

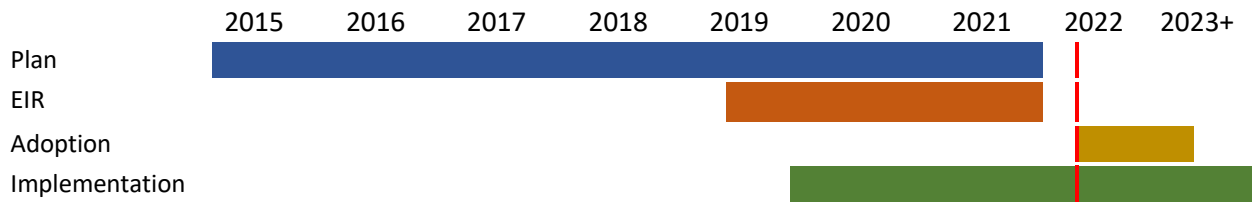
Downtown Oakland Specific Plan & Zoning
Frequently Asked Questions

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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 late 2022 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 those 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, adoption 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

Chapters	Economic Opportunity	Housing & Homelessness	Culture Keeping	Mobility	Community Health & Sustainability	Land Use
Implementing Policies & Actions	<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 mid-2022, 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>.

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.