the same transparency or certainty to the public or developers that an adopted incentive program with defined benefit requirements can provide.

#### 10. Howard Terminal: What is the relationship between the DOSP zoning incentive program and the Howard Terminal Community Benefits Agreement?

The two efforts are distinct. While City is supporting the community process related to creating a community benefits agreement for the proposal by the Oakland Athletics to build a ballpark at Howard Terminal, the ballpark is a privately-proposed development project that is going through its own planning process. This is separate from the City's public specific planning process for the DOSP, which started years prior to the ballpark proposal and addresses a much larger area. Howard Terminal is not included in the DOSP boundaries. Each project would be approved or not approved independently of one another. However, because community members are expressing interests through the CBA process about areas beyond Howard Terminal, DOSP staff are in contact with the City's Howard Terminal CBA staff to share any new information that emerges about the areas of overlap.

### Questions about Specific Community Benefits

#### 1. Economic Opportunity: Is local hiring the only option being contemplated? Does this include credits or net effects of the fiscal impacts of new development? Permanent (as opposed to temporary construction) jobs created by new office space and businesses?)

Staff is currently suggesting that "economic opportunity" be operationalized for the purposes of the zoning incentive program primarily through local hiring, job training and wage floors applicable during project construction. Staff is not recommending including permanent local hiring for businesses that eventually occupy the development projects due to legal and operational concerns as to how this would be implemented or enforced.

## 2. Labor: Why are labor benefits not included as requirements everywhere?

As a general rule, the City cannot legally mandate labor contract requirements for private projects unless under certain narrow circumstances, including the following: the City owns the land upon which the project will be located, sells or leases the land for the project, contributes financially to the project, approves the project under SB35, or negotiates a Development Agreement (DA) with a developer and they voluntarily agree to this as part of the terms of the DA.

## 3. Affordable Housing

Why isn't it mandatory with any new development? Is there no requirement that affordable housing can be located anywhere within the DOSP area rather than just within specified districts?

The City already requires that residential projects pay affordable housing impact fees to support construction of affordable units at other locations or provide a minimum percentage of affordable units on site and State law also provides for a density bonus for affordable projects. If affordability is included as a community benefit, it would be IN ADDITION TO the local impact fee requirements and State density bonus.

The City made the decision to implement affordable housing impact fees because at the time it was not legal to require inclusionary housing for rental units. O.M.C. Chapter 15.72 provides an option to provide affordable housing on site, but there is no inclusionary housing requirement in the City of Oakland. The Draft DOSP recommends studying an inclusionary housing policy for the downtown when the Impact Fee Nexus Study is updated. Even if there is an inclusionary housing requirement, most cities have the option to pay a fee instead.

Can we require more deeply affordable housing than provided under the State Density Bonus?

Oakland is required to allow the State Density Bonus per State Law. We can develop a separate program option, but the City must always allow a State Density Bonus if a developer chooses to use it. If Oakland makes their bonus program too complicated and stringent the developer may choose to do the State Density Bonus program over the City's bonus program.

Also, there is a cap that the City's bonus can allow because it cannot exceed what was studied in the EIR for the Specific Plan, where as if the City's bonus is applied first and maximizes what was studied in the EIR, the State Density Bonus can exceed the maximum of what was studied in the EIR. If instead the developer chooses to only use the City's bonus and not include the State Density Bonus, they are still required to pay Impact Fees on all of the units, including the bonus units, therefore they will be paying higher impact fees (affordable housing impact fees are included in this), so there will still be more money to build affordable units in the City than if the bonus was not used by the developer. This would be in addition to the community benefits being provided under the program. Thus, in either scenario, The program would encourage more on-site affordable units being built or more money being collected through Impact Fees to build affordable housing. Finally, the developer will still have the option to not use the City's bonus and only use the State Density Bonus. The local program, as with the State program, is entirely voluntary.

#### 4. Parking: Why is parking not included as a benefit, particularly given the need for parking in the BAMBD?

Oakland's transportation and climate policies favor a transition toward decreased provision of onsite parking and increased emphasis on walking, biking, and public transportation. For the Black Arts Movement District specifically, public parking was ranked 9th out of twelve community benefit categories by participating CAG members, with an overall score of 4. For comparison, the top-ranked benefit for this district, Culture Keeping, received a score of 40 by CAG members who completed the survey.

However, the rest of the DOSP and other City initiatives address parking, transit and transportation in many other ways. The City has heard clearly from business owners that reductions in parking due to private development of parking lots, as well as due to transportation improvements, have affected their customers' ability to patronize their businesses. This is a sensitive concern for Oaklanders – particularly Oaklanders of color – who have been displaced from Oakland into suburbs and have few options other than driving to patronize the businesses that cater to them.

The City is responding to the shrinking parking supply by supporting efforts to reduce demand for parking, especially through transportation demand management initiatives designed to make it easier and less expensive for employees to commute to work in downtown and through shared mobility programs such as car share, transit pass requirements, bike share and scooter share, and unbundled parking requirements. These TDM measures make it easier for residents and others to live and work downtown without relying on a private vehicle. These measures ensure that parking is available, on-street and off, at the lowest possible rate for visitors and those who depend on driving."