

August 24, 2022

Location:	Area bounded generally by 27th Street to the north, I-980 and Brush Street to the west, the Jack London estuary waterfront to the south, and Lake Merritt and the Lake Merritt Channel to the east.
Proposal:	Amend the Oakland Zoning Map, Planning Code and General Plan to implement the Downtown Oakland Specific Plan, with the Final Draft Amendments accompanying the Final Draft Downtown Oakland Specific Plan (Draft Plan) for adoption consideration.
Applicant:	City of Oakland
Case File Number:	ZA22006
General Plan:	<p><u>Land Use and Transportation Element (LUTE)</u> Business Mix; Central Business District; Community Commercial; General Industry and Transportation; Institutional; Mixed Housing Type Residential; Neighborhood Center Mixed Use; Urban Park and Open Space; Urban Residential</p> <p><u>Estuary Policy Plan (EPP)</u> Light Industry 1; Mixed Use District; Off-Price Retail District; Parks; Planned Waterfront Development 1; Planned Waterfront Development 4; Produce Market; Retail Dining Entertainment 1; Retail Dining Entertainment 2; Waterfront Commercial Recreation 1; Waterfront Mixed Use; Waterfront Warehouse District</p>
Zoning:	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
Environmental Determination:	The City of Oakland has prepared an Environmental Impact Report (EIR) for the Downtown Oakland Specific Plan project, which includes the proposed amendments. The Draft EIR 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. The Response to Comments on the Draft EIR (comprising the Final EIR) will be brought before the Planning Commission, for recommendation on certification, along with the Final Draft Downtown Oakland Specific Plan and the Final Draft Zoning Map, Planning Code and General Plan Amendments.
Historic Status:	52 Landmarks, 21 Areas of Primary Importance (API); 27 Areas of Secondary Importance (ASI)
City Council District:	2, 3
Status:	The Draft Plan and DEIR received public review and comment in 2019, have subsequently been revised, and will be finalized and brought before the Planning Commission in late 2022. The Draft Zoning Map and Planning Code Amendments are available for review on the project website at bit.ly/OakDOSP .
Action to be Taken:	Staff will introduce the draft amendments to the Oakland Zoning Map, Planning Code and General Plan to implement the objectives of the Downtown Oakland Specific Plan (DOSPP), and receive public and committee member comments.

SUMMARY

On July 13, 2022, Staff presented to the ZUC draft amendments to the Oakland Planning Code and Zoning Map (“Draft Zoning Amendments”) and General Plan to implement the objectives of the Downtown Oakland Specific Plan (DOSP). The ZUC heard public comment and continued the item to August 24, 2022. At the July 13th meeting, Staff heard several questions and requests for clarifications from ZUC members and members of the public, and prepared this Supplemental Report to clarify the following questions by topic.

Additionally, the Zoning Incentive Program (ZIP) Economic Analysis Report from Hausrath Economics Group was not completed in time for consideration by the Committee at their July 13, 2022 meeting, but is included as **Attachment A** to this supplemental report for consideration by the ZUC on August 24th.

Finally, this Supplemental Report contains two corrections to the Draft Zoning Amendments, one to a map and one to text. These are included as **Attachment B**.

QUESTIONS AND CLARIFICATIONS

Zoning Incentive Program

The Zoning Incentive Program captures value from development projects receiving additional development capacity, with a defined menu of community benefits that fulfill unmet community objectives while also providing transparency to developers.

How does the Zoning Incentive Program (ZIP) interact with the State Affordable Housing Density Bonus law (“Density Bonus”)?

The State Density Bonus may be utilized by an applicant after they take advantage of the proposed new Zoning Incentive Program (ZIP) - allowing a project to potentially increase height and density beyond what is allowed under the ZIP Maximum as studied in the DOSP Environmental Impact Report (EIR).

How do the City’s Affordable Housing Impact Fees interact with the ZIP?

In response to community feedback, Staff is studying multiple options for how the Zoning Incentive Program and Affordable Housing Impact fees will interact, including how these are affected by use of the State Density Bonus, which a developer may use in tandem with the ZIP to achieve additional density on top of a base created by the ZIP.

Why did the City not “downzone” to encourage more developer participation in providing community benefits?

The State Legislature’s recently enacted SB 8 restricts cities’ ability to downzone. SB 8 amended Government Code Section 66300 to further clarify SB 330’s prohibition on the downzoning of parcels available for residential capacity.

The legislature’s amendment to Government Code section 66300 requires that a City shall not enact a development policy, standard or condition that would have the effect of changing the

general plan land use designation, specific plan land use designation, or zoning of a parcel or parcels of property to a less intensive use or reducing the intensity of land use within an existing general plan land use designation, specific plan land use designation, or zoning district in effect at the time of the proposed change.

“Reducing the intensity of land use” includes, but is not limited to, reductions to height, density, or floor area ratio, new or increased open space or lot size requirements, new or increased setback requirements, minimum frontage requirements, or maximum lot coverage limitations, or any other action that would individually or cumulatively reduce the site’s residential development capacity.

Thus, the City is prohibited under State law from reducing the development intensity of residential sites within the Downtown Plan area.

Transfer of Development Rights (TDR) Program

Why did the City not propose “downzoning” to encourage use of the Transfer of Development Rights (TDR) program by making it difficult to build without additional development rights?

As discussed above, Government Code section 66300 prohibits the City of Oakland from enacting any development policy, standard or condition that would have the effect of changing the general plan land use designation, specific plan land use designation, or zoning of a parcel or parcels of property to a less intensive use or reducing the intensity of land use within the Downtown Plan area.

“Reducing the intensity of land use” includes, but is not limited to, reductions to height, density, or floor area ratio, new or increased open space or lot size requirements, new or increased setback requirements, minimum frontage requirements, or maximum lot coverage limitations, or any other action that would individually or cumulatively reduce the site’s residential development capacity.

Arts & Culture Zoning

Can the ZUC designate a new cultural district?

The City’s only existing formal cultural district, the Black Arts Movement and Business District (BAMBD), was designated by an ordinance of the City Council. Future cultural districts would be designated similarly. However, the Draft Zoning Amendments proposes the following zoning districts to support the adopted BAMBD cultural district and the long-established Art+ Garage District as arts and cultural hubs:

- *BAMBD Arts & Culture Combining Zone*: This overlay zone applies to a limited area of the BAMBD along 14th Street, requires new projects dedicate 50% of ground floor to arts and cultural uses, with a broad definition of this to include businesses and other institutions owned by and serving the BAMBD community; and requires a Conditional Use Permit (CUP) for non-arts & cultural uses on ground floor.

- *Art + Garage District Zoning*: This zoning district applies only along 24th, 25th and 26th Streets, limits non-arts and auto uses on the ground floor to protect the existing garages and artisan manufacturing uses, including allowing housing only in the form of work/live units (not considered “residential”).

1310 Oak Street (Fire Alarm Building Site)

Why do the Draft Zoning Amendments propose an increase of the maximum height to 90’ and develop high-rise housing instead of keeping it at 45’ when it is a historic resource and adjacent to Lake Merritt?

The Draft Zoning Amendments include an increase in maximum height to 90 feet on this site, containing a Ba1+ rated historic building, to support a wide range of potential new uses of the Fire Alarm Building and its underutilized surrounding property. In particular, the City Council has authorized an Exclusive Negotiating Agreement (Resolution No. 88260 C.M.S.) to allow the city to consider a proposed new Jazz and Art Museum for the site. The City’s purpose in entering into an Exclusive Negotiating Agreement (ENA) is to explore how a Jazz Museum on the site would complement the activity at Lake Merritt and the Oakland Museum of California (OMCA), and act as an anchor institution for the adjacent Black Arts Movement and Business District (BAMBD). The ENA does not propose the site be used for residential purposes. The developer has held public meetings about the project, and additional opportunities for community feedback will occur through a potential extension of the ENA as well as the planning review process.

Formatting

Why are not all amendments shown clearly as amendments?

Zoning sections that have received minimal amendments have been shown in underline and strikeout. For ease of reading, entirely new zoning chapters or chapters that have been entirely re-written are not shown in underline.

ZONING INCENTIVE PROGRAM ECONOMIC REPORT

The economic analysis that was conducted by Hausrath Economics Group (HEG) has been summarized in a final report, shown in **Attachment A**. The report includes a summary of the analysis using a range of prototypes selected from throughout the Zoning Incentive Program area to determine the value created by allowing development projects to increase their density and/or Floor Area Ratio (FAR) from the maximum intensity allowed by right (the “Base Intensity”) to the maximum allowed through the Zoning Incentive Program (the “ZIP Intensity”).

The report also includes an assessment of the costs for developers to provide the benefits that have been identified by the community as priorities for the ZIP.

The HEG analysis produced the schedules in the ZIP section of the Planning Code that identify the amount of benefits to be provided on site (or paid as a fee in lieu) for each additional residential unit or unit of Floor Area Ratio. They also include the accompanying maps, which are necessary because the value achieved through the ZIP, and therefore the value to be captured by the City, varies by downtown subdistrict within the ZIP area.

CORRECTIONS

The Draft Zoning Amendments attached in the Staff Report included two errors, both in the Zoning Incentive Program section, that have been corrected in the attached Draft Zoning Amendments (Attachment B):

- Table 17.101K.09 (Number of Dwelling Units Greater than the Base Maximum Permitted for Each Affordable Housing Unit), page 26, included a typo: The amount of Moderate Income 2-Bedroom units should be 12, not 122. This has been corrected.
- The key for the Base Maximum Intensity Map mis-labeled Height and Intensity Areas 6, 7 & 8. This has been corrected.

RECOMMENDATION

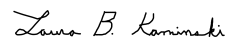
Staff requests that the ZUC comment on the Draft Planning Code, Zoning Map and General Plan Amendments for the DOSP, informed by both the prior Staff Report and this Supplemental Report.

Prepared by:



Joanna Winter, Planner IV

Reviewed by:



Laura Kaminski, Strategic Planning Manager
Bureau of Planning

Approved for forwarding to the Zoning Update Committee:



Ed Manasse, Deputy Director
Bureau of Planning

Attachments:

- A. Zoning Incentive Program Economic Analysis (Hausrath Economics Group)
- B. Corrections to Draft Zoning Amendments

2022-08-24 Supplemental Report DOSP Zoning (Final)

Final Audit Report

2022-08-16

Created:	2022-08-16
By:	Joanna Winter (JWinter@oaklandca.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAXA6I9jYdYPxeNuZzYO_L9Jx6mLVAsghf

"2022-08-24 Supplemental Report DOSP Zoning (Final)" History

-  Document created by Joanna Winter (JWinter@oaklandca.gov)
2022-08-16 - 7:48:51 PM GMT- IP address: 208.90.212.215
-  Document emailed to Laura Kaminski (LKaminski@oaklandca.gov) for signature
2022-08-16 - 7:49:44 PM GMT
-  Document e-signed by Laura Kaminski (LKaminski@oaklandca.gov)
Signature Date: 2022-08-16 - 8:38:16 PM GMT - Time Source: server- IP address: 71.198.249.82
-  Document emailed to Robert Merkamp (RMerkamp@oaklandca.gov) for signature
2022-08-16 - 8:38:18 PM GMT
-  Email viewed by Robert Merkamp (RMerkamp@oaklandca.gov)
2022-08-16 - 8:40:32 PM GMT- IP address: 209.232.103.91
-  Document e-signed by Robert Merkamp (RMerkamp@oaklandca.gov)
Signature Date: 2022-08-16 - 8:52:37 PM GMT - Time Source: server- IP address: 209.232.103.91
-  Agreement completed.
2022-08-16 - 8:52:37 PM GMT



City of
Oakland

Powered by
Adobe
Acrobat Sign