

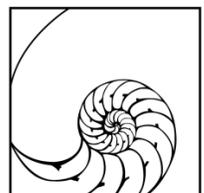
**Education for Change
Latitude High School Project
CEQA Analysis**

Prepared for:

**City of Oakland
Bureau of Planning**
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- Appendix N: Kittelson Associates, Inc., *EFC Derby Avenue Charter School Project Transportation Impact Review*, April 12, 2021, 2021
- Appendix O: Kittelson Associates, *EFC Derby Charter School TDM Plan*, April 2021

Project Characteristics

- 1. Project Title:** Education for Change, Latitude High School Project
PLN20165, PLN20165-PUDF01, PLN20165-PUDF02, PLN20165-ER01
- 2. Lead Agency Name and Address:** City of Oakland
Planning & Building Department
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, CA 94612
- 3. Contact Person and Phone Number:** Gregory Qwan, Planner III
510.238.2958
gqwan@oaklandca.gov
- 4. Project Location:** 1045 Derby Avenue and 0 29th Avenue
Oakland, CA 94607
Assessor's Parcel Numbers 025-693-008 and 025-693-007-02
- 5. Project Sponsor's Name and Address:** Education for Change Public Schools (EFC)
attn.: Ms. Hae-Sin Thomas
333 Hegenberger Road, Suite 600, Oakland, CA, 94621
(510) 568-7936
hthomas@efcps.net
- 6. Existing General Plan Designation:** Regional Commercial
- 7. Existing Zoning:** M-30 General Industrial
- 8. Requested Permits:** Planned Unit Development (PUD) Permit
Preliminary Development Plan (PDP) approval
Final Development Plan (FDP) approval for both Phase I and Phase II developments, Conditional Use Permit for Community Education Civic Activity in an Industrial (M-30) Zone
Parcel Map Waiver to merge lots

Executive Summary

Education for Change Public Schools (EFC) is applying to the City of Oakland for land use approvals to repurpose a number of buildings that comprise a former Caltrans maintenance facility located at 1045 Derby Avenue (three lots), to merge an adjacent vacant parcel (one lot) at 0 29th Avenue, and to eventually construct a new multi-purpose building, all as part of a new charter high school to be known as Latitude High School. The Project site is zoned for General Industrial use (M-30), which allows Community Education Civic Activities (i.e., schools) as a conditionally permitted use. EFC seeks approval for the new school under the terms of a Planned Unit Development (PUD) permit, to allow for phased development of the Project and to permit Community Education use as a conditionally permitted activity. In addition, EFC seeks a Parcel Map Waiver to merge the four parcels. EFC is additionally pursuing permits to:

- implement seismic upgrades and mechanical, electrical and plumbing improvements as needed for all of the existing buildings on the Project site
- implement certain corrective actions as required by Alameda County Department of Environmental Health to address identified soil contamination and soil vapor conditions at the site, including paving the majority of the 29th Avenue property as an impermeable cap
- stripe the paved 29th Avenue property for outdoor play fields, and
- eventually construct a new multi-purpose building/gymnasium at the Project site

The City of Oakland's discretionary approvals required for the Project include approval of a Planned Unit Development (PUD) permit; approval of a Preliminary Development Plan (PDP) for the entirety of the Project; approval of a Final Development Plan (FDP) for both Phases; a Major Conditional Use Permit for a Community Education Civic Activity in the M-30 General Industrial Zone (M-30 Zone); and approval of a Parcel Map Waiver to merge the four lots. These City of Oakland discretionary approvals are subject to review pursuant to the California Environmental Quality Act (CEQA).

The Project is consistent with the land use and development strategies for this site as presented in the Land Use and Transportation Element of the General Plan (the LUTE), and is consistent with applicable M-30 General Industrial and Planned Unit Development zoning regulations of the Oakland Municipal Code. A Program EIR was prepared and certified by the City for the General Plan Land Use and Transportation Element (the LUTE EIR), and the Project is consistent with the development assumptions of that prior LUTE EIR.

The following CEQA Analysis/CEQA Checklist prepared for the Project demonstrates that the Project will not result in significant impacts that were not previously identified as significant project-level, cumulative or off-site effects in the LUTE EIR, and that the Project would not result in any new or more severe environmental effects than previously disclosed in the LUTE EIR. The Project's potentially significant effects have already been addressed as such in the LUTE EIR, and will be substantially mitigated by the imposition of Standard Conditions of Approval (SCAs). Based on these environmental conclusions, the Project is eligible for CEQA streamlining and/or tiering provisions under CEQA Guidelines Section 15183, which provide for streamlined review when a project is consistent with a Community or General Plan, and the environmental impacts of that Plan have been analyzed in a certified program Environmental Impact Report (i.e., the LUTE EIR).

As such, no further environmental documents are required of the Project, in accordance with CEQA Guidelines Section 15183.

Purpose of this CEQA Document

The purpose of this document is to provide required CEQA review for the proposed Project. As such, this document includes:

- a description of the proposed Project
- an assessment of whether the Project qualifies for CEQA streamlining pursuant to CEQA Guidelines Section 15183, as a project that is consistent with the development intensity established by existing zoning, community plan or general plan policies for which an EIR was certified, and
- an examination of whether there are Project-specific significant effects that are peculiar to the Project or its site, and that would necessitate preparation of a subsequent or supplemental Environmental Impact Report

The applicable CEQA section that provide a basis for streamlined CEQA compliance is described below.

Applicable CEQA Provisions

Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183 mandates that, *“projects that are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. This streamlines the review of such projects and reduces the need to prepare repetitive environmental studies.”*

This provision of CEQA applies only to projects that are consistent with: a) a community plan adopted as part of a general plan, b) a zoning action which zoned or designated the parcel on which the project would be located to accommodate a particular density of development, or c) a general plan of a local agency; and an EIR was certified by the lead agency for the zoning action, the community plan, or the general plan. Section 15183(a) provides that, in approving a project meeting these requirements, “a public agency shall limit its examination of environmental effects to those impacts that the agency determines, in an initial study or other analysis:

- are peculiar to the project or the parcel on which the project would be located,
- are not analyzed as significant effects in a prior EIR on the zoning action, general plan or community plan,
- are potentially significant off-site impacts and cumulative impacts that were not discussed in the prior EIR prepared for the general plan, community plan or zoning action, or
- are previously identified significant effects which, as a result of substantial new information which was not known at the time the prior EIR was certified, are determined to have a more severe adverse impact than discussed in the prior EIR”

Section 15183(c) provides that, “if an impact is not peculiar to the parcel or to the project, has been addressed as a significant effect in the prior EIR, or can be substantially mitigated by the imposition of uniformly applied development policies or standards, . . . then an additional EIR need not be prepared for the project solely on the basis of that impact.” When reviewing the environmental effects of a project pursuant to these provisions, “an effect of the project on the environment shall not be considered peculiar to the project or the parcel . . . if uniformly applied development policies or standards have been previously adopted by the city, with a finding that the development policies or standards will substantially mitigate that environmental effect when applied to future projects, unless substantial new information shows that the policies or standards will not substantially mitigate the environmental effect. The finding shall be based on substantial evidence which need not include an

EIR.” These provisions further provide that if the City, “failed to make a finding as to whether such policies or standards would substantially mitigate the effects of future projects, the decision-making body of the city, prior to approving such a future project pursuant to this section, may hold a public hearing for the purpose of considering whether, as applied to the project, such standards or policies would substantially mitigate the effects of the project. Such a public hearing need only be held if the city decides to apply the standards or policies as permitted in this section.”

Furthermore, Section 15183(j) provides that, “this section does not affect any requirement to analyze potentially significant off-site or cumulative impacts, if those impacts were not adequately discussed in the prior EIR. If a significant off-site or cumulative impact was adequately discussed in the prior EIR, then this section may be used as a basis for excluding further analysis of that off-site or cumulative impact.”

Subsequent sections of this CEQA Analysis document provide substantial evidence to support a conclusion that the Project qualifies for streamlined review under CEQA Guidelines Section 15183, and that no effects of the Project on the environment are peculiar to the project or the parcel when uniformly applied development policies or standards (i.e., City of Oakland Standard Conditions of Approval – or SCAs) are applied to the Project. A complete list of uniformly applied development standards (or City SCAs) that are applicable to the Project can be found in **Appendix A**, as cited throughout the CEQA Checklist.

Reliance on a Prior Program EIR

The provisions of CEQA Guidelines Section 15183 requires the Project to be consistent with a zoning action, a community plan, or the General Plan, as well as the EIR that was certified for those plans, policies or regulations. The City of Oakland prepared a program-level EIR for the General Plan Land Use and Transportation Element (the LUTE EIR) that is applicable to the Project and its site, and that provides programmatic environmental review of infill development and redevelopment (such as the Project).

Pursuant to CEQA Guidelines Section 15168, “a program EIR is an EIR that has been prepared on a series of actions that can be characterized as one large project and that are related either geographically, as logical parts in a chain of contemplated actions, in connection with general criteria to govern the conduct of a continuing program, or as individual activities carried out under the same authorizing statute or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways.”

Further, pursuant to CEQA Guidelines Section 15168(c), “later activities in the program must be examined in the light of the program EIR to determine whether an additional environmental document must be prepared:”

- If a later activity would have effects that were not examined in the program EIR, a new initial study would need to be prepared leading to either an EIR or a negative declaration. That later analysis may tier from the program EIR as provided in Section 15152.
- If the agency finds, pursuant to Section 15162, that no subsequent EIR would be required, the agency can approve the activity as being within the scope of the project covered by the program EIR, and no new environmental document would be required. Whether a later activity is within the scope of a program EIR is a factual question that the lead agency determines based on substantial evidence in the record. Factors that an agency may consider in making that determination include, but are not limited to consistency of the later activity with the type of allowable land use, overall planned density and building intensity, geographic area analyzed for environmental impacts, and covered infrastructure, as described in the program EIR.
- An agency shall incorporate feasible mitigation measures and alternatives developed in the program EIR into later activities in the program.

- Where the later activities involve site-specific operations, the agency should use a written checklist or similar device to document the evaluation of the site and the activity, to determine whether the environmental effects of the operation were within the scope of the program EIR.

The Program EIR relied on for this analysis is the City of Oakland General Plan Land Use and Transportation Element (LUTE) EIR. This prior Program EIR is applicable to the Project and supports the streamlining and/or tiering provisions under CEQA Section 15183. The CEQA Analysis for the Project, as provided in the following Checklist, evaluates the specific environmental effects of the Project in light of the analysis and conclusions addressed in this prior Program EIR. The LUTE EIR is hereby incorporated by reference and can be obtained on the City of Oakland Planning and Building Department website at: <https://www.oaklandca.gov/resources/environmental-review-docs>

Land Use and Transportation Element EIR

The Land Use and Transportation Element of the City General Plan identifies policies to guide land use changes in the City, and sets forth an action program to implement the land use policy through development controls and other strategies. The City approved the Land Use and Transportation Element of the General Plan and certified the LUTE EIR in 1998. The LUTE EIR is a Program EIR as defined under CEQA Guidelines §15168 and §15183. As such, subsequent activities pursuant to the LUTE are subject to requirements under these CEQA sections.

Applicable mitigation measures identified in the LUTE EIR are functionally equivalent to the City's current Standard Conditions of Approval.

Environmental Effects Summary –LUTE EIR

The LUTE EIR and its Initial Study determined that development consistent with the LUTE would result in impacts that would be less than significant for the following topic: aesthetics (scenic resources, light and glare); air quality (clean air plan consistency, roadway emissions in downtown, energy use emissions, local/regional climate change);¹ biological resources; cultural resources (historic context/settings, architectural compatibility); energy; geology and seismicity; hydrology and water quality; land use (conflicts in mixed use projects and near transit); noise (roadway noise downtown and citywide, multifamily near transportation/transit improvements); population and housing (exceeding household projections, housing displacement from industrial encroachment); public services (water demand, wastewater flows, stormwater quality, parks services); and transportation/circulation (transit demand). No impacts were identified for agricultural or forestry resources, and mineral resources.

The LUTE EIR and its Initial Study determined that development consistent with the LUTE would result in impacts that would be reduced to a level of less than significant with implementation of mitigation measures for the following topics:

- aesthetics (views, architectural compatibility and shadow only);
- air quality (construction dust [including PM₁₀] and emissions Downtown, odors);
- cultural resources (except those specific impacts identified above as less than significant);
- hazards and hazardous materials;

¹ Climate change and greenhouse gas emissions were not expressly addressed in the 1998 LUTE EIR. (See GHG Section for further discussion.)

- land use (use and density incompatibilities);
- noise (use and density incompatibilities, including from transit/transportation improvements);
- population and housing (induced growth, policy consistency/clean air plan); and
- public services (except as noted below as significant); and transportation/circulation (intersection operations Downtown)

The LUTE EIR determined that development consistent with the LUTE would result in significant and unavoidable impacts for the following environmental topics:

- air quality (regional emissions, roadway emissions in the downtown, and inconsistency with the Clean Air Plan);
- noise (construction noise and vibration in downtown);
- public services (fire safety);
- transportation/circulation (roadway segment operations); and
- wind hazards

Due to the potential for significant unavoidable impacts, a Statement of Overriding Considerations was adopted as part of the City's approval of the LUTE.

Gateway Draft EIR

In 2007, the City of Oakland prepared a Draft EIR for a project known as the Gateway Community Development Project.² The Gateway Community Development Project proposed to redevelop several city blocks in the Fruitvale area, including those properties that are now part of the proposed Latitude High School Project. That Gateway Community Development Project was not approved and its EIR was not certified. However, its Draft EIR did include a number of technical studies that provide information about the site and its surroundings. Although those technical studies are now 13 to 14 years old, much of the information contained in those technical studies pertaining to biological resources, geology and soils, historic and cultural resources and other topics have not changed over time, and remain relevant to current conditions at the site today.

Because the Gateway Community Development Project EIR was not certified, this CEQA Analysis for the proposed Latitude High School Project does not tier from the 2007 Gateway Community Development Project Draft EIR, nor does it rely on the conclusions of that prior Draft EIR. However, to the extent that information from the 2007 Draft EIR does remain relevant to current condition, this information is used and cited in this analysis, and certain current CEQA conclusions for the Latitude High School Project do rely on background information, technical studies and investigations contained within that prior 2007 document.

Standard Conditions of Approval

The City of Oakland established its Standard Conditions of Approval and Uniformly Applied Development Standards (SCAs) in 2008, and they have been amended and revised several times since then. The City's SCAs are incorporated into projects as conditions of approval regardless of a project's environmental determination. The SCAs incorporate policies and standards from various adopted plans, policies and ordinances including the Oakland Planning and Municipal Codes, Oakland Creek Protection Ordinance, Stormwater Water Management and Discharge Control Ordinance, Oakland Protected Trees Ordinance, Oakland Grading Regulations, National

² City of Oakland, Gateway Community Development Project Draft EIR, 2007, accessed at: <https://www.oaklandca.gov/resources/current-environmental-review-ceqa-eir-documents-2011-2020>

Pollutant Discharge Elimination System (NPDES) permit requirements, Housing Element-related mitigation measures, California Building Code and Uniform Fire Code, and the 2030 Equitable Climate Action Plan (ECAP), among others. These SCAs have been found to substantially mitigate environmental effects. SCAs are adopted as requirements of an individual project when it is approved by the City and are designed to, and will substantially mitigate environmental effects.

Consistent with the requirements of CEQA, the assessments made in this CEQA Analysis of whether the Project would have significant impacts are determined prior to approval of the Project. Where applicable, SCAs and (in certain cases) detailed recommendations to further implement the SCAs specific to the Project, have been identified to mitigate those impacts. In some instances, exactly how the SCAs will be achieved awaits completion of future studies, an approach that is legally permissible where SCAs are known to be feasible for the impact identified; where subsequent compliance with identified federal, state, or local regulations or requirements apply; where specific performance criteria are specified and required; and where the Project commits to developing measures that comply with the requirements and criteria identified.

SCAs that apply to the Project are listed in **Appendix A** to this document, which is incorporated by reference into this CEQA Analysis. Because the SCAs are mandatory City requirements, the impact analysis for the Project assumes that they will be imposed and implemented, and the Project applicant has agreed to implement these SCAs or to ensure that they are implemented as part of the Project. If this CEQA Checklist or its attachments inaccurately identifies or fails to list an applicable mitigation measure or SCA, that mitigation measure or SCA remains applicable to the Project.

Project Description

Background

Project sponsor and applicant, Education for Change Public Schools (EFC), is a non-profit public benefit corporation, operating as a Charter School Management Organization. EFC currently operates several public charter schools in Oakland and in the surrounding Fruitvale neighborhood:

- Achieve Academy serves K-5 students in the Fruitvale neighborhood, located at 1700 28th Avenue
- Cox Academy is a K-5 school in East Oakland, located at 9860 Sunnyside Street
- Learning Without Limits is a K-5 school in the Fruitvale neighborhood, located at 2035 40th Avenue
- ASCEND is a K-8 school in the Fruitvale neighborhood, located at 3709 East 12th Street
- Lazear Charter Academy is a K-8 school in the Fruitvale neighborhood, located at 824 29th Avenue
- Latitude 37.8 High School is EFC's first high school, which opened in the Fall of 2018 and operated at the Merritt College campus at 12500 Campus Drive in Oakland

Epic Charter Middle School was EFC's seventh school, a grade 6-8 middle school that opened in 2014 in the Fruitvale neighborhood, at 1045 Derby Avenue (the Project site). The Derby Avenue property was owned by Caltrans, and EFC leased this site and its existing buildings for use as classroom space. Three additional buildings were added by EFC as part of the conversion of the Caltrans facility to school use in 2014. Due to complications with the underlying lease, buildings that had not been reviewed for consistency with City building code requirements (the buildings were originally constructed pursuant to California Department of Public Works, State Architect requirements), lack of local land use approvals, and lack of regulatory agency review of soil and groundwater conditions, the Epic Charter School middle school was closed in 2018. Since that time, EFC has worked toward addressing each of these issues, and to repurpose the former Epic Middle School as a new Latitude High School:

- EFC reached agreement with Caltrans on a new lease for the 1045 Derby Avenue property, and has acquired this property. EFC has also acquired the adjacent property at 0 29th Avenue. These properties together make up the Project site.
- EFC has been working with the Alameda County Department of Environmental Health (ACDEH) toward obtaining environmental clearance for use of both of these properties for school use. In November of 2019, EFC entered into a Voluntary Remediation Agreement with the Alameda County Department of Environmental Health (ACDEH) to conduct investigations and reporting on soil and groundwater contamination at the 0 29th Avenue property, and to conduct remedial actions necessary to protect human health and the environment. As of initiation of this environmental review in July of 2020, several investigations and reports for this property had been conducted, but this property remained as an "Open – Site Assessment" case.³ In May of 2020, EFC also requested acceptance of the Derby property (although still in Caltrans ownership) into the ACDEH Voluntary Remedial Action Program. In June of 2020, ACDEH entered into a Voluntary Remedial Action Agreement with the responsible party, EFC (see further discussion in the Hazards and Hazardous Materials section of this CEQA Analysis).⁴
- In 2018, EFC obtained a new charter to operate a high school, the Latitude High School. The Latitude High School opened temporarily at an available site at the Merritt College campus, but the intent is to occupy the former EFC Epic Middle School buildings as a permanent location for Latitude High School.

³ https://geotracker.waterboards.ca.gov/profile_report?global_id=T10000010328

⁴ https://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T10000014503

- EFC is now applying for City of Oakland land use approvals to repurpose the former Epic Middle School as a new Latitude High School (a Community Education Civic Activity) at the Project site, on a site zoned for industrial use (M-30), under the terms of a Planned Unit Development (PUD) and Conditional Use permit. EFC is additionally pursuing permits to implement seismic upgrades and mechanical, electric and plumbing upgrades as needed for all of the buildings on the Project site to operate a school use, construct several playing fields, and to eventually construct a new multi-purpose building/gymnasium on the Project site.

The proposed use of the Project site would be for a charter high school only, accommodating grades 9-12. Enrollment may reach 100 students per grade, for a total of 400 students and an estimated 33 faculty and staff members.

Project Location

The Project site is located in the Fruitvale neighborhood of East Oakland, in the area known as Jingtletown (see **Figure 1**). This site is oriented on a northwest-southeast alignment. For convenience, this document refers to I-880 and International Boulevard as running east-west, and 29th Avenue and Fruitvale as running north-south in this area. The Project site is approximately one block west of Fruitvale Avenue and three blocks south of International Boulevard, and adjacent to the active rail corridor used by the Union Pacific Railroad (UPRR) to the south. This rail corridor is used for freight traffic and AmTrack passenger rail service, with at grade crossings at 29th Avenue and at Fruitvale Avenue.

Regional access to the site is provided by the I-880 freeway, AC Transit lines including the BRT (Tempo) line on International Boulevard, and by BART. Vehicle access to the site from I-880 is via either the Fruitvale Avenue exit north to San Leandro/10th Street, or via the 29th Avenue exit north approximately three blocks to the Project site's westerly boundary. The primary AC Transit route serving the site is the new East Bay Bus Rapid Transit (BRT, or Tempo Line) which operates mostly along bus-only lanes on International Boulevard from downtown Oakland to San Leandro, with bus frequencies of every 7 minutes during peak times, and nearby stops at 28th Avenue, 31st Avenue and Fruitvale Avenue. Other AC Transit routes in the immediate vicinity include the 20/21 Line along 29th Avenue from Alameda, and the 62 line along 23rd Avenue and East 12th Street from I-580. The Fruitvale BART station is approximately ¼ mile to the east at 35th Avenue, and the elevated BART tracks run within the East 12th Street right-of-way. Dedicated bike lanes also exist on East 12th Street and along Fruitvale Avenue.

Land uses in the Project site vicinity include a mix of industrial/light industrial uses primarily along the rail corridor, retail and commercial uses along Fruitvale Avenue (including the Fruitvale Station shopping area at I-880/Fruitvale), and residential neighborhoods to the north of East 12th Street and to the southeast of 29th Avenue.

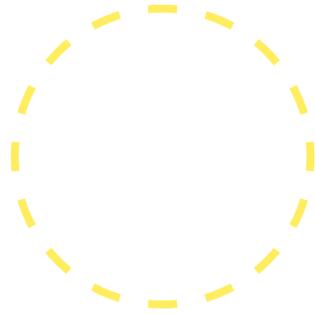


Figure 1 - Project Site Vicinity

Existing Conditions

The Project site consists of two adjacent properties comprising four existing parcels, or lots (see **Figure 2**). The northerly of the properties at 0 29th Avenue (shown in red) is Assessor’s Parcel Number (APN) 025-693-008, an approximately 40,610 square-foot vacant property. The 29th Avenue property, acquired by EFC, is generally an unimproved rough asphalt surfaced lot, with the exception of an approximately 12,000 square-foot concrete area near Derby Avenue informally striped for parking. It is separated from East 12th Street by a row of commercial properties and a vacant lot.

The southerly property (three lots), at 1045 Derby Avenue (outlined in green) was recently acquired by EFC from the California Department of Transportation (Caltrans) in May 2021. It is APN 025-693-007-02, an approximately 92,530 square-foot property that was previously used as a Caltrans storage and maintenance facility from 1950 until 2010.

There are six existing buildings located on the Derby parcel, three of which were originally constructed and used by Caltrans for storage, maintenance and administrative functions (shown as Buildings A-1, A-3 and B on **Figure 3**). The other three buildings (shown as Buildings A-2, A-4, and A-5) were added by EFC as part of the conversion of the Caltrans facility to school use in 2014. As remodeled and constructed by EFC in 2014, these six current buildings, totaling 29,590 square feet of building space, contain space for 23 classrooms, administrative offices, a servery and restrooms. In addition, there are several shade structures, three storage units and an outdoor learning space on this property (see **Table 1**, below).

Table 1: Existing Buildings

Building	Original Construction	2014-2018 Use by EFC	Size (sf)
Building A-1	Caltrans, 1947 – maintenance shop	12 classrooms, restrooms	12,367 sf
Building A-3	Caltrans, 1950 – equipment and supply storage	10 classrooms	10,800 sf
Building B	Caltrans, 1950 - office	Servery, administration offices and restrooms	2,511 sf
Building A-2	EFC, 2014	Restrooms and storage	1,026 sf
Building A-4	EFC, 2014	1 classroom	1,598 sf
Building A-5	EFC, 2014	Administration and student support offices	1,288 sf
		Sub-total:	29,590 sf
	Shade structures – Caltrans pre-1950 and EFC 2014		4,736 sf
	Storage Units - EFC, 2014		800 sf
	Outdoor Learning space – EFC,2014		336 sf
		Total:	35,462 sf

The Derby Avenue property also contains 71 vehicle parking spaces (68 full-size spaces and 3 ADA spaces) that are marked on a paved area that runs along the southerly portion of the property adjacent to the rail corridor, from Derby to 29th Avenue. These paved areas have also been used for outdoor learning, physical education (PE) and recess activities, and contain small shade structures used by students as a place to eat snacks and meals.

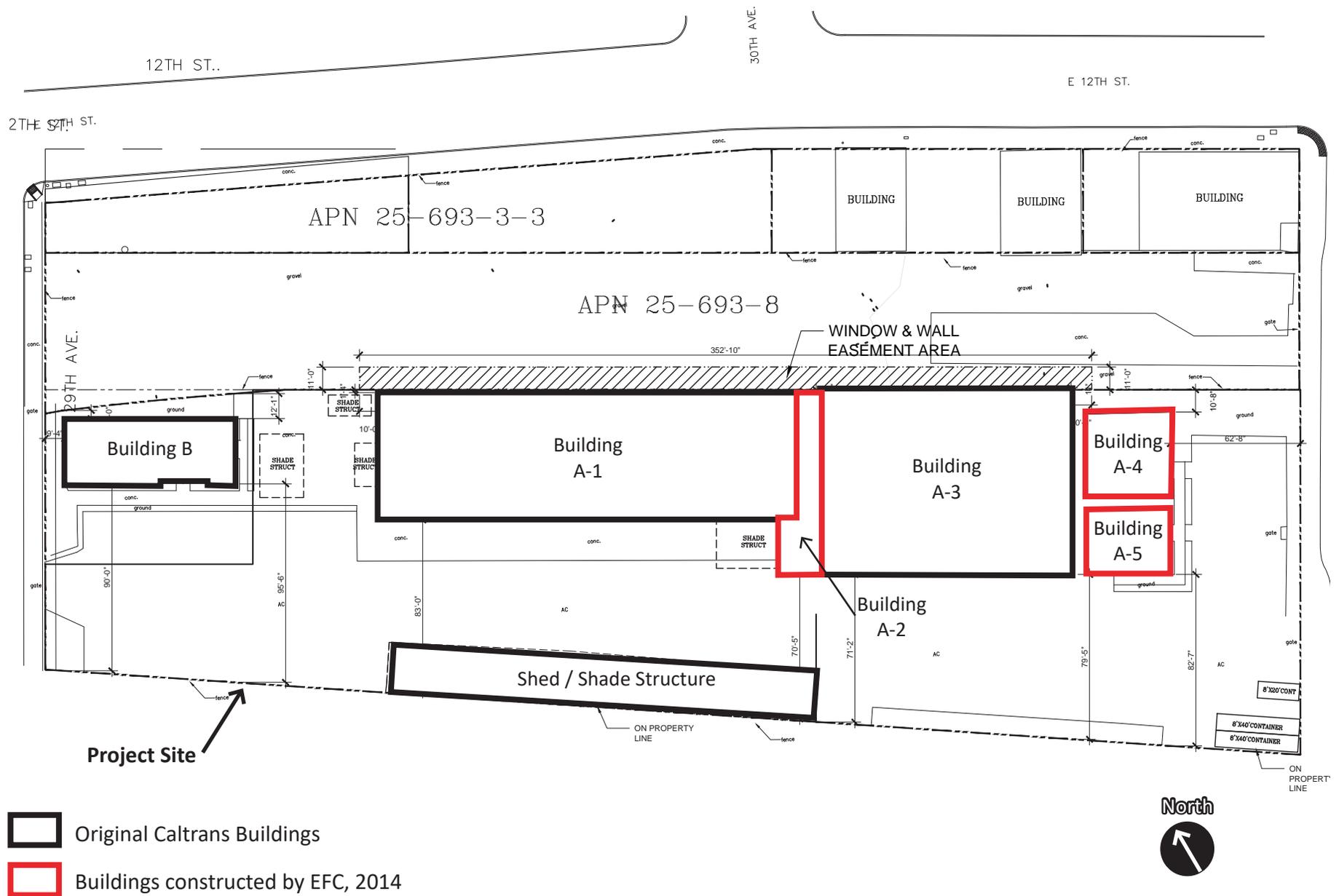


Figure 3 - Existing Buildings on Site

General Plan and Zoning Designations

General Plan Land Use Designation

The City of Oakland's General Plan Land Use and Transportation Element (LUTE) and Land Use Diagram (see **Figure 4**) designate the Project site and surrounding blocks between 29th Avenue and Fruitvale Avenue, and between an extension of 11th Street and 12th Street, as Regional Commercial. The Regional Commercial classification is intended to maintain, support and create areas of the City that serve as region-drawing centers of activity. Desired land use types include a mix of commercial, office, entertainment, arts, recreation, sports and visitor serving activities, residential, mixed use development and other uses of similar character or supportive of regional drawing power. The maximum FAR for this land use classification is 4.0.

Zoning

The Project site and the same surrounding blocks are zoned General Industrial (M-30) (see also **Figure 4**). The General Industrial Zone is intended to, "create, preserve, and enhance areas containing a wide range of manufacturing, industrial and related establishments, and is typically appropriate to areas providing a wide variety of sites with good rail or highway access." Pursuant to Oakland Municipal Code (OMC), Table 17.72.01, Community Education Civic Activities (schools) are conditionally permitted activities within this zoning district. Pursuant to OMC Section 17.72.050, the property development standards in the M-30 zone require no front, side or rear yard setbacks (the site is not adjacent to a residential zoning district) and no maximum height limit.

Surrounding Land Uses

The Project site is located in an area that contains a broad mix of land use types, with no individual land use type predominant. This mix of uses includes:

- To the immediate north is a small row of commercial/industrial properties (e.g., auto body shops) along the south side of 12th Street. On the northerly side of 12th Street is the full city block occupied by Goodwill, and an adjacent block with commercial frontage along International Boulevard and single-family residences along 30th Avenue and Derby.
- To the east is a full city block occupied by commercial/industrial uses (e.g., brewery, coffee roaster and artist studios) and parking.
- To the immediate south is the UPRR rail corridor and a row of self-storage units, and further south is the Fruitvale Station regional commercial shopping center.
- To the west is additional storage spaces along the rail corridor and the Oakland Animal Services facility.
- To the northwest (diagonally across 29th Avenue and 12th Street) is the large campus of the International Community School, including a turfed athletic field along 12th Street.

Proposed Project

The Project applicant is proposing to redevelop the Project site in two phases, and seeks land use entitlements to allow for the operation of a grade 9 through 12 public charter high school on the Project site. As indicated in the background discussion above, EFC is now applying to the City of Oakland for land use approval under the terms of a PUD, as well as a Conditional Use Permit (CUP) to permit a school use (Community Education Civic Activity) on the site. The PUD permit also enables phased development of the site. In addition, all subject lots will be merged through a Parcel Map Waiver in Phase I.

Project's Preliminary Development Plan

Implementation of the EFC site development program would occur in two phases, intended to create a new charter high school campus. The Project's Preliminary Development Plan (PDP) of the entire development includes two phases, as summarized below.

- *Phase 1:* Phase 1 primarily involves seismic upgrades and other improvements to the mechanical, electrical and plumbing systems in the existing buildings on the Derby property (including the former Caltrans buildings and the new buildings constructed by EFC in 2014), and re-paving of the EFC-owned vacant 29th Avenue property. Paving of the 29th Avenue property will provide a cap to close potential exposure pathways of previously contaminated from an off-site source as identified on this property. EFC intends to stripe and mark the pavement to accommodate court games. Construction of Phase 1 work (including any other necessary remediation of site contamination as determined by ACDEH) is estimated to take 1 to 3 months, commencing immediately after land use approvals. EFC has acquired the Derby property, and will merge all lots through a Parcel Map Waiver. Outdoor space would not be utilized as eating space, as curriculum-directed learning areas, or as recreation during school operations. The parking count will be 78 spaces.
- *Phase 2:* Phase 2 involves the removal of existing Building B (the offices) and 14 parking spaces, and replacing this building with a larger, new multi-purpose building and adding eight parking spaces elsewhere on the site. EFC is working to raise sufficient funding for Phase 2 work, which is estimated to occur at about 1 to 2 years after completion of Phase 1. The final parking count will be 72. Construction of the multi-purpose building is estimated to take less than 1 year.

The schedule presented above is an estimate, and actual timing for Phase II implementation will be dependent on raising necessary funds.

Phase 1 - Final Development Plan (FDP)

Physical Improvements

The Project's Final Development Plan (FDP) for Phase 1 (see **Figure 5**) will begin with obtaining and implementing new City of Oakland permits for seismic upgrades and mechanical, electrical and plumbing improvements as needed, at each existing building on the Derby property, including those former Caltrans buildings that were reconfigured by EFC (Buildings A-1, A-3 and B) and the additional buildings added by EFC in 2014 (Buildings A-2, A-4 and A-5), to be used for school functions. Phase 1 will also involve removal of the larger shade structure along the southerly portion of the Derby property near the rail corridor, providing for a more clearly demarcated fire access/drive lane, striping for a total of approximately 78 parking spaces, and landscaping. New fencing will be installed along the drive aisle to enclose the classroom buildings, and sliding gates will be installed at the ends of the drive aisle at both Derby and 29th Avenue.

The undeveloped 29th Avenue property will be paved with asphalt for outdoor activities. The primary purpose of the repaving effort will be to create an impervious cap to limit potential pathways that might expose students, faculty and the public to soil contamination that exists within the 0 29th Avenue property (see additional details of the pavement cap and other Corrective Actions under the Hazards and Hazardous Materials section of this CEQA Analysis checklist). A landscaped bio-treatment area will be added along the southerly edge of the 0 29th Avenue property to capture and treat stormwater runoff prior to discharge to the storm drain system. The informal parking area near Derby (just inside the existing fence gates) will no longer be striped for general parking use, but this paved area can accommodate overflow parking during the School's scheduled special events (see further discussion of parking, below). Existing perimeter fencing of both properties will remain.

A summary of proposed use of the site pursuant to the Phase 1 FDP is shown below in **Table 2**

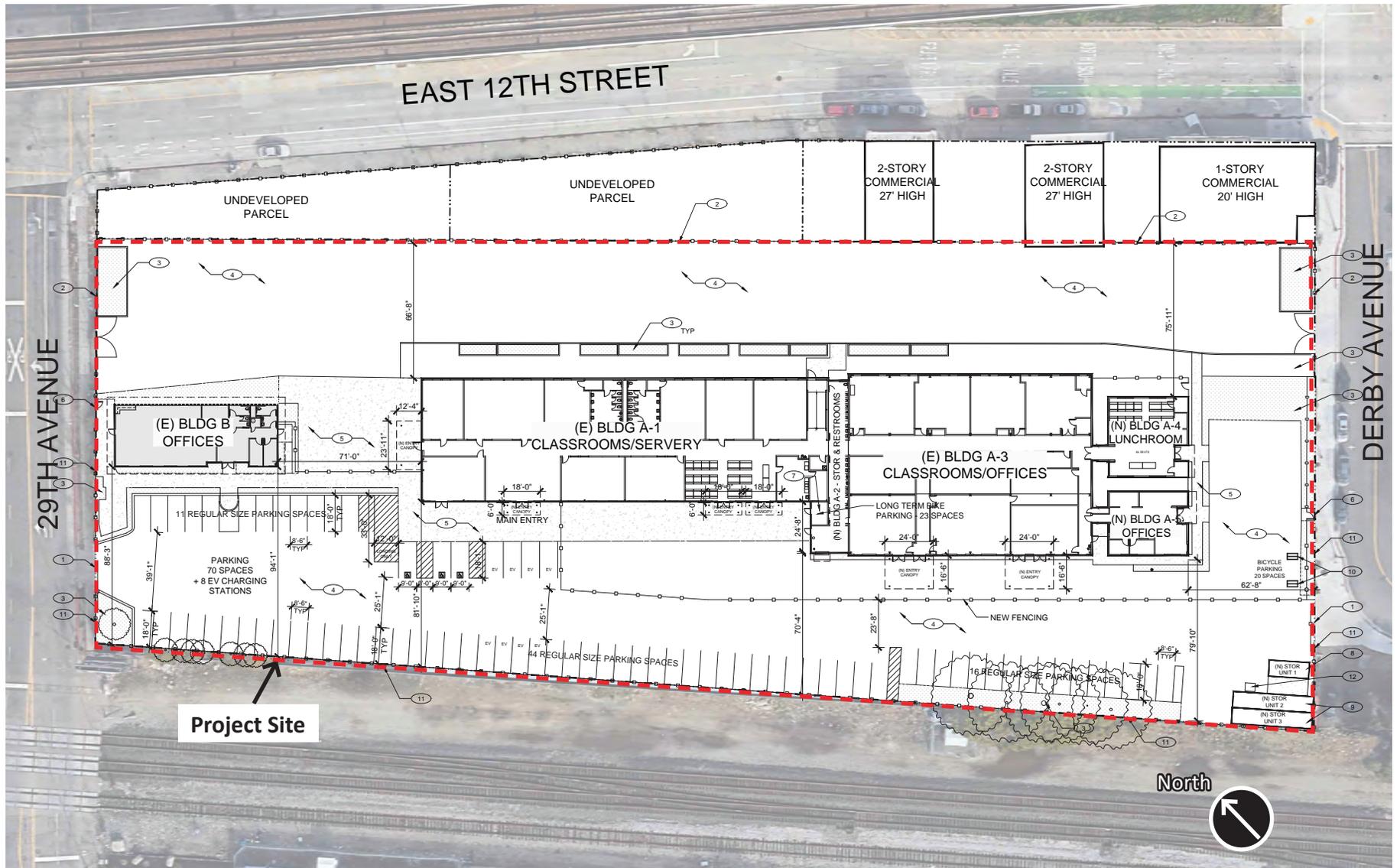


Figure 5 - Phase 1 Site Plan, EFC Latitude High School

Source: Artik Art and Architecture, 07-07-21

Table 2: Summary of Phase 1 FDP

	<u>Derby Property</u>	<u>29th Ave Property</u>	<u>Total Site:</u>
Building/Structure Coverage (see below)	31,805		31,805
Parking and Drive Aisle	34,320		34,320
Other Pavement	25,790	34,186	59,976
Planters	1,232	6,424	7,656
Total Property Size:	93,147	40,610	133,757

Derby Property: Building/Structures/Parking

Building A-1 (Caltrans, 1947)	12 classrooms, servery, lunchroom, restrooms	12,367 sf
Building A-3 (Caltrans, 1950)	10 classrooms	10,800 sf
Building A-2 (EFC, 2014)	Storage and restrooms	1,026 sf
Building A-4 (EFC, 2014)	Lunchroom	1,600 sf
Building A-5 EFC, 2014)	Administration and student support offices	1,290 sf
Building B (Caltrans, 1950)	Administration offices	<u>2,511 sf</u>
	Sub-total:	29,594 sf
	Storage Units	800 sf
	Entry Canopies	<u>1,411</u>
	Total:	31,805 sf

Parking

78 spaces (incl. 3 ADA spaces)

Staffing

At full enrollment, the school is expected to have a student population of 400 students, approximately 100 students in each grade 9 (freshmen) through 12 (seniors). Projected staffing levels includes a total of approximately 33 EFC faculty and administrative staff at full enrollment, expected to include:

- School Principal (1)
- Assistant Principal (1)
- Classroom teachers, core subjects (19)
- Classroom teachers for Resource Specialist Program (RSP) and English Language Development (ELD) (2)
- Community Partnership Coordinator (1)
- College Advisor (1)
- Social Emotional Learning and Restorative Justice Lead (1)
- After School Program staff, external academic partners (3)
- Janitorial (1)

Operations

The new charter high school would operate from mid-August to early June, with no summer school program. Teachers would start 1 to 2 weeks before the students arrive in early August, but would not be on-site after the last day of school. The typical school day (class periods) would run from 8:20 am to 3:20 pm, except for minimum days on Wednesdays, which would run from 8:20 am to 1:30 pm.

- Approximately 75% of the students (300 students) are expected to participate in the school breakfast program before school starts, which would operate from 7:40 to 8:20 am. Students would be allowed to walk onto the site as early as 7:40 a.m. and be buzzed in. Students participating in the breakfast program would be served breakfast from the servery in Building A-1 and eat in classrooms or lunch areas located in Building A-1 and A-4.
- The school will have one school-wide nutrition break at 11:00 a.m., and will stagger lunch period to have one lunch from the servery in Building A-1 between 12:30 and 1:00, and the second lunch period between 1:05 and 1:35. Lunch areas are located in Building A-1 and A-4.
- Typically, 75% of the student (or 300 students) will leave shortly after the final bell at 3:20 pm., and 60% of the staff will leave the site by 4:30 p.m.
- Approximately 100 students are expected to participate in an after-school program that runs until 6:00 p.m. Up to three Academic Partners would come to the school to teach at the after school program, and up to six school staff members would also participate in the after-school program. The basketball courts and athletic facilities on the 0 29th Avenue property would be used as part of the after-school program.

Attendance during a typical school day would follow the schedule presented below in **Table 3**.

Table 3: Typical School Day Schedule and Attendance

<u>Beginning Time</u>	<u>Ending Time</u>	<u>Approximate # Staff</u>	<u>Approximate # Students</u>
7:00 a.m.	7:40 a.m.	+ 5	0
7:40 a.m.	8:20 a.m.	+ 24 (29)	+ 300
8:20 a.m.	3:20 p.m.	(29)	+100 (400)
3:20 p.m.	4:30 p.m.	(29)	-300 (100)
4:30 p.m.	6:00 p.m.	-19 (10)	(100)
6:00 p.m.	8:00 p.m.	-10 (0)	-100 (0)

Note: + xx indicates number of arrivals to school during the period, -xx indicates number of departures from the school during that period, and (xx) indicates total number at the school during the period

Site Circulation

During the morning arrival/drop-off period (8:00 to 8:20 a.m.) and the afternoon departure/pick-up period (3:20 to 3:40 p.m., except Wednesdays which is at 1:30 pm), vehicles would be routed through the Derby property in a one-way direction from Derby Avenue to 29th Avenue (see **Figure 6**). No vehicle entry would be permitted at the 29th Avenue driveway, and all exiting vehicles would be required to make a right turn only out of the driveway an onto 29th Avenue. At all other operating hours and after 6:00 p.m., the school has proposed that the gates at both Derby and 29th Avenue would remain closed.

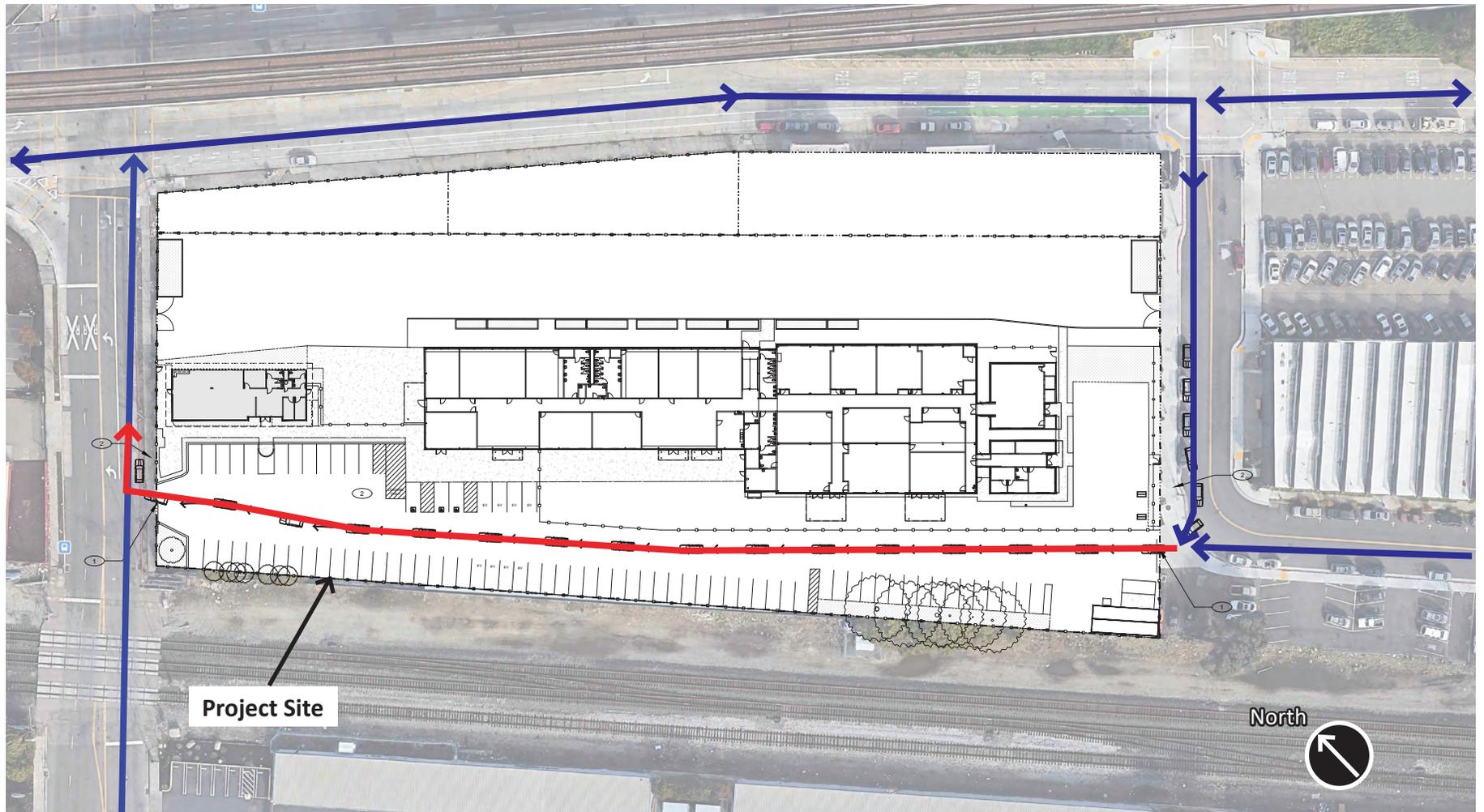


Figure 6 - Site Circulation (internal, one-way lane)

Parking

Based on the traffic analysis included in this CEQA document (see **Appendix N**), the total number of parking spaces typically required to meet the demand of a 400-student high school would need to be at least 56, based on the location of the Project within a dense urban area with access to high quality transit services. However, the Oakland Municipal Code provides the Community Development Director with the authority and discretion to determine the number of parking spaces that is appropriate for a high school use. The Project proposes to provide a total of 78 dedicated parking spaces in Phase 1. Construction of the Phase 2 multi-purpose building will result in the need to reconfigure parking spaces within the site, removing 14 spaces and adding 8 other parking spaces, and resulting in a total of 72 parking spaces at buildout of Phase 2. Planning staff recommends that the proposed number of parking spaces is appropriate for this use.

Special Events

A limited number of special events are anticipated to occur at the school over the course of the school year. These special events are as listed in **Table 4**.

Table 4: Number of Special Events

<u>Event</u>	<u>Frequency</u>	<u># of Attendees</u>	<u>Time</u> (weeknight unless otherwise specified)
Back to School Night	1 time/ year	200	5:00-6:30 pm
Program Reviews for Parents	2 times/ year	100	6:00-7:30 pm
Festivals / Outreach Events	2 times/ year	100	12:00-3:00 pm, on Saturdays
School Dances	3 times/ year	300	6:00-7:30 pm
Family Leadership Council	1 time/ month	50	5:00-6:30 pm
Project Exhibitions	2 events/ year	100/event, over 4 days	5:00 to 7:00 pm

Parking for Special Events

These special events held throughout the year will temporarily increase demand for parking in the area. Based on a parking occupancy analysis (see **Appendix N**) and the Project's on-site parking and special event plan, these special events are not expected to overburden the parking infrastructure, including on-street parking in the surrounding area. Strategies that may be used by the School to better address special event parking may include allowing parking on the 0 29th Avenue property, providing tandem parking and valet service, or potentially securing access to additional vehicle parking spaces at other nearby locations, including other nearby EFC schools.

Lot Merger

With acquisition of the formerly Caltrans-owned Derby property, EFC intends to merge the two properties (the Derby property and the 29th Avenue Property) into one ownership.

Phase 2 Final Development Plan (FDP)

Physical Improvements

Once additional funding has been secured, the existing Building B on the Derby property would be demolished. The westerly portions of the combined Derby property and 29th Avenue property would be redeveloped with an approximately 17,500 square-foot multi-purpose building (see **Figure 7**). The proposed multi-purpose building (see **Figure 8**) will include:

- regulation-size basketball and volleyball indoor courts
- a servery and cafeteria to provide warm meals to students, and replacing the former lunchroom at Building A-4
- school offices
- restrooms and locker rooms, and
- storage and office space

To accommodate the new multi-purpose building, Building B and 14 parking spaces near Building B would be removed. Eight new parking spaces would be added by removing the storage units near the Derby entrance, resulting in a net decrease of six parking spaces (from 78 spaces to 72 spaces). Building A-4 (the former lunchroom) will be converted to an additional classroom.

While primarily focusing on providing lunch, physical education, graduation ceremonies and after school program space, the multi-purpose building may also be used from time to time as a gathering place for special events for the entire school community. This would allow EFC to bring all of the school's families together in one facility for school assemblies, celebrations, guest speakers and other special events as listed in Table 4.

Proposed Operations and Site Circulation

The new multi-purpose building would not require additional academic or administrative staffing, or add students. It would be an indoor space allowing physical education and other activities to occur indoors. The multi-purpose building would also add flexibility for day-to-day academic programming. With the addition of the multi-purpose building in Phase 2, students would be served breakfast in the new multi-purpose building. A summary of proposed use of the combined site pursuant to the ultimate Phase 2 FDP development program is shown below in **Table 5**.

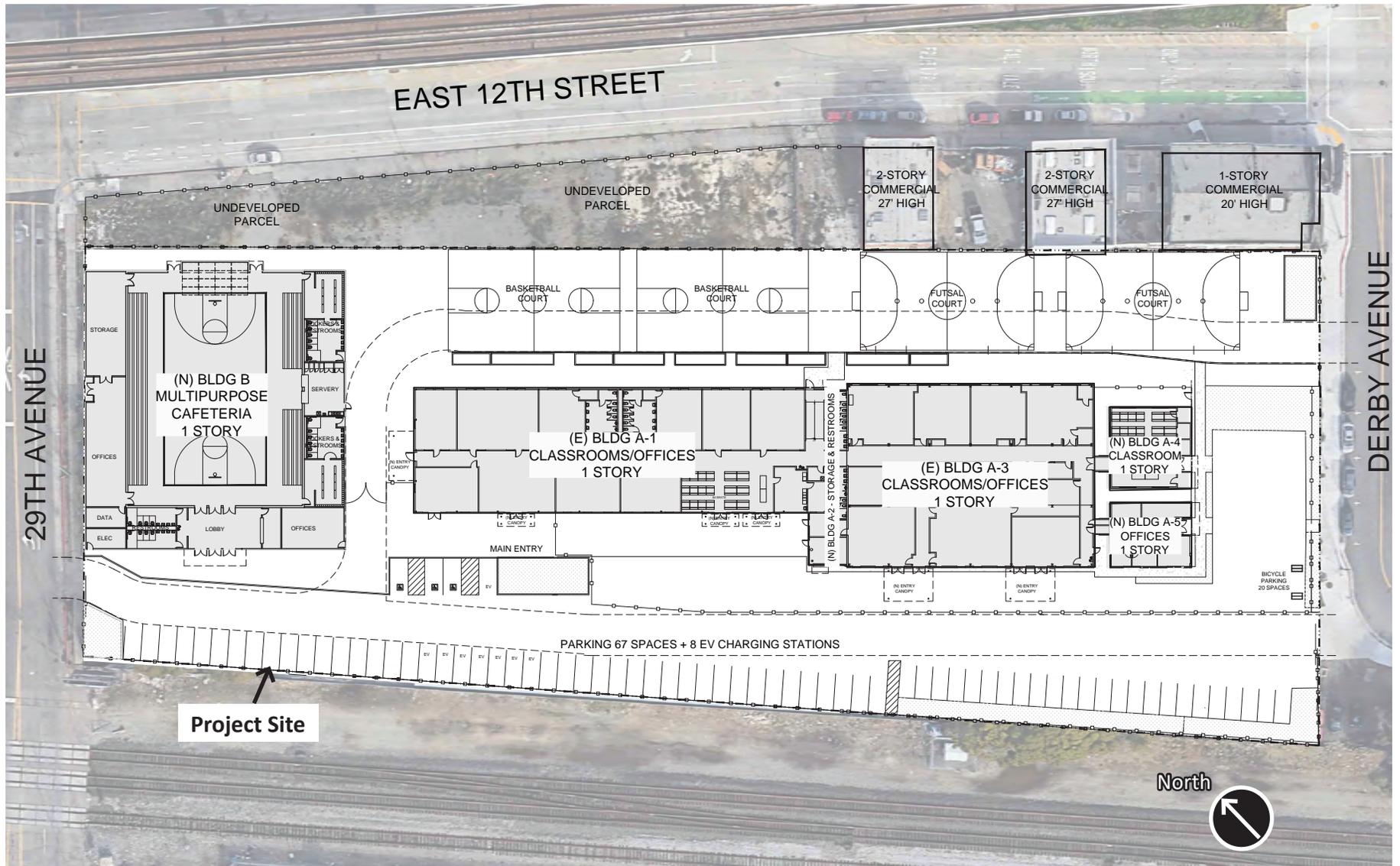
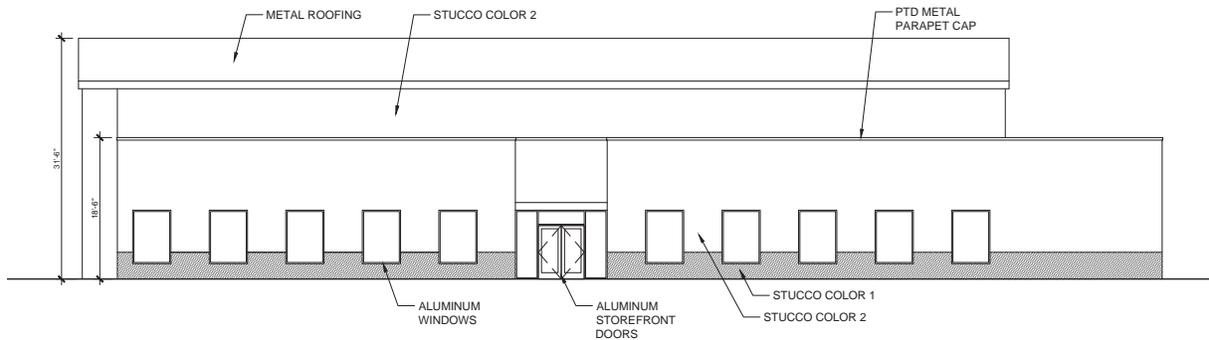
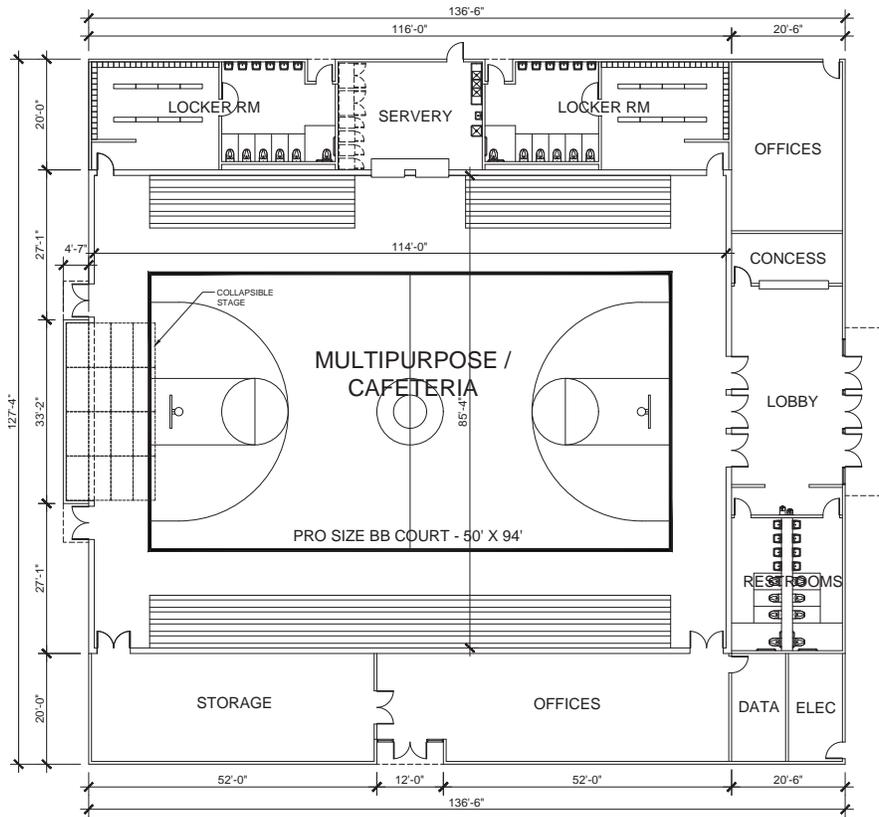
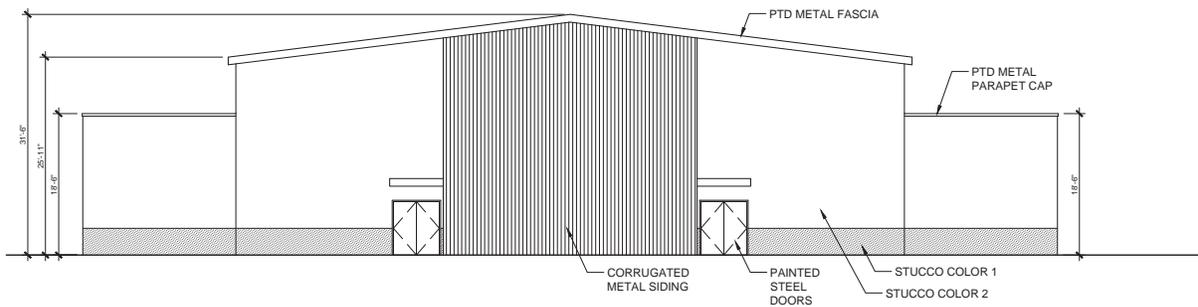


Figure 7
Phase II Site Plan (with multi-purpose building), EFC Latitude High School

Source: Artik Art and Architecture, 07-07-21



Multi-Purpose Building - West Elevation



Multi-Purpose Building - North Elevation

Figure 8
Multi-Purpose Building - Phase II

Source: Artik Art and Architecture, 07-07-21

Table 5: Summary of Phase 2 FDP (at Buildout)

	Total Site:
Building/Structure Coverage (see below)	45,994
Parking and Drive Aisle	30,890
Other Paved Area	49,131
Planters	7,742
Total Property Size:	133,757

Building/Structures/Parking

Building A-1 (Caltrans, 1947)	12 classrooms, restrooms	12,367 sf
Building A-2 (EFC, 2014)	Storage and restrooms	1,026 sf
Building A-3 (Caltrans, 1950)	10 classrooms	10,800 sf
Building A-4 (EFC, 2014)	1 classroom	1,600 sf
Building A-5 (EFC, 2014)	Administration and student support offices	1,290 sf
New Multi-Purpose Building	Indoor gymnasium, cafeteria, administration offices and restrooms	17,500 sf
	Entry Canopies	<u>1,411</u>
	Total:	45,994 sf
	Parking	72 spaces (incl. 3 ADA spaces)

Special Events

The addition of the new multi-purpose building would enable a number of additional special events that could be accommodated at the Project site, as indicated below in **Table 6**.

Table 6: Additional Special Events, with Phase 2

<u>Event</u>	<u>Frequency</u>	<u># of Attendees</u>	<u>Time</u> (weeknights)
Athletic Games (Basketball, Volleyball)	Once/week	100	6:30 – 7:30 pm
School Assemblies	2 time/year	400	4:00 to 5:00 pm
Family Sports Events	4 times/ year	50	5:30 – 6:30 pm

Approvals Required for the Project

The City of Oakland approvals required for the Project include the following:

- Approval of a Planned Unit Development (PUD) Permit, for phased development

- Conditional Use Permit for Community Education Civic Activity in an Industrial (M-30) Zone
- Approval of a Preliminary Development Plan (PDP) for the entirety of the Project
- Approval of a Final Development Plan (FDP) for Phase 1
- Approval of a FDP for Phase 2
- Approval of a Parcel Map Waiver to merge lots
- Administrative approval of permits needed for seismic upgrades and mechanical, electrical and plumbing, as needed for Phase 1
- Grading permits for site work in Phase 1 and potentially Phase 2
- Subsequent demolition and building permits for the multi-purpose building in Phase 2

Project's Consistency with the General Plan and Zoning

CEQA Guidelines Section 15183 allows streamlined environmental review for projects that are “consistent with the development density established by existing zoning, community plan or general plan policies for which an EIR was certified, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site.” CEQA Section 15183(c) specifies that an EIR does need to be prepared for the project “if an impact is not peculiar to the parcel or to the proposed project, has been addressed as a significant effect in the prior EIR, or can be substantially mitigated by the imposition of uniformly applied development policies or standards.”

The following analysis provides substantial evidence to support a conclusion that the Project qualifies for streamlined review under CEQA Guidelines Section 15183 as a project consistent with the development density established by existing zoning, community plan, or general plan policies (the LUTE) for which an EIR (the LUTE EIR) was certified.

General Plan Consistency

As demonstrated below, the proposed Project is consistent with the land use and development assumptions, improvement strategies and individual policies of the General Plan Land Use and Transportation Element (LUTE) of the City of Oakland General Plan.

Regional Commercial Land Use Designation

The General Plan's land use classification for the Project site is Regional Commercial. This land use classification also applies to the surrounding properties between 29th Avenue and Fruitvale Avenue, and between East 12th Street and an extension of 11th Street. The Regional Commercial classification is intended to maintain, support and create areas of the City that serve as region-drawing centers of activity. Desired land use types include a mix of commercial, office, entertainment, arts, recreation, sports and visitor serving activities, residential, mixed use development and other uses of similar character or supportive of regional drawing power. The Regional Commercial land use allows for a maximum floor-area-ratio (FAR) of 4.0. The Regional Commercial land use classification is one of the City's industrial, commercial and institutional land use classifications intended to provide flexibility to accommodate changes in the economy and to encourage attraction of a wider range of economic development activities that can take advantage of Oakland's infrastructure and location. Because of this ever-changing nature of industrial and commercial activities, implementing regulations may change over time in order to include uses not listed below, provided they are consistent with the intent of the Plan.⁵

Consistency: The Project site is located in a relatively small Regional Commercial area that contains a mix of land use types, with no individual land use type predominant. This mix of uses includes commercial/industrial properties, retail commercial uses along roadway corridors, newer light industrial/“maker” spaces (e.g., brewery, coffee roaster and artist studios), and self-storage units. Schools, and specifically charter schools, are not mentioned as an intended land use within the Regional Commercial land use classification. However, as further addressed below, Community Education Civic Activities (i.e., schools) are conditionally permitted activities within the corresponding General Industrial (M-30) zoning district. At buildout of Phase 2, the Project would have a FAR of approximately 0.33, which is within the 4.0 FAR maximum of the Regional Commercial classification.

⁵ City of Oakland, LUTE (1998) Land Use Classifications, page 151

Fruitvale Improvement Strategy

The area between 29th Avenue, International Boulevard, High Street and the Estuary is identified in the LUTE as a key “Growth and Change” location for targeted community and economic development.⁶ It is identified as the focus of concentrated, ethnically diverse businesses with a mixed-use transit village at the Fruitvale BART station. Major opportunities for revitalization exist, and the Action Program for this area focuses on transportation and circulation improvements, accommodating live/work activities, commercial business assistance and facade improvements, code enforcement, and a coordinated transit village development at the BART station. There is community interest in bringing vacant and underutilized properties back into productive use to increase employment opportunities and improve economic vitality. Given the population increase in the Fruitvale district, there is concern about the ability of public services to keep pace with growth. Of particular concern is school overcrowding, the need for more and better recreation facilities, and demand for transit, police and library services.⁷

Consistency: The Project represents a targeted community development activity within an area specifically identified for “Growth and Change” and that will include certain transportation and transit improvements, façade improvements, and current-day code compliant buildings.

Industrial/Commercial Objectives and Policies

Objective I/C 2 and I/C 3 of the LUTE seek to maximize the usefulness of existing abandoned or underutilized industrial buildings and land. Some older industrial buildings or sites no longer serve businesses efficiently. Efforts by both the City and the private sector are required to rehabilitate and/or modernize these locations so they can contribute to their immediate surroundings and to the community as a whole.⁸

- *Industrial/Commercial Policy 2.1, Pursuing Environmental Cleanup.* The environmental cleanup of contaminated industrial properties should be actively pursued to attract new users in targeted industrial and commercial areas.
- *Industrial/Commercial Policy 2.2, Reusing Abandoned Buildings:* The reuse of abandoned industrial buildings by non-traditional activities should be encouraged where the uses are consistent with, and will assist in the attainment of, the goals and objectives of all elements of the Plan.
- *Industrial/Commercial Policy 2.3 and 2.4, Providing Vacant or Buildable Sites:* Development in older industrial areas should be encouraged through the provision of an adequate number of vacant or buildable sites designated for future development. The City should encourage the expansion of private business services and government sectors.

Consistency: The Project would provide for the environmental cleanup and/or containment of known soil contamination from prior industrial and commercial activities to allow for a new land use, under the regulatory oversight of Alameda County Department of Environmental Health (ACDEH). The Project would specifically provide for the reuse of former industrial buildings that have been vacated by Caltrans, with re-occupancy by a non-traditional (charter high school) use. The Project represents a quasi-public school use on a vacant and buildable site that is designated for future development.

⁶ City of Oakland, LUTE (1998) Implementation Program - Figure 9: Improvement Strategies for San Antonio, Fruitvale and Lower Hills

⁷ Ibid, Area Views for San Antonio, Fruitvale and Lower Hills, page 216

⁸ Ibid, Policy Framework for Industry and Commerce, page 41

Zoning Consistency

As demonstrated below, the proposed Project is consistent with the land use and development regulations as provided in the Oakland Municipal Code (OMC) Chapter 17.72 Industrial Zones Regulations.

M-30 Zoning District – Permitted Uses

The Project site and the surrounding blocks are zoned General Industrial (M-30) (see also Figure 4). The M-30 General Industrial Zone is intended to, “create, preserve, and enhance areas containing a wide range of manufacturing, industrial and related establishments, and is typically appropriate to areas providing a wide variety of sites with good rail or highway access.” Pursuant to OMC Table 17.72.01, Community Education Civic Activities (i.e., schools) are conditionally permitted activities within this zoning district. Conditionally permitted activities are permitted only upon the granting of a Conditional Use Permit (CUP).

Consistency: The Project’s proposed use of the site as a school (a Community Education Civic Activity) with approval of a CUP would be consistent with permitted uses within the M-30 zone.

Property Development Standards

OMC Section 17.72.050, and specifically Table 17.72.03, prescribes the development standards specific to the M-30 zone. The property development standards in the M-30 zone as applicable to the Project site require no front, side or rear yard setbacks (the site is not adjacent to a residential zoning district) and no maximum height limit.

Consistency: No setbacks or height limits are required, and the Project has no regulations by which to determine consistency. The Project’s proposed multi-purpose building would be 31’6” feet tall at the peak, consistent with other commercial/industrial building heights in the area. At completion of Phase 2, the Project will be set back from 29th Avenue and Derby Avenue frontages by 0’ to over a 100’ feet, are set back from the adjacent rail corridor property, and the Project’s 29th Avenue property will provide an open separation between the school and commercial properties along East 12th Street.

Performance Standards

OMC Section 17.72.070 provides that all Commercial and Industrial Activities in an M-30 Zone and that are located within 400 feet from any boundary of a Residential Zone (which the Project site is) shall be subject to the applicable provisions of the performance standards in Chapter 17.120. These performance standards and regulations are intended to reduce or avoid environmental impacts that new development within the M-30 Zone district may cause. These regulations and performance standards include:

- 17.120.050, Noise: All activities shall be so operated that the noise level inherently and regularly generated by these activities across real property lines shall not exceed the applicable values for Residential Zone noise level standards.
- 17.120.060, Vibration: All activities shall be so operated as not to create a vibration which is perceptible without instruments by the average person at or beyond any lot line. Ground vibration caused by motor vehicles, trains, and temporary construction or demolition work is exempted from this standard.
- 17.120.070, Smoke: All Commercial and Industrial Activities shall be so operated as not to emit visible smoke at certain threshold limits, or darker and more opaque smoke is prohibited at any time.
- 17.120.080, Particulate Matter and Air Contaminants. All Commercial and Industrial Activities shall be so operated as not to emit particulate matter of air contaminants which are readily detectable without instruments by the average person at or beyond any lot line of the lot containing such activities.

- 17.120.090, Odor: All Commercial and Industrial Activities shall be so operated as not to emit matter causing unpleasant odors which are perceptible by the average person at the maximum allowable receiving level standards.
- 17.120.110, Humidity, Heat, Cold, and Glare. All Commercial and Industrial Activities shall be so operated as not to produce humidity, heat, cold, or glare which is perceptible without instruments by the average person at the points at the maximum allowable receiving standards.
- 17.120.120, Electrical Disturbance: All Commercial and Industrial Activities shall be so operated as not to cause electrical disturbance adversely affecting the operation of any equipment on any other lot.

Consistency: As indicated within the respective sections of this CEQA Checklist, the Project would not cause any noise, vibration or air quality effects that would be detrimental to nearby residential areas. As a school use, there is nothing about the Project that would generate heat, cold, glare or electrical disturbances. The Project is consistent with the performance standards of OMC Chapter 17.120.

Planned Unit Development (PUD) Permit

OMC Section 17.140 identifies the procedures by which the City reviews applications for Planned Unit Developments (PUDs). A PUD is defined as a large, integrated development adhering to a comprehensive plan and located on a single tract of land, or combined tracts of land of 60,000 square feet or more. Developments that are approved pursuant to the PUD regulations may include certain land uses in addition to those otherwise allowed in the underlying zone, certain of regulations applying the underlying zone may be waived or modified, and the normally required design review process may also be waived at the time of initial granting of a PUD permit.

- Pursuant to OMC Section 17.142.100: Bonuses, a PUD may provide exceptions to otherwise applicable regulations, including additional permitted activities. Pursuant to OMC section 17.142.080, additional permitted activities may be granted as a bonus in a Planned Unit Development in any Residential or Commercial Zone, or in the S-1, S-2, S-15, or D-CO-1 Zones. Since the Project site is located in an industrial (M-30) zone, additional permitted activities may not be granted as a bonus at this site. Where the PUD bonus provisions do not allow for additional activities, the underlying zone shall dictate permitted or conditionally permitted uses. The underlying M-30 zone conditionally permits Community Education Civic Activity (i.e., schools) upon approval of a Conditional Use Permit (CUP).
- Pursuant to OMC Section 17.140.020: Application, an application for a PUD permit shall be accompanied by . . . a preliminary development plan (PDP) of the entire development, and may include a staged development plan demonstrating that the developer intends to commence construction of the first stage final development plan (FDP) within one year, and will proceed diligently to completion of subsequent stages with FDPs based on an identified schedule.

Consistency: The Project is an integrated development plan for phased development of a school, and is located on a site that is greater than 60,000 square feet in size (with the merger of the Derby and 29th Avenue properties), and thus meets the definition of a project that may qualify as a PUD. The Project seeks to establish a school within an industrially zoned site through approval of a CUP. The Project intends to commence construction of their Phase I FDP immediately after land use approvals (i.e., within one year), and will proceed with construction of their FDP for Phase II (the multi-purpose building) once adequate funding has been obtained. The Project is consistent with the PUD procedures and regulations.

Conclusions

Based on the above, the Project is consistent with the land use and development strategies for this site as presented in the Land Use and Transportation Element of the General Plan, and consistent with applicable M-30 General Industrial and Planned Units Development zoning regulations of the OMC. Therefore, the Project qualifies as a project that is consistent with a Community Plan or zoning pursuant to CEQA Guidelines Section 15183.

Since the Project is consistent with the development assumptions of the LUTE and zoning, the Project's potential contributions to cumulatively significant environmental effects has already been addressed in the prior LUTE EIR. CEQA Guidelines Section 15183 applies to the Project, which allows for streamlined environmental review. The following CEQA Checklist considers whether there are Project-specific effects peculiar to the Project or its site, and otherwise relies on the streamlining provisions of CEQA Guidelines Section 15183 to address cumulative effects. The Project is eligible for consideration of CEQA streamlining pursuant to California Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183.

CEQA Determination / Findings

The Project is consistent with the development density and land use characteristics established by existing zoning and General Plan policies for which an EIR was certified (the LUTE EIR). The Project would be required to comply with all applicable City of Oakland Standard Conditions of Approval (SCAs) and with implementation of certain detailed recommendations for the Project pursuant to those SCAs (see **Appendix A** for a complete list of SCAs referred to and required by this CEQA Analysis). With implementation of those SCAs, the following CEQA Analysis Checklist concludes that the Project would not result in a substantial increase in the severity of any significant impacts that were previously identified in the prior LUTE Program EIR, or any new significant impacts that were not previously identified in the prior LUTE Program EIR.

In accordance with Public Resources Code Section 21083.3 and State CEQA Guidelines Section 15183, and as set forth in this CEQA Analysis, the Project qualifies for CEQA tiering/streamlining and requires no further environmental review, because the following findings can be made:

Consistency with Community Plan or Zoning (CEQA Guidelines Section 15183)

- The General Plan and Zoning Consistency Analysis demonstrates that the Project is consistent with the bulk, density and land use standards as established by policies of the Land Use and Transportation Element of the City of Oakland General Plan, and implementing regulations of the applicable zoning district for the site.
- A Program EIR was prepared and certified by the City for the General Plan Land Use and Transportation Element (the LUTE EIR). The Project is consistent with the development assumptions of that prior LUTE EIR.
- The CEQA Checklist prepared for the Project demonstrates that the Project will not result in significant impacts that were not previously identified as significant project-level, cumulative or off-site effects in the LUTE EIR.
- The CEQA Checklist also presents substantial evidence that the Project would not result in new or more severe environmental effects than previously disclosed in the LUTE EIR, which may be peculiar to the Project or its site. The Project's potentially significant effects have already been addressed as such in the LUTE EIR, and any such potentially significant effects will be substantially mitigated by the imposition of Standard Conditions of Approval, as listed in **Appendix A**.
- No further environmental documents are required of the Project, in accordance with CEQA Guidelines Section 15183.

These findings provide the basis for the City's CEQA compliance for the Project.



Edward Manasse, Deputy Director
Bureau of Planning, Environmental Review Officer

7/22/2021

Date:

Environmental Checklist

The analysis in this CEQA Checklist provides a summary of the potential environmental impacts that may result from approval and implementation of the Project. It evaluates those potential environmental impacts in relation to the impacts evaluated in the prior Program EIRs (i.e., the LUTE EIR).

This CEQA Checklist incorporates by reference the discussion and analysis of all potential environmental impact topics as presented in the certified prior Program EIRs. Only those environmental topics that could have a potential project-level environmental impact are included. The significance criteria have been consolidated and abbreviated in this CEQA Checklist for administrative purposes. This CEQA Checklist provides a determination of whether the Project would result in:

- an equal or less severe impact than previously identified in the prior Program EIRs, or
- a new impacts, or a substantial increase in the severity of a significant impact as identified in the prior Program EIRs

If the severity of a potential impacts of the Project would be the same as or less than the severity of the impact as described in the prior Program EIRs, the checkbox for “Equal or Less Severity of Impact” is checked. If the checkbox is marked as “New or Substantial Increase in Severity,” that would indicate that the Project’s impacts that are either:

- peculiar to the Project or the Project site (pursuant to CEQA Guidelines §15183(b)(1))
- not identified in the prior Program EIRs (per CEQA Guidelines §15183(b)(2)), including off-site and cumulative impacts (per CEQA Guidelines §15183(b)(3)), or
- due to substantial new information that was not known at the time the prior Program EIRs were certified (per CEQA Guidelines §15183(b)(4))

In such a circumstance, a new EIR would be required for the Project. None of these conditions are found for the Project, as demonstrated throughout the following CEQA Checklist.

The Checklist uses the acronym SU for significant and unavoidable impacts, and LTS for less than significant impacts, and LTS w/SCAs for impacts that would be reduced to LTS with implementation of identified SCAs and/or detailed recommendations for the Project pursuant to these SACs. Topics for which no impact was identified in the prior Program EIRs remain potentially applicable to the Project. The Project is required to comply with applicable mitigation measures identified in the prior LUTE EIR (all of which are now incorporated into SCAs) and with other City of Oakland SCAs that are also now applicable. The Project sponsor has agreed to incorporate and/or implement these required SCAs as part of the Project. A dash (–) is used in the Checklist to indicate that the prior Program EIR did not identify any mitigation measures for the respective environmental impact, and to indicate that no SCAs related to that topic apply to the Project. The abbreviation N/A is used when an MM was identified in the prior Program EIRs, but it does not apply to the Project.

In some instances, the Project applicant has submitted the analysis or plans as required in the SCA. In these cases, the Checklist describes the results or conclusions of these analyses or plans under the heading “Project Plans in Furtherance of SCAs”. This heading further indicates any Project-specific measures that are recommended to provide further clarification for the underlying SCA. In these cases, the Checklist describes these measures as “Project Recommendations in Furtherance of SCAs”, which typically require Project-specific measures to be implemented, including measures to address a non-CEQA impact.

Aesthetics

Would the Project:	LUTE EIR Findings	Relationship to LUTE EIR Findings		Project Conclusions	
		Equal or Less Severe	New or Substantial Increase in Severity	Applicable SCAs or Mitigation Measures	Level of Significance
a) Have a substantial adverse effect on a public scenic vista, or substantially damage scenic resources, including but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?	LTS	■	□	-	No Impact
b) Substantially degrade the existing visual character or quality of the site and its surroundings?	LTS with MM	■	□	SCA Aesthetics-1: Trash and Blight Removal SCA Aesthetics-2: Graffiti Control SCA Aesthetics-3: Landscape Plan	LTS with SCAs
c) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	LTS	■	□	SCA Aesthetics-4: Lighting	LTS w/ SCA
d) Introduce landscape that would now or in the future cast substantial shadows on existing solar collectors; Cast shadow that substantially impairs the function of a building using passive solar heat collection, solar collectors for hot water heating, or photovoltaic solar collectors; Cast shadow that substantially impairs the beneficial use of any public or quasi-public park, lawn, garden, or open space; or Cast shadow on an historic resource, as defined by CEQA Guidelines section 15064.5(a),6 such that the shadow would materially impair the resource's historic significance?	LTS with MM	■	□	NA	LTS
e) Create winds that exceed 36 mph for more than one hour during daylight hours during the year?	SU (Downtown)	■	□	NA	LTS
f) Require an exception (variance) to the policies and regulations in the General Plan, Planning Code, or Uniform Building Code, and the exception causes a fundamental conflict with policies and regulations addressing the provision of adequate light related to appropriate uses?	-			-	No Impact

Scenic Vistas and Scenic Resources

LUTE EIR

The LUTE EIR concluded that new development could potentially degrade or destroy existing scenic resources in the City, including hillsides, ridges, canyons, trees and riparian areas. However, the LUTE EIR concluded that existing policies in the Open Space, Conservation, and Recreation (OSCAR) Element provide mitigation of visual impacts, and with implementation of these policies, the LUTE EIR found impacts to scenic resources would be less than significant, and no further mitigation measures were required.

Project Analysis

The Project site is in a flat, urban area of the City of Oakland, is not located along a designated scenic corridor, and is not located on or near a street or roadway that is designated as a Scenic Route. There are no scenic vistas in the vicinity. The seismic upgrades and other improvements to the existing buildings on the Derby property would not alter any views or vistas. The proposed multi-purpose building, at nearly 32 feet high, would not obstruct a scenic view. The site is not located near a state scenic highway, and no impact on scenic resources within a scenic highway would occur. For these reasons, the Project would have no impact on scenic vistas.

Visual Character and Quality

LUTE EIR Conclusions

The LUTE EIR concluded that policies of the LUTE encourage high-rise development in Downtown Oakland, and that such development could potentially block views, cast shadows, appear visually incongruous with adjacent low-rise development, and block views of the City skyline from surrounding neighborhoods. The LUTE EIR also concluded that policies of the LUTE would encourage midrise, pedestrian-scale mixed-use development along transit-oriented corridors within the City, but that development of this scale would generally have positive visual impacts, even though it may interrupt views and create the potential for architecturally incompatible development. The LUTE EIR identified mitigation measures related to urban design guidelines, building heights and view corridors that are functionally equivalent to current SCAs to reduce these potential effects to less than significant.

Project Analysis

The Project site is located in the Fruitvale neighborhood of East Oakland, in the area known as Jingtletown. The Project site is approximately one block west of Fruitvale Avenue and three blocks south of International Boulevard, adjacent to the active rail corridor used by the Union Pacific Railroad (UPRR) to the south, and the elevated BART tracks are approximately one block to the north. The Project area is generally characterized by a broad mix of single-story industrial, warehouse and distribution, commercial and residential uses, with relatively high traffic roadways along 12th Street and 29th Street.

The seismic upgrades and other improvements to existing buildings on the Derby property would not change the existing visual character or quality of the site or its surroundings. These improvements would all be internal to the existing buildings. The proposed multi-purpose building would be taller than most of the structures in the immediate vicinity, but it's design as a tall one-story building with a mix of flat and pitched rooflines and corrugated metal siding is in keeping with the design of surrounding industrial warehouse buildings of the area, and would provide an overall positive improvement to the existing visual character this vacant site. The Project is not subject to City Design Review (not required in the M-30 zoning district), but the new multi-purpose building would be contemporary in design, carrying design themes of nearby industrial warehouse styles, and would include amenities such as landscaping. The Project site has several existing trees located along the

southern and western edges of the site. The Project does not propose to remove these existing trees, but to protect them during construction and retain them in the landscape plan.

Standard Conditions of Approval

The Project would be subject to the following City of Oakland SCAs intended to apply to all projects to discourage blight, graffiti defacement, and ensure continued compliance with applicable landscaping requirements.

SCA Aesthetics-1: Trash and Blight Removal (applies to all projects): The project applicant and his/her successors shall maintain the property free of blight, as defined in chapter 8.24 of the Oakland Municipal Code. For nonresidential and multi-family residential projects, the project applicant shall install and maintain trash receptacles near public entryways as needed to provide sufficient capacity for building users.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

SCA Aesthetics-2: Graffiti Control (applies to all projects):

- a) During construction and operation of the project, the project applicant shall incorporate best management practices reasonably related to the control of graffiti and/or the mitigation of the impacts of graffiti. Such best management practices may include, without limitation:
 - i. Installation and maintenance of landscaping to discourage defacement of and/or protect likely graffiti-attracting surfaces.
 - ii. Installation and maintenance of lighting to protect likely graffiti-attracting surfaces.
 - iii. Use of paint with anti-graffiti coating.
 - iv. Incorporation of architectural or design elements or features to discourage graffiti defacement in accordance with the principles of Crime Prevention through Environmental Design (CPTED).
 - v. Other practices approved by the City to deter, protect, or reduce the potential for graffiti defacement.
- b) The project applicant shall remove graffiti by appropriate means within seventy-two (72) hours. Appropriate means include the following:
 - i. Removal through scrubbing, washing, sanding, and/or scraping (or similar method) without damaging the surface and without discharging wash water or cleaning detergents into the City storm drain system.
 - ii. Covering with new paint to match the color of the surrounding surface.
 - iii. Replacing with new surfacing (with City permits if required).

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

SCA Aesthetics-3: Landscape Plan (applies to the establishment of new non-residential facilities, such as the proposed multi-purpose building):

- a) Landscape Plan Required: The project applicant shall submit a final Landscape Plan for City review and approval that is consistent with the approved Landscape Plan. The Landscape Plan shall be included with the set of drawings submitted for the construction-related permit and shall comply with the landscape requirements of chapter 17.124 of the Planning Code. Proposed plants shall be predominantly drought-

tolerant. Specification of any street trees shall comply with the Master Street Tree List and Tree Planting Guidelines, and with any applicable streetscape plan.

When Required: Prior to approval of construction-related permit
Initial Approval: Bureau of Planning
Monitoring/Inspection: N/A

- b) Landscape Installation: The project applicant shall implement the approved Landscape Plan unless a bond, cash deposit, letter of credit, or another equivalent instrument acceptable to the Director of City Planning, is provided. The financial instrument shall equal the greater of \$2,500 or the estimated cost of implementing the Landscape Plan based on a bid by a licensed contractor.

When Required: Prior to building permit final
Initial Approval: Bureau of Planning
Monitoring/Inspection: Bureau of Building

- c) Landscape Maintenance: All required planting shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements. The property owner shall be responsible for maintaining planting in adjacent public rights-of-way. All required fences, walls, and irrigation systems shall be permanently maintained in good condition and, whenever necessary, repaired or replaced.

When Required: Ongoing
Initial Approval: N/A
Monitoring/Inspection: Bureau of Building

Project Plans in Furtherance of SCAs

The Project does include a Preliminary Landscape Plan, which shows the locations of new planting of trees, shrubs, grasses and groundcovers along the edges of the site and near existing and proposed buildings, and a perimeter fence.⁹ Notes on the Preliminary Landscape Plan and Irrigation Plan indicate intended compliance with the criteria of the model Water Efficient Landscape Ordinance. With implementation of applicable SCA, the Project will comply with all aesthetics requirements to address visual character and aesthetics, and the Project's impacts would be less than significant.

Exterior Lighting

LUTE EIR Conclusions

The LUTE EIR concluded that potential impacts related to light and glare would be less than significant, based on the City's Initial Study.

Project Analysis

The Project would introduce new sources of lighting for building and parking lot security. However, all of the surrounding streets (29th Avenue, 12th Street, Derby Avenue and 10th Street) are well lighted, with streetlights spaced along each of these streets.

⁹ Latitude High School PUD application, Sheets L.10 and L2.0, July 2021

Standard Conditions of Approval

The Project would be subject to the following City of Oakland SCA, intended to minimize new source of substantial light or glare.

SCA Aesthetics-4: Lighting (applies to all projects containing new exterior lighting): Proposed new exterior lighting fixtures shall be adequately shielded to a point below the light bulb and reflector to prevent unnecessary glare onto adjacent properties.

When Required: Prior to building permit final

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

Project Plans in Furtherance of SCAs

The Project includes a Preliminary Lighting Plan.¹⁰ The Lighting Plan shows flood lighting to be placed along the entire perimeter of the existing buildings to provide for security and evening lighting. With implementation of SCA Aesthetics-4, requiring that these new lights be shielded to prevent light spill onto adjacent properties, potential exterior lighting impacts would be less than significant.

Shadows and Wind

LUTE EIR Conclusions

The LUTE EIR found that development pursuant to the LUTE could cause changes in wind speeds at certain locations in the Downtown Showcase District. The LUTE EIR identified mitigation measures that require project sponsors to incorporate specific design elements in the final siting and designs for high-rise buildings that could reduce ground-level winds within the Downtown Showcase District (now required pursuant to City SCAs).

Project Analysis

The Project's landscape near the multi-purpose building, and the multi-purpose building itself would not cast substantial shadows on existing solar collectors, would not cast shadows that substantially impair the function of a building using passive solar heat collection, solar collectors for hot water heating, or photovoltaic solar collectors, cast shadows that substantially impair the beneficial use of any public or quasi-public park, lawn, garden or open space, or shadow an historic resource. This impact would not be significant.

The Project has no features that are 100 feet tall, and is not located in an area requiring a wind study. Therefore, the project would have no wind-related impacts.

Interior Light

The Project is not seeking any exception or variance to the policies and regulations of the General Plan, the Planning Code or the Uniform Building Code, and no design measures of the Project present a fundamental conflict with policies and regulations addressing the provision of adequate light related to school use.

Conclusions

Based on an examination of the analysis, findings and conclusions of the Prior EIRs, implementation of the Project would not substantially increase the severity of any significant aesthetic impacts identified in the Prior EIR, nor would it result in new significant impacts related to aesthetics or visual resources that were not

¹⁰ Latitude High School PUD application, Sheet A.2.4, July 2021

previously identified. The Prior EIR did not identify any mitigation measures related to aesthetics or visual resources that would apply to the Project and none would be needed. The SCAs identified above and listed in **Appendix A** pertaining to aesthetics would apply to the Project.

Agriculture and Forestry Resources

Would the Project:	LUTE EIR Findings	Relationship to LUTE EIR Findings		Project Conclusions	
		Equal or Less Severe	New or Substantial Increase in Severity	Applicable SCAs or Mitigation Measures	Level of Significance
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	No Impact	■	□	-	No Impact
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	No Impact	■	□	-	No Impact
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	No Impact	■	□	-	No Impact
d) Result in the loss of forestland or conversion of forestland to non-forest use?	No Impact	■	□	-	No Impact
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forestland to non-forest use?	No Impact	■	□	-	No Impact

LUTE EIR Conclusions

The LUTE EIR did not include further analysis of potential agricultural impacts. The potential for impacts to agriculture and forestlands were determined to be less significant in the LUTE EIR's Initial Study.

Project Analysis

The Project site is identified as Urban Built-Up Land, and is not identified as Prime Farmland, Unique Farmland or Farmland of Statewide or Local Importance pursuant to the Farmland Mapping and Monitoring Program of the California Resource Agency.¹¹ The Project site is not under a Williamson Act contract. There are no existing agricultural uses in the immediate area, and the Project would not conflict with other existing agricultural uses.

¹¹ <https://maps.conservation.ca.gov/DLRP/CIFF/>, accessed 3/5/21

The Project's Derby property is almost completely paved with small area along the parking lot edge with ornamental landscape and trees, and the 29th Street property is vacant, with no trees. The Project site clearly does not contain forestland or timber resources, nor is it zoned as forestland or for timber production. There are no existing forestry uses in the immediate area, and the Project would not conflict with other forestland uses.

Conclusions

Based on an examination of the analysis, findings and conclusions of the Prior EIR, implementation of the Project would not substantially increase the severity of any significant agricultural or forestland impacts identified in the Prior EIR, nor would it result in new significant impacts related to agriculture or forestlands that were not previously identified. The Prior EIR did not identify any mitigation measures related to agriculture or forestlands that would apply to the Project and none would be needed. No SCAs pertaining to agricultural resources would apply to the Project.

Air Quality

<u>Would the Project:</u>	<u>LUTE EIR Findings</u>	<u>Relationship to LUTE EIR Findings</u>		<u>Project Conclusions</u>	
		<u>Equal or Less Severe</u>	<u>New or Substantial Increase in Severity</u>	<u>Applicable SCAs</u>	<u>Level of Significance</u>
a) Result in average daily emissions of 54 pounds per day of ROG, NOx, or PM2.5 or 82 pounds per day of PM10 during construction?	LTS with MM	■	□	SCA Air-1, Dust Controls - Construction Related SCA Air-2, Criteria Air Pollutant Controls - Construction Related	LTS with SCAs
b) Result in average daily emissions of 54 pounds per day of ROG, NOx, or PM2.5 or 82 pounds per day of PM10; or result in maximum annual emissions of 10 tons per year of ROG, NOx, or PM2.5 or 15 tons per year of PM10 during project operations?	SU	■	□	-	LTS
c) Expose sensitive receptors to substantial levels of TACs under project conditions resulting in: a) an increase in cancer risk level greater than 10 in one million; b) a non-cancer risk (chronic or acute) Hazard Index greater than 1.0; or c) an increase of annual average PM2.5 of greater than 0.3 micrograms per cubic meter, for new sources of toxic air contaminants (TACs), during either project construction or project operation? d) Expose sensitive receptors to substantial levels of TACs resulting in: a) a cancer risk level greater than 100 in a million; b) a non-cancer risk (chronic or acute) hazard index greater than 10.0; or c) annual average PM2.5 of greater than 0.8 micrograms per cubic meter for new sources of toxic air contaminants (TACs) under cumulative project construction and operational conditions?	NA	■	□	SCA Air-3, Diesel Particulate Matter Controls- Construction Related SCA Air-4, Asbestos in Structures	LTS with SCAs
e) Contribute to carbon monoxide (CO) concentrations exceeding the California Ambient Air Quality Standards (CAAQS) of nine parts per million (ppm) averaged over eight hours, and 20 ppm for one hour?	NA	■	□	-	No Impact
f) Frequently and for a substantial duration, create or expose sensitive receptors to substantial objectionable odors affecting a substantial number of people?	LTS with MM	■	□	-	No Impact
g) Expose new sensitive receptors to substantial ambient levels of Toxic Air Contaminants (TACs) resulting in: a) a cancer risk level greater than 100 in a million, b) a non-cancer risk (chronic or acute) hazard	NA	■	□	SCA Air-5, Exposure to Air Pollution - Toxic Air Contaminants, Health	LTS with SCAs

index greater than 10.0; or c) annual average PM2.5 of greater than 0.8 micrograms per cubic meter?			Risk Reduction Measures
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For purposes of this CEQA review, a Project-specific air quality analysis has been prepared:

- Illingworth & Rodkin, Inc., *Education for Change Derby Charter High School Air Quality and Greenhouse Gas Emissions Assessment*, March 23, 2021 (see **Appendix B**)

Information in the following section of this CEQA Checklist has been drawn directly from that Project-specific air quality analysis.

Construction-Period Emissions of Criteria Pollutants

LUTE EIR Conclusions

The LUTE EIR found that construction activities associated with downtown projects in the Downtown and Coliseum Showcase Districts would generate dust (including the respirable fraction known as PM10) and combustion emissions. Mitigation measures requiring implementation of Basic Control Measures (which are substantially similar to current City SCAs) at all construction sites was found to reduce this impact to less than significant levels.

Project Analysis

The California Emissions Estimator Model (CalEEMod) Version 2016.3.2 was used to estimate emissions from construction of the Project, based on land use types and size, and anticipated construction schedule. Project construction would occur in two phases.

- Phase 1 involves primarily seismic upgrades to the existing buildings on the Derby property, and paving and installation of recreational space on the adjacent vacant 29th Avenue property. Construction of Phase 1 work (including remediation of site contamination issues as determined by ACDEH) is estimated to take 1 to 3 months, commencing immediately after land use approvals. This activity is not anticipated to require any extensive use of construction equipment, other than a paver.
- Under Phase 2, existing Building B would be removed, and a new 17,500 square-foot multi-purpose building would be constructed, which is estimated to occur at about 1 to 2 years after completion of Phase 1. Construction of the multi-purpose building is estimated to take less than 1 year.

On-site emission sources are primarily construction equipment emissions, while off-site emissions include worker trips, hauling, and vendor traffic. Construction activities, particularly during preparation for paving, would temporarily generate fugitive dust in the form of PM₁₀ and PM_{2.5}. Sources of fugitive dust would include disturbed soils. Unless properly controlled, vehicles leaving the site would deposit mud on local streets, which could be an additional source of airborne dust after it dries.

CalEEMod provides emission estimates for both on-site and off-site construction activities. Construction duration and equipment usage were based on CalEEMod default information for a 400-student high school. CalEEMod estimates that most construction activity that involves equipment use would occur over 123 workdays. Average daily emissions were computed by dividing the total construction emissions by this number of construction workdays. **Table 7** shows average daily construction emissions of ROG, NO_x, PM₁₀ exhaust, and PM_{2.5} exhaust during construction of the Project.

Table 7: Project Construction Period Emissions

<u>Scenario</u>	<u>ROG</u>	<u>NOx</u>	<u>PM₁₀ Exhaust</u>	<u>PM_{2.5} Exhaust</u>
Uncontrolled Construction Emissions	0.13 tons	0.43 tons	0.022 tons	0.020 tons
Controlled Construction Emissions	0.11 tons	0.28 tons	0.002 tons	0.002 tons
Average Daily Controlled Emissions (pounds/day)¹	2 lbs/day	5 lbs/day	0.03 lbs/day	0.03 lbs/day
<i>Thresholds (pounds per day)</i>	54 lbs./day	54 lbs./day	82 lbs./day	54 lbs./day
Exceed Threshold?	No	No	No	No

¹ Assumes 123 workdays.

Source: Illingworth & Rodkin, March 2021

As indicated, the predicted emissions of criteria pollutants during Project construction would not exceed the significance thresholds, and would be less than significant.

Standard Conditions of Approval

The Project would be subject to the following City of Oakland SCAs intended to reduce construction-period emissions of dust and criteria pollutants.

SCA Air-1, Dust Controls - Construction Related (applies to all projects involving construction activities): The project applicant shall implement all of the following applicable dust control measures during construction of the project:

- i. Water all exposed surfaces of active construction areas at least twice daily. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever feasible.
- ii. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer).
- iii. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- iv. Limit vehicle speeds on unpaved roads to 15 miles per hour.
- v. All demolition activities (if any) shall be suspended when average wind speeds exceed 20 mph.
- vi. All trucks and equipment, including tires, shall be washed off prior to leaving the site.
- vii. Site accesses to a distance of 100 feet from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

SCA Air-2, Criteria Air Pollutant Controls - Construction Related (applies to all projects involving construction activities): The project applicant shall implement all of the following applicable basic control measures for criteria air pollutants during construction of the project as applicable:

- i. Idling times on all diesel-fueled commercial vehicles over 10,000 lbs. shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to two minutes (as required by the California airborne toxics control measure Title 13, Section 2485, of the California Code of Regulations). Clear signage to this effect shall be provided for construction workers at all access points.
- ii. Idling times on all diesel-fueled off-road vehicles over 25 horsepower shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to two minutes and fleet operators must develop a written policy as required by Title 23, Section 2449, of the California Code of Regulations (“California Air Resources Board Off-Road Diesel Regulations”).
- iii. All construction equipment shall be maintained and properly tuned in accordance with the manufacturer’s specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. Equipment check documentation should be kept at the construction site and be available for review by the City and the Bay Area Air Quality District as needed.
- iv. Portable equipment shall be powered by grid electricity if available. If electricity is not available, propane or natural gas generators shall be used if feasible. Diesel engines shall only be used if grid electricity is not available and propane or natural gas generators cannot meet the electrical demand.
- v. Low VOC (i.e., ROG) coatings shall be used that comply with BAAQMD Regulation 8, Rule 3: Architectural Coatings.
- vi. All equipment to be used on the construction site shall comply with the requirements of Title 13, Section 2449, of the California Code of Regulations (“California Air Resources Board Off-Road Diesel Regulations”) and upon request by the City (and the Air District if specifically requested), the project applicant shall provide written documentation that fleet requirements have been met.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

With implementation of SCAs Air-1 and Air-2, dust and criteria pollutants would be further reduced, and the impacts of construction activities on air quality would be less than significant.

Operational Emissions of Criteria Pollutants

LUTE EIR Conclusions

The LUTE EIR determined that the LUTE would not be consistent with population and vehicle miles traveled (VMT) assumptions used at that time for regional air quality planning. The LUTE EIR concluded that the projected population resulting from implementation of the LUTE would exceed ABAG’s population estimate by year 2020. Since the Clean Air Plan’s (CAP’s) emissions inventory was based on ABAG’s population projections, exceeding ABAG’s population projections was found to generate population-based emissions that would be greater than that assumed in the CAP, and attainment of the State air quality standards could be delayed. The LUTE EIR also found that the projected VMT growth rate pursuant to the LUTE would exceed the projected population growth rate, thereby hindering progress towards achieving VMT performance objectives. The LUTE EIR recommended mitigation requiring, to the extent permitted by law, that large new development within the City be required to implement Transportation Control Measures (TCMs) as recommended by the Bay Area Air Quality Management District, but this measure was not found to reduce impacts to less than significant levels.

The LUTE EIR also determined that cumulative development of projects in the Downtown Showcase District and the Coliseum Showcase District would result in long-term traffic increases and associated air pollutant

emissions, which would adversely affect regional air quality (the Project is not located in either the Downtown Showcase District or the Coliseum Showcase District). The LUTE EIR recommended mitigation requiring, to the extent permitted by law, that downtown projects should be required to implement Transportation Control Measures (now replaced by current City SCAs) to reduce mobile source emissions. Many of these measures already would be part of the downtown projects due to the proximity of these projects to existing local and regional transit facilities and existing limitations on parking availability, but this impact was found to be significant and unavoidable.

Project Analysis

Project operations would generate criteria air pollutant emissions (including ROG, NO_x, PM₁₀, and PM_{2.5}) from mobile sources (vehicular traffic), area sources (consumer products, architectural coatings, and landscaping equipment), energy sources (electricity use) and indirect emissions attributed to increased water, wastewater and solid waste demands. The CalEEMod model was used to compute operational air emissions from the Project. Operational modeling using CalEEMod included the following assumptions for the Project:

- High school land use, assuming a population of 400 students, with additional recreational space, surface parking, and other asphalt surfaces (total paving area assumed is approximately 80,000 square feet)
- The Project would be fully built out and operating in the year 2021
- Project-specific trip generation rates (432 daily vehicle trips) as provided by the traffic consultant, with default trip lengths and trip types as specified by CalEEMod
- CalEEMod defaults for energy use (i.e., current building code requirements) were used for new construction, and the rate of historical energy was conservatively selected for use in the model for existing Phase I buildings. However, it is anticipated that improvement made to the existing buildings on the Derby property will lower energy demands below historic energy rates.
- Default model assumptions were used for emissions associated with solid waste generation and water/wastewater use. Water/wastewater use was changed to 100% aerobic conditions to represent wastewater treatment plant conditions.

Annual emissions were predicted using CalEEMod, and daily emissions were calculated assuming these total annual emissions would occur over a 260-days school calendar.¹² **Table 8** shows average daily emissions of ROG, NO_x, total PM₁₀, and total PM_{2.5} during operation of the Project.

¹² CalEEMod predicts annual emissions, assuming 365-day operation; however, traffic is assumed to occur only 5 days per week throughout the year. Therefore, this assessment assumed 260 annual days of operation.

Table 8: Project Operational Period Emissions

<u>Scenario</u>	<u>ROG</u>	<u>NOx</u>	<u>PM₁₀</u>	<u>PM_{2.5}</u>
2022 Annual Project Operational Emissions (<i>tons/year</i>)	0.39 tons	1.13 tons	0.54 tons	0.15 tons
<i>Thresholds (tons /year)</i>	10 tons	10 tons	15 tons	10 tons
<i>Exceed Threshold?</i>	No	No	No	No
2022 Daily Project Operational Emissions (<i>pounds/day</i>) ¹	2.99 lbs.	8.67 lbs.	4.14 lbs.	1.15 lbs.
<i>Thresholds (pounds/day)</i>	54 lbs.	54 lbs.	82 lbs.	54 lbs.
<i>Exceed Threshold?</i>	No	No	No	No

Notes: ¹ Assumes 5-day per week operation (260 days/year)

Source: Illingworth & Rodkin, March 2021

The operational period emissions as shown above would not exceed the significance thresholds, and the Project’s operational emissions of criterial air pollutants would be less than significant.

Construction and Operational Period Emissions of TAC

LUTE EIR Conclusions

The 1998 LUTE EIR did not quantify or address toxic air contaminants (TACs) or related health risks. It did conclude that implementation of the LUTE would result in traffic increases along roadways in the City and that traffic could result in localized air quality impacts, but no additional mitigation measures were required.

Project Analysis

Toxic Air contaminants (TACs) are defined as substances in the air that may cause or contribute to an increase in deaths or in serious illness, or that may pose a present or future hazard to human health. Health effects from carcinogenic air toxins are typically described in terms of increased cancer risk, and those TACs that do not have carcinogenic effects (but that can result in chronic health effects such as asthma) are assessed based on the relative health index (or HI) rating. Some land uses are considered more sensitive to toxic air pollution than others due to the types of population groups affected, or activities involved. Children, pregnant women, older adults and people with existing health problems are especially vulnerable to the effects of toxic air pollution and TACs. Accordingly, land uses where these sensitive-receptor population groups are likely to be located (including hospitals, medical clinics, schools, playgrounds, childcare centers, residences, and retirement homes) are considered especially sensitive receptors.

Community health risks resulting from the combination of construction emissions and operational sources of toxic air contaminants (TACs) are addressed by predicting increased cancer risk, increased annual PM_{2.5} concentrations, and computing the health Hazard Index (HI) for non-cancer health risks. Potential impacts are assessed for the maximally exposed individual (MEI) receptor, which is the sensitive receptor most affected by the Project’s emissions of TACs and PM_{2.5}. To evaluate the increased cancer risks from the Project, a 30-year exposure period was assumed, with the sensitive receptors being exposed to Project-related construction and operation emissions during this timeframe. The methodology for computing community risks involved modeling of TAC and PM_{2.5} emissions, dispersion modeling, and cancer risk computations.

Sensitive receptors for this assessment include locations where sensitive populations would be present for extended periods of time, including all nearby residences¹ and schools. Residential receptors are assumed to

include all receptor groups (i.e., infants, children and adults), conservatively assuming almost continuous exposure to Project-related emissions. Community risks were also computed for children attending the nearby Lazear Charter School (K – 8th grade) at about 300 feet southwest of the Project site, and the International Community School (K – 5th grade), which has classrooms about 400 feet to the north of the site.

Operation of the Project would not cause measurable health risk impacts. The Project includes no stationary sources of TAC emissions, and the Project would not generate, handle or use products that emit toxic air contaminants.

Sources of construction-period TACs include diesel exhaust (or DPM) from on-site construction equipment, and construction truck hauling. The primary community health risks associated with construction emissions are cancer risk and exposure to PM_{2.5} emissions. Diesel exhaust poses both a potential health risk and a nuisance to nearby receptors. Emissions and dispersion modeling for construction emissions was conducted using the following methodologies and tools:

- The CalEEMod model provided total annual PM₁₀ exhaust emissions for off-road construction equipment and for exhaust emissions from on-road vehicles
- U.S. EPA AERMOD dispersion model was used to predict DPM and PM_{2.5} concentrations at sensitive receptors (residences, schools) in the vicinity of the Project. The AERMOD dispersion model is a BAAQMD-recommended model for use in modeling analysis of these types of emission activities for CEQA projects.¹³
- Increased cancer risk calculations were based on applying the BAAQMD-recommended age sensitivity factors to the TAC concentrations. Age-sensitivity factors reflect the greater sensitivity of infants and small children to cancer-causing TACs.
- The maximum annual PM_{2.5} concentration was calculated based on combined exhaust and fugitive dust concentrations.
- The maximum computed HI values was based on the ratio of the maximum DPM concentration modeled, and the reference exposure of 5 ug/m³ for chronic inhalation (**Appendix B** provides more detailed modeling methodology and emission calculations used for the construction modeling and the cancer risk calculations).

The maximum concentrations for construction-period TAC emissions at off-site receptors occurs at a single-family residence at the northeast corner of 30th Avenue and East 12th Street (this is the location of the maximum exposed individual, or MEI). Based on modeling and assuming no emission controls, the increased cancer risk for an infant at this location (18.4 per million) would exceed the single-source thresholds for community risks (10 per million), whereas the annual PM_{2.5} concentration and HI values would not exceed the single-source thresholds. **Table 9** lists the community risks from construction-period TAC emission at the MEI, without implementation of any emission controls.

¹³ Bay Area Air Quality Management District (BAAQMD), *Recommended Methods for Screening and Modeling Local Risks and Hazards, Version 3.0.*, May 2012

Table 9- Construction Risk Impacts at the Off-site MEIs (Uncontrolled Emissions)

<u>Source</u>	<u>Cancer Risk (per million)</u>	<u>Annual PM_{2.5} (µg/m³)</u>	<u>Hazard Index</u>
Maximum Off-Site Residential Risk, uncontrolled emissions	18.4 (infant)	0.12	0.02
Maximum Off-Site School Risk, uncontrolled emissions	3.5 (child)	0.06	0.01
Single-Source Threshold	10.0	0.3	1.0
Exceed Threshold? (uncontrolled)	Yes	No	No

Source: Illingworth & Rodkin, March 2021

Modeling was also conducted to predict the cancer risks, non-cancer health hazards, and maximum PM_{2.5} concentrations associated with the Project’s construction activities at other nearby schools. The maximum increased cancer risks at these other off-site schools in the vicinity were adjusted using child exposure parameters (ages 2 through 16, calculated based on a 9-year exposure duration for a K-8 school), rather than infant exposure parameters. Under an uncontrolled scenario, the cancer risk, PM_{2.5} concentration, and HI at the nearby schools would not exceed their respective single-source significance thresholds, as also shown in Table 9.

Standard Conditions of Approval

The Project would be subject to the following City of Oakland SCAs intended to reduce construction-period emissions of toxic air contaminants.

SCA Air-3, Diesel Particulate Matter Controls-Construction Related (applies to the Project as being 25,000 square feet of non-residential floor area in an area defined as needing “Best Practices” or needing “Further Study” on the BAAQMD Healthy Places Map (<http://www.baaqmd.gov/plans-andclimate/planning-healthy-places>) which are typically within 1000 feet of a freeway or along major thoroughfares)

- a) *Diesel Particulate Matter Reduction Measures:* The project applicant shall implement appropriate measures during construction to reduce potential health risks to sensitive receptors due to exposure to diesel particulate matter (DPM) from construction emissions. The project applicant shall choose one of the following methods:
 - i. The project applicant shall retain a qualified air quality consultant to prepare a Health Risk Assessment (HRA) in accordance with current guidance from the California Air Resources Board (CARB) and Office of Environmental Health and Hazard Assessment to determine the health risk to sensitive receptors exposed to DPM from project construction emissions. The HRA shall be submitted to the City (and the Air District if specifically requested) for review and approval. If the HRA concludes that the health risk is at or below acceptable levels, then DPM reduction measures are not required. If the HRA concludes that the health risk exceeds acceptable levels, DPM reduction measures shall be identified to reduce the health risk to acceptable levels as set forth under subsection b below. Identified DPM reduction measures shall be submitted to the City for review and approval prior to the issuance of building permits and the approved DPM reduction measures shall be implemented during construction.

Or –

- ii. All off-road diesel equipment shall be equipped with the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type (Tier 4 engines automatically meet this requirement) as certified by CARB. The equipment shall be properly maintained and tuned in accordance with manufacturer specifications. This shall be verified through an equipment inventory

submittal and Certification Statement that the Contractor agrees to compliance and acknowledges that a significant violation of this requirement shall constitute a material breach of contract.

When Required: Prior to issuance of a construction related permit, during construction

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

- b) *Construction Emissions Minimization Plan* (if required by a) above): The project applicant shall prepare a Construction Emissions Minimization Plan (Emissions Plan) for all identified DPM reduction measures (if any). The Emissions Plan shall be submitted to the City (and the Bay Area Air Quality District if specifically requested) for review and approval prior to the issuance of building permits. The Emissions Plan shall include the following:
- i. An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.
 - ii. A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract.

When Required: Prior to issuance of a construction related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

SCA Air-4, Asbestos in Structures (applies to the Projects as it involves renovation of structures known to contain, or that may contain asbestos): The project applicant shall comply with all applicable laws and regulations regarding demolition and renovation of Asbestos Containing Materials (ACM), including but not limited to California Code of Regulations, Title 8; California Business and Professions Code, Division 3; California Health and Safety Code sections 25915-25919.7; and Bay Area Air Quality Management District, Regulation 11, Rule 2, as may be amended. Evidence of compliance shall be submitted to the City upon request.

When Required: Prior to approval of construction-related permit

Initial Approval: Applicable regulatory agency with jurisdiction

Monitoring/Inspection: Applicable regulatory agency with jurisdiction

Resulting Level of Significance

As discussed above and pursuant to SCA-Air-3, a Health Risk Assessment was prepared to determine the health risk to sensitive receptors exposed to DPM from project construction emissions. The Assessment concluded that the increased cancer risk for an infant at this location (18.4 per million) would exceed the single-source thresholds for community risks (10 per million) without implementation of any emission controls. As such, and pursuant to SCA Air-3, Diesel Particulate Matter Controls-Construction Related (a[ii]), the engines for all diesel-powered equipment to be used at the Project site during construction shall be equipped with the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type as certified by CARB (i.e., Tier 4 engines). As demonstrated in **Table 10**, these emission controls would substantially reduce the Project's construction-period emissions of TAC, and the construction-related risks and health hazards to nearby sensitive receptors would not exceed any of the single-source thresholds. Use of the most effective Verified Diesel Emission Control Strategies as certified by CARB is required of the Project pursuant to this SCA, and the Project

applicant has agreed to implement this requirement. Implementation of this SCA would also further reduce the less than significant health effects on nearby schoolchildren.

Table 10- Construction Risk Impacts at the Off-site MEIs (with Required Emissions Controls)

<u>Source</u>	<u>Cancer Risk (per million)</u>	<u>Annual PM_{2.5} (µg/m³)</u>	<u>Hazard Index</u>
Maximum Off-Site Residential Risk, with SCA Air-3, a, ii	1.0 (infant)	0.06	<0.01
Maximum Off-Site School Risk, with SCA Air-3, a, ii	1.1 (child)	0.02	<0.01
<i>Single-Source Threshold</i>	10.0	0.3	1.0
Exceed Threshold (with SCA Air-3, a, ii)?	No	No	No

source: Illingworth & Rodkin, March 2021

Carbon Monoxide Emissions

LUTE EIR Conclusions

The 1998 LUTE EIR did not quantify or specifically address carbon monoxide (CO) emissions, but did conclude that implementation of the LUTE would result in traffic increases along roadways in the City and that traffic could result in localized air quality impacts, but no additional mitigation measures were required.

Project Analysis

Pursuant to BAAQMD CEQA Guidelines, localized CO concentrations should be estimated for projects that would a) generated traffic volumes that would conflict with an applicable Congestion Management Program, or (b) would increase traffic volumes at affected intersections to more than 44,000 vehicles per hour (or 24,000 vehicles per hour where vertical and/or horizontal mixing is substantially limited, such as tunnels, parking garages, bridge underpasses, natural or urban street canyons, and below-grade roadways). In Oakland, only the MacArthur Maze portion of Interstate 580 exceeds the 44,000 vehicles per hour screening criteria. The Project would not generate traffic at levels that would approach these critical volumes, and would have no impact related to CO emissions.

Odor Nuisance

LUTE EIR Conclusions

The LUTE EIR concluded that the mix of commercial and residential uses could result in odor nuisance problems at residential receptors. The LUTE EIR recommended mitigation whereby residential development would be located above commercial uses, parking garages or any other uses with a potential to generate odors, the odor-generating use should be properly vented (e.g., located on rooftops) and designed (e.g., equipped with afterburners) so as to minimize the potential for nuisance odor problems. This measure was found to reduce odor impacts to levels of less than significant.

Project Analysis

There is nothing about school uses that generate odors that adversely affect substantial number of people, and nothing unique or peculiar about this school that would generate such odors. The Project would include a

kitchen and servery, but odors related to food preparation would not be substantial and would not affect a substantial number of people. The Project would have no impact related to odors.

Conclusions

Based on an examination of the analysis, findings and conclusions of the Prior EIR, implementation of the Project would not substantially increase the severity of any significant air quality impact as identified in the Prior EIR, nor would it result in new significant air quality impacts that were not previously identified. The Prior EIR did not identify any mitigation measures related to air quality that would apply to the Project and none would be needed. The SCAs identified above and listed in **Appendix A** pertaining to air quality would apply to the Project.

Non-CEQA Considerations, Health Risk Exposure of Students and Faculty to Ambient Air Conditions

For purposes of the City's review of the Project and its compliance with General Plan policies, a Project-specific health risk assessment to new students at the school has been prepared, and is included in:

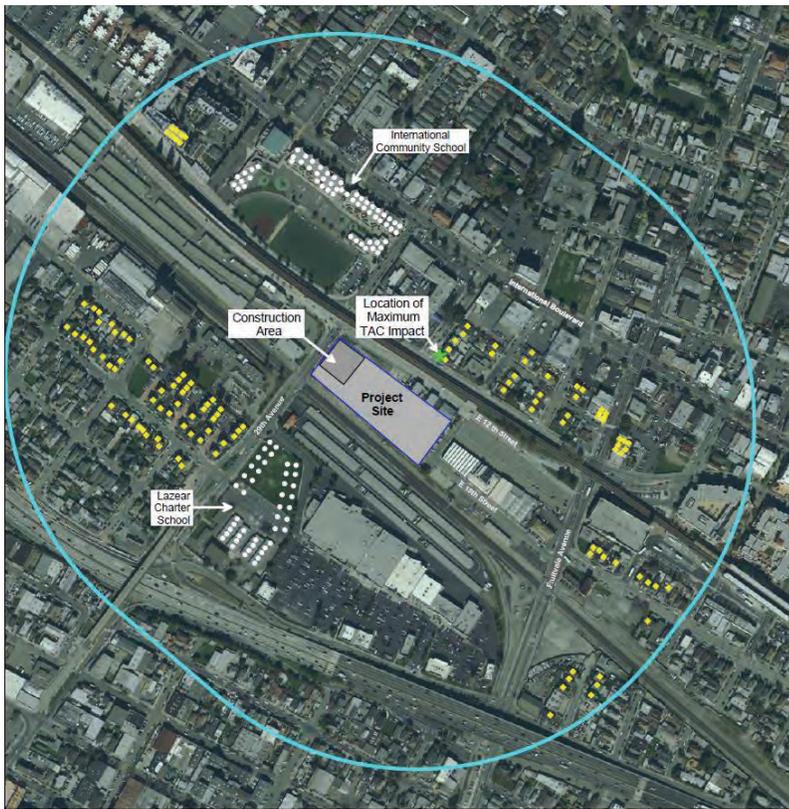
- Illingworth & Rodkin, Air Quality and Greenhouse Gas Emissions Assessment, March 23, 2021
(**Appendix B**)

Information in the following section of this CEQA Analysis has been drawn directly from that Project-specific health risk assessment.

Future students and faculty/staff at the Project site could be exposed to existing and reasonably foreseeable future sources of TAC emissions. CEQA does not require the analysis or mitigation of potential effects that the existing environment may have on a project (with certain exceptions). However, the Project is required to analyze exposure to TACs because the Project would include sensitive receptors (students) within 1,000 feet of multiple sources of TAC emissions.

Sources of TAC Emissions Affecting the Proposed School

Health risk impacts to new students and faculty/staff attending the Project school were evaluated by considering multiple sources of TAC and PM_{2.5} emissions within a quarter mile of the Project site (see **Figure 9**). Within that one-quarter mile influence area, emissions sources include Interstate 880, several roadways with traffic volumes over 10,000 average daily trips (ADT), the UPRR rail line, and a shopping center with truck loading docks south of the Project site. A public records request was made to BAAMQD to confirm the presence of other sources within the one-quarter mile influence area, and BAAQMD confirmed that there are four additional identified stationary sources of potentially hazardous emissions within one-quarter mile from the Project site.



Off-Site Sensitive Receptors in Relationship to Project Construction Emissions

Air Pollutant Sources Affecting Project Site



Figure 9
Off-Site Sensitive Receptors and Off-Site Sources of TAC Emissions

Source: Illingworth & Rodkin, March 2021

Union Pacific Railroad (UPRR)

The Union Pacific Railroad line lies adjacent to the southwest boundary of the Project site. Trains traveling on these lines generate TAC and PM_{2.5} emissions from diesel locomotives. Due to the close proximity of the rail line to the Project site, potential community risks to future students from DPM emissions from diesel locomotive engines were evaluated. According to the U.S. DOT Crossing Inventory Form, there are 20 through trains and 4 switching locomotives that pass the Project site each day. The track serves both intercity passenger and freight trains. Based on Amtrak's schedule, the Amtrak Capitol Corridor line has 18 weekday trains and 15 weekend trains on these rail lines, and the Coast Starlight operates 2 daily trains that pass the site. All trains are assumed to use diesel-powered locomotives, each train using two locomotives with 2,300 hp engines (total of 4,600 hp) and would be traveling at about 40 mph. Emissions modeling of locomotive train engines was conducted using the AERMOD dispersion model (detailed modeling calculations can be reviewed in **Appendix B**).¹⁴

Local Roadway Sources

A review of the Project's traffic study identified several local roadways that have traffic volumes greater than 10,000 ADT per day. Traffic ADT estimates were computed by assuming the ADT was ten times the average peak-hour volume. These roadways and respective daily traffic volumes include:

- 29th Avenue, with ADT of 13,460
- East 12th Street, with ADT of 10,105
- Fruitvale Avenue, with ADT of 15,130
- East 10th Street/San Leandro Street, with ADT of 7,725, and
- International Boulevard, with ADT of 21,000

Traffic on all other immediately adjacent local roadways have ADTs of less than 10,000 daily vehicles. Analysis of emissions from these roadways involves calculation of DPM, organic TACs and PM_{2.5} emissions from traffic using the Caltrans version of the EMFAC2017 emissions model, known as CT-EMFAC2017. This model provides emission factors for mobile source criteria pollutants and TACs, including DPM (greater details of emissions modeling methodology can be found in **Appendix B**). The average hourly traffic distributions for Alameda County roadways were developed using the EMFAC model, which were then applied to the trip volumes to obtain estimated hourly traffic volumes and resulting emissions from the roadways. Operational traffic roadway travel emissions were modeled with the AERMOD model using line-volume sources (a series of adjacent volume sources along the roadway) to represent traffic emissions on roadway segments within one-quarter mile of the Project site (detailed modeling calculations can be reviewed in **Appendix B**). Figure 9 shows those roadway segments modeled.

Interstate 880

Interstate 880 lies about 900 feet southwest of the Project site. Nearest to the Project site, I-880 has a traffic volume of 213,700 ADT, as reported by Caltrans. Caltrans' truck traffic information indicates that about 9.7 percent of this traffic is truck traffic, of which 6.7 percent is considered heavy-duty trucks and 3 percent is medium-duty trucks. DPM, organic TACs, and PM_{2.5} emissions for traffic on I-880 were computed using CT-EMFAC2017 2020 emission factors from the traffic mix as developed from Caltrans data. Emissions from traffic on I-880 was computed using the CARB EMFAC2017 emission factor model. Average hourly traffic distributions for Alameda County roadways was developed using the EMFAC model, which were then applied to the average daily traffic volumes to obtain estimated hourly traffic volumes and emissions for I-880. Dispersion modeling of

¹⁴ Emission factors for diesel locomotives are assumed to improve over time due to regulatory requirements for reduced particulate matter emissions. Modeling of diesel emissions conservatively assumes the nearest time period (over the next four years) and averages these four-year emission factors at the mid-point of this term, at year 2022.

TAC and PM_{2.5} emissions was then conducted using the U.S. EPA AERMOD model. North- and south-bound traffic on I-880 within about one-quarter mile of the Project site was evaluated with the model (detailed modeling calculations can be reviewed in **Appendix B**).

Shopping Center Loading Docks

The loading docks at the Fruitvale Station shopping center are a source of truck traffic and DPM emissions from truck travel and idling. For purposes of this analysis, the shopping center's tenants were assumed to generate 7 truck deliveries per day (or 14 truck trips per day). Emissions rates from these truck trips were computed using the CT-EMFAC2017 model, in a similar manner as described above for local roadway travel. The AERMOD model was used to calculate the dispersion of TAC and PM_{2.5} emissions, where truck travel routes were modeled as line volume sources and emissions from idling trucks at the loading docks were modeled as discrete point sources (detailed modeling calculations can be reviewed in **Appendix B**).

Stationary Sources

A total of four stationary sources are identified as being within a one-quarter mile influence area from the Project site. Screening risk values and emissions rates from these sources were provided by BAAQMD. Figure 9 shows the relationship of these stationary sources of air pollution to the Project site. The screening level risks and hazards from these stationary sources were adjusted for distance using BAAQMD's Distance Adjustment Multiplier Tool for Diesel Internal Combustion Engines and Gasoline Dispensing Facilities (detailed modeling calculations can be reviewed in **Appendix B**).¹⁵

Health Risks for School Students

The onsite outdoor concentrations of TAC emissions from rail locomotives, traffic on local roadways, traffic on I-880, shopping center loading docks, and all other identified stationary sources of emissions was modeled separately to identify the respective health risks from each source, and also added to identify the cumulative health risks from all sources, combined. The additional parameters used in the cancer risk assessment for school students at the Project include the following:

- The exposure period for risks to students is assumed to occur over a four-year period, during the time students attend the high school (rather than the 30-year exposure period used for calculating risks to off-site receptors)
- The daily exposure period is assumed to be 11 hours, representing the portion of the day when students would be at the school (rather than a 24-hour exposure period)
- An MEI age sensitivity factor of 3 and breathing rate of 520 is assumed for the age category of "child, ages 2-16" for high school students (rather than the age sensitivity factor of 10 and breathing rate of 1,200 for "infants", as used for calculating risks to off-site receptors)

Relative Health Risks at the Project Site

Using the modeled on-site emission concentrations and health risk parameters described above, increased cancer risks, non-cancer health effects, and PM_{2.5} concentrations was calculated for at 136 separate receptor locations, spaced at six-meter intervals throughout the Project site, with each receptor location assuming outdoor emission concentrations. Health risks were calculated for the maximum exposed individual (MEI) under both single source and combined source emissions. The relative health risks to the MEI resulting from each of the identified individual TAC emission sources are reported in **Table 11**, and compared against the BAAQMD

¹⁵ No age-sensitivity factor adjustment for older students (see Health Risk Parameters for School Students, below) was included in the screening analysis, so risks would be similar or lower if adjustments were included.

single-source threshold. The risks from all of the identified sources are then combined and compared against the BAAQMD cumulative-source threshold

Table 11: Health Risk Impacts to Onsite Sensitive Receptors

<u>Source</u>	<u>Maximum Cancer Risk (per million)</u>	<u>PM_{2.5} Concentration (µg/m³)</u>	<u>Hazard Index</u>
Interstate 880	1.64	0.152	0.003
Rail Line	3.08	0.046	0.009
10th Street/San Leandro Street	0.15	0.050	0.000
12th Street	0.30	0.098	0.000
29th Avenue	0.91	0.373	0.001
Fruitvale Avenue	0.06	0.015	0.000
International Blvd	0.11	0.034	0.000
Shopping Center Trucks	0.01	<0.01	<0.01
Food Max #484 (Facility ID #18337, Generator) Project Distance at 300 feet	0.00	0.00	0.00
Portwood Shell #135696 (Facility ID #107000, Gas Dispensing Facility) Project Distance at 970 feet	0.08	0.00	<0.02
Several Auto body shops (Facility ID #18579, 18839, 21544)	0.00	0.00	0.00
Combination of All Sources*	6.34	0.77	0.01
Single-Source Threshold	> 10.0	> 0.3	> 1.0
<i>Exceed Threshold?</i>	No	Yes	No
Cumulative Source Threshold	> 100	> 0.8	> 10.0
<i>Exceed Threshold?</i>	No	No	No

* Total from all sources independent of where the maximum impacts occur.
Source: Illingworth & Rodkin, March 2021

As shown in Table 11, the maximum increased cancer risk from a single source (emissions from the rail line) is 3.08 additional cancer risks per million at the MEI receptor within the Project site, which is below the single source threshold of 10 per million. The maximum cumulative cancer risk at the MEI receptor within the Project site from all sources (located at the southeast corner of the site, see prior Figure 9) is 6.34, which is below the cumulative source threshold of 100. Similarly, the Health Hazard index at the MEI receptor within the Project site from any individual source (emissions from the rail line) is 0.009, which is below the single source threshold of 1.0. The maximum cumulative Health Hazard Index within the Project site from all sources (at the MEI receptor in the southeast corner of the site near the rail line) is 0.01, which is well below the cumulative source threshold of 10.0.

However, emissions of PM_{2.5} from traffic along 29th Avenue result in annual PM_{2.5} concentrations of 0.373 ug/m² at the nearest MEI receptors along this roadway, which exceeds the single source threshold of 0.300 ug/m². The MEI receptors on the Project site that are exposed to this PM_{2.5} concentration include existing Building B and the planned Phase II multi-purpose building. No outdoor eating, learning areas, or school-hour recreation is

proposed near these locations. The maximum cumulative PM_{2.5} concentrations from all combined sources at the MEI receptors along 29th Avenue is 0.77 ug/m², which is just below the cumulative threshold of 0.8 ug/m².

Standard Conditions of Approval

The Project would be subject to the following City of Oakland SCAs intended to reduce exposure to toxic air contaminants.

SCA Air-5, Exposure to Air Pollution - Toxic Air Contaminants, Health Risk Reduction Measures (applies to the Project as a new or expanded school located within 1,000' of a freeway, roadway with significant traffic and/or rail line with over 30 trains per day): The project applicant shall incorporate appropriate measures into the project design in order to reduce the potential health risk due to exposure to toxic air contaminants. The project applicant shall choose one of the following methods:

- a) The project applicant shall retain a qualified air quality consultant to prepare a Health Risk Assessment (HRA) in accordance with California Air Resources Board (CARB) and Office of Environmental Health and Hazard Assessment requirements to determine the health risk of exposure of project residents/occupants/users to air pollutants. The HRA shall be submitted to the City for review and approval. If the HRA concludes that the health risk is at or below acceptable levels, then health risk reduction measures are not required. If the HRA concludes that the health risk exceeds acceptable levels, health risk reduction measures shall be identified to reduce the health risk to acceptable levels. Identified risk reduction measures shall be submitted to the City for review and approval and be included on the project drawings submitted for the construction-related permit or on other documentation submitted to the City. The approved risk reduction measures shall be implemented during construction and/or operations as applicable

Or -

- b) The project applicant shall incorporate the following health risk reduction measures into the project. These features shall be submitted to the City for review and approval and be included on the project drawings submitted for the construction-related permit or on other documentation submitted to the City:
 - i. Installation of air filtration to reduce cancer risks and Particulate Matter (PM) exposure for residents and other sensitive populations in the project that are in close proximity to sources of air pollution. Air filter devices shall be rated MERV-13 or higher. As part of implementing this measure, an ongoing maintenance plan for the building's HVAC air filtration system shall be required.
 - ii. Where appropriate, install passive electrostatic filtering systems, especially those with low air velocities (i.e., 1 mph).
 - iii. Phasing of residential developments when proposed within 500 feet of freeways such that homes nearest the freeway are built last, if feasible.
 - iv. The project shall be designed to locate sensitive receptors as far away as feasible from the source(s) of air pollution. Operable windows, balconies, and building air intakes shall be located as far away from these sources as feasible. If near a distribution center, residents shall be located as far away as feasible from a loading dock or where trucks concentrate to deliver goods.
 - v. Sensitive receptors shall be located on the upper floors of buildings, if feasible.
 - vi. Planting trees and/or vegetation between sensitive receptors and pollution source, if feasible. Trees that are best suited to trapping PM shall be planted, including one or more of the following: Pine (*Pinus nigra* var. *maritima*), Cypress (*X Cupressocyparis leylandii*), Hybrid poplar (*Populus deltoids* X *trichocarpa*), and Redwood (*Sequoia sempervirens*).

- vii. Sensitive receptors shall be located as far away from truck activity areas, such as loading docks and delivery areas, as feasible.
- viii. Existing and new diesel generators shall meet CARB's Tier 4 emission standards, if feasible.
- ix. Emissions from diesel trucks shall be reduced through implementing the following measures, if feasible: installing electrical hook-ups for diesel trucks at loading docks; requiring trucks to use Transportation Refrigeration Units (TRU) that meet Tier 4 emission standards; requiring truck-intensive projects to use advanced exhaust technology (e.g., hybrid) or alternative fuels; prohibiting trucks from idling for more than two minutes; or establishing truck routes to avoid sensitive receptors in the project. A truck route program, along with truck calming, parking, and delivery restrictions, shall be implemented.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

- c) *Maintenance of Health Risk Reduction Measures:* The project applicant shall maintain, repair, and/or replace any installed health risk reduction measures, including but not limited to the HVAC system (if applicable), on an ongoing and as-needed basis. Prior to occupancy, the project applicant shall prepare and then distribute to the building manager/operator an operation and maintenance manual for the HVAC system and filter including the maintenance and replacement schedule for the filter.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

Conclusions Pursuant to SCAs

SCA Air-5 requires projects near sources of toxic air contaminants to perform a health risk assessment and, if necessary, incorporate appropriate measures into the project design in order to reduce the potential health risk due to exposure to toxic air contaminants. A health risk assessment for the Project has been prepared (as summarized above and included in **Appendix B**). That Health Risk Assessment indicates that the portion of the Project that is adjacent to 29th Avenue would be exposed to PM_{2.5} concentrations that exceed the threshold level caused by a single source (i.e., traffic emissions on 29th Avenue), and health risk reduction measures are required to be incorporated into the Project's design. Specifically, HVAC systems with high efficiency particulate filters (MERV-13 filters) should be included in the ventilation design especially for those buildings that are located along the 29th Avenue frontage, along with weatherproofing of windows and doors, installation of passive electrostatic filtering systems, and adoption of a maintenance plan for the HVAC and air filtration systems.

The U.S. EPA reports that air filters rated at MERV-13 have a 90 percent efficiency in removing particles of between 1 to 3 microns in diameter, and approximately 75 percent efficiency in removing particles of between 0.3 to 1 microns in diameter. The BAAQMD's *Planning Healthy Places* guidance document indicates that MERV-13 air filtration devices installed on an HVAC air intake system can remove 80 to 90 percent of indoor particulate matter greater than 0.3 microns in diameter. A properly installed and operated ventilation system with MERV-13 air filters would reduce DPM and PM_{2.5} concentrations by 80 percent or greater indoors, as compared to outdoors. The Health Risk Assessment prepared for this Project conservatively assumes the overall effectiveness of a MERV-13 air filtration system for the School to be approximately 70 percent, by assuming two hours of outdoor exposure on-site, plus one hour of open windows within the classroom (calculated as outdoor exposure) per day. The resulting maximum annual PM_{2.5} concentration at those buildings along the 29th Avenue corridor is estimated to be 0.1 ug/m³, if MERV-13 air filters are used and assuming the air intake is at the

receptor position. This resulting indoor concentration of PM_{2.5} would be below the BAAQMD single-source threshold of less than 0.3 ug/m³.

Installation of HVAC systems with high efficiency particulate filters in all school buildings on the Project site would address cumulative PM_{2.5} concentrations from all cumulative sources. Cumulative PM_{2.5} concentrations throughout the Project site are calculated to be approximately 0.77 ug/m³, which is lower than, but within 4 percent of the cumulative threshold of 0.80 ug/m³. At a similar 70 percent efficiency rating, cumulative PM_{2.5} concentrations could be reduced to approximately 0.54 ug/m³, substantially below the 0.80 ug/m³ cumulative threshold.

Biological Resources

<u>Would the Project:</u>	<u>LUTE EIR Findings</u>	<u>Relationship to LUTE EIR</u>		<u>Project Conclusions</u>	
		<u>Equal or Less Severe</u>	<u>New or Substantial Increase in Severity</u>	<u>Applicable SCAs or Mitigation Measures</u>	<u>Level of Significance</u>
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	LTS with policy requirements	■	□	-	LTS
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	LTS with policy requirements	■	□	-	LTS
c) Have a substantial adverse effect on federally protected wetlands (as defined by section 404 of the Clean Water Act) or state protected wetlands, through direct removal, filling, hydrological interruption, or other means?	LTS with policy requirements	■	□	-	LTS
d) Substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	LTS with policy requirements	■	□	-	LTS
e) Fundamentally conflict with any applicable habitat conservation plan or natural community conservation plan?	LTS with policy requirements	■	□	-	No Impact
f) Fundamentally conflict with the City of Oakland Tree Protection Ordinance (Oakland Municipal Code (OMC) Chapter 12.36) by removal of protected trees under certain circumstances?	LTS with policy requirements	■	□		LTS
g) Fundamentally conflict with the City of Oakland Creek Protection Ordinance (OMC Chapter 13.16) intended to protect biological resources?	LTS with policy requirements	■	□		No Impact

Prior Site Analysis

In 2007, the City of Oakland prepared a Draft EIR for a project known as the Gateway Community Development Project.¹⁶ The Gateway project proposed to redevelop several city blocks in the Fruitvale area, including the properties that are now part of the proposed Latitude High School Project. That Gateway Community Development Project was not approved and its EIR was not certified. However, its Draft EIR did include a number of technical studies that incorporated the current Project site that still remain relevant, including a biological resource reconnaissance survey and tree assessment.¹⁷ Since the time of that prior 2007 survey and site assessment, there has been no identified change in the existing setting for biological resources at the Project site, and the description of biological resources at the Project site remain the same, as summarized below.

The Project site is located in an area already subject to a long history of development. The site is currently covered by a number of buildings, paved areas and a vacant lot with rough asphalt surface, and is located in between the Union Pacific Railroad tracks and East 12th Street, with elevated BART tracks running down the median of East 12th Street. The site is located approximately one-half mile from the Oakland Estuary, one-quarter mile from an undergrounded reach of Sausal Creek, and one-third mile from the nearest remaining aboveground reach of Sausal Creek. The vast majority of natural vegetation in the vicinity was converted to either agricultural or urban uses over a century ago. Remaining open space in the vicinity consists of urban parks, where vegetation is landscaped and dominated by turf grasses and non-native trees. Surrounding land uses are urban-residential and industrial. Vegetation is limited to several landscaped areas and weedy plants growing in the vacant lot.

Special Status Species

LUTE EIR Conclusions

The LUTE EIR determined that development consistent with the LUTE could damage or remove potential habitat for special status species on undeveloped parcels within the City, particularly at the military bases, along the Estuary, and at Leona Quarry. It also determined that development consistent with the LUTE could affect the habitat of certain special status plants and result in the loss of special status plant species. This was concluded to be a less than significant impact due to existing policies in the OSCAR Element, proposed policies in the LUTE and CEQA requirements for subsequent environmental review.

Project Analysis

The prior biological assessment of the site and its surroundings as presented in the Gateway Draft EIR ruled out the potential occurrence of nearly all sensitive status plants and animals because the Project site and its immediate area does not provide suitable habitat, and the known range for most species is outside of the Project site and its immediate area. The 2006 search of the California Natural Diversity Data Base found occurrences of special status species within the general area that were primarily historical, with many dating from the late 1800s, and most native species have been extirpated from the area since that time. Habitat either

¹⁶ City of Oakland Current Environmental Documents, Gateway Project Draft EIR, accessed at: <https://www.oaklandca.gov/resources/current-environmental-review-ceqa-eir-documents-2011-2020>

¹⁷ City of Oakland, *Gateway Community Development Project Draft EIR*, prepared by ESA, 2007 – inclusive of biological reconnaissance survey and tree assessment conducted by ESA on February 2, 2005 and March 8, 2005; review of a list of special status plant and animal species for the project area provided by the USFWS Endangered Species Office (USFWS, 2006); and review of previous studies of the project area. In addition, ESA conducted searches of the CDFG California Natural Diversity Data Base (CNDDDB) and the California Native Plant Society's (CNPS) Electronic Inventory (CDFG, 2006; CNPS, 2006) for the Oakland East and Oakland West U.S. Geological Survey (USGS) 7.5-minute quadrangles; Gateway Draft EIR pages IV.L-1 through -24.

no longer exists, or never existed on-site or nearby for nearly all sensitive species listed by the USFWS, CNDDDB or the California Native Plant Society. No special status plant species are expected to occur at the Project site due to its highly disturbed and developed nature. The Project's potential impacts on special status species is considered less than significant.

Riparian Habitat, Wetlands and Sensitive Natural Communities

LUTE EIR Conclusions

The LUTE EIR determined that development consistent with the LUTE could trigger impacts on adjacent lands designated for Resource Conservation (including riparian habitats, wetlands and sensitive natural communities). Greater levels of noise, traffic, lighting, urban runoff and human activity on lands adjacent to waterfront parks could reduce the value of these areas as wildlife habitat. This was concluded to be a less than significant impact with implementation of policies included in the City's OSCAR General Plan Element.

Project Analysis

There are no streams or other potentially jurisdictional drainages located on or adjacent to the Project site. The area is heavily urbanized and supports no riparian habitat or other sensitive natural communities. The nearest creek is Sausal Creek, which runs in an underground culvert beneath Fruitvale Avenue. The lower reaches of Sausal Creek have been placed in underground culverts and there is no longer any riparian habitat present in this area. No wetlands were previously identified on or in the immediate vicinity of the Project site during the prior 2005-2007 surveys (as presented in the Gateway Draft EIR). At that time, the vacant lot was thoroughly inspected by the biologists that prepared that Gateway draft EIR for evidence of wetlands, and no standing water or other evidence of wetland hydrology was observed, nor was the area dominated by wetland plants or areas of saturated soils. The CNDDDB listed three sensitive natural communities as occurring in the general East Oakland and West Oakland regions, including northern coastal salt marsh, northern maritime chaparral, and serpentine bunchgrass grassland. None of these communities occurred on, or in the vicinity of the Project site. These previously identified conditions remain, and the Project's potential impact on riparian habitat, wetlands and sensitive natural communities is considered less than significant.

Wildlife Movement

LUTE EIR Conclusions

The LUTE EIR found that new development, primarily in the Oakland Hills, could result in removal of vegetation, introduction of invasive plant species and displacement of wildlife, and could potentially block migratory corridors. These impacts were limited to heavily wooded areas in the upland hills that form transitional zones between large publicly owned open space lands. The LUTE EIR concluded that such impacts on sensitive habitat and wildlife corridors would be determined and mitigated on a project-specific basis, as future development is proposed on specific sites, and that with requirements for subsequent environmental review this impact was concluded to be less than significant.

Project Analysis

The Project site lies within a heavily urbanized area of Oakland, adjacent to a major railroad corridor and numerous heavily traveled city streets and within relatively close proximity to I-880. These transportation corridors all provide major impediments to wildlife movement. There are no stream corridors remaining aboveground within the Project vicinity to facilitate wildlife movement and there are no natural plant

communities remaining in the area. The Project’s potential impact on wildlife movement is considered less than significant.

Conflicts with the Oakland Tree Protection Ordinance

LUTE EIR Conclusions

The LUTE EIR determined that development consistent with the LUTE could result in the loss of mature trees on new development sites. Related impacts could include direct mortality of resident species due to construction activity, habitat loss or degradation, and disturbance of nests. These impacts were concluded to be less than significant based on project-specific mitigation to be implemented as future development is proposed on specific sites.

Project Analysis

The Gateway Draft EIR included a 2007 tree survey of the area, which identified a total of 21 trees existing on the Project site at that time. These trees included 6 camphors and 1 black acacia along the southerly fence line near Derby (identified as protected trees), 10 privets along the southerly fence line near 29th Avenue (2 of which were identified as protected), and 4 liquidambar near the existing building on the Derby property adjacent to 29th Avenue (also identified as protected trees). Of those trees, the 4 liquidambar appear to have been removed and replaced, but the trees along the southerly fence line remain. Based on the Project’s proposed Landscape Plan,¹⁸ all of the trees that remain on the Project site along the southerly fence line (including the 10 privets near 29th Avenue and the 6 camphors and 1 black acacia) are identified as “trees to remain and be protected”. No tree removal is proposed for the Project. Furthermore, the applicant has indicated that no construction will occur within 10’ of a protected tree. As such, a Tree Permit is not necessary, and the Project’s potential impact on protected trees is considered less than significant.

Creek Permit

LUTE EIR Conclusions

The LUTE EIR also concluded that although no wetlands were designated for development pursuant to the LUTE, intensified development activities could alter the quantity and quality of runoff into wetlands, creeks and ultimately San Francisco Bay. This was concluded to be a less than significant impact with implementation of policies included in the City’s OSCAR General Plan Element.

Project Analysis

There are no creeks, streams or other potentially jurisdictional drainages located on or adjacent to the Project site. The nearest creek is Sausal Creek, which runs in an underground culvert beneath Fruitvale Avenue. The lower reaches of Sausal Creek were undergrounded many years ago and there are no longer any open creeks present in this area. The City’s Creek Permit process would not apply to the Project, and the Project would not fundamentally conflict with the City Creek Permit requirements.

Conflict with Habitat Conservation Plan

There are no habitat conservation plans or natural community conservation plans that apply to the Project site, and the Projects would not fundamentally conflict with any such plans

¹⁸ Latitude High School PUD application, Sheet L2.0, dated July 2021

Conclusions

Based on an examination of the analysis, findings and conclusions of the Prior EIR, implementation of the Project would not substantially increase the severity of any significant impacts to biological resource as identified in the Prior EIR, nor would it result in new significant impacts to any biological resources that were not previously identified. The Prior EIR did not identify any mitigation measures related to biological resources that would apply to the Project and none would be needed.

Cultural Resources

<u>Would the Project:</u>	<u>LUTE EIR Findings</u>	<u>Relationship to LUTE EIR Findings</u>		<u>Project Conclusions</u>	
		<u>Equal or Less Severe</u>	<u>New or Substantial Increase in Severity</u>	<u>Applicable SCAs or Mitigation Measures</u>	<u>Level of Significance</u>
a) Cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5 of the CEQA Guidelines?	LTS with policy and MM	■	□	-	LTS
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5 of the CEQA Guidelines?	LTS with MM	■	□	SCA Cultural-1, Archaeological and Paleontological Resources – Discovery during Construction	LTS
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature	LTS	■	□	SCA Cultural-1, Archaeological and Paleontological Resources – Discovery during Construction	LTS
d) Disturb any human remains, including those interred outside of formal cemeteries?	NA			SCA Cultural -2 Human Remains – Discovery during Construction	LTS

Historic Resources

LUTE EIR Conclusions

The LUTE EIR found that many of the City’s historic resources are located Downtown and along transit corridors. Higher density uses are planned for these areas, where redevelopment is encouraged, and this could have direct impacts by increasing the pressure to remove or demolish older buildings, including historic structures. This impact was found to be less than significant with implementation of existing policies in the Historic Preservation Element, policies of the LUTE, and additional mitigation measures identified in the LUTE EIR (now included as City SCAs). These measures included amend the zoning regulations to incorporate preservation regulations and incentives, and developing design guidelines for Landmarks and Preservation Districts. The LUTE EIR also concluded that the LUTE’s emphasis on adaptive re-use and live-work development could result in alteration of older buildings and historic structures in a manner that is architecturally incompatible with the structure, but that Design Review procedures would ensure that this this impact remains less than significant.

Project Analysis

A historic resource evaluation of the 1045 Derby site has been conducted for this environmental review:

- Preservation Architecture, *Historic Resource Evaluation, 1045 Derby, Oakland*, dated September 8, 2020 (see **Appendix C**)

The following information pertaining to historic resources is as summarized from that Evaluation.

Historic Context

The property at 1045 Derby was first developed as a State highway maintenance facility completed in 1951. At that time, the facility included an office building (1950 Office Building, or Building B), a new shop building (1950 Shop Building, or Building A-3) and a parking shed (pre-1950 Parking Shed) within open equipment yards, as well as an older Caltrans storeroom and workshop (1947 Shop Building, or Building A-1) in a single concrete and steel framed building surrounded by an equipment yard (see **Figure 10**). Directly to the east of the shop building (where there are a pair of current modular buildings) stood a small structure labeled as an office, and an elongated equipment shed stood along the northern property line to the west of the shop building.

In 1950, the property was aligned between two railroad rights-of-way (the Western/Central Pacific directly to the north, and the Southern Pacific directly south). The SPRR tracks and right-of-way remain, whereas the former WPRR right-of-way to the north is the presently vacant 0 29th Avenue property. It is presumed that this State highway facility originated in the immediate wake of World War II, when the State's freeway system was undergoing substantial development pursuant to the Collier-Burns Highway Act of 1947. Other freeway system developments at the time included segments of the East Shore Freeway (I-880) through Oakland.

While the origins and 20th century setting of these building were industrial, the 20th century transportation context of the property is more salient. Developed as a highway maintenance facility by and for the State of California, the property was closely associated with the commercial and private vehicular transportation system that largely replaced rail transport. This context is evident on the subject property, which was squeezed between two railway systems at mid-century, each of whose local depots stood on the west side of Fruitvale Avenue just a block to the east. As part of the mid-20th century freeway development, this swath of Oakland was transformed from that of railways and railyards, to a freeway corridor with largely industrial frontages. This transformative transportation context is strongly present through East Oakland.

Description of Existing Buildings

The 1947 Shop Building (Building A-3) is a flat-roofed industrial structure measuring 120 feet wide (east-west) by 90 feet deep, by 20 feet high, with a 10-foot high central clerestoried high-bay section that spans the building's width. It is a steel framed building on a concrete slab with concrete wall construction. Its roofs are built-up over wood plank decking. Its windows were steel sash industrial until their recent replacement, when it also had a range of wood loading doors and a concrete loading dock appended at its front.

The 1950 Shop Building (Building A-1) is 60 feet wide by 62 feet deep by 27 feet high, and is a side-gabled steel-framed structure on a concrete slab with metal exterior cladding and roofing. Designed for interior truck repair, the front (south) wall was lined with 10 truck door bays. Its exterior was originally metal clad, its north wall a line of metal windows at mid-wall. As with each of these former maintenance-related buildings, all exterior cladding and openings have recently been altered. When first constructed, this structure connected to the then existing 1947 shop building via a shed addition, which has since been expanded (i.e., Building A-2).

The 1950 Office Building (Building B) is 31 feet deep by 81 feet wide, and has a flat roof sloping front to back, with its high point approximately 11 feet above grade and sloping down to approximately 9.5 feet at the rear, with roof eaves deeply overhanging all around. It is a wood frame structure over a shallow crawl space. An entry bay is recessed into the front wall. The original building was clad in asbestos shingles. The original exterior wall cladding has recently given way to a panelized synthetic/vinyl panel exterior, and all doors and windows have been replaced with synthetic/vinyl units.

The pre-1950 Parking Shed standing at the south property line apparently had stood along the north property line, but was evidently relocated to its present location in 1950. It is an elongated, open, steel-framed shed structure, 25 feet deep by 260 feet in length, with a metal roof with a moderate slope front to back.

The former office building that stood to the east of the 1947 Shop Building was removed sometime after 1981 and before the 2014 school adaptation. At that end of the site, a pair of single-story modular buildings were added by the school (Building A-4).

Historic Evaluation

CEQA Guidelines define a “historical resource” as a resource that is: a) listed in, or determined to be eligible for listing in the National Register or California Register; b) a resource included in a local register of historical resources; c) a resource identified as significant in a historical resource survey; or d) which the lead agency determines to be historically significant, provided this determination is supported by substantial evidence. The Historic Preservation Element of the City of Oakland General Plan (Policy 3.8: Definition of “Local Register of Historical Resources”) specifically identifies the following types of properties that constitute the City of Oakland’s Local Register of Historical Resources:

- All designated Historic Properties (including Oakland Landmarks, properties within S-7 and S-20 Preservation Combining Zones, Preservation Study List properties and Heritage properties)
- those Potential Designated Historic Properties (PDHPs) that have an OCHS rating of “A” or “B” and those PDHPs that located within an Area of Primary Importance (API)
- Oakland Landmarks
- S-7 Preservation Combining Zone properties, and
- Preservation Study List properties

At the time of the 1986 Oakland Cultural Heritage Survey, the existing Caltrans buildings on the Derby property received no historical rating, and were therefore presumed to be of little or no local historical interest. A supplemental reconnaissance-level survey of the buildings on the Derby property was completed in 2006 as part of the Gateway Draft EIR (not certified), to provide an update to the earlier survey efforts and to determine if any substantial changes to these buildings had occurred since the area was last surveyed. The results this reconnaissance survey indicated that, *“while some of the corrugated metal storage sheds on the Caltrans property may have passed the 50-year age threshold since the 1986 survey, no new historical information has come to light that would change the original OCHS ratings of F (or no rating). As such, the ratings given to [these buildings] in 1986 . . . would appear appropriate.”* That 2006 assessment concluded that, *“in general, given the archival research and previous and current survey efforts, the buildings on the project site do not appear to exhibit sufficient historical or architectural significance to qualify as federal, state, or local historic resources, and would therefore not be considered historic resources under CEQA Guidelines Section 15064.5.”*¹⁹

An additional historic resource evaluation of the 1045 Derby property has been conducted for this environmental review, to reconsider whether these former Caltrans buildings may now (in 2020) qualify as historic resources.²⁰ This evaluation utilizes the eligibility criteria of the California Register of Historic Resources to determine whether any of the buildings on the Derby property, or the property as a whole, may now meet the CEQA definition as of historic resources. To be eligible for listing on the California Register, a resource must be historically significant at the local, state, or national level under one or more of the following four criteria:

1. It is associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States.
2. It is associated with the lives of persons important to local, California or national history.

¹⁹ City of Oakland, Gateway Community Development Project Draft EIR (not certified), 2007

²⁰ Preservation Architecture, Historic Resource Evaluation, 1045 Derby, Oakland, September 8, 2020 (see Appendix C)

3. It embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of a master, or possesses high artistic values.
4. It has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California, or the nation.

The following summarizes the assessment of each of these four California Register criteria:

- *Associated Events:* In its transportation context, the subject property was associated with transformative events in transportation infrastructure at the local, as well as state and nationwide level. However, this property was a minor and unimportant facility relative to such events. Given its context, there are no identifiable events of historic importance associated with the buildings or the property, and the subject resources do not meet California Register Criterion 1.
- *Associated Persons:* The subject property is associated with an institution (Caltrans) without any direct associations to any individuals, so the subject resources do not meet California Register Criterion 2.
- *Design/Construction:* The original highway-related property and its buildings were developed in the mid-20th century. They are utilitarian buildings with no identifiable design or construction distinction relative to their mid-century period of development. While there is no current evidence for the origins of the 1947 Shop Building (Building A-1), it is presumed to have been designed by the State of California Division of Architecture, as were the other 1950 buildings on the site (Buildings A-3 and B). While individual State architects are generally identifiable, their institutional work is not directly associated with these individuals. The subject buildings do not embody design or construction distinction, are not the creations of any identified designers or builders, and do not represent artistic values. The subject buildings do not meet California Register Criterion 3.
- *Important Information:* The subject buildings do not appear to have any further historical information potential. Thus, the facility does not meet California Register Criterion 4.

Conclusion

The subject property housed a State highway maintenance property and four buildings originally dating from 1947 to 1951, and which operated until 2010. Originally, and during its period of operation, the facility was a highly utilitarian use, and its historic associations were institutional (i.e., Caltrans) rather than individual. The property and its individual buildings at 1045 Derby Avenue do not meet any for defining a historic resource pursuant to CEQA

- None of the buildings or the property are listed, nor do they meet eligibility criteria for listing on the California Register of Historical Resources.
- None of the buildings or the property are currently designated as historic resources on Oakland's Local Register of Historic Properties, nor have they been identified as significant pursuant to any prior (1986 or 2006) surveys
- The historic resource assessment for these buildings does not present any evidence that the buildings should be reconsidered for "A" or "B" ratings pursuant to the OCHS, or that the property should be reconsidered as an Area of Primary Importance (API), or that these buildings are otherwise significant.

The Derby property and each of its existing buildings do not meet any criteria for being considered historic resources pursuant to CEQA. The Project's proposed reuse of these building, and construction of a new, nearby multi-purpose building, would have no impact on historic resources.

Archaeological and Paleontological Resources

LUTE EIR Conclusions

The LUTE EIR found that excavation at future development sites could unearth paleontological remains or archaeological resources, and that some of these resources and remains could have scientific importance. The LUTE EIR concluded that if fossils are unearthed during future excavations, a qualified paleontologist should be consulted so that the resource is not damaged or destroyed, and included mitigation measures to establish criteria and interdepartmental referral procedures for determining when discretionary City approval of ground-disturbing activities should be subject to special conditions to safeguard potential archaeological resources (now included in applicable SCAs). These impacts were found to be less than significant with mitigation.

Project Analysis

A cultural resources records search of all pertinent survey and site data with a quarter-mile of the Project site was conducted pursuant to the Gateway Community Development Project Draft EIR in 2006.²¹ That prior investigation found that no prehistoric sites had been recorded within the Project area, and no specific sensitivities for archaeological resources could be substantiated at that time, without substantial removal of buildings, pavement or soils. That prior investigation concluded that, *“the area has been subject to significant alteration, including railroad development over 100-years, which has likely resulted in the destruction of any surface evidence of prehistoric activities (the top 15-20 feet of soils are alluvial and artificial soils that have layered over time above the native topography that existed at the time of primary occupation)”*. A reconnaissance-level pedestrian survey was conducted in 2005, but given the high level of urbanization in the area, no substantive examination of the native surface was possible. The conditions at the Project site that existed in 2005 through 2007 and as reported in these prior investigations, are the same as exist today.

The Project has limited potential to result in an inadvertent discovery of currently unknown buried archaeological resources. Phase I of the Project involves adaptation of existing buildings on the Derby property, with little or no grading or excavations, and involves re-paving of the 29th Avenue property with no substantive grading or excavation. The potential for discovery of buried archaeological resources pursuant to Phase I efforts is unlikely. Phase II of the project includes new construction of the multi-purpose building, which will likely require limited grading and trenching for building foundation footings and utility line extensions.

According to soil borings drilled on the 29th Avenue site, the surface consists of sand and gravel fill varying in depth from 1 to 3 feet, with subsurface sediments of clay and sand to depths of 18 to 20 feet underlain by clay to the total depths explored. The clay and sand sediment does not appear to be native material, and may be artificial fill brought in for the former rail line.²² It is unlikely that the Project’s limited grading activity will disturb more than the layer of sand and gravel fill that covers the site, and that limited trenching for utilities will not extend below the 18 to 20 feet of clay and sand placed as fill above the native topography.

Standard Conditions of Approval

The Project would be subject to the following City of Oakland SCAs intended to protect currently unidentified archaeological resources as a result of new construction.

SCA Cultural-1, Archaeological and Paleontological Resources – Discovery during Construction (applies to all projects involving construction). Pursuant to CEQA Guidelines section 15064.5(f), in the event that any historic or prehistoric subsurface cultural resources are discovered during ground disturbing activities, all

²¹ City of Oakland, Gateway Community Development Draft EIR, 2007

²² Eras Environmental, Inc., Limited Phase II Subsurface Investigation at 0 29th Avenue, May 10, 2017

work within 50 feet of the resources shall be halted and the project applicant shall notify the City, and consult with a qualified archaeologist or paleontologist as applicable, to assess the significance of the find.

- i. In the case of discovery of paleontological resources, the assessment shall be done in accordance with the Society of Vertebrate Paleontology standards. If any find is determined to be significant, appropriate avoidance measures recommended by the consultant and approved by the City must be followed unless avoidance is determined unnecessary or infeasible by the City. Feasibility of avoidance shall be determined with consideration of factors such as the nature of the find, project design, costs, and other considerations. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery, excavation) shall be instituted. Work may proceed on other parts of the project site while measures for the cultural resources are implemented.
- ii. In the event of data recovery of archaeological resources, the project applicant shall submit an Archaeological Research Design and Treatment Plan (ARDTP) prepared by a qualified archaeologist for review and approval by the City. The ARDTP is required to identify how the proposed data recovery program would preserve the significant information the archaeological resource is expected to contain. The ARDTP shall identify the scientific/historic research questions applicable to the expected resource, the data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. The ARDTP shall include the analysis and specify the curation and storage methods. Data recovery, in general, shall be limited to the portions of the archaeological resource that could be impacted by the proposed project. Destructive data recovery methods shall not be applied to portions of the archaeological resources if nondestructive methods are practicable. Because the intent of the ARDTP is to save as much of the archaeological resource as possible, including moving the resource, if feasible, preparation and implementation of the ARDTP would reduce the potential adverse impact to less than significant. The project applicant shall implement the ARDTP at his/her expense.
- iii. In the event of excavation of paleontological resources, the project applicant shall submit an excavation plan prepared by a qualified paleontologist to the City for review and approval.
- iv. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by a qualified paleontologist, as appropriate, according to current professional standards and at the expense of the project applicant.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

SCA Cultural-2: Human Remains – Discovery during Construction (applies to all projects involving construction).

Pursuant to CEQA Guidelines section 15064.5(e)(1), in the event that human skeletal remains are uncovered at the project site during construction activities, all work shall immediately halt, and the project applicant shall notify the City and the Alameda County Coroner.

- i. If the County Coroner determines that an investigation of the cause of death is required or that the remains are Native American, all work shall cease within 50 feet of the remains until appropriate arrangements are made.
- ii. In the event that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of section 7050.5 of the California Health and Safety Code. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance, and avoidance measures (if applicable) shall be completed expeditiously and at the expense of the project applicant.

When Required: During construction
Initial Approval: N/A
Monitoring/Inspection: Bureau of Building

With implementation of SCAs Cultural-1 and Cultural-2, the potential for the Project to cause a substantial adverse change in the significance of an archaeological or paleontological resource, or to disturb any human remains, would be less than significant.

Conclusions

Based on an examination of the analysis, findings and conclusions of the Prior EIR, implementation of the Project would not substantially increase the severity of any significant impacts to historic, archaeological or cultural resources as identified in the Prior EIR, nor would it result in new significant impacts to these resources that were not previously identified. The Prior EIR did identify mitigation measures to address impacts to historical and archaeological resources, which are now fully incorporated into City SCAs. The SCAs identified above and listed in **Appendix A** pertaining to historic, archaeological and cultural resources would apply to the Project.

Tribal Cultural Resources

<u>Would the Project:</u>	<u>LUTE EIR Findings</u>	<u>Relationship to LUTE EIR Findings</u>		<u>Project Conclusions</u>	
		<u>Equal or Less Severe</u>	<u>New or Substantial Increase in Severity</u>	<u>Applicable SCAs or Mitigation Measures</u>	<u>Level of Significance</u>
<p>a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:</p> <ul style="list-style-type: none"> Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe? 	NA	■	□	<p>SCA Cultural-1, Archaeological and Paleontological Resources – Discovery during Construction</p> <p>SCA Cultural -2 Human Remains – Discovery during Construction</p>	LTS

Tribal Cultural Resources

LUTE EIR Conclusions

At the time of preparation of the LUTE EIR, CEQA Guidelines provided that a project will have a significant effect on the environment if it will “disrupt or adversely affect a prehistoric or historic archaeological site or property of historic or cultural significance to a community or ethnic group or social group, or a paleontological site except as part of a scientific study.” Disruption or an adverse effect to an archaeological site was further defined in Appendix I of the CEQA Guidelines as, “alteration or destruction of the site, including both physical and aesthetic effects.” CEQA has since expanded its definitions and considerations of tribal cultural resources as separate and distinct from archaeological resources, as more fully addressed, below.

Project Analysis

The lower reaches of Sausal Creek were located approximately 1/4-mile from the Project area. The creek is now placed within an underground culvert system, but given this proximity to a previously existing watercourse,

there is a possibility that previously undiscovered tribal cultural resources such as shell midden soils, stone artifacts, etc., may exist below the surface of the site. Inadvertent damage to a significant buried tribal cultural resource during construction would be a significant impact.

Pursuant to the prior Gateway Community Development Project Draft EIR, the Native American Heritage Commission (NAHC) was contacted in November of 2005, and a database search for Sacred Lands or other cultural properties of significance to local Native American peoples was requested. In response, the NAHC provided a list of Native American tribes that should be contacted concerning locations of importance in the area. Letters were sent to each tribe on that prior NAHC list, providing information about that prior project, and requesting information on the locations of importance to Native Americans. No responses to those letters were received.

On March 11, 2021 and in conformance with the requirements of California Public Resources Code Section 21080.3.1 (AB 52), a new round of letters were sent to representatives of Native American tribes that have requested to be informed of projects that may be of interest, providing a brief description of the Project, a map showing the Project location, and the name and contact information for the City of Oakland point of contact for this Project (see **Appendix D**). These letters requested comments, concerns or information regarding cultural resources or sacred sites within the project area that should be considered in preparation of this CEQA document. As of publication of this document (after the required 30-day comment period) no responses to these letters have been received by the City.

According to soil borings drilled on the 29th Avenue site (Eras Environmental, 2017), the surface consists of sand and gravel fill varying in depth from 1 to 3 feet, with subsurface sediments of clay and sand to depths of 18 to 20 feet underlain by clay to the total depths explored. The clay and sand sediment does not appear to be native material, and may be artificial fill brought in for the former rail line. It is unlikely that the Project's limited grading activity will disturb more than the layer of sand and gravel fill that covers the site, and that limited trenching for utilities will not extend below the 18 to 20 feet of clay and sand placed as fill above the native topography, where potentially buried tribal cultural resources are most likely to exist, if present. The City's SCA's listed above (SCA Cultural-1 and Cultural-2) would serve to protect any such buried tribal cultural resources as may be discovered during construction, and this impact would be less than significant.

Conclusions

Based on an examination of the analysis, findings and conclusions of the Prior EIR, implementation of the Project would not substantially increase the severity of any significant impacts to tribal cultural resources as identified in the Prior EIR, nor would it result in new significant impacts to these resources that were not previously identified. The Prior EIR did identify mitigation measures to address impacts to cultural resources, which are now fully incorporated into City SCAs. SCAs Cultural-1 and Cultural -2 identified above and listed in **Appendix A** would apply to the Project, and potential impacts to tribal cultural resource would be less than significant.

Energy

<u>Would the Project:</u>	<u>LUTE EIR Findings</u>	<u>Relationship to LUTE EIR Findings</u>		<u>Project Conclusions</u>	
		<u>Equal or Less Severe</u>	<u>New or Substantial Increase in Severity</u>	<u>Applicable SCAs or Mitigation Measures</u>	<u>Level of Significance</u>
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	LTS	■	□	SCA Energy-1, Green Building Requirements (Phase 1) SCA Energy-2, Green Building Requirements – Small Projects (Phase 2)	LTS
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	LTS	■	□		

Efficient Use of Energy

LUTE EIR Conclusions

The LUTE EIR determined that development consistent with the LUTE would result in a marginal increase in energy consumption. This marginal increase in energy demand was not considered to be a significant impact because electric and natural gas consumption may increase, but petroleum use (the largest component of energy use in California) would decrease due to the transit-oriented development pattern promoted by the LUTE, and its emphasis on restoring a balance between jobs and housing. The energy benefits of the LUTE were found to be positive on a regional rather than local basis, and because energy conservation is strongly encouraged by policies in the OSCAR Element.

Project Analysis

Construction of the Project would result in the consumption of fuel for construction vehicles and equipment. This energy use would be typical of new construction, and would be minimized by repurposing existing buildings for school use. Energy used during construction would not be wasteful, inefficient or unnecessary.

Repurposing of existing buildings on the Derby property for use as a high school will result in an increased demand for energy related to heating and cooling systems, electricity demands and other utility systems. The addition of a new multi-purpose building in Phase II will similarly result in additional energy demands for this new building. These energy demands will be typical of a small high school use, and will not be a wasteful, inefficient or unnecessary consumption of energy resources. Phase I of the Project will be required to comply with SCA Energy-1 and Phase 2 of the Project will be required to comply with SCA Energy-2, which require the Project applicant to comply with the applicable requirements of the California Green Building Standards (CALGreen) and City’s Green Building Ordinance. With implementation of SCA Energy-1 and Energy-2, the Project will not result in wasteful, inefficient, or unnecessary energy use, and would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency, and this impact would be less than significant.

Conflict with Renewable Energy/Energy Efficiency Plans

Project Analysis

The Project will be required to comply with all standards of Title 24 of the California Code of Regulations and CALGreen standards as applicable, incorporating energy-conserving design and construction. The Phase II multi-purpose building is anticipated to have similar energy requirements as other modern developments in the vicinity. Although construction and operation of the Project would incrementally increase energy consumption, it would comply with all applicable regulations and energy standards, and its use of energy would not be wasteful, inefficient, or unnecessary. The Project would also include implementation of measures identified in the City's 2030 Equity and Climate Action Plan related to energy use and efficiency (see also Greenhouse Gas Emissions). The Project's impact related to energy resources would be less than significant.

Standard Conditions of Approval

The Project would be subject to the following City of Oakland SCAs intended to address cumulative reduction in citywide energy use. The City has determined that Phase I of the Project qualifies as a Major Alteration of over 25,000 square feet of total floor area to a non-residential building (the Project proposes repurposing, with certain interior improvements, approximately 29,500 square feet of combined building area), and would be subject to the following SCA.

SCA Energy-1, Green Building Requirements (Phase 1)

- a) *Compliance with Green Building Requirements during Plan-Check:* The project applicant shall comply with the requirements of the California Green Building Standards (CALGreen) mandatory measures and the applicable requirements of the City of Oakland Green Building Ordinance (chapter 18.02 of the Oakland Municipal Code).
 - i. The following information shall be submitted to the City for review and approval with the application for a building permit:
 - Documentation showing compliance with Title 24 of the current version of the California Building Energy Efficiency Standards.
 - Completed copy of the final green building checklist approved during the review of the Planning and Zoning permit.
 - Copy of the Unreasonable Hardship Exemption, if granted, during the review of the Planning and Zoning permit.
 - Permit plans that show, in general notes, detailed design drawings, and specifications as necessary, compliance with the items listed in subsection (ii) below.
 - Copy of the signed statement by the Green Building Certifier approved during the review of the Planning and Zoning permit that the project complied with the requirements of the Green Building Ordinance.
 - Signed statement by the Green Building Certifier that the project still complies with the requirements of the Green Building Ordinance, unless an Unreasonable Hardship Exemption was granted during the review of the Planning and Zoning permit.
 - Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance.
 - ii. The set of plans in subsection (i) shall demonstrate compliance with the following:
 - CALGreen mandatory measures.

- Green building point level/certification requirement (the point level certification requirement is LEED Silver for non-residential) per the appropriate checklist approved during the Planning entitlement process.
- All green building points identified on the checklist approved during review of the Planning and Zoning permit, unless a Request for Revision Plan-check application is submitted and approved by the Bureau of Planning that shows the previously approved points that will be eliminated or substituted.
- The required green building point minimums in the appropriate credit categories.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

b) *Compliance with Green Building Requirements during Construction Requirement:* The project applicant shall comply with the applicable requirements of CALGreen and the Oakland Green Building Ordinance during construction of the project. The following information shall be submitted to the City for review and approval:

- Completed copies of the green building checklists approved during the review of the Planning and Zoning permit and during the review of the building permit.
- Signed statement(s) by the Green Building Certifier during all relevant phases of construction that the project complies with the requirements of the Green Building Ordinance.
- Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

c) *Compliance with Green Building Requirements after Construction Requirement:* Prior to finalizing the Building Permit, the Green Building Certifier shall submit the appropriate documentation to City staff and attain the minimum required point level.

When Required: Prior to Final Approval

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

The multi-purpose building pursuant to Phase II of the Project (at approximately 17,500 square feet of new non-residential construction) would be subject to the following SCA, which applies to new construction of non-residential buildings between 5,000 and 25,000 sq. ft. of total floor area.

SCA Energy-2, Green Building Requirements – Small Projects (Phase 2)

- Compliance with Green Building Requirements during Plan-Check:* The project applicant shall comply with the requirements of the California Green Building Standards (CALGreen) mandatory measures and the applicable requirements of the City of Oakland Green Building Ordinance (chapter 18.02 of the Oakland Municipal Code) for projects using the StopWaste.Org Small Commercial Checklist or Bay Friendly Basic Landscape Checklist.
 - The following information shall be submitted to the City for review and approval with application for a building permit:

- Documentation showing compliance with Title 24 of the current version of the California Building Energy Efficiency Standards.
 - Completed copy of the green building checklist approved during the review of a Planning and Zoning permit. Permit plans that show in general notes, detailed design drawings and specifications as necessary compliance with the items listed in subsection (b) below.
 - Other documentation to prove compliance.
- ii. The set of plans in subsection (a) shall demonstrate compliance with the following:
- CALGreen mandatory measures.
 - All applicable green building measures identified on the checklist approved during the review of a Planning and Zoning permit, or submittal of a Request for Revision Plan-check application that shows the previously approved points that will be eliminated or substituted.

When Required: Prior to approval of construction-related permit
 Initial Approval: Bureau of Building
 Monitoring/Inspection: N/A

- b) Compliance with Green Building Requirements during Construction: The project applicant shall comply with the applicable requirements of CALGreen and the Green Building Ordinance during construction. The following information shall be submitted to the City for review and approval:
- i. Completed copy of the green building checklists approved during review of the Planning and Zoning permit and during the review of the Building permit.
 - ii. Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance.

When Required: During construction
 Initial Approval: N/A
 Monitoring/Inspection: Bureau of Building

The Project applicant has completed a City of Oakland Green Building Checklist, demonstrating their commitment to achieve the LEED Silver-equivalent of 50 points pursuant to their Phase I improvements (see **Appendix E**). A subsequent Green Building Checklist will be required at the time of submittal of building permits for the Phase II multi-purpose building. With implementation of the applicable Green Building requirements per SCAs Energy-1 and/or Energy-2 identified above and consistent with the Project applicant’s commitments, the Project’s construction and operations would not conflict with state or local plans for renewable energy or energy efficiency.

Conclusions

Based on an examination of the analysis, findings and conclusions of the Prior EIR, implementation of the Project would not substantially increase the severity of any significant impacts related to energy as identified in the Prior EIR, nor would it result in new significant impacts related to energy demands that were not previously identified. The Prior EIR did not identify mitigation measures to address impacts to energy use, but the energy benefits of the LUTE were found to be positive on a regional rather than local basis because energy conservation is strongly encouraged by policies in the OSCAR Element. The SCAs identified above and listed in **Appendix A** pertaining to energy would apply to the Project.

Geology and Soils

<u>Would the Project:</u>	<u>LUTE EIR Findings</u>	<u>Relationship to LUTE EIR Findings</u>		<u>Project Conclusions</u>	
		<u>Equal or Less Severe</u>	<u>New or Substantial Increase in Severity</u>	<u>Applicable SCAs or Mitigation Measures</u>	<u>Level of Significance</u>
a) Expose people or structures to substantial risk of loss, injury, or death involving: i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? ii. Strong seismic ground shaking? iii. Seismic-related ground failure, including liquefaction, lateral spreading, subsidence, collapse? iv. Landslides?	LTS with policy and regulation	■	□	SCA Geology-1, Construction-Related Permits SCA Geology-2, Seismic Hazards Zone - Landslide/ Liquefaction	LTS with SCAs
b) Result in substantial soil erosion or the loss of topsoil, creating substantial risks to life, property, or creek/waterways?	LTS with policy and regulation	■	□	SCA Hydrology-1, Erosion and Sedimentation Control Measures for Construction	LTS
c) Be located on expansive soil, as defined in section 1802.3.2 of the California Building Code (2007, as it may be revised), creating substantial risks to life or property?	LTS with policy and regulation	■	□	SCA Geology-1, Construction-Related Permits SCA Geology-2, Seismic Hazards Zone - Landslide/ Liquefaction	LTS
d) Be located above landfills for which there is no approved closure and post-closure plan, or unknown fill soils, creating substantial risks to life or property, or be located above a well, pit, swamp, mound, tank vault, or unmarked sewer line, creating substantial risks to life or property?	LTS with policy and regulation	■	□	-	No Impact
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	NA	■	□	-	No Impact

Surface Faults and other Seismic-Related Hazards

LUTE EIR Conclusions

The LUTE EIR concluded that, in the event of an earthquake, damage from surface fault rupture could affect structures, foundations, and underground utilities, and that damage from strong ground shaking or ground failure (liquefaction, densification, or landsliding) could affect structures, foundations, and underground utilities. Human injury and life also could be risked. This was determined to be a less than significant impact with implementation of existing regulations and existing policies including the Seismic Hazards Mapping Act and related regulations contained in Title 24 of the California Code of Regulations, the Uniform Building Code and the Unreinforced Masonry Program.

The LUTE EIR also found that development of many areas of the City would be subject to geologic hazards including steep slopes, high erosion potential, and landsliding and mud sliding. This impact was found to be less than significant with required implementation of policies related to soil loss at new development sites, soil-related development controls, slide hazards, and graded slope and retaining wall maintenance requirements (now all incorporated into City SCAs).

Project Analysis

The Project site area is not within an Alquist-Priolo Earthquake Fault Zone as defined by the California State Department of Conservation Geological Survey, and no active or potentially active faults exist on or in the immediate vicinity of the site.²³ Although surface fault rupture is not necessarily restricted to the area within an Alquist-Priolo Earthquake Fault Zone, the potential risk of surface rupture is highest along active faults. There is low potential that fault rupture would occur within the Project site, and Project impacts related to surface fault rupture would be less than significant

The Project site is approximately 3 miles west of the active Hayward Fault Zone and 18 miles east of the San Andreas Fault Zone. The Hayward fault is designated by the Alquist-Priolo Earthquake Fault Zoning Act as an active fault. The effects of seismic shaking at the Project site are primarily governed by the activity of the Hayward Fault, although ground shaking from future earthquakes on other faults including the Calaveras, San Andreas and Mt. Diablo Faults, will be felt at the site. The intensity of earthquake ground motion at the site will depend upon the characteristics of the generating fault, distance to the earthquake epicenter, and magnitude and duration of the earthquake. However, very-strong to violent shaking could occur at the site during a large earthquake on one of the nearby faults.

Based on seismic hazard zone maps prepared by the California Department of Conservation Geological Survey, the Project site is located within a seismic hazard zone for liquefaction.²⁴ In accordance with the Seismic Hazard Mapping Act, a site-specific geotechnical investigation must be conducted for sites within a seismic hazard zone prior to development.

Settlement of the ground surface can be accelerated and accentuated by earthquakes. During an earthquake, settlement can occur as a result of the relatively rapid compaction and settling of subsurface materials (particularly loose, non-compacted, and variable sandy sediments) due to the rearrangement of soil particles during prolonged ground shaking. Areas are susceptible to differential settlement if underlain by compressible

²³ California State Department of Conservation Geological Survey website, <https://maps.conservation.ca.gov/cgs/EQZApp/app/>, accessed 6/8/21

²⁴ Ibid

sediments, such as poorly engineered artificial fill. Based on soil borings at the site, the subsurface sediments consist of clayey sand to depths of 18 to 20 feet, underlain by clay to the total depths explored. The sandy clay contains sand, silt and clay, and 15% of medium gravel. This does not appear to be native material, and may be artificial fill brought in for the former rail line.²⁵ Given these soils conditions, the Project site could be subjected to earthquake-induced settlement.

Standard Conditions of Approval

The Project would be subject to the following City of Oakland SCAs intended to address seismic hazards for all new construction or changed occupancy for existing buildings (i.e., to school use).

SCA Geology-1, Construction-Related Permits (applies to all projects requiring a construction-related permit):

The project applicant shall obtain all required construction-related permits and approvals from the City.

The project shall comply with all standards, requirements and conditions contained in construction-related codes, including but not limited to the Oakland Building Code and the Oakland Grading Regulations, to ensure structural integrity and safe construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

SCA Geology-2, Seismic Hazards Zone - Landslide/Liquefaction (applies to all new structures located in a Seismic

Hazards Zone per the State Seismic Hazards Mapping Act, pertaining to seismically-induced liquefaction and landslides): The project applicant shall submit a site-specific geotechnical report consistent with California Geological Survey Special Publication 117 (as amended), prepared by a registered geotechnical engineer for City review and approval. The geotechnical report shall contain at a minimum, a description of the geological and geotechnical conditions at the site, an evaluation of site-specific seismic hazards based on geological and geotechnical conditions, and recommended measures to reduce potential impacts related to liquefaction and/or slope stability hazards. The project applicant shall implement the recommendations contained in the approved report during project design and construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

Project Plans in Furtherance of SCAs

Phase I Improvements

According to California Building Code (CBC) Section 3408A: Change of Occupancy or Function, “No change shall be made in the use or occupancy of any building that would place the building . . . in a different group of occupancies, unless such building is made to comply with the requirements of this code for that use or occupancy.” This provision of the CBC requires that the existing buildings on the Derby property must be brought into compliance with current (year 2019 CBC) seismic safety standards for a new structures, prior to occupancy as a school. The Project applicants have investigated each of the existing buildings on the Derby property, identified the existing building systems that are overstressed at current CBC requirements, and identified solutions for each of the three original Caltrans buildings needed to bring these buildings into compliance with current CBC requirements for school use.²⁶

²⁵ ERAS, Limited Phase II Subsurface Investigation, July 2017

²⁶ Peoples Associates Structural Engineers, October 2019

Project Recommendations in Furtherance of SCAs

To further implement SCA Geology-2, the following site-specific recommendations from the geological report (see **Appendix F**) will be implemented during Phase 1.

Geotechnical Recommendations-2.1: Seismic Upgrade

- a. At Building A-1: adding plywood sheathing, increasing the plywood nailing, attaching anchors, and installing hold-downs at the end of each plywood shear wall
- b. At Building A-3: adding plywood sheathing and hold-down posts, adding beams along the roof wall, increasing nail spacing, adding straps, adding mudsill anchor bolts, and installing adequate top-of-wall connections, and
- c. At Building B: installing hold-downs at the ends of each shear wall and strapping the double top-plate splices along the longitudinal plywood shear walls

With seismic retrofits constructed consistent with approved building permits, including the site-specific seismic retrofit recommendations in the geotechnical report, the seismic hazards related to Phase I will be brought into conformance with current seismic safety codes and seismic-related impacts will be reduced to levels of less than significant.

Phase II Improvements

Pursuant to SCA Geology-1 and SCA Geology-2, the Project applicant is required to submit a site-specific geotechnical report for any further development on the Project site, specifically including the multi-purpose building proposed in Phase II of the Project. This geotechnical report must include a detailed description of the geological and geotechnical conditions specific to the site (no such report has yet been prepared), an evaluation of site-specific seismic hazards based on geological and geotechnical conditions, and recommendations needed to reduce potential impacts related to liquefaction hazards. The project applicant will also be required to obtain all required construction-related permits and approvals from the City, and to comply with all standards, requirements and conditions contained in construction-related codes to ensure structural integrity and safe construction that are applicable at that time. With implementation of SCAs Geology-1 and Geology-2, seismic safety hazards pursuant to Phase II development will be reduced to levels of less than significant.

Soil Erosion

LUTE EIR Conclusions

The LUTE EIR found that new development that requires grading and earthmoving activities, especially in hillside areas, could increase the potential for erosion that could cause clogging of local culverts, decrease downstream channel capacity, and degrade water quality. This was found to be a less than significant impact with required implementation of policies related to hillside cuts and fills, grading ordinance requirements and grading guidelines (now incorporated into City SCAs).

Project Analysis

Nearly the entire Project site is currently covered with asphalt paving or concrete, and not undergoing active erosion. There is the potential for soil erosion to occur during the site preparations for Phase I re-paving of the 29th Avenue property, if the existing pavement and concrete is removed prior to re-paving. Soils exposed during this period could be subject to erosion from heavy winds or rain. Construction of the Phase II multi-purpose building during future Phase II improvements would similarly expose underlying soils to potential erosion when the new pavement is removed for construction of the foundation and utility extensions.

Standard Conditions of Approval

The Project would be subject to the following City of Oakland SCAs intended to reduce soil erosion during construction:

SCA Hydrology-1, Erosion and Sedimentation Control Plan for Construction (applies to all projects that require a grading permit – see Hydrology section of this CEQA Analysis)

Project Plans in Furtherance of SCAs

Pursuant to SCA Hydrology-1, the Project application materials include a proposed Erosion Control Plan for Phase I at the 29th Avenue property.²⁷ That proposed Erosion Control Plan includes application of fiber rolled wattle around the perimeter of the 29th Avenue property, installing gravel bag filters at all drop inlets to the storm drain system, stabilizing the construction entrance, and providing a separated concrete washout area that is distanced from the storm drain inlets. The City's Bureau of Building will review and either approve or require modifications to this proposed Erosion Control Plan, and the approved Plan will need to be implemented during construction.

Also pursuant to SCA Hydrology-1, a subsequent Erosion and Sedimentation Control Plan will need to be prepared, reviewed and approved, and implemented prior to construction of the Phase II multi-purpose building. With implementation of SCA Hydrology-1, potential erosion conditions at the Project site will be reduced to level of less than significant.

Differential Settlement and Expansive Soils

LUTE EIR Conclusions

The LUTE EIR found that new development on existing soil conditions at various locations throughout the City could cause structural damage to new and existing buildings, unless properly constructed. This was concluded to be a less than significant impact based on required implementation of policies related to development on fill soils, and consideration of soil constraints for new development (now incorporated as SCAs).

Project Analysis

Settlement of the underlying soil can occur when a new load, such as that of a building or new fill material, is placed down. Soils tend to settle at different rates and by varying amounts, depending on the load weight or change in properties. If not properly engineered, any loose or soft soils comprised of sand, silt or clay have the potential to settle after a building or other load is placed on the surface. Differential settlement can damage buildings and their foundations and result in breakage of underground pipes. Soils at the Project site consist of fine-grained alluvial sediments of gravel, and a sand/gravel/organic fill to a depth of approximately 2 feet below the ground surface, and silty clay and clayey silt to a depth of at least 10 feet, and have a high potential for differential settlement.²⁸

Expansive soils possess a “shrink-swell” behavior, which is the cyclic change in volume (expansion and contraction) that occurs in fine-grained clay sediments as they get wet and then dry. Structural damage may occur over a long period of time, usually the result of inadequate soil and foundation engineering or the placement of structures directly on expansive soils. According to the Soil Survey of Alameda County, soils at the Project site are characterized by a high shrink-swell potential.²⁹ Settlement would be a concern in areas that

²⁷ Latitude High School PUD, Erosion Control Plan, Sheet C5.0, dated July 2020

²⁸ ERAS, Phase I Environmental Site Assessment, 2019

²⁹ USDA 1981, and City of Oakland Gateway Community Draft EIR, 2007

have not previously supported structures and where new structures would place loads heavier than the soils could tolerate.

Standard Conditions of Approval

The existing buildings on the Derby property have been in place since early 1950s and have not experienced substantial settlement or expansive soil conditions. Pursuant to **SCA Geology-1, Construction-Related Permits** and **SCA Geology-2, Seismic Hazards Zone - Landslide/Liquefaction**, the Project will require preparation of site-specific geotechnical reports that include an evaluation of site-specific geotechnical and soils hazards, and recommended measures to reduce such hazards. The Project applicant will be required to obtain all required construction-related permits and approvals prior to construction, and to comply with all standards, requirements and conditions contained in construction-related codes that ensure structural integrity and safe construction as applicable at the time.

With implementation of the City SCAs, potentially damaging soils conditions at the site will be fully addressed by appropriate building standards, and these impacts will be reduced to level of less than significant.

Conclusions

Based on an examination of the analysis, findings and conclusions of the Prior EIR, implementation of the Project would not substantially increase the severity of any significant impacts related to geology or geologic hazards as identified in the Prior EIR, nor would it result in new significant impacts related to geology and geologic hazards that were not previously identified. The Prior EIR did identify policy and regulatory requirements to address geologic impacts, and these requirements are now fully incorporated into City SCAs. The SCAs identified above and listed in **Appendix A** pertaining to geology, along with the site-specific seismic retrofit recommendations in the geotechnical report for Phase 1, would apply to the Project.

Greenhouse Gas Emissions

<u>Would the Project:</u>	<u>LUTE EIR Findings</u>	<u>Relationship to LUTE EIR Findings</u>		<u>Project Conclusions</u>	
		<u>Equal or Less Severe</u>	<u>New or Substantial Increase in Severity</u>	<u>Applicable SCAs or Mitigation Measures</u>	<u>Level of Significance</u>
a) Involve a stationary source producing total emissions of more than 10,000 metric tons of CO2e annually (stationary sources are projects that require a BAAQMD permit to operate)?	Not addressed	■	□	NA	LTS
b) Involving a land use development that fails to demonstrate consistency with the 2030 Equitable Climate Action Plan adopted by the City Council on July 28, 2020 (land use developments are projects that do not require a BAAQMD permit to operate)? Consistency with the 2030 ECAP can be shown by either: a) committing to all of the GHG emissions reductions strategies described on the ECAP Consistency Checklist, or b) compliance with the GHG Reduction Standard Condition of Approval that requires a project-level GHG Reduction Plan quantifying how alternative reduction measures will achieve the same or greater emissions than would be achieved by meeting the ECAP Consistency Checklist.	Not addressed	■	□	SCA GHG-1: Project Compliance with the Equitable Climate Action Plan (ECAP) Consistency Checklist	LTS with SCAs

LUTE EIR Conclusions

Climate change and greenhouse gas emissions were not expressly addressed in the 1998 LUTE EIR. However, since information on climate change and GHG emissions was known, or could have been known when the LUTE Program EIR was certified, it is not actually new information as specifically defined under CEQA.³⁰

Project Analysis

2030 Equitable Climate Action Plan (ECAP)

In July of 2020, the Oakland City Council adopted the 2030 ECAP with the intention that additional policies and ordinances would be adopted to implement some of the 2030 ECAP strategies. The 2030 ECAP sets forth a detailed, equitable path toward cost-effectively reducing Oakland's local GHG emissions by a minimum of 56% below baseline 2005 GHG emission levels by 2030, transitioning away from fossil fuel dependence, removing carbon from the atmosphere through local projects, and ensuring that all of Oakland's communities are resilient

³⁰ This conclusion is consistent with the First District Court of Appeal's ruling in *Concerned Dublin Citizens v. City of Dublin*, 214 Cal.App.4th 1301 (2013)

to the foreseeable impacts of climate change by 2030. The current statewide goal pursuant to SB 32 is to reduce California's GHG emissions to 40 percent below 1990 levels by 2030. Oakland's adopted 2030 reductions target of 56% below Oakland's 2005 GHG emission reaches beyond that of the State's 40% target. The 2030 ECAP contains not only deeper targets, but also qualitatively different and more focused actions than those contained in the previous 2020 Energy and Climate Action Plan, including a major focus on building de-carbonization and energy resilience, fully removing natural gas from the built environment and installing energy storage systems where appropriate and feasible.

The City's 2030 ECAP does not have a specific numeric threshold for GHG emissions from individual projects. Instead, in December 2020, the City Planning Commission adopted an ECAP Checklist that every project applicant must complete to show consistency with the 2030 ECAP. The ECAP Consistency Checklist includes topics such as consistency with the General Plan, parking limitations to reduce vehicle trip generation, electric vehicle charging infrastructure requirements, and all electric buildings (i.e., no natural gas connections). If a project can qualitatively demonstrate compliance with the ECAP Consistency Checklist items, or alternatively demonstrate to the City's satisfaction that a Checklist item is not applicable, then the project will be considered in compliance with the City's 2020 CEQA GHG threshold of significance

Standard Conditions of Approval

The Project is subject to applicable City of Oakland SCAs related to hazardous materials, as listed below.

SCA GHG-1: Project Compliance with the Equitable Climate Action Plan (ECAP) Consistency Checklist (applies to all projects that submit an Equitable Climate Action Plan Consistency Checklist and that commit to all the measures in the ECAP Consistency Checklist): The project applicant shall implement all the measures in the Equitable Climate Action Plan (ECAP) Consistency Checklist that was submitted during the Planning entitlement phase.

- a) For physical ECAP Consistency Checklist measures to be incorporated into the design of the project, the measures shall be included on the drawings submitted for construction-related permits.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Planning

- b) For physical ECAP Consistency Checklist measures to be incorporated into the design of the project, the measures shall be implemented during construction.

When Required: During construction

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

- c) For ECAP Consistency Checklist measures that are operational but not otherwise covered by these SCAs, including but not limited to the requirement for transit passes or additional Transportation Demand Management measures, the applicant shall provide notice of these measures to employees and/or residents and post these requirements in a public place such as a lobby or work area accessible to the employees and/or residents.

When Required: Ongoing

Monitoring/Inspection: Bureau of Planning

Project Compliance with SCAs

The Project applicants have completed an ECAP Consistency Checklist, which answers affirmatively to all applicable Checklist questions, meaning that the Project would fully comply with the City's 2030 ECAP, and will incorporate all

2030 ECAP Consistency Checklist items into the Project’s design, construction and operation. The ECAP Consistency Checklist and respective answers are provided below in **Table 12**.

Table 12: ECAP Consistency Checklist

Yes **No**

- 1. Is the proposed project substantially consistent with the City’s over-all goals for land use and urban form, and/or taking advantage of allowable density and/or floor area ratio (FAR) standards in the City’s General Plan?

Pursuant to Oakland Municipal Code Table 17.72.01, schools are a conditionally permitted activity within the zoning that applies to the Project site, permitted through the CUP process. Although the Project would not take advantage of allowable density and/or FAR standards, the Project would reuse certain existing buildings that have been left vacant for many years, repurposing those buildings for high school use.

Yes **No**

- 2. For developments in “Transit Accessible Areas” as defined in the Planning Code, would the project provide: i) less than half the maximum allowable parking, ii) the minimum allowable parking, or iii) take advantage of available parking reductions?

The Project site is located within a “Transit Accessible Areas” as defined in the Planning Code. The Project is located 0.25 miles from the Fruitvale BART station, thereby meeting the screening criteria for being located within 0.5 mile of an existing major transit stop or existing stop along a high-quality transit corridor.

Phase I of the Project consists of repurposing existing buildings within the Derby property for use as a high school, and providing 78 parking spaces in Phase 1. Construction of the Phase 2 multi-purpose building will result in the need to reconfigure the parking spaces within the site, resulting in 72 total parking spaces. Pursuant to Oakland Planning Code Section 17.116.070: Off-street parking—Civic Activities, the number of parking spaces for a Community Education - high school use is not specified, but is to be prescribed by the Director of City Planning. The Planning Director based this decision on an analysis of parking demand and capacity from an independent professional. The transportation professional providing all transportation analysis for this CEQA document has provided such an analysis, based on Institute of Transportation Engineer’s (ITE’s) average parking demand rate for high schools, as well as City of Oakland Transportation Impact Review Guidelines (TIRG). This analysis identifies an ITE demand estimate of 104 parking spaces, as well as a reduced demand based on lower trip generation rates as assumed for the project pursuant to the City’s TIRG guidelines. However, the Planning Director or designee has discretion to determine the required parking based not only on this analysis, but also based on location, operation and observed parking demands at previously approved schools. The determination is that providing between 72 and 78 total parking spaces at the Project for a population of 433 persons would take advantage of the Project’s location near transit, it’s operation as a regional as opposed to neighborhood serving school, available parking reductions due to reduced trip generation by providing fewer parking spaces than ITE parking rates suggest, and would also help satisfy the need for parking during special events held at the school.

As to the relationship between parking and GHG emissions, the transportation analysis presented in this CEQA Analysis demonstrates that the daily VMT rate per student for the proposed Project is calculated to be 6.5 VMT per student, or approximately 67% below the existing City of Oakland VMT per capita threshold of 19.7 VMT per person miles. Therefore, the Project does not result in a significant impact based on VMT, and mobile source GHG emissions would be similarly low.

Yes **No**

- N/A 3. For projects including structured parking, would the structured parking be designed for future adaptation to other uses? (Examples include, but are not limited to the use of speed ramps instead of sloped floors)

This criteria is not applicable because the Project is not providing any structured parking.

Yes **No**

- 4. For projects that are subject to a Transportation Demand Management Program, would the project include transit passes for employees and/or residents?

The Project would generate more than 50 peak hour trips and is therefore subject to TDM requirements. The TDM Plan prepared for the Project (see **Appendix O**) indicates that the Project would provide subsidized/discounted daily or monthly

public transit or bike share passes. The VMT reduction calculation assumes the Project would provide the equivalent of a \$1.50 per trip subsidy for these modes.

Yes **No**

- N/A 5. For projects that are not subject to a Transportation Demand Management Program, would the project incorporate one or more of the optional Transportation Demand Management measures that reduce dependency on single-occupancy vehicles? (Examples include but are not limited to transit passes or subsidies to employees and/or residents; carpooling; vanpooling; or shuttle programs; on-site car-share program; guaranteed ride home programs)

The Project would generate more than 50 peak hour trips and is therefore subject to TDM requirements.

Yes **No**

- 6. Does the project comply with the Plug-In Electric Vehicle (PEV) Charging Infrastructure requirements (Chapter 15.04 of the Oakland Municipal Code), if applicable?

Phase I of the Project consists of repurposing existing buildings within the Derby property for use as a high school, and relying on the adjacent paved area that is currently marked to accommodate parking spaces. During Phase I of the Project, 8 plug-in electric vehicle (PEV) charging infrastructure will be provided consistent with the requirements of Chapter 15.04 of the Oakland Municipal Code.

Yes **No**

- 7. Would the project reduce or prevent the direct displacement of residents and essential businesses? (For residential projects, would the project comply with SB 330, if applicable? For projects that demolish an existing commercial space, would the project include comparable square footage of neighborhood serving commercial floor space)

The existing buildings on the Derby property had been vacant for several years prior to use as Epic Middle School, which closed in 2018. The 0 29th Avenue property is a vacant lot. No existing businesses or residents would be displaced. No demolition of commercial space would occur.

Yes **No**

- 8. Would the project prioritize sidewalk and curb space consistent with the City's adopted Bike and Pedestrian Plans? (The project should not prevent the City's Bike and Pedestrian Plans from being implemented. For example, do not install a garage entrance where a planned bike path would be, unless otherwise infeasible due to Planning Code requirements, limited frontage or other constraints)

The Project does not propose any additional curb cuts for vehicle access that are already provided at the site's driveway entrances at Derby and at 29th Avenue, and the Project will have no effect on the sidewalk or curb spaces. The Transportation Impact Review for the Project also recommends that the two bus stops closest to the Project on 29th Avenue should be improved to better accommodate pedestrian access.

Yes **No**

- 9. Does the project not create any new natural gas connections/hook-ups?

Phase I of the Project consists of repurposing existing buildings within the Derby property for use as a high school, and these buildings are currently served by existing natural gas connections. Phase I of the Project would not create any new natural gas connections or hook-ups. The Phase II multi-purpose building does not yet have detailed construction plans, but the Project applicant has committed that this new building will comply with the No-Natural Gas Ordinance, as it applies at the time of building permit for this new building.

Yes **No**

- 10. Does the project comply with the City of Oakland Green Building Ordinance (Chapter 18.02 of the Oakland Municipal Code), if applicable?

Per the City's Green Building Ordinance, the Project (as a non-residential public building) is required to achieve the standard of LEED Silver, or the equivalent of 50 points per the LEED v4 Schools checklist. The LEED checklist prepared by a LEED-certified architect on behalf of the applicant demonstrates that Phase 1 of the Project will achieve at least 50 points through the mechanical, electrical and plumbing improvements to be implemented at the existing Derby buildings for Phase 1 as a Major Alteration to a Non-Residential building. The Phase 2 multi-purpose building will be required to provide demonstration

of compliance with CalGreen, as well as Small Project Checklist compliance (the multi-purpose building is under 25,000 sq. ft.) at such time as the applicant submits a building permit for the multi-purpose building, and during construction.

Yes **No**

N/A 11. For retrofits of City-owned or City-controlled buildings, would the project be all electric, eliminate gas infrastructure from the building, and integrate energy storage wherever technically feasible and appropriate?

The Project is not a retrofit of a City-owned or City-controlled building.

Yes **No**

■ 12. Would the project reduce demolition waste from construction and renovation and facilitate material reuse in compliance with the Construction Demolition Ordinance (Chapter 15.34 of the Oakland Municipal Code)?

The Project would comply with the Construction Demolition Ordinance by providing a minimum of 75% diversion of construction and demolition waste (including Alternative Daily Cover).

Yes **No**

NA 13. For City projects: Have opportunities to eliminate/minimize fossil fuel dependency been analyzed in project design and construction?

The Project is not a City project.

Yes **No**

NA 14. For new projects in the Designated Very High Wildfire Severity Zone: Would the project incorporate wildfire safety requirements such creation of defensible space around the house, pruning, clearing and removal of vegetation, replacement of fire resistant plants, as required in the Vegetation Management Plan?

The Project is not located in a Very High Fire hazard Severity Zone.

Yes **No**

■ 15. Would the project replace a greater number of trees than will be removed in compliance with the Tree Preservation Ordinance (Chapter 12.36 of the Oakland Municipal Code) and Planning Code if applicable and feasible given competing site constraints?

The Project will not remove any trees, but will add new trees as part of landscape plans for the site.

Yes **No**

■ 16. Does the project comply with the Creek Protection, Stormwater Management and Discharge Control Ordinance (Chapter 13.16 of the Oakland Municipal Code), as applicable?

The Project will comply with all applicable NPDES C.3 requirements for protection of water quality, consistent with applicable SCAs. There is not any on-site or near-site feature that meets the definition of a creek, and the City Creek Protection Ordinance does not apply.

The Project is a development project subject to SCA GHG-1. The Project applicants have completed the ECAP Consistency Checklist that qualitatively demonstrates compliance with the Checklist items as part of the Project's design, or alternatively demonstrates to the City's satisfaction that certain items are not applicable. The Project is in compliance with the City's CEQA GHG threshold of significance, and its GHG impacts would be less than significant. Since the Project does commit to all of the applicable GHG emissions reductions strategies described on the ECAP Consistency Checklist, the Project is not required to implement SCA GHG-2, Greenhouse Gas Reduction Plan.

Conclusions

The Prior LUTE EIR did not address potential impacts associated with greenhouse gas emissions. However, the Project would not result in new significant impacts related to greenhouse gas emissions. The Prior EIR did not identify mitigation measures to address greenhouse gas emissions, and none would apply. The SCA GHG-1

identified above and listed in **Appendix A** pertaining to greenhouse gas emissions and climate change applies to the Project, and the Project has demonstrated compliance with the requirements of this SCA.

Hazards and Hazardous Materials

<u>Would the Project:</u>	<u>LUTE EIR Findings</u>	<u>Relationship to LUTE EIR Findings</u>		<u>Project Conclusions</u>	
		<u>Equal or Less Severe</u>	<u>New or Substantial Increase in Severity</u>	<u>Applicable SCAs or Mitigation Measures</u>	<u>Level of Significance</u>
a) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code section 65962.5 (i.e., the "Cortese List") and, as a result would create a significant hazard to the public or the environment?	LTS with regulations	■	□	SCA General-1: Regulatory Permits and Authorizations from Other Agencies SCA Hazards-1: Hazardous Building Materials and Site Contamination	LTS w/ SCAs
b) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? – Or, Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? – Or, Create a significant hazard to the public through the storage or use of acutely hazardous materials near sensitive receptors, Or- Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	LTS with regulations	■	□	SCA Hazards-2, Hazardous Materials Related to Construction	LTS w/ SCA
c) Result in less than two emergency access routes for streets exceeding 600 feet in length unless otherwise determined to be acceptable by the Fire Chief, or his/her designee, in specific instances due to climatic, geographic, topographic, or other conditions?	NA	■	□	-	LTS
d) Be located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, and would result in a significant safety hazard for people residing or working in the project area; Or - Be located within the vicinity of a private airstrip, and would result in a significant safety hazard for people residing or working in the project area?	NA	■	□	-	LTS
e) Fundamentally impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	NA	■	□	-	LTS

f) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	NA	<input checked="" type="checkbox"/> <input type="checkbox"/>	- LTS
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Hazardous Materials Site

LUTE EIR Conclusions

The LUTE EIR determined that new development pursuant to the LUTE would increase the potential for construction activities that could increase the likelihood of encountering contaminated soil or groundwater, and potentially exposing workers and the community to hazardous substances. The LUTE EIR also found that remediation efforts at identified hazardous sites could expose workers and the public to hazardous substances. These impacts were concluded to be less than significant, with implementation of existing laws, regulations and policies including those of the San Francisco Bay Regional Water Quality Control Board (SFRWQCB), the California Department of Toxic Substances Control (DTSC), the Bay Area Air Quality Management District (BAAQMD) and the Alameda County Department of Environmental Health (ACDEH). No additional mitigation measures were required.

Project Analysis

Regulatory Data Base Status

The Project site consists of two separate properties. The former Caltrans maintenance station property (APN 25-693-7-2) is located at address of 1045 Derby Avenue (occasionally also shown as 1112 29th Avenue) and is referred to in the proposed Corrective Action Plan discussed below as the Southern Parcel. The property with historical railroad lines (APN 25-693-8) is located at address 0 29th Avenue and is referred to in the proposed Corrective Action Plan discussed below as the Northern Parcel.

Both of these properties are identified on the State Water Resources Control Board (SWRCB) Geotracker website as having open (or now combined) cases, as summarized below:

- The Derby Avenue property is shown as being a Leaking Underground Storage Tank (LUST) Cleanup Site with a status of “Case Closed” as of 7/27/2011 (Alameda County Department of Environmental Health (ACDEH) Case #RO0000397) ³¹
- The Derby Avenue property is also shown as being a Cleanup Program Site with a current status as “Open – Inactive as of 4/29/2020 (ACDEH Case # RO00033760). This case was established in 2019 for the former Caltrans maintenance station, but a separate Site Cleanup Program case (#RO0003432) has been opened to provide environmental regulatory oversight of the Site as it is developed for use as a school, with EFC accepting the role as lead responsible party. Upon completion of the property transfer, the Site Cleanup Program case # RO00033760 will be closed, and all further regulatory oversight action will be completed under the EFC Cleanup Program case (below). ³²

³¹ https://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T0600101631

³² https://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T10000013161

- The 0 29th Avenue property is shown as being an Alameda County Cleanup Program Site with a status of Case Closed as of 11/15/2020 - Case #RO0003204. However, the case notes indicates that this case was administratively closed and is now being regulated under a separate active Site Cleanup Program Case identified as GeoTracker Global ID No T10000014503 (ACDEH Case #RO0003432, below).³³
- Both the Derby Avenue property and the 0 29th Avenue property are now shown as being a Cleanup Program Site with a current status as “Open - Site Assessment” as of 04/29/2020 (ACDEH Case #RO0003432)³⁴

Although both the Derby Avenue property and the 0 29th Avenue property are currently identified on the SWRQB Geotracker website as either “Open – Inactive” or “Open-Site Assessment”, neither of these properties are identified on the data resources as established by Cal EPA that define those sites identified as meeting the “Cortese List” requirements:

- Neither property is on a list of Hazardous Waste and Substances sites from Department of Toxic Substances Control (DTSC) EnviroStor database
- Neither property is currently on a list of Leaking Underground Storage Tank (LUST) sites from the State Water Board’s GeoTracker database (the Derby Avenue property is shown with a status of “Case Closed” as of 7/27/2011)
- Neither property is on a list of solid waste disposal sites identified by Water Board with waste constituents above hazardous waste levels outside the waste management unit (PDF)
- Neither property is on a list of “active” Cease and Desist Orders and Cleanup and Abatement Orders from Water Board, and
- Neither property is on a list of hazardous waste facilities subject to corrective action pursuant to Section 25187.5 of the Health and Safety Code, identified by DTSC.

A separate, adjacent property at 2901 East 12th Street is listed as a LUST Cleanup Site (Case #RO00003375), but that parcel is not included within the Project site.

Background and Site Investigations

Derby Avenue Property

In 2011, the Derby property was evaluated under the Leaking Underground Storage Tank (LUST) program. That evaluation was limited to fuel-related petroleum hydrocarbons and associated compounds, and was also limited to an evaluation of risks to industrial land use receptors. The LUST case was closed in 2011, with the caveats that the closure was relative to petroleum related constituents only, and that the closure was valid for industrial use only.³⁵

The Derby property was later leased from Caltrans and redeveloped into the former Epic Middle School in 2014. This redevelopment was conducted without regulatory oversight, and was not consistent with restricted use for industrial purposes only.

In June 2019 (during summer recess when the school was not in session), ACDEH was notified by the City of Oakland that this former contaminated site was operating as Epic Charter Middle School, and ACDEH notified

³³ https://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T10000010328

³⁴ https://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T10000014503

³⁵ https://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T10000013161 , Site Summary

EFC that, “the current land use as a middle school was a more conservative and sensitive land use than industrial and posed a potentially unacceptable risk to human health”, and required that the site be re-evaluated for use as a school prior to re-occupancy.³⁶

In July 2019, ACDEH determined that vapor intrusion to indoor air was an existing unacceptable exposure pathway, and required that interim corrective actions be developed and implemented, sufficient to control the otherwise complete exposure pathway of vapor intrusion, specifically to school aged children. ACDEH also notified representatives of Caltrans and Epic Charter School that before ACDEH would issue any letter stating that they would not have an objection to the occupancy and use of the site as a school, the identified vapor intrusion issues would need to be addressed via acceptable engineering controls.³⁷ According to the public notice provided by ACDEH,

“In order to facilitate the opening of Epic Middle School for the 2019/2020 school year, while also ensuring that potential exposure risks associated with vapor intrusion are controlled, an interim mitigation strategy consisting of three elements is proposed:

- *Installation of air purifiers within the buildings*
- *Modification of existing ventilation systems to both increase ambient air ventilation and pressurize the on-site buildings, and*
- *Installation of an impermeable vapor barrier to control the potential flow of vapors from the subsurface to indoor air.*

This mitigation strategy employs multiple complimentary mitigation methods to provide redundancy in the event that one of these strategies fails due to the loss of power or damage to the barrier. The performance of the mitigation strategy will be verified after installation and prior to the start of the 2019/2020 school year, and the ongoing effectiveness will be verified by routine air monitoring to ensure that these systems provide, and continue to provide, adequate levels of protection to on-site receptors. The proposed interim mitigation measures are capable of achieving an adequate level of protection for on-site receptors while long-term solutions to vapor intrusion are identified. ACDEH will therefore be requiring additional site investigation activities and implementation of long-term corrective actions which may include remediation to eliminate the source of vapor intrusion or implementation of alternative mitigation measures to replace or supplement interim mitigation measures. The implementation of additional site characterization activities and corrective actions will be completed under the oversight of ACDEH and will include public participation such as distribution of fact sheets or requests for public comment.”³⁸

These interim corrective measures were implemented, but ACDEH acceptance of the interim corrective actions was not obtained before the start of the next school year (which was scheduled for August of 2019), and the school was not re-opened. In a series of letters concluding in October 2019, ACDEH updated their conditions of clearance for occupancy, and indicated that all on-site buildings were cleared by ACDEH for school or commercial occupancy under certain conditions, but also noting that ACDEH’s clearance did not absolve Caltrans or the School from obtaining permits and approvals from other oversight or permitting agencies, as applicable

³⁶ Alameda County Department of Environmental Health (ACDEH), Letter to EFC School, June 13, 2019

³⁷ ACDEH, Letter to Caltrans and EFC, July 2019

³⁸ ACDEH, Local Oversight Program, Fact Sheet on Interim Vapor Intrusion Mitigation Measures at the Former Caltrans Maintenance Station / Epic Middle School, August 1, 2019 – accessed at: https://geotracker.waterboards.ca.gov/view_documents?global_id=T10000013161&enforcement_id=6411795&temptable=ENFORCEMENT

(which included land use approval by the City of Oakland). The modified conditions of clearance for occupancy and use of the Derby property for purposes other than industrial uses were conditioned on performance monitoring to commence at least 30 days prior to occupancy, and other monitoring conditions.³⁹ Although conditionally cleared for school occupancy, other approvals necessary for re-opening of the school (including land use approval by the City) were not obtained at that time.

0 29th Avenue

In November of 2015, EFC purchased the 0 29th Avenue property with the intent of building office space (that office project has not been advanced). In July of 2017, ERAS Environmental, Inc. (ERAS) completed a Limited Phase II Subsurface Investigation of the 0 29th Avenue property, concluding that the property was zoned commercial, that no concentrations of contaminants of concern (COCs) were found that exceeded commercial Environmental Screening Levels (ESLs), and recommending that the site be considered for case closure.⁴⁰

Concurrent with implementation of corrective actions at the Derby property in the summer of 2019, EFC initiated their own internal planning process for the adjacent 29th Avenue property, incorporating it as part of a new proposal for a high school (i.e., the current Project). In June 2019, ACDEH learned that the 0 29th Avenue property was now being considered for use as part of a high school, informed EFC that the property had not been sufficiently investigated for school use, and requested preparation of a Work Plan for additional subsurface investigation of the site.

In August 2019, a Phase I Environmental Site Assessment was conducted by ERAS for the 0 29th Avenue property and the adjoining property (not a part of the Project) at 2901 East 12th Street (see **Appendix G**).⁴¹ That Phase I Assessment found that a former gasoline station on a separate 2901 East 12th Street property (not part of the Project) was a Recognized Environmental Condition (REC) for the 29th Avenue property based on soil contamination that had been previously detected in a 2002 investigation, and that other historic uses of properties along East 12th Street (also not part of the Project) had included machining and auto repair, which could have caused impacts to subsurface environmental conditions. The Phase I ESA recommended completion of individual Work Plans to further investigate the 0 29th Avenue property and the adjoining property at 2901 East 12th Street.⁴²

Pursuant to those individual Work Plans, ERAS conducted additional soil and groundwater investigations of the northern 29th Avenue property in 2019 and early 2020.

Combined Investigations and Recommendations

In May of 2020, ACDEH entered into a single Voluntary Remedial Action Agreement with EFC (the responsible party) that includes both the 0 29th Avenue and at 1045 Derby properties (see **Appendix H**). The Remedial Action Agreement provides for performing remedial actions including investigations, reporting and cleanup of soil and/or groundwater contamination, and to perform remedial actions that may be necessary to protect human health and the environment.⁴³ Pursuant to this Voluntary Remedial Action Agreement, EFC agreed to present the

³⁹ ACDEH, Modifications to Conditions for Agency Clearance of Occupancy and Compliance Dates, Site Cleanup Program Case No. RO0003376, GeoTracker Global ID T10000013161, Former Caltrans Maintenance Station, 1112 29th Avenue, Oakland, CA 94601, October 18, 2019

⁴⁰ ERAS Environmental, Inc., Limited Phase II Subsurface Investigation, July 2017

⁴¹ ERAS Environmental, Inc., Phase I Environmental Site Assessment for 2901 East 12th Street and 0 29th Avenue, August 23, 2019

⁴² ERAS, Phase I Environmental Site Assessment, August 2019

⁴³ ACDEH and EFC, Voluntary Remedial Action Agreement, May 5, 2020

results and recommendations of both the Derby property and the 29th Avenue property as one single combined Corrective Action Plan (CAP) report for the EFC Latitude High School Site project. A new Site Cleanup Program case (RO0003432) was opened to provide environmental regulatory oversight of the Derby and 29th Avenue properties as they are developed for high school use, with Education for Change accepting the role as lead responsible party. The former Case #RO0003204 for the 29th Avenue property was administratively closed, and this case is now regulated under a new Site Cleanup Program Case, GeoTracker Global ID No T10000014503 and ACDEH Case #RO0003432.⁴⁴ Upon completion of the Derby property transfer, the Site Cleanup Program case associated with Caltrans will also be closed and all further regulatory oversight action will be completed under the Education for Change Site Cleanup Program case.⁴⁵

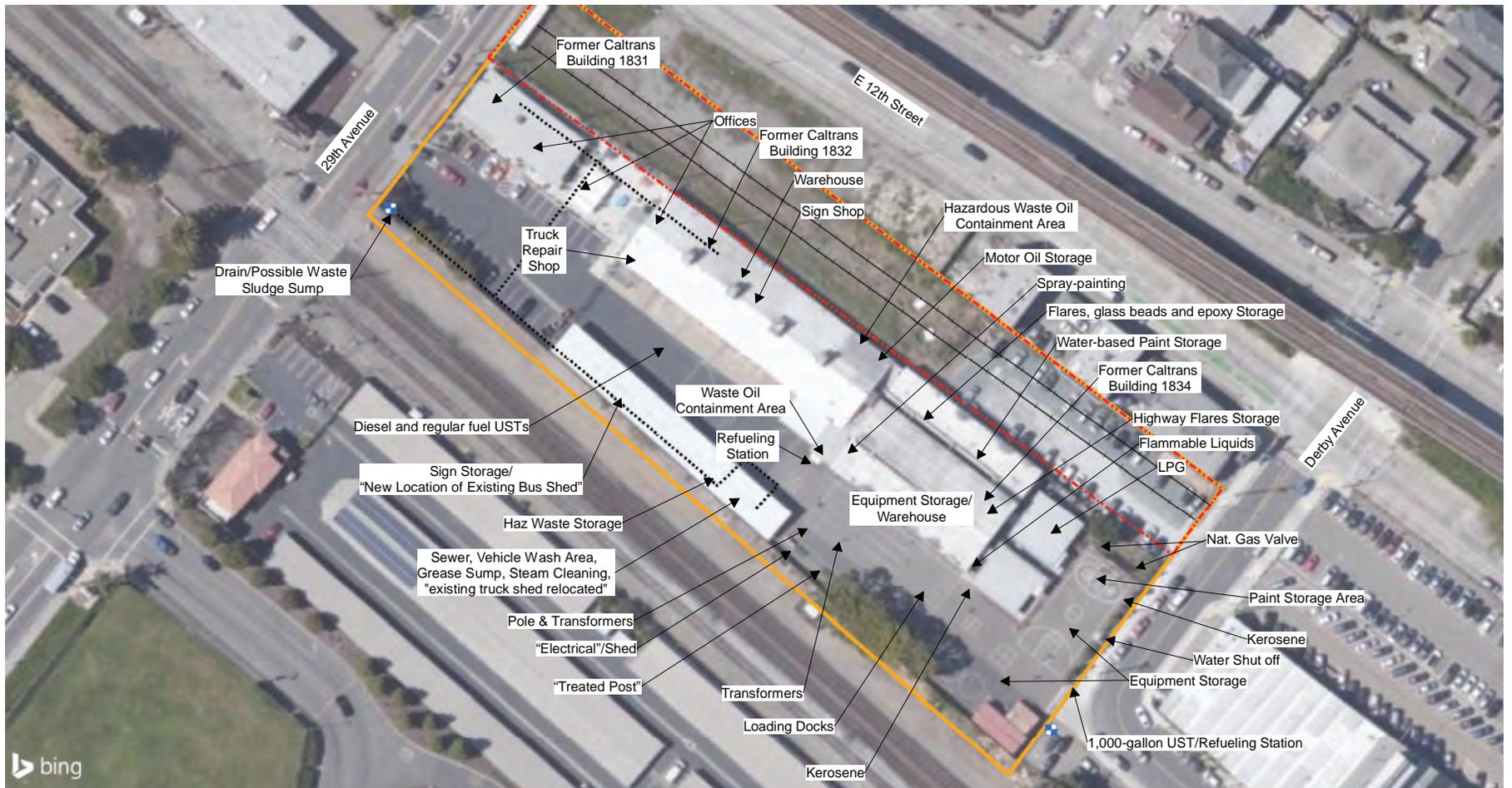
In November 2019, EFC's environmental consultant firm (Geosyntec) prepared a proposed Data Gaps Investigation Work Plan (Work Plan - see **Appendix I**). The purpose of this Work Plan was to address ACDEH requirements for additional site investigation activities and implementation of long-term corrective actions for the existing Derby buildings, and to address EFC's new plans for a high school at the site. The Work Plan presented EFC's proposal for use of both the Derby property and the adjacent 29th Avenue property, whereby EFC intends to lease the Derby property recently obtained from Caltrans, and whereby EFC owned the 0 29th Avenue property. Consistent with the current Project Description, the Work Plan also presented EFC's plans to use the existing buildings on the Derby property for high school classrooms, administrative, support offices and storage, and to use the 29th Avenue property for recreational areas (e.g., playing fields). It also described EFC's future plans to construct a new multi-purpose building on the northeastern end of the 29th Avenue site, but is clear that the Work Plan does not fully address this potential future building.⁴⁶

The 2019 Work Plan also identifies several past uses of the Derby site that were discovered during review of regulatory agency files, and which may have impacted the condition of soil, soil vapor and groundwater at the Derby property. These features include a former solvent UST, hazardous material and waste storage areas, a grease sump, roadside sump, transformers, treated wood storage, and refueling stations (see **Figure 11**). The implications of these prior site uses were to be further investigated pursuant to that Work Plan and a subsequent Corrective Action Plan.

⁴⁴ https://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T10000010328

⁴⁵ https://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T10000013161

⁴⁶ As specifically noted in the Data Gaps Work Plan, "A multi-purpose structure is contemplated for development in the area presently occupied by Building B and the mini-football field to be constructed during the first phase of site improvement. The data gap investigation supports the 2021 construction only [i.e., the paving of play fields only], as the timing and final configuration of the multi-purpose building are not known (the planning for this structure is at least several years away; additional data needs should be determined when and if this second phase of improvement moves into planning)."



- Legend**
- Approximate Site Boundary
 - + Drain
 - Sewer Line
 - - - - "0" 29th Avenue Property (Northern Parcel)
 - +— Former Railway Track

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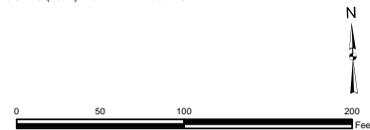


Figure 11
Historical Features Potentially Contributing to On-Site Contamination

Source: Geosyntec, March 2021

Corrective Action Plan

On March 12, 2021 and pursuant to the Voluntary Remedial Action Agreement, Geosyntec transmitted a proposed Corrective Action Plan (CAP) to ACDEH, identifying corrective actions proposed to be conducted at both the Derby and the 29th Avenue properties (see **Appendix J**).⁴⁷ The CAP describes proposed approaches to remediate or control potentially unacceptable risks to human health due to exposure to residual levels of chemicals of potential concern (CoPCs) detected in the soil, soil vapor, and sub-slab vapors at the Derby site. These CoPC were identified at the Derby site based on the findings of the 2019 Data Gaps investigations, and include:

- Lead and arsenic in shallow soil
- Volatile organic chemicals (VOCs), including PCE, benzene, naphthalene, and chloroform identified in sub-slab vapor, and
- Gasoline (TPHg) as soil vapor

The CAP identifies potential pathways by which students, teachers and school staff, and on-site construction workers might be exposed to these COPCs, including indoor inhalation of sub-slab vapors and direct exposure to soil through ingestion, dermal contact and/or inhalation of airborne dust and vapors. The CAP identifies no potential receptor exposures to groundwater at the site. To address these hazardous chemical concerns, the CAP lists the following proposed corrective actions for both the Derby and the 29th Avenue properties:

- Soil excavation will be conducted in several specific locations to either remove locally elevated metals and VOC vapor sources detected during prior investigations, or to accompany the installation of new development features. Elevated levels of lead that is locally present in shallow soil at the Derby property will be excavated and removed for off-site disposal. Soil excavation will also be performed at specific locations within the 29th Avenue property to remove elevated metals (arsenic and lead) present in shallow soil, where new storm drain lines and landscaped areas will be installed. Soils excavated from planned new storm drain lines and landscaped areas will also be removed for off-site disposal, and all excavated areas backfilled with clean imported soil following ACDEH guidance.
- Potential receptor exposure to elevated metals detected in surface soil across the 29th Avenue property will be mitigated through installation of an asphalt or concrete cap. With the exception of landscaped areas and stormwater control measures, this impervious cap will cover all areas of exposed soil on the 29th Avenue property.
- Following the removal of shallow soil from planned landscaped and stormwater control areas within the 29th Avenue property, landscape features will be backfilled up to surface grade with clean imported soil. This clean soil will serve to cap subgrade soil remaining after targeted remedial excavations, and will provide an effective barrier to potential receptor exposure to residual elevated metals that may remain at depth in the subsurface.

Corrective actions to address vapor intrusion at the existing buildings at the Derby property will be performed in accordance with current ACDEH guidance for sites with vapor intrusion risk. This guidance calls for those buildings determined to have a low vapor intrusion risk to be equipped with one primary engineering control measure and two contingency engineering control measures. Those buildings determined to have a high vapor intrusion risk are to be equipped with two primary and one contingency engineering control measures. Findings of the risk evaluation for Buildings A-1, A-2 and A-3 and Building B (all with slab-on-grade construction) identify these buildings as low vapor intrusion risk, whereas Buildings A-4 and A-5 (with raised floors) were identified as

⁴⁷ Geosyntec, Corrective Action Plan (CAP), March 12, 2021

being high vapor intrusion risks. Different measures are proposed for slab on-grade structures versus raised floor structures.

- An epoxy floor sealant system and ventilation improvements were previously applied to all existing on-site buildings in August of 2019 (see *Derby Parcel Investigations and Clearances*, above), to create a barrier to prevent sub-surface VOC vapors from migrating into indoor air through cracks and other openings in the floors. Installation of this vapor barrier represents a site-wide primary engineering control measure against vapor intrusion for all existing buildings.
- Buildings A-4 and A-5 are both raised floor structures and have a low open area between the floor and the underlying ground surface. These two structures will be equipped with a second primary engineering control measure involving installation and full-time operation of an active sub-floor ventilation system that will be operated to continuously blow ambient air into the sub-floor area beneath these buildings. It is anticipated that this active ventilation system will include introduced air into the sub-floor area through multiple inlet fans on one side of each building, and allowing the introduced air to naturally vent out of multiple outlets on the opposing side of the building. The other two sides of each building will be blocked to contain, control, and direct the introduced air stream.
- As an additional protective measure, and in order to ensure that the sub-floor venting system proposed for these structures continues to operate as planned, an alarm system will be installed in Buildings A-4 and A-5 to provide automatic notification to site operators if fans driving this system stop running.
- In addition to these primary engineering controls, proposed contingency engineering controls include further interior ventilation enhancements in all existing buildings at the site, and point of exposure air purification for Buildings A-1 through A-3 and Building B.

Corrective actions at the site are summarized **Table 13** and presented by location in **Figure 12**.

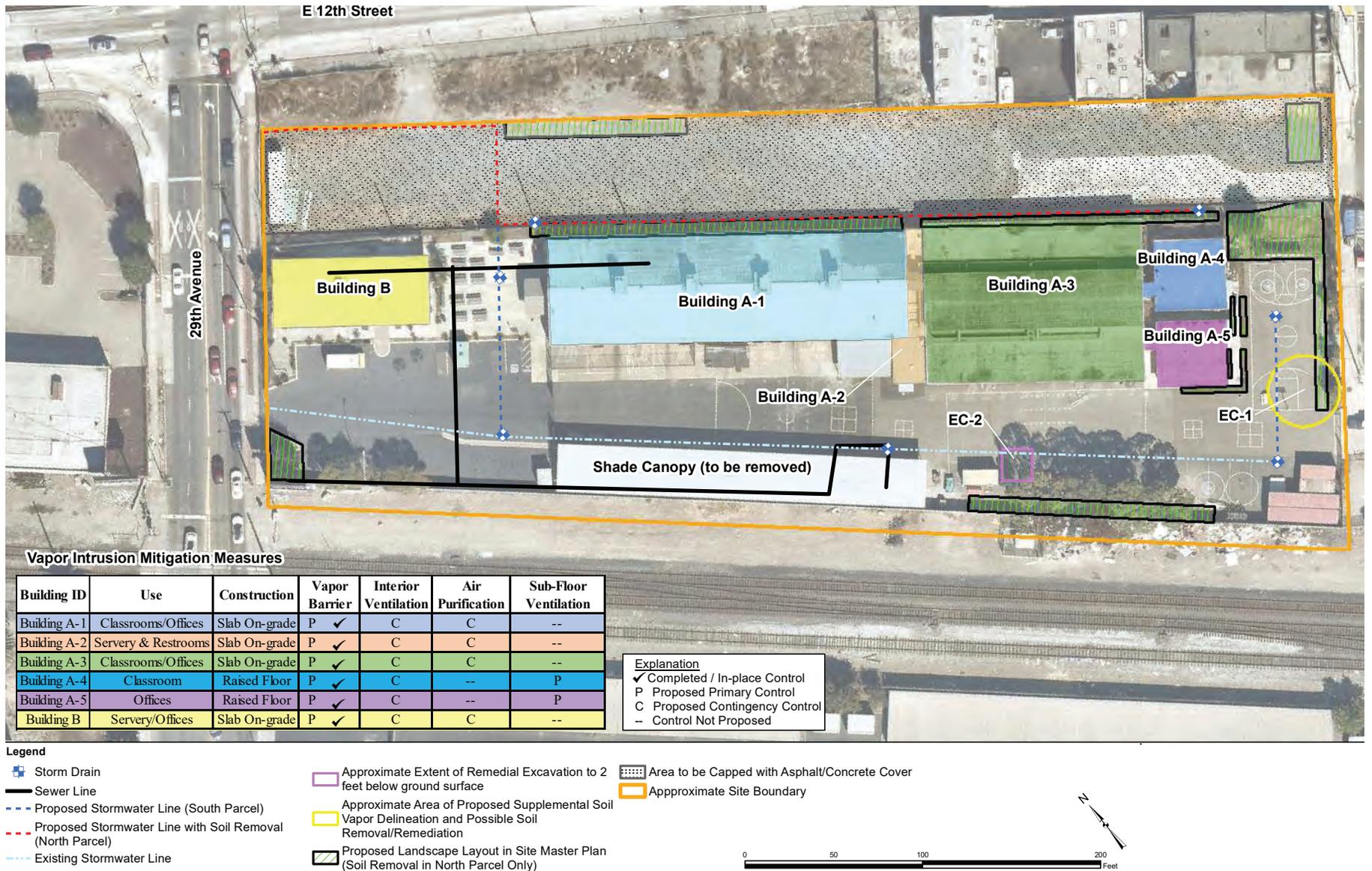


Figure 12
Proposed Corrective Action Plan Measures

Source: Geosyntech, March 2021

Table 13: Summary of Proposed Site Corrective Actions

<u>Parcel</u>	<u>Media</u>	<u>Building/ Feature</u>	<u>Vapor Barrier</u>	<u>Interior Vent.</u>	<u>Air Purify.</u>	<u>Sub-Floor Vent.</u>	<u>Soil/ Hardscape Cap</u>	<u>Soil Exc./ Disp.</u>
Derby	Vapor	Building B (slab floor)	P	C	C			
		Building A-1 (slab floor)	P	C	C			
		Building A-2 (slab floor)	P	C	C			
		Building A-3 (slab floor)	P	C	C			
		Building A-4 (raised floor)	P	C			P	
		Building A-5 (raised floor)	P	C			P	
	Soil	Location EC-1						X
		Location EC-2						X
	Groundwater	Location EC-1						Inv.
0 29 th Avenue	Soils	Surface Soils					X	
		Stormwater lines						X
		Landscape Areas					X	X

Source: Geosyntec Consultants, *Corrective Action Plan for Education for Change Latitude High School*, March 12, 2021, Table 11

- P = Primary Vapor Intrusion Engineering Controls
- C = Contingency Vapor Intrusion Engineering Controls
- X = Corrective Actions for Outdoor Features
- Inv. = Pending Results of Supplemental Investigation

The CAP identifies a number of pre-construction and post-construction reporting documents that will need to be submitted for ACDEH review and approval, including a site-specific Health & Safety Plan for on-site construction workers, prepared in accordance with Occupational Safety and Health Administration (OSHA) regulations. A copy of this Health and Safety Plan will be uploaded to GeoTracker and made available to all site workers for their review and acknowledgement in advance of conducting CAP-related work. All workers must abide by the Health and Safety Plan during implementation of the Corrective Action Plan.

The performance of the CAP’s proposed remediation and corrective actions will be reevaluated by ACDEH as they relate to elimination of identified receptor exposure pathways and achievement of corrective action objectives, including the following monitoring activities:

- Perimeter and on-site air monitoring will be conducted during development activities to ensure protection of on-site workers and the community from exposure to dust and vapor emissions. Monitoring will be conducted on a daily basis during significant earth-disturbing construction activities

(i.e., during grading, trenching, and remedial excavation efforts). Results of construction phase monitoring activities will be presented a Corrective Action Completion Report to be prepared and submitted to ACDEH following completion of site construction activities.

- Post-construction monitoring will also be conducted to confirm the efficacy of the various corrective actions implemented to prevent vapor intrusion into buildings. Periodic performance monitoring will be conducted to assess VOC and radon concentrations in sub-slab and sub-floor vapors, as well as indoor and outdoor air. Following completion of semi-annual monitoring for VOCs and radon during the first year, and consistent with ACDEH guidance, radon will be used as a surrogate for VOCs to allow ongoing assessment of potential VOC vapor intrusion into the buildings.
- Additional monitoring provisions specific to the raised-floor structures (Buildings A-4 and A-5) will include sub-floor airspace monitoring for VOCs and radon on a semi-annual basis for one year, and malfunction alarm testing to ensure continuous operation of sub-floor fans.
- Outdoor air monitoring will be conducted to measure ambient levels of radon in the site vicinity, providing baseline radon conditions to allow comparison with indoor radon measurements. Outdoor radon monitoring will be performed semi-annually for one year.
- Outdoor air monitoring will be conducted to measure ambient levels of radon in the site vicinity, providing baseline radon conditions to allow comparison with indoor radon measurements. Outdoor radon monitoring will be performed semi-annually for one year.

All of the corrective actions identified in the Corrective Action Plan pertain only to Phase I of the Project (i.e., establishment of high school use within the existing buildings on the Derby property, and paving of the 0 29th Avenue property). None of these corrective actions pertain to Phase II development of the multi-purpose building. Pursuant to completion of all identified corrective actions for Phase I, a Land Use Covenant will be established identifying land use restrictions for the site based on site conditions as identified in the Corrective Action Completion Report, and identifying additional conditions that must be satisfied for any future amendment of the land use restrictions such as the intended Phase II construction of the multi-purpose building. Not until this Land Use Covenant is amended, with full analysis and proposed corrective actions needed for Phase II development, will construction of the multi-purpose building be permitted.

Standard Conditions of Approval

The Project would be subject to the following City of Oakland SCA, intended to apply to all projects to minimize impacts related to existing hazardous materials in the soil, groundwater and/or soil vapor.

SCA Hazards-1: Regulatory Permits and Authorizations from Other Agencies (applies to all projects requiring a permit or authorization from any regional, state, or federal resource or permitting agency): The project applicant shall obtain all necessary regulatory permits and authorizations from applicable resource/regulatory agencies including, but not limited to, the Regional Water Quality Control Board, Alameda County Department of Environmental Health, Bay Area Air Quality Management District, Bay Conservation and Development Commission, California Department of Fish and Wildlife, U. S. Fish and Wildlife Service, and Army Corps of Engineers and shall comply with all requirements and conditions of the permits/authorizations. The project applicant shall submit evidence of the approved permits/authorizations to the City, along with evidence demonstrating compliance with any regulatory permit/authorization conditions of approval.

When Required: Prior to activity requiring permit/authorization from regulatory agency

Initial Approval: Approval by applicable regulatory agency with jurisdiction; evidence of approval submitted to Bureau of Planning

Monitoring/Inspection: Applicable regulatory agency with jurisdiction

SCA Hazards-2: Hazardous Building Materials and Site Contamination (applies to projects involving redevelopment or change of use of a historically industrial or commercial site, a contaminated site as identified in City records, and/or a site listed on the State Cortese List, and/or as a site where remediation activities are required based on an environmental site assessment)

- a) *Hazardous Building Materials Assessment*: The project applicant shall submit a comprehensive assessment report to the Bureau of Building, signed by a qualified environmental professional, documenting the presence or lack thereof of asbestos-containing materials (ACMs), lead-based paint, polychlorinated biphenyls (PCBs), and any other building materials or stored materials classified as hazardous materials by State or federal law. If lead-based paint, ACMs, PCBs, or any other building materials or stored materials classified as hazardous materials are present, the project applicant shall submit specifications prepared and signed by a qualified environmental professional, for the stabilization and/or removal of the identified hazardous materials in accordance with all applicable laws and regulations. The project applicant shall implement the approved recommendations and submit to the City evidence of approval for any proposed remedial action and required clearances by the applicable local, state, or federal regulatory agency.

When Required: Prior to approval of demolition, grading, or building permits

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building / ACDEH

- b) *Environmental Site Assessment Required*: The project applicant shall submit a Phase I Environmental Site Assessment report, and Phase II Environmental Site Assessment report if warranted by the Phase I report, for the project site for review and approval by the City. The report(s) shall be prepared by a qualified environmental assessment professional and include recommendations for remedial action, as appropriate, for hazardous materials. The project applicant shall implement the approved recommendations and submit to the City evidence of approval for any proposed remedial action and required clearances by the applicable local, state, or federal regulatory agency.

When Required: Prior to approval of construction-related permit

Initial Approval: Applicable regulatory agency with jurisdiction

Monitoring/Inspection: Applicable regulatory agency with jurisdiction /ACDEH

- c) *Health and Safety Plan Required*: The project applicant shall submit a Health and Safety Plan for the review and approval by the City in order to protect project construction workers from risks associated with hazardous materials. The project applicant shall implement the approved Plan.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building / ACDEH

- d) *Best Management Practices (BMPs) Required for Contaminated Sites*: The project applicant shall ensure that Best Management Practices (BMPs) are implemented by the contractor during construction to minimize potential soil and groundwater hazards. These shall include the following:
- i. Soil generated by construction activities shall be stockpiled on-site in a secure and safe manner. All contaminated soils determined to be hazardous or non-hazardous waste must be adequately profiled (sampled) prior to acceptable reuse or disposal at an appropriate off-site facility. Specific sampling and handling and transport procedures for reuse or disposal shall be in accordance with applicable local, state, and federal requirements.
 - ii. Groundwater pumped from the subsurface shall be contained on-site in a secure and safe manner, prior to treatment and disposal, to ensure environmental and health issues are resolved pursuant to

applicable laws and policies. Engineering controls shall be utilized, ~~which include impermeable barriers to prohibit groundwater and vapor intrusion into the building.~~⁴⁸

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building / ACDEH

Project Plans/Analysis in Furtherance of SCAs

In accordance with SCA Hazards-1, the Project applicant has conducted Phase I Environmental Site Assessment reports, Phase II Environmental Site Assessments, and numerous subsequent environmental studies to date. These reports include recommendations for remedial action pursuant to Phase I development of the site, as appropriate for hazardous materials in the soil, groundwater and soil vapor. The Project applicant has coordinated with the applicable regulatory agency (ACDEH) in the preparation of these reports and documents, and ACDEH has reviewed and provided consultation and recommendations pertaining to this CEQA document.

Pending documents requiring ACDEH approval are the Corrective Action Implementation Plan (CAIP) and Soil and Groundwater Management Plan (SGMP) providing specific construction details for implementing the work (i.e., remedial soil excavation, capped areas consisting of clean soil, asphalt, pavement, athletic fields, etc.) as well as a Health & Safety Plan for construction workers. All corrective measures and recommendations as approved by ACDEH shall be implemented, with evidence of ACDEH approval and evidence of implementation of these measures to be submitted to the City. With full implementation and compliance with SCA Hazards-1 and SCA Hazards-2 (including all ACDEH approvals and clearances), impacts related hazardous materials in the soil, groundwater, soil vapor and indoor air for Phase I development at the site would be reduced to less than significant. Monitoring and inspections of the Vapor Mitigation Systems pursuant to SCA Hazards-1 shall also be conducted by ACDEH.

Current investigations and remedial actions as identified in the Corrective Action Plan do not address Phase 2 improvements or construction. A Land Use Covenant will be established for the properties limiting uses of the site for Phase I activities only, and any future development of Phase 2 improvements will be subject to a separate process under the regulatory oversight of ACDEH. The SCAs noted above would also apply to any future improvements in Phase 2.

Hazardous Building Material, Hazardous Construction Materials and Disposal of Hazardous Materials

LUTE EIR Conclusions

The LUTE EIR concluded that new development pursuant to the LUTE would increase the potential for demolition and renovation activities and that many of the demolished or redeveloped buildings could contain hazardous building materials that could result in increased exposure to asbestos, lead, mercury or PCBs, with associated public health concerns. This was determined to be less than significant impact with implementation of applicable existing laws and regulations and oversight from outside agencies, including ACDEH (which are now incorporated into City SCAs).

⁴⁸ Pursuant to ACDEH review and consultation, ACDEH has determined that impermeable barriers for contaminated groundwater, as noted in SCA Hazards-1: Hazardous Building Materials and Site Contamination, subsection d(ii), are not required for Phase 1.

Project Analysis

Materials Used during Construction

Project construction activities may involve the use, transport and disposal of hazardous materials such as gasoline, diesel fuel, lubricating oil, hydraulic oil, lubricating grease, automatic transmission fluid, paints, solvents, glues, and other substances used during construction. Construction of the Project would also require the use of gasoline and diesel-powered equipment. Inadvertent release of large quantities hazardous materials into the environment could adversely impact soil, surface waters, or groundwater quality.

Existing Hazardous Building Materials

In March of 2020, Vista Environmental Consulting (Vista) performed a limited pre-renovation hazardous materials survey (see **Appendix K**), collected bulk samples of building materials to determine asbestos content, and used instruments to determine the lead content in building materials at existing buildings on the Derby property, including Buildings A-1 and A-3 constructed by Caltrans in 1950 and Building A-2 constructed by EFC in 2014, and Building B constructed by Caltrans in 1950.⁴⁹ No sampling was conducted in Buildings A-4 or A-5, which were constructed by EFC in 2014.

- The asbestos sampling was performed in general accordance with the AHERA protocol (40 CFR Part 763, Subpart E), and including sampling of paint and Hardy wall materials, wallboard and joint compound, roofing materials and the building parapet. The results of the asbestos survey indicate that although asbestos building materials may be present, no asbestos was detected in nine samples collected and analyzed from Buildings A-1, A-2 and A-3, and no asbestos was detected in the two samples collected and analyzed from Building B.
- Vista's lead construction screening assessment used a direct-read spectrum analyzer device to take readings of representative painted and coated surfaces for evaluation of lead levels, relative to worker health and safety and preliminary waste characterization.⁵⁰ The analysis of bulk paint chips indicated that none of the samples of building components and respective surface coatings from Buildings A-1, A-2, A-3 or B had lead concentrations that define lead-based paint (LBP) per Title 17 of the California Code of Regulations, Section 35001 et.seq., but that paint chips from Building A-1 and A-3 had lead concentrations in excess of the level for compliance with trigger activities as defined in 8 CCR 1532.1.

As indicated in the Vista report, building materials similar to those identified, or new suspect materials may be present in areas that were not accessed or analyzed.

Standard Conditions of Approval

The Project would be subject to the following City of Oakland SCA, intended to apply to all projects to reduce the potential for hazardous building materials to present a hazard to workers, the public or the environment.

SCA Hazards-2: Hazardous Building Materials and Site Contamination (applies to projects involving redevelopment or change of use of a historically industrial or commercial site, a contaminated site as identified in City records, and/or a site listed on the State Cortese List, and/or as a site where remediation activities are required based on an environmental site assessment)

- a) **Hazardous Building Materials Assessment:** The project applicant shall submit a comprehensive assessment report to the Bureau of Building, signed by a qualified environmental professional, documenting the

⁴⁹ Vista Environmental Consulting, Limited Pre-Renovation Hazardous Materials Survey for 1045 Derby Ave., March 29, 2000

⁵⁰ As noted in the Vista report, this type of analytical data, "can be helpful in evaluation of lead-related environmental risks in general, but cannot be used to calculate worker exposures, are not a substitute for employee exposure monitoring, and are not sufficient for waste stream profiling".

presence or lack thereof of asbestos-containing materials (ACMs), lead-based paint, polychlorinated biphenyls (PCBs), and any other building materials or stored materials classified as hazardous materials by State or federal law. If lead-based paint, ACMs, PCBs, or any other building materials or stored materials classified as hazardous materials are present, the project applicant shall submit specifications prepared and signed by a qualified environmental professional, for the stabilization and/or removal of the identified hazardous materials in accordance with all applicable laws and regulations. The project applicant shall implement the approved recommendations and submit to the City evidence of approval for any proposed remedial action and required clearances by the applicable local, state, or federal regulatory agency.

When Required: Prior to approval of demolition, grading, or building permits

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building / ACDEH

SCA Hazards-3, Hazardous Materials Related to Construction (applies to all projects involving construction). The project applicant shall ensure that Best Management Practices (BMPs) are implemented by the contractor during construction to minimize potential negative effects on groundwater, soils, and human health. These shall include, at a minimum, the following:

- i. Follow manufacture's recommendations for use, storage, and disposal of chemical products used in construction;
- ii. Avoid overtopping construction equipment fuel gas tanks;
- iii. During routine maintenance of construction equipment, properly contain and remove grease and oils;
- iv. Properly dispose of discarded containers of fuels and other chemicals;
- v. Implement lead-safe work practices and comply with all local, regional, state, and federal requirements concerning lead (for more information refer to the Alameda County Lead Poisoning Prevention Program); and
- vi. If soil, groundwater, or other environmental medium with suspected contamination is encountered unexpectedly during construction activities (e.g., identified by odor or visual staining, or if any underground storage tanks, abandoned drums or other hazardous materials or wastes are encountered), the project applicant shall cease work in the vicinity of the suspect material, the area shall be secured as necessary, and the applicant shall take all appropriate measures to protect human health and the environment. Appropriate measures shall include notifying the City and applicable regulatory agency(ies), and implementation of the actions described in the City's Standard Conditions of Approval as necessary, to identify the nature and extent of contamination. Work shall not resume in the area(s) affected until the measures have been implemented under the oversight of the City or regulatory agency, as appropriate.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

SCA Air-4, Asbestos in Structures (applies to the Projects as it involves renovation of structures known to contain, or that may contain asbestos): The project applicant shall comply with all applicable laws and regulations regarding demolition and renovation of Asbestos Containing Materials (ACM), including but not limited to California Code of Regulations, Title 8; California Business and Professions Code, Division 3; California Health and Safety Code sections 25915-25919.7; and Bay Area Air Quality Management District, Regulation 11, Rule 2, as may be amended. Evidence of compliance shall be submitted to the City upon request.

When Required: Prior to approval of construction-related permit
Initial Approval: Applicable regulatory agency with jurisdiction
Monitoring/Inspection: Applicable regulatory agency with jurisdiction

Project Plans in Furtherance of SCAs

Pursuant to SCA Hazards-1, the pre-renovation hazardous materials survey prepared by Vista (see **Appendix K**) found that lead-based and/or lead-containing paints and materials are present at the Project site, and identified the following requirements and procedures to be conducted pursuant to SCA Hazards-1 (Part a):

Project Recommendations in Furtherance of SCAs

To further implement SCA Hazards-1 (Part a), the following site-specific recommendations from the pre-renovation hazardous materials survey (see **Appendix K**) will be implemented during Phase 1.

Hazards Recommendation-2-1: Lead-Based Paint Procedures. The following requirements and procedures shall be followed when dealing with lead-based or lead-containing materials at the site:

- a) Any construction employee that works around potential lead-based or lead-containing coatings must have HAZCOM training, and personal exposure air monitoring is required for employees that disturb such coatings. Additional certification, notification and work practices are required for materials found to be lead-based.
- b) All activities involving potential and identified lead-containing surfaces should be conducted in accordance with California Health & Safety Code sections 17920.10 and 10525, 10525.7, and 8, CCR 1532.1.
- c) Any welding, cutting or heating of metal surfaces containing surface coatings should be conducted in accordance with 29 CFR 1926.354 and 8 CCR 1537. These regulations require surfaces covered with toxic preservatives, and in enclosed areas, be stripped of all toxic coatings for a distance of at least 4 inches, in all directions, from the area of heat application prior to the initiation of such heat application.
- d) Waste stream segregation and analysis is required in accordance with 22 CCR Division 4.5, Minimum Standards for Management of Hazardous and Extremely Hazardous Wastes for all paint or coating debris regardless of if the paint or coating is intact. The resulting wastes may be hazardous under California and federal RCRA standards for lead, and therefore require proper handling, packaging, labeling, and transportation under a proper manifest to a permitted hazardous waste storage, treatment and disposal facility.

With implementation of these SCAs, Project-specific recommendations and regulations as specified above, hazards to workers, the public and the environment related to hazardous building materials will be reduced to less than significant levels.

Operational Hazards

LUTE EIR Conclusions

The LUTE EIR determined that new development pursuant to the LUTE could encourage new business and the expansion of existing businesses, with the potential to increase the quantities of hazardous substances used, stored and transported, and also increasing the potential for accidents or spills and the potential to expose workers, the public and the environment to these chemicals. This was concluded to be a less than significant impact with implementation of all existing and applicable laws and regulations ACDEH (which are now incorporated as requirements of City SCAs).

Project Analysis

Chemicals that might be used at the school during operations may include typical household hazardous materials or special school-related substances such as laboratory chemicals paints, photo processing chemicals, cleaning products, and pesticides and fertilizers. When used according to the manufacturers' recommendations and labeling, these chemicals would not create a significant hazard to the environment. It is not expected that the Project would store or use such chemicals at reportable quantities (i.e., not more than 55 gallons of a liquid, 200 cubic feet of a gas, or 500 pounds of a solid), as most of the site would be paved and most of the landscape areas will be used for stormwater quality treatment. The use of typical household and landscape chemicals consistent with manufacturers labeling would be a less than significant environmental impact.

Conflicts with Public or Private Airports

LUTE EIR Conclusions

The LUTE EIR did not directly address the issue of conflicts with operations or safety hazards related to public or private airports.

Project Analysis

The Project site is not located in the vicinity of a public airport or private airstrip. The Project site is located approximately 2.3 miles away from the nearest runway at the Oakland International Airport, and approximately 9.5 miles from the Hayward Executive Airport. The Project would not conflict with airport operations or result in a safety hazard regarding airport operations.

Emergency Response / Emergency Evacuation

LUTE EIR Conclusions

The LUTE EIR did not directly address the issue of emergency response and emergency evacuations

Project Analysis

The Project would not result in less than two emergency access routes for streets exceeding 600 feet in length. The Project would provide for an internal driveway/drop-off location of approximately 600 feet, but this driveway would have two emergency access locations – one at Derby Avenue and one at 29th Avenue. The Project's proposed Fire Access Plan also shows that the design would provide a minimum 20-foot clear fire access around all proposed buildings.⁵¹ There is no adopted emergency response plan or emergency evacuation plan that the Project would conflict with.

Wildfire Hazards

LUTE EIR Conclusions

The LUTE EIR did not directly address the issue of wildfire hazards.

⁵¹ Latitude High School PUD, Proposed Fire Access Site Plan – Sheet A2.5, July 2021

Project Analysis

The Project would not expose people or structures to a significant risk of loss, injury or death involving wildland fires. The Project site is not at or near an area where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands, nor is it located within a High Fire hazard Severity Zone (either State of Local Responsibility Area) as determined by the California Department of Forestry and Fire Protection.

Hydrology and Water Quality

<u>Would the Project:</u>	<u>LUTE EIR Findings</u>	<u>Relationship to LUTE EIR Findings</u>		<u>Project Conclusions</u>	
		<u>Equal or Less Severe</u>	<u>New or Substantial Increase in Severity</u>	<u>Applicable SCAs or Mitigation Measures</u>	<u>Level of Significance</u>
a) Result in substantial erosion or siltation on- or off-site that would affect the quality of receiving waters?	LTS with regulations	■	□	SCA Hydrology-1, Erosion and Sedimentation Control Measures for Construction (Phase I and potentially Phase II) SCA Hydrology-2: Erosion and Sedimentation Control Plan for Construction – Grading Permit (potentially Phase II)	LTS with SCAs
b) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface water quality?	LTS	■	□	SCA Hydrology-3: NPDES C.3 Stormwater Requirements for Regulated Projects	LTS with SCA
c) Create or contribute substantial runoff which would be an additional source of polluted runoff, or which would exceed the capacity of existing or planned stormwater drainage system?	LTS	■	□	-	LTS
e) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level	LTS	■	□	-	LTS
f) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade groundwater water quality?	LTS	■	□	SCA Hazards-1 (see above)	LTS with SCA
f) Result in substantial flooding on- or off-site; place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map that would impede or redirect flood flows; place within a 100-year flood hazard area structures which would impede or redirect flood flows; expose people or structures to a substantial risk of loss, injury or death involving flooding; or expose people or structures to a substantial risk of loss,	LTS with regulations	■	□	-	LTS

injury, or death as a result in inundation by tsunami?			
f) Fundamentally conflict with the City of Oakland Creek Protection Ordinance (OMC Chapter 13.16) intended to protect hydrologic resources?	LTS with regulations	■ □	- LTS

Construction Impacts on Water Quality

LUTE EIR Conclusions

The LUTE EIR determined that increased development activity throughout the City, including at locations adjacent to creeks and waterways, could result in water quality impacts during construction. This was concluded to be a less than significant impact, with implementation of existing regulations including the Grading, Erosion Control and Sedimentation ordinance, the Creek Protection Stormwater Management and Discharge Control ordinance, as well as NPDES stormwater permit requirements.

Project Analysis

The Project is proposed to develop in two Phases. Under Phase I, the Project would result in minimal changes to surface conditions at the Derby property – the existing buildings would remain and be rehabilitated for school use, with minimal exterior alteration. The existing asphalt and concrete which covers almost all of the remaining surface area of the Derby property would remain, with the exception of new landscape planters along Derby Avenue and 29th Avenue and new bioretention facilities. The property at 29th Avenue is partially covered by asphalt and concrete, and partially covered with gravel. Phase I of the Project would re-pave almost the entire 29th Avenue property, resulting in the replacement of approximately 40,600 square feet of mostly impervious surface with new impervious surface (new pavement). This repaving effort could potentially result in polluted runoff or increased sediment into the storm drain system.

Grading and improvement plans prepared by the applicant pursuant to implementation of ACDEH-required Corrective Actions for the Project under Phase I (see **Figure 13**) indicate that site preparation and grading activities will amount to over 780 cubic yards (CY) of cut or fill on the site, exceeding the 500 CY limit at which a grading permit is required. Phase I also includes a merger of the Derby property and the 29th Avenue property into one parcel, and the full extent of grading across these combined properties (including soil disturbance to implement required bioretention facilities) is likely to exceed 1 acre. Furthermore, due to the presence of soil contamination on the Project site, ACDEH has recommended that the Project’s grading permit be reviewed by ACDEH pursuant to implementation of the Corrective Action Plan.

Under Phase II, the existing approximately 2,500 square-foot Building B would be removed, along with portions of existing pavement on both the Derby and 29 Avenue properties. This construction area would accommodate construction of a new approximately 17,500 square-foot multi-purpose building. Construction of this new building may require grading and excavation for building foundations and utility trenches, and could also potentially result in polluted runoff or increased sediment into the storm drain system.

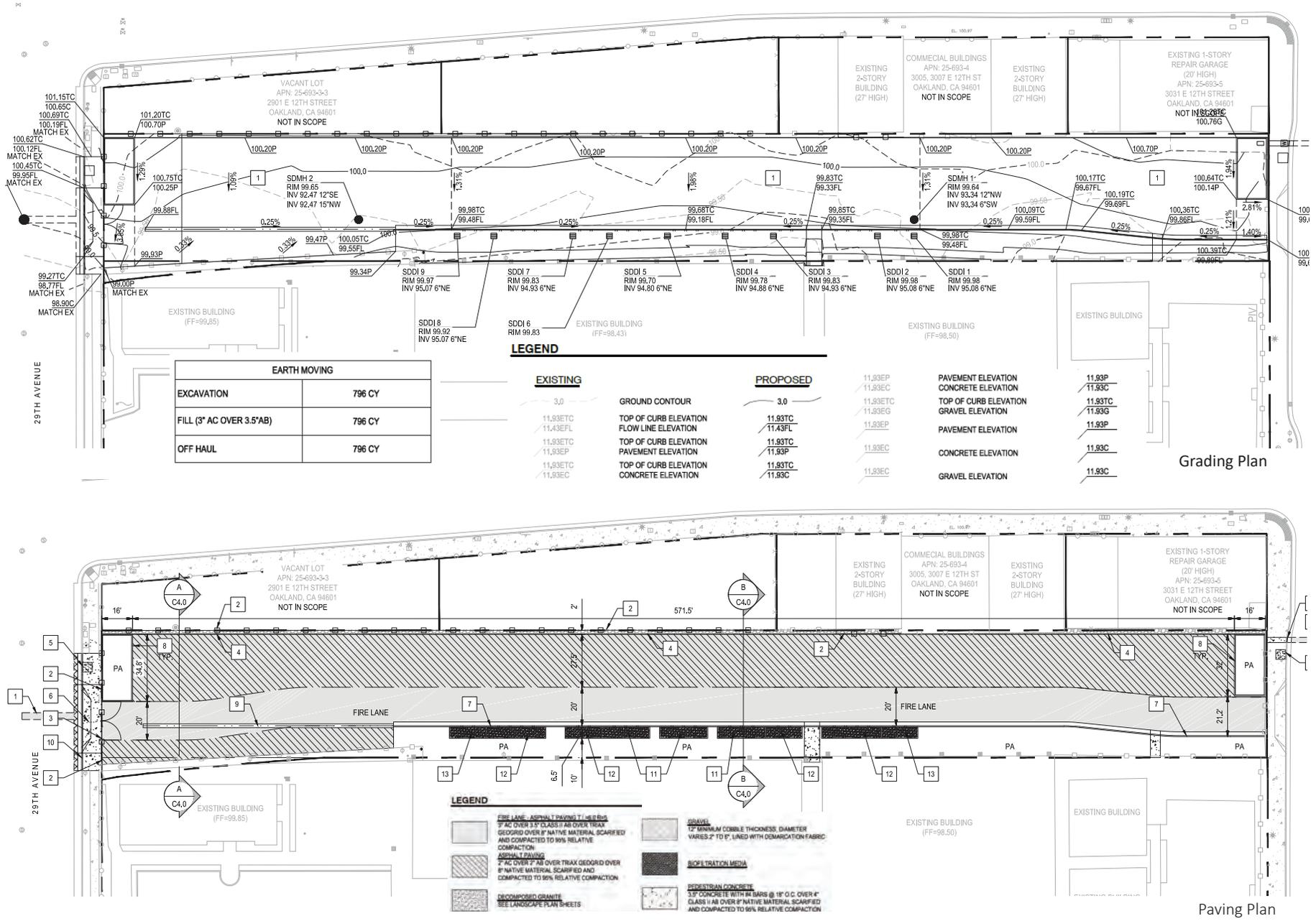


Figure 13
Grading and Paving Plans

Source: Siegfried, 0 29th Avenue Site Improvements, 06-17-21,
Earth moving calculations per Sheet C.4 of PUD Application, 07-07-21

Standard Conditions of Approval

The Project would be subject to the following City of Oakland SCAs, intended to apply to all projects that require a grading permit, and projects that exceed more than 1 acre of disturbed surface, to reduce the potential for construction-related impacts to water quality.

SCA Hydrology-1, Erosion and Sedimentation Control Plan for Construction (applies to all projects involving construction activities that require a grading permit per OMC sec. 15.04.660)

- a. Erosion and Sedimentation Control Plan Required: The project applicant shall submit an Erosion and Sedimentation Control Plan to the City for review and approval. The Erosion and Sedimentation Control Plan shall include all necessary measures to be taken to prevent excessive stormwater runoff or carrying by stormwater runoff of solid materials on to lands of adjacent property owners, public streets, or to creeks as a result of conditions created by grading and/or construction operations. The Plan shall include, but not be limited to, such measures as short-term erosion control planting, waterproof slope covering, check dams, interceptor ditches, benches, storm drains, dissipation structures, diversion dikes, retarding berms and barriers, devices to trap, store and filter out sediment, and stormwater retention basins. Off-site work by the project applicant may be necessary. The project applicant shall obtain permission or easements necessary for off-site work. There shall be a clear notation that the plan is subject to changes as changing conditions occur. Calculations of anticipated stormwater runoff and sediment volumes shall be included, if required by the City. The Plan shall specify that, after construction is complete, the project applicant shall ensure that the storm drain system shall be inspected and that the project applicant shall clear the system of any debris or sediment.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

- b. Erosion and Sedimentation Control during Construction: The project applicant shall implement the approved Erosion and Sedimentation Control Plan. No grading shall occur during the wet weather season (October 15 through April 15) unless specifically authorized in writing by the Bureau of Building.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

SCA Hydrology-2, State Construction General Permit (applies to all projects that disturb one acre or more of surface area): The project applicant shall comply with the requirements of the Construction General Permit issued by the State Water Resources Control Board (SWRCB). The project applicant shall submit a Notice of Intent (NOI), Stormwater Pollution Prevention Plan (SWPPP), and other required Permit Registration Documents to SWRCB. The project applicant shall submit evidence of compliance with Permit requirements to the City.

When Required: Prior to approval of construction-related permit

Initial Approval: State Water Resources Control Board; evidence of compliance submitted to Bureau of Building

Monitoring/Inspection: State Water Resources Control Board

With implementation of these SCAs, measures required of the Construction General Permit and included in applicable BMPs would reduce adverse effects of construction-related erosion, siltation and contamination to less than significant levels.

Project Plans in Furtherance of SCAs

The Project application materials include a proposed Erosion Control Plan for Phase I at the 29th Avenue property, pursuant to SCA Hydrology-1.⁵² That proposed Erosion Control Plan includes application of fiber rolled wattle around the perimeter of the 29th Avenue property, installing gravel bag filters at all drop inlets to the storm drain system, stabilizing the construction entrance, and providing a separated concrete washout area that is distanced from the storm drain inlets. The City's Bureau of Building will review and either approve or require modifications to this proposed Erosion Control Plan, and the approved Plan will need to be implemented during construction.

Post-Construction Impacts on Water Quality

LUTE EIR Conclusions

The LUTE EIR found that development pursuant to the LUTE could potentially affect the quality of stormwater runoff, but implementation of regulatory requirements (i.e., NPDES C.3 measures) would reduce impacts to less than significant. The LUTE EIR also found that those areas of the City with the greatest potential for change are already developed with similar uses, and the resulting changes in water quality would be negligible. This was concluded to be a less than significant impact.

Project Analysis

Implementation of the Project would result in increased activity at the site that, absent adequate controls, could contribute to non-point source pollution levels in the Oakland Estuary and San Francisco Bay. Non-point sources of pollutants from rooftops, landscape areas, and streets and parking areas may be carried by stormwater into the drainage network. Elevated levels of oil and grease, petroleum hydrocarbons, metals and nutrients could enter into site runoff, and could contribute pollutants that would adversely affect water quality.

Standard Conditions of Approval

Phase I of the Project includes merging of the Derby and 29th Avenue properties into one parcel, and re-paving of the current 29th Avenue property as part of the corrective actions needed to address hazardous materials. As such, the Project would create and/or replace substantially more than 10,000 square feet of impervious surface at the Project site. Additionally, Phase II of the Project will involve replacing more than 10,000 square feet of impervious surface to create the approximately 17,000 square-foot multi-purpose building that will occupy portions of both properties. As such, Phase I improvements and Phase II improvements would both be subject to the following SCA:

SCA Hydrology-3: NPDES C.3 Stormwater Requirements for Regulated Projects (applies to all projects considered Regulated Projects under the NPDES C.3 requirements, including (with certain exceptions and special provisions) projects that create or replace 10,000 square feet or more of new or existing impervious surface area)

- a) *Post-Construction Stormwater Management Plan Required:* The project applicant shall comply with the requirements of Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES). The project applicant shall submit a Post-Construction Stormwater Management Plan to the City for review and approval with the project drawings submitted for site improvements, and shall implement the approved Plan during construction. The Post-Construction Stormwater Management Plan shall include and identify the following:

⁵² Latitude High School PUD, Erosion Control Plan, Sheet C5.0, dated July 2021

- i. the location and size of new and replaced impervious surface
- ii. the directional surface flow of stormwater runoff
- iii. the location of proposed on-site storm drain lines
- iv. site design measures to reduce the amount of impervious surface area
- v. source control measures to limit stormwater pollution
- vi. stormwater treatment measures to remove pollutants from stormwater runoff, including the method used to hydraulically size the treatment measures; and hydromodification management measures, if required by Provision C.3, so that post-project stormwater runoff flow and duration match pre-project runoff

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning; Bureau of Building

Monitoring/Inspection: Bureau of Building

b) *Maintenance Agreement Required:* The project applicant shall enter into a maintenance agreement with the City, based on the Standard City of Oakland Stormwater Treatment Measures Maintenance Agreement, in accordance with Provision C.3, which provides, in part, for the following:

- i. The project applicant accepting responsibility for the adequate installation/construction, operation, maintenance, inspection, and reporting of any on-site stormwater treatment measures being incorporated into the project until the responsibility is legally transferred to another entity, and
- ii. Legal access to the on-site stormwater treatment measures for representatives of the City, the local vector control district, and staff of the Regional Water Quality Control Board, San Francisco Region, for the purpose of verifying the implementation, operation, and maintenance of the on-site stormwater treatment measures and to take corrective action if necessary. The maintenance agreement shall be recorded at the County Recorder's Office at the applicant's expense.

When Required: Prior to building permit final

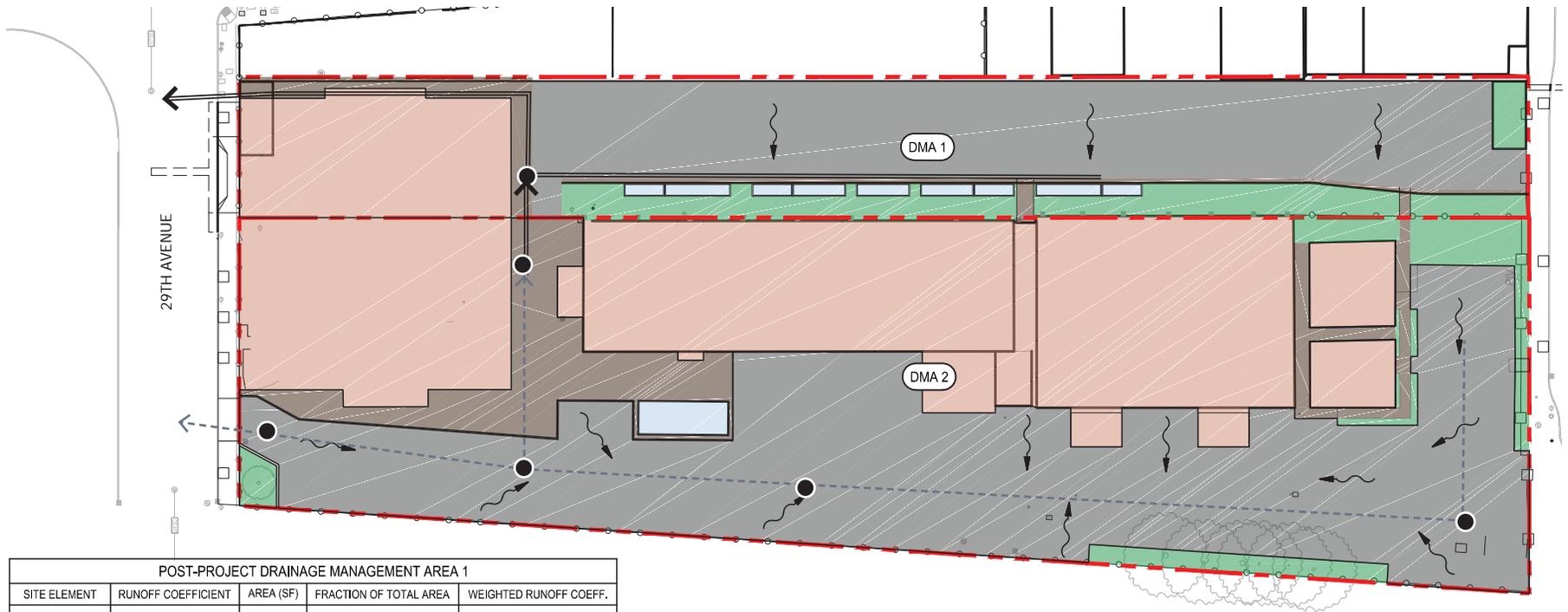
Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

Project Plans in Furtherance of SCAs

The Project applicant has prepared a Preliminary Stormwater Management Plan for the entire merged subject property pursuant to Phase I, which qualifies as Regulated Project under the NPDES C.3 requirements. The preliminary improvement plans for the Project (see **Figure 14**) indicate that the majority of the Project site will either be rooftops of existing buildings, or will be paved with asphalt or an asphalt/concrete mix. The paving is designed so that runoff from all impervious surfaces will flow through a series of landscaped bioretention facilities to be constructed along the back of the existing Derby buildings for water quality treatment, consistent with NPDES C.3 provisions. Following bioretention treatment, stormflows would be conveyed into the main stormdrain line in the 29th Avenue right-of-way via a new 12-inch stormdrain within the 29th Avenue property.

With implementation of SCAs Hydrology-3, the potential for the Project's new operations to introduce new sources of pollutants into the stormdrain system and eventually to the Oakland Estuary and San Francisco Bay would be reduced to levels of less than significant. At such time as Final Development Plans for Phase II of the Project are submitted for building permit, an updated stormwater plan for those improvements will also be required.



POST-PROJECT DRAINAGE MANAGEMENT AREA 1				
SITE ELEMENT	RUNOFF COEFFICIENT	AREA (SF)	FRACTION OF TOTAL AREA	WEIGHTED RUNOFF COEFF.
LANDSCAPE	0.25	5,751	0.15	0.04
ASPHALT / CONCRETE	0.95	24,297	0.63	0.60
BIORETENTION	1.00	1,020	0.03	0.03
ROOF	0.95	7,345	0.19	0.18
TOTAL		38,413	1.00	0.85
POST-PROJECT DRAINAGE MANAGEMENT AREA 2				
SITE ELEMENT	RUNOFF COEFFICIENT	AREA (SF)	FRACTION OF TOTAL AREA	WEIGHTED RUNOFF COEFF.
LANDSCAPE	0.25	4,366	0.04	0.01
ASPHALT / CONCRETE	0.95	48,177	0.52	0.49
BIORETENTION	1.00	624	0.01	0.01
ROOF	0.95	39,982	0.43	0.41
TOTAL		93,149	1.00	0.92

LEGEND

-  ASPHALT
-  CONCRETE
-  ROOF
-  LANDSCAPE
-  BIORETENTION
-  STORMWATER BOUNDARY
-  FLOW DIRECTION

Figure 14
Preliminary Stormwater Management Plan

Source: Siegfried, 0 29th Avenue Site Improvements, incorporated in PUD submittal of July 2021

Increased Stormwater Runoff

LUTE EIR Conclusions

The LUTE EIR found that development pursuant to the LUTE could potentially increase impermeable surfaces leading to an increase in the volume of runoff, but since the areas with the greatest potential for change pursuant to the LUTE are already developed with similar uses, the changes in runoff patterns and volume were found to be negligible. This was concluded to be a less than significant impact.

Project Analysis

As indicated above, the Project is considered a Regulated Project under the NPDES C.3 requirements, as it will create or replace 10,000 square feet or more of new or existing impervious surface area. As such, water quality treatment is required. However, nearly the entire Derby property is currently covered with impervious surfaces (rooftops and paving), and portions of the 29th Avenue property are currently covered with either concrete, asphalt paving or a rough asphalt/gravel mix. None of these existing surface types are effectively (easily) penetrated by water, as defined by the City of Oakland's Supplemental Stormwater Form, and the Project will not substantially increase the volume of post-Project runoff from the site. The Project site is not located in a susceptible area as indicated on the Hydromodification Susceptibility Map, and as such, would not create or contribute substantial additional runoff that could exceed the capacity of the stormwater drainage system, would not substantially alter the existing drainage patterns increasing the rate or amount of runoff that could result in substantial off-site erosion, siltation or flooding, and is not required to incorporate hydromodification measures into its stormwater plans.

Groundwater

LUTE EIR Conclusions

The LUTE EIR's Initial Study concluded that change in groundwater and groundwater quality would be less than significant

Project Analysis

The Derby property site is nearly completely covered with impervious surface (rooftop and paving), and the 29th Avenue property is also covered with concrete, asphalt paving or rough asphalt/gravel surfaces not effectively (easily) penetrated by water. Little to no groundwater recharge occurs on the site. The Project would not result in a substantial increase in impervious surface area, and would not result in a substantial decrease in groundwater recharge. Water supplies for the City, including the Project, are provided by EBMUD, no groundwater wells are proposed, and the Project would not deplete local groundwater supplies.

According to the Data Gaps Work Plan, depth to groundwater on the Project site is estimated to be between 10 and 15 feet below ground surface, and the groundwater flow direction is estimated to be southwesterly (toward the rail corridor).⁵³ According to a separate Limited Phase II Subsurface Investigation, groundwater was encountered at depths of approximately 24 feet and 28 feet below ground surface at the 29th Avenue property.⁵⁴ It is evident that the depth to groundwater in this area is highly variable, likely dependent on recent rainfall. Depending on location and season of work, excavation or open trenches for utilities may intercept groundwater and require dewatering. Water extracted during dewatering could contain chemical contaminants (either from

⁵³ Geosyntec, November 2011

⁵⁴ Eras, July 20, 2017

pre-existing sources or from equipment), or could become sediment-laden from construction activities. Uncontrolled dewatering could potentially result in discharge of contaminated dewatered groundwater into the sanitary sewer or storm drain system and that could contaminate Oakland Estuary and/or San Francisco Bay.

If dewatering is required, **SCA Hazards-1** (above) requires that Best Management Practices (BMPs) be implemented during construction to minimize potential hazards. These BMPs include the requirement that groundwater pumped from the subsurface be contained on-site in a secure and safe manner prior to treatment and disposal, to ensure environmental and health issues are resolved pursuant to applicable laws and policies (including ACDEH regulatory oversight of monitoring well and or excavations that may intersect with contaminated groundwater). Engineering controls shall be utilized, including impermeable barriers to prohibit groundwater and vapor intrusion. Any groundwater generated during construction that would be discharged to the sanitary sewer or storm drain system would require authorization and required permits from EBMUD or the City of Oakland, and the RWQCB.

Flooding

LUTE EIR Conclusions

The LUTE EIR recognized mapped flood hazard zones that show extensive areas of Oakland that would be inundated during a 100-year flood, but found that flooding would generally occur only as sheet flow with depths of several inches in most areas and that few areas would be subject to flood levels greater than one or two feet. The LUTE EIR cited the Federal Emergency Management Agency's National Flood Insurance Program that restricts development in flood-prone areas, and requirements for communities to evaluate and establish flood plain management regulations to participate in the Flood Insurance Program. The LUTE EIR did not make a specific CEQA conclusion as to specific impacts related to flooding.

Project Analysis

The Project site is not located within a designated as a Flood Hazard Area (i.e., it is not within the 100-year or 500-year floodplain), but is adjacent to the 500-year flood boundary at Derby Street.⁵⁵ The likelihood of flooding from tsunamis, seiches or mudflows is negligible in inland areas such as the Project site. The Project would not expose people or structures to the risk of loss due to flooding, would not result in substantial flooding on- or off-site, and would not place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map.

Creek Protection Ordinance

LUTE EIR Conclusions

The current form of the City's Creek Protection Ordinance did not exist at the time the LUTE EIR was prepared. However, the LUTE EIR did determine that increased development activity adjacent to creeks and waterways could result in water quality impacts that would be less than significant with implementation of regulations that did apply at the time, including the Creek Protection, Stormwater Management and Discharge Control ordinance.

⁵⁵ FEMA's National Flood Hazard Layer (NFHL) Viewer, accessed on 6/29/2021 at: <https://hazards-fema.maps.arcgis.com/apps/webappviewer/index.html?id=8b0adb51996444d4879338b5529aa9cd>

Project Analysis

The Project site lies in a highly urbanized area of East Oakland that is flat and covered primarily by impervious surfaces (industrial/commercial warehouses, storage buildings, paved areas and parking lots). There are no creeks or streams that cross the Project site, or that are within 100 feet of the Project site. The Project would pose no potential conflicts with the City's Creek Protection Ordinance, and would not require a Creek Permit.

Land Use and Planning

<u>Would the Project:</u>	<u>LUTE EIR Findings</u>	<u>Relationship to LUTE EIR Findings</u>		<u>Project Conclusions</u>	
		<u>Equal or Less Severe</u>	<u>New or Substantial Increase in Severity</u>	<u>Applicable SCAs or Mitigation Measures</u>	<u>Level of Significance</u>
a) Physically divide an established community?	NA	■	<input type="checkbox"/>		LTS
b) Result in a fundamental conflict between adjacent or nearby land uses?	LTS with MM	■	<input type="checkbox"/>	-	LTS
c) Conflict with any applicable land use plan, policy, or the regulation of an agency with jurisdiction over the Project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	LTS	■	<input type="checkbox"/>	-	LTS
d) Conflict with any applicable habitat conservation plan or natural community conservation plan	No Impact	■	<input type="checkbox"/>	-	No Impact

Division of a Community

LUTE EIR Conclusions

The LUTE EIR did not directly address the issue of physical divisions of established communities, but does identify policies intended to protect existing industrial, residential, and commercial activities and areas from the intrusion of potentially incompatible uses.

Project Analysis

Land uses within the immediate vicinity of the Project site are primarily commercial and industrial uses along the rail corridor. Phase I of the Project consists of repurposing certain existing industrial warehouse space that was previously modified to accommodate a middle school to now accommodate a high school, and to pave an existing vacant lot. There is nothing about these activities that would divide any existing industrial or commercial activities, or divide an established community. The addition of a multi-purpose gymnasium during Phase II would occur on a currently vacant lot and would not divide any existing industrial or commercial activities, or divide an established community. The Project would not divide an established community, and its impacts would be less than significant.

Land Use Conflicts

LUTE EIR Conclusions

The LUTE EIR concluded that redevelopment of large parts of the City pursuant to LUTE policies would change land uses in a number of locations in a manner that could be inconsistent with existing surrounding land uses, and that zoning changes could render some existing land uses as nonconforming. Mitigation measures identified

in the LUTE EIR included establishing adequate buffers between commercial/industrial lands and residential uses, establishing appropriate locations for live/work uses, ensuring that structures and sites are designed in an attractive manner, and establishing performance-based standards for noise, odors, light/glare, traffic volumes, and other characteristics of industrial activities that are located near commercial or residential areas. With implementation of these mitigation measures, the LUTE EIR concluded this impact to be reduced to levels of less than significant.

Project Analysis

The Project site is located in an area that contains a broad mix of land use types, with no individual land use type predominant. This mix of uses includes:

- To the immediate north is a small row of commercial/industrial properties (e.g., auto body shops) along the south side of 12th Street. On the northerly side of 12th Street is the full city block occupied by Goodwill, and an adjacent block with commercial frontage along International Boulevard and single-family residences along 30th Avenue and Derby.
- To the west is a full city block occupied by commercial/industrial uses (e.g., brewery, coffee roaster and artist studios) and parking.
- To the immediate south is the UPRR rail corridor and a row of self-storage units, and further south is the Fruitvale Station regional commercial shopping center.
- To the east is additional storage spaces along the rail corridor and the Oakland Animal Services facility.
- To the northwest (diagonally across 29th Avenue and 12th Street) is the large campus of the International Community School, including a turfed athletic field along 12th Street.

Within this neighborhood of highly mixed types of land uses, the addition of a small charter high school would not result in a fundamental land use conflict. However, given the M-30 industrial zoning and adjacent land uses (BART and railroad), the following measure is recommended to further address the land use compatibility of the school with the site.

Recommendation Land Use 1.1 : Notification to Potential Parents/Guardians: Given the “normally unacceptable” to “clearly unacceptable” noise environment at the Project site and the lack of noise attenuation options, as well as the industrial zoning of the site, the school shall include as part of their welcome packet for new students a notification and acknowledgement notice that; 1) parents/guardians have been made aware of the noise levels from BART and the UPRR rail corridor that affect the school site, and accept these noise levels as related to non-curriculum outdoor recreational use at the school; 2) that parents/guardians have been made aware that industrial activities in the surrounding area are allowed by right per the City’s M-30 zoning provisions, and that the school may be subject to future noise and air quality effects from these uses.

Conflicts with Land Use Policy Intended to Avoid or Mitigate Impacts

LUTE EIR Conclusions

The LUTE EIR concluded that the plans and policies contained in the LUTE for land use and transportation topics would be consistent with federal, state and regional policies (except for the Clean Air Plan), as well as policies and programs of adjacent jurisdictions.

Project Analysis

Oakland Policies and Standards

Potential conflicts with General Plan policies are not an inherently significant effect on the environment within the context of CEQA. Only if the Project were to be in conflict with policies or regulations intended to reduce or avoid the potential impacts of the Project on the environment would such conflicts be considered significant. The City's industrial zoning district (M-30) regulations, which are applicable to the Project, include a number of performance standards and regulations intended to reduce or avoid environmental impacts that new development within this zoning district may cause. These regulations and performance standards include:

- limitations on certain industrial uses located within 150 feet of any residential zone boundary
- requirements that projects not be detrimental to the public health, safety or general welfare of the community
- ensuring that new development is, or will be adequately served by roads and other public or private service facilities
- maintaining consistency with siting criteria for new industrial uses as established in the Alameda County Hazardous Waste Management Plan, and
- assuring that the cumulative effects of industrial projects are analyzed and that measures are incorporated into projects to address potential cumulative impacts

As indicated within each section of this CEQA Analysis, the Project (as a school in an industrial location) would not cause any environmental effects that would be detrimental to nearby residential areas. The Project would not cause environmental effects that would adversely affect public health, safety or general welfare of the community, and the Project does not involve any routine use of hazardous material or hazardous waste.

The City of Oakland has established Standard Conditions of Approval and Uniformly Applied Development Standards (SCAs) that the City has found to substantially mitigate environmental effects. These SCAs incorporate policies and standards from other adopted plans, policies and ordinances such as the Oakland Planning and Municipal Code, Oakland Creek Protection Ordinance, Stormwater Water Management and Discharge Control Ordinance, Oakland Protected Trees Ordinance, Oakland grading regulations, National Pollutant Discharge Elimination System (NPDES) permit requirements, Housing Element-related mitigation measures, California Building Code and Uniform Fire Code, and the 2030 Equity and Climate Action Plan, among others. These SCAs would be adopted as requirements of the Project if the Project is approved, and would substantially mitigate environmental effects attributed to the Project, and/or the Project's potential contribution to broader cumulative effects. As such, the Project would be required to comply with, rather than conflict with any plans or policies adopted for the purpose of avoiding or mitigating any of its potential environmental effects.

Habitat Conservation Plans/Natural Community Conservation Plans

As described in greater detail in the Biology section of this CEQA Checklist, the Project site is located in an urbanized and previously developed portion of the city between the Union Pacific Railroad tracks and the elevated BART tracks, and the site itself is covered by buildings, paved areas and a vacant lot. The site is located approximately one-half mile from the Oakland Estuary. There are no adopted habitat conservation plans or natural community conservation plans that apply to the site or the surrounding area, and the Project would not conflict with any such plans.

Non-CEQA - Conflicts with Policies Intended to Avoid Environmental Effects on the Project

As more fully discussed in their respective sections of this CEQA Checklist, future students and faculty/staff at the Project could be exposed to existing ambient air quality conditions; existing contamination in the soil,

groundwater or soil vapor; existing ambient noise; and existing rail crossings. CEQA does not require the analysis or mitigation of potential effects that the existing environment may have on a project (with certain exceptions). However, the Project is subject to policies of the General Plan and to City of Oakland Standard Conditions of Approval that are uniformly applied to all projects throughout the city to address these types of conditions. These issues are briefly summarized below as non-CEQA topics related to the effects of the environment on the Project that have potential conflicts with policies and standards of the City of Oakland General Plan.

Hazardous Materials

As fully presented in the Hazardous Materials section of this Checklist, detailed site investigations of the Project site that have been conducted under the regulatory oversight of ACDEH have identified the presence of lead and arsenic in shallow soil, volatile organic chemical vapors beneath existing buildings, and gasoline vapors from on-site soils. Students, teachers and school staff, and on-site construction workers might be exposed to these chemicals during normal construction and school-related activities. The Project applicant has prepared a Corrective Action Plan that includes limited soil excavation to remove locally elevated metals and VOC vapor sources, installation of an asphalt or concrete cap across the 29th Avenue property, backfilling landscape features with clean imported soil, creating sub-slab vapor barriers to prevent VOC vapors from migrating into indoor air, installing and operating a ventilation new system, introducing ambient air into the sub-floor area beneath buildings, and interior ventilation and air purification enhancements in all existing and future buildings at the site. A site-specific Health & Safety Plan will be prepared for on-site construction workers in accordance with Occupational Safety and Health Administration (OSHA) regulations, and post-construction monitoring will be conducted to confirm the efficacy of the corrective actions.

All corrective measures and recommendations as approved by ACDEH shall be implemented, with evidence of ACDEH approval and evidence of implementation of these measures to be submitted to the City. With full implementation and compliance, impacts related hazardous materials in the soil, groundwater and air vapors for Phase I development of the school would be reduced to levels that are protective of persons who would attend or be employed at the proposed school. A Land Use Covenant will be established for the properties limiting uses of the site for Phase I activities only, and any future development of Phase II improvements will be subject to a separate process under the regulatory oversight of ACDEH.

Ambient Air Quality

Within the one-quarter mile influence area of the Project site, there are several sources of toxic air contaminant (TAC) emissions, including Interstate 880, several roadways with traffic volumes over 10,000 average daily trips (ADT), the UPRR rail line, a shopping center with truck loading docks, and four identified stationary sources of potentially hazardous emissions. A health risk analysis has been prepared to assess the relative health risks to new students and faculty/staff attending the Project school from the existing sources of TAC and PM_{2.5} emissions. The conclusions of that analysis (see more detail in the Air Quality section of this Checklist) found that cumulative PM_{2.5} concentrations from all combined sources (roadways, UPRR and stationary sources, including the shopping center loading docks) would approach but not exceed the cumulative source thresholds, but that traffic emissions on 29th Avenue cause annual PM^{2.5} concentrations to exceed the single source threshold at the nearest portion of the Project site.

To address these PM_{2.5} concentrations and their potential health risks to student, faculty and staff at the school, the health risk analysis recommends that high efficiency particulate filters (MERV 13 filters) should be included in the new ventilation design for the existing and new buildings on the site, along with weatherproofing of windows and doors, installation of passive electrostatic filtering systems, and adoption of a maintenance plan for the HVAC and air filtration systems. With use of MERV 13 air filters and assuming the air intake is at the

receptor position, the PM_{2.5} concentrations within these buildings is calculated to be reduced to below identified health risk thresholds.

Ambient Noise Conditions

The existing ambient outdoor noise environment at the Project site reaches approximately 86 dBA Ldn along the southwest property line adjacent to UPRR railroad tracks, 84 dBA Ldn along the northwest property line adjacent to 29th Avenue, and 81 dBA Ldn along the northeast property line near Derby. This ambient outdoor noise environment is considered “normally unacceptable” to “clearly unacceptable” as outlined in the Oakland General Plan. The current interior noise levels within the existing buildings on the Derby property (to be used for classrooms and administrative offices) are measured 49 dBA Ldn along the southwest building façade (with all windows and doors are closed), exceeding the City of Oakland General Plan standard of 45 dBA Ldn for school classrooms.

The noise analysis prepared for this Project recommends implementation of a Noise Reduction Plan to identify reasonable and feasible measures that can be incorporated into the existing buildings as necessary to achieve an interior daily average noise level of 45 dBA Ldn. Achieving the standard of 45 dBA Ldn is considered reasonable and feasible, but requires a detailed analysis of each building, with building-specific recommendation based on the performance of each of the buildings’ components (i.e., windows, doors, walls, rooflines, etc.). Even with achievement of a 45 dBA Ldn daily average noise level to meet City standards, frequent sound events including BART trains and UPRR freight trains would raise the interior noise environment to 53 to 69 dBA Lmax. There are no identified means of effectively insulating, mitigating or abating the exterior noise at the Project site. Outdoor use at the school shall be limited to non-curriculum, non-school hour recreational uses on the 29th Avenue property (which is partially shielded from the louder train noise by the intervening Derby buildings), with no outdoor classrooms or designated outdoor eating areas. As part of Phase II of the Project, the new multi-use building will provide an indoor gym and recreational space as well as an indoor cafeteria, which will be required to provide an acceptable interior noise environment, and future recreational and eating activities within the gym would not be directly subjected to exterior noise.

Rail Crossings

Two existing rail crossings are in the immediate vicinity of the Project site, one on 29th Avenue approximately 30 feet southwest of the Project site, and one on Fruitvale Avenue approximately 800 feet southeast of the Project site. The 29th Avenue crossing currently lacks ADA compliant sidewalks and detectable warning surfaces are not present. At the Fruitvale crossing, the path of travel for people crossing the tracks is on an improved sidewalk, but that sidewalk goes around the outside of the automatic gate, and no physical barriers are present to prevent people from walking across the tracks when a train is approaching.

The Project will add an increment of additional vehicle, bicycle and pedestrian traffic at these substandard rail crossings. Pursuant to City of Oakland SCAs, the Project sponsor will be required to work with the City, the California Public Utilities Commission (CPUC) and the railroad operators to conduct a Diagnostic Review of these railroad crossings and to identify design measures needed to improve safety at these crossings. Until such time as these safety measures are implemented, the Project sponsor will be required to dedicate a staff member to act as a crossing guard at each rail crossing during the morning and afternoon commute periods (7:30-8:30 a.m. and 3:45-5:45 p.m., and 1:30 p.m. on Wednesdays) to ensure safe crossing for students.

Mineral Resources

<u>Would the Project:</u>	<u>LUTE EIR Findings</u>	<u>Relationship to LUTE EIR Findings</u>		<u>Project Conclusions</u>	
		<u>Equal or Less Severe</u>	<u>New or Substantial Increase in Severity</u>	<u>Applicable SCAs or Mitigation Measures</u>	<u>Level of Significance</u>
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?		■	□		LTS
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?		■	□	-	LTS

Minerals

LUTE EIR Conclusions

The LUTE EIR identifies the Leona Quarry as the last mine in Oakland to be identified as a regionally significant source of aggregate resources. The Leona Quarry has been closed for many years, and there is no other land in Oakland with such a designation.

Project Analysis

The Project site is not considered an Aggregate Resource sector.⁵⁶ The Project site is not designated as a locally important mineral resource recovery site under the City of Oakland General Plan LUTE or Open Space, Conservation and Recreation Element. Furthermore, Policy CO-3.2 of the Conservation Element prohibits new quarrying activity in Oakland, except upon clear and compelling evidence that the benefits will outweigh the resulting environmental, health, safety, aesthetics and quality of life costs.

⁵⁶ California Department of Mines and Geology, accesses at: ftp://ftp.consrv.ca.gov/pub/dmg/pubs/ofr/OFR_96-03/, Plate 12

Noise

<u>Would the Project:</u>	<u>LUTE EIR Findings</u>	<u>Relationship to LUTE EIR Findings</u>		<u>Project Conclusions</u>	
		<u>Equal or Less Severe</u>	<u>New or Substantial Increase in Severity</u>	<u>Applicable SCAs or Mitigation Measures</u>	<u>Level of Significance</u>
a) Generate noise in violation of the City of Oakland Noise Ordinance (Oakland Planning Code, section 17.120.050) regarding construction noise, except if an acoustical analysis is performed that identifies recommend measures to reduce potential impacts, or generate noise in violation of the City of Oakland nuisance standards (Oakland Municipal Code section 8.18.020) regarding persistent construction-related noise?	SU	■	□	SCA Noise-1, Construction Days/Hours SCA Noise-2, Construction Noise SCA Noise-3, Extreme Construction Noise	LTS w/ SCAs
b) During project construction, expose persons to or generate groundborne vibration that exceeds the criteria established by the Federal Transit Administration (FTA)?	SU	■	□	SCA Noise-4, Vibration Impacts on Adjacent Structures or Vibration-Sensitive Activities	LTS w/ SCA
c) Generate noise in violation of the City of Oakland Noise Ordinance (Oakland Planning Code section 17.120.050) regarding operational noise, or expose persons to or generate noise levels in excess of applicable standards established by a regulatory agency?	LTS with regulations	■	□	SCA Noise-5, Operational Noise	LTS
d) Generate noise resulting in a 5 dBA permanent increase in ambient noise levels in the project vicinity above levels existing without the project; or, if under a cumulative scenario where the cumulative increase results in a 5 dBA permanent increase in ambient noise levels in the project vicinity without the project, and a 3 dBA permanent increase is attributable to the project?	LTS	■	□	-	LTS
e) Be located within an airport land use plan and would expose people residing or working in the project area to excessive noise levels; or be located within the vicinity of a private airstrip, and would expose people residing or working in the project area to excessive noise levels?	LTS	■	□	-	LTS

For purposes of this CEQA review, a Project-specific noise analysis has been prepared:

- Illingworth & Rodkin, Inc., *Education for Change Derby Charter High School, Noise and Vibration Impact Assessment*, March 16, 2021 (see **Appendix L**)

Information in the following section of this CEQA document has been drawn from this Project-specific noise and vibration analysis.

Existing Noise Environment

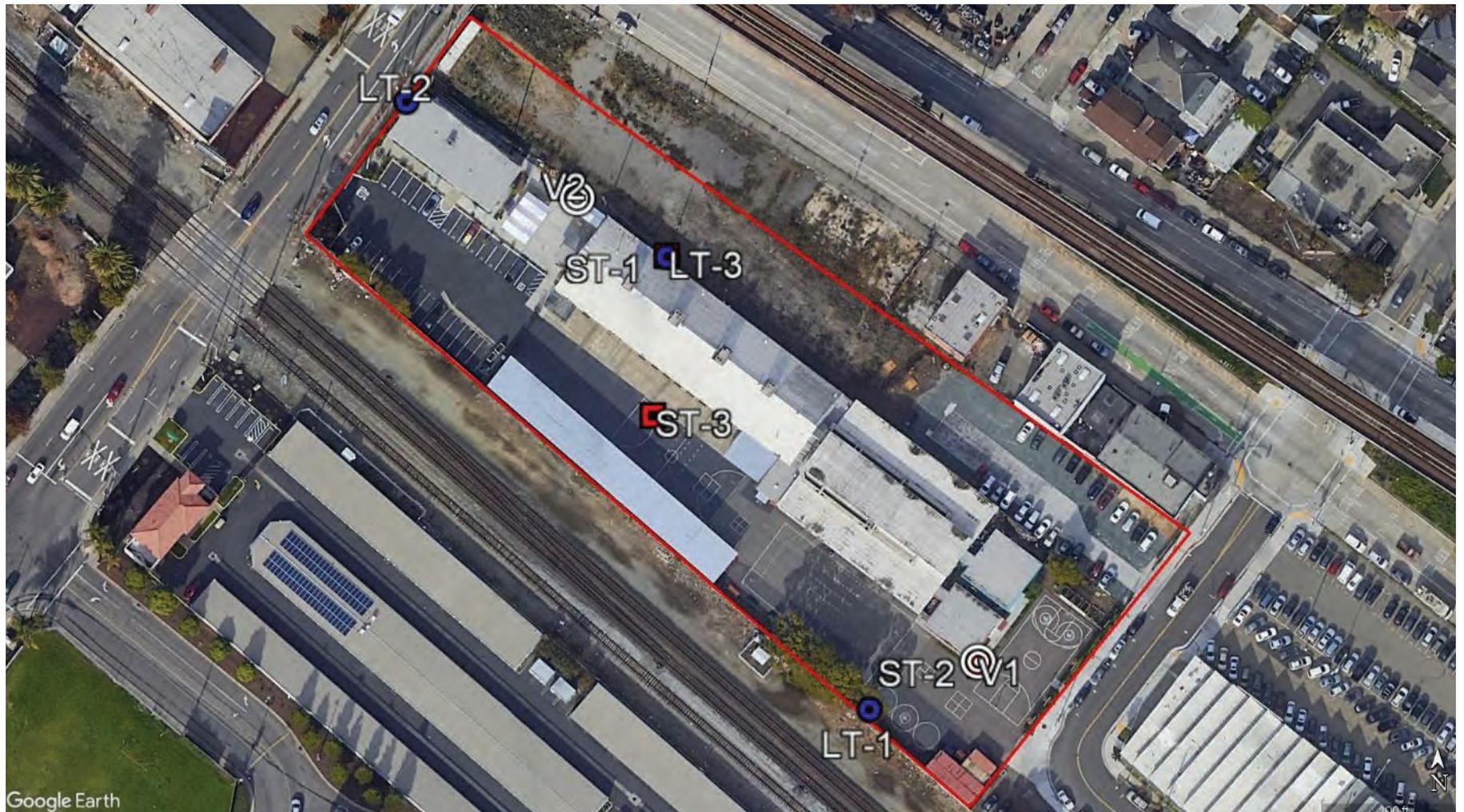
A noise monitoring survey was performed to quantify and characterize ambient noise levels at the Project site. These surveys were conducted between Wednesday, February 3, 2021 and Friday, February 5, 2021. The monitoring surveys included three long-term noise measurements (LT-1, LT-2, and LT-3) and three short-term noise measurements (ST-1, ST-2, and ST-3), as shown in **Figure 15**. The noise environment at the site results primarily from BART, trains along UPRR tracks, and local traffic. Secondary noise sources include distant traffic along Interstate 880 (I-880), overhead aircraft, and neighboring commercial and industrial land uses.

- Long-term noise measurements were made outdoors near the southern corner of the Project site (LT-1), approximately 50 feet from the centerline of the nearest UPRR tracks. Hourly average noise levels typically ranged from 62 to 80 dBA Leq during daytime hours, and from 52 to 79 dBA Leq during nighttime hours. The day-night average noise level was 86 dBA Ldn.
- Long-term noise measurement LT-2 was made outdoors near the northern corner of the Project site, approximately 35 feet from the centerline of 29th Avenue, and 175 feet from the centerline of East 12th Street and the BART tracks. Hourly average noise levels typically ranged from 70 to 76 dBA Leq during the day, and from 60 to 78 dBA Leq at night. The day-night average noise level was 84 dBA Ldn.
- Long-term noise measurement LT-3 was made outdoors along the northeast façade of Building A-1, approximately 165 feet from the centerline of East 12th Street and the BART tracks. Hourly average noise levels typically ranged from 70 to 75 dBA Leq during the day, and from 57 to 73 dBA Leq at night. The day-night average noise level was 78 dBA Ldn.

The daily trends in noise levels at all long-term locations are shown in **Appendix L**.

Short-term noise measurements were made over periods of 10-minutes, concurrent with the long-term noise data. ST-1 was made along the northeastern façade of Building A-1 (approximately 5 feet from LT-3) and included two consecutive 10-minute measurements. One measurement was conducted within the classroom, approximately 5 feet from the exterior window (ST-1a), and one measurement was conducted outside of the classroom, approximately 5 feet from the exterior window (ST-1b), which was closed for noise control purposes. The exterior noise environment at this site was dominated by BART and vehicular traffic along East 12th Street. Southbound BART trips generated noise levels between 80 to 86 dBA Lmax, while northbound BART trips generated noise levels between 77 to 79 dBA Lmax. Vehicular traffic along East 12th Street typically generated noise levels between 60 to 65 dBA. The calculated difference between the 10-minute Leq at both measurements represents the transmission loss provided by the exterior façade. Over a duration of two 10-minute measurements, this transmission loss was calculated as 33 dBA.

A short-term noise measurement was made near at the southern corner of Building A-5 (ST-2). Ambient noise levels at ST-2 generally ranged from 52 to 53 dBA when train, BART, automobile and aircraft activities were minimal. During these times, distant traffic along I-880 was audible. Due to the high level of variability in the noise environment, two 10-minute measurements were made. During the first measurement, primary noise sources included vehicular traffic on Derby Avenue and East 12th Street (which generated noise levels between 53 to 60 dBA), overhead aircraft (which generated noise levels between 63 to 65 dBA), and BART (which generated noise levels between 70 to 74 dBA Lmax). During the second noise measurement, a northbound train on UPRR tracks generated noise levels between 64 to 78 dBA. The train horn generated noise levels up to 103 dBA Lmax.



North



Figure 15
Noise and Vibration Measurement Locations

Source: Illingworth & Rodkin, 2021

Another short-term noise measurement was made near the center of the Project site (ST-3). Primary noise sources included vehicular traffic along 29th Avenue and East 12th Street (which generally ranged between 51 to 55 dBA), overhead aircraft (which generally ranged between 52 to 57 dBA), and BART (which generally ranged between 60 to 67 dBA). All short-term measurement results are summarized in **Table 14**.

Table 14: Summary of Short-Term Noise Measurements (dBA)

<u>Noise Measurement Location (Date and Time)</u>	<u>L_{max}</u>	<u>L₍₁₎</u>	<u>L₍₁₀₎</u>	<u>L₍₅₀₎</u>	<u>L₍₉₀₎</u>	<u>L_{eq(10-min)}</u>
ST-1a: Inside Classroom along Northeast Façade (2/3/2021, 11:20-11:30 a.m.)	50	50	37	31	28	37
ST-1b: Outside Classroom along Northeast Façade (2/3/2021, 11:20-11:30 a.m.)	86	85	64	58	54	70
ST-2: South Corner of Existing Building (2/5/2021, 11:00-11:20 a.m.) ^a	73 103	72 96	63 71	55 57	52 53	60 81
ST-3: Near Proposed Outdoor Play Area (2/5/2021, 11:30-11:40 a.m.)	65	63	56	53	51	54

^a 10-minute measurements with UPRR train pass-by and without UPRR train pass-by

Source: Illingworth & Rodkin, May 2021

Existing Vibration Levels

Groundborne vibrations at the Project site result primarily from UPRR train pass-bys, which generally occur between 20 and 24 times per day. UPRR trains were observed to pass the site at speeds ranging from 25 to 40 mph. BART trains pass the site on an elevated structure, which substantially reduces the vibration levels transmitted to the ground.

Vibration measurements were made on Monday, February 4, 2021 from the south corner of the building nearest to the UPRR rail corridor, and vibration data were obtained during two freight train pass-bys. The instrumentation used to make the vibration measurements is capable of accurately measuring very low vibration levels. Vibration levels measured on the site are representative of vibration levels at ground level (i.e., vibration levels that would enter the building foundation).

- Measurement location V-1 was 140 feet from the center of the UPRR tracks. Vibration levels measured at this location indicate that freight trains produced overall vibration levels ranging from 71 to 73 VdB.
- Vibration measurements were attempted on the north side of the building (V-2) during BART pass-bys on the elevated structure. Vibration levels produced by BART trains were indistinguishable above background vibration levels, and insignificant at the Project site.

Construction Noise

LUTE EIR Conclusions

The LUTE EIR determined that new development, particularly in the Downtown and in the Coliseum Showcase District, would generate short-term increases in noise due to construction. Mitigation measures require project

sponsors to implement noise control techniques to minimize disturbance to adjacent or nearby sensitive noise receptors during project construction, but this impact was determined to be significant and unavoidable.

Project Analysis

Implementation of the Project would occur in two phases, as summarized below:

- Phase 1 involves primarily seismic upgrades and indoor mechanical, electrical and plumbing improvements to the existing buildings on the Derby property, and paving of the 29th Avenue property pursuant to the Project's Corrective Action Plan to provide an impervious barrier between the surface and contaminated soils/groundwater. The finished pavement would be striped for non-curriculum, non-school hour recreational purposes. Phase 1 work (including any necessary remediation of site contamination issues is estimated to take 1 to 3 months, commencing immediately after land use approvals.
- Phase 2 involves the removal of existing Building B and construction of a new multi-purpose building in its place. EFC is working to raise sufficient funding for Phase 2 work, which is estimated to occur at about 1 to 2 years after completion of Phase 1. Construction of the multi-purpose building is estimated to take less than 1 year. This schedule is an estimate, and actual timing will depend on how long it takes to raise the funds.

Noise impacts resulting from construction depend on the noise generated by various pieces of construction equipment, the timing and duration of noise-generating activities, the distance between construction noise sources and noise-sensitive receptors, any shielding provided by intervening structures or terrain, and ambient noise levels. Construction noise impacts primarily result when construction activities occur during noise-sensitive times of the day (early morning, evening, or nighttime hours), when construction occurs in areas immediately adjoining noise-sensitive land uses, or when construction durations last over extended periods of time. During each stage of construction, there would be a different mix of equipment operating, and noise levels would vary by stage and vary within stages, based on the amount of equipment in operation and the location at which the equipment is operating.

Construction of the Project would not likely involve the use of any "extreme" noise generators (i.e., equipment that would generate noise levels greater than 90 dBA at a distance of 50 feet). At 50 feet from outdoor construction noise sources, hourly average noise levels would be expected to range from 75 to 89 dBA Leq. Noise levels would typically drop off at a rate of about 6 decibels per doubling of distance from the construction noise source. Shielding by terrain would be anticipated to reduce construction noise levels by 5 to 20 dBA, depending on the location of the receptor and of the construction. Noise controls on construction equipment have been found to reduce noise levels by 5 to 10 dBA.

Residences are located opposite East 12th Street and BART, approximately 180 feet northeast of the 29th Avenue property. Residences are also located opposite 29th Avenue approximately 500 feet from the portion of the site that would be developed with the multipurpose building. Construction noise levels could at times range from 64 to 78 dBA Leq at residences located 180 feet from the Project site, and from 55 to 69 dBA Leq at residences 500 feet from the Project site. Construction noise levels would generally fall at, or below ambient noise levels produced by local traffic, BART, and railroad trains at these residences.

Commercial and industrial land uses generally surround the Project site. Construction noise levels expected at these land uses would generally be expected to range from 75 to 89 dBA Leq. Construction noise levels would be expected to exceed ambient noise levels produced by local traffic, BART and railroad trains at these commercial and industrial land uses.

Standard Conditions of Approval

The Project would be subject to the following City of Oakland SCAs, intended to reduce the impacts of construction noise on nearby receptors.

SCA Noise-1, Construction Days/Hours (applies to all projects involving construction): The project applicant shall comply with the following restrictions concerning construction days and hours:

- i. Construction activities are limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday, except that pier drilling and/or other extreme noise generating activities greater than 90 dBA shall be limited to between 8:00 a.m. and 4:00 p.m.
- ii. Construction activities are limited to between 9:00 a.m. and 5:00 p.m. on Saturday. In residential zones and within 300 feet of a residential zone, construction activities are allowed from 9:00 a.m. to 5:00 p.m. only within the interior of the building with the doors and windows closed. No pier drilling or other extreme noise generating activities greater than 90 dBA are allowed on Saturday.
- iii. No construction is allowed on Sunday or federal holidays.

Construction activities include, but are not limited to, truck idling, moving equipment (including trucks, elevators, etc.) or materials, deliveries, and construction meetings held on-site in a non-enclosed area.

Any construction activity proposed outside of the above days and hours for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case-by-case basis by the City, with criteria including the urgency/emergency nature of the work, the proximity of residential or other sensitive uses, and a consideration of nearby residents'/occupants' preferences. The project applicant shall notify property owners and occupants located within 300 feet at least 14 calendar days prior to construction activity proposed outside of the above days/hours. When submitting a request to the City to allow construction activity outside of the above days/hours, the project applicant shall submit information concerning the type and duration of proposed construction activity and the draft public notice for City review and approval prior to distribution of the public notice.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

SCA Noise-2, Construction Noise (applies to all projects involving construction): The project applicant shall implement noise reduction measures to reduce noise impacts due to construction. Noise reduction measures include, but are not limited to the following:

- i. Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically attenuating shields or shrouds) wherever feasible.
- ii. Except as provided herein, impact tools (e.g., jackhammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used, if such jackets are commercially available, and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever such procedures are available and consistent with construction procedures.
- iii. Applicant shall use temporary power poles instead of generators where feasible.

- iv. Stationary noise sources shall be located as far from adjacent properties as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the City to provide equivalent noise reduction.
- v. The noisiest phases of construction shall be limited to less than 10 days at a time. Exceptions may be allowed if the City determines an extension is necessary and all available noise reduction controls are implemented.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

SCA Noise-3, Extreme Construction Noise (applies to Phase 2 construction and paving associated with Phase 1):

- a. Construction Noise Management Plan Required: Prior to any extreme noise generating construction activities (e.g., pier drilling, pile driving and other activities generating greater than 90dBA), the project applicant shall submit a Construction Noise Management Plan prepared by a qualified acoustical consultant for City review and approval that contains a set of site-specific noise attenuation measures to further reduce construction impacts associated with extreme noise generating activities. The project applicant shall implement the approved Plan during construction. Potential attenuation measures include, but are not limited to, the following:
 - i. Erect temporary plywood noise barriers around the construction site, particularly along on sites adjacent to residential buildings;
 - ii. Implement “quiet” pile driving technology (such as pre-drilling of piles, the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions;
 - iii. Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site;
 - iv. Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings by the use of sound blankets for example and implement such measure if such measures are feasible and would noticeably reduce noise impacts; and
 - v. Monitor the effectiveness of noise attenuation measures by taking noise measurements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

- b. Public Notification Required: The project applicant shall notify property owners and occupants located within 300 feet of the construction activities at least 14 calendar days prior to commencing extreme noise generating activities. Prior to providing the notice, the project applicant shall submit to the City for review and approval the proposed type and duration of extreme noise generating activities and the proposed public notice. The public notice shall provide the estimated start and end dates of the extreme noise generating activities and describe noise attenuation measures to be implemented.

When Required: During construction

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

The SCAs listed above are consistent with the requirements of the Oakland Municipal Code, which allows for an exemption from noise standards for construction if measures are identified to reduce potential impacts to the extent practical. As such, the Project’s construction noise impacts would be less than significant.

Construction Vibration

LUTE EIR Conclusions

The LUTE EIR determined that new development, particularly in the Downtown and in the Coliseum Showcase District, would generate short-term increases in vibrations due to construction. Mitigation measures require project sponsors to implement control techniques to minimize vibration disturbance to adjacent or nearby sensitive receptors during project construction, but this impact was determined to be significant and unavoidable.

Project Analysis

Demolition and construction activities required for construction often generate perceptible vibrations at levels that could affect nearby structures, particularly when heavy equipment (e.g., vibratory roller or loaded trucks) or impact tools (e.g., jackhammers, pile drivers, hoe rams) are used. Due to the short-term nature of construction, the primary concern is the potential to damage a structure. Building damage generally falls into three categories. Cosmetic damage (also known as threshold damage) is defined as hairline cracking in plaster, the opening of old cracks, the loosening of paint or the dislodging of loose objects. Minor damage is defined as hairline cracking in masonry or the loosening of plaster. Major structural damage is defined as wide cracking or the shifting of foundation or bearing walls. The City of Oakland relies on a vibration thresholds for construction based on the California Department of Transportation's recommended vibration limit of 0.25 in/sec PPV to minimize the potential for cosmetic damage to sensitive historic structures, and 0.3 in/sec PPV as the threshold at which there is a risk of damage to older residential structures. There are no off-site historic properties located near the Project site, so potential groundborne vibration levels exceeding 0.3 in/sec PPV are used in this analysis as the threshold, where vibration levels attributed to the Project that exceed this threshold may have the potential to result in a significant vibration impact to off-site structures.⁵⁷

Off-site vibration levels due to Project construction would vary depending on soil conditions, construction methods and equipment used, and distance from the vibration source. Vibration levels resulting from certain types of construction activities that can be expected to be used for Phase I of the Project (e.g., vibratory rollers, pavers and heavily loaded trucks) associated with site preparation and paving of the 29th Avenue property, are conservatively calculated to exceed the 0.3 in/sec PPV threshold at distances of within 5 feet of the source. Vibration levels from these same types of equipment at distances greater than 25 feet would not exceed the 0.3 in/sec PPV threshold.

Three commercial buildings are located immediately north of the Project's currently undeveloped 29th Avenue property, all located along East 12th Street. These commercial buildings are only separated from the 29th Avenue property line by a distance of 5 feet, and vibration levels generated by certain types of construction equipment would be potentially capable of causing cosmetic damage to these commercial buildings (at 3005-3031 East 12th Street). All other off-site commercial/industrial buildings would be separated for the Project's construction activities by at least 60 feet, and the nearest residential buildings are located at least 180 feet from the Project site. At these distances, vibration effects attributed to construction activity associated with the Project (both Phase I and Phase II) would not exceed the 0.3 in/sec PPV threshold for buildings of normal conventional construction.

⁵⁷ Separate studies (U.S. Department of the Interior Bureau of Mines, 1980 and Dowding, *Construction Vibrations*, 1996 indicate a less than 20% probability of "threshold damage" (referred to as cosmetic damage) at vibration levels of 1.2 in/sec PPV or less, and no "minor damage" or "major damage" at vibration levels of 1.2 in/sec PPV or less.

Standard Conditions of Approval

The Project would be subject to the following City of Oakland SCA, intended to reduce vibration impacts from construction activities (including the use of heavy off-road equipment to perform earthwork) in close proximity to adjacent properties that contain buildings near the adjoining property line, or adjacent to vibration sensitive activities where vibration could substantially interfere with normal operations.

SCA Noise-4, Vibration Impacts on Adjacent Structures or Vibration-Sensitive Activities: The project applicant shall submit a Vibration Analysis prepared by an acoustical and/or structural engineer or other appropriate qualified professional for City review and approval that establishes pre-construction baseline conditions and threshold levels of vibration that could damage the structure and/or substantially interfere with activities located adjacent to the Project site. The Vibration Analysis shall identify design means and methods of construction that shall be utilized in order to not exceed the thresholds. The applicant shall implement the recommendations during construction.

When Required: Prior to construction

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

Project Plans in Furtherance of SCAs

Pursuant to SCA Noise-4, the Noise and Vibration study prepared for this CEQA review (see **Appendix L**) was prepared by an acoustical engineer. The Study identifies threshold levels of vibration that could damage structures and/or substantially interfere with activities located adjacent to the Project site, and identifies the following means and methods of construction to be utilized in order to not exceed the vibration thresholds.

Project Recommendations in Furtherance of SCAs

To further implement SCA Noise-4, the following site-specific recommendations from the Noise and Vibration Study (see **Appendix L**) will be implemented.

Recommendation Noise-4.1, Vibration Reduction: The following construction methods are recommended pursuant to SCA Noise-4 to reduce vibration levels due to the Project's construction activities to less than 0.3 in/sec PPV threshold at nearby buildings:

- a) Prohibit the use of heavy vibration-generating construction equipment within 20 feet of adjacent commercial buildings.
- b) Use a smaller vibratory roller, such as the Caterpillar model CP433E vibratory compactor, when compacting materials within 20 feet of adjacent commercial buildings. Only use the static compaction mode when within 10 feet of the adjacent commercial buildings.
- c) Avoid dropping heavy equipment and use alternative methods for breaking up existing pavement, such as a pavement grinder, instead of dropping heavy objects, within 20 feet of adjacent commercial buildings.
- d) Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.

Implementation of these identified means and methods of construction pursuant to SCA Noise-4 would ensure that vibration impacts of the Project would be less than significant.

Operational Noise

LUTE EIR Conclusions

The LUTE EIR found that land use changes proposed pursuant to the LUTE would allow a mix of commercial and residential uses, which could pose noise compatibility problems between residential and commercial uses. The LUTE EIR also found that permitting live/work and other forms of housing in transitional industrial areas could pose future noise compatibility problems. These impacts were concluded to be less than significant with implementation of policies included in the LUTE, implementation of the Oakland Noise Ordinance and other measures to reduce the potential for noise conflicts between residential uses and existing or future industrial uses. These policies, ordinances and measures are now fully incorporated into City SCAs.

Project Analysis

Outdoor activities associated with the proposed Project are limited to non-curriculum, non-school hour outdoor recreational activities occurring on the 29th Avenue property. No outdoor eating or outdoor learning areas are proposed, and no other school-programmed outdoor activities are proposed at the Project, due to the 'normally unacceptable' exterior noise levels at the Project site. Based on noise monitoring conducted at other schools in the Bay Area, typical outdoor activities at high schools generate a noise level of about 59 dBA at a distance of 50 feet from the center of the outdoor activity. The very limited outdoor school activities at the Project site are not expected to produce noise levels at nearby commercial and industrial properties that would exceed existing noise generated by the transportation noise sources in the vicinity. Noise generated by the Project is expected to be approximately 46 dBA at the nearest residential land uses to the north (opposite East 12th Street and BART). These noise levels would be similar to, or substantially less than existing daytime noise levels. Indoor events at the multi-purpose building are not anticipated to be audible above local traffic or rail noise, as the multi-purpose building would be mechanically ventilated, and doors would be maintained closed. The Project's operational noise impacts would not exceed the City of Oakland's operational noise standards at any receiving property line, and its impacts would be less than significant.

Standard Conditions of Approval

The Project would be subject to the following City of Oakland SCA, intended to reduce the impacts of operational noise of all projects:

SCA Noise-5, Operational Noise: Noise levels from the project site after completion of the project (i.e., during project operation) shall comply with the performance standards of chapter 17.120 of the Oakland Planning Code and chapter 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the City.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

Permanent Noise Increase due to Project Traffic

LUTE EIR Conclusions

The LUTE EIR concluded that implementation of the LUTE would increase noise levels along streets throughout the City, but that the traffic increase based on anticipated growth rates for the City would only increase noise levels by 2 decibels (dBA) or less on selected street segments. Noise increases of less than 3 dBA were found to

be generally not perceptible to most people, and the future traffic noise increase of 2 dBA or less was found to be less than significant.

Project Analysis

The Transportation Impact Review prepared for this Project (**Appendix N**) was reviewed to obtain Project-generated traffic levels, and these traffic levels were used to calculate permanent traffic noise increases attributable to the Project. Existing ambient noise levels in the surrounding area exceed 60 dBA Ldn at receptors along roadways. Therefore, a significant impact would occur if traffic due to the Project would permanently increase ambient traffic noise levels by 3 dBA Ldn. For reference, a noise increase of 3 dBA Ldn due to Project traffic would only occur if the Project were to double existing traffic volumes along a roadway, over a daily basis.

Based on the results of the traffic noise modeling, Project-generated trips would increase hourly average traffic noise levels along East 10th Street by up to 4 dBA Leq during the AM peak traffic hour, and by 1 dBA Leq during the PM peak traffic hour. All other roadway segments would experience increases in hourly average traffic noise levels of less than 2 dBA Leq during the AM and PM peak traffic hours (traffic congestion occurring during student drop-off and pick-up often results in even lower levels of traffic noise, due to slower speeds). During the remaining hours of the school day and during hours of the day when school is not in session, project generated traffic volumes would be low or negligible. On a daily average basis, the Project's traffic would cause a permanent noise level increase of less than 1 dBA Ldn at receptors along roadways serving the Project site. Although there may be a noticeable increase in traffic noise levels during the peak traffic hours along East 10th Street, the additional traffic noise would not measurably contribute to the predominant noise sources in the area (i.e., railroad trains and BART trains in the project area). The Project would not result in a permanent noise increase of 3 dBA Ldn or more, and the impact is less than significant.

Excessive Aircraft Noise

LUTE EIR Conclusions

The LUTE EIR's analysis of consistency with the Alameda County Airport Land Use Policy Plan concluded that no noise-sensitive land uses, and no residential development is indicated within the restricted noise contour lines associated with the Oakland International Airport, and did not identify aircraft noise as a significant impact on future land uses

Project Analysis

The Project site is located approximately 2.5 miles north of Oakland International Airport, and would not expose people residing or working in the project area to excessive aircraft noise. Although aircraft-related noise can occasionally be audible at the Project site, noise from aircraft does not substantially increase ambient noise levels produced by railroad trains, BART, and local traffic. Based on a review of the Oakland International Airport Annual Noise Contour maps for the years between 2012 and 2020, the Project site lies outside the airport's noise contour of 65 dBA CNEL. In addition, a review of the Airport Land Use Compatibility Plan shows that the Project site is located well outside the noise contour of 60 dBA CNEL. The exterior and interior noise levels due to aircraft from Oakland International Airport are compatible with the proposed use, and this would be a less than significant impact.

Non-CEQA, Noise and Land Use Compatibility Assessment

Future students and faculty/staff at the Project site could be exposed to ambient noise levels that exceed City-established standards in the Noise Element for school use. CEQA does not require the analysis or mitigation of potential effects that the existing environment may have on a project (with certain exceptions). However, the

Project is required to prepare a Noise Reduction Plan under SCA Noise-6: Exposure to Community Noise because of the Project site's exposure to these noise levels. Accordingly, this CEQA document presents the following analysis of the effects that ambient noise conditions may have on the Project for informational purposes and to address questions of General Plan policy consistency, but does not identify these effects as significant impacts of the Project pursuant to CEQA.

LUTE EIR Conclusions

The LUTE EIR identified a number of locations where major transportation corridors could pose noise compatibility problems for residential uses, and where a mix of commercial and residential uses could pose noise compatibility problems. The LUTE EIR identified a number of factors that should be considered when rezoning mixed-use areas, including the future intentions of existing residents or businesses, natural features, and health hazards.

Project Analysis

A Preliminary Noise and Land Use Compatibility Assessment has been prepared for the Project to summarize applicable regulatory criteria and to discuss the land use compatibility of the Project to the noise environment, based on noise data collected at the Project site:

- Illingworth & Rodkin, *EFC Latitude High School, Preliminary Noise and Land Use Compatibility Assessment*, February 21, 2021 (see **Appendix M**)

A summary of that Land Use Compatibility Assessment is presented below.

Applicable Regulatory and Policy Standards

City of Oakland and statewide standards pertaining to land use compatibility of a proposed school in comparison to existing noise conditions are summarized below:

- The Oakland General Plan specifies a 'normally acceptable' exterior noise level for school land uses of up to 60 dBA Ldn; a 'conditionally acceptable' exterior noise level of 60 to 70 dBA Ldn; a 'normally unacceptable' exterior noise level of 70 to 80 Ldn; and a 'clearly unacceptable' exterior noise level of 80 dBA Ldn or higher.
- The Oakland General Plan considers 45 dBA as the maximum interior noise level for classrooms.
- The 2019 CalGreen Code requires non-residential uses (including schools) to maintain an interior noise environment attributable to exterior noise sources that does not exceed an hourly equivalent noise level (Leq 1-hr) of 50 dBA in occupied areas, during any hour of operation.
- The California Collaborative for High Performance Schools (CHPS) provides a recommended prerequisite criteria for exterior-to-interior noise intrusion for schools, at 45 dBA Leq or less indoors for core learning spaces. Enhanced acoustics recommendations are 35 dBA Leq or less indoors in core learning spaces, and 40 dBA Leq or less indoors for ancillary learning or assembly spaces.

Existing Exterior Noise Environment

Exterior noise levels at the Project site result primarily from UPRR train activity, BART and local traffic. The exterior noise environment at the site reaches approximately 86 dBA Ldn along the southwest property line adjacent to UPRR railroad tracks, 84 dBA Ldn along the northwest property line adjacent to 29th Avenue, and 81 along the northeast property line near Derby. While traffic volumes in the site vicinity may increase as a result of the Project, noise levels are not anticipated to measurably increase due to the dominance of UPRR train noise and BART. This outdoor noise environment would be considered "normally unacceptable" (70 to 80 dBA Ldn), to "clearly unacceptable" (more than 80 dBA Ldn) for outdoor school uses, as outlined in the Oakland General Plan.

Existing Interior Noise Environment

Interior noise levels at the School would vary depending upon the existing and ultimate design of the buildings (e.g., relative window to wall area) and the selected construction materials and methods. The measured transmission loss between exterior and interior space at the existing buildings on the Derby property (based on measurements at ST-1 with windows closed) reveal 33 dBA of noise reduction along the northeastern façade of Building A-1. It is assumed that this exterior-to-interior noise reduction of 33 dBA is similar throughout all the existing buildings on the Derby property.⁵⁸

Based on this measured performance and assumption for other existing buildings, the future interior noise environment within the existing buildings would range from a daily average of approximately 45 dBA Ldn along the northeast building façades (nearest to BART), to a daily average of 49 dBA Ldn along the southwest building façades (nearest to the Rail corridor), assuming all windows and doors are closed. The interior noise environment along the southwest building façades exceeds the 45 dBA Ldn threshold for classrooms by 4 to 5 dBA Ldn. This would be considered incompatible with the Oakland General Plan and CHPS Prerequisite criteria for classrooms.

For each BART train that passes along the elevated tracks, temporary interior noise levels within classrooms along the northeastern façades of the buildings would range from 53 to 58 dBA Lmax over a duration of approximately 20 to 30 seconds. Based on the BART schedule near the Project site, this would typically occur between 12 to 14 times per hour. For each UPRR freight train that passes along the railroad tracks to the southwest of the Project site, temporary interior noise levels within classrooms along the southwestern façades of the buildings would range from 55 to 69 dBA Lmax when the horn is used. Based on observations in these daily trends, this would occur as often as 2 to 3 times per hour. Sound events including BART trains and UPRR freight trains would frequently raise the interior noise environment to between 53 and 69 dBA Lmax.

Standard Conditions of Approval

The Project would be subject to the following City of Oakland SCA, intended to address projects' indoor exposure to the existing noise environment:

SCA Noise-6, Exposure to Community Noise (applies to all projects for which a noise study was performed during the project review process, and the project exposure to community noise is Conditionally Acceptable, Normally Unacceptable, or Clearly Unacceptable per the land use compatibility guidelines of the Noise Element of the Oakland General Plan): The project applicant shall submit a Noise Reduction Plan prepared by a qualified acoustical engineer for City review and approval that contains noise reduction measures (e.g., sound-rated window, wall, and door assemblies) to achieve an acceptable interior noise level in accordance with the land use compatibility guidelines of the Noise Element of the Oakland General Plan. The applicant shall implement the approved Plan during construction. To the maximum extent practicable, interior noise levels shall not exceed the following:

- i. 45 dBA: Residential activities, civic activities (i.e., schools), hotels
- ii. 50 dBA: Administrative offices; group assembly activities
- iii. 55 dBA: Commercial activities
- iv. 65 dBA: Industrial activities

⁵⁸ Standard school construction typically provides approximately 15 dBA of exterior-to-interior noise reduction, assuming the windows are partially open for ventilation, and standard construction with the windows closed typically provides approximately 25 to 30 dBA of noise reduction in interior spaces.

When Required: Prior to approval of construction-related permit
Initial Approval: Bureau of Planning
Monitoring/Inspection: Bureau of Building

Project Recommendations in Furtherance of SCAs

To further implement SCA Noise-6, the following site-specific recommendations from the Preliminary Noise and Land Use Compatibility Assessment (see **Appendix M**) will be implemented to address the non-CEQA topic related to noise exposure.

Recommendation Noise-6.1: Noise Reduction Plan. Pursuant to SCA Noise-6, the Project applicant shall retain a qualified acoustical engineer to prepare a Noise Reduction Plan for each of the existing buildings on the Derby property that the school intends to use for school-related purposes. The requirement of the Noise Reduction Plan will be to identify those reasonable and feasible measures that can be incorporated into the existing building, as necessary to achieve an interior daily average noise level of 45 dBA Ldn. The acoustic consultant that prepared the Preliminary Noise and Land Use Compatibility Assessment has indicated that achieving the standard of 45 dBA Ldn is reasonable and feasible, but requires a detailed analysis of each building, with building-specific recommendation based on the performance of each of the buildings' components (i.e., windows, doors, walls, rooflines, etc.) The Noise Reduction Plan will be submitted with the building permit plans for the conversion of the industrial building to a school, confirming that the buildings can achieve an interior sound level of 45 dBA Ldn. A third-party peer review, paid for by the applicant, shall assist the City in evaluating the feasibility and effectiveness of the Noise Reduction Plan submitted by the applicant.

Exterior Noise

According to the City of Oakland General Plan, future development within areas identifies as “normally unacceptable” (between 70 to 80 dBA Ldn) should generally be discouraged, but may be undertaken only if a detailed analysis of the noise reduction requirements is conducted, and if highly effective noise insulation, mitigation or abatement features are included in the design. In areas identified a “clearly unacceptable” (more than 80 dBA Ldn), development should not be undertaken.

Exterior noise sources affecting the Project site are primarily the noise from trains along the UPRR rail track, and BART train noise. The day-night average noise levels on the Project site are considered “clearly unacceptable” at the southerly property line nearest to the UPRR rail corridor (at 86 dBA Ldn), and the boundary between the Derby property and the 29th Avenue property, generally mid-way between the rail corridor and the BART tracks (at 84 dBA Ldn). The day-night average noise levels on the northerly 29th Avenue property, which is partially shielded from train noise by the existing buildings on the Derby property but directly in line-of-sight to the BART tracks, is considered “normally unacceptable” (ranging from 78 to 84 dBA Ldn). A major component of the train noise is the warning horn, which is positioned atop the engine at a height of 13 to 16 feet, and the BART tracks in this area are elevated above the roadway. Construction of a soundwall or other type of noise barrier at the Project site would not effectively attenuate these noise sources, unless the noise barrier were to be so tall as to block direct line-of-sight from these elevated noise sources. Such a noise barrier is considered infeasible and undesirable. There are no identified means of effectively insulating, mitigating or abating the exterior noise at the Project site.

The following measure is recommended to specifically address the non-CEQA topic related to the noise exposure of outdoor school-related uses:

Recommendation Noise-6.2: Limited Outdoor Uses: Given the “normally unacceptable” to “clearly unacceptable” noise environment at the Project site and the lack of noise attenuation options, outdoor recreation uses should be limited to non-curriculum, non-school hour use only. Without effective noise attenuation, no

outdoor eating spaces, learning, or curriculum-based operations shall be permitted on the Project Site. In addition, the School shall not construct any structures on site that could be used for outdoor gathering areas including but not limited to large awnings/canopies and shade structures. All building permit plans shall be revised to remove exterior serving (server) windows to the outside. Student use of the 29th Avenue property, where outdoor uses are considered normally unacceptable but where train noise is partially attenuated by the intervening Derby buildings, outdoor recreational uses should be limited to informal (non-curriculum, non-school operation hour) outdoor recreational use.

The EFC Latitude High School will be a charter school and is not required under the charter school regulations to provide physical education or other curriculum that requires outdoor activity. Use of outdoor space by students and faculty at the Project could be by choice, but not required as a school requirement. As part of Phase II of the Project, the new multi-use building will provide an indoor gym and recreational space, which will be required to provide an acceptable interior noise environment. Future recreational activities within the gym would not be directly subjected to exterior noise, and noise attenuation measures that can achieve the standards of SCA Noise-6 would be required for the design and construction of that buildings.

Non-CEQA, Exposure to Rail Vibrations

The FTA thresholds used by the City to determine the relative acceptability of various types of land uses to vibration levels are based on maximum overall vibration levels for a single event, and vary based on the frequency of such events. Different criteria are established for locations subject to frequent vibration events (more than 70 events of the same source per day), occasional vibration events (30 to 70 events of the same source per day), and infrequent vibration events (less than 30 events of the same source per day). The frequency of the UPRR trains passing the site is between 20 and 24 times per day (less than 30 trains per day), placing the level of train activity in the “infrequent events” category. The applicable FTA threshold for institutional land uses with primarily daytime use is a vibration event level of 83 VdB.

Vibration data measured at location V-1 (see prior Figure 15) represents vibration levels at the nearest existing building to the railroad tracks, at a distance 140 feet from the centerline of the railroad. At this location, vibration levels from passing UPRR trains range from 71 to 73 VdB. The existing buildings on the Derby property and the future multi-purpose building will be subject to vibration levels that are at least 10 VdB below the 83 VdB threshold. Persons at rest may perceive the vibration, but groundborne vibration levels would not exceed the FTA thresholds as used by the City, and vibration controls are not required.

Population and Housing

<u>Would the Project:</u>	<u>LUTE EIR Findings</u>	<u>Relationship to LUTE EIR Findings</u>		<u>Project Conclusions</u>	
		<u>Equal or Less Severe</u>	<u>New or Substantial Increase in Severity</u>	<u>Applicable SCAs or Mitigation Measures</u>	<u>Level of Significance</u>
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)??	LTS	■	□	-	LTS
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	LTS	■	□	-	LTS

Population and Housing

LUTE EIR Conclusions

The LUTE EIR determined that the LUTE’s plans and policies would result in a net increase in employment development, particularly with redevelopment of military bases and land within the Coliseum Area. The policy emphasis on Downtown and corridor redevelopment would also result in substantially higher employment in the retail, service and government sectors, with projected employment levels significantly higher than anticipated by ABAG, creating a demand for new housing and increasing Oakland’s jobs housing ratio. It also determined that the LUTE would increase housing capacity in Oakland by providing greater allowances for higher density housing in commercial areas, by reclassifying several transit corridors for urban-density housing, and by accommodating additional residential development Downtown, at Oak Knoll, along the Estuary, and at BART Stations. The LUTE EIR concluded that impacts related to the City’s jobs/housing balance could be mitigated with measures to increase affordable and market rate housing in appropriate locations, and that other impacts related to population and housing would be less than significant.

Project Analysis

The Project anticipates accommodating up to 400 high school students, and approximately 33 faculty/staff members. Students would be drawn primarily from the within the surrounding community, and the availability of a new high school would not induce population growth. The minor increase in employment at the Project site (approximately 33 jobs) would not be so large as to induce population growth or housing demand, and these employees will likely be found from the existing Latitude High School at the Chabot campus, or from within the existing available labor force.

The Project site currently consists of existing vacated building space, open pavement and a vacant lot, and the Project would not displace any people or housing. The Project does not require the extension of any public roads or other infrastructure that would lead to growth inducing impacts.

Public Services and Recreation

<u>Would the Project:</u>	<u>LUTE EIR Findings</u>	<u>Relationship to LUTE EIR Findings</u>		<u>Project Conclusions</u>	
		<u>Equal or Less Severe</u>	<u>New or Substantial Increase in Severity</u>	<u>Applicable SCAs or Mitigation Measures</u>	<u>Level of Significance</u>
<p>Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the following public services:</p> <p>a) Fire protection? b) Police protection c) Schools d) Parks and Recreation</p>	<p>SU (Fire Protection) LTS (all others)</p>	■	□	<p>SCA Services-1, Capital Improvements Impact Fee</p>	<p>LTS with SCAs</p>

Public Services and Recreation

LUTE EIR Conclusions

Fire Protection Services

The LUTE EIR concluded that future development would result in higher levels of population in steep hillside areas of the City where firefighting and evacuation constraints presently exist, and that construction of a new fire station in the North Oakland Hills would reduce service deficiencies and the risk of catastrophic wildfire, but that this impact remained significant and unavoidable. Elsewhere in the City, the LUTE EIR found that higher levels of population and employment would increase demands for fire protection and emergency medical services, but that these impacts could be reduced to levels of less than significant through City-sponsored measures to address fire service needs.

Police Services

The LUTE EIR found that higher levels of population and employment would increase demands for police services, but that these impacts could be reduced to levels of less than significant through City-sponsored measures to address police service needs.

Schools

The LUTE EIR found that higher levels of population and employment would increase the number of students served by the Oakland Unified School District, and identified a number of mitigation measures available to the School District to reduce overcrowding, concluding this impact to be less than significant with mitigation.

Parks and Recreation Services

The LUTE EIR found that higher levels of population and employment would increase the demand for parks and recreation services particularly in areas targeted for reuse and intensification, where development would place even greater demands on the limited park acreage in these neighborhoods, unless additional park area was provided. However, the LUTE EIR concluded this impact to be less than significant, and no mitigation was required.

Project Analysis

Fire Protection Services

Fire Station 13 is the primary fire station to respond to calls originating from the Project site. Fire Station 13 is located at 1225 Derby Avenue, several hundred feet from the Project site. Secondary assistance would be provided by Station 4, located at 1235 East 14th Street, approximately one and one-half miles from the Project site. Approximate response time to the Project site is estimated to be 4 to 6 minutes. The Oakland Fire Department would be able to provide adequate fire suppression and emergency medical response services to the Project, and would not require the construction of new fire protection facilities or physically altered fire protection facilities that would result in significant environmental impacts. The Project would not result in a significant impact on the provision of fire protection services.

Police Services

Although the new student population at the Project could potentially result in an increase in reported crimes (on a simple basis of reported crimes per population) there is nothing about this school or its student population that would be more or less likely to commit crimes, and their presence in school is more likely to decrease the potential for crime than if they were not in school. The Project would be served by police personnel who work in the main police station at 455 7th Street, approximately three miles northwest of the Project site, and would not result in the need to construct new facilities or expand existing police facilities. The Project would not require the construction of new police facilities or physically altered police facilities that would result in significant environmental impacts. The Project would not result in a significant impact on the provision of police protection services.

Schools

The Project is a school, providing additional high school services to an area well served by other existing elementary school and middle school within the EFC charter school system. All impacts related to the provision of this new school are fully addressed in this CEQA Analysis.

Parks and Recreation Services

The Project is located in the Fruitvale Planning Area, which is underserved by parks and open space, providing well below the adopted citywide goal of 4.0 acres of local-serving parkland per 1,000 residents. According to the Open Space, Conservation and Recreation (OSCAR) Element of the General Plan, the Fruitvale Planning Area has the lowest per capita parks and open space acreage of all of the City's planning areas. Whereas the new student population would increase local demand for parks and recreational services, the majority of students anticipated to attend school at the Project site will be from the surrounding community (see the Transportation analysis of VMT, which indicates an average VMT per student of only approximately 6.5 miles), and therefore represent an existing population. The school will not add a substantial increment of new student population to this area, but provide a new choice for local schooling at the high school level.

The Project's proposed outdoor play area (which would occur on outdoor asphalt) would relieve to some degree the demand for park and recreational facilities in the severely underserved Fruitvale Planning Area. However,

these facilities will be located in an area subject to substantial noise from the freeway, adjoining roadways, the rail line and BART. With the addition of the Phase II multi-purpose room, which includes an indoor gymnasium, the Project will provide new, acceptable recreational space available to the students at this school. The Project would not require the construction of new public parks or recreation facilities, or physically altered public parks or recreation facilities (other than those included as part of the Project) that would result in significant environmental impacts. The Project would not result in a significant impact on the provision of parks or recreational services.

Standard Conditions of Approval

The Project would be subject to the following City of Oakland SCA, intended to address the cumulative demands on public services.

SCA Services-1, Capital Improvements Impact Fee (applies to all projects subject to the Capital Improvements Impact Fee Ordinance per OMC chap. 15.74): The project applicant shall comply with the requirements of the City of Oakland Capital Improvements Fee Ordinance (chapter 15.74 of the Oakland Municipal Code).

When Required: Prior to issuance of building permit

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

Transportation

<u>Would the Project:</u>	<u>LUTE EIR Findings</u>	<u>Relationship to LUTE EIR Findings</u>		<u>Project Conclusions</u>	
		<u>Equal or Less Severe</u>	<u>New or Substantial Increase in Severity</u>	<u>Applicable SCAs or Mitigation Measures</u>	<u>Level of Significance</u>
a) Cause substantial additional VMT per capita, per service population, or other appropriate efficiency measure?	NA	■	□	SCA Transportation-1, Transportation and Parking Demand Management	LTS
b) Conflict with a plan, ordinance, or policy addressing the safety or performance of the circulation system, including transit, roadways, bicycle lanes, and pedestrian paths (except for automobile level of service or other measures of vehicle delay)?	LTS	■	□	SCA Transportation-2, Transportation Impact Fee SCA Transportation-3, Bicycle Parking SCA Transportation-4, PEV-Capable Parking Spaces SCA Transportation-5, ADA-Accessible Spaces SCA Transportation-6, Railroad Crossings SCA Transportation-7, Construction Activity in the Public Right-of-Way	LTS with SCAs
c) Substantially induce additional automobile travel by increasing physical roadway capacity in congested areas i.e., adding new mixed-flow lanes or adding new roadways to the network?	NA	■	□	SCA Transportation-8, Transportation Improvements	LTS

A Transportation Impact Review (TIR) for the proposed EFC Latitude High School has been prepared as part of the City's review of this project:

- Kittelson Associates, Inc., *EFC Derby Avenue Charter School Project Transportation Impact Review*, March 13, 2021 (see **Appendix N**)

The following information is derived from that Transportation Impact Review, which analyzes the transportation effects of the Project, including:

- trip generation and distribution for the proposed high school
- traffic operations analysis for six intersections surrounding the Project location
- active transportation facilities and transit access
- crash history analysis, utilizing the latest five-year crash dataset from the Statewide Integrated Traffic Records System (SWITRS)
- at-grade railroad crossing safety evaluation
- transportation and parking demand management

- parking needs assessment and existing conditions, and
- impacts in relation to CEQA regulations, including Vehicle Miles Traveled (VMT)

Those portions of the TIR that pertain to the CEQA thresholds identified above are summarized in the following CEQA analysis of the transportation effects of the Project.

Trip Generation

Trip generation rates published in the Institute of Transportation Engineers (ITE) *Trip Generation Manual; 10th Edition* (2017) were used to estimate the number of trips the Project would generate. *Trip Generation* provides rates for several land use types, and this analysis uses rates associated with Land Use Code #530 for high schools, which are shown in **Table 15**. These rates account for trips made by both students and staff members, and represent the peak hour of generator trips rather than peak hour on adjacent street traffic, in order to reflect school-related conditions.

Table 15: ITE Trip Generation Rates							
ITE Land Use	Daily Rate	AM Peak Hour			PM Peak Hour		
		Rate	In %	Out %	Rate	In %	Out %
High School (530)	2.03	0.55	68%	32%	0.33	32%	68%

Source: ITE Trip Generation Manual, 10th Edition (2017)

As presented in Notes:

ITE Trip Generation (10th Edition) land use category 530 (High School in General Urban/Suburban Setting):

Daily: $T = 2.03 * (X)$

AM Peak Hour: $T = 0.55 * (X)$ (68% in, 32% out)

PM Peak Hour: $T = 0.33 * (X)$ (32% in, 68% out)

Mode share for Project trips is based on the mode split adjustments provided in the Transportation Impact Review Guidelines (TIRG).⁵⁹ The Project is in an area with population density greater than 10,000 people per square mile and it is located less than 0.5 mile from a BART or Amtrak station. The following **Table 16** presents the Project’s estimated person-trips generated by transportation mode.

⁵⁹ For projects within a half mile of a BART station, 53.1% are estimated to be motor vehicle trips, 29.7% transit trips, 5.1% bicycle trips, and 10.5% walking trips.

Table 16: Trip Generation by Transportation Mode

ITE	Size/ Unit	Trip Type	Daily Total	AM Peak Hour			PM Peak Hour		
				In	Out	Total	In	Out	Total
530 (High School)	400 Students	Motor Vehicle Trips (53.1%)	432	80	38	118	22	48	70
		Transit Trips (29.7%)	242	45	21	66	13	27	40
		Bike Trips (5.1%)	42	8	4	12	3	5	8
		Walk Trips (10.5%)	<u>86</u>	<u>17</u>	<u>7</u>	<u>24</u>	<u>5</u>	<u>9</u>	<u>14</u>
		Project Generated Trips	802	150	70	220	43	89	132

Source: ITE Trip Generation Manual, 10th Edition (2017); City of Oakland Transportation Impact Review Guidelines

Note: The trip generation rate accounts for trips made by students and staff.

Per Oakland’s TIRG for projects within a half mile of a BART station (including the Project), mode split is assigned to the ITE Trip Generation, resulting in the following percentages: 53.1% vehicle trips, 29.7% transit trips, 5.1% bicycle trips, and 10.5% walking trips. Remaining trips are assumed to be internal or other.

As shown above, the Project would generate a total of 220 AM peak hour person trips, 132 PM peak hour person trips, and 802 daily person trips. Of the 220 AM peak hour person trips, 118 would be vehicle trips, 66 would be transit trips, 24 would be walk trips, and 12 would be bike trips. Of the 132 PM peak hour person trips, 70 would be vehicle trips, 40 would be transit trips, 14 would be walk trips, and 8 would be bike trips. The traffic analysis performed for this Project assumed all of these trips would be completed in motor vehicles in order to present a conservative vehicle operations analysis.

Trip Distribution

The Project sponsor has provided location data for students who currently attend the Epic Middle School and the Latitude High School (at its current location at the Merritt Community College campus).⁶⁰ The incoming student class at the Project is expected to primarily be comprised by students that currently attend these other EFC schools. For the purpose of this analysis, the future student population demographic of the Project is represented by the current 7th and 8th grade students attending Epic Middle School, and the current 9th and 10th grade students attending Latitude High School. The home addresses of these 321 students (identified by longitude and latitude to shield personal information) reflect the assumed origin of student trips to the Project at opening, and is assumed to be reflective of future conditions as well. These assumptions are used for the following VMT analysis.

Vehicle Miles Traveled (VMT)

LUTE EIR Conclusions

At the time the LUTE EIR was prepared and certified, the City relied in a variety of level of service (LOS) thresholds to assess potential traffic impacts. Relying on LOS thresholds, the LUTE EIR concluded that new development would result in the degradation of the level of service on several roadway segments and intersections, and that these impacts would be significant and unavoidable. Since that time, CEQA Guidelines and City CEQA thresholds have changed, such that vehicle miles traveled (VMT) metrics are now used to measure potential transportation impacts, rather than LOS thresholds. The LUTE EIR did not address VMT as a CEQA threshold.

⁶⁰ The term “current” as used in this analysis represents conditions prior to the Covid-19 pandemic, when students were required to attend remote learning, principally from home

Project Analysis

The thresholds of significance used by the City of Oakland are intended to determine whether land uses of similar functions to residential, office or retail use would result in significant impacts as it relates to VMT. Under these thresholds, the Project's proposed land use (K-12 school) is treated as an office use, and the following threshold of significance applies to the Project:⁶¹

- For office projects (used here as a proxy for a high school), the Project would cause substantial additional VMT if it exceeds the existing regional VMT per employee, minus 15 percent.

VMT Screening

A VMT screening analysis was conducted to assess whether the Project meets the City's established screening criteria for those types of projects that are assumed to meet this thresholds, and therefore result in a less than significant VMT impact. Screening criteria include small projects, projects that are located within a low-VMT area, and projects that are located near a major transit stop or existing stop along a high-quality transit corridor. The results of the VMT screening analysis for the Project indicate the following:

- The Project would generate more than 100 daily vehicle trips (see Table 16, above) and would not meet the Small Project screening criteria. The Project is estimated to generate 432 net new daily vehicle trips, 118 net new weekday a.m. peak hour vehicle trips, and 70 net new weekday p.m. peak hour vehicle trips. Because the Project would generate more than 100 daily vehicle trips, the Project would not meet the established screening criteria for a small size project.
- The Project is not located within a low-VMT area, and would not meet the Low VMT screening criteria. The average daily VMT per worker in the Traffic Analysis Zone (TAZ) where the Project is located (TAZ 926) is 21.2 miles. The regional average daily VMT per worker is 23.2 miles, and the threshold (15 percent below the regional average) is 19.7 miles. The daily VMT per worker for land uses within TAZ 926 (including the Project site) exceeds the regional average minus 15%, so it does not screen out for being located in a low-VMT area.
- The Project is located within one-half mile of an existing major transit stop or existing stop along a high-quality transit corridor, and meets the Near Transit Station screening criteria. The Project is located 0.25 miles from the Fruitvale BART station (see **Figure 16**). The Project meets the screening criteria for being located within 0.5 mile of an existing major transit stop or existing stop along a high-quality transit corridor, and its relative impact related to VMT is presumed to be less than significant.

⁶¹ Thresholds provided by the City of Oakland Transportation Impact Review Guidelines (TIRG)

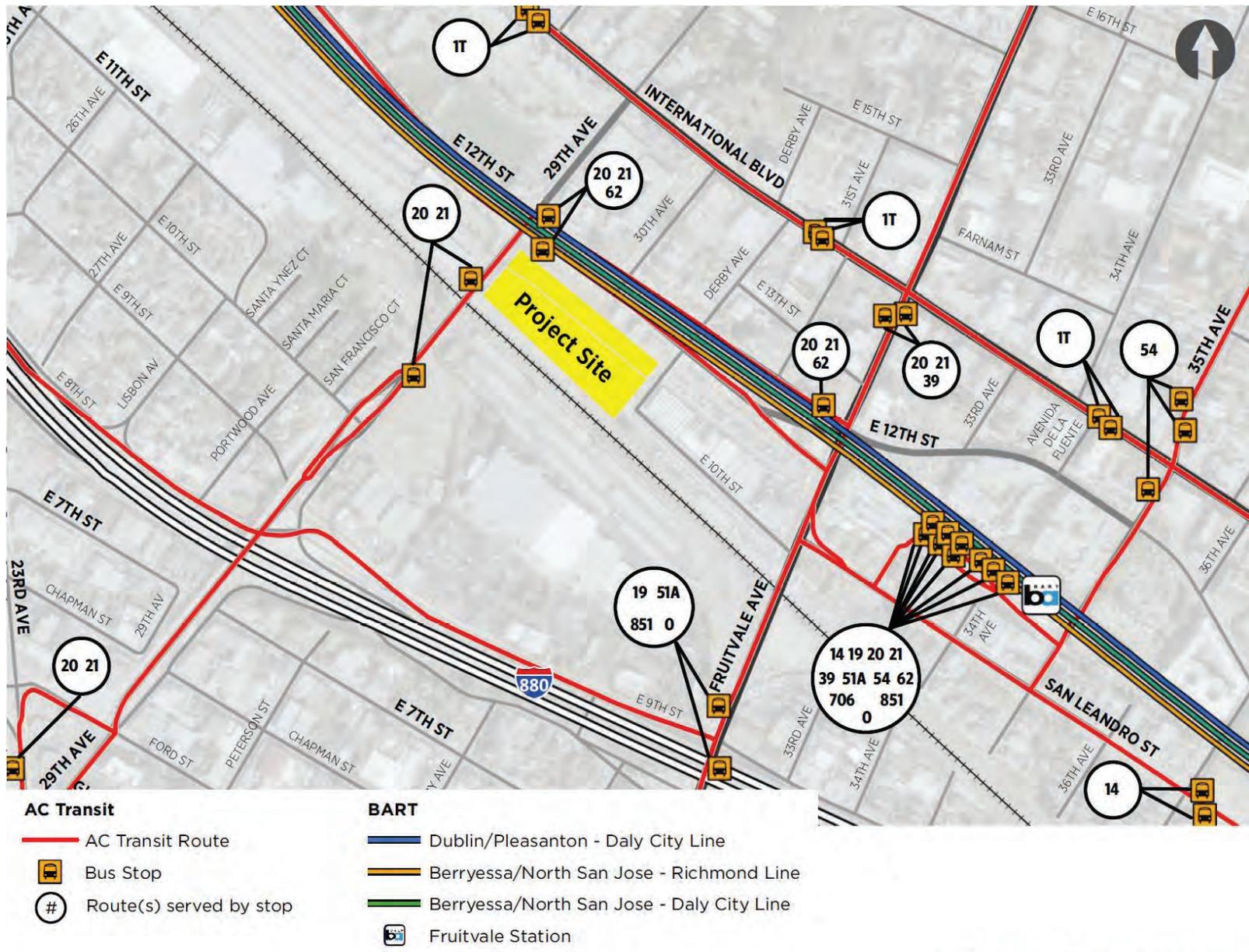


Figure 16
Existing Transit Facilities in the Vicinity

Project-Specific VMT Analysis

Given that the TAZ data presented above for VMT screening is based on modeled averages, and more detailed student home location data is available, a Project-specific analysis was conducted to quantify the VMT per student for the Project. For a period of time prior to the Covid-19 pandemic and the stay-at-home orders, Latitude High School had been operating on the campus of Merritt Community College. Therefore, this analysis presents VMT metrics for two scenarios:

- a No Project scenario which assumes Latitude High School continues to operate at Merritt Community College, and
- a Project scenario assuming that Latitude High School is relocated to the Project site

This analysis reflects expected VMT per student for the year 2022 school year, when Latitude High School would fully occupy the existing buildings at the Project site, and will include grades 9 through 12.⁶² The trip distribution used in the VMT analysis assumes that incoming classes will be primarily comprised of current 7th and 8th grade students from Epic Middle School, and current 9th and 10th grade students from Latitude High School.

Daily VMT per student was calculated for each scenario using the following equation:

$$\text{Daily VMT per student} = \frac{\text{Average trip length (miles)} \times \text{Daily trips}}{\text{Student enrollment}}$$

Where:

Average Trip Length: Average one-way driving distances between students’ home addresses and school sites. Trip lengths were calculated using an ArcGIS Online tool.

Daily trips: Daily trip generation of the Project, calculated using ITE trip generation rates for Land Use 530 (High School).

Table 17 provides the daily VMT per student for the two scenarios, based on this equation. Detailed VMT calculations and maps are provided in **Appendix N**.

Table 17: Comparative Daily VMT per Student, by School Location					
School Location	Average Trip Length (miles)	Trip Generation Rate	Student Population Sample Size	Daily VMT / Student	City of Oakland Threshold
Merritt Community College	5.6	2.03	321	11.4	19.7
Project Specific (at the Project Site)	3.2	2.03	321	6.5	19.7

Sources: Kittelson & Associates, 2021
 ITE Trip Generation Manual, 10th Edition (2017)
 City of Oakland, Bureau of Planning – Strategic Planning Division

⁶² As of the 2020 school year, Latitude High School was comprised of 9th and 10th graders, and plans for the Project are to add one grade level per year, through the 2022 school year

As shown in the table above, the VMT per student under both scenarios is below the identified threshold for VMT per employee as used by the City of Oakland. If Latitude High School were to remain operating at Merritt Community College, the daily VMT rate per student under that scenario would be 11.4, which is approximately 42% lower than the VMT threshold. Under the scenario where Latitude High School is relocated to the Project site (the Project), the resulting VMT rate per student is 6.5, which is approximately 67% below the threshold. In comparison to the location at Merritt Community College, the location on the Derby Avenue property (the Project site) shows a decrease in daily VMT per student of 4.9 miles. The Project has a less than significant VMT-related impact, and the Project site would further reduce VMT as compared to the Merritt Community College location.

Standard Conditions of Approval

The Project would be subject to the following City of Oakland SCAs intended to reduce vehicle trips and to address the effects of new vehicle trips on the surrounding roadway network.

SCA Transportation-1, Transportation and Parking Demand Management (applies to all projects generating 50 or more net new a.m. or p.m. peak hour vehicle trips)

- a) **Transportation and Parking Demand Management (TDM) Plan Required:** The project applicant shall submit a Transportation and Parking Demand Management (TDM) Plan for review and approval by the City. The goals of the TDM Plan shall be the following:
 - i. Reduce vehicle traffic and parking demand generated by the project to the maximum extent practicable.
 - ii. Achieve the following project vehicle trip reductions (VTR); Projects generating 50-99 net new a.m. or p.m. peak hour vehicle trips: 10 percent VTR, Projects generating 100 or more net new a.m. or p.m. peak hour vehicle trips: 20 percent VTR
 - iii. Increase pedestrian, bicycle, transit, and carpool/vanpool modes of travel. All four modes of travel shall be considered, as appropriate.
 - iv. Enhance the City's transportation system, consistent with City policies and programs.
- b) The TDM Plan should include the following:
 - i. Baseline existing conditions of parking and curbside regulations within the surrounding neighborhood that could affect the effectiveness of TDM strategies, including inventory of parking spaces and occupancy if applicable.
 - ii. Proposed TDM strategies to achieve VTR goals.
 - iii. For employers with 100 or more employees at the subject site, the TDM Plan shall also comply with the requirements of Oakland Municipal Code Chapter 10.68 Employer-Based Trip Reduction Program.
- c) Mandatory TDM strategies must be incorporated into a TDM Plan based on a project location or other characteristics. When required, these mandatory strategies should be identified as a credit toward a project's VTR.
- d) The TDM Plan shall indicate the estimated VTR for each strategy, based on published research or guidelines where feasible. For TDM Plans containing ongoing operational VTR strategies, the Plan shall include an ongoing monitoring and enforcement program to ensure the Plan is implemented on an ongoing basis during project operation. If an annual compliance report is required, as explained below, the TDM Plan shall also specify the topics to be addressed in the annual report.

When Required: Prior to approval of planning application

Initial Approval: Bureau of Planning

Monitoring/Inspection: N/A

- e) *TDM Implementation – Physical Improvements*: For VTR strategies involving physical improvements, the project applicant shall obtain the necessary permits/approvals from the City and install the improvements prior to the completion of the project.

When Required: Prior to building permit final

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

- f) *TDM Implementation – Operational Strategies*: For projects that generate 100 or more net new a.m. or p.m. peak hour vehicle trips and contain ongoing operational VTR strategies, the project applicant shall submit an annual compliance report for the first five years following completion of the project (or completion of each phase for phased projects) for review and approval by the City. The annual report shall document the status and effectiveness of the TDM program, including the actual VTR achieved by the project during operation. If deemed necessary, the City may elect to have a peer review consultant, paid for by the project applicant, review the annual report. If timely reports are not submitted and/or the annual reports indicate that the project applicant has failed to implement the TDM Plan, the project will be considered in violation of the Conditions of Approval and the City may initiate enforcement action as provided for in these Conditions of Approval. The project shall not be considered in violation of this Condition if the TDM Plan is implemented but the VTR goal is not achieved.

When Required: Ongoing

Initial Approval: Department of Transportation

Monitoring/Inspection: Department of Transportation

Project Plans in Furtherance of the SCAs

Pursuant to SCA Transportation-1, a TDM Plan has been prepared by the CEQA traffic consultant, and recommended for the Project (see **Appendix O**).⁶³ This recommended TDM Plan is designed to reduce the number of vehicle trips generated by the Project by at least 20 percent; provide location-dependent pedestrian network improvements; increase pedestrian, bicycle, transit and carpool modes of travel; and enhance the City's transportation system. Implementation of this TDM plan would also further reduce VMT generated by the Project.

The TDM Plan comprises those applicable TDM measures that are indicated as being mandatory per the City of Oakland's Transportation Impact Review Guidelines, as well as additional measures that have been recommended based on their ability to contribute toward meeting the required 20 percent vehicle trip reduction requirement for the Project. However, the non-mandatory portion of the TDM plan is flexible, and the effectiveness of the TDM Plan will be evaluated over time as part of a required monitoring and reporting program. Other non-mandatory strategies can be substituted or altered throughout the life of the Project if alternate measures are preferable or deemed more effective.

Mandatory TDM Measures in furtherance of the SCA per City Transportation Impact Review Guidelines

A summary of the mandatory physical improvement measures identified in the TDM Plan, based on an analysis of the Project's location relative to transit, pedestrian and bicycle infrastructure deficiencies and the Project's incremental demands, include the following:

⁶³ Kittelson Associates, Inc., EFC Derby Avenue Charter School Project Transportation Impact Review TDM Plan, Chapter 4, May 6, 2021

TDM Improvement Measure 1.1 - Bus Shelters (required where a bus stop with no shelter is located within the project frontage, or when a project is located within 0.10 miles of a flag stop with 25 or more boardings per day): The project sponsor shall work with the City and AC Transit to determine the feasibility of installing bus shelters for the following bus stops:

- a) 29th Avenue/north of railroad crossing
- b) 29th Avenue/north of 10th Street
- c) 12th Street/east of 29th Avenue (south side)
- d) 12th Street/east of 29th Avenue (north side)

If construction of the bus shelters is feasible and if these stops have 25 or more passenger boardings per day, the project sponsor shall be responsible for installation of these bus shelters.

TDM Improvement Measure 1.2 – Pedestrian Amenities (always required): The project sponsor shall install amenities such as lighting; pedestrian oriented green infrastructure, trees, or other greening landscape; and trash receptacles per the Pedestrian Master Plan and any applicable streetscape plan along the Project frontages.

TDM Improvement Measure 1.3 – Pedestrian Infrastructure (always required): The curb ramps located at adjacent intersections have recently been updated and appear to meet City requirements. All intersections have curb ramps with truncated domes. However, the project sponsor shall coordinate with the California Public Utilities Commission (CPUC), Union Pacific, and the City to determine existing deficiencies and potential improvements for the pedestrian crossing of the railroad tracks on 29th Avenue, south of the Project driveway. In the interim, the school shall dedicate a staff member to act as a crossing guard to ensure safe crossing for students (see also Rail Crossing analysis, below).

TDM Improvement Measure 1.4 – Roadway Paving and Lane Striping (typically required): The project sponsor shall work with the City to determine if paving, lane striping, or restriping will be required in the vicinity of the project.

TDM Improvement Measure 1.5: Pedestrian Crossing Improvements (required when identified as an improvement within a site analysis or operations analysis): The project sponsor shall restripe the existing crosswalks in yellow to indicate a school crossing per the California MUTCD at the following locations:

- a) 12th Street / Derby Avenue
- b) 29th Avenue / 12th Street
- c) 29th Avenue / Food Max / Animal Services Driveway

TDM Improvement Measure 1.6: Relocating Bus Stops to Far Side (required where a project is located within 0.10 mile of any active bus stop that is currently near side): The project sponsor shall work with Alameda Contra Costa Transit District or AC Transit and the City to determine if the near side bus stop should be relocated to the far side at the following locations:

- a) westbound approach to 12th Street/29th Avenue
- b) northbound approach to 29th Avenue/Food Max/Animal Services Driveway

Additional Recommended TDM Measures

Additional TDM measures are recommended to help achieve the required 20% reduction in vehicle trips and other goals of the TDM Plan as required pursuant to SCA Transportation-1, including the following:

- Designate and retain a TDM Program Coordinator to be responsible for implementation, monitoring and reporting of the TDM Plan. The TDM Coordinator would facilitate site inspections by City staff to verify

that the standards specified as conditions of approval are met. This person(s) can be a school employee or a third party provider that runs the program.

- Having accessible, secure, and convenient places to store bicycles encourages residents to bike to and from the project site. The Project shall include both long-term and short-term bicycle parking on-site, as well as a bike repair station. The Project should provide short-term and long-term bicycle parking facilities to meet maximum estimated demand. The number of bicycle parking spaces should be equitably adjusted (increased) based on observed demand.
- The Project should provide subsidized/discounted daily or monthly public transit or bike share passes. The VMT reduction calculation assumes the Project would provide the equivalent of a \$1.50 per trip subsidy for these modes.
- The Project should develop and implement a ridesharing or carpooling program for students. The ridesharing “School Pool” program will help to match parents to transport students to/from campus. The VMT reduction calculation assumes aggressive implementation with a 35 percent adoption rate.
- Information sharing and marketing are important components to successful vehicle trip reduction strategies. The Project should develop and implement a vehicle trip reduction program. Vehicle trip reduction marketing elements may include transit information packets and programs, such as the guaranteed ride home program, pre-tax commuter benefits, and on-site sales of transit passes, to support sustainable modes. The appointed transportation coordinator will provide trip planning assistance and provide information on transportation options for students and staff.

The vehicle trip reductions achieved by this TDM Plan will depend on how the measures are implemented, and the level of adoption or aggressiveness of the strategies. Based on methods provided by the California Air Pollution Control Officers Association (CAPCOA), implementation of the selected TDM measures are calculated to potentially achieve as much as a 35 percent reductions in vehicle trips to and from the school, as shown in **Table 18**.

Table 18: TDM Plan Trip Reduction Estimate

TDM Measure	Range of Vehicle Trip Reduction	Estimated Vehicle Trip Reduction
TDM Coordinator	-	-
Bike Parking	0.63%	0.63%
Transit and Bicycle Subsidies	0.3% to 20%	12.9%
School Pool Program	7.2% to 15.8%	15.8%
Pedestrian Network Improvements	Up to 2%	2.0%
Vehicle Trip Reduction Marketing	0.8% to 4%	4.0%
All Strategies:		35.33%

Source: Kittelson Associates, April 2021 (see Appendix O)

The Project sponsor is required to submit an annual compliance report for review and approval by the City. If the reports indicates a failure to achieve at least the 20 percent vehicle trip reduction goal, staff will work with the Project sponsor to find ways to meet their commitments and achieve the trip reduction goals.

Conflicts with a Program, Plan, Ordinance or Policy Addressing the Circulation System

LUTE EIR Conclusions

The LUTE EIR concluded that future development pursuant to the LUTE would primarily be urban infill that would generate relatively less vehicle traffic and relatively greater use of transit and other alternative travel means than comparable development in less dense regions of the Bay Area. The increased transit demand was not considered a significant impact and no mitigation measures were identified.

Project Analysis

The Project would not conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities. This would be considered a less than significant impact. The Project includes the renovation of former industrial buildings to accommodate a relocated charter high school, and there is nothing that is fundamental about the Project that would conflict with a plan, ordinance or policy addressing the safety or performance of the circulation system. Similarly, there is nothing fundamental about the Project that would increase the physical roadway capacity in a congested area (the Project does not add any new mixed-flow lanes or new roadways to the circulation network. All improvements associated with the Project would be made within the Project site, with no planned changes to the surrounding circulation system. The Project would not cause conflicts with proposed programs or plans to improve the circulation system for all users, including transit passengers, vehicles, bicyclists or pedestrians.

Consistency with General Plan Transportation Policy

The primary policies addressing the City's overall circulation system are those of the City of Oakland's General Plan Land Use and Transportation Element (LUTE). The LUTE includes seven overarching transportation goals, and the Project would not conflict with any of them, as discussed below:

- *Capitalize on our Location:* Take full advantage of Oakland's position as a major West Coast transportation hub.

The Project does not interfere with Oakland's goal to capitalize on its location and become a regional transportation hub. The Project's location is easily accessed via the existing regional transportation network, with close proximity to freeways, arterial roadways and transit stops, including the Fruitvale BART station.

- *Integrate Land Use and Transportation Planning:* Integrate transportation and land use planning at the neighborhood, city, and regional levels by developing transit-oriented development, where appropriate, at transit and commercial nodes.

The Project's location within a dense urban area within the City supports the City's goal of an integrated transportation network. The Project does not interfere with any planned improvements to the transportation network.

- *Reduce Congestion:* Reduce congestion and improve traffic flow by developing and integrated road system and traffic demand management system that provides an appropriate mix of mobility and accessibility throughout the city.

Based on the Project's relatively small trip generation (see **Appendix N**), the Project is not expected to significantly impact congestion or delay on the roadway network. Its location near high-capacity transit provides students with multiple options to reduce vehicle trips and reduce congestion.

- *Promote Alternative Transportation Options:* Reduce dependency on the automobile by providing facilities that support use of transportation modes.

The Project is located near several local transit stops and the Fruitvale BART station, and is integrated into the City's existing bicycle and pedestrian networks. With such close proximity to high-capacity transit, approximately 53% of Project-related trips are expected to be taken by car, supporting the goal of reducing dependency on the automobile.

- *Find Funding:* Program and provide adequate funding for needed transportation facilities and services, and related investments.

The Project does not interfere with funding mechanisms for needed transportation improvements, and the Project sponsors will work with the City and other appropriate agencies to determine the Project's responsibility for implementing needed improvements.

- *Safety:* Provide safe streets.

The Project will assist its students with safe and accessible routes to and from school (see further discussion of Rail Crossing, below). The Project will dedicate a crossing guard at East 12th Street/29th Avenue; it will implement infrastructure improvements including restriping existing crosswalks to indicate school crossings; and the Project sponsors will coordinate with the California Public Utilities Commission, Union Pacific Railroad and the City of Oakland to perform a diagnostic study of nearby rail crossings and to assist in improving these railroad crossings (see further discussion, below).

Improve the Environment. Improve air quality and reduce exposure to traffic noise.

- The Project's urban context allows for a wide range of travel modes to and from school, which supports the City's goal to improve air quality and reduce traffic noise.

The Project would not implement any off-site improvements that would conflict with the City's transportation programs and plans, and would not conflict with any policies that govern the local circulation system. The Project would not result in a significant impact, and no mitigation measures would be required.

Standard Conditions of Approval

The Project would be subject to the following City of Oakland SCAs intended to ensure consistency with City transportation-related policies and ordinances.

SCA Transportation-2, Transportation Impact Fee (applies to all projects subject to the Transportation Impact Fee Ordinance, per OMC chap. 15.74): The project applicant shall comply with the requirements of the City of Oakland Transportation Impact Fee Ordinance (chapter 15.74 of the Oakland Municipal Code).

When Required: Prior to issuance of building permit

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

SCA Transportation-3, Bicycle Parking: The project applicant shall comply with the City of Oakland Bicycle Parking Requirements (chapter 17.118 of the Oakland Planning Code). The project drawings submitted for construction-related permits shall demonstrate compliance with the requirements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

SCA Transportation-4, PEV-Capable Parking Spaces (applies to residential and nonresidential projects with 11 or more on-site parking spaces): The applicant shall submit, for review and approval of the Building Official, plans that show the location of inaccessible conduit to supply PEV-capable parking spaces per the

requirements of Chapter 15.04 of the Oakland Municipal Code. Building electrical plans shall indicate sufficient electrical capacity to supply the required PEV-capable parking spaces.

When Required: Prior to Issuance of Building Permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

SCA Transportation-5, ADA-Accessible Spaces (as applies to public buildings or public accommodations): The applicant shall submit, for review and approval of the Building Official, plans that show the location of future accessible EV parking spaces as required under Title 24 Chapter 11B Table 11B-228.3.2.1, and specify plans to construct all future accessible EV parking spaces with appropriate grade, vertical clearance, and accessible path of travel to allow installation of accessible EV charging station(s).

When Required: Prior to Issuance of Building Permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

With implementation of SCAs Transportation-2 through Transportation-5, the Project would be consistent with programs, plans, ordinances and policies addressing the circulation system (including transit, roadway, bicycle, and pedestrian facilities), and impacts would be less than significant.

Rail Crossings

LUTE EIR Conclusions

The LUTE EIR did not specifically address potentially hazardous conditions associated with railroad crossings as part of its environmental review.

Project Analysis

There is one existing railroad crossing on 29th Avenue approximately 30 feet southwest of the Project's proposed exit driveway on 29th Avenue, and one existing railroad crossing on Fruitvale Avenue approximately 800 feet southeast of the Project's proposed entrance driveway at East 10th Street/Derby Avenue (see **Figure 17**). These crossings are defined as public highway, at-grade crossings. The primary railroad company that uses these crossings is Union Pacific Railroad (UP), and Amtrak is considered the secondary operating railroad company that also uses these crossings. According to the Federal Railroad Administration's inventory database, there are an estimated 10 trains per day (between 6 a.m. and 6 p.m.) and 10 trains per night (between 6 p.m. and 6 a.m.) that use these crossings, and less than one of these trains (on average) is a passenger train. The typical speed for a train over these crossings ranges from 30 to 60 mph, with the maximum timetable speed being 79 mph. The two crossings were reviewed for compliance with California Manual on Uniform Traffic Control Devices (CA-MUTCD), as follows.

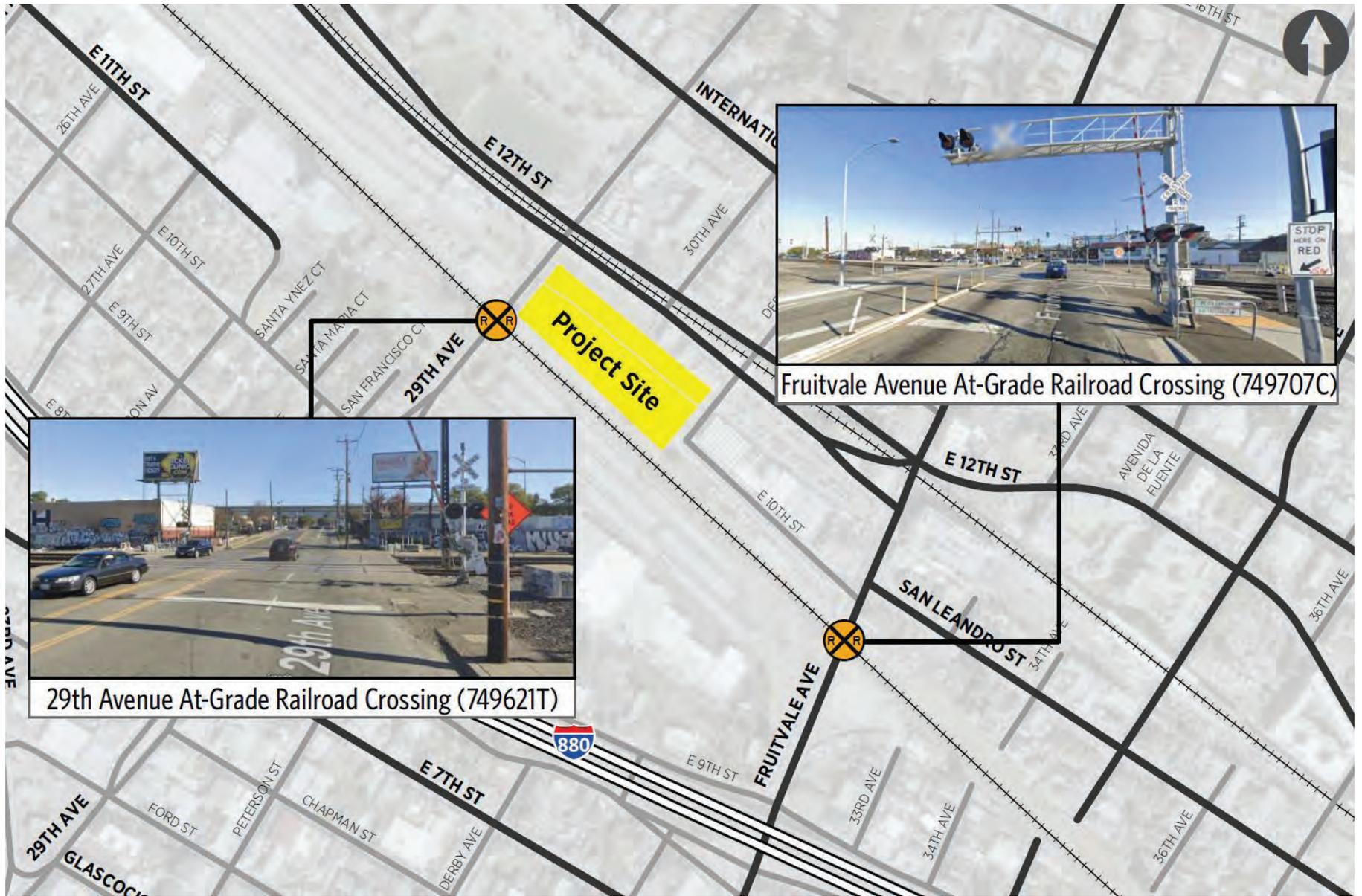


Figure 17
Existing Rail Crossings at 29th Avenue and at Fruitvale

Source: Kittelson Associates, Inc., 2021

Passive traffic control devices associated with the crossing at 29th Avenue include required pavement markings (stop lines and railroad crossing signals) and advance warning signs. Active control devices include two roadway gate arms in a two-quadrant gate configuration, two mast-mounted flashing lights with black lights and LED, and a total of four flashing light pairs. Traffic signal interconnections with advance pre-emption are provided. The path of travel for people crossing the tracks is within the automatic gate arms, and physical barriers are present to prevent people from walking across the tracks when a train is approaching. However, this crossing lacks ADA compliant sidewalks as the sidewalk does not continue through the crossing, and detectable warning surfaces are not present.

Passive traffic control devices associated with the crossing at Fruitvale include required pavement markings (stop lines and railroad crossing signals) and channelization devices/medians on all approaches. Active traffic control devices include two roadway gate arms in a two-quadrant gate configuration, two cantilevered or bridged flashing LED light structures over the traffic lane, and four mast-mounted flashing lights with black lights and LED, and a total of 13 flashing light pairs. Traffic signal interconnections with advance pre-emption and highway traffic pre-signals are also provided, and ADA compliant sidewalks are provided. However, the path of travel for people crossing the tracks is around the outside of the automatic gate, and no physical barriers are present to prevent people from walking across the tracks when a train is approaching.

The Federal Railroad Administration (FRA) has designed an accident prediction tool that estimates the probability that a collision may occur between a highway vehicle and a train over a one-year period. The accident prediction data is based upon historical crash data from the past five years at the crossing, and the crossing's characteristics. This accident prediction tool forecast a 1.6 percent annual probability that a collision would occur at the crossing on 29th Avenue, and a 1.0 percent annual probability that a collision will occur at the crossing on Fruitvale Avenue.

The Project will add an increment of additional vehicle, bicycle and pedestrian traffic at these rail crossings.

Standard Conditions of Approval

The Project would be subject to the following City of Oakland SCA intended to address potentially dangerous crossing conditions at the at-grade crossings.

SCA Transportation-6, Railroad Crossings (applies to all projects located within ¼-mile of an at-grade railroad crossing, and that generate substantial vehicle, bicyclist and/or pedestrian traffic, and a Transportation Impact Study otherwise required to be prepared for the project identifies potentially substantially dangerous crossing conditions at the at-grade crossing caused by the project): The project applicant shall submit for City review and approval a Diagnostic Review to evaluate potential impacts to at-grade railroad crossings resulting from project-related traffic. In general, the major types of impacts to consider are collisions between trains and vehicles, trains and pedestrians, and trains and bicyclists. The Diagnostic Review shall include specific traffic elements, such as roadway and rail description, accident history, traffic volumes (all modes, including pedestrian and bicyclist crossing movements), train volumes, vehicular speeds, train speeds, and existing rail and traffic control. Where the Diagnostic Review identifies potentially substantially dangerous crossing conditions at at-grade railroad crossings caused by the project, measures relative to the project's traffic contribution to the crossings shall be applied through project redesign and/or incorporation of the appropriate measures to reduce potential adverse impacts at the crossings. These measures may include, without limitation, the following:

- a. Installation of grade separations at crossings, i.e., physically separating roads and railroad tracks by constructing overpasses or underpasses
- b. Improvements to warning devices at existing highway rail crossings that are impacted by project traffic
- c. Installation of additional warning signage

- d. Improvements to traffic signaling at intersections adjacent to crossings, e.g., signal preemption
- e. Installation of median separation to prevent vehicles from driving around railroad crossing gates
- f. Where sound walls, landscaping, buildings, etc. would be installed near crossings, maintaining the visibility of warning devices and approaching trains
- g. Prohibition of parking within 100 feet of the crossings to improve the visibility of warning devices and approaching trains
- h. Construction of pull-out lanes for buses and vehicles transporting hazardous materials
- i. Installation of vandal-resistant fencing or walls to limit the access of pedestrians onto the railroad right-of-way
- j. Elimination of driveways near crossings
- k. Increased enforcement of traffic laws at crossings
- l. Rail safety awareness programs to educate the public about the hazards of highway-rail grade crossings

Any proposed improvements must be coordinated with California Public Utility Commission (CPUC) and affected railroads and all necessary permits/approvals obtained, including a GO 88-B Request (Authorization to Alter Highway Rail Crossings). The project applicant shall implement the approved measures during construction of the project.

When Required: Ongoing until completion, with substantial progress to be shown in the annual TDM monitoring and compliance reports

Initial Approval: Bureau of Planning and DOT

Monitoring/Inspection: Bureau of Building, Bureau of Planning and DOT

Project Recommendations in Furtherance of SCAs

To further implement SCA Transportation-6, the following Project-specific requirements for the Project have been identified:

Recommendation Transportation-6-1: Railroad Crossing Survey: The Project applicant shall retain a transportation consultant to conduct both visual and written surveys of how many of the school’s population cross (in vehicles or walking or biking) the 29th Avenue Railroad crossing. The surveys shall be conducted once a quarter for the first year the school is open, and once a semester thereafter, until a final Rail Crossing Diagnostic Review is completed. The results of the survey shall be reported in the annual TDM compliance report. The purpose of the survey is to determine the Project’s contribution of trips at the railroad crossing, and possible railroad safety improvements. Any identified improvements must be coordinated with CPUC and affected railroads, and all necessary permits and approvals obtained, including a GO 88-B Request (Authorization to Alter Highway Rail Crossings).

Recommendation Transportation-6.2: Crossing Guard. Until the recommend improvements from the Diagnostic Review are implemented, the Project sponsor shall dedicate staff members to serve as crossing guards at the 29th Avenue and the Fruitvale Avenue railroad crossings near the Project site, both during the morning and afternoon commute periods (7:30-8:30 a.m. and 3:45-5:45 p.m. and Wednesdays at 1:30 p.m.), to ensure safe crossing for students.

With implementation of SCAs Transportation-6 and the detailed recommendations pursuant to that SCA, the impact of Project’s increased pedestrians, bicycles and vehicles at these rail crossings would be reduced by increasing safety measures as defined by the CPUC and the City at these crossings, and its impact would be reduced to levels considered less than significant.

Roadway Hazards

LUTE EIR Conclusions

The LUTE EIR did not specifically address the threshold question of potentially hazardous roadway conditions or roadway design hazards.

Project Analysis

The Project does not represent an incompatible use for transportation in the area, and is located in close proximity to other operating schools. The Project is not proposing to make off-site improvements to the local transportation network that would result in sharp curves, dangerous intersections, or other hazards.

The design of the Project's proposed internal drive aisles, access driveways and other circulation improvements is required to adhere to the California Department of Education (CDE) guidelines for site design and circulation, and City of Oakland Fire Department's design standards as imposed by the State and City's Fire Department during the building plan check and development review process. Compliance with CDE's established design standards and implementation of signage and pedestrian circulation features as required by the City would ensure that hazards due to the Project's design would not occur, and that placement of the Project's circulation improvements would not create a conflict for motorists, pedestrians or bicyclists traveling within or around the Project site.

Since the Project is not incompatible with surrounding land uses, the Project does not propose any off-site roadway improvements, and all on-site improvements would be required to adhere to the latest design standards for both the City of Oakland and the CDE for preventing hazardous conditions, the Project would not cause a significant roadway hazard impact based on its design.

Standard Conditions of Approval

The Project would be subject to the following City of Oakland SCAs intended to reduce transportation hazards and roadway hazards during construction.

SCA Transportation-7, Construction Activity in the Public Right-of-Way

- a) ***Obstruction Permit Required:*** The project applicant shall obtain an obstruction permit from the City prior to placing any temporary construction-related obstruction in the public right-of-way, including City streets, sidewalks, bicycle facilities, and bus stops.

When Required: Prior to approval of construction-related permit

Initial Approval: Department of Transportation

Monitoring/Inspection: Department of Transportation

- b) ***Traffic Control Plan Required:*** In the event of obstructions to vehicle or bicycle travel lanes, bus stops, or sidewalks, the project applicant shall submit a Traffic Control Plan to the City for review and approval prior to obtaining an obstruction permit. The project applicant shall submit evidence of City approval of the Traffic Control Plan with the application for an obstruction permit. The Traffic Control Plan shall contain a set of comprehensive traffic control measures for auto, transit, bicycle, and pedestrian accommodations (or detours, if accommodations are not feasible), including detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes. The Traffic Control Plan shall be in conformance with the City's Supplemental Design Guidance for Accommodating Pedestrians, Bicyclists, and Bus Facilities in Construction Zones. The project applicant shall implement the approved Plan during construction.

Initial Approval: Department of Transportation
Monitoring/Inspection: Department of Transportation

- c) *Repair of City Streets*: The project applicant shall repair any damage to the public right-of way, including streets and sidewalks, caused by project construction at his/her expense within one week of the occurrence of the damage (or excessive wear), unless further damage/excessive wear may continue; in such case, repair shall occur prior to approval of the final inspection of the construction-related permit. All damage that is a threat to public health or safety shall be repaired immediately.

When Required: Prior to building permit final
Initial Approval: N/A
Monitoring/Inspection: Department of Transportation

With implementation of SCAs Transportation-7, the potential for the Project to result in roadway hazards would be reduced to levels of less than significant.

Emergency Access

LUTE EIR Conclusions

The LUTE EIR did not specifically address issues related to emergency access.

Project Analysis

Emergency response requires a balance between emergency response time and evacuation needs, and other community concerns such as urban design and traffic calming. To address emergency and fire access needs, the Project's site improvements would be required to be designed in accordance with all applicable CDE and the City of Oakland Fire Department design standards for emergency access (e.g., minimum lane width and turning radius). For example, the driveways would be designed to meet the minimum width requirements of City of Oakland Fire Department to allow for the passing of emergency vehicles. Since adequate emergency access will be required per the local fire code and the site plans reviewed by the local fire officials as part of the design review, the Project is not anticipated to result in inadequate emergency vehicle access. Therefore, the Project has a less than significant impact and no mitigation measures would be required.

Other Non-CEQA Requirements and Improvement Measures Pursuant to SCAs

The Transportation Impact Review for the Project (Kittelson Associates, Inc., May 2021 - see **Appendix N**) includes additional information and analysis required pursuant to the City's Transportation Impact Review Guidelines that are not related to current CEQA thresholds. Those portions of the Transportation Impact Review that do not pertain to CEQA thresholds are summarized below, including improvement measures and Project-specific recommendations that address non-CEQA transportation-related effects pertaining to vehicle access and circulation, bicycle access and pedestrian access.

Standard Conditions of Approval

The Project would be subject to the following City of Oakland SCA:

SCA Transportation-8, Transportation Improvements (applies to all projects for which a Transportation Impact Review was prepared during the project review process that contained recommended transportation improvements): The project applicant shall implement the recommended on- and off-site transportation-related improvements contained within the Transportation Impact Review for the project (e.g., signal timing adjustments, restriping, signalization, traffic control devices, roadway reconfigurations,

transportation demand management measures, and transit, pedestrian and bicyclist amenities). The project applicant is responsible for funding and installing the improvements, and shall obtain all necessary permits and approvals from the City and/or other applicable regulatory agencies such as, but not limited to, Caltrans (for improvements related to Caltrans facilities) and the California Public Utilities Commission (for improvements related to railroad crossings), prior to installing the improvements. To implement this measure for intersection modifications, the project applicant shall submit Plans, Specifications, and Estimates (PS&E) to the City for review and approval. All elements shall be designed to applicable City standards in effect at the time of construction and all new or upgraded signals shall include these enhancements as required by the City. All other facilities supporting vehicle travel and alternative modes through the intersection shall be brought up to both City standards and ADA standards (according to Federal and State Access Board guidelines) at the time of construction.

When Required: Prior to building permit final or as otherwise specified
Initial Approval: Bureau of Building; Department of Transportation
Monitoring/Inspection: Bureau of Building

Project Recommendations in Furtherance of SCAs

Pursuant to and in furtherance of SCA Transportation-8, the Transportation Impact Review prepared for this Project identified transportation improvement measures or Project-specific recommendations to be implemented to address non-CEQA topics related to safety, vehicle access and circulation, parking, transit access, pedestrian access, transit access and parking, and to implement City goals and policies.

Vehicle Access and Circulation

The Project's proposed circulation plan would allow exiting vehicles to turn either left or right out of the Project gate on 29th Avenue. With this driveway configuration, vehicles turning left onto 29th Avenue would need to wait for an acceptable gap in traffic, which may result in delays and queues on-site. Recommended Improvement Measure TR-1 (below) is recommended to reduce the potential for queues to develop at the Project's 29th Avenue driveway, through the driving aisle, and onto Derby Avenue. While not required to address a CEQA impact, the following recommendation would improve safety and access for motorists at the railroad crossing, along 29th Avenue, at the project site and along Derby Avenue. It would also improve pedestrian safety at the project driveway exit from students coming from the bus stop or crossing the railroad tracks, as well as bicycle safety.

Recommended Improvement Measure Transportation-8.1: Prohibit Left Turns at the 29th Avenue Project

Driveway: As an improvement measure to minimize the potential for queues to develop on site and to maintain better operations at the Project driveway, the project sponsor should prohibit left turns at the 29th Avenue driveway. The project sponsor will work with City staff to identify appropriate pavement markings and signage, compliant with the MUTCD, to notify drivers of the turn restriction. Pavement markings and signage will be placed in a location where they will most easily be seen by drivers who might be intending to turn. Vertical separation elements or other self-reinforcing geometric design elements (e.g., bollards) should also be installed to discourage prohibited turns. Additionally, the project sponsor will provide information about site access and circulation, including left turn restrictions, in orientation/educational materials for distribution to students and staff.

Visitor Access and Parking

The Project's operations plan requires gates at the vehicle driveways on Derby Avenue and 29th Avenue, to be closed during regular school hours (apart from student loading times). This will restrict visitor access to the site and parking lot. Improvement Measure TR-2 has been identified to facilitate visitor access and parking at the

site. While not required to address a CEQA impact, the following recommendation would improve parking in the area, delivery and loading access.

Recommended Improvement Measure Transportation-8.2: Develop and Implement Plan for Visitor Access and

Parking: As an improvement measure to ensure visitors are able to access the site and parking lot when the gates on Derby Avenue and 29th Avenue are closed, the project sponsor will develop and implement a plan for visitor parking access. The plan, which will be submitted, reviewed and approved by City staff prior to school opening, may include, but is not limited to the following:

- a) Provide an intercom device to allow for communication between staff and visitors at each gate. The intercom devices may provide voice and video communication and allow for remote management.
- b) Designate staff to assist with visitor access requests.
- c) Provide informational signage at the driveways with information regarding hours of operation and access instructions. Signage should also include information regarding alternate parking locations.

Passenger Drop Off and Pick Up

The Project's operations and circulation plans show that vehicles would enter from Derby Avenue, continue through the parking lot to drop off or pick up students, and exit onto 29th Avenue. The circulation and operations plan proposes that gates would be open only during specified hours (8:00-8:20 a.m. and 3:20-3:40 p.m. and accounting for early dismissal) for on-site drop-off and pick-up. People arriving prior to the gates opening would be required to wait on Derby Avenue or East 10th Street, which may result in queuing and congestion on the surrounding roadways. Additionally, it is estimated that 75% of the students will be breakfast arrivals, which begins at 7:40 AM, or 20 minutes before the gates open. While not required to address a CEQA impact, the following Recommended Improvement Measure TR-3 has been identified to reduce the potential for queues to develop at the Project's Derby Avenue driveway and to better address earlier arrivals.

Recommended Improvement Measure Transportation 8.3: Develop and Implement Drop Off and Pick Up

Procedures: As an improvement measure to minimize the potential for queues to develop on surrounding roadways and to maintain better operations at the Project driveway and on site, the project sponsor would develop and implement drop off and pick up procedures. These procedures cover both typical school day traffic as well as procedures for special events held after hour at the school. The procedures will be reviewed and approved by City staff prior to school opening, and may include, but not be limited to the following:

- a) Modify the gate opening and closing times to reduce queues from parents waiting on the street to access the pick-up/drop-off area. Gate times in the morning should also reflect earlier drop-off times for students that have breakfast at the school and after school programs.
- b) Create a designated drop-off/pick-up zone. Provide clearly marked area on site for passenger drop-off/pick-up. There is approximately 550 linear feet of space available within the drive aisle southeast of the building entrance that could accommodate a queue of around 27 vehicles.
- c) Require drivers to form a single queue within the parking lot to conduct drop-off. Do not allow double parking or drop-off outside of the designated area.
- d) Require drivers to pull up to the front of the queue and into the designated area prior to conducting passenger drop-off.
- e) Designate staff to assist with operations. Staff should be present to actively manage the on-site loading zone during drop-off and pick-up, increase efficiency of operations, encourage appropriate driving behavior, and provide enforcement as necessary.
- f) Stagger arrival and dismissal times.

- g) Communicate information to staff, students, and parents. Drop-off and pick-up procedures should be communicated in welcome packets and could also be included in informational signage on-site.

Pedestrian Access and Circulation

Pedestrian facilities near the Project site include sidewalks, crosswalks and curb ramps. The area immediately adjacent to the Project site on Derby Avenue and on East 10th Street received significant pedestrian improvements in 2015/2016, with the addition of sidewalks and curb ramps. Continuous and connected sidewalks are also generally provided throughout the surrounding neighborhoods, with the exception of the south side of East 12th Street between Derby Avenue and Fruitvale Avenue, and along both sides of 29th Avenue at the railroad crossing. Given the proximity of the Project to the Fruitvale BART Station and multiple AC Transit bus stops, it is estimated that approximately 30 percent of the Project's students or staff accessing the school by foot will be coming from nearby transit stops. One of the closest bus stops to the Project site is directly across 29th Avenue from the Project driveway. Although a crosswalk is present at 29th Avenue/East 12th Street, students accessing this nearest bus stop may choose to illegally and unsafely cross 29th Avenue at mid-block, rather than walking to the signalized crossing. While not required to address a CEQA impact, the following Recommended Improvement Measure Transportation-8.4 has been identified to improve safety for School students accessing the school:

Recommended Improvement Measure Transportation-8.4: Dedicate Crossing Guard at East 12th Street/29th Avenue: The Project sponsor will dedicate at least one staff member to be present at the East 12th Street/29th Avenue intersection during the morning and afternoon periods, to direct students to cross at this intersection. Given the directionality of students crossing from the bus stop on the north side of 29th Avenue and towards the school in the morning, and in the opposite direction in the afternoon, staff should be positioned on the north side/across the street in the morning, and on the south side/school side in the afternoon.

Bicycle Access

Bicycle facilities are present in the area surrounding the Project site on East 12th Street and Fruitvale Avenue. However, 29th Avenue north of East 10th Street lacks bicycle facilities, creating a gap between the constructed bicycle lane on 29th Avenue south of East 10th Street and the Project site. The 2019 Bike Plan (Let's Bike Oakland) identifies the need for an extension of the Class 2 bike lanes on 29th Avenue, north from East 10th Street to East 12th Street, to close this gap. Recommended Improvement Measure TR-6 is recommended to improve safety for bicyclists by closing the bicycle lane gap.

Recommended Improvement Measure Transportation-8.5: Work with the City to Determine Feasibility of Closing the Bicycle Lane Gap: The project sponsor should work with the City to determine the feasibility of closing the bicycle lane gap between East 10th Street and East 12th Street along 29th Avenue, per the Let's Bike Oakland plan. If the construction of the Class II bicycle facility is found to be feasible, the Project should pay its share of the improvement to add the bicycle lanes commensurate, with the Project's contribution to bicycle traffic along 29th Avenue.⁶⁴

Transit Access

The Project is expected to generate 242 daily transit trips (including 66 in the AM peak hour and 40 in the PM peak hour). Transit trips would be distributed among the twelve AC Transit routes, and the Fruitvale BART Station serving three BART lines. Transit lines serving the Project site currently operate with sufficient capacity to accommodate the addition of transit riders generated by the Project. The Project's incremental increase in

⁶⁴ The Project is only anticipated to generate about 42 bicycle trips per day, or less than 10 percent of the 500 daily bicycle trips that would make this measure a mandatory TDM Plan requirement.

ridership on these lines, about one or two riders per bus, could be accommodated and the Project would not be expected to result in overcrowding at transit stops serving the Project.

The two closest bus stops to the Project site are across 29th Avenue from the Project site, and on eastbound East 12th Street at 29th Avenue. The 29th Avenue bus stop is not ADA-compliant because it has a landscaped strip between the sidewalk and the roadway. The bus stop on East 12th Street at 29th Avenue has a red curb that has become faded over time, along with a sidewalk that may present a tripping hazard to pedestrians.

Recommended Improvement Measure Transportation-8.6, Improve Pedestrian Access to Nearby Bus Stops: The two bus stops closest to the project should be improved to better accommodate pedestrian access. These improvements would include removing the landscape strip near the 29th Avenue bus stop on southbound 29th Avenue across the street from the project, and updates to the East 12th Street bus stop just east of 29th Avenue to repaint the red curb and fix potential tripping hazards due to an uneven sidewalk.

Parking

Based on average ITE trip generation rates and accounting for the City of Oakland's allowed adjustments for proximity to transit, the estimated average parking demand for the Project is 56 parking spaces. The Project includes a total of 72 parking spaces (including 3 ADA spaces) at buildout (Phase 2), thus meeting expected demand during the typical day. However, the school plans to host several special events throughout the year that may increase demand for parking in the area during non-regular school hours. Based on on-street parking occupancies in the area and the on-site parking supply, special events that have more than 200 attendees are expected to generate parking demand in excess of the parking infrastructure in the study area. A parking management measure, Recommended Improvement Measure Transportation-8.6, is proposed to minimize potential for adverse effects related to event parking demand.

Recommended Improvement Measure Transportation-8.7: Implement Special Event Parking Management

Strategies: The project sponsor shall prepare an annual event calendar that anticipates the number of attendees for special events, to be submitted to the City. If the event is proposed to have 200 or more attendees, the project sponsor will identify and implement a parking management plan to be submitted for review and approval by the City, along with the calendar. Suggested strategies include, but are not limited to, the following:

- a) Increase the supply of on-site parking by allowing parking on the basketball courts and playing fields.
- b) Increase the supply of on-site parking by providing tandem parking and valet service.
- c) Actively manage parking through use of attendants to direct people to available spaces.
- d) For events that may generate substantial demand for valet parking in excess of regular (non-event) conditions, the project sponsor will pursue negotiations with off-site facilities to secure access to additional vehicle parking spaces to accommodate events. Possible facilities include Lazear Charter Academy, an EFC-owned and operated facility located two blocks southwest at 824 29th Avenue, and Think College Now, located about block northwest at 2825 International Boulevard.

Utilities and Service Systems

<u>Would the Project:</u>	<u>LUTE EIR Findings</u>	<u>Relationship to LUTE EIR Findings</u>		<u>Project Conclusions</u>	
		<u>Equal or Less Severe</u>	<u>New or Substantial Increase in Severity</u>	<u>Applicable SCAs or Mitigation Measures</u>	<u>Level of Significance</u>
a) Exceed water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	LTS	■	□	SCA Utilities-1, Water Efficient Landscape Ordinance	LTS
b) Result in a determination by the wastewater treatment provider that serves or may serve the project that it does not have adequate capacity to serve the project's projected demand, in addition to the provider's existing commitments?	LTS	■	□	SCA Utilities-2, Sanitary Sewer System	LTS
c) Require or resulted in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas or telecommunication facilities, the construction or relocation of which could cause significant environmental effects?	LTS	■	□	SCA Utilities-3, Storm Drain System SCA Utilities-4, Underground Utilities	LTS
d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impaired the attainment of solid waste reduction goals? Would the project comply with federal, state and local management and reduction statutes and regulations related to solid waste?	LTS	■	□	SCA Utilities-5, Construction and Demolition Waste Reduction and Recycling Requirement SCA Utilities-6, Recycling Collection and Storage Space	

Utilities and Service Systems

LUTE EIR Conclusions

The LUTE EIR found that Oakland's growth represents a portion of the growth anticipated within the East Bay Municipal Utility District's (EBMUD) water and sewer service area, and the Alameda County Waste Management Authority's solid waste service area. Oakland's plans to add jobs and housing pursuant to the LUTE was considered in the context of the plans for other communities within these service areas. Impacts of the LUTE were considered potentially significant on a cumulative basis if the population and employment forecasts pursuant to the LUTE were greater than EBMUD's or Alameda County's projected capacity. Based on the analysis contained in the LUTE EIR, this was not the case, and cumulative utility and service system impacts were not considered significant. However, the LUTE EIR did indicate that water conservation and solid waste recycling are essential if projected cumulative service demands are to be met. The following impacts were individually determined to be less than significant, based on the analysis contained in the LUTE EIR:

- Development consistent with the LUTE would increase the demand for water in Oakland

- Development consistent with the LUTE would increase flows to the wastewater treatment plant
- Development consistent with the LUTE would require drainage improvements within already developed flatland neighborhoods

Project Analysis - Water Supply

Based on generalized estimates for the water demands by land use types across all of the EBMUD service area, EMBUD's 2040 Water Demand Study estimates that "schools" generate an average water demand of 703 gallons per day per acre (gpd/acre).⁶⁵ Conservatively applying this demand factor across the entire approximately 3 acre Project site results in an estimated water demand for the Project of 2,210 gpd. This is a conservative (high) estimate, in that the Project will have very limited outdoor landscape and will have very little demand for irrigation water supply.

A Draft EIR was prepared for a prior development proposal for a substantially larger project (the gateway Community Development Project EIR, with 810 new residential units and approximately 25,950 square feet of commercial space). That previously proposed project included the Project site and multiple additional properties in the vicinity. EBMUD (the water supply provider) prepared a Water Supply Assessment (WSA) for that Draft EIR, and that WSA determined that project's estimated water demand would have been approximately 239,000 gpd, or an increase of approximately 235,000 gpd over the existing onsite demand. That prior 2007 WSA concluded that project's increase in water demand would have constituted approximately 0.1 percent of EBMUD's total water demands, and was accounted for in EBMUD's 2020 water demand projections. That prior project was not constructed, but EBMUD did determine that it would not have changed EBMUD's water demand projections, and that it would not have resulted in a new significant increase in water use.⁶⁶

The Latitude High School Project represents a small fraction of the development potential and only about 1 percent of the water demands of that prior project. The Project's water demands will similarly, and to a substantially lesser extent, not change EBMUD's water demand projections or result in a new significant increase in water use.

Standard Conditions of Approval

The Project would be subject to the following City of Oakland SCA intended to lower cumulative water demands of all new development.

SCA Utilities-1, Water Efficient Landscape Ordinance (applies to the Project as a project involving rehabilitated landscape with an aggregate landscape area equal to or greater than 2,500 sq. ft., and/or to Phase II construction as a new construction project with an aggregate landscape area equal to or greater than 500 sq.ft.): The project applicant shall comply with California's Water Efficient Landscape Ordinance (WELo) in order to reduce landscape water usage. For the specific ordinance requirements, see the link below:

<http://www.water.ca.gov/wateruseefficiency/landscapeordinance/docs/Title%2023%20extract%20-%20Official%20CCR%20pages.pdf>

For any landscape project with an aggregate (total noncontiguous) landscape area equal to 2,500 sq. ft. or less, the project applicant may implement either the Prescriptive Measures or the Performance Measures, of, and in accordance with the California's Model Water Efficient Landscape Ordinance. For any landscape project with an aggregate (total noncontiguous) landscape area over 2,500 sq. ft., the project applicant shall implement the Performance Measures in accordance with the WELo.

⁶⁵ East Bay Municipal Utility District (EBMUD), 2040 Demand Study for the Water Supply Management Program 2040, February 2009

⁶⁶ City of Oakland, Gateway Community Development Project Draft EIR, August 2007, pages IV.H-9 and -10

Prescriptive Measures: Prior to construction, the project applicant shall submit the Project Information (detailed below) and documentation showing compliance with Appendix D of California’s Model Water Efficient Landscape Ordinance (see page 38.14(g) in the link above).

Performance Measures: Prior to construction, the project applicant shall prepare and submit a Landscape Documentation Package for review and approval, which includes the following:

- a) Project Information:
 - i. Date,
 - ii. Applicant and property owner name,
 - iii. Project address,
 - iv. Total landscape area,
 - v. Project type (new, rehabilitated, cemetery, or homeowner installed),
 - vi. Water supply type and water purveyor,
 - vii. Checklist of documents in the package,
 - viii. Project contacts
 - ix. Applicant signature and date with the statement: “I agree to comply with the requirements of the water efficient landscape ordinance and submit a complete Landscape Documentation Package.”
- b) Water Efficient Landscape Worksheet
 - i. Hydrozone Information Table
 - ii. Water Budget Calculations with Maximum Applied Water Allowance (MAWA) and Estimated Total Water Use
- c) Soil Management Report
- d) Landscape Design Plan
- e) Irrigation Design Plan, and
- f) Grading Plan

Upon installation of the landscaping and irrigation systems, and prior to the final of a construction-related permit, the Project applicant shall submit a Certificate of Completion (see page 38.6 in the link above) and landscape and irrigation maintenance schedule for review and approval by the City. The Certificate of Completion shall also be submitted to the local water purveyor and property owner or his or her designee.

When Required: Prior to approval of construction-related permit
Initial Approval: Bureau of Planning
Monitoring/Inspection: Bureau of Building

With implementation of the WELO Ordinance’s requirements, the Project will further reduce its overall water demands, consistent with EBMUD’s recommendations and requirements to incorporate water conservation measures into the design and construction of all new development projects to ensure that sufficient water capacity is available through EBMUD’s planning horizon.

Project Analysis - Wastewater Collection, Treatment and Disposal

Presuming the estimate for the Project’s water demand above, and estimating that between 70 percent and up to 90 percent of this water demand may result in wastewater (sinks, drinking fountains, toilets and showers at the Phase II gym), the Project may generate between 1,500 and 2,000 gpd average dry weather flow of

wastewater. Wet weather demand creates additional inflow and infiltration of the system from stormwater and wet soils, and peak sanitary sewer flows can be greater than dry weather flows.

As determined in the Draft EIR for the prior Gateway Community Development Project previously proposed at this same site, the Project site is located in sewer sub-basins 60-04 and 62-01, where the total allocation for these two sub-basins is 70,000 gpd, with an assumed net increase of a 20 percent growth rate within both sub-basins.⁶⁷ The Projects sanitary sewer flows (at the higher rate of 2,000 gpd) represent only about 3 percent of the total 20 percent growth rate as assumed for these sub-basins, and its total wastewater demand would likely not exceed local sewer line capacity.

It is not anticipated that the Project would exceed the wastewater treatment capacity of the EBMUD Main wastewater treatment plant (WWTP), would not exceed the discharge requirements imposed at the WWTP, and would not adversely affect the system-wide conveyance and treatment capacity dedicated to the City of Oakland.

Standard Conditions of Approval

The Project would be subject to the following City of Oakland SCA intended to address local sewer line capacity deficiencies throughout the city.

SCA Utilities-2, Sanitary Sewer System (applies to the Project based on its required CEQA review): The project applicant shall prepare and submit a Sanitary Sewer Impact Analysis to the City for review and approval in accordance with the City of Oakland Sanitary Sewer Design Guidelines. The Impact Analysis shall include an estimate of pre-project and post-project wastewater flow from the project site. In the event that the Impact Analysis indicates that the net increase in project wastewater flow exceeds City-projected increases in wastewater flow in the sanitary sewer system, the project applicant shall pay the Sanitary Sewer Impact Fee in accordance with the City's Master Fee Schedule for funding improvements to the sanitary sewer system.

When Required: Prior to approval of construction-related permit

Initial Approval:

Monitoring/Inspection: N/A

With implementation of the Sanitary Sewer Impact Analysis, and payment of any sanitary sewer impact fees pursuant to that ordinance, the Project will address its contribution to the need for citywide sewer line improvements.

Project Analysis - Storm Drainage

As indicated in the Hydrology section of this CEQA Analysis, the Derby property is nearly all rooftops or pavement, and the 29th Avenue property is covered with either concrete, asphalt or rough AC or gravel. The total amount of post-Project impervious surface would not substantially exceed the amount of existing (pre-Project) impervious surface, and the Project would not create or contribute substantial additional runoff that could exceed the capacity of the stormwater drainage system. The Project does propose improvements to the on-site stormdrain system to provide for water quality treatment prior discharging stormwater into the storm drain inlets. In furtherance of SCA Hydrology-3, NPDES Requirements for Regulated Projects, the Project is designed such that all runoff from new or recreated impervious surfaces will flow through a series of landscaped bioretention facilities to be constructed along the back of the existing Derby buildings for water quality treatment, consistent with NPDES c.3 provisions. Following bioretention treatment, stormflows would be

⁶⁷ City of Oakland, Gateway Community Development Project Draft EIR, August 2007, pages IV.H-10 through -12

conveyed into the main stormdrain line in the 29th Avenue right-of-way via a new 12-inch stormdrain within the 29th Avenue property.

Standard Conditions of Approval

The Project would be subject to the following City of Oakland SCA intended to reduce system-wide stormdrain flows.

SCA Utilities-3, Storm Drain System (applies to the Project based on its required CEQA review): The project's storm drainage system shall be designed in accordance with the City of Oakland's Storm Drainage Design Guidelines. To the maximum extent practicable, peak stormwater runoff from the project site shall be reduced by at least 25 percent compared to the pre-project condition.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

Project Analysis - Construction of New Utility Infrastructure

The existing buildings on the Derby property are all provided with existing infrastructure systems (water, sewer, stormdrain, electricity and natural gas). Repurposing these existing buildings for school use will not require any additional or new utility extension beyond that which already exists, other than installation of a new on-site irrigation system for new landscape areas. During Phase I, the 29th Avenue property will not have any need for new infrastructure or utility systems other than its proposed storm drain improvements, as it will only be an open and paved lot. Pursuant to Phase II construction of the new multi-purpose building, extension of utility services from existing main lines will be needed to connect this new building to all utility infrastructure.

Standard Conditions of Approval

The Project would be subject to the following City of Oakland SCA intended to address the extension of new utility infrastructure.

SCA Utilities-4, Underground Utilities (applies to all construction projects): The project applicant shall place underground all new utilities serving the project and under the control of the project applicant and the City, including all new gas, electric, cable, and telephone facilities, fire alarm conduits, streetlight wiring, and other wiring, conduits, and similar facilities. The new facilities shall be placed underground along the project's street frontage and from the project structures to the point of service. Utilities under the control of other agencies, such as PG&E, shall be placed underground if feasible. All utilities shall be installed in accordance with standard specifications of the serving utilities.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

Project Analysis - Solid Waste

Construction of Phase I of the Project is not anticipated to result in substantial construction waste, as it primarily involves the repurposing of existing buildings for school use. Renovations and remodeling of these buildings would generate some construction waste and debris, but not comparable to demolition or new construction. Phase II construction of the multi-purpose building would result in asphalt removal and construction waste,

potentially resulting in approximately 37 tons (at approximately 4.4 pounds per square foot of development).⁶⁸ All construction-generated waste would be removed from the Project site and disposed of.

During school operations, the Project will generate solid waste typical of a school, including kitchen waste from the on-site server, paper waste from classrooms and offices, and other typical household-type waste streams. CalRecycle provides an estimate of the solid waste generation rates created by different land use types, indicating that a school can be estimated to generate between approximately 0.6 to 1 pounds of waste per person per day.⁶⁹ Using these waste generation rates, The Project (at 400 students and approximately 33 staff) may generate approximately 430 pounds of waste per day.

With an average output of 2,027 tons per day at the Davis Street Transfer Station, the Project's incremental contribution to total waste managed at the Transfer Station represents a very small fraction of the transfer station's average daily outflow. At the Altamont landfill, which has a permitted maximum disposal capacity of 7,000 tons per day, the Project's contribution to landfill capacity is too small to calculate. The Project's impact on the capacity of local solid waste infrastructure would be less than significant.

Standard Conditions of Approval

The Project would be subject to the following City of Oakland SCA intended to address cumulative solid waste disposal and recycling citywide.

SCA Utilities-5, Construction and Demolition Waste Reduction and Recycling Requirement (applies to all construction projects): The project applicant shall comply with the City of Oakland Construction and Demolition Waste Reduction and Recycling Ordinance (chapter 15.34 of the Oakland Municipal Code) by submitting a Construction and Demolition Waste Reduction and Recycling Plan (WRRP) for City review and approval, and shall implement the approved WRRP. Projects subject to these requirements include all new construction, renovations/alterations/modifications with construction values of \$50,000 or more (except R-3 type construction), and all demolition (including soft demolition) except demolition of type R-3 construction. The WRRP must specify the methods by which the project will divert construction and demolition debris waste from landfill disposal in accordance with current City requirements. The WRRP may be submitted electronically at www.greenhalosystems.com or manually at the City's Green Building Resource Center. Current standards, FAQs, and forms are available on the City's website and in the Green Building Resource Center.

When Required: Prior to approval of construction-related permit
Initial Approval: Public Works Department, Environmental Services Division
Monitoring/Inspection: Public Works Department, Environmental Services Division

SCA Utilities-6, Recycling Collection and Storage Space (applies to alterations of public facilities used for collecting and loading solid waste): The project applicant shall comply with the City of Oakland Recycling Space Allocation Ordinance (chapter 17.118 of the Oakland Planning Code). The project drawings submitted for construction-related permits shall contain recycling collection and storage areas in compliance with the Ordinance. For residential projects, at least two (2) cubic feet of storage and collection space per residential unit is required, with a minimum of ten (10) cubic feet. For non-residential projects, at least two (2) cubic feet of storage and collection space per 1,000 square feet of building floor area is required, with a minimum of ten (10) cubic feet.

⁶⁸ Estimates from US EPA, 1998

⁶⁹ From: <https://www2.calrecycle.ca.gov/WasteCharacterization/General/Rates> as sourced to: Guide to Solid Waste and Recycling Plans for Development Projects (Santa Barbara County Public Works Department, citing SWANA Tech. Bull. 85-6; Recovery Sciences, 1987; and Matrix Mgmt. Group, "Best Management Practices Analysis for Solid Waste")

When Required: Prior to approval of construction-related permit
Initial Approval: Bureau of Planning
Monitoring/Inspection: Bureau of Building

With implementation of these SCAs, the impacts of the Project related to cumulative solid waste generation and disposal will be further reduced, consistent with City ordinances and requirements.

Mandatory Findings of Significance

	Potentially Significant Impact	Less than Significant with Mitigation	Less Than Significant / with SCAs	Less Than Significant / No Impact
a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?			☑	
b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects?)				☑
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?			☑	

Degrading the Quality of the Environment

As fully discussed in the Biology section of this CEQA Analysis, the Project is located in an area already subjected to a long history of development, is currently covered by a number of buildings, paved areas, and a vacant lot with rough asphalt surface, and is located in between the Union Pacific Railroad tracks and East 12th Street, with elevated BART tracks running down the median of East 12th Street. The site is located approximately one-half mile from the Oakland Estuary, one-quarter mile from an undergrounded reach of Sausal Creek, and one-third mile from the nearest remaining aboveground reach of Sausal Creek. The vast majority of natural vegetation in the project vicinity has been converted to urban uses. Ongoing disturbance and development in the vicinity make it highly unlikely that the Project would have any direct adverse effects on any special status species. There are no streams or other potentially jurisdictional drainages located on or adjacent to the Project site. The area is heavily urbanized and supports no riparian habitat, wetlands or other sensitive natural communities. The adjacent railroad corridor and numerous heavily traveled city streets all provide major impediments to wildlife movement. The Project would not substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, or substantially reduce the number or restrict the range of a rare or endangered plant or animal.

As fully discussed in the Cultural Resources section of this CEQA Analysis, the property and existing buildings located at 1045 Derby Avenue do not meet any California Register criteria, are not eligible for listing on the California Register of Historical Resources, and are not considered historic resources pursuant to CEQA. The Project would not eliminate important examples of the major periods of California history. The Project has limited potential to result in an inadvertent discovery of currently unknown buried archaeological resources or tribal cultural resources. SCAs applicable to the Project require implementation of appropriate protocols in the event that any historic or prehistoric subsurface cultural resources are discovered during ground disturbing activities. With implementation of these SCAs, the Project would not eliminate important examples of the major periods of California pre-history.

Cumulative Effects

As indicated in this CEQA Analysis, the Project (inclusive of required SCAs) will not result in any individually significant impacts on the environment. This CEQA Analysis also demonstrates that many of the Project's limited environmental effects would also address larger-scale cumulative issues:

- The Project individual effects on regional air quality would be less than those threshold levels that have been designed specifically to protect air quality on a regional, or cumulative basis
- The Project would comply with all checklist questions from the City's Equity and Climate Action Plan, which were adopted to address each project's individual contributions to global climate change
- The Project's VMT has been found to be more than 15 percent lower than citywide or regional average VMT rates

The Project is also required to implement numerous SCAs that are intended to address impacts that may be individually limited, but potentially cumulatively considerable. These SCA have been derived from broader, citywide polices and regulations including those of the Oakland Planning and Municipal Codes, the Stormwater Water Management and Discharge Control Ordinance, California Building Code and Uniform Fire Code, and the 2030 Equity and Climate Action Plan (ECAP), among others. Many of these SCAs mitigate the environmental effects of individual projects, and when also uniformly applied to other cumulative development, will effectively reduce cumulative impacts as well. Examples of these SCA that are applicable to the Project and that also address broader cumulative concerns include, but are not limited to:

- SCA Air-3, Diesel Particulate Matter Controls-Construction Related
- SCA Cultural-1, Archaeological and Paleontological Resources – Discovery during Construction
- SCA Energy-1, Green Building Requirements
- SCA Geology-1, Construction-Related Permits
- SCA Hazards-1: Hazardous Building Materials and Site Contamination
- SCA Hydrology-4/5: NPDES C.3 Stormwater Requirements for Regulated Projects
- SCA Noise-2, Construction Noise
- SCA Transportation-1, Transportation and Parking Demand Management
- SCA Transportation-2, Transportation Impact Fee
- SCA Transportation-7, Railroad Crossings
- SCA Transportation-8, Transportation Improvements
- SCA Utilities-1, Water Efficient Landscape Ordinance
- SCA Utilities-2, Sanitary Sewer System
- SCA Utilities-3, Storm Drain System

- SCA Utilities-5, Construction and Demolition Waste Reduction and Recycling Requirement

These SCAs and recommended Project-specific measures pursuant to these SCAs will be adopted as requirements of the Project if it is approved by the City, and are designed to and will substantially mitigate the Project's environmental effects, including the Project's potential contribution to cumulative effects on air quality, biological and cultural resources, hazardous materials, construction noise, demands on public services and utilities, and transportation.

Adverse Effects on Human Beings

Potential adverse effects of the Project on other human beings are fully addressed in the Air Quality, Hazardous Materials, Noise, and Transportation sections of this CEQA Analysis, as summarized below:

- Operation of the Project would not cause measurable health risk impacts. The Project includes no stationary sources of TAC emissions, and the Project would not generate, handle or use products that emit toxic air contaminants. Construction of the Project will result in sources of toxic air contaminants that could pose a potential health risk to nearby sensitive receptors. With controlled emissions using all Tier 4 rated equipment pursuant to City SCAs required of the Project, construction-related risks and hazards to nearby sensitive receptors would not exceed single-source thresholds for cancer risks, non-cancer health hazards, or maximum PM_{2.5} concentrations at nearby sensitive receptors, including other nearby schools.
- Detailed investigations of the Project site have identified a number of chemicals of concern including lead and arsenic in shallow soils, volatile organic chemicals (including PCE, benzene, naphthalene, and chloroform) identified in sub-slab vapor, and gasoline in soil vapor. Potential pathways by which students, teachers and school staff, and on-site construction workers might be exposed to these chemicals include indoor inhalation of sub-slab vapors, and direct exposure to soil through ingestion, dermal contact, and/or inhalation of airborne dust and vapors. The Project applicant has coordinated with ACDEH in the preparation of reports and documents, leading to preparation of a proposed Corrective Action Plan (CAP) for the site that addresses these concerns. ACDEH is engaged in review of that proposed CAP, and all corrective measures and recommendations ultimately approved by ACDEH shall be implemented, with evidence of ACDEH approval and evidence of implementation of these measures to be submitted to the City and ACDEH. With full implementation and compliance, impacts to other humans related hazardous materials in the soil, groundwater and air vapors would be reduced to levels considered less than significant.
- Residences are located opposite East 12th Street and elevated BART tracks, approximately 180 feet northeast of the 29th Avenue property, and opposite 29th Avenue approximately 500 feet from the portion of the site that would be developed with the multipurpose building. Construction noise levels could at times range from 64 to 78 dBA Leq at residences located 180 feet from the Project site, and from 55 to 69 dBA Leq at residences 500 feet from the Project site. Construction noise levels would generally fall at, or below ambient noise levels produced by local traffic, BART, and railroad trains at these residences. Nevertheless, the City would require the Project's construction noise to be reduced to the extent practical with implementation of SCAs that limit the time and duration of construction hours, and that include Best Management Practices for reducing construction-related noise.
- The Project will add an increment of additional vehicle, bicycle and pedestrian traffic at two rail crossings (one at 29th Avenue and one at Fruitvale Avenue). These rail crossings do include traffic control devices, but the rail crossing at 29th Avenue lacks ADA compliant sidewalks as the sidewalk does not continue through the crossing, and detectable warning surfaces are not present, and the path of travel for people crossing the tracks at Fruitvale is around the outside of the automatic gate, and no physical

barriers are present to prevent people from walking across the tracks when a train is approaching. Pursuant to applicable SCAs, the Project sponsor will be required to work with the City to request a Diagnostic Review of these rail crossings by the California Public Utilities Commission to identify potentially dangerous crossing conditions, and shall implement design measures needed to reduce potential adverse conditions at these crossings. Based on an initial review, these measures may include installation of additional warning devices, gate arms and additional warning signage and pavement markings, and roadway resurfacing and sidewalk rehabilitation.

With implementation of all applicable SCAs, the Project will not result in have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly.

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