

CITY OF OAKLAND

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OFFICE OF THE CITY CLERK  
OAKLAND

2013 MAY 16

## AGENDA REPORT

TO: DEANNA J. SANTANA  
CITY ADMINISTRATOR

FROM: Rachel Flynn

SUBJECT: Central Estuary Area Plan

DATE: May 3, 2013

City Administrator

Date

Approval

5/13/13

COUNCIL DISTRICT: #2 and #5

### RECOMMENDATION

Staff recommends, upon conclusion of a public hearing, that the City Council adopt, as recommended by the City Planning Commission:

1. An Ordinance Amending the Oakland Planning Code to create the Central Estuary District Zoning Regulations and Make Conforming Changes to other Planning Code Sections and the Oakland Zoning Map; and
2. A Resolution Adopting the Central Estuary Area Plan, Amendments to the Estuary Policy Plan and related Design Guidelines and Authorizing Planning Staff to Make (1) Minor Ongoing Revisions to the Adopted Design Guidelines for the Central Estuary Consistent with the Central Estuary Area Plan, Estuary Policy Plan and Oakland Planning Code Without Returning to the City Council or City Planning Commission, but with Major Revisions to be Made by the Planning Commission; and (2) non-substantive technical conforming changes (essentially correction of typographical and clerical errors and minor clarifications) to the Central Estuary Area Plan prior to formal publication consistent with the Estuary Policy Plan, and Oakland Planning Code, without returning to the City Council or City Planning Commission

### EXECUTIVE SUMMARY

The Oakland Estuary waterfront is a significant citywide and regional resource that connects the City of Oakland and the surrounding region to the San Francisco Bay. The Central Estuary, the focus of the Central Estuary Area Plan, is an area generally encompassed by 19th Ave. to the north, 54th Ave. to the south, 1-880 to the east and the Oakland Estuary to the west. The landside portion of the Central Estuary area is roughly 416 acres.

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Beginning in 2008, City Council initiated a planning process to reconcile conflicting land use priorities as industrial areas experienced pressure from residential interests. The Central Estuary Area Plan (CEAP) is the result of that public planning process. The CEAP includes revised Estuary Policy Plan policies and objectives clarifying land use priorities for the area. The land use program (standardized through the new zoning regulations developed for the area) emphasizes industrial land uses with a mix of supportive commercial uses and limited residential uses (in areas with existing single-family housing and areas suitable for higher density housing). The CEAP promotes waterfront access, improved circulation, and updated infrastructure for the area. The new design guidelines that accompany the CEAP include an emphasis on the character-defining features of the Central Estuary area, such as the proximity to the waterfront, presence of early industrial buildings and the burgeoning arts community to help designers understand the context of the area and to encourage creative design solutions.

The Supplemental Environmental Impact Report (EIR) prepared for the Central Estuary Area Plan (Plan) found significant impacts in the following topics: Air Quality (exposure to toxic air contaminants and odors), Greenhouse Gas Emissions and Global Climate Change (exposure to greenhouse gas emissions from multiple sources) and Transportation and Traffic (degraded level of service at numerous intersections and roadway segments). A Statement of Overriding Considerations is being proposed indicating that these significant and unavoidable impacts are acceptable in light of the significant benefits of the project: updating the Estuary Policy Plan policies, generating job growth, and improving the attractiveness of the Central Estuary area as a place to work and live.

Build out of the Plan, anticipated over the next 20 years will present a challenge to match efficient infrastructure construction to new development. Infrastructure improvements will be required of new development through standard city processes such as application of the City's Standard Conditions of Approval and approval of development agreements; however, additional funding mechanisms will be required. Possible options include the implementation of development impact fees and/or community facilities districts.

Copies of the CEAP, Planning Code and General Plan Amendments, new Design Guidelines and the Draft and Final Supplemental EIR were previously furnished separately to the City Council, and are available to the public, through the City's websites:

CEAP, General Plan Amendments, Planning Code Amendments and Design Guidelines are available on the project webpage:

<http://www2.oaklandnet.com/Government/o/PBN/OurOrganization/PlanningZoning/DOWD009073>

The Draft and Final SEIR may also be reviewed on the City's website at the "Current Environmental Review" page:

<http://www2.oaklandnet.com/Government/o/PBN/OurServices/Application/DOWD009157>

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## **OUTCOME**

The City Council's adoption of the Central Estuary Area Plan (CEAP), Planning Code Amendments, Estuary Policy Plan (General Plan) Amendments, and new Central Estuary Design Guidelines would complete the planning process for this area. The CEAP would then be available to guide development in the Central Estuary area over the next 20-25 years, and provide the framework for attracting new businesses and residents to the area. New development projects would be evaluated against zoning standards designed specifically for the Central Estuary area, with the intent of encouraging a mix of industrial, commercial and residential uses. Central Estuary Design Guidelines would be in place to ensure that the new development addresses the character of surrounding uses and natural features, as well as the artisan nature of the area. Infrastructure and transportation recommendations included in the CEAP would be prioritized, in light of other citywide needs and limited resources, in a strategic way to apply for funding to incrementally construct improvements, thus heightening the desirability of the area to future businesses and residents.

## **BACKGROUND/LEGISLATIVE HISTORY**

The following section includes a discussion of the conformity of the Central Estuary Area Plan (CEAP) with the City's General Plan policies, as well as describes the impetus for the project and provides an overview of the public hearing and legislative process.

### **Consistency of Project with General Plan Policies**

The Land Use and Transportation Element (LUTE) of the Oakland General Plan establishes important general goals and policies for the City's waterfront, and includes a single broad land use designation, "Waterfront," which is applied to the entire Estuary waterfront, including the Central Estuary. The CEAP is consistent with the policies of the LUTE that are intended to:

- Target areas for specific activities and to retain existing businesses through supportive zoning;
- Concentrate truck activities adjacent to the freeway and to make the waterfront accessible;
- Reduce land use conflicts by buffering industrial activities from sensitive uses;
- Link neighborhoods with the waterfront by improving access routes; and
- Encourage infill development and to ensure compatible development in terms of density, scale, design and existing or desired character of surrounding development.

Further, the CEAP and associated Estuary Policy Plan (EPP) amendments and zoning regulations are consistent with and further advance the Oakland General Plan – including the LUTE (as described above); Open Space, Conservation and Recreation (OSCAR); Historic Preservation;

Safety; and Housing Elements; as well as the Bicycle and Pedestrian Master Plans, as detailed in the CEAP Adoption Findings, *Attachment A*.

The Estuary Policy Plan (EPP), adopted in June 1999, is an element of the Oakland General Plan that sets forth policies and principles to guide development in the Estuary area, refining the policy guidance for this area contained in the City's General Plan LUTE. The CEAP is consistent with the policies of the EPP to strengthen local circulation connections, to improve bicycle and pedestrian circulation, to retain existing industrial land uses, to encourage the reuse of existing warehouse properties, to preserve housing for all income levels in the Kennedy Tract, and to provide adequate parking in each sub-district. Specifically:

- The Central Estuary Area Plan (CEAP) fulfills Policy MF-2 of the Estuary Policy Plan (EPP) for the Central Estuary Area to: "Develop a Companion Document to the EPP, to be called the Estuary Plan Implementation Guide". The CEAP functions as an implementation component of the Estuary Policy Plan for the Central Estuary area by setting out a more defined overall vision, developing specific development standards and design guidelines to shape the character of new development in a more cohesive way and by recommending future transportation improvements.
- The CEAP meets Policy MF-3 of the EPP for the Central Estuary Area to: "Adopt and Enforce Development Regulations Which Reflect the Land Use Policies Established by the EPP". The new zoning developed as part of this project achieves this policy.

#### Central Estuary Area Plan Initiation and Public Hearing Process

On December 9, 2008, the Oakland City Council directed staff to develop a coordinated vision for the future development of the Central Estuary area, which is bounded by 19th Avenue to the north, 54th Avenue to the south, I-880 to the east and the Estuary waterfront to the west, and address the area's infrastructure deficiencies and conflicting land uses.

In 2009, a series of community meetings (described under the Public Outreach/Interest section of this report) were held to develop a vision for the Central Estuary area. The community developed three alternative concepts and a draft community preferred alternative which were presented for comment at public hearings before the Parks and Recreation Advisory Commission, Landmarks Preservation Advisory Board, Planning Commission, Community & Economic Development (CED) Committee, and City Council between December 2009 and July 2010. On July 20, 2010, the City Council adopted a modified land use alternative for the Central Estuary area (in Resolution No. 82944 C.M.S.) which represents less change from existing conditions than was originally envisioned during the community outreach process of 2009. The plan for the Central Estuary was thus re-worked to conform to the City Council's direction.

The Central Estuary Area Plan (CEAP) focuses on ten sub-districts within the larger Estuary area where some land use change from existing conditions is anticipated. The planning process entails

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rezoning of these Central Estuary areas consistent with direction from the 1999 Estuary Policy Plan (EPP), as well as General Plan (GP) Amendments to: (1) update existing GP goals, and strategies to reflect direction established in the CEAP, and (2) increase the allowable Floor Area Ratios (FARs). The CEAP includes proposed design guidelines and development standards for the various Central Estuary subareas. The development program contemplated as part of the CEAP would allow for an increase of 390 residential units, 30 live/work units, 370,000 square feet of industrial area, 700,000 square feet of commercial area, and 10 acres of new park space. Additionally, transportation and infrastructure improvements are recommended to address infrastructure deficiencies.

Between July and September 2012, the Draft CEAP, including General Plan and Planning Code Amendments and Design Guidelines was presented to advisory boards, including the Zoning Update Committee and Design Review Committee of the Planning Commission, as well as the Bicycle and Pedestrian Advisory Committee and the Landmarks Preservation Advisory Board each of which provided comments unique to their topic area.

On December 5, 2012, the CEAP and the draft Supplemental EIR were presented to the Planning Commission, with a detailed account of the comments received at the various advisory boards (see *Attachment B* for the December 5, 2012 staff report). The Planning Commission provided additional comments and directed staff to revise the documents and to initiate the formal adoption process beginning with the Planning Commission and continuing on to the CED Committee of the City Council and full City Council.

On April 17, 2013, the Planning Commission conducted a public hearing and upon conclusion adopted the CEQA findings and Standard Conditions of Approval/ Mitigation Monitoring and Reporting Program (SCA/MMRP). The Planning Commission also recommended adoption of the CEAP, Estuary Policy Plan and Planning Code Amendments and Design Guidelines to the City Council based, in part, upon the CEAP Adoption Findings (see *Attachment A*). Additionally, the Planning Commission authorized staff to make minor ongoing revisions to the adopted Design Guidelines, but with major revisions to be made by the Planning Commission.

The Planning Commission's recommendation also included a minor edit to the CEAP to clarify the widths of the conceptual streetscape dimensions included in the figures in Appendix A. The following text will be added to the Final Plan. "Automobile and truck travel lanes are shown as having a MAXIMUM width. Future improvements should be designed by street or street section to serve not only the land uses, but also the types of traffic that needs to be accommodated. In all cases, streets shall be designed with the Complete Streets approach required in Resolution 84204 C.M.S. (Complete Streets Resolution)." (See *Attachment C* for the April 17, 2013 staff report)

## ANALYSIS

The CEAP is intended to guide the growth of additional residential, industrial, commercial, retail and office development in the 400-acre Central Estuary Plan Area over the next 20-25 years. Achieving new development in the largely developed Central Estuary area will be challenging. New development anticipated by the CEAP is envisioned to include the infill of remaining vacant sites, the adaptive re-use of early industrial warehouse buildings and the redevelopment of existing underutilized sites. New development will require numerous improvements - including site improvements typically associated with development, transportation and circulation improvements and utility and infrastructure improvements. Interdepartmental coordination, private and public sector investment and a strategy for incrementally constructing infrastructure improvements will be required to successfully achieve the vision of the CEAP after its adoption.

### Interdepartmental and Agency Coordination

Numerous departments within the City will share responsibility for implementing the CEAP. The City's Economic Development Department will help market and promote the Plan to the private sector (focusing on business attraction and retention). The Zoning (Current Planning) Division will be responsible for the administration of the zoning regulations and ensuring that new development adheres to the Design Guidelines. The Strategic Planning Division will work with the Public Works Agency to ensure that key improvements required by the CEAP are included in the City's Capital Improvement Plan, and that grant submittals for transportation/infrastructure improvements identified in the CEAP are prioritized. Additionally, the Public Works Agency will be responsible for review and inspection of individual transportation/infrastructure projects during the design and construction phases (for example, to ensure redesign of streets in accordance with CEAP and Design Guidelines). Additionally, coordination with the City of Alameda, CALTRANS, AC Transit and other public agencies will be required.

### Public Improvements and Infrastructure Funding Mechanisms

Future development facilitated by the CEAP will likely result in construction of some of the needed streetscape, transportation and infrastructure improvements. However, the breadth of infrastructure deficiencies in the Central Estuary Area is well beyond the means of any one private developer to design and construct. Possible mechanisms to fund the construction of improvements include application of the City's Standard Conditions of Approval, inclusion of projects in the City's Capital Improvement Program (CIP), Public/Private Partnerships and Development Agreements, as well as additional property-based financing tools and public funding sources.

Application of the City's Standard Conditions of Approval (SCAs) will result in some of the needed streetscape improvements for major projects. SCAs applied to major development projects include requirements for undergrounding utilities, making improvements to the public right-of-way, and establishing parking and transportation demand management programs. Additional SCAs involve minimizing environmental impacts and ensuring conformance with approved plans.

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Infrastructure and facilities improvement projects that meet the City's priorities could be eligible for funding by the City's Capital Improvement Program (CIP). The CIP covers projects costing more than \$50,000 and funds are used for constructing new facilities or repair of existing facilities. Citywide priorities are evaluated and a portion of those priorities are included in the CIP in the adopted citywide budget. It is reasonable to assume that the Planning Area will receive some CIP-funded improvements over the life of the Plan, but it is not necessarily a good mechanism to fund focused improvements, given competing citywide priorities and limited resources.

Public/private partnerships and development agreements are both tools whereby the City may negotiate improvements on a case-by-case basis. In these arrangements, contracts between the City and the private developer specify terms and conditions of private development that may include streetscape and infrastructure improvements. Improvements would be funded through developer proceeds; however, the fees may be passed on to the future owners/businesses.

Additional property-based financing tools and public funding sources are described below. The type of tool, its description, including typically funded improvements and pre-conditional requirements are identified:

| Funding Mechanism                                 | Description and Improvements Funded   | Requirements   |
|---|---|--|
| <b>Property-Based Financing Tools</b>             |   |  |
| Development Impact Fees and In-lieu Fees          | City may impose fees on new development to fund improvements that offset the impact of new development such as transportation improvements.                 | City would need to prepare a Nexus Study to:<br>1) Identify the purpose of the fee.<br>2) Identify the use to which the fee is to be put. If the use is financing public facilities, the facilities must be identified.<br>3) Determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed (commonly called a Nexus).<br><br><u>Note:</u> In 2009, the City considered hiring a consultant to perform a nexus study to establish a citywide impact fee, but this initiative was ultimately put on hold and a consultant was not hired. |
| Landscape and Lighting Assessment District (LLAD) | A LLAD establishes new assessments to fund installation and maintenance of public improvements, such as street trees, sidewalks, parkways, and landscaping. | Oakland's current LLAD is responsible for maintaining 130 City parks, as well as street trees, community centers, street lights and traffic signals. Due to funding limitations, it may not be possible for the current LLAD to fund needed infrastructure improvements in the Central Estuary.  |

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| Funding Mechanism   | Description and Improvements Funded   | Requirements  |
|---|---|---|
| <b>Mello-Roos Community Facilities District (CFD)</b>                         | A CFD could levy additional property taxes on land located inside the district to pay for new infrastructure.   | Requires 2/3 approval by the voters to form district and issue bonds. The particular method of allocating the special tax, and the facilities and services to be authorized, would need to be specified. If bonds are to be authorized, their amount and maximum term must be specified as well.  |
| <b>Infrastructure Finance District (IFD)</b>                                  | IFDs can fund regional public facilities by diverting property taxes for 30 years to fund identified improvements (such as transit improvements, water systems and sewer projects).   | <ul style="list-style-type: none"> <li>▪ Under current State regulations, cannot be established within an existing Redevelopment Area District.</li> <li>▪ May not be used to pay for maintenance, repairs, operating costs, or services.</li> <li>▪ Requires 2/3 approval by the voters to form and issue bonds.</li> <li>▪ Requires a complex infrastructure financing plan.</li> </ul>   |
| <b>Community Benefit District (CBD) / Business Improvement District (BID)</b> | Business community could voluntarily assess themselves to fund marketing, promotion, security, limited streetscape improvements, maintenance and special events.  | <ul style="list-style-type: none"> <li>▪ Would require the Planning Area business community to pay annual fees to fund activities and programs.</li> <li>▪ Not sufficient to fund infrastructure improvements.</li> </ul>   |
| <b>Mills Act</b>  | The Mills Act is a voluntary program in which the City of Oakland and an owner of an historic property enter into a contract whereby the property owner agrees to repair and maintain the historic character of the property in exchange for reduced property | <ul style="list-style-type: none"> <li>▪ A limited number of contracts are processed annually in the City.</li> <li>▪ \$400 application fee.</li> </ul>   |
| <b>Public Funding Sources</b>   |   |   |
| <b>Measure B</b>  | Measure B provides funds for transportation projects in Alameda County including public transit and local street improvements and bicycle and pedestrian infrastructure.  | <ul style="list-style-type: none"> <li>▪ Strict project deadlines: Each project must have environmental clearance and a funding plan seven (7) years from first revenue collection.</li> <li>▪ Timely use of funds: Jurisdictions and transit agencies must spend funds in a timely manner and report on these expenditures each year.</li> <li>▪ Performance and accountability measures: These will be included in every contract with fund recipients.</li> <li>▪ Competitive process</li> </ul> |

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| Funding Mechanism         | Description and Improvements Funded  | Requirements  |
|---------------------------|--|---|
| One Bay Area Grant (OBAG) | OBAG is an integrated Bay Area approach to distributing federal transportation dollars regionally. Grant funds cover, in part, local street and bicycle and pedestrian improvements. | <ul style="list-style-type: none"><li>Investments primarily directed to Priority Development Areas (PDAs) or major connections to these areas.</li><li>City is required to have its General Plan housing element adopted and certified by the State.</li><li>City is required to provide performance reporting.</li><li>Competitive process</li></ul> |

A combination of these potential implementation and funding mechanisms will be further studied to determine which are appropriate for the Central Estuary Area. Community support and City Council approval would be needed for the above tools – such as special assessment districts and impact fees, as would additional economic and feasibility studies (to determine, for example, if a citywide application is most appropriate).

#### Incremental Approach to Development

The timing of development in the Central Estuary, anticipated to be extended over 20 years, will create a challenge for matching efficient infrastructure improvement projects to development. In Oakland, infrastructure design work is typically funded through multiple sources (grants, mitigation fees, CIP budgeted funding, etc.) leading to piecemeal improvements. The Public Works Agency's Transportation Planning & Funding Division (TPFD) has recently created a prioritization tool for the numerous projects that do not make it onto the CIP and therefore, must apply for alternative funding sources such as grants. Improvements to Fruitvale Ave. described in the CEAP were included on the TPFD's prioritization list. As a result, on March 15, 2012, the City submitted a grant application to fund the Fruitvale Ave. streetscape improvements as part of the Metropolitan Transportation Commission's One Bay Area Grant. The \$412,000 grant, if awarded, would fund the development of a final conceptual design and then subsequently the construction plans, specification, and construction cost estimate for the project, which will improve pedestrian and bicycle amenities, and calm traffic along Fruitvale Ave. between E. 12th and the Estuary. The successful submittal of this grant reflects the standardization of a city process and interdepartmental coordination. Prioritization of improvements, in light of other citywide needs and limited resources, is a strategic way to incrementally construct costly improvements.

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### **PUBLIC OUTREACH/INTEREST**

As part of the Plan's public outreach effort, six community workshops were held between March and November 2009. Initial workshops focused on developing a shared vision statement for the Central Estuary area, and subsequent workshops involved hands-on small group activities to develop and evaluate land use and transportation alternatives and reach consensus on a community-preferred alternative. Technical analysis of the alternatives included land use, transportation, sustainability, public health and fiscal impact analyses.

Additional outreach included an informational meeting with local businesses and owners in 2009, and attendance at two Neighborhood Crime Prevention Council meetings also in 2009. Newspaper notices, email updates and the project webpage were additional means of communicating with project stakeholders. Lastly, staff engaged in personal follow up with project stakeholders throughout the duration of the project.

Numerous advisory board meetings and public hearings have also been held on the Central Estuary Area Plan as explained under the Background/Legislative History section of this report.

### **COORDINATION**

The CEAP and related Supplemental Environmental Impact Report were prepared with the technical assistance of the following City departments: Department of Planning and Building, Economic Development Department, Public Works Agency (Transportation Planning & Funding Division, Environmental Services Division, Transportation Services Division and Department of Engineering and Construction), Redevelopment Successor Agency, City Attorney's Office, and Fire Services Division. This report was also reviewed by the Budget Office.

### **COST SUMMARY/IMPLICATIONS**

Adopting the Central Estuary Area Plan (CEAP), Design Guidelines and Estuary Policy Plan and Planning Code Amendments has no direct fiscal impact to the City. Application of the new zoning standards and design guidelines will be routine components of project review administered by the Department of Planning and Building. An adopted Plan, with recommended transportation improvements for which preliminary qualitative environmental analysis has been prepared, will better position the City to apply for and potentially receive grant funding for such projects.

## **SUSTAINABLE OPPORTUNITIES**

***Economic:*** The development program contemplated as part of the CEAP would allow for an increase of 390 residential units, 30 live/work units, 370,000 square feet of industrial area, and 700,000 square feet of commercial area that could boost the sales tax, property tax and business tax revenue in the Central Estuary area. The CEAP would create employment opportunities, increase revenues (sales, property and other taxes), and promote spin off activities (as workers spend some of their income on goods in the Plan Area).

***Environmental:*** While most environmental impacts associated with the CEAP would be reduced to less than significant levels, after the City's standard conditions of approval and mitigation measures are applied to individual projects, there will nonetheless be some significant and unavoidable impacts. However, as indicated in the Statement of Overriding Considerations, there are significant benefits to the adoption of the CEAP. See detailed discussion of CEQA below.

***Social Equity:*** Updating zoning standards to provide for enhanced protections for low income people living in close proximity to industrial uses, as well as employing design guidelines to minimize potential conflicts between cars, pedestrians, and bicyclists and to create even and continuous sidewalk surfaces in the Plan Area will address social equity impacts in the Central Estuary area. Further, the new design guidelines will help ensure that buildings are designed with regard to land use compatibility in order to lessen air quality and noise impacts.

## **CEQA**

A Supplemental Environmental Impact Report (SEIR) has been prepared for the CEAP. The SEIR was provided to the Planning Commission under separate cover, and is available to the public, through the City's website:

<http://www2.oaklandnet.com/Government/o/PBN/OurOrganization/PlanningZoning/DOWD009073>

The SEIR is also available at no charge at the Oakland Planning Department, Strategic Planning Division, 250 Frank Ogawa Plaza, Suite 3315, Oakland, California 94612.

The April 17, 2013, Planning Commission staff report (***Attachment C***) includes a timeline summary of the environmental review for the project (page 11).

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

A Supplemental Environmental Impact Report (SEIR) has been prepared to evaluate environmental impacts of development of the program of land use changes in the Central Estuary

Area Plan (CEAP) that would allow for an increment of growth of up to 390 residential units, 30 live/work units, 370,000 square feet of industrial area, 700,000 square feet of commercial area, and 10 acres of parks for the following environmental topics: Air Quality; Greenhouse Gas Emissions/ Global Climate Change; Noise; and Transportation/Traffic.

As detailed in Chapter 4.5 of the Draft SEIR, the following environmental issue areas were found to have no or less-than-significant impacts with incorporation of the City's Standard Conditions of Approval (SCAs), General Plan policies, and Municipal Code regulations and therefore are not addressed in detail in the EIR: Aesthetics, Shadow, and Wind; Agriculture; Biological Resources; Cultural Resources; Geology And Soils; Hazards and Hazardous Materials; Hydrology And Water Quality; Land Use; Mineral Resources; Population and Housing; Public Services; Recreation; and Utilities and Service Systems.

Additionally, some potentially significant transportation impacts will be reduced to a less than significant level through the implementation of Project mitigation measures or through the implementation of Standard Conditions of Approval (which are an integral part of the Standard Conditions of Approval and Mitigation Monitoring and Reporting Program (SCAMMRP; *Attachment D*).

#### Significant Environmental Impacts

The SEIR comprehensively assesses the full range of potential environmental impacts of the CEAP at a programmatic level. Additionally, some project-level impacts of reasonably foreseeable level of build out in the Central Estuary Plan Area are discussed to the extent that such impacts are known. Other than the impacts discussed below, all of the environmental effects of the CEAP can be reduced to less than significant levels through implementation of the City's Standard Conditions of Approval (SCA) and/or recommended mitigation measures (see *Attachment D* – the Standard Conditions of Approval and Mitigation Monitoring and Reporting Program).

The proposed CEAP will result in significant and unavoidable impacts related to Air Quality (exposure to Toxic Air Contaminants (TAC) and odors), Greenhouse Gas Emissions/Global Climate Change, and Transportation/Traffic (intersection/roadway). The impacts are briefly summarized here. See *Attachment E* for a detailed review of the impacts summarized below.

#### Air Quality

Impact AQ-3: Development facilitated by the proposed project could include residential developments that expose occupants to substantial health risks from toxic air contaminants from sources including both diesel particulate matter (DPM) and gaseous emissions.

Impact AQ-4: Development facilitated by the proposed project could expose a substantial number of people to objectionable odors.

Greenhouse Gas Emissions/Global Climate Change

Impact GHG-1: Development facilitated by the proposed project would allow for uses that would produce greenhouse gas emissions from multiple sources, including stationary sources. The expected level of emissions would exceed three of the four relevant thresholds but would be below the plan level threshold for non-stationary sources. Thus, greenhouse gas emissions are expected to result in a cumulatively considerable contribution to a significant adverse cumulative impact on the environment.

Transportation/Traffic

Transportation/traffic-related impacts are discussed by intersection number or segment. Multiple impacts (relating to the various analysis scenarios, i.e., 2020, 2035, AM or PM) are grouped under the common intersection or segment. Numerous intersections had significant and unavoidable impacts in 2020 and/or 2035.

Therefore, in order to approve the proposed CEAP, the City will have to adopt Statements of Overriding Consideration for these significant unavoidable impacts, finding that the benefits of the Project outweigh any significant unavoidable impacts (see *Attachment E: CEQA Findings*).

CEQA Alternatives

Chapter 5 of the Draft SEIR includes the analysis of five alternatives to the proposed project that meet the requirements of CEQA, which include a reasonable range of alternatives to the Project that would feasibly attain most of the Project's basic objectives, and avoid or substantially lessen many of the Project's significant environmental effects. These alternatives include:

- Alternative 1 – No Project Alternative – CEQA requires a “no Project” alternative to be considered in the EIR. For the project under consideration, this alternative would be the existing regulatory framework consisting of the Estuary Policy Plan of the City's General Plan and existing zoning regulations. These existing regulations would continue to allow for new development in the Plan Area, but at generally lower intensities/densities than without the project and without implementation of the Design Guidelines which are intended to better promote harmony among the area's diverse land uses.
- Alternative 2 - Reduced Retail - This alternative was developed with the intent of reducing significant project impacts while adhering to most basic project objectives. Alternative 2 considers a reduction in the allowable intensity of retail development in the High Street area as a basis for comparison against the proposed project. Specifically, Alternative 2 lessens the allowable retail intensity in the Central-East sub area by 50 percent. With such a reduction, Alternative 2 as a whole would thus result in a total of about 1,500 P.M. peak hour trips, a reduction of about 500 P.M. peak –hour trips compared to the project.

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- Alternative 3 – Mitigated Alternative - While Alternative 2 cuts the amount of allowable new retail development in the Central East area so as to achieve a reduction of about 500 P.M. peak hour trips at buildout, Alternative 3 further cuts the level of allowable development across the Plan Area such that total P.M. peak hour trips would not exceed 150 (relative to about 2000 for the proposed project). In essence, Alternative 3 would entail an 80 to 90 percent reduction in allowable growth relative to the CEAP. For the purposes of this analysis, Alternative 3 is assumed to include about 150 residential units – and no new commercial or industrial uses.
- Alternative 4 – Theoretical Maximum Build-out - Because the CEAP's regulations would be applicable to every parcel within the Central Estuary Area, Alternative 4 evaluates the theoretical possibility that every parcel would be built out to the new maximum level permissible under the suite of changed regulations set forth in the CEAP.
- Alternative 5 – Maximum Infrastructure - The CEAP does not propose, include, or provide funding for any new transportation improvements. The SEIR is thus focused on the potential effects of the CEAP's proposed changes in land use regulations. However, the planning work undertaken in development of the CEAP identified a number of transportation improvements currently contemplated by the city or other responsible agencies. As these improvements are neither approved nor funded, they are appropriately excluded from the main body of the SEIR's analysis. However, these unapproved, unfunded transportation improvements whose potential implementation could affect the physical environment of the Plan Area. Alternative 5 thus contemplates the environmental effects likely to result from the combination of approval of the CEAP plus implementation of these improvements.

The Environmentally Superior Alternative results from a comparison of the impacts associated with each alternative. Based on a thorough comparison of all five alternatives, Alternative 3 (the Mitigated Alternative) is considered environmentally superior because it would avoid significant transportation and greenhouse gas effects associated with the project. Alternative 3 would also reduce the severity of other project impacts in several other environmental topic areas.

The alternatives, including Alternative 3, are being rejected in favor of the project because they do not meet the basic objectives of the project to maintain and enhance the economic role of the Central Estuary planning area, to provide a framework for realizing needed transportation and infrastructure improvements and to create design guidelines to reconcile conflicting land uses. Additionally, legal or other considerations make the alternatives infeasible. Therefore, the Planning Commission has adopted a Statement of Overriding Considerations despite the Project's significant and unavoidable environmental impacts; City Council is being asked to reaffirm the Planning Commission's action (see *Attachment C*).

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### Responses to Draft SEIR Comments (Final SEIR)

City staff received comments on the Draft SEIR from five public agencies. Additional oral comments were provided at the Planning Commission hearing on December 5, 2012. Responses to all of the comments provided by these agencies and individuals are provided in the Final EIR document, including certain revisions and changes to text in the Draft SEIR. None of these changes to the Draft EIR involve a new significant environmental impact, a substantial increase in the severity of an environmental impact, or a feasible mitigation measure or alternative considerably different from that presented in the Draft SEIR. Recirculation of the Draft SEIR is not warranted.

In sum, City Planning staff recommends the City Council reaffirm the Planning Commission's certification of the SEIR.

### Level of Analysis and Streamlining Future Environmental Review

The SEIR is intended to assess the environmental impacts of the proposed Central Estuary Area Plan (CEAP). Generally, a program-level environmental review was used to analyze impacts associated with the CEAP. Although not required under CEQA, some "project-level" impacts of reasonably foreseeable level of build-out in the Plan Area are discussed to the extent that such impacts are known. The SEIR evaluated the following impacts at a project level:

- Air quality: exposure to odors and toxic air contaminants
- Greenhouse gas emissions
- Transportation/Traffic: transportation facilities
- Noise

The SEIR concludes, with the exception of noise impacts, that these project-level impacts are significant and unavoidable.

The City intends to use the streamlining/tiering provisions of CEQA to the maximum feasible extent, so that future environmental review of specific projects are expeditiously undertaken without the need for repetition and redundancy, as provided in CEQA Guidelines Section 15152 and elsewhere. Specifically, pursuant to CEQA Guidelines Section 15183, streamlined environmental review is allowed for projects that are consistent with the development density established by zoning, community plan, specific plan, or general plan policies for which an EIR was certified, unless such a project would have environmental impacts peculiar/unique to the project or the project site. Likewise, Public Resources Code Section 21094.5 and CEQA Guidelines Section 15183.3 also provides for streamlining of certain qualified, infill projects. In addition, CEQA Guidelines Sections 15162-15164 allow for the preparation of a Subsequent (Mitigated) Negative Declaration, Supplemental or Subsequent EIR, and/or Addendum, respectively, to a certified EIR when certain conditions are satisfied. Moreover, California Government Code Section 65457 and CEQA Guidelines Section 15182 provide that once an EIR

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is certified and a specific plan adopted, any residential development project, including any subdivision or zoning change that implements and is consistent with the specific plan is generally exempt from additional CEQA review under certain circumstances. The above are merely examples of possible streamlining/tiering mechanisms that the City may pursue and in no way limit future environmental review of specific projects.

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

For questions regarding this report, please contact Alicia Parker, Planner II, at (510) 238-3362.

Respectfully submitted,



RACHEL FLYNN  
Director, Department of Planning and Building

Reviewed by:  
Ed Manasse, Strategic Planning Manager

Prepared by:  
Alicia Parker, Planner II  
Strategic Planning Division

#### Attachments

- A. Central Estuary Area Plan Adoption Findings
- B. December 5, 2012 Planning Commission Staff Report without attachments
- C. April 17, 2013 Planning Commission Staff Report without attachments
- D. Standard Conditions of Approval/Mitigation Monitoring and Reporting Program (SCA/MMRP)
- E. CEQA Findings: Certification of the Supplemental EIR, Rejection of Alternatives and Statement of Overriding Considerations

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**Oakland City Planning Commission****Central Estuary Area Plan Adoption Findings**

In addition to the California Environmental Quality Act (CEQA) findings, there are additional findings which the Commission must make in recommending the *Central Estuary Area Plan* to the City Council for adoption, as detailed below.

The City Planning Commission finds and determines:

1. The *Central Estuary Area Plan* meets Policy A3 of the Land Use and Transportation Element (LUTE) of the Oakland General Plan: "Develop General Plan amendment cycles and related procedures". Specifically:
  - a. Policy A3 of the General Plan LUTE states that the City will amend its General Plan, up to four times per year, subject to specific findings including: a) how the amendment advances Plan implementation; b) how it is consistent with the policies in the Element; c) any inconsistencies that would need to be reconciled; and d) examination of citywide impacts to determine if the amendment is contrary to achievement of citywide goals. As detailed below, the *Estuary Policy Plan* amendments included as part of the *Central Estuary Area Plan* advance Policy A3 of the General Plan LUTE by amending the General Plan to be consistent with an Area Plan.
  - b. The *Central Estuary Area Plan* and associated Estuary Policy Plan amendments and zoning regulations are consistent with and further advance the *Oakland General Plan* including the LUTE. By way of example and not by limitation, the following summary lists the major goals and policies of the *Central Estuary Area Plan* and how they're consistent with the LUTE:
    - Industry and Commerce objectives and policies to attract new businesses by targeting the area for specific industrial activities; to retain the existing businesses and jobs through supportive zoning; to advance economic development through public investment by creating the design guidelines that will be used to improve the architectural cohesiveness of the area; and by minimizing nuisances by implementation of environmental standards. Applicable LUTE Industry and Commerce-related policies are listed in Chapter 4.5.10 of the SEIR (hereby incorporated by reference). Additional LUTE Implementation Program policies include, but are not limited to, Policies b1, b2, and c3.
    - Transportation and Transit-Oriented Development objectives and policies to concentrate truck services in areas adjacent to freeways, while ensuring the attractiveness of the environment for visitors; to include bikeways and pedestrian walks in new streets; to make the waterfront accessible; and to improve the visual quality of streetscapes. Applicable LUTE Transportation-related policies include, but are not limited to, Policies T3.5, T3.6, T3.7, and T6.2. These policies are listed in Chapter 4.4 of the SEIR (hereby incorporated by reference).
    - Waterfront objectives and policies to reduce land use conflicts by buffering industrial activities from sensitive uses; to link neighborhoods with the waterfront by improving access routes; to improve railroad crossings; and

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## Oakland City Planning Commission

## Central Estuary Area Plan Adoption Findings

to define unique development characteristics along the estuary. Applicable *LUTE* Waterfront-related policies include, but are not limited to, Policies W3.2, W3.4, W9.3 and W11.6/W12.7. These policies are listed in Chapter 4.5 of the SEIR (hereby incorporated by reference).

- Neighborhood objectives and policies to encourage infill development; to support live/work development; to ensure compatible development in terms of density, scale, design and existing or desired character of surrounding development; and to recognize and support the identification of distinct neighborhoods. *LUTE* Population-related policies include, but are not limited to, Policies I/C4.1, I/C4.2, N3.6, N3.7, and N12.7. These policies are listed in Chapter 4.5 of the SEIR (hereby incorporated by reference).

2. The *Central Estuary Area Plan* and associated Estuary Policy Plan amendments and zoning regulations are consistent with and further advance the *Oakland General Plan* including the *LUTE* (as described above) *OSCAR*, *Historic Preservation*, *Safety*, and *Housing Elements*, as well as the *Bicycle and Pedestrian Master Plans*. By way of example and not by limitation, the following summary lists the major goals and policies of the *Central Estuary Area Plan* and how they're consistent with the *General Plan*.
  - a. The *Central Estuary Area Plan* is consistent with policies of the *Bicycle Master Plan* to include provisions for safe and direct bicycle access to special development areas and key corridors (such as Fruitvale Avenue); to support improved bicycle access to public transportation (such as to the Fruitvale BART station); and to insure that the needs of bicyclists are considered in the design of new development. Applicable *LUTE* Transportation-related policies are listed in Chapter 4.4 of the SEIR (hereby incorporated by reference). The CEAP would be consistent with the *Bicycle Master Plan* Policies 1A, 1B, and 1C.
  - b. The *Central Estuary Area Plan* is consistent with the policies of the *Open Space, Conservation, and Recreation Element (OSCAR)* Element of the *General Plan* to promote land use patterns and densities which improve regional air quality; to expand existing transportation systems management to reduce congestion; to require implementation of best practices during construction to minimize dust emissions; to encourage the use of energy-efficient construction; to promote the waterfront by exploring new creative ways to provide public access to the waterfront; to expand and enhance the city's waterfront parks area; to protect habitat; to control urban runoff; and to minimize soil contamination hazards through appropriate storage and disposal of toxic substances. Applicable *OSCAR*-related policies include, but are not limited to, Policies CO-12.1 and CO-12.3 through CO-12.7; CO-5.3, CO-6.1, CO-6.5, CO-8.1 and CO-13.2 through CO-13.4. These policies are listed in Chapters 4.1, 4.2, and 4.5 of the SEIR (hereby incorporated by reference).
  - c. The *Central Estuary Area Plan* is consistent with the policies of the *Historic Preservation Element (HPE)* to encourage the reuse of existing buildings and building materials; to incentivize the preservation of historic resources; and to avoid or minimize adverse historic preservation impacts. Applicable *Historic Preservation Element*-related policies include, but are not limited to, Policies 2.1,

**Central Estuary Area Plan Adoption Findings**

- 3.1, 3.9 and 4.1. These policies are listed in Chapters 4.2 and 4.5 of the SEIR (hereby incorporated by reference).
- d. The *Central Estuary Area Plan* is consistent with the policies of the *Safety Element* to enforce and update local ordinances and to comply with regional orders that would reduce the risk of storm-induced flooding; and to continue to strengthen city programs that seek to minimize the storm-induced flooding; and to maintain and enhance the city's capacity for emergency response. Applicable *Safety Element*-related policies include, but are not limited to, Policies FL-1, FL-2, HM-1 and HM-3. These policies are listed in Chapters 4.2 and 4.5 of the SEIR (hereby incorporated by reference).
  - e. The *Central Estuary Area Plan* is consistent with the goals and policies of the *Housing Element* to provide adequate sites for housing for all income groups, to conserve and improve older housing and neighborhoods, and to promote sustainable development and sustainable communities. Applicable *Housing Element*-related policies include, but are not limited to Policies 4.1, 4.3, 5.1, and 5.5. These policies are listed in Chapters 4.2 and 4.5 of the SEIR (hereby incorporated by reference).
3. The *Central Estuary Area Plan* is consistent with the existing policies of the *Estuary Policy Plan*, as well as those amended in conjunction with adoption of the *Central Estuary Area Plan*, that are intended to strengthen local circulation connections, improve bicycle and pedestrian circulation, retain existing industrial land uses, encourage the reuse of existing warehouse properties, preserve housing for all income levels in the Kennedy Tract, and provide adequate parking in each subdistrict. Applicable *Estuary Policy Plan*-related policies are listed in Chapters 4.1, 4.2 and 4.4 of the SEIR (hereby incorporated by reference). Specifically:
- a. The *Central Estuary Area Plan* fulfills Policy MF-2 of the *Estuary Policy Plan* for the Central Estuary Area: "Develop a Companion Document to the EPP, to be called the Estuary Plan Implementation Guide". The Central Estuary Area Plan functions as an implementation component for the Central Estuary area by setting out a more defined overall vision, developing specific development standards and design guidelines to shape the character of new development in a more cohesive way and by recommending future transportation improvements.
  - b. The Central Estuary Area Plan meets Policy MF-3: "Adopt and Enforce Development Regulations Which Reflect the Land Use Policies Established by the EPP". The zoning developed as part of this project achieves this policy.
4. There are no inconsistencies between the *Central Estuary Area Plan* and the *Oakland General Plan* which need to be reconciled and the Plan is consistent with and will further advance achievement of citywide goals, as detailed herein and in the April 17, 2013 Report to the City Planning Commission.
5. Adoption of the *Central Estuary Area Plan* meets the provisions of California Government Code Section 65351 et. seq., specifically:

**Central Estuary Area Plan Adoption Findings**

- a. The City provided “opportunities for the involvement of citizens, California Native American Indian tribes, public agencies, public utility companies, and civic, education, and other community groups, through public hearings and at public workshops” (Government Code section 65351). Specifically, six community workshops were held between March and November 2009; between December 2009 and July 2010 the community preferred alternative was presented to the Parks and Recreation Advisory Commission, Landmarks Preservation Advisory Board, Planning Commission, Community & Economic Development (CED) Committee, and City Council; between July and September 2012 the Draft CEAP, including General Plan and Planning Code Amendments and Design Guidelines were presented to the Zoning Update Committee and Design Review Committee of the Planning Commission, as well as the Bicycle and Pedestrian Advisory Committee and the Landmarks Preservation Advisory Board and to the Planning Commission.
- b. In addition to providing newspaper notice in the Oakland Tribune of various public hearings, the City also provided notice of hearings in compliance with Government Code Section 65352 through (1) the November 21, 2011, Notice of Preparation of the Supplemental Environmental Impact Report; (2) the November 5, 2012, Notice of Availability/Notice of Release of the Draft SEIR; and (3) the April 4, 2013, Notice of Availability/Notice of Release of the Final SEIR and public hearing to consider adoption of the CEAP, General Plan and Planning Code Amendments, which were sent to:
  - The neighboring cities of Alameda, Berkeley, Emeryville, San Leandro; the County of Alameda; the Port of Oakland;
  - The Oakland Unified School District
  - The Local Agency Formation Commission
  - The Association of Bay Area Governments; the Metropolitan Transportation Commission; the Regional Water Quality Control Board;
  - East Bay Municipal Utility District, (which was consulted during the preparation of the *Central Estuary Area Plan*, and which has commented on the Draft SEIR).
  - The Bay Area Air Quality District (which was consulted during the preparation of the *Central Estuary Area Plan*, and which has commented on the Draft SEIR)
  - There are no California Native American tribes with traditional lands in Oakland’s jurisdiction; however, a notice to the Interfaith Tribal Council, with offices in Oakland was sent by staff. There are no Federal agencies with “operations or lands” that would be significantly affected by adopting the *Central Estuary Area Plan*; There is no branch of the US Armed Forces that have military installations or airspace that could be affected by adopting the *Central Estuary Area Plan*;
6. That the *Central Estuary Area Plan* and related zoning regulations are adequate and promote the public interest and the existing zoning is inadequate and contrary to the public interest because it does not implement various provisions of the LUTE and EPP, in part, for the reasons stated herein and in the April 17, 2013, Report to the City Planning Commission.

**Central Estuary Area Plan Adoption Findings**

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|                                 |   |
|---------------------------------|---|
| Location:                       | Central Estuary Area which is bounded by 19 <sup>th</sup> Avenue to the north, 54 <sup>th</sup> Avenue to the south, I-880 to the east and the Bay to the west.   |
| Proposal:                       | Conduct a public hearing and solicit /provide comments on the Draft Central Estuary Implementation Guide (CEIG) and the associated new Draft Zoning Chapter, Draft Design Guidelines and Draft Estuary Policy Plan Amendments, as well as the Public Review Draft of the Supplemental Environmental Impact Report (SEIR). |
| Applicant:                      | City of Oakland, Department of Planning, Building and Neighborhood Preservation   |
| Case File Number:               | ER11-0016/ ZT12109 / GP12110  |
| Planning Permits<br>Required:   | Adoption of the CEIG and the associated new Zoning Chapter, Design Guidelines and Estuary Policy Plan amendments  |
| General Plan:                   | Waterfront  |
| Estuary Policy Plan:            | Light Industry-2, Waterfront Commercial Recreation-2, Planned Waterfront Development-2, Residential Mixed Use, Heavy Industrial, and General Commercial-1, Light Industry-3, Planned Waterfront Development-3, Parks  |
| Zoning:                         | M-30 General Industrial, M-40 Heavy Industrial, and HBX-3 Housing and Business Mix  |
| Historic Status:                | n/a   |
| Environmental<br>Determination: | A Supplemental Environmental Impact Report (SEIR) to the 1998 Oakland Estuary Policy Plan EIR is being prepared. The Draft SEIR was published for a 45 day public review period from November 9, 2012, to December 24, 2012.  |
| Service Delivery<br>District    | 3, 4, 5   |
| City Council District:          | 2, 5  |
| Action to be Taken:             | None; solicit and provide comments to planning staff on the above documents   |
| For Further<br>Information:     | Contact case planner: Alicia Parker at (510)-238-3362, or by email: <a href="mailto:aparker@oaklandnet.com">aparker@oaklandnet.com</a>  |

**SUMMARY**

The purpose of the public hearing is to solicit/provide comments from the Planning Commission and the public on the Draft Central Estuary Implementation Guide (CEIG) and the associated new Draft Zoning Chapter, Draft Design Guidelines and Draft Estuary Policy Plan Amendments, as well as the Public Review Draft of the Supplemental Environmental Impact Report (SEIR).

The Oakland Estuary waterfront has experienced significant development interest in recent years. However, a number of physical and policy challenges, including conflicting land use priorities and essential infrastructure deficiencies, have highlighted the need for a district-wide planning process. Historically, many industries have depended on waterfront access for raw materials or distribution, and some of the industrial uses in the Oakland Estuary Area do to this day. As a result, the area was historically predominantly zoned for industrial use, and a number of well-established industrial uses remain.

In recent years, many residential development interests have focused on industrial areas throughout the City because of the relative affordability of large land parcels, and the Oakland Central Estuary waterfront has been particularly appealing because of its attractive views and central location. At the same time, the desire to increase public access to, and the recreational use of, the City's waterfront adds another potentially conflicting demand on this area. The Central Estuary Implementation Guide and related documents is intended to address these many demands by clarifying City policy for this dynamic area.

The City of Oakland is preparing the CEIG and related documents to guide future development in the Central Estuary waterfront area. The project focuses on ten sub-districts within the larger Estuary area where some land use change from existing conditions is anticipated. The project entails rezoning of these areas consistent with direction from the 1999 Estuary Policy Plan, as well as General Plan (GP) Amendments to: (1) update existing GP goals, and strategies to reflect direction established in the CEIG, and (2) increase the allowable Floor Area Ratios. In addition, the Draft CEIG includes proposed design guidelines and development standards for the various subareas. A SEIR has been prepared for the project; the Public Review Draft SEIR is discussed in this report.

The Draft SEIR analyzes potentially significant environmental impacts in the following categories: Air Quality, Greenhouse Gas Emissions/ Global Climate Change, Noise, Transportation/Traffic, Aesthetics, Biological Resources, Cultural and Historic Resources, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use Planning, Population and Housing, Public Services, Recreation, and Utilities and Service Systems. The Draft SEIR identifies significant and unavoidable impacts related to Air Quality (exposure to TACs and odors), Greenhouse Gas Emissions/Global Climate Change (GHG emissions), and Transportation/Traffic (intersection/roadway) impacts.

The City Planning Commission is being asked to recommend staff undertake the changes to the CEIG package (Draft CEIG, Draft Zoning, Draft General Plan Amendments and Draft Design Guidelines) as described in this report and return to the Planning Commission for final review of the CEIG package for forwarding to City Council. The Planning Commission is also being asked to take public testimony on the Draft SEIR and provide comments to staff on the Draft SEIR.

The Draft CEIG package was recently presented to advisory boards, including the Zoning Update Committee and Design Review Committee of the Planning Commission, as well as the Bicycle and Pedestrian Advisory Committee and the Landmarks Preservation Advisory Board, each of which provided comments unique to their topic area. The Draft CEIG package and Public Review Draft SEIR are now being presented to the full Planning Commission for feedback. Upon conclusion of this Planning Commission meeting, all comments received will help shape the preparation of the final documents. Once final documents are prepared, the formal adoption process will commence beginning with the Planning

Commission and continuing onto the Community and Economic Development Agency of the City Council and full City Council.

## **BACKGROUND**

The Central Estuary Implementation Guide (CEIG) that is currently being prepared is intended to serve as a companion to the City of Oakland's Estuary Policy Plan (EPP), which was adopted in 1999. The EPP is an element of the Oakland General Plan, and sets forth policies and principles to guide development in the Estuary waterfront area. An "Implementation Guide" is called for in Policy MF-2 of the Estuary Policy Plan. The CEIG identifies specific steps to be undertaken to implement the recommendations of the EPP. These include detailed strategies and work programs to create and implement projects, site design and development standards, funding and institutional strategies, and other administrative steps necessary to carry out EPP recommendations.

The impetus to prepare the CEIG came from the Citywide Industrial Land Use Policy discourse, aimed at preserving certain industrial areas and establishing a more integrated and predictable approach to the management of industrial lands in Oakland. In 2008, City Council decided that the CEIG planning process would analyze the Central Estuary area in depth and make recommendations regarding appropriate uses. The CEIG planning process included six community workshops held between March and November 2009. The workshops resulted in a draft community-preferred alternative that was presented at a series of public hearings between December 2009 and July 2010.

The CED Committee of the City Council discussed modifications to the community-preferred alternative, including maintaining existing land uses envisioned for the Con Agra site, Owens Brockway site and the south of Tidewater area; there was general consensus about the proposals for the areas west of Fruitvale Avenue that were part of the community-preferred alternative. The City Council endorsed the CED Committee modifications and ultimately adopted a land use program that represented less change than the community-preferred alternative.

### **Planning Context**

The Oakland Estuary waterfront is a significant citywide and regional resource that connects the City of Oakland and the surrounding region to the San Francisco Bay. The Central Estuary, the focus of the Draft CEIG, is an area generally encompassed by 19th Ave. to the north, 54th Ave. to the south, I-880 to the east and the Oakland Estuary to the west. The landside portion of the Central Estuary area is roughly 416 acres.

Planning for the Central Estuary is complicated due to the diversity of the area, where conditions vary markedly across the district. For the purposes of the Draft CEIG, the area has been divided into 10 sub-districts, as shown in Attachment A and described below:

- **Embarcadero Cove** - this waterfront area currently includes a number of commercial and recreational uses, predominantly oriented to the waterfront. Among these are office spaces, commercial retail and services including Port of Oakland-owned offices and Quinn's Lighthouse. There are also a number of marine activity-related facilities. The waterfront orientation and



constrained parcel depth make this area well suited for continued commercial-recreational and water-dependent uses.

- **Mixed-Use Triangle** - this area includes an office development owned by Alameda County, a private school, and other commercial and industrial uses. Many of the early industrial and warehouse buildings have remained intact, salvaged by adaptive reuse into lofts, live-work, offices and educational facilities. The pattern of land uses is relatively fine-grained, with some older structures and smaller increments of development oriented to the street. Additional adaptive reuse, and new educational, office and commercial uses should be encouraged, as well as multi-family residential and work/live units, where these uses would not create land use conflicts with existing industrial activities.
- **Food Industry Cluster** - this area is generally characterized by light industrial and service uses, and larger scale food processing and food warehousing/distribution operations. Food processing is a major source of employment in this portion of the waterfront, with some 450 individuals employed, many in skilled positions. Manufacturing and food processing/distribution should be encouraged, both for incubator businesses as well as for established and growing concerns.
- **Con-Agra** - this area, primarily in heavy industrial use, is dominated by the 11-acre Con-Agra facility, which mills grain for flour that is distributed throughout the Bay area and Northern California. Cemex and Star Marine are two other large operators immediately adjacent to the Con-Agra facility. While the area historically attracted construction-related uses because of barge access via the Estuary, these business operations remain in the area today largely because of its central location and good freeway accessibility, and because of investments in existing facilities. Policies encourage heavy industry in the vicinity of the Con-Agra plant to continue, while providing for the transition to a mix of new uses if heavy industrial users choose to relocate.
- **Union Point Park** - a 10-acre waterfront park that was completed in late 2005 and expanded in 2010, offering spectacular views of the marina and Estuary, waterfront access, park activities and open space.
- **Jingletown/Elmwood** - the area between 23rd and Fruitvale Avenues, and along Elmwood Avenue east of Fruitvale Avenue, includes a substantial amount of residential mixed in with lower-intensity and smaller scale industrial and commercial uses. The area is home to an increasingly vibrant residential and artist population. Housing includes work/live spaces in renovated warehouses as well as single-family bungalows, houses and more recently developed multi-family housing. A mixture of residential, live/work, work/live, light industrial and neighborhood-serving uses should be maintained in the future, with an emphasis on affordability, livability, and an enhanced relationship with the Estuary.
- **Owens/Brockway** - this site consists of approximately 28 acres of land devoted entirely to the business of glass recycling and manufacturing. These operations are expected to remain viable for the foreseeable future. Improvements along the edges of the Owens-Brockway plant should be undertaken to establish a more positive relationship with surrounding uses, including the neighborhood and the waterfront.
- **High Street Retail** - this commercial center includes a Home Depot and various other commercial uses, including a gym. This is a relatively successful regional commercial destination that capitalizes on its close proximity to the I-880 and High Street, capturing traffic from both the Estuary area and Alameda. At the 42nd Street interchange, there is the opportunity for the expansion and development of new commercial activities that are oriented to both regional and local markets. Specific uses that should be encouraged in this area include region-serving retail, office, general commercial, and light industrial. Street-facing retail uses along High Street, and landscaping and streetscape improvements should be incorporated into all new development, subject to development standards and design guidelines developed for the Central Estuary Area.
- **High Street Warehouse Wedge** - On the east side of Alameda Avenue, the Brinks warehouse and a cluster of small-scale light industrial uses and warehouses are located along the Estuary, impeding

public access opportunities. While Bay Trail segments have been completed along some of these uses, a portion of the waterfront remains inaccessible. Public access opportunities should be pursued over time along the shoreline.

- Tidewater North - This portion of the Central Estuary District functions as a service support area, with links to the adjacent Coliseum area. It supports wholesale and retail businesses, container storage, and smaller industrial uses. In addition, Pacific Gas & Electric (PG&E) and East Bay Municipal Utility District (EBMUD) have service facilities within this area. Current uses and activities should be maintained and encouraged, but there are opportunities to intensify underutilized sites, now used for equipment and container storage. These sites should be targeted for redevelopment as industrial and service-oriented uses, which would contribute to the overall viability of the area.
- Tidewater South - This area is unique in that it adjoins Martin Luther King Jr. Regional Shoreline, one of the larger assemblies of waterfront open space within the Estuary. The East Bay Regional Parks District (EBRPD) continues to develop the MLK Regional Shoreline, including the Tidewater Aquatic Center completed in 2009. Economic development objectives for this sub-district can be realized by deemphasizing service, storage and heavy industry and focusing more on employment-intensive uses that are more complementary with the public nature of the waterfront. Successful development will require an effort to balance competing objectives brought about by the proximity of the sites to regional park and nearby utility facilities.

## REGULATORY AND POLICY FRAMEWORK

Citywide policies, such as the Estuary Policy Plan and other elements of the Oakland General Plan, as well as a number of other plans and studies that have focused on the Estuary area, define the potential future for the Central Estuary:

### General Plan and Estuary Policy Plan

The General Plan LUTE established important general goals and policies for the waterfront and created a single broad land use designation, "Waterfront," which is applied to the entire Estuary waterfront, including the Central Estuary. The Estuary Policy Plan (EPP), adopted in June 1999, is an element of the General Plan that sets forth policies and principles to guide development in the Estuary area, refining and superseding the policy guidance for this area contained in the City's General Plan LUTE. Since the 1999 Estuary Policy Plan was adopted, two other districts included the EPP, the Jack London District and Oak to Ninth, have undergone significant redevelopment and planning.

The EPP divided the Estuary Area into three districts: Jack London, Oak to Ninth, and 'San Antonio/Fruitvale' (since re-named the Central Estuary). The EPP also recommended nineteen unique land use designations for the Estuary Waterfront, which supersede and subdivide the broad Waterfront designation of the General Plan LUTE into more fine-grained land use areas. The existing EPP land use designations for the Central Estuary consist of Light Industrial, Planned Waterfront Development, Residential Mixed Use, Heavy Industrial, and General Commercial and variations thereof.

Additional General Plan elements including the Historic Preservation Element, Open Space, Conservation and Recreation Element and the Bicycle and Pedestrian Master Plans contain policy guidance applicable to the Plan Area.

**Zoning Regulations**

With the exception of the Housing and Business Mix (HBX-3) zone adopted in 2006, much of the existing zoning for the Central Estuary was put in place in the 1960's, and has not yet been updated to be in conformance with the EPP land use designations. The existing zoning for the Central Estuary is primarily M-40 Heavy Industrial, with a stiver of M-30 General Industrial; and HBX-3 Housing and Business Mix in the residential area known as Jingtletown/Elmwood. The Housing and Business Mix (HBX-3) zone is intended to provide development standards for areas that have a mix of industrial, heavy commercial and higher density residential development. This zone is intended to promote housing with a strong presence of commercial and industrial activities.

**Regional and Other Agency Regulation and Planning Efforts**

The San Francisco Bay Trail includes site plans and design standards for development of a waterfront promenade and Bay Trail alignment along the Oakland Estuary shoreline. A number of agencies have jurisdiction over the Central Estuary Area. The Oakland Inner Harbor Tidal Canal, which includes areas of the Estuary to the east of Coast Guard Island, is federal property governed by the United States Army Corps of Engineers (USAGE). Waterfront development in the Central Estuary is regulated by the San Francisco Bay Conservation and Development Commission (BCDC). Finally, the Port of Oakland is a major landowner in the Central Estuary area.

**OVERVIEW OF THE CENTRAL ESTUARY IMPLEMENTATION GUIDE**

The Draft CEIG presents recommendations related to land use, development, urban design, shoreline access, public spaces, regional circulation, and local street improvements for the Central Estuary waterfront and individual districts within it. Attachment B contains the Draft CEIG.

The Visions, Goals and Objectives of the Estuary Policy Plan and Draft CEIG aim to retain, encourage and support a diverse and vibrant mix of uses; a destination waterfront; complete, safe and clear transportation comections; and infrastructure to support development.

The Draft CEIG includes the following sections:

- Section I includes introductory elements, which provide an overview and summary of the planning process, the planning area and surrounding context, as well as the vision for the Central Estuary and the goals and objectives established for implementation.
- Section II describes the land use context and includes an overview of existing land uses, zoning, and General Plan designations, along with a discussion of planned land use changes.
- Section iIII includes a review of existing transportation conditions and recommendations for near-term and long-term improvements, including an introduction to transportation policy and issues.
- Section IV describes the existing conditions of infrastructure throughout the Central Estuary and provides recommendations for required upgrades that should occur along with new development in the area.
- Appendix A provides policy-level recommendations for future transportation projects throughout the Central Estuary. Appendix A is proposed to be expanded to include an Implementation Section (see Attachment C)

Concurrently with the creation of the Draft CEIG, staff has prepared proposed new zoning for the area (See Attachment D for Draft Zoning Chapter and Attachment E for Draft Zoning Districts Map), consistent with direction from the EPP, as well as proposed General Plan Amendments (See Attachment F), to increase the allowable Floor Area Ratios (FARs) in some areas and update policy language. The Draft CEIG also includes a related document under separate cover, a Design Review Manual for the Central Estuary (See Attachment G), that contains proposed design guidelines for the various sub-districts.

## **APPROACH**

### **Land Use Policy Framework**

The proposed land use policy framework for the Central Estuary is illustrated in Attachment H. The proposed land use designations presented will guide development and contribute towards achieving the vision described in the CEIG. This guidance will have to be closely coordinated with the transportation improvements envisioned for the area, presented in Chapter III and Appendix A of the CEIG.

The EPP provides eight (8) land use designations for the Central Estuary Area which depict the type and intensity of allowable future development. These designations may be used to evaluate future development because they reflect the on-the-ground conditions, areas identified for greater intensity and areas slated for infill development. Taken together the eight land use designations in the Estuary Policy Plan describe the development pattern for the Central Estuary. See Attachment I for a description of each proposed EPP land use designation. The new Central Estuary zoning ordinance implements the direction of the land use designations by establishing maximum densities for individual properties.

### **Zoning Framework**

Most of the Plan Area currently retains the heavy industrial zoning (M-40) that was assigned in the 1960s. Two smaller areas (near 23rd Street and Elmwood Avenue) have "General Industrial" zoning (M-30). The existing industrial zoning allows manufacturing and other related activities that are potentially incompatible with residential uses, due to noise, odors, or other factors. Existing uses in the Plan Area reflect this intent, including the Owens-Brockway glass recycling facility, the Con Agra Foods plant, Hanson Aggregates (crushed rock products) along Tidewater Avenue, and trucking/logistics uses. The only area in the Central Estuary where zoning has been updated is the Jingtowntown/Kennedy Tract neighborhood (Central-West Planning Area). In late 2006, the Jingtowntown/Kennedy Tract neighborhood was designated by the City Council with a Housing and Business Mix 3 zone (HBX 3), allowing a mix of light manufacturing, artisan activities, live/work units, warehousing, multi-family housing, and some existing single-family homes.

The proposed new Central Estuary zoning districts reflect the general vision of the Estuary Policy Plan to preserve and enhance opportunities for business and employment development. The proposed zones are based on the recently adopted Community Commercial zoning districts (CC-2 and CC-3), the Housing and Business Mix zoning district (HBX-3) and the City's Industrial zones (CIX-2 and IG). These base zones have been tailored to meet the intent of the unique Oakland Estuary waterfront area in which they would apply. The proposed Central Estuary zoning chapter presents a cohesive set of regulations covering

a complex area where conditions vary markedly by sub-district. The regulations have been modified from their base zone (e.g., HBX-3) to reflect the intent of the EPP, as well as direction to increase Floor Area Ratios (FARs) in some areas.

### **Proposed Changes to Existing Zoning**

This section describes the proposed changes to current Central Estuary zoning. The changes to current regulations are grouped as follows: (1) Proposed Changes to Activities, (2) Proposed Changes to Development Standards, (3) Proposed Changes to Work/Live and (4) Proposed Changes to Live/Work regulations.

#### ***1. Proposed Changes to Activities***

The proposed new CE-3 zone would apply to Central Estuary areas that are currently primarily zoned HBX-3. The proposed activities in the CE-3 zone are a refinement from those in the HBX-3 zone. CE-3 would permit fewer consumer services (for example medical service and dry cleaning would be prohibited) to ensure that the character of the zone is primarily residential and light industrial, as opposed to service oriented. To this end, research and development and general warehousing would be permitted activities. To assist with bringing visitors to the waterfront, bed and breakfast and hotels would be conditionally permitted in this zone.

The remaining proposed new zones will largely replace existing M-40 zoning (as discussed under the "Approach" section of this report). The M-40 zone is an industrial zone that permits a limited range of commercial activities including general food sales such as restaurants and cafes, general retail sales and auto related activities. Industrial activities in M-40 are either permitted or conditionally permitted. The changes to existing zoning (M-40) to CE-1, CE-2, CE-4, CE-5 and CE-6 are described below.

The proposed CE-1 zone encompasses the Embarcadero Cove sub-district, a small zone where many wholesale sales and building material sales, as well as surface parking lots, and heavy industrial activities would be prohibited. Custom and light manufacturing would be conditionally permitted, as would transient habitation – to capitalize on the fantastic waterfront location of this zone. This zone would permit boat and marine-related activities to support the many marine-related activities in and around this area.

The proposed CE-2 zone, the High Street Retail area, would encourage large format retail (such as the existing Home Depot), and prohibit heavy manufacturing, auto fee parking and medical service. Auto sales, rental and servicing would be conditionally permitted.

The proposed CE-4 zone, located in the northern Plan Area called "Mixed Use Triangle," would permit multi-family residential activities along with commercial and less intense industrial uses. Many types of consumer service-related activities (such as medical service and dry cleaning) would be prohibited, as would general and heavy manufacturing. Auto sales, gas stations, and auto repair would all be prohibited. Mini-storage activities would be conditionally permitted.

The proposed CE-5 zone would apply to the Food Industry Cluster and Tidewater South sub-districts. Although this proposed zone is more industrial in character, the changes to this zone (from existing M-40

zoning) include prohibiting heavy manufacturing, and large scale hazardous waste storage and transfer. Auto repair and gas stations would be conditionally permitted.

The proposed CE-6 zone would apply to the existing heavy industrial sites in the area including the Con Agra, Owens-Brockway and Tidewater North sub-districts. This zone contains the fewest changes to permitted and conditionally permitted uses from the existing M-40 zoning. However, this zone would prohibit some of the general retail currently allowed, as well as the consumer service-oriented activities currently permitted. Building materials sales would be prohibited (to retain land for manufacturing-related uses). Auto sales and servicing would be conditionally permitted.

A number of current industrial classifications are not included in the existing M-40 zones. The proposed new Central Estuary (CE) zoning chapter would include all of the industrial classifications developed for the new CIX, IG and IO Industrial Zones. The application of these classifications corresponds to the intensity of industrial uses envisioned for the CE zones with the proposed CE-5 and CE-6 containing the majority of permitted and conditionally permitted activities in these industrial classifications. The remaining CE zones would typically prohibit the industrial activities in these classifications.

## ***2. Proposed Changes to Development Standards***

The M-30 and M-40 Industrial zones that currently apply in the Central Estuary do not have any prescribed maximum building heights. The most significant change from existing M-30 and M-40 zoning is the proposed application of height limits to the new CE zones. Height limits are proposed corresponding to the EPP amendments for greater intensity while accounting for existing context. Lower heights are proposed near the Jingletown/Elmwood mixed residential-commercial district and in the Embarcadero Cove sub-district near the shoreline. The proposed heights range from 45 feet in CE-1 and CE-3, to 75 feet in CE-4, and 85 feet in CE-2 and CE-5. No height limit is proposed for the CE-6 zone (i.e., no change from existing regulations).

Floor Area Ratio (FAR) standards are not currently in the M-40 zoning regulations; however the EPP contains FAR standards for each EPP land use classification. In CE-1 the proposed FAR would increase from 1.0 to 2.0; in CE-2 FAR would increase from 1.0 to 3.0; in CE-4 FAR would increase from 2.0 to 3.0; in CE-5 the FAR would increase from 0.5 to 3.0 and in CE-6 FAR would increase from 0.5 to 2.0.

Additional standards specific to CE-5 and CE-6 would apply to address landscaping, driveways and site access.

The change in development standards from the existing HBX-3 to the new CE-3 may be characterized as a refinement. Setbacks would be required in the front, side and rear (10 ft., 4 ft., and 10 ft., respectively). The maximum FAR would increase from 2.5 to 3.0 and the maximum residential density would be 700 square feet of lot area per unit (rather than 730 square feet of lot area per unit) for greater standardization.

The CE zones propose regulating frontage types. Frontage types will help to create cohesive and engaging frontages along streets and the waterfront by providing consistency in the massing and articulation of building facades. Four frontage types are proposed including: Public Frontages (applying to main thoroughfares); Semi-Public Frontages (applying to commercial spaces with less pedestrian traffic); Private Frontages (applying to private space such as front yards of residential buildings); and Service

Frontages (to support delivery loading and unloading of goods, etc.). The frontage types regulate maximum blank wall lengths, minimum facade transparency requirements and access requirements. Attachment J depicts the locations of the various frontage types proposed in the area.

### ***3. Proposed Changes to Work/Live***

Work/Live units are proposed to be allowed in the new CE-3 and CE-4 zones and conditionally permitted (for the conversion of an existing building only) in the new CE-5 zone. Work/Live rules have been simplified and streamlined; however many of the basic standards are the same (e.g., permitted and conditionally permitted activities and rules for minimum unit size, and required parking and loading). The most significant proposed changes to Work/Live rules are summarized as follows:

- A Work/Live unit has been listed as a facility type (applicable to the CE chapter only).
- Definitions (that apply only to this chapter) have been expanded to include the following:
  - An “existing building” has been defined as being at least 10 yrs old.
  - “Residential Floor Area” and “Non-Residential Floor Area” have been defined.
- The distribution of unit space devoted to “work” and “live” activities has been simplified. There would be two types of units: Type 1 (one third of floor area dedicated to residential activities) and Type 2 (50 percent of floor area dedicated to residential activities). The remaining floor area in each type would be dedicated to work activities. These two types replace the existing three unit types (in HBX). Current HBX rules allow for three types of units: one third residential floor area, 45 percent residential floor area and 55 percent residential floor area. Under this proposal the last two categories would be collapsed into one 50 percent residential category. This is in comparison to the existing CIX-IG-IO industrial zones Work/Live regulations that only have one category: one third of the unit can be residential floor area.

### ***4. Proposed Changes to Live/Work***

Live/Work is proposed to be allowed in CE-3 and CE-4 (the two zones proposed to permit residential activities). Many of the basic standards for Live/Work would remain the same such as requirements for building plans, and parking and loading requirements. The most significant proposed changes to Work/Live rules are summarized as follows:

- A Live/Work unit has been listed as a facility type (applicable to this chapter only).
- Definitions (that apply only to this chapter) have been expanded to include the following:
  - An “existing building” has been defined as being at least 10 yrs old.
  - “Residential Floor Area” and “Non-Residential Floor Area” have been defined.

### Approach to Design Guidelines

The CEIG includes Draft Design Guidelines for the Central Estuary (Draft Guidelines), which provide qualitative guidance, and graphic and photographic examples to complement the development standards embodied in the new Central Estuary zoning districts. The Draft Guidelines are intended to give residents, building designers, property owners, and business owners a clear guide to achieving development that improves the area's livability while retaining its diverse character. City staff will utilize these guidelines to determine project conformance in meeting the goals set for the Central Estuary. See Attachment G for the Draft Design Review Manual for the Central Estuary.

The Draft Guidelines incorporate and expand upon many of the existing guidelines contained in the HBX Design Guidelines Manual, which they supersede for the former HBX District located within the Central Estuary. The Draft Guidelines would apply to all projects in the applicable Central Estuary area requiring design review.

The general intent of the Draft Guidelines is to retain the eclectic mix of industrial, warehousing, residential, and retail uses that define the character of the area, while encouraging its on-going informal evolution into a unique set of sub-districts that also take advantage of and enhance the area's waterfront, its historic character, and the fine-grained fabric of streets that define much of the Central Estuary. The Draft Guidelines define ways to minimize land use incompatibilities and their resulting impacts; guide appropriate employment-intensive and commercial development; and promote the enhancement of frontages along streets and the waterfront.

The Draft Guidelines include the following sections:

**Site Planning** provides guidance for establishing a site's context in terms of its relationship to neighboring structures, streets and public spaces, including the waterfront, and guidance for the placement and relationship of buildings, open spaces, parking, and service areas on a site. Context-sensitive guidelines for building height and setbacks in the Draft Guidelines provide qualitative guidance to supplement the development standards in the Zoning Code. Additional guidance is provided for building access location; off-street parking and driveways; loading, service and storage; and landscaping and screening. Guidelines for waterfront access, the Bay Trail, open space, and stormwater management are provided in the Site Planning section.

**Building Design** provides guidance for the architectural design and detailing of sites and buildings. Windows and transparency, blank walls, facade articulation and architectural detailing, roofs and utilities are also addressed in the Site Planning section. Of particular note is the organization of the building design guidance according to four frontage types. The frontage types are intended to create cohesive and engaging frontages along streets, the waterfront, public plazas, and open spaces by providing consistency in the massing and articulation of building facades, and creating interest in the spaces that front them. The frontage types provide guidance for developing appropriate street level frontages relative to a project's context and the intended character of adjacent streets.

The Draft Guidelines include a map showing recommendations for frontage type locations in the Central Estuary, based on the character of the street and surrounding development. In general, Public and Semi-Public frontages are encouraged on higher-capacity and more prominent streets, particularly those



adjacent to the waterfront; Semi-Public and Private frontages are encouraged in the sub-districts that include residential uses; and Private frontages are encouraged along certain blocks in the Jingtowntown/Elmwood sub-district that are already characterized by predominantly private frontages.

Other sections of the Draft Guidelines provide guidance for lighting, signage, green building design, and active design (the design of sites and buildings so as to encourage physical activity). Throughout the Draft Guidelines, photos from the Central Estuary are used to convey a vivid sense of the uniqueness of the area and its sub-districts and the desired eclectic urban character.

## **KEY ISSUES**

### **I. Overview of Key Issues**

The key issues are grouped by topic and relate to the feedback received at the various advisory board meetings and public comments. Detailed advisory board comments follow the Overview of Key Issues section. The project stakeholders and advisory board members are generally supportive of the Draft CEIG, Draft Design Guidelines, Draft Zoning and Draft General Plan Amendments. However, significant issues include, among others, the need to better characterize the desired future intent of the area, to better connect the Plan Area to the greater Fruitvale area, and to create design guidance tailored to the unique urban industrial setting of the area. The Planning Commission is being asked to direct staff to undertake the changes to the draft proposals described below.

#### **1. *Desired Future Character of the Plan Area***

##### **Issue**

One of the intents of the CEIG is to use it as a marketing tool to attract the desired future development that will help achieve the vision for the area. The Draft CEIG outlines a desired future land use program that will help attract contemporary commercial and industrial employment generating land uses to the Central Estuary Area. Additionally, recommendations for improvements to the local infrastructure and transportation systems are included.

##### **Feedback Received**

Staff has received comments from project stakeholders and advisory board members that indicate the CEIG currently falls short of strongly stating the purpose of retaining existing and accommodating new commercial and industrial businesses. The CEIG should also include steps that the City will take to commit ourselves to retaining industrial uses. The CEIG should promote and emphasize the existing specialty industries such as the food industry cluster, the raw material producers and construction sectors.

##### **Staff Response**

Currently, the Vision and Objectives section of the introduction describes the vision for achieving the purpose of the CEIG generally and the Land Use section includes a desired future intent of each sub-district within the Central Estuary Area. These sections will be expanded to include more emphasis of the desired future character of the area overall, as well as the various sub-districts and will highlight the existing specialty industries currently in the area. Staff also has prepared a more robust implementation

component for the CEIG Appendix A recommended transportation improvements (see Attachment C). The itemization of recommended improvements, their cost and possible funding mechanisms will better position these projects for grant funding. Implementing the transportation circulation improvements recommended in the CEIG will increase the desirability of the area to employers, employees and residents.

## ***2. Connections to the Greater Fruitvale Area***

### **Issue**

The CEIG emphasizes existing conditions, future land use programming and recommended transportation improvements for the area bounded by 19th Ave. to the north, 54th Ave. to the south, I-880 to the east and the Oakland Estuary to the west. However, the Plan Area is part of the larger Fruitvale and waterfront area within the City of Oakland. The Plan Area is a major point of entry to the City of Alameda and is within a half-mile of the Fruitvale BART station.

### **Feedback Received**

Project stakeholders and advisory board members have stated that stronger connections need to be made in the CEIG between the Jingletown/Elmwood neighborhood and the greater Fruitvale area. The freeway undercrossings in the area should be improved with, for example, vendors and murals. The Frontage Type Map (Design Guidelines Figure 4.1.a) is missing connections to the rest of the City. The map should include a graphic representation of connections at the High St., Fruitvale Ave., and Park St. roadways.

### **Staff Response**

Appendix A of the CEIG will be expanded to include freeway undercrossing improvements (that will include recommendations for murals, lighting, street vendors, etc.). The new implementation component will include ballpark cost estimates for freeway undercrossing improvements. The frontage type map will be modified to show graphic connections to the greater Fruitvale area.

## ***3. Tailored Urban Design Guidance***

### **Issue**

The Central Estuary Area is an eclectic mix of industrial, warehousing, residential and retail uses. The intent of the draft design guidelines is to preserve this diverse mix of uses while encouraging an on-going informal evolution into a unique set of sub-districts that also take advantage of and enhance the area's waterfront, its historic character and the fine-grain fabric of streets. Developing design guidance for such a diverse area proved challenging. On the one hand there is a need for greater consistency and attention to design detail. On the other hand, part of the charm of the area is its mismatched composition.

### **Feedback Received**

Project stakeholders and advisory board members have stated that the current draft design guidelines are rather generic and could be applied citywide. The guidelines seem to have no distinction between sub-district. The language encouraging the artistic nature of the area is buried. Area-specific guidelines should be added to the building design, open space and signage sections. Encourage murals on blank walls.

(possibly employing a local artist program) and encourage art and sculpture near the waterfront. The design guidelines need to call out the specific character-defining features of historic warehouse buildings and structures in the Jingtown/Elmwood neighborhood.

#### **Staff Response**

The draft guidelines have been written to apply to the entire Plan Area. Due to the mixed-use nature of the subdistricts, the draft guidelines are broken into general (applying to any development type) and residential, commercial and industrial development. Breaking out design guidance as such allows for maximum flexibility for mixed-use infill development.

Staff will highlight the artistic components of the draft guidelines so this guidance may be perceived as critical to the design of new buildings. Staff is currently compiling character-defining features of the early industrial structures to more closely tailor design guidance appropriate to the area.

#### **4. *Packaging the CEIG***

##### **Issue**

The cover of the CEIG is subdued and would benefit from including the project logo developed for the planning effort. The CEIG needs to be packaged in a way that reflects the type of area the plan strives to enhance. The CEIG is essentially an area plan; therefore, a more resonant name is important for improving the plan's accessibility.

##### **Feedback Received**

Project stakeholders and advisory board members have stated that the front cover of the CEIG should be redesigned to incorporate the project logo. Additional graphics should be included and legible. The Appendix A map should be referenced sooner in the Vision and Goals section.

##### **Staff Response**

The CEIG will be referred to as the "Central Estuary Area Plan" in its final form. The cover will be changed to incorporate the logo and the artistic nature of the area. More photos will be included in the beginning of the CEIG. The graphics in the CEIG will be revisited to maximize readability.

## **II. Detailed Advisory Board Comments**

The CEIG package (CEIG, Draft Zoning, Draft General Plan Amendments and Draft Design Guidelines) was presented to the City's advisory boards beginning in July of 2012. Meetings were held at the Zoning Update Committee, Design Review Committee, Bicycle and Pedestrian Advisory Committee, and Landmarks Preservation Advisory Board. A summary of each meeting follows, along with additional comments received. The purpose of including the detailed summary of comments and staff responses is to outline the proposed work plan for addressing comments. The Planning Commission is being asked to direct staff to undertake the changes to the draft proposals described below.

**1. Zoning Update Committee**

The Zoning Update Committee (ZUC) of the City's Planning Commission recommended that the Draft CEIG, Draft Design Guidelines, Draft Zoning, and Draft General Plan Amendments be brought to the full Planning Commission at its meeting on July 18, 2012. The ZUC reviewed the proposed zoning framework and proposed changes to allowed activities and development standards resulting from the proposed new zoning. The ZUC recommended modifications to the proposed zoning regulations includes the following:

**ZUC Comments and Recommended Changes on Draft Zoning Chapter**

- Allow Bed and Breakfast by right in the CE-3 zone (the Jingtowntown neighborhood). The current proposal conditionally permits this activity (currently outright permitted in CBD and Residential Mixed Use Combining Zone; conditionally permitted in the Neighborhood Center, Urban Residential, Residential Mixed Use (zones RM-1 through RM-4) and Detached Unit Residential Zones).

*Staff Response:* Staff agrees with the above recommendation and has made the change (in ~~strikeout~~/underline) in Attachment K.

- Should Boat and Marine Related Sales, Rental, Repair and Servicing be permitted outside of the waterfront area, i.e., CE-2 and CE-6?

*Staff Response:* Staff agrees with the ZUC recommendation to prohibit the Boat and Marine Related Sales, Rental, Repair and Servicing activity in CE-2. However, staff recommends keeping the activity in the proposed CE-6 zone due to the industrial nature of the zone and because each CE-6 zone has some amount of water frontage thus creating a potential synergy with boating-related activities along the estuary waterfront. The change has been reflected in the revised draft zoning code included in Attachment K.

- Require neighbor notification for schools locating in Mixed Use Triangle (as part of Conditional use Permit (CUP)).

*Staff Response:* Community education is currently conditionally permitted in the Mixed Use Triangle area (the CE-4 zone). Public noticing is standard practice as part of a CUP application, therefore public noticing will occur for schools locating in the Mixed Use Triangle area.

- Can we implement restrictive zoning specifying where diesel trucks and other heavy emitters can go?

*Staff Response:* The current "L14" limitation in the proposed zoning code reduces potential impacts to the waterfront and the Jingtowntown neighborhood from heavy vehicles by requiring a CUP for trucking-related activities located within 300 feet of the shoreline or Jingtowntown. Staff proposes to extend the L14 limitation to automobile gas stations and repair shops. This change has been reflected in the revised draft zoning code included in Attachment K.

- Mixed Use Triangle – 85' seems too tall – agreement on 75'

*Staff Response:* Staff agrees with the above recommendation and has made the change (in ~~strikeout~~/underline) in Attachment K. This change is more in line with standard citywide height breaks.

#### ZUC Comments on the Draft Design Guidelines

- Include provisions for native plants in the Landscaping section of the Design Guidelines.
- Can murals and art be included in the Design Guidelines to address blank walls?

*Staff Response:* Staff intends to include a guideline related to encouraging drought tolerant, native plants in the Landscaping section. Additionally, staff intends to incorporate mural- and art-related design guidelines into the Blank Wall section. These additions will be brought before the Planning Commission for final approval.

#### ZUC Comments on the Draft CEIG

- How can requirements for clean fuel transportation be emphasized in the Plan?

*Staff Response:* The City's Draft Energy and Climate Action Plan (ECAP) identifies the combustion of fossil fuels as a major source of green house gas (GHG) in the City of Oakland. The ECAP contains priority actions to reduce GHG emissions such as facilitating dense, mixed-use development near transit hubs and on transit corridors. The development program proposed in the CEIG would add a variety of residential, commercial, employment and recreational uses within close proximity to regional and local transit systems thereby supporting City policy. Additionally, recommended streetscape improvements would improve the pedestrian and bicycling environment. The Draft ECAP will be considered by the City Council for final adoption in December 2012.

- Can we indicate which parks allow dogs in the Plan (dogs allowed/ not allowed on or off-leash) to avoid fights for these proposals in the future?

*Staff Response:* Two public parks are located in the Plan Area – Union Point Park (a City park) and Martin Luther King Jr. Regional Shoreline Park (a regional park). Dogs (other than service dogs) are only allowed at City parks designated in the Oakland Municipal Code (Section 06.04.080). Union Point Park does not currently allow dogs. Additional on-leash and off-leash sites may be recommended by the Parks and Recreation Advisory Commission, with the approval of City Council. Under East Bay Regional Park District rules, dogs are currently permitted on-leash at Martin Luther King Jr. Regional Shoreline Park, however dogs are not permitted in any wetland area. Staff does not propose amending Section 06.04.080 to allow dogs in Union Point Park.

- Make stronger connections between the Jingletown/Elmwood neighborhood and the greater Fruitvale area. Improve area undercrossings by facilitating vendors and murals (other ideas for undercrossings included skate parks, basketball courts, dog park, and art).

*Staff Response:* Staff intends to update Appendix A with more detail on the improvements to the undercrossings that will assist with better connecting the Jingletown neighborhood to the greater

Fruitvale area (including art, lighting and active uses). Similarly, the improvements to Fruitvale Ave. will be expanded to include additional pedestrian and bicycle enhancements. These changes will be brought before the Planning Commission for final approval.

## **2. Design Review Committee**

At its August 1, 2012, meeting the Design Review Committee (DRC) of the City's Planning Commission provided feedback on the Draft CEIG, Draft Design Guidelines, Draft Zoning, and Draft General Plan Amendments and recommended the documents be forwarded to the full Planning Commission. The DRC reviewed the approach used to develop the Draft Design Guidelines (Draft Guidelines) and reviewed the content of the Draft Guidelines, in addition to the Draft CEIG, Draft Zoning and Draft General Plan Amendments. The DRC comments follow.

### DRC Comments on the Draft Design Guidelines

- The Draft Guidelines state a goal of maintaining the eclectic character in the area, however, the guidelines are fairly standard and could be applied citywide as opposed to being tailored to this unique area. For example, the language encouraging the artistic nature of the area is buried. Area-specific guidelines should be added to the building design, open space and signage sections.

*Staff Response:* The Draft Guidelines will include additional guidance on character-defining features reflective of the industrial setting of the area. Staff will incorporate these new character-defining features into the appropriate sections including building design. Additionally, the existing guidelines related to artistic elements will appear more prominently.

- Oakland needs citywide master design guidelines (storm water, blank walls, green building, lighting, active design, etc.), then special provisions, or unique guidelines, could be developed for specific areas. Although the City may not have the resources to do this at this time, this should still be the goal. This could begin with developing a template design guidelines document using the best and more generic from all of the design guidelines that are being created right now (e.g., Lake Merritt Station Area Plan, Broadway Valdez District Plan, etc.) that can be tailored to specific areas. San Francisco has good examples of how design guidelines are applied to various unique areas.

*Staff Response:* It is the City's goal to move toward more standardized design guidelines that would apply citywide. However, the Central Estuary is a unique district that requires a more specialized set of design guidelines due to its diversity and proximity of residential and industrial uses, as well as waterfront uses.

- Include provisions for murals on blank walls (through local artist mural program, possibly modeled on the Measure DD program which employed local artists); encourage art and sculpture near the waterfront (murals). Also, include a provision for the use of native, drought tolerant plants.

*Staff Response:* Staff intends to include provisions for murals in the Blank Wall section. Similarly, the Waterfront Access section could include a provision for art and sculpture along the

waterfront and at waterfront access points. Staff intends to include a guideline related to encouraging drought tolerant, native plants in the Landscaping section. The Measure DD public art installations were constructed under the City's Public Art Program (Percent for Public Art Ordinance) which requires that most City-funded capital improvement projects set aside 1-1/2 % of the project's construction cost for public art. If the City initiates any capital improvement project in the area, the ordinance would apply.

- Sometimes awnings can look raggedy and cluttered; canopies and awnings can detract from a building if little attention is paid to materials and placement. Guidelines need to provide for cohesion in awning placement.

*Staff Response:* Staff intends to incorporate (or reference) additional awning-related guidelines from the City's Small Project Design Review Guidelines. The additional guidelines would include provisions for using high quality durable materials, and additional placement and shape provisions, among others.

- Frontage Types Map – missing connections to the rest of the City. The Port of Oakland prepared a public access visioning report that discussed how to connect the hills to the waterfront and identified High St./ Fruitvale Ave./ and 29<sup>th</sup> Ave. as the three key linkages in the study area to connect the waterfront to neighborhoods above 1-880. A graphic should be included on the map illustrating connections to the rest of the city on these streets.

*Staff Response:* the Frontage Type map will be modified to visually emphasize connections to the neighborhoods above 1-880 via Fruitvale Ave., High St. and 29th Ave.

- Formatting related comments: Section 4.1.(i): replace "encourage" photo; Part 8 (Active Design) should be moved to the beginning of the document.

*Staff Response:* Staff intends to replace the "encourage" photo with a photo of a more carefully crafted landscape, reflective of the industrial nature of the building, designating a distinction between the public and private space. Staff feels that keeping Part 8 (Active Design) at the end of the document is an appropriate placement, given a designer's approach to developing a site, starting with building site planning and moving to building indoor planning.

#### DRC Comments on the Draft Zoning Chapter

- The DRC reiterated the comment made at the ZUC meeting to require a Conditional Use Permit (CUP) for schools locating in the CE-4 zone.

*Staff Response:* A CUP for schools in the CE-4 zone is currently proposed as part of the Draft Zoning Chapter.

- Activate the ground floor by requiring active uses (cafes, retail, etc.).

*Staff Response:* Four of the six currently proposed zones only permit commercial, office, industrial and retail uses (residential uses are prohibited in these zones) to activate the area as a food production, construction materials niche in the City of Oakland. The two zones which permit residential uses include an in-tact single-family neighborhood with live/work industrial conversion infill (the Jingtown/Elmwood neighborhood) and the Mixed Use Triangle area. In the Mixed Use Triangle area, only multi-family residential uses are allowed, in an effort to

concentrate commercial uses in the majority of the Plan Area. Additionally, in the CE-5 and CE-6 industrial zones the current "L5" limitation limits food-related commercial uses (such as restaurants, cafes and grocery stores) to the ground floor.

- Incorporate public art into the City's Standard Conditions of Approval (and use local artists in public art projects).

*Staff Response:* The City's Standard Conditions of Approval (SCA) serve two objectives: to ensure new development complies with city codes and to mitigate environmental impacts. A nexus study would be required to show how public art mitigates potential impacts of urbanization. Staff suggests that the development of an SCA public art program be recommended as a future phase project in the implementation section of the CEIG.

#### DRC Comments on the Draft CEIG

- **Format/Editing-Related Comments:**
  - Incorporate project logo into front cover (redesign front cover to be more reflective of the artistic nature of the area)
  - CEIG – graphics are too small and blurry (font of legends)
  - Include more photos (preferably Oakland examples) in the beginning of the document
  - Pg. 75 illustrate connection to BART
  - Pg. 29 – Include the correct name and year complete (Tidewater Boat House)
  - Page 6 – include map of historic and cultural resources
  - Circulation map should be presented sooner or a reference should be made to the map in the vision and goals section as well as the land use section.

*Staff Response:* Staff intends to incorporate all of the above format/editing comments.

- The Plan doesn't strongly reflect retainage/accommodation of existing industrial uses. What are we doing to commit ourselves to retaining industrial uses? Promote and emphasize the food industry cluster and other clusters of businesses such as the recycling/raw materials production businesses (add greater emphasis to help market these areas for these purposes).

*Staff Response:* Staff intends to elaborate on the desired future character of each subdistrict in the Land Use section by including a more descriptive vision and desired future intent. Also, the Plan introduction will be expanded to characterize the Plan as a vision for, among other things, maintaining and enhancing the area as a working waterfront.

- Railroad improvements – how will proposed streetscape improvements happen near rail (who will pay)?

*Staff Response:* As with most streetscape improvements in the Plan, the future project sponsor (developer) will be responsible for paying for necessary transportation improvements. In some cases, the City's capital improvement program may be used to design and construct improvements. Alternatively, grant funding may be available to fund transportation projects.



- Need to include fiber optics in street improvements citywide

*Staff Response:* Telecommunications infrastructure is provided by private companies. Upon review of individual development and/or street improvement projects, the City could however encourage private companies to upgrade or add to existing telecommunications infrastructure.

- The transportation recommendations for proposed new streets appear to break up large parcels (in the South of Tidewater Area) and therefore conflict with the objective to encourage jobs.

*Staff Response:* The proposed streets in the South of Tidewater area are intended to improve access for both existing and new businesses in light of the future infill development of commercial-industrial mixed uses and have been located to minimize disruption to parcel configurations. The proposed New Street A will provide access from the Martin Luther King Jr. Regional Shoreline Park to Oakport St. and I-880. The Proposed Lesser Street extension would align with the existing Lesser Street and replace the existing unnamed access road that currently provides access to the waterfront. New Street B is intended to serve anticipated new development located between the shoreline and Tidewater Avenue. New Street B is designed to accommodate greater truck traffic and loading than New Street A.

### **3. *Bicycle and Pedestrian Advisory Committee***

At its July 19, 2012, meeting the Bicycle and Pedestrian Advisory Committee (BPAC) reviewed the Draft CEIG, Draft Design Guidelines, Draft Zoning, and Draft General Plan Amendments with a particular emphasis on transportation recommendations. The BPAC reviewed existing transportation and streetscape conditions including issues surrounding the Park Street Triangle followed by a review of the proposed transportation improvements. Meeting attendees wanted clarification on the nature of the proposed street along the Martin Luther King shoreline area. Staff explained that the proposed new Street A did not include a bike lane because there is a bike path running parallel to the street as part of the Bay Trail. Meeting attendees also suggested robust bicycle infrastructure along Fruitvale Avenue (such as a cycle track) due to the expansive right-of-way and the lack of curb cut driveways along a lengthy stretch. Staff explained that there were too many barriers to implementation to consider such a project at this time.

### **4. *Landmarks Preservation Advisory Board***

On September 17, 2012, the Landmarks Preservation Advisory Board (LPAB) reviewed the Draft CEIG, Draft Design Guidelines, Draft Zoning, and Draft General Plan Amendments with an emphasis on cultural resources. The presence of known archeological and historic resources were reviewed along with possible impacts to historic resources due to proposed zoning changes. Additionally, urban design issues and historic incentives were also discussed. The LPAB comments are summarized as follows.

**General LPAB Comments**

- Were any sites identified for the placement of relocated structures, such as vacant lots, etc.?

*Staff Response:* The anticipated future land use character of the area will generally allow the same types of uses that exist today thereby reducing displacement potential and pressure to convert or demolish historic buildings. Where FAR and height limits have been increased, design guidelines are proposed that include guidance to consider surrounding context. Therefore, staff has not identified relocation sites at this time.

**LPAB Comments Related to Draft Zoning**

- More area specific incentives are needed to preserve historic resources such as the Mills Act and also through possible zoning changes in Jingtletown. The Jingtletown neighborhood has a specific architectural context (Queen Ann cottage); one incentive could be to allow live/work in single-family historic homes in Jingtletown.

*Staff Response:* The Mills Act will be available to the residents of the Central Estuary, as it is citywide. Staff is supportive of the proposal to allow live/work uses in single-family historic homes in Jingtletown. Staff is following up with the City's Building Department to ensure this approach would comply with the Building Code.

- The 45' height limit in Jingtletown seems a little arbitrary. Why only reduce it by 10'? What is the rationale for 45' here?

*Staff Response:* 45 feet is consistent with a four-story structure with a tall ground floor which is encouraged by both the zoning code and the design guidelines. A maximum 55' height limit is proposed to be permitted if the proposed building is scaled to a context that will be compatible with adjacent uses.

**LPAB Comments Related to Draft Design Guidelines**

- Currently, the Draft Guidelines seem to have no distinction between subareas. The Draft Guidelines should help to create a sense of place. What gives each subdistrict its unique sense of character? (This should be called out specifically.) The guidelines should be unique to help achieve the vision for the subdistrict and for the improved feel of the area overall.

*Staff Response:* To reflect the various building types in the area, the guidelines are written for residential, commercial and industrial development. Due to the mixed use nature of this area, this distinction in development type provides design guidance for different types of development (e.g., industrial and residential) that may be located adjacent to one another.

- The Draft Guidelines need to call out character defining features of Jingtletown and other historic districts; the style of building should be included as a character-defining feature.

*Staff Response:* Staff is currently compiling information from the Oakland Cultural Historic Survey for early industrial warehouse buildings and other historic districts in the Central Estuary area. Staff intends to use this information to compile character defining features of the buildings in the area to include in the design guidelines.

- New buildings should respect and help maintain surrounding historic buildings.

*Staff Response:* The Site Planning and Building Design sections of the Draft Guidelines include guidance on creating development that fits in with its surrounding context in terms of its configuration on the lot, and its building envelope (height, setbacks and lot coverage). The addition of character-defining features will further guide new development to relate to surrounding development.

All changes to the proposed zoning code to reflect advisory board feedback are shown in track changes in Attachment K. Changes to the Draft CEIG, Draft Design Guidelines, Draft Zoning and Draft General Plan Amendments will be made upon conclusion of the Planning Commission meeting (and the final drafts will be brought before the Planning Commission for recommendation of adoption to City Council).

#### **5. *Additional Comments Received***

- Change the proposed draft zoning and draft General Plan designation for the superfund site adjacent to Livingston Pier and to the north of the bridge to Coast Guard Island and Union Point Park. The current Estuary Policy Plan (EPP) designation is Parks and the current zoning is M-40 Industrial. The proposed EPP designation is Parks and the proposed zoning is OS-NP Open Space Neighborhood Park. The suggestion would be to change the EPP designation and zoning to allow commercial or industrial activities, since the site would be prohibitively expensive to remediate to park standards.

*Staff Response:* The site is owned by the Port of Oakland. The contaminated soil is capped, leaving the grade a couple of feet above the sidewalk level, and it is surrounded with a chain-link fence. Staff endorses making a "General Plan Determination" so that the area functions as a transition between the EPP Parks designation and the WCR-2 Waterfront Commercial Recreation designation. The proposed change from Parks to WCR-2 (and from the OS-NP zone to the CE-1 zone) would only apply to a portion of the site fronting the Embarcadero Cove road. The portion facing the waterfront would remain under the current EPP Parks designation and Open Space zoning. Dividing the site as such provides for a transition between open space activities associated with Union Point Park and commercial activities at the Embarcadero Cove. See Attachment L for the proposed changes to the draft EPP map and draft zoning map.

- Modify the Public Frontages Map Included in the Draft Design Guidelines (Figure 4.1.a) to apply the "public frontage" treatment to Fruitvale Ave.

*Staff Response:* The public frontage treatment was excluded from Fruitvale Ave. because Fruitvale Ave. is located between Owens-Brockway (east of Fruitvale Ave.) and railroad tracks (west of Fruitvale Ave.). The Owens-Brockway site is a large warehouse building with blank walls spanning the entirety of the building facing Fruitvale Avenue. City Council endorsed no change to this business. The railroad tracks act as an impediment to accessing businesses, as well as a safety hazard (given that there is virtually no buffer between the tracks and the sidewalk). Requirements for a public frontage treatment (outdoor public seating, display area, awnings and frequent entries) seemed inappropriate given the land use scenario.

- Change the proposed Central Estuary Live-Work rules to conform to the standards in the HBX zone.

*Staff Response:* There was an erroneous assumption that HBX only allowed Home Occupation-type uses in a Live/Work unit. Upon further review, the proposed zoning was changed to be consistent with existing HBX-3 standards which allows for all activities allowed by the underlying base zone in a Live/Work unit.

## **ENVIRONMENTAL REVIEW**

The City is the Lead Agency pursuant to the California Environmental Quality Act (CEQA), and has the responsibility to prepare the Supplemental Environmental Impact Report (SEIR) for the Project. No Initial Study was prepared for the Project, pursuant to Section 15060(d) of the CEQA Guidelines. The Draft SEIR integrates all environmental topics identified in the City of Oakland CEQA Thresholds of Significance. The Draft SEIR addresses each environmental topic at a level of detail warranted by each topic.

A Notice of Preparation was issued on November 21, 2011, and a scoping session held before the Planning Commission on December 14, 2011. The Draft SEIR is supplemental to the 1998 Oakland Estuary Plan EIR and evaluates potential environmental impacts from adopting the CEIG. The following environmental topics are addressed in detail in the Draft SEIR, as other topics (agriculture and minerals) were found to not be significant and not evaluated in detail in the Draft SEIR.

- Air Quality
- Greenhouse Gas Emissions/ Global Climate Change
- Noise
- Transportation/Traffic
- Aesthetics
- Biological Resources
- Cultural and Historic Resources
- Geology and Soils
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use Planning
- Population and Housing
- Public Services
- Recreation
- Utilities and Service Systems

### **Potentially Significant Impacts Identified in the Draft EIR**

All environmental impacts, City Standard Conditions of Approval (SCA) and mitigation measures are summarized in Chapter 2, Table 2-1 in the Draft SEIR (see Attachment M). Table 2-1 also identifies the level of significance of the impact after application of the SCAs and/or mitigation. Other than the impacts discussed below, all of the environmental effects of the project can be reduced to less than significant levels through implementation of SCAs or mitigation measures.

The Draft SEIR identifies the following significant and unavoidable environmental impacts related to Air Quality (exposure to Toxic Air Contaminants (TAC) and odors), Greenhouse Gas Emissions/Global Climate Change, and Transportation/Traffic (intersection/roadway). The impacts are summarized below.

**Air Quality**

Impact AQ-3: Development facilitated by the proposed project could include residential developments that expose occupants to substantial health risks from toxic air contaminants from sources including both diesel particulate matter (DPM) and gaseous emissions.

Impact AQ-4: Development facilitated by the proposed project could expose a substantial number of people to objectionable odors.

**Greenhouse Gas Emissions/Global Climate Change**

Impact GHG-1: Development facilitated by the proposed project would allow for uses that would produce greenhouse gas emissions from multiple sources, including stationary sources. The expected level of emissions would exceed three of the four relevant thresholds but would be below the plan level threshold for non-stationary sources. Thus, greenhouse gas emissions are expected to result in a cumulatively considerable contribution to a significant adverse cumulative impact on the environment.

**Transportation/Traffic**

Transportation/traffic-related impacts are discussed by intersection number or segment. Multiple impacts (relating to the various analysis scenarios, i.e., 2020, 2035, AM or PM) are grouped under the common intersection or segment. Numerous intersections had significant and unavoidable impacts in 2020 and/or 2035; these are summarized in Attachment M.

**Project Alternatives**

Chapter 5 of the Draft SEIR includes the analysis of five alternatives to the proposed project that meet the requirements of CEQA, which include a reasonable range of alternatives to the Project that would feasibly attain most of the Project's basic objectives, and avoid or substantially lessen many of the Project's significant environmental effects. These alternatives include:

**Alternative 1 – No Project Alternative** – CEQA requires a “no Project” alternative to be considered in the EIR. For the project under consideration, this alternative would be the existing regulatory framework consisting of the Estuary Policy Plan of the City's General Plan and existing zoning regulations. These existing regulations would continue to allow for new development in the Plan Area, but at generally lower intensities/densities than without the project and without implementation of the Design Guidelines which are intended to better promote harmony among the area's diverse land uses.

**Alternative 2 - Reduced Retail** - This alternative was developed with the intent of reducing significant project impacts while adhering to most basic project objectives. Alternative 2 considers a reduction in the allowable intensity of retail development in the High Street area as a basis for comparison against the proposed project. Specifically, Alternative 2 lessens the allowable retail intensity in the Cential-East sub area by 50 percent. With such a reduction, Alternative 2 as a whole would thus result in a total of about 1,500 P.M. peak hour trips, a reduction of about 500 P.M. peak-hour trips compared to the project.

Alternative 3 – *Mitigated Alternative* - While Alternative 2 cuts the amount of allowable new retail development in the Cential East area so as to achieve a reduction of about 500 P.M. peak hour trips at buildout, Alternative 3 further cuts the level of allowable development across the Plan Area such that total P.M. peak hour trips would not exceed 150 (relative to about 2000 for the proposed project). In essence, Alternative 3 would entail an 80 to 90 percent reduction in allowable growth relative to the CEIG. For the purposes of this analysis, Alternative 3 is assumed to include about 150 residential units – and no new commercial or industrial uses.

Alternative 4 – *Theoretical Maximum Build-out* - Because the CEIG's regulations would be applicable to every parcel within the Cential Estuary Area, Alternative 4 evaluates the theoretical possibility that every parcel would be built out to the new maximum level permissible under the suite of changed regulations set forth in the CEIG.

Alternative 5 – *Maximum Infrastructure* - The CEIG does not propose, include, or provide funding for any new transportation improvements. The SEIR is thus focused on the potential effects of the CEIG's proposed changes in land use regulations. However, the planning work undertaken in development of the CEIG identified a number of transportation improvements currently contemplated by the city or other responsible agencies. As these improvements are neither approved nor funded, they are appropriately excluded from the main body of the SEIR's analysis. However, these unapproved, unfunded transportation improvements whose potential implementation could affect the physical environment of the Plan Area. Alternative 5 thus contemplates the environmental effects likely to result from the combination of approval of the CEIG plus implementation of these improvements.

The Environmentally Superior Alternative results from a comparison of the impacts associated with each alternative. Based on a thorough comparison of all five alternatives, Alternative 3 (the Mitigated Alternative) is considered environmentally superior because it would avoid significant transportation and greenhouse gas effects associated with the project. Alternative 3 would also reduce the severity of other project impacts in several other environmental topic areas.

#### Publication and Distribution of the Draft SEIR

The Draft SEIR was made available for public review on November 9, 2012. The Notice of Availability (NOA) for the Draft SEIR was mailed interested parties, responsible agencies and local planning agencies. The NOA was posted in the office of the County Clerk, and published in the Oakland Tribune. Copies of the Draft SEIR were also previously distributed to City officials, including the Planning Commission and is available at the Department of Planning, Building and Neighborhood Preservation (250 Frank Ogawa Plaza, Suite 3315) and the City's website at: <http://www2.oaklandnet.com/Government/o/PBN/OurServices/Application/DOWD009157>

**Key Issues**

Several issues arose during the Draft SEIR preparation process that staff wanted to bring to the attention of the Planning Commission. These issues relate to the Bus Rapid Transit (BRT) analysis, the Park Street Triangle intersection in the Plan Area, and the Sea Level Rise conclusions. A description of each follows.

***Bus Rapid Transit Analysis***

The AC Transit East Bay Bus Rapid Transit (BRT) project includes the development of a BRT system from downtown Oakland to San Leandro along the Broadway, International and East 14th Street corridors. The BRT system is intended to enhance bus reliability and reduce travel time. Within the vicinity of the CEIG traffic study area, the BRT would travel along International Boulevard (East 14th Street). Implementation of the BRT project would require the conversion of one travel lane in each direction to BRT-only operations on International Boulevard, east of 14th Avenue. The conversion of travel lanes to dedicated BRT lanes would reduce private automobile capacity at the CEIG traffic study intersections along International Boulevard.

The CEIG Draft SEIR does not assume the BRT project as part of the 2020 or 2035 future baseline conditions because at the time the CEIG Notice of Preparation (NOP) was published in 2011, the BRT project was not approved or funded. However, on April 25, 2012, AC Transit approved the BRT project and on July 17, 2012, the City of Oakland also approved the BRT project, therefore, the City thought some level of analysis should be conducted to identify the transportation impacts of the CEIG Project with the BRT project (see CEIG SEIR Appendix D for the complete BRT analysis). AC Transit prepared a Final Environmental Impact Report/Statement (FEIR/S) to analyze the impacts of the BRT project. The BRT analysis in the CEIG SEIR compares the mitigation measures developed for each of these projects.

A total of five CEIG transportation study area intersections overlap with the BRT transportation study area intersections, all on International Boulevard. In both 2020 and 2035 plus Project conditions with the BRT system, the addition of Project-related trips would result in significant traffic impacts at all five intersections. Mitigation measures for impacts to International Blvd. were considered feasible in the BRT FEIS/R and infeasible in the CEIG SEIR.

The mitigation to remove on-street parking and eliminate one BRT lane is considered feasible in the BRT FEIR/S, because creating dedicated bus lanes is specifically included in the City's "Transit First" policy, and no additional auto capacity is added compared to the existing street configuration. The mitigation to eliminate on-street parking to accommodate an additional vehicle travel lane in the CEIG SEIR is considered infeasible, because adding single-occupancy vehicle capacity conflicts with the City's Transit First policy. While the CEIG SEIR-identified potential mitigations conflict with the Transit First policy (and are therefore infeasible), the development program proposed in the CEIG would add a variety of residential, commercial, employment and recreational uses within close proximity to regional and local transit systems thereby supporting City policy. Additionally, recommended streetscape improvements would improve the pedestrian and bicycling environment.

The BRT FEIS/R mitigations are assumed to be constructed and used to mitigate the potential impacts of the BRT project with the CEIG Project, upon completion of the BRT project. If the BRT project is

abandoned, then the impacts would remain significant and avoidable as discussed in Section 4.4 of the CEIG SEIR.

### *Park Street Triangle*

The Park Street Triangle area is a critical junction in the Plan area and encompasses 29th Avenue, Kennedy Street, 23rd Avenue, Glascock Street, Ford Street, and the Park Street Bridge. Park Street in the City of Alameda is connected to 29th Avenue in the City of Oakland via the Park Street Bridge. The Park Street Triangle serves as a gateway to the Oakland waterfront and the Bay Trail. The existing street network is confusing to motorists, and speeding and the lack of proper lane delineation have contributed to numerous traffic accidents over the years.

The CEIG Draft SEIR evaluated the impact of the Project on this area and concluded there were significant impacts requiring mitigation. The SEIR includes the findings of the 2006 *Park Street Triangle Traffic Study Report*, which provided specific recommendations including closing one leg of the Park Street Triangle and converting the other two legs to two-way traffic flow. The recommended alternative would improve pedestrian and bicycle access through the area and would provide for the extension of the Bay Trail as called for in the Oakland Waterfront Bay Trail Feasibility Study. However, the qualitative traffic assessment prepared for the Park Street Triangle Traffic Study Report also identified potential secondary impacts to access to adjacent properties as a result of the intersection reconfiguration. Additionally, the recommended alternative would result in left-turns in and out of driveways in order to access local businesses, with potential safety impacts. Further, no quantitative analysis was performed to assess the effects of trains and the Park Street draw bridge; as such, it will be necessary to further coordinate with the California Public Utility Commission (CPUC) and the Union Pacific railroad, the City of Oakland and Alameda County (bridge operators) and review the proposed crossing to determine the appropriate type of highway-rail crossing warning devices early in the design process.

Addressing the congestion impact at 29th Ave/Ford St is inextricably linked with the other intersections within the Park Street Triangle (23rd Ave/Ford St and 29th Ave/23rd Ave), and all of the associated issues identified in the *Park Street Triangle Traffic Study Report*, as well as issues resulting from future development of sites within the study area. Therefore, there needs to be developed a detailed design plan for intersection improvements to the Park Street Triangle (including 29th Ave/Ford St), subject to review and approval of the City. A future (private development) project sponsor will need to submit a number of traffic-related studies in order to address the transportation-related and safety issues in this area. This impact is conservatively deemed to be significant and unavoidable because of the complex issues associated with the intersection and because the specific improvements to be implemented, according to City standards, must be finalized after a detailed intersection/signalization engineering design study is performed and a preferred, detailed design selected by the City.



### Sea Level Rise

The world's leading climate scientists have reached general consensus that global climate change is underway, is "very likely" caused by humans, and hotter temperatures and rises in sea level "would continue for centuries," no matter how much humans control future emissions. The sea level rise analysis contemplates the impact of the environment on the project (i.e., rising global temperatures and sea levels force the rising of the Oakland estuary waterline, impacting adjacent development). Per CEQA, the Draft SEIR is not required to analyze or mitigate impacts pertaining to the impact of the environment on the Plan Area. However, although not legally required by CEQA, the Draft SEIR nevertheless discusses the impact of sea level rise on the Plan Area in the interest of being conservative and providing information to the public and decision-makers.

BCDC, the National Oceanic and Atmospheric Administration Coastal Services Center, along with local, regional, state and federal agencies and organizations, nonprofit and private associations are currently engaged in a collaborative planning process called the "Adapting to Rising Tides" (ART Project). The Central Estuary is located within the ART Project sub-region. The purpose of the ART Project is to provide a potential methodology on how to assess impacts as well as guidance on developing adaptation strategies associated with sea level rise for future planning.

The ART project's *Existing Conditions and Stressors Report*, January 2012, identified several existing assets within the Central Estuary including a school, residential communities and businesses; contaminated sites; hazardous waste generators; Union Point Park; and energy, stormwater, engineered shoreline, and wastewater infrastructure. The *Vulnerability and Risk Assessment Report*, September 2012, concludes that with a 16-inch sea level rise, the Central Estuary will experience an average shoreline overtopping of one (1) foot during storm events and of two and half (2 ½) feet during storm events with wind waves. However, with a 55-inch sea level rise, the Central Estuary will experience an average shoreline overtopping of one foot at high tide, two and half feet during storm events, and five and half (5 ½) feet during storm events with wind waves. The ART Project uses this vulnerability and risk assessment as a foundation for identifying and evaluating possible adaptation strategies to improve the subregion's resilience to climate impacts. It is anticipated that the evaluation of adaptation strategies will be published in January of 2013.

Portions of the Plan Area are located in areas likely to be at risk of flooding, erosion, or wetland shifts by the end of this century, based on the projected 16" and 55" sea level rise scenarios. Proposed development projects located within 100 feet of the Estuary high require approval from BCDC. In accordance with BCDC's Bay Plan, BCDC can require a risk assessment and appropriate adaptation measures for projects at risk from sea level rise during the BCDC permitting process. The City's SCAs require compliance with the applicable requirements of regulatory agencies, including BCDC (SCA 84, Regulatory Permits and Authorizations). Even if sea level rise is considered an environmental impact, which it is not as discussed above, compliance with SCA 84 would reduce the potential impact of sea level rise for the portions of the Plan Area within BCDC's jurisdiction.

Adaptation strategies that could reduce vulnerability to sea level rise and storm impacts have not yet been developed and the development of these strategies will likely require the involvement of regional, state and federal partners and the residents and businesses in the community. In order to be effective,

adaptation strategies will need to be developed on a variety of geographic scales—from site specific strategies incorporated into development projects to regional and state strategies addressing larger issues like building codes, financing and governance. At this point, in the absence of these strategies being developed, it is difficult to project what will be included or effective at these different planning scales.

Furthermore, implicit in the discussion of global warming, greenhouse gas emissions and sea level rise is that it extends beyond specific development projects, a specific plan area, or, indeed, an entire City. Sea Level Rise is both a local and a regional issue and must be addressed in that context. The adopted Bay Plan and Oakland's Draft Energy and Climate Action Plan recognizes this and includes actions to participate in the preparation of a regional climate adaption strategy.

As stated above, because the CEIG is not causing sea level rise, sea level rise will occur regardless of the adoption of CEIG and sea level rise is an impact of the environment on the project, it is not legally a CEQA impact.

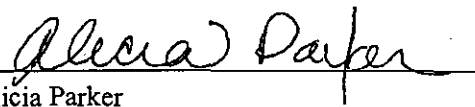
## **CONCLUSION**

All comments received on the Draft SEIR will be considered by the City prior to finalizing the SEIR and making a decision on the Project. Comments on the Draft SEIR should focus on the sufficiency of the Draft SEIR in discussing possible impacts on the physical environment, ways in which potential adverse effects might be minimized, and alternatives to the Project. Comments may be made at the December 5, 2012, public hearing or in writing. Please address all written comments to: Alicia Parker, City of Oakland, Department of Planning Building and Neighborhood Preservation, Strategic Planning Division, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, CA 94612. Comments should be received no later than 4:00 p.m. on December 24, 2012. Since the City offices will be closed on this day, the comment period will extend to January 1, 2013. After all comments are received, a Response to Comments/Final SEIR will be prepared and the Planning Commission will consider certification of the Final SEIR and making a recommendation on the Project to the City Council at a meeting date to be scheduled.

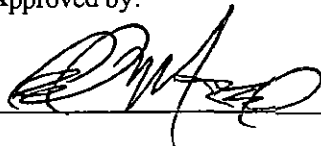
**RECOMMENDATIONS:**

1. Planning Commission take public testimony on the Draft SEIR and provide comments to staff on the Draft SEIR.
2. Direct staff to undertake the changes to the CEIG package described in this report (Draft CEIG, Draft Zoning, Draft General Plan Amendments and Draft Design Guidelines), and return to the Planning Commission for final review of the CEIG package prior to forwarding to City Council, after completion of the SEIR.

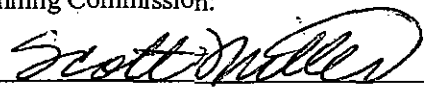
Prepared by:

  
Alicia Parker  
Planner II

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Approved for forwarding to the  
City Planning Commission:

  
SCOTT MILLER  
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Planning, Building and Neighborhood Preservation

**ATTACHMENTS**

- A. Subdistricts
- B. Draft Central Estuary Implementation Guide (CEIG)
- C. Draft CEIG Implementation Section

- D. Draft Zoning Chapter
- E. Draft Zoning Districts Map
- F. Draft General Plan Amendments
- G. Draft Design Review Manual for the Central Estuary
- H. Draft Land Use Policy Framework Map
- L. Draft Description of Proposed Estuary Policy Plan (EPP) Land Use Designations
- J. Draft Frontage Types Map
- K. Revised Draft Zoning Chapter
- L. Revised Draft EPP and Zoning Map
- M. Summary of Environmental Impacts

***Oakland Planning Commission*****STAFF REPORT**

Case File No: ER11-0016 / ZT12-109 / GP12-110

April 17, 2013 Page 1

|                                     |   |
|-------------------------------------|---|
| Location:                           | Central Estuary Area which is bounded by 19th Avenue to the north, 54th Avenue to the south, 1-880 to the east and the Estuary waterfront to the west.  |
| Proposal:                           | Conduct a public hearing to review and recommend forwarding to the City Council the Central Estuary Area Plan (CEAP) and the associated Planning Code amendments (new Chapter), new Design Guidelines and Estuary Policy Plan (general plan) Amendments, as well as the certifying of the Supplemental Environmental Impact Report (SEIR).  |
| Applicant:                          | City of Oakland, Department of Planning and Building  |
| Case File Number:                   | ER11-0016 / ZT12109 / GP12110   |
| Planning Permits Required:          | Adoption of the CEAP and the associated Planning Code amendments (new Zoning Chapter), Design Guidelines and Estuary Policy Plan (general plan) amendments  |
| General Plan - Estuary Policy Plan: | <p><u>Existing Estuary Policy Plan Map Designations:</u> Light Industry-2, Waterfront Commercial Recreation-2, Planned Waterfront Development-2, Residential Mixed Use, Heavy Industrial, and General Commercial-1, Light Industry-3, Planned Waterfront Development-3, Parks</p> <p><u>Proposed Estuary Policy Plan Map Amendments:</u></p> <ul style="list-style-type: none"> <li>• A portion of the area designated as Light Industrial 2 would change to Residential Mixed Use.</li> <li>• Portions of Union Point Park currently designated as Waterfront Commercial Recreation-2 would be amended to extend the Parks designation over the entirety of Union Point Park.</li> <li>• The westernmost segment of Union Point Park currently designated Parks would change to Waterfront Commercial Recreation-2.</li> <li>• The Parks designation would be expanded to a portion of the Martin Luther King Jr. Regional Shoreline Park area currently designated as Planned Waterfront Development-3.</li> </ul> <p><u>Proposed Estuary Policy Plan Text Amendments:</u> The allowable floor area ratio would be increased in most areas to facilitate development of modern industrial facilities.</p> |
| Zoning:                             | <p><u>Existing:</u> M-30 General Industrial, M-40 Heavy Industrial, and HBX-3 Housing and Business Mix</p> <p><u>Proposed zoning changes:</u> A total of six Central Estuary "D-CE" zones would replace the existing zoning; the proposed permitted, conditionally permitted and prohibited uses are generally consistent with the existing zones. Development standards would also generally be consistent with the existing zoning. Proposed Work/Live and Live/Work rules have been streamlined and home occupation regulations have been tailored to the Jingtowntown artisan neighborhood.</p>   |
| Historic Status:                    | There are four 'Areas of Secondary Importance' (ASIs) in the Project Area.  |
| Environmental Determination:        | A Supplemental Environmental Impact Report (SEIR) to the 1998 Oakland Estuary Policy Plan Environmental Impact Report (EIR) has been prepared. The Draft SEIR was published for a 45 day public review period from November 9, 2012, to December 24, 2012. The Final SEIR/Response to Comment document was released on April 5, 2013.   |
| Service Delivery District:          | 3, 4, 5   |
| City Council District:              | 2, 5  |
| Action to be Taken:                 | Recommendation to the City Council to adopt the Central Estuary Area Plan, the associated Planning Code amendments (new Chapter), new Design Guidelines, and Estuary Policy Plan (General Plan) Amendments, as well as to certify the Supplemental Environmental Impact Report.   |
| For Further Information:            | Contact case planner: Alicia Parker at (510)-238-3362, or by email: <a href="mailto:aparker@oaklandnet.com">aparker@oaklandnet.com</a>  |

**SUMMARY**

Staff recommends that the City Planning Commission recommend to the City Council the adoption of the Central Estuary Area Plan (CEAP), associated General Plan and Planning Code Amendments, and new Central Estuary Design Guidelines. The purpose of this Planning Commission hearing is to receive comments from the Commission and the public, before considering the following actions:

- Adoption of the CEQA findings for the *CEAP* in Attachment A, which include certification of the EIR, rejection of alternatives as infeasible, and a Statement of Overriding Considerations;
- Adoption of the Standard Conditions of Approval and Mitigation Monitoring Reporting Program (SCAMMRP) in Attachment B;
- Recommend the City Council adopt the *CEAP*, new Design Guidelines and General Plan and Planning Code Amendments based, in part, upon the *CEAP* Adoption Findings in Attachment C; and
- Authorize staff to make minor ongoing revisions to the adopted Design Guidelines for the Central Estuary and to make non-substantive, technical conforming edits to the Planning Code that may have been overlooked in deleting old sections and cross-referencing new sections to the new Central Estuary District Zones Regulations (which are essentially correction of typographical and/or clerical errors).

The CEAP is a companion document to the City's 1999 Estuary Policy Plan (EPP). It will serve as a 20-year planning document that would modify or clarify land uses and associated densities within the City's Central Estuary Area. The CEAP identifies steps to be undertaken to implement the recommendations in the EPP. The CEAP requires changes to the Oakland General Plan (text and map changes) and Zoning Code, the development of new design guidelines to reconcile conflicting land use priorities, and the implementation of transportation improvements to address infrastructure deficiencies.

This staff report includes the draft General Plan Amendments as Attachment D and the Planning Code Amendments as Attachment E (both a new zoning chapter for the Central Estuary District and conforming changes to other parts of the Planning Code). These documents are also available for review on the City's website at:

<http://www2.oaklandnet.com/Government/o/PBN/OurOrganization/PlanningZoning/DOWD009073>

- ✓ The CEAP, new Design Guidelines and the Final SEIR were previously furnished separately to the Planning Commission, and are available to the public, through the City's websites:

CEAP and Design Guidelines:

<http://www2.oaklandnet.com/Government/o/PBN/OurOrganization/PlanningZoning/DOWD009073>

Final SEIR: <http://www2.oaklandnet.com/Government/o/PBN/OurServices/Application/DOWD009157>

Limited copies of the Final SEIR, CEAP and Design Guidelines are also available, at no charge, at the Oakland Planning Division office, 250 Frank Ogawa Plaza, Suite 3315, Oakland, California 94612.

**OVERVIEW**

The discussion below provides a project description, brief history of the CEAP and EIR public participation and planning process and General Plan conformity analysis.

**Project Description**

The CEAP, General Plan and Planning Code Amendments and new Design Guidelines are intended to guide future development in the Central Estuary waterfront area. The project focuses on ten sub-districts within the larger Estuary area where some land use change from existing conditions is anticipated. The project entails rezoning of these areas consistent with direction from the 1999 Estuary Policy Plan (EPP), as well as General Plan (GP) Amendments to: (1) update existing GP goals, and strategies to reflect direction established in the CEAP, and (2) increase the allowable Floor Area Ratios (FARs). The Draft CEAP includes proposed design guidelines and development standards for the various subareas. The development program contemplated as part of the CEAP would allow for an increase of 390 residential units, 30 live/work units, 370,000 square feet of industrial area, 700,000 square feet of commercial area, and 10 acres of new park space. Additionally, transportation and infrastructure improvements are recommended to address infrastructure deficiencies.

- A. The CEAP and related documents were thoroughly described in the December 5, 2012, Planning Commission staff report included as Attachment F, herein incorporated by reference. Once the Design Guidelines are adopted, the Planning Commission is being asked to authorize staff to make minor updates to the new Central Estuary Design Guidelines administratively as needed (consistent with Oakland Planning Code Section 17.03.030 which states: "The Commission may adopt, or may authorize the director of City Planning to adopt, reasonable guidelines for the administration, interpretation, or requirements of this code or portions of this code"). Similarly, the Planning Commission is being asked to authorize staff to make non-substantive, technical, conforming edits to the Planning Code that may have been overlooked in deleting old sections and cross-referencing new sections to the new Central Estuary District Zones Regulations.

**Public Participation and Planning Process**

On December 9, 2008, the Oakland City Council initiated a planning process for the Central Estuary area, which is bounded by 19th Avenue to the north, 54th Avenue to the south, 1-880 to the east and the Estuary waterfront to the west; and directed staff to develop a coordinated vision for the future development of the area that would address infrastructure deficiencies and conflicting land uses. As part of the public outreach effort, six community workshops were held between March and November 2009. Initial workshops focused on developing a shared vision statement for the area, and subsequent workshops involved hands-on small group activities to develop and evaluate land use and transportation alternatives and reach consensus on a community-preferred alternative. The three alternative concepts and a draft community preferred alternative were presented for comment at public hearings of the Parks and Recreation Advisory Commission, Landmarks Preservation Advisory Board, Planning Commission, Community & Economic Development (CED) Committee, and City Council between December 2009 and July 2010.

On July 20, 2010, the City Council adopted a modified land use alternative for the Central Estuary area (in Resolution 82944) which represents less change from existing conditions than was originally envisioned during the community outreach process of 2009. The Plan for the Central Estuary was thus re-worked to conform to the City Council's direction.

#### **Previous Review by Advisory Boards and the Planning Commission**

Between July and September 2012, the Draft CEAP, including General Plan and Planning Code Amendments and Design Guidelines was presented to advisory boards, including the Zoning Update Committee and Design Review Committee of the Planning Commission, as well as the Bicycle and Pedestrian Advisory Committee and the Landmarks Preservation Advisory Board each of which provided comments unique to their topic area.

On December 5, 2012, the CEAP and the draft Supplemental EIR were presented to the Planning Commission, with a detailed account of the comments received at the various advisory boards (see Attachment F for the previous Planning Commission meeting staff report that includes significant background information and a detailed description of the CEAP and related documents). The Planning Commission provided additional comments and directed staff to revise the documents and to initiate the formal adoption process beginning with the Planning Commission and continuing onto the Community and Economic Development Committee of the City Council and full City Council. This meeting represents the first public hearing in the final adoption process.

#### **Addressing Comments Received during the Previous Public Review Period**

Staff received numerous comments on the CEAP, General Plan and Zoning Amendments and Design Guidelines during the previous public review period. Staff outlined these comments in the December 5, 2012, Planning Commission staff report, as well as an approach to addressing the comments (see Attachment F). Based on direction received at the December 5, 2012, Planning Commission meeting, staff has made changes to the CEAP. A summary of these changes to the CEAP and related documents is presented below.

#### **Changes to the CEAP**

The desired future character for the Central Estuary Area as an industrial, employment generating hub for central Oakland has been strengthened in the CEAP by additional explanation in the Introduction and Land Use sections. Maps in the CEAP have been refined to demonstrate graphic connections between the Central Estuary Area and the larger Oakland area at 29<sup>th</sup> St., Fruitvale Ave. and High St. Also, Appendix A includes a more robust discussion of the I-880 undercrossing improvements needed at key access points. The cover of the CEAP includes the project logo and additional photos; and the layout of the CEAP has been improved to increase the size and amount of graphics.

This staff report clarifies the widths of the conceptual streetscape dimensions included in the figures in Appendix A. The following text will be added to the Final Plan. "Automobile and truck travel lanes are shown as having a MAXIMUM width. Future improvements should be designed by street or street section to serve not only the land uses, but also the types of traffic that needs to be accommodated. In all



cases, streets shall be designed with the Complete Streets approach required in Resolution 84204 C.M.S. (Complete Streets Resolution)."

*Changes to Zoning Chapter*

Refinements to the permitted, conditionally permitted and prohibited activities, and development standards have been made consistent with direction received at the December 5, 2012, Planning Commission meeting. Also, reduced setback requirements have been added to provide relief for narrow lots. Further, revised home occupation regulations, designed to foster historic preservation and continuation of the artisan / crafts character of the Jingletown neighborhood, have been developed.

*Changes to Design Guidelines*

The Design Guidelines have been modified to include a new section on character-defining features to help project designers understand the context of the area and to encourage creative design solutions. The new section documents the artistic nature of the area and its unique waterfront setting, as well as identifies key features of early industrial buildings and Victorian homes. Also, artistic elements have been highlighted in the following sections of the Design Guidelines: "Waterfront Access & Bay Trail", "Blank Walls", and "Façade Articulation and Architectural Detailing". The Design Guidelines cover has been updated to include the project logo and pictures depicting the diversity of the area.

**General Plan Conformity Analysis**

The following section includes a discussion of the conformity of the CEAP with the General Plan policies, as well as a review of how the CEAP implements the General Plan.

*Consistency of Project with General Plan Policies*

The Land Use and Transportation Element (LUTE) of the Oakland General Plan establishes important general goals and policies for the waterfront, and includes a single broad land use designation, "Waterfront," which is applied to the entire Estuary waterfront, including the Central Estuary. The CEAP is consistent with the policies of the LUTE to target areas for specific activities and to retain existing businesses through supportive zoning; to concentrate truck activities adjacent to the freeway and to make the waterfront accessible; to reduce land use conflicts by buffering industrial activities from sensitive uses and to link neighborhoods with the waterfront by improving access routes; and to encourage infill development and to ensure compatible development in terms of density, scale, design and existing or desired character of surrounding development. Further, the CEAP and associated Estuary Policy Plan (EPP) amendments and zoning regulations are consistent with and further advance the Oakland General Plan – including the LUTE (as described above); Open Space, Conservation and Recreation (OSCAR); Historic Preservation; Safety; and Housing Elements; as well as the Bicycle and Pedestrian Master Plans, as detailed in the CEAP Adoption Findings, Attachment C.

The Estuary Policy Plan (EPP), adopted in June 1999, is an element of the Oakland General Plan that sets forth policies and principles to guide development in the Estuary area, refining the policy guidance for this area contained in the City's General Plan LUTE. The CEAP is consistent with the policies of the EPP to strengthen local circulation connections, to improve bicycle and pedestrian circulation, to retain existing industrial land uses, to encourage the reuse of existing warehouse properties, to preserve housing

for all income levels in the Kennedy Tract, and to provide adequate parking in each sub-district. Specifically:

- The Cential Estuary Area Plan (CEAP) fulfills Policy MF-2 of the Estuary Policy Plan (EPP) for the Cential Estuary Area to: "Develop a Companion Document to the EPP, to be called the Estuary Plan Implementation Guide". The CEAP functions as an implementation component of the Estuary Policy Plan for the Cential Estuary area by setting out a more defined overall vision, developing specific development standards and design guidelines to shape the character of new development in a more cohesive way and by recommending future transportation improvements.
- The CEAP meets Policy MF-3 of the EPP for the Central Estuary Area to: "Adopt and Enforce Development Regulations Which Reflect the Land Use Policies Established by the EPP". The new zoning developed as part of this project achieves this policy.

#### How the CEAP implements the General Plan

The EPP provides eight (8) land use designations for the Cential Estuary area which depict the type and intensity of allowable future development. These land use designations, updated through the CEAP planning process, may be used to evaluate future development because they reflect the on-the-ground conditions, areas identified for greater intensity and areas slated for infill development. Taken together, these eight land use designations describe the City's preferred development pattern for the Cential Estuary. The zoning ordinance implements the direction of the EPP land use designations by establishing allowed uses and maximum densities and other development standards for individual properties.

#### **KEY ISSUES**

The key remaining issues concerning the CEAP are presented below.

##### **Public Health**

The Public Health chapter of the Cential Estuary Area Plan's *Existing Conditions Report* reviewed indicators known to influence public health such as environmental stewardship, sustainable and safe transportation, access to goods and services, adequate and healthy housing, healthy economy and social cohesion. Assets identified in the Plan Area include numerous and diverse industrial and commercial uses that provide good-quality employment for local and regional residents. Residential uses in the Plan Area are in adequate proximity to neighborhood and public infrastructure supportive of community health, including higher quality parks/open space and local schools.

As a whole, however, the health assessment found that to promote optimal health for residents and workers, the Plan Area requires significant improvements in the areas of environmental quality and transportation. The lack of safe pedestrian/bicycle networks and the presence of industrial and mobile sources of air pollution and noise reflect the most significant public health hazards in the area. The health impact assessment recommended that any residential growth in the Plan Area should be accompanied by high-quality community design strategies and environmental technologies that can mitigate these health hazards.

The CEAP addresses the Plan Area's transportation deficiencies by recommending streetscape improvements, such as installation of bike lanes, sidewalks, corner curb extensions of sidewalks and planting strips. Also, the CEAP Design Guidelines are intended to minimize potential conflicts between cars, pedestrians, and bicyclists and to create even and continuous sidewalk surfaces in the Plan Area. Air quality and noise impacts are, in part, addressed by the proposed zoning for the area. The proposed new zoning for the Central Estuary prohibits sensitive residential uses in four out of the six Plan sub-districts, thus minimizing potential health impacts from co-locating residential and industrial uses. Where residential uses will be allowed in proposed light industrial zones, separation distances have been included in the new zoning, along with other restrictions on activities adjacent to residential uses. City policies and Standard Conditions of Approval also help to address possible health impacts. Additionally, the Design Guidelines for the Central Estuary include specific guidelines to ensure that buildings are designed with regard to land use compatibility in order to lessen air quality and noise impacts. These guidelines include building siting, orientation and use of building materials.

#### **Implementation of the CEAP**

The CEAP is intended to guide the growth of additional residential, industrial, commercial, retail and office development in the 400-acre Plan Area. Achieving new development in the largely developed Central Estuary area will be challenging. New development anticipated by the CEAP is envisioned to include the infill of remaining vacant sites, the adaptive re-use of early industrial warehouse buildings and the redevelopment of existing underutilized sites. New development will require numerous improvements - including site improvements typically associated with development, transportation and circulation improvements and utility and infrastructure improvements. Interdepartmental coordination, collaboration with partner agencies, and private and public sector investment will be required to successfully achieve the vision of the CEAP after its adoption.

#### **Interdepartmental and Agency Coordination**

Numerous departments within the City will share responsibility for implementing the CEAP. The Economic Development Department will help market and promote the Plan to the private sector (focusing on business attraction and retention). The Current Planning Division will be responsible for the administration of the zoning regulations and ensuring that new development adheres to the Design Guidelines. The Strategic Planning Division will work with the Public Works Agency to ensure that key improvements required by the CEAP are included in the City's Capital Improvement Plan, and that grant submittals for transportation/infrastructure improvements identified in the CEAP are prioritized. Additionally, the Public Works Agency will be responsible for review and inspection of individual transportation/infrastructure projects during the design and construction phases (for example, to ensure redesign of streets in accordance with CEAP and Design Guidelines). Additionally, coordination with the City of Alameda, CALTRANS, AC Transit and other public agencies will be required.

#### **Public Improvements and Infrastructure Funding Mechanisms**

Future development facilitated by the CEAP will likely result in construction of some of the needed streetscape, transportation and infrastructure improvements. However, the breadth of infrastructure deficiencies in the Central Estuary Area is well beyond the means of any one private developer to design and construct. Possible mechanisms to fund the construction of improvements include application of the

City's Standard Conditions of Approval, inclusion of projects in the City's Capital Improvement Program (CIP), Public/Private Partnerships and Development Agreements, as well as additional property-based financing tools and public funding sources.

Application of the City's Standard Conditions of Approval (SCAs) will result in some of the needed streetscape improvements for major projects. SCAs applied to major development projects include requirements for undergrounding utilities, making improvements to the public right-of-way, and establishing parking and transportation demand management programs. Additional SCAs involve minimizing environmental impacts and ensuring conformance with approved plans.

Infrastructure and facilities improvement projects that meet the City's priorities could be eligible for funding by the City's Capital Improvement Program (CIP). The CIP covers projects costing more than \$50,000 and funds are used for constructing new facilities or repair of existing facilities. Citywide priorities are evaluated and a portion of those priorities are included in the CIP in the adopted citywide budget. It is reasonable to assume that the Planning Area will receive some CIP-funded improvements over the life of the Plan, but it is not necessarily a good mechanism to fund focused improvements, given competing citywide priorities and limited resources.

Public/private partnerships and development agreements are both tools whereby the City may negotiate improvements on a case-by-case basis. In these arrangements, contracts between the City and the private developer specify terms and conditions of private development that may include streetscape and infrastructure improvements. Improvements would be funded through developer proceeds; however, the fees may be passed on to the future owners/businesses.

Additional property-based financing tools and public funding sources are described below. The type of tool, its description, including typically funded improvements and pre-conditional requirements are identified:

| Funding Mechanism  | Description and Improvements Funded   | Requirements   |
|--|---|--|
| <b>Property-Based Financing Tools</b>                                  |   |  |
| Development Impact Fees and In-lieu Fees                               | City may impose fees on new development to fund improvements that offset the impact of new development such as transportation improvements.   | <p>City would need to prepare a Nexus study to:</p> <ol style="list-style-type: none"> <li>1) Identify the purpose of the fee.</li> <li>2) Identify the use to which the fee is to be put. If the use is financing public facilities, the facilities must be identified.</li> <li>3) Determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed (commonly called a Nexus).</li> </ol> <p>Note: In 2009, the City considered hiring a consultant to perform the nexus study to establish a citywide impact fee but this initiative was ultimately put on hold and a consultant was not hired.</p> |
| Landscape and Lighting Assessment District (LLAD)                      | A LLAD would establish new assessments to fund installation and maintenance of public improvements, such as street trees, sidewalks, parkways, and landscaping.                     | Requires 2/3 voter approval to create or amend a Landscape and Lighting Assessment District. The district would need to establish a benefit formula and each parcel in the service area would be assessed according to the benefit it receives from the services and improvements.   |
| Mello-Roos Community Facilities District (CFD)                         | A CFD could levy additional property taxes on land located inside the district to pay for new infrastructure.   | Requires 2/3 approval by the voters to form district and issue bonds. The particular method of allocating the special tax, and the facilities and services to be authorized, would need to be specified. If bonds are to be authorized, their amount and maximum term must be specified as well.   |
| Infrastructure Finance District (IFD)                                  | IFDs can fund regional public facilities by diverting property taxes for 30 years to fund identified improvements (such as transit improvements, water systems and sewer projects). | <ul style="list-style-type: none"> <li>May not be used to pay for maintenance, repairs, operating costs, or services.</li> <li>Requires 2/3 approval by the voters to form and issue bonds.</li> <li>Requires a complex infrastructure financing plan.</li> <li>Under current state regulations, cannot be established within an existing Redevelopment Area District.</li> </ul>  |
| Community Benefit District (CBD) / Business Improvement District (BID) | Business community could voluntarily assess themselves to fund marketing, promotion, security, limited streetscape improvements, maintenance and special events.                    | <ul style="list-style-type: none"> <li>Would require the Planning Area business community to pay annual fees to fund activities and programs.</li> <li>Not sufficient to fund infrastructure improvements.</li> </ul>  |

| Funding Mechanism             | Description and Improvements Funded   | Requirements  |
|-------------------------------|---|---|
| Mills Act                     | The Mills Act is a voluntary program in which the City of Oakland and an owner of an historic property enter into a contract whereby the property owner agrees to repair and maintain the historic character of the property in exchange for reduced property | <ul style="list-style-type: none"> <li>A limited number of contracts are processed annually in the City.</li> <li>\$400 application fee.</li> </ul>   |
| <b>Public Funding Sources</b> |   |   |
| Measure B                     | Measure B provides funds for transportation projects in Alameda County including public transit and local street improvements and bicycle and pedestrian infrastructure.  | <ul style="list-style-type: none"> <li>Strict project deadlines: Each project must have environmental clearance and a finding plan seven years from first revenue collection.</li> <li>Timely use of funds: Jurisdictions and transit agencies must spend funds in a timely manner and report on these expenditures each year.</li> <li>Performance and accountability measures: These will be included in every contract with fund recipients.</li> <li>Competitive process</li> </ul> |
| One Bay Area Grant (OBAG)     | OBAG is an integrated Bay Area approach to distributing federal transportation dollars regionally. Grant funds cover, in part, local street and bicycle and pedestrian improvements.  | <ul style="list-style-type: none"> <li>Investments primarily directed to Priority Development Areas (PDAs) or major connections to these areas.</li> <li>City is required to have its general plan housing element adopted and certified by the State.</li> <li>City is required to provide performance reporting</li> <li>Competitive process</li> </ul>   |

A combination of these implementation and funding mechanisms will be further studied to determine which is appropriate for the Central Esmeralda Area. Community support and City Council approval would be needed for the above tools – such as special assessment districts and impact fees, as would additional economic and feasibility studies (to determine, for example, if a citywide application is most appropriate).

#### Incremental Approach to Development

The timing of development in the Central Estuary, anticipated to be extended over 20 years, will create a challenge for matching efficient infrastructure improvement projects to development. In Oakland, infrastructure design work is typically funded through multiple sources (grants, mitigation fees, CIP budgeted finding, etc.) leading to piecemeal improvements. Recently, the Public Works Agency's Transportation Planning & Funding Division (TPFD) has created a prioritization tool for the numerous projects that do not make it onto the CIP and therefore, must apply for alternative funding sources such as grants. Improvements to Fruitvale Ave. described in the CEAP were included on the TPFD's prioritization list. As a result, on March 15, 2012, the City submitted a grant application to fund the Fruitvale Ave. streetscape improvements as part of the Metropolitan Transportation Commission's One

Bay Area Grant. The \$412,000 grant, if awarded, would fund the development of a final conceptual design and then subsequently the construction plans, specification, and construction cost estimate for the project, which will improve pedestrian and bicycle amenities, and calm traffic along Fruitvale Ave. between E. 12th and the Estuary. The successful submittal of this grant reflects the standardization of a city process and interdepartmental coordination. Prioritization of improvements, in light of other citywide needs and limited resources, is a strategic way to incrementally construct costly improvements.

## **ENVIRONMENTAL REVIEW**

A Supplemental Environmental Impact Report (SEIR) has been prepared for the CEAP. The SEIR was provided to the Planning Commission under separate cover, and is available to the public, through the City's website:

<http://www2.oaklandnet.com/Government/o/PBN/OurOrganization/PlanningZoning/DOWD009073>

The SEIR is also available at no charge at the Oakland Planning Department, Strategic Planning Division, 250 Frank Ogawa Plaza, Suite 3315, Oakland, California 94612.

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

- The Notice of Preparation (NOP) of a Supplemental Environmental Impact Report (SEIR) was published on November 21, 2011;
- An SEIR Scoping meeting was held before the Planning Commission on December 14, 2011;
- The public comment period on the NOP closed on December 21, 2011;
- A "Notice of Availability / Notice of Release of a Draft SEIR" was issued on November 5, 2012;
- The Draft SEIR was published on November 9, 2012;
- A Planning Commission hearing on the Draft SEIR was held on December 5, 2012;
- A Landmarks Preservation Advisory Board Meeting on the Draft SEIR was held on December 10, 2012;
- The public comment period on the Draft SEIR closed on December 24, 2012;
- A "Notice of Availability/Release of a Final SEIR" and the Final SEIR was published on April 5, 2013;
- Planning Commission certification of the Final SEIR is recommended at this April 17, 2013 public hearing.

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

The CEAP Draft SEIR has been prepared to evaluate environmental impacts of development of the program of land use changes that would allow for an increment of growth of up to 390 residential units, 30 live/work units, 370,000 square feet of industrial area, 700,000 square feet of commercial area, and 10 acres of parks for the following environmental topics: Air Quality; Greenhouse Gas Emissions/ Global Climate Change; Noise; and Transportation/Traffic.

As detailed in Chapter 4.5 of the Draft SEIR, the following environmental issue areas were found to have no or less-than-significant impacts with incorporation of the City's Standard Conditions of Approval (SCAs), General Plan policies, and Municipal Code regulations and therefore are not addressed in detail in the EIR: Aesthetics, Shadow, and Wind; Agriculture; Biological Resources; Cultural Resources; Geology And Soils; Hazards and Hazardous Materials; Hydrology And Water Quality; Land Use;

Mineral Resources; Population and Housing; Public Services; Recreation; and Utilities and Service Systems.

Additionally, the following potentially significant transportation impacts will be reduced to a less than significant level through the implementation of Project mitigation measures or through the implementation of Standard Conditions of Approval (which are an integral part of the SCAMMRP):

TRAN-1 Intersection #10 (E 9th St / E 8th St / NB 880 off-ramp, signalized all-way stop control)

TRAN-2 Intersection #26 (High St / Coliseum Way, signalized)

TRAN-4 Intersection #1 (Embarcadero / 16th Avenue, unsignalized side-street stop control)

TRAN-6 Intersection #18 (Fruitvale Ave / E 9th St, signalized)

TRAN-29 Roadway Segment #21 (High Street: 1-880 to Tidewater)

### **Significant Environmental Impacts**

The SEIR comprehensively assesses the full range of potential environmental impacts of the Project at a programmatic level. Additionally, some project-level impacts of reasonably foreseeable level of build out in the Central Esmar Plan Area are discussed to the extent that such impacts are known. Other than the impacts discussed below, all of the environmental effects of the CEAP can be reduced to less than significant levels through implementation of SCA and/or recommended mitigation measures (see Attachment B – the Standard Conditions of Approval and Mitigation Monitoring and Reporting Program).

The proposed CEAP will result in significant and unavoidable impacts associated with the environmental topics (Air Quality, Greenhouse Gas Emissions, and Transportation/Traffic), as discussed below. Therefore, in order to approve the proposed CEAP, the City will have to adopt Statements of Overriding Consideration for these significant unavoidable impacts, finding that the benefits of the Project outweigh any significant unavoidable impacts (see Attachment A: CEQA Findings).

#### **Air Quality**

Impact AQ-3 (Gaseous TACs) and Impact AQ-4 (Exposure to Objectionable Odors): All locations in the Plan Area are within 1,000 feet of the 1-880 freeway, a high volume roadway or active rail lines. Several locations within the Plan Area include stationary sources of air pollutants, such as backup generators or industrial uses. Future development could include residential development within these areas of air quality risk. For toxic air contaminants (TAC) originating from gaseous sources, implementation of Standard Condition of Approval (SCA) C (which requires that measures be incorporated into the project to reduce the potential risk due to exposure to toxic air contaminants from gaseous emissions), as well as SCA B (which requires appropriate measures be incorporated into the project design in order to reduce the potential health risk due to exposure to diesel particulate matter), cannot with certainty reduce risks to a less-than-significant level. In addition, while CEQA requires mitigation measure(s) when a significant and unavoidable impact is identified, no measures or techniques are available to reduce the impact of gaseous TACs on sensitive receptors. Therefore, this is a significant and unavoidable impact. This potential unavoidable significant impact is overridden as set forth in the Statement of Overriding



Considerations (see Attachment A). Moreover, these individual significant TAC impacts would make a considerable contribution to the affected residents' exposures to regional TAC concentrations. Therefore, cumulative TAC impacts would be significant and unavoidable. Additionally, all locations within the Plan Area are less than one mile from a potential odor source. The Bay Area Air Quality Management District advises that there are no feasible mitigation measures to reduce the impact of siting receptors near odor sources, except for increasing the distance between the receptor and the source. Consequently, a proposed development could potentially expose occupants to substantial/frequent odor. Therefore, the City conservatively assumes that this may result in a significant and unavoidable impact.

#### Greenhouse Gas Emissions/Global Climate Change

Impact GHG-1 (project-level): The project would permit an increase in the level of allowable future Greenhouse Gas (GHG) emissions during demolition, construction, and operational phases. Estimated GHG emissions from development facilitated by the CEAP would exceed the project-level annual thresholds, as well as the total annual threshold. Future projects would be subject to the City's SCAs. SCA F would require a greenhouse gas reduction plan. SCA 25 would require future projects implement strategies to reduce on-site parking demand and single-occupancy vehicles. SCA 36 would require a construction and demolition waste reduction and recycling plan. Additional SCAs regarding landscape requirements and tree placement would also apply as would several SCAs dealing with stormwater management. Adherence to the City's SCAs and other policies would reduce the GHG-production potential of each new development within the Plan Area, but until such projects are proposed and evaluated, the efficacy of these measures in reducing GHG emissions below relevant thresholds cannot be determined with certainty. No other mitigation is considered feasible, therefore impacts at the project level are conservatively considered significant and unavoidable.

#### Transportation/Traffic

The Draft SEIR found significant and unavoidable Transportation/Traffic impacts in several categories: study roadway intersections, roadway sections and at-grade railroad crossings<sup>1</sup>. Further, the Draft SEIR lists the roadway intersections which have been previously identified in other CEQA documents as having significant and unavoidable impacts. Although the City's Standard Conditions of Approval (SCAs) have been imposed, as well as Mitigation Measures requiring detailed, site specific traffic analysis be performed and appropriate measures implemented, there is no guarantee that these measures would reduce impacts to less than significant levels and, indeed, many mitigation measures were determined to be infeasible, as detailed in the Draft SEIR. Therefore, the below listed transportation-related impacts have been identified as significant and unavoidable.

*Study Roadway Intersections:* Several study roadway intersections are significantly affected by the conditions that cannot be mitigated to less than significant levels as listed below. These intersections are identified by transportation impact and study roadway intersection number in the Draft EIR:

TRAN-3, Intersection #29 (Cohseum Way/NB 880 off-ramp, unsignalized side-street stop control)

TRAN-5, Intersection #3 (E 12th / 22nd Ave / 23rd Ave, signalized)

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<sup>1</sup> See Draft SEIR, pages 4.4-74 through 4.4-100.

TRAN-7 and TRAN-17, Intersection #22 (42nd Ave / International Blvd, signalized)  
TRAN-8 and TRAN-19, Intersection #25 (High St / San Leandro St, signalized)  
TRAN-9 and TRAN -21, Intersection #28 (High St / Fenside Blvd, signalized)  
TRAN-10, Intersection #8 (29th Ave / E 12th St, signalized)  
TRAN-11, Intersection #12 (29th Ave / Ford St, signalized with the 29th/23rd Overcrossing Project)  
TRAN-12, Intersection #13 (29th Ave / 23rd Ave / Park St, unsignalized side-street stop control)  
TRAN-13, Intersection #14 (Park St / Lincoln Ave / Tilden Way, signalized)  
TRAN-14, Intersection #16 (Fruitvale Ave / E 12th St, signalized)  
TRAN-15, Intersection #17 (Fruitvale Ave / San Leandro St / E 10th St, signalized)  
TRAN-16, Intersection #21 (Tilden Way / Fenside Blvd / Blanding Ave, signalized)  
TRAN-18, Intersection #23 (High St / International Blvd, signalized)  
TRAN - 20, Intersection #27 (High St / SB 880 off-ramp / Oakport St, signalized plus additional improvements constructed with the 42nd Avenue / High Street Access Project)  
TRAN-22, Intersection #33 (23rd Ave / NB 880 on-ramp, new signalized intersection with the 29th/23rd Overcrossing Project)

*Study Roadway Segments:* Several study roadway segments are significantly affected by the CEAP-generated traffic under existing plus project, the 2020 plus project and the 2035 plus project scenarios and cannot be mitigated to less than significant levels. These intersections are identified by transportation impact and study roadway intersection number in the Draft EIR:

TRAN-23, Roadway Segment (on northbound I-880 at 50<sup>th</sup> Ave)  
TRAN-25 and TRAN-28, Roadway Segment (on northbound I-880 at Fruitvale Ave)  
TRAN-30, Roadway Segment (High Street: Tilden to Central)  
TRAN-31, Roadway Segment (International Blvd: 29th Ave to Fruitvale Ave)  
TRAN-32, Roadway Segment (International Blvd: Fruitvale Ave to 42nd Ave)  
TRAN-33, Roadway Segment (International Blvd: 42nd Ave to High St)  
TRAN-34, Roadway Segment (International Blvd: High St to 50th Ave)

*At-Grade Railroad Crossings:* TRAN-37, Traffic Safety: The project has the potential to introduce additional vehicle, bicycle and pedestrian traffic to existing at-grade railroad crossings thereby potentially contributing to safety issues along railroad corridors. For example, vehicle traffic generated by new development may potentially cause vehicle queuing at intersections resulting in traffic backing up onto at-grade railroad crossings, possibly resulting in train/automobile/pedestrian collisions and potentially causing injuries and/or fatalities. A substantial increase in traffic generated by development could substantially increase hazards that occur between incompatible uses (i.e. motor vehicles and trains, or pedestrians and trains) and would constitute a significant impact. Although application of SCA G,

Railroad Crossings, which would require a Transportation Impact Study to identify potentially dangerous crossing conditions at at-grade railroad crossings caused by future projects and the project's resulting requirement to incorporate appropriate measures to reduce potential adverse impacts, the impact is nonetheless significant as there is no guarantee these measures would reduce impacts to less than significant levels and thus the impacts are significant and unavoidable.

*Previously Identified Impacted Intersections:* The City of Oakland has previously identified intersections which were found to have significant and unavoidable traffic-related impacts from recently published EIRs or traffic studies for development projects. These intersections (see Table 4.4-2 in the Draft SEIR) were identified in the Draft SEIR in order to provide more information about potential traffic-related impacts. No feasible mitigation measures were identified for these intersections, and while a Transportation Impact Study may still be required, in accordance with standard City policy and practice, the impacts are nevertheless significant and unavoidable.

### CEQA Alternatives

Chapter 5 of the Draft SEIR includes the analysis of five alternatives to the proposed project that meet the requirements of CEQA, which include a reasonable range of alternatives to the Project that would feasibly attain most of the Project's basic objectives, and avoid or substantially lessen many of the Project's significant environmental effects. These alternatives include:

- Alternative 1 – No Project Alternative – CEQA requires a “no Project” alternative to be considered in the EIR. For the project under consideration, this alternative would be the existing regulatory framework consisting of the Estuary Policy Plan of the City's General Plan and existing zoning regulations. These existing regulations would continue to allow for new development in the Plan Area, but at generally lower intensities/densities than without the project and without implementation of the Design Guidelines which are intended to better promote harmony among the area's diverse land uses.
- Alternative 2 – Reduced Retail - This alternative was developed with the intent of reducing significant project impacts while adhering to most basic project objectives. Alternative 2 considers a reduction in the allowable intensity of retail development in the High Street area as a basis for comparison against the proposed project. Specifically, Alternative 2 lessens the allowable retail intensity in the Cential-East sub area by 50 percent. With such a reduction, Alternative 2 as a whole would thus result in a total of about 1,500 P.M. peak hour trips, a reduction of about 500 P.M. peak –hour trips compared to the project.
- Alternative 3 – Mitigated Alternative - While Alternative 2 cuts the amount of allowable new retail development in the Cential East area so as to achieve a reduction of about 500 P.M. peak hour trips at buildout, Alternative 3 further cuts the level of allowable development across the Plan Area such that total P.M. peak hour trips would not exceed 150 (relative to about 2000 for the proposed project). In essence, Alternative 3 would entail an 80 to 90 percent reduction in allowable growth relative to the CEAP. For the purposes of this analysis, Alternative 3 is assumed to include about 150 residential units – and no new commercial or industrial uses.

- Alternative 4 – Theoretical Maximum Build-out - Because the CEAP's regulations would be applicable to every parcel within the Central Estuary Area, Alternative 4 evaluates the theoretical possibility that every parcel would be built out to the new maximum level permissible under the suite of changed regulations set forth in the CEAP.
- Alternative 5 – Maximum Infrastructure - The CEAP does not propose, include, or provide funding for any new transportation improvements. The SEIR is thus focused on the potential effects of the CEAP's proposed changes in land use regulations. However, the planning work undertaken in development of the CEAP identified a number of transportation improvements currently contemplated by the city or other responsible agencies. As these improvements are neither approved nor funded, they are appropriately excluded from the main body of the SEIR's analysis. However, these unapproved, unfunded transportation improvements whose potential implementation could affect the physical environment of the Plan Area. Alternative 5 thus contemplates the environmental effects likely to result from the combination of approval of the CEAP plus implementation of these improvements.

The Environmentally Superior Alternative results from a comparison of the impacts associated with each alternative. Based on a thorough comparison of all five alternatives, Alternative 3 (the Mitigated Alternative) is considered environmentally superior because it would avoid significant transportation and greenhouse gas effects associated with the project. Alternative 3 would also reduce the severity of other project impacts in several other environmental topic areas.

The alternatives, including Alternative 3, are being rejected in favor of the project because they do not meet the basic objectives of the project to maintain and enhance the economic role of the planning area, to provide a framework for realizing needed transportation and infrastructure improvements and to create design guidelines to reconcile conflicting land uses. Additionally, legal or other considerations make the alternatives infeasible. Therefore a Statement of Overriding Considerations is recommended for adoption despite the Project's significant and unavoidable environmental impacts (see Attachment A).

#### Responses to Draft SEIR Comments (Final SEIR)

City staff received comments on the Draft SEIR from five public agencies. Additional oral comments were provided at the Planning Commission hearing on December 5, 2012. Responses to all of the comments provided by these agencies and individuals are provided in the Final EIR document, including certain revisions and changes to text in the Draft SEIR. None of these changes to the Draft EIR involve a new significant environmental impact, a substantial increase in the severity of an environmental impact, or a feasible mitigation measure or alternative considerably different from that presented in the Draft SEIR. Recirculation of the Draft SEIR is not warranted.

In sum, City Planning staff recommends the Planning Commission adopt the CEQA findings in Attachment A, which include certification of the SEIR, rejection of alternatives as infeasible, and a Statement of Overriding Considerations.

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

The SEIR is intended to assess the environmental impacts of the proposed CEAP. Generally, a program-level environmental review was used to analyze impacts associated with the CEAP. Although not required under CEQA, some "project-level" impacts of reasonably foreseeable level of build-out in the Plan Area are discussed to the extent that such impacts are known. The SEIR evaluated the following impacts at a project level:

- Air quality: exposure to odors and toxic air contaminants
- Greenhouse gas emissions
- Transportation/Traffic: transportation facilities
- Noise

The SEIR concludes, with the exception of noise impacts, that these project-level impacts are significant and unavoidable.

The City intends to use the streamlining/tiering provisions of CEQA to the maximum feasible extent, so that future environmental review of specific projects are expeditiously undertaken without the need for repetition and redundancy, as provided in CEQA Guidelines section 15152 and elsewhere. Specifically, pursuant to CEQA Guidelines Section 15183, streamlined environmental review is allowed for projects that are consistent with the development density established by zoning, community plan, specific plan, or general plan policies for which an EIR was certified, unless such a project would have environmental impacts peculiar/unique to the project or the project site. Likewise, Public Resources Code section 21094.5 and CEQA Guidelines Section 15183.3 also provides for streamlining of certain qualified, infill projects. In addition, CEQA Guidelines Sections 15162-15164 allow for the preparation of a Subsequent (Mitigated) Negative Declaration, Supplemental or Subsequent EIR, and/or Addendum, respectively, to a certified EIR when certain conditions are satisfied. Moreover, California Government Code section 65457 and CEQA Guidelines section 15182 provide that once an EIR is certified and a specific plan adopted, any residential development project, including any subdivision or zoning change that implements and is consistent with the specific plan is generally exempt from additional CEQA review under certain circumstances. The above are merely examples of possible streamlining/tiering mechanisms that the City may pursue and in no way limit future environmental review of specific projects.

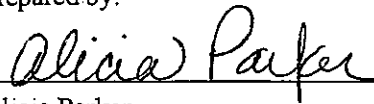
When a specific public improvement project or development application comes before the City, the proposal will be subject to its own, project-specific, environmental determination by the city that either: 1) the action's environmental effects were fully disclosed, analyzed, and as needed, mitigated to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

**RECOMMENDATIONS:**

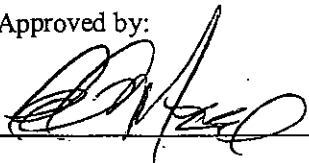
Staff recommends that the Planning Commission take public testimony, close the public hearing, and:

1. Adopt the CEQA findings for the *CEAP* in Attachment A, which include certification of the EIR, rejection of alternatives as infeasible, and a Statement of Overriding Considerations;
2. Adopt the Standard Conditions of Approval and Mitigation Monitoring Reporting Program (SCAMMRP) in Attachment B;
3. Recommend the City Council adopt the *CEAP*, Design Guidelines and General Plan and Planning Code Amendments based, in part, upon the *CEAP* Adoption Findings in Attachment C; and
4. Authorize staff to make minor ongoing revisions to the adopted Design Guidelines for the Central Estuary and to make non-substantive, technical conforming edits to the Planning Code that may have been overlooked in deleting old sections and cross-referencing new sections to the new Central Estuary District Zones Regulations (which are essentially correction of typographical and/or clerical errors).

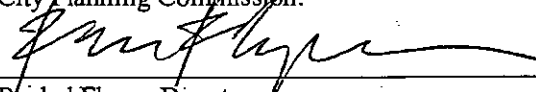
Prepared by:

  
Alicia Parker  
Planner II

Approved by:

  
Ed Manasse  
Strategic Planning Manager

Approved for forwarding to the  
City Planning Commission:

  
Rachel Flynn, Director  
Planning and Building Department

NOTE: The CEAP, Design Guidelines and the Final SEIR were previously furnished separately to the Planning Commission, and are available to the public, through the City's website:

CEAP and Design Guidelines:

<http://www2.oaklandnet.com/Government/o/PBN/OurOrganization/PlanningZoning/DOWD009073>

Final SEIR: <http://www2.oaklandnet.com/Government/o/PBN/OurServices/Application/DOWD009157>

Limited copies of the Final SEIR, CEAP and Design Guidelines are also available, at no charge, at the Oakland Planning Division office, 250 Frank Ogawa Plaza, Suite 3315, Oakland, California 94612.

**ATTACHMENTS**

- A. CEQA Findings: Certification of the Supplemental EIR, Rejection of Alternatives and Statement of Overriding Considerations For the Central Estuary Area Plan
- B. Standard Conditions of Approval/Mitigation Monitoring and Reporting Program (SCA/MMRP)
- C. CEAP Adoption Findings
- D. General Plan Amendments
- E. Planning Code Amendments, including Central Estuary District Zones Regulations
- F. December 5, 2012, Planning Commission Staff Report without attachments

# STANDARD CONDITIONS OF APPROVAL/MITIGATION MONITORING AND REPORTING PROGRAM (SCA/MMRP)

## CENTRAL ESTUARY AREA PLAN

| Environmental Impact   | Mitigation Measures and Standard Conditions  | Monitoring Responsibility                    | Implementation and Monitoring Timeline  |
|--|--|--|---|
| <b>Air Quality</b>   |  |  |   |
| Impact AQ-2: Development facilitated by the proposed project would not fundamentally conflict with the CAP because the plan demonstrates reasonable efforts to implement transportation control measures contained in the CAP. | Standard Conditions of Approval: <ul style="list-style-type: none"> <li>SCA A: Construction-Related Air Pollution Controls (Dust and Equipment Emissions), as revised in the final SEIR.<sup>1</sup></li> <li>SCA B: Exposure to Air Pollution (Toxic Air Contaminants: Particulate Matter)</li> </ul> | City of Oakland Planning and Zoning Division | SCA A: Ongoing throughout demolition, grading, and/or construction;<br>SCA B: Prior to issuance of a demolition, grading, or building permit; |

<sup>1</sup>The City has revised SCA A, Construction-Related Air Pollution Controls (Dust and Equipment Emissions), in order to improve the enforceability and implementation regarding the idling requirements and the performance targets for construction equipment. The substantive changes involved modifying the following SCA measures to allow less room for interpretation, which should improve enforceability and overall likelihood of effective implementation of SCA A:

- “G”: the idling times measure was modified to include a qualifier that idling times apply to all diesel-fueled commercial vehicles over 10,000 lbs;
- “H”: new measure was added specifying that idling times for 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 five minutes and fleet operators must develop a written idling policy; and
- “U”: revised measure that requires construction site equipment to meet the requirements of Title 13, Section 2449 of the California Code of Regulations Emissions and Performance Requirements one year in advance of any fleet deadlines and provide written documentation that fleet requirements have been met.



| Environmental Impact   | Mitigation Measures and Standard Conditions   | Monitoring Responsibility                    | Implementation and Monitoring Timeline   |
|--|---|--|--|
| <i>Impact AQ-2 (Cont.)</i>   | <ul style="list-style-type: none"> <li>SCA C: Exposure to Air Pollution (Toxic Air Contaminants: Gaseous Emissions)</li> <li>SCA 25, Parking and Transportation Demand Management</li> </ul>  | City of Oakland Planning and Zoning Division | SCA C: Prior to issuance of a demolition, grading, or building permit;<br>SCA 25: Prior to issuance of a final inspection of the building permit   |
| Impact AQ-3: Development facilitated by the proposed project could include residential developments that expose occupants to substantial health risks from toxic air contaminants (TACs) from sources including both diesel particulate matter (DPM) and gaseous emissions.  | <p>Standard Conditions of Approval:</p> <ul style="list-style-type: none"> <li>SCA B, Exposure to Air Pollution (Toxic Air Contaminants: Particulate Matter)</li> <li>SCA C, Exposure to Air Pollution (Toxic Air Contaminants: Gaseous Emissions)</li> </ul>   | City of Oakland Planning and Zoning Division | Prior to issuance of a demolition, grading, or building permit.  |
| <b>Greenhouse Gas Emissions/Global Climate Change</b>  |   |  |  |
| Impact GHG-1: Development facilitated by the proposed project would allow for the construction and operation of land uses that would produce greenhouse gas emissions from multiple sources, including stationary sources. The expected level of emissions could exceed three of the four relevant thresholds (1,100 annual tons of MTCO <sub>2</sub> e; 4.6 MTCO <sub>2</sub> e annually per service population from non-stationary sources; more than 10,000 annual MTCO <sub>2</sub> e from new stationary sources) but will be below the plan level threshold of 6.6 MTCO <sub>2</sub> e annually per service population for non-stationary sources. | <p>Standard Conditions of Approval:</p> <ul style="list-style-type: none"> <li>SCA 25, Parking and Transportation Demand Management</li> <li>SCA 36, Waste Reduction</li> <li>SCA 12, Required Landscape Plan for New construction</li> <li>SCA 13, Landscape Requirements for Street Frontages</li> <li>SCA 15, Landscape Maintenance</li> <li>SCA 17, Landscape Requirements for Street Frontages</li> <li>SCA 18, Landscape Maintenance</li> <li>SCA 45, Tree Replacement Plantings</li> <li>SCA 55, Erosion and Sedimentation Control Plan</li> <li>SCA 75, Stormwater Pollution and Prevention Plan</li> </ul> | City of Oakland Planning and Zoning Division | SCA 25: Prior to issuance of a final inspection of the building permit;<br>SCA 36, 45: Prior to issuance of demolition, grading, or building permit; SCA 12: Prior to project approval;<br>SCA 13, 17: Prior to issuance of final inspection of the building permit;<br>SCA 15, 18: Ongoing;<br>SCA 55: Prior to any grading activities;<br>SCA 75: Prior to and ongoing throughout demolition, grading, and/or construction activities; |

| Environmental Impact   | Mitigation Measures and Standard Conditions  | Monitoring Responsibility                    | Implementation and Monitoring Timeline   |
|--|--|--|--|
| Impact GHG-2 (Cont.)   | <ul style="list-style-type: none"> <li>SCA 83, Creek Protection Plan</li> <li>SCA F, Greenhouse Gas Reduction Plan and Recycling;</li> </ul>   | City of Oakland Planning and Zoning Division | SCA 83: Prior to and ongoing throughout demolition, grading, and/or construction activities; SCA F: Prior to issuance of a construction-related permit and ongoing as specified. |
| Impact GHG-2: The proposed project would not fundamentally conflict with a plan, policy, or regulation adopted for the purpose of reducing greenhouse gas emissions.                       | Standard Conditions of Approval: <ul style="list-style-type: none"> <li>SCA F, Greenhouse Gas (GHG) Reduction Plan</li> </ul>  | City of Oakland Planning and Zoning Division | Prior to issuance of a construction-related permit and ongoing as specified.   |
| <b>Noise</b>   |  |  |  |
| Impact NO-1: Development facilitated by the CEAP would potentially increase construction noise at sensitive receptors located near construction sites.                                     | Standard Conditions of Approval: <ul style="list-style-type: none"> <li>SCA 28, Days/Hours of Construction Operation</li> <li>SCA 29, Noise Control</li> <li>SCA 30, Noise Complaint Procedures</li> <li>SCA 39, Pile Driving and Other Extreme Noise Generators</li> </ul>  | City of Oakland Planning and Zoning Division | Ongoing throughout demolition, grading, and/or construction.   |
| Impact NO-2: Construction of development facilitated by the CEAP could generate noise at levels in excess of City of Oakland nuisance standards for persistent construction-related noise. | Standard Conditions of Approval: <ul style="list-style-type: none"> <li>SCA 28, Days/Hours of Construction Operation</li> <li>SCA 29, Noise Control</li> <li>SCA 30, Noise Complaint Procedures</li> <li>SCA 39, Pile Driving and Other Extreme Noise Generators</li> <li>SCA 57, Vibrations Adjacent to Historic Structure</li> </ul> | City of Oakland Planning and Zoning Division | SCA 28, 29, 30, 39: Ongoing throughout demolition, grading, and/or construction; SCA 57: Prior to issuance of a demolition, grading or building permit;                          |

| Environmental Impact   | Mitigation Measures and Standard Conditions  | Monitoring Responsibility                    | Implementation and Monitoring Timeline  |
|--|--|--|---|
| Impact NO-2 (Cont.)  | <ul style="list-style-type: none"> <li>SCAA(f), Construction-Related Air Pollution Controls (Dust and Equipment Emissions); as revised in the final SEIR.</li> </ul>   | City of Oakland Planning and Zoning Division | SCA A (f): Ongoing throughout demolition, grading, and/or construction.   |
| Impact NO-3: Development facilitated by the CEAP could generate noise levels in excess of standards established in the city's Noise Ordinance for operational noise.   | Standard Conditions of Approval: <ul style="list-style-type: none"> <li>SCA 32, Operational Noise-General</li> </ul>   | City of Oakland Planning and Zoning Division | Ongoing.  |
| Impact NO-5: Development facilitated by the CEAP could expose persons to interior noise levels that exceed State building code requirements (45 dBA <sub>Ln</sub> ).   | Standard Conditions of Approval: <ul style="list-style-type: none"> <li>SCA 31, Interior Noise</li> </ul>  | City of Oakland Planning and Zoning Division | Prior to issuance of a building permit.   |
| Impact NO-6: Development facilitated by the CEAP could be exposed to noise levels in conflict with the land use compatibility guidelines of the Oakland General Plan.  | Standard Conditions of Approval: <ul style="list-style-type: none"> <li>SCA 31, Interior Noise</li> </ul>  | City of Oakland Planning and Zoning Division | Prior to issuance of a building permit.   |
| Impact NO-8: Construction of the development facilitated by the CEAP may expose persons to or generate groundborne vibration that exceeds the criteria established by the Federal Transit Administration (FTA).            | Standard Conditions of Approval: <ul style="list-style-type: none"> <li>SCA 38, Vibration;</li> <li>SCA 39, Pile Driving and Other Extreme Noise Generators</li> </ul> | City of Oakland Planning and Zoning Division | SCA 38: Prior to issuance of a building permit;<br>SCA 39: Ongoing throughout demolition, grading, and/or construction. |
| Impact NO-9: Development facilitated by the CEAP would not be located within an airport land use plan and would not expose people residing or working in the Plan Area to excessive noise levels associated with airports. | Standard Conditions of Approval: <ul style="list-style-type: none"> <li>SCA 38, Vibration</li> </ul>   | City of Oakland Planning and Zoning Division | SCA 38: Prior to issuance of a building permit.   |

| Environmental Impact   | Mitigation Measures and Standard Conditions   | Monitoring Responsibility                         | Implementation and Monitoring Timeline  |
|--|---|---|---|
| <b>Transportation/Traffic</b>  |   |   |   |
| Impact TRAN-1: Under Existing plus Project conditions, project-related vehicle traffic would degrade the AM peak hour LOS at intersection #10 (E 9th St / E 8th St / NB 880 off-ramp, unsignalized all-way stop control).                          | Mitigation TRAN-1: The 29th/23rd Overcrossing Project will be constructing a roundabout at this intersection and reconfiguring the street system. The NB I-880 off-ramp traffic will no longer be routed through this location, but instead will use a new off-ramp that will intersect 29th Avenue directly on the new overcrossing structure.   | City of Oakland, Transportation Services Division | The impact will be mitigated with the construction of the roundabout with the 29th/23rd Overcrossing project in 2013.   |
| Impact TRAN-2: Under Existing plus Project conditions, project-related vehicle traffic would degrade the PM peak hour LOS at intersection #26 (High St / Coliseum Way, signalized).  | Mitigation TRAN-2: The 42nd Avenue/High Street Access Improvements Project will widen High Street to accommodate additional travel and left-turn lanes.   | City of Oakland, Transportation Services Division | The impact will be mitigated with the construction of the additional lanes on High Street with the 42nd Avenue / High Street Access Improvements project in 2015/2016.  |
| Impact TRAN-4: Under Interim Year 2020 and Cumulative Year 2035 plus Project conditions, project-related vehicle traffic would degrade the PM peak hour LOS at intersection #1 (Embarcadero / 16th Avenue, unsignalized side-street stop control). | Mitigation TRAN-4: Install a traffic signal and reconfigure the lanes at this location, optimize the signal timing (i.e., adjust the allocation of green time for each intersection approach for peak periods of the day), and coordinate the signal timing changes at this intersection with the adjacent intersections that are in the same signal coordination group (if applicable). Construct other roadway improvements that support not only vehicle travel, but all other modes safely to and through the intersection. | City of Oakland, Transportation Services Division | Prior to issuance of a Certificate of Occupancy for a specific development project if the City determines that a specific project may directly impact this intersection. This mitigation measure will need to be implemented by 2015. |

| Environmental Impact  | Mitigation Measures and Standard Conditions  | Monitoring Responsibility                         | Implementation and Monitoring Timeline |
|-----------------------|--|---|--|
| Impact TRAN-4 (Cont.) | <p>To implement this measure, the project sponsor shall submit Plans, Specifications, and Estimates (PS&amp;E) documents to modify the intersection to the City of Oakland's Transportation Engineering Division for review and approval. All elements shall be designed to City standards in effect at the time of construction and all new or upgraded signals should include these enhancements. All other facilities supporting vehicle travel and alternative modes through the intersection should be brought up to both City standards and ADA standards (according to Federal and State Access Board guidelines) at the time of construction. Current City Standards call for the elements listed below:</p> <ul style="list-style-type: none"> <li>▪ 2070L Type Controller w/ Cabinet Assembly</li> <li>▪ GPS communication (clock),</li> <li>▪ Accessible pedestrian crosswalks according to Federal and State Access Board guidelines with signals (audible and tactile)</li> <li>▪ Countdown Pedestrian Head Module Switch out</li> <li>▪ City Standard ADA wheelchair ramps</li> <li>▪ Video Detection on Existing (or new, if required)</li> <li>▪ Mast Arm Poles, full actuation</li> </ul> | City of Oakland, Transportation Services Division |  |

| Environmental Impact  | Mitigation Measures and Standard Conditions   | Monitoring Responsibility                         | Implementation and Monitoring Timeline  |
|---|---|---|---|
|   | (where applicable)  |   |   |
| Impact TRAN-4 (Cont.)   | <ul style="list-style-type: none"> <li>▪ Polara Push Buttons (full actuation)</li> <li>▪ Bicycle detection (full actuation)</li> <li>▪ Pull Boxes</li> <li>▪ Signal interconnect and communication w/ trenching (where applicable), or through (E) conduit (where applicable)- 600 feet maximum</li> <li>▪ Conduit replacement contingency</li> <li>▪ Fiber Switch</li> <li>▪ PTZ Camera (where applicable)</li> </ul>  | City of Oakland, Transportation Services Division |   |
| Impact TRAN-6: Under Interim Year 2020 and Cumulative Year 2035 plus Project conditions, project-related vehicle traffic would degrade the PM peak hour LOS at intersection #18 (Fruitvale Ave / E 9th St, signalized). | Mitigation TRAN-6: At the SB approach on E 9th, provide a dedicated SB left-turn lane to EB Fruitvale, modify the signal operation and phasing to provide protected left-turn movements, and optimize the signal timings. The SB left-turn lane could be accommodated by either: a) converting one of the NB travel lanes on E 9th to the SB left-turn lane, or b) widening E 9th on the west side of the roadway, which would require removing trees, reconfiguring the at-grade rail crossing, and rebuilding the traffic signal. | City of Oakland, Transportation Services Division | Prior to issuance of a Certificate of Occupancy for a specific development project if the City determines that a specific project may directly impact this intersection. This mitigation measure will need to be implemented by 2018. |

| Environmental Impact   | Mitigation Measures and Standard Conditions   | Monitoring Responsibility                         | Implementation and Monitoring Timeline  |
|--|---|---|---|
| Impact TRAN-6 (Cont.)  | <p>No on-street parking would need to be removed. The existing single travel lane would be converted to a shared through/right-turn lane.</p> <p>To implement this measure, the project sponsor shall submit to the City for review and approval Plans, Specifications, and Estimates (PS&amp;E) as detailed in Mitigation TRAN-4.</p>  | City of Oakland, Transportation Services Division |   |
| Impact TRAN-11: Under Cumulative Year 2035 plus Project conditions, project-related vehicle traffic would degrade the PM peak hour LOS at intersection #12 (29th Ave / Ford St, signalized with the 29th/23rd Overcrossing Project). | <p>Mitigation TRAN-11: The project sponsor shall develop a detailed design plan for intersection improvements to the Park Street Triangle (including 29th Ave/Ford St), subject to review and approval of the City of Oakland Transportation Services Division. The design plan shall include the following elements:</p> <ul style="list-style-type: none"> <li>A comprehensive study of existing traffic signal facilities and coordination with City Transportation Services Division on the scope of improvements necessary to meet City standards.</li> </ul> <p>This study shall address, at a minimum, the following community comments on the Park Street Bridge Traffic Study Report: (1) developing strategies to reduce the potential for bicyclists to ride the wrong way on the narrow Park Street Bridge walkways; (2) installing</p> | City of Oakland, Transportation Services Division | <p>Prior to issuance of a Certificate of Occupancy for a specific development project if the City determines that a specific project may directly impact this intersection.</p> <p>The study of improvements to the Park Street Triangle shall be prepared no later than 2020, as the implementation of these improvements would be required by 2022.</p> |

| Environmental Impact   | Mitigation Measures and Standard Conditions  | Monitoring Responsibility                         | Implementation and Monitoring Timeline |
|------------------------|--|---|--|
| Impact TRAN-11 (Cont.) | <p>signs and pavement markings outside of the study area such as directional signage in support of regional bicycle travel including signage directing cyclists (from the City of Alameda) to the safest routes to the Embarcadero and signage at the corner of E. 7th St. and Kennedy St. directing cyclists to the City of Alameda (current signage only directs riders to Fruitvale Ave.); (3) developing specialized treatments for motor vehicles, pedestrians and bicyclists, and details regarding access, parking and landscaping (to be addressed during the design phase of project development); and (4) consideration should be given to removing the prohibition of left turns and U-turns for southbound traffic on 29th Avenue at Ford Street (motorists often make these maneuvers in violation of existing traffic signs prohibiting the movements, and no collisions have been reported involving those maneuvers).</p> <p>The study shall also address the following standard traffic study contents: (a) street closures; (b) queuing impacts of short left turn lanes; (c) geometric analysis of new lane configurations and offsets to accommodate all modes (safety and operations); (d) analysis of cycle length on vehicle, bus, and pedestrian</p> | City of Oakland, Transportation Services Division |  |



| Environmental Impact  | Mitigation Measures and Standard Conditions   | Monitoring Responsibility                         | Implementation and Monitoring Timeline  |
|---|---|---|---|
| Impact TRAN-11 (Cont.)  | <p>crossings (safety and operations); (e) opportunities to install bike lanes; (g) potential parking space removal; and (h) drainage relocation. The study could result in recommendations that would not require the intersection to be signalized.</p> <ul style="list-style-type: none"> <li>Plans, Specifications, and Estimates (PS&amp;E) as detailed in Mitigation TRAN-4.</li> <li>Signal timing plans for the signals in the coordination group.</li> <li>A final design plan for this intersection improvement, subject to review and approval of the City</li> </ul> | City of Oakland, Transportation Services Division |   |
| Impact TRAN-12: Under Cumulative Year 2035 plus Project conditions, project-related vehicle traffic would exacerbate the AM peak hour LOS F condition at intersection #13 (29th Ave / 23rd Ave / Park St, unsignalized side-street stop control). | Mitigation TRAN-12: Implement Mitigation Measure TRAN-11.   | City of Oakland, Transportation Services Division | See TRAN --11.  |
| Impact TRAN-29: Under Existing, Interim Year 2020, and Cumulative Year 2035 plus Project conditions, project-related vehicle traffic would degrade the PM peak hour roadway segment LOS on MTS segment #21 (High Street: I-880 to Tidewater).     | Mitigation TRAN-29: The 42nd Avenue / High Street Access Improvements Project will widen High Street to accommodate additional travel and left-turn lanes.  | City of Oakland, Transportation Services Division | The impact will be mitigated with the construction of the High Street Access Improvements Project in 2015/2016. |

| Environmental Impact  | Mitigation Measures and Standard Conditions  | Monitoring Responsibility                         | Implementation and Monitoring Timeline   |
|---|--|---|--|
| Impact TRAN-37: The project has the potential to introduce additional vehicle, bicycle and pedestrian traffic to existing at-grade railroad crossings thereby potentially contributing to safety issues along railroad corridors. A substantial increase in traffic generated by development could substantially increase hazards that occur between incompatible uses (i.e. motor vehicles and trains, or pedestrians and trains). | Standard Conditions of Approval: <ul style="list-style-type: none"> <li>SCA-G, Railroad Crossings</li> </ul>   | City of Oakland, Transportation Services Division | Analysis required during project review; implementation prior to issuance of certificate of occupancy.   |
| <b>Aesthetics</b>   |  |   |  |
| (Threshold #3) Development under the CEAP could degrade the existing visual character or quality of the Plan Area and its surroundings.   | Standard Conditions of Approval: <ul style="list-style-type: none"> <li>SCA 5, Conformance to Approved Plans; Modifications of Conditions or Revocation;</li> <li>SCA 12, Required Landscape Plan for New Construction and Certain Additions to Residential Facilities;</li> <li>SCA 13, Landscape Requirements for Street Frontages;</li> <li>SCA 14, Assurance of Landscaping Completion;</li> <li>SCA 15, Landscape Maintenance;</li> <li>SCA 16, Landscape Requirements for Downslope Lots;</li> <li>SCA 17, Landscape Requirements for Street Frontages;</li> <li>SCA 18, Landscape Maintenance;</li> <li>SCA 19, Underground Utilities;</li> <li>SCA 43, Tree Removal Permit on Creekside Properties;</li> </ul> | City of Oakland, Planning and Zoning Division     | SCA 5, 15, 18: Ongoing;<br>SCA 12, 19: Prior to issuance of a building permit;<br>SCA 13, 14, 16, 17, 43, 46: Prior to issuance of a final inspection of the building permit;<br>SCA 44: Prior to issuance of a tree removal permit; |

Central Estuary Area Plan  
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| Environmental Impact   | Mitigation Measures and Standard Conditions  | Monitoring Responsibility                     | Implementation and Monitoring Timeline  |
|--|--|---|---|
| (Threshold #3 Cont.)   | <ul style="list-style-type: none"> <li>SCA 44, Tree Removal During Breeding Season;</li> <li>SCA 45, Tree Removal Permit;</li> <li>SCA 46, Tree Replacement Plantings;</li> <li>SCA 47, Tree Protection During Construction</li> </ul> | City of Oakland, Planning and Zoning Division | SCA 45, 47; Prior to issuance of a demolition, grading, or building permit.   |
| (Threshold #4) Development under the CEAP could create a new source of substantial light or glare which would adversely affect day or nighttime views in the Plan Area.                          | Standard Conditions of Approval: <ul style="list-style-type: none"> <li>SCA 40, Lighting Plan</li> </ul>   | City of Oakland, Planning and Zoning Division | Prior to the issuance of an electrical or building permit.  |
| <b>Biological Resources</b>  |  |   |   |
| (Threshold #1) Future development under the CEAP may require the removal of larger trees, which could serve as potential habitat for protected bird species, including Cooper's hawk and osprey. | Standard Conditions of Approval: <ul style="list-style-type: none"> <li>SCA D, Bird Collision Reduction</li> </ul>   | City of Oakland, Planning and Zoning Division | Prior to issuance of a building permit and ongoing.   |
| (Threshold #3) Future development under the CEAP could affect jurisdictional water resources in the Plan Area (as defined by section 404 of the Clean Water Act).                                | Standard Conditions of Approval: <ul style="list-style-type: none"> <li>SCA 84, Regulatory Permits and Authorizations</li> </ul>   | City of Oakland, Planning and Zoning Division | Prior to demolition, construction and/or grading.   |
| (Threshold #4) Future development under the CEAP may require the removal of larger trees, which could serve as potential habitat for migratory birds that use the trees for nesting.             | Standard Conditions of Approval: <ul style="list-style-type: none"> <li>SCA 43, Tree Removal Permit on Creekside Properties</li> <li>SCA 44, Tree Removal During Breeding Season</li> <li>SCA 45, Tree Removal Permit</li> </ul>       | City of Oakland, Planning and Zoning Division | SCA 43: Prior to issuance of a final inspection of the building permit;<br>SCA 44: Prior to issuance of a tree removal permit;<br>SCA 45: Prior to issuance of a demolition, grading, or building permit. |

| Environmental Impact   | Mitigation Measures and Standard Conditions  | Monitoring Responsibility                     | Implementation and Monitoring Timeline  |
|--|--|---|---|
| (Threshold #4 Cont.)   | <ul style="list-style-type: none"> <li>SCA 46, Tree Replacement Plantings</li> <li>SCA 47, Tree Protection During Construction</li> </ul>  | City of Oakland, Planning and Zoning Division | SCA 46: Prior to issuance of a final inspection of the building permit;<br>SCA 47: Prior to issuance of a demolition, grading, or building permit.  |
| (Threshold #6) Future development under the CEAP may require the removal of larger trees that qualify for protection under the City of Oakland Tree Protection Ordinance (Oakland Municipal Code (OMC) Chapter 12.36). | <p>Standard Conditions of Approval:</p> <ul style="list-style-type: none"> <li>SCA 43, Tree Removal Permit on Creekside Properties</li> <li>SCA 44, Tree Removal During Breeding Season</li> <li>SCA 45, Tree Removal Permit</li> <li>SCA 46, Tree Replacement Plantings</li> <li>SCA 47, Tree Protection During Construction</li> </ul> | City of Oakland, Planning and Zoning Division | SCA 43, 46: Prior to issuance of a final inspection of the building permit;<br>SCA 44: Prior to issuance of a tree removal permit;<br>SCA 45, 47: Prior to issuance of a demolition, grading, or building permit. |
| <b>Cultural and Historic Resources</b>   |  |   |   |
| (Threshold #1) Future development under the CEAP could involve demolition of, or impacts to cultural or historic resources in the Plan Area.   | <p>(See Cultural Recommended Measure of end of MMRP)</p> <p>Standard Conditions of Approval:</p> <ul style="list-style-type: none"> <li>SCA 56, Compliance with Policy 3.7 of the Historic Preservation Element (Property Relocation Rather than Demolition)</li> <li>SCA 57, Vibrations Adjacent Historic Structures</li> </ul>         | City of Oakland, Planning and Zoning Division | SCA 56: Prior to issuance of a demolition permit;<br>SCA 57: Prior to issuance of a demolition, grading, or building permit.  |

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| Environmental Impact   | Mitigation Measures and Standard Conditions  | Monitoring Responsibility                     | Implementation and Monitoring Timeline  |
|--|--|---|---|
| (Threshold #2) Future development under the CEAP would involve ground-disturbing construction activities that could impact unknown archaeological resources in the Plan Area.  | Standard Conditions of Approval: <ul style="list-style-type: none"> <li>SCA 52, Archaeological Resources;</li> <li>SCA 53, Human Remains;</li> <li>SCA E, Archaeological Resources – Sensitive Areas</li> </ul>                    | City of Oakland, Planning and Zoning Division | SCA 52, 53: Ongoing throughout demolition, grading, and/or construction;<br>SCA E: Prior to issuance of a demolition, grading, or building permit.  |
| (Threshold #3) Future development under the CEAP would involve ground-disturbing construction activities that could impact unknown paleontological resources in the Plan Area. | Standard Conditions of Approval: <ul style="list-style-type: none"> <li>SCA 54, Paleontological Resources</li> </ul>   | City of Oakland, Planning and Zoning Division | Ongoing throughout demolition, grading, and/or construction.  |
| (Threshold #4) Future development under the CEAP would involve ground-disturbing construction activities that could impact undocumented human remains in the Plan Area.        | Standard Conditions of Approval: <ul style="list-style-type: none"> <li>SCA 53, Human Remains</li> </ul>   | City of Oakland, Planning and Zoning Division | Ongoing throughout demolition, grading, and/or construction.  |
| <b>Geology and Soils</b>   |  |   |   |
| (Threshold #1) Future development under the CEAP could potentially expose people or structures to seismic ground shaking or ground failures.                                   | Standard Conditions of Approval: <ul style="list-style-type: none"> <li>SCA 58, Soils Report;</li> <li>SCA 60, Geotechnical Report</li> </ul>  | City of Oakland, Planning and Zoning Division | SCA 58, 60: Required as part of the submittal of a Tentative Tract or Tentative Parcel Map.   |
| (Threshold #2) Future development under the CEAP may result in soil erosion or loss of topsoil due to construction activities.   | Standard Conditions of Approval: <ul style="list-style-type: none"> <li>SCA 24, Construction Management Plan</li> <li>SCA 34, Erosion and Sedimentation Control</li> <li>SCA 55, Erosion and Sedimentation Control Plan</li> </ul> | City of Oakland, Planning and Zoning Division | SCA 24: Prior to issuance of a demolition, grading, or building permit;<br>SCA 34: Ongoing throughout demolition grading, and/or construction activities;<br>SCA 55: Prior to any grading activities; |

Central Estuary Area Plan  
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| Environmental Impact  | Mitigation Measures and Standard Conditions   | Monitoring Responsibility                     | Implementation and Monitoring Timeline  |
|---|---|---|---|
| (Threshold #2 Cont.)  | <ul style="list-style-type: none"> <li>SCA 75, Stormwater Pollution Prevention Plan (SWPPP)</li> <li>SCA 77, Erosion, Sedimentation, and Debris Control Measures;</li> <li>SCA 82, Erosion, Sedimentation, and Debris Control Measures</li> <li>SCA 85, Creek Monitoring</li> </ul> | City of Oakland, Planning and Zoning Division | SCA 75: Ongoing throughout demolition grading, and/or construction activities;<br>SCA 77, 82: Prior to issuance of demolition, grading, or construction-related permit;<br>SCA 85: Prior to issuance of a demolition, grading, or building permit within vicinity of the creek. |
| (Threshold #3) Future development under the CEAP could potentially be located on expansive soils that are susceptible to settlement when additional loads are placed on them.   | Standard Conditions of Approval: <ul style="list-style-type: none"> <li>SCA 58, Soils Report</li> <li>SCA 60, Geotechnical Report</li> </ul>  | City of Oakland, Planning and Zoning Division | SCA 58, 60: Required as part of the submittal of a Tentative Tract or Tentative Parcel Map.   |
| (Thresholds #4 and #5) Future development under the CEAP could potentially create risks to life or property if developing on locations in the Plan Area with unsuitable features such as undocumented abandoned wells, filled pits or swamps, buried mounds, tank vaults, unmarked sewer lines, unknown fill soils, or landfills for which there are no approved closures and post-closure plans. | Standard Conditions of Approval: <ul style="list-style-type: none"> <li>SCA 58, Soils Report</li> <li>SCA 60, Geotechnical Report</li> </ul>  | City of Oakland, Planning and Zoning Division | SCA 58, 60: Required as part of the submittal of a Tentative Tract or Tentative Parcel Map.   |
| (Threshold #6) Should future development under the CEAP propose alternate wastewater disposal systems, or septic tanks, the soil capacity may not be adequate in supporting the use of these alternate systems.   | Standard Conditions of Approval: <ul style="list-style-type: none"> <li>SCA 58, Soils Report</li> <li>SCA 60, Geotechnical Report</li> </ul>  | City of Oakland, Planning and Zoning Division | SCA 58, 60: Required as part of the submittal of a Tentative Tract or Tentative Parcel Map.   |

| Environmental Impact  | Mitigation Measures and Standard Conditions   | Monitoring Responsibility   | Implementation and Monitoring Timeline  |
|---|---|---|---|
| <b>Hazards and Hazardous Materials</b>  |   |   |   |
| (Thresholds #1 and #3) Existing and future commercial or industrial development projects consistent with the CEAP would regularly transport, use, or dispose of hazardous materials; and hazardous materials could be accidentally released into the environment during these activities.   | <p>Standard Conditions of Approval:</p> <ul style="list-style-type: none"> <li>SCA 74, Hazardous Materials Business Plan</li> </ul>   | City of Oakland Planning and Zoning Division, Fire Prevention Bureau Hazardous Materials Unit | Prior to issuance of a business license.  |
| (Thresholds #2 and #5) Future development under the CEAP may occur on properties that contain sediments and soils contaminated with hazardous materials. Improper handling of contaminated soil and/or groundwater could result in inadvertent release into the environment, which would have an adverse health impacts for those who come into contact with the hazardous materials. | <p>Standard Conditions of Approval:</p> <ul style="list-style-type: none"> <li>SCA 35, Hazards Best Management Practices</li> <li>SCA 41, Asbestos Removal in Structures</li> <li>SCA 42, Asbestos Removal in Soil;</li> <li>SCA 61, Site Review by the Fire Services Division</li> <li>SCA 62, Phase I and/or Phase II Reports</li> <li>SCA 63, Lead-Based Paint/Coatings, Asbestos, or PCB Occurrence Assessment</li> <li>SCA 64, Environmental Site Assessment Reports Remediation;</li> <li>SCA 65, Lead-Based Paint Remediation</li> <li>SCA 66, Other Materials Classified as Hazardous Waste</li> <li>SCA 67, Health and Safety Plan per Assessment</li> </ul> | City of Oakland Planning and Zoning Division, Fire Prevention Bureau Hazardous Materials Unit | <p>SCA 35: Prior to commencement of demolition, grading, or construction;</p> <p>SCA 41: Prior to issuance of a demolition permit;</p> <p>SCA 42, 61, 62, 63, 64, 65, 67: Prior to issuance of a demolition, grading, or building permit;</p> |

| Environmental Impact  | Mitigation/Measures and Standard Conditions  | Monitoring Responsibility   | Implementation and Monitoring Timeline  |
|---|--|---|---|
| (Threshold #2 Cont.)  | <ul style="list-style-type: none"> <li>SCA 68, Best Management Practices for Soil and Groundwater Hazards</li> <li>SCA 69, Radon or Vapor Intrusion from Soil or Groundwater Sources</li> </ul>  | City of Oakland Planning and Zoning Division, Fire Prevention Bureau Hazardous Materials Unit | SCA 68: Ongoing throughout demolition, grading, and construction activities;<br>SCA 69: Ongoing.  |
| (Thresholds #6 and #9) Future development projects under the CEAP could result in changes to the roadway network, and potential impacts related to emergency access routes and emergency evacuation plans.  | <p>Standard Conditions of Approval:</p> <ul style="list-style-type: none"> <li>SCA 4, Conformance with other Requirements</li> </ul>   | City of Oakland Planning and Zoning Division, Fire Prevention Bureau Hazardous Materials Unit | Prior to issuance of a demolition, grading, P-job, or other construction related permit.  |
| <b>Hydrology and Water Quality</b>  |  |   |   |
| (Thresholds #3 and #7) Construction associated with future development under the CEAP, including excavation and earth-moving activities, may expose underlying soils to wind and water erosion leading to sedimentation and impact the water quality of receiving waters. | <p>Standard Conditions of Approval:</p> <ul style="list-style-type: none"> <li>SCA 24, Construction Management Plan</li> <li>SCA 34, Erosion and Sedimentation Control (When no grading permit is required)</li> <li>SCA 35, Hazards and Best Management Practices</li> <li>SCA 55, Erosion and Sedimentation Control Plan</li> <li>SCA 75, Stormwater Pollution Prevention Plan (SWPPP)</li> <li>SCA 76, Drainage Plan for Projects on Slopes Greater than 20%</li> </ul> | City of Oakland Planning and Zoning Division  | SCA 24: Prior to issuance of a final inspection of the building permit;<br>SCA 34: Ongoing throughout demolition grading, and/or construction activities;<br>SCA 35: Prior to commencement of demolition, grading, or construction;<br>SCA 55: Prior to any grading activities;<br>SCA 75: Prior to and ongoing throughout demolition, grading, and/or construction activities; |



| Environmental Impact   | Mitigation Measures and Standard Conditions   | Monitoring Responsibility                    | Implementation and Monitoring Timeline  |
|--|---|--|---|
| (Threshold #3 Cont.)   | <ul style="list-style-type: none"> <li>SCA 77, Erosion, Sedimentation, and Debris Control Measures</li> <li>SCA 78, Site Design Measures for Post-Construction Stormwater Management</li> <li>SCA 79, Source Control Measures to Limit Stormwater Pollution</li> <li>SCA 80, Post-Construction Stormwater Management Plan;</li> <li>SCA 81, Maintenance Agreement for Stormwater Treatment Measures</li> <li>SCA 82, Erosion, Sedimentation, and Debris Control Measures</li> <li>SCA 85, Creek Monitoring</li> </ul> | City of Oakland Planning and Zoning Division | SCA 76, 77, 78, 79, 80, 82: Prior to issuance of building permit (or other construction-related permit);<br>SCA 81: Maintenance Agreement for Stormwater Treatment measures;<br>SCA 85: Prior to issuance of a demolition, grading, or building permit within vicinity of the creek.  |
| (Thresholds #4, #5, and #12) Future development under the CEAP could result in changes in stormwater runoff patterns in the Plan Area. | <p>Standard Conditions of Approval:</p> <ul style="list-style-type: none"> <li>SCA 78, Site Design Measures for Post-Construction Stormwater Management;</li> <li>SCA 79, Source Control Measures to Limit Stormwater Pollution;</li> <li>SCA 80, Post-Construction Stormwater Management Plan;</li> <li>SCA 83, Creek Protection Plan;</li> <li>SCA 86, Creek Landscaping Plan;</li> <li>SCA 91, Stormwater and Sewer</li> </ul>   | City of Oakland Planning and Zoning Division | SCA 78, 79, 80: Prior to issuance of building permit (or other construction-related permit);<br>SCA 83: Prior to and ongoing throughout demolition, grading, and/or construction activities;<br>SCA 86: Prior to issuance of a demolition, grading, or building permit within vicinity of the creek;<br>SCA 91: Prior to completing the final design for the project's sewer service. |

| Environmental Impact  | Mitigation Measures and Standard Conditions   | Monitoring Responsibility                    | Implementation and Monitoring Timeline   |
|---|---|--|--|
| (Thresholds #8 and #9) Future development under the CEAP may place housing or structures in areas mapped within a 100-year floodplain.  | Standard Conditions of Approval: <ul style="list-style-type: none"> <li>SCA 89, Regulatory Permits and Authorizations</li> <li>SCA 90, Structures within a Floodplain</li> </ul>  | City of Oakland Planning and Zoning Division | SCA 89, 90: Prior to issuance of a demolition, grading, or building permit.  |
| (Threshold #13) Future development consistent with the CEAP could generate polluted runoff during construction activities as well as during long-term operations, which could impact waterways protected under OMC Chapter 13.16.   | Standard Conditions of Approval: <ul style="list-style-type: none"> <li>SCA 82, Erosion, Sedimentation, and Debris Control Measures;</li> <li>SCA 83, Creek Protection Plan;</li> <li>SCA 84, Regulatory Permits and Authorizations;</li> <li>SCA 85, Creek Monitoring</li> </ul> | City of Oakland Planning and Zoning Division | SCA 82, 84: Prior to issuance of demolition, grading, or construction-related permit;<br>SCA 83: Prior to and ongoing throughout demolition, grading, and/or construction;<br>SCA 85: Prior to issuance of a demolition, grading, or building permit within vicinity of the creek.   |
| <b>Public Services</b>  |   |  |  |
| (Threshold #1) Future development under the CEAP could result in the increase of approximately 1,051 persons living within the Plan Area and about 1,000 employees working in the Plan Area. This increase in permanent and daytime populations has the potential to result in increased demand for the City's fire, police, and school services. | Standard Conditions of Approval: <ul style="list-style-type: none"> <li>SCA 4, Conformance with other Requirements</li> <li>SCA 61, Site Review by the Fire Service Division</li> <li>SCA 71, Fire Safety Phasing Plan</li> <li>SCA 73, Fire Safety</li> </ul>                    | City of Oakland Planning and Zoning Division | SCA 4: Prior to issuance of a demolition, grading, privately constructed public improvement, or other construction related permit;<br>SCA 61: Prior to the issuance of demolition, grading or building permit;<br>SCA 71: Prior to issuance of a demolition, grading, and/or construction and concurrent with any p-job submittal permit;<br>SCA 73: Prior to and ongoing throughout demolition, grading, and/or construction. |

| Environmental Impact  | Mitigation Measures and Standard Conditions   | Monitoring Responsibility                    | Implementation and Monitoring Timeline                                |
|---|---|--|---|
| <b>Utilities and Service Systems</b>  |   |  |   |
| (Thresholds #1 and #4) The Plan Area's wastewater systems are anticipated to have adequate dry weather capacity to treat the proposed wastewater flows as a result of the future development under the CEAP, provided that the wastewater meets the requirements of the current EBMUD Wastewater Control Ordinance. However, wet weather flows may have the potential to exceed the treatment capacity of the wastewater systems. | Standard Conditions of Approval:<br><ul style="list-style-type: none"> <li>SCA 91, Stormwater and Sewer</li> </ul>          | City of Oakland Planning and Zoning Division | Prior to completing the final design for the project's sewer service. |
| (Threshold #2) Future development under the CEAP is not expected to substantially increase impervious area within the Plan Area, and so stormwater flow drainage systems should not substantially increase. However, the two existing storm drain systems within the Plan Area are operating at capacity, and cannot take any additional run-off from future development.   | Standard Conditions of Approval:<br><ul style="list-style-type: none"> <li>SCA 91, Stormwater and Sewer</li> </ul>          | City of Oakland Planning and Zoning Division |   |
| (Thresholds #5 and #6) Future development under the CEAP could result in the increase of persons living and working within the Plan Area. This increase in permanent and daytime populations would result in an increase in solid waste volume.   | Standard Conditions of Approval:<br><ul style="list-style-type: none"> <li>SCA 36, Waste Reduction and Recycling</li> </ul> | City of Oakland Planning and Zoning Division | Prior to issuance of a demolition, grading, or building permit.       |

| Environmental Impact   | Mitigation Measures and Standard Conditions  | Monitoring Responsibility                    | Implementation and Monitoring Timeline  |
|--|--|--|---|
| (Threshold #8) Future development under the CEAP would result in the consumption of energy resources during construction, such as electricity, natural gas, and petroleum products. Once operational, the new development would also result in additional demands for the energy systems provided by PG&E for heating, cooling, ventilating, and lighting. | <p>Standard Conditions of Approval:</p> <ul style="list-style-type: none"> <li>SCA H, Compliance with the Green Building Ordinance, OMC Chapter 18.02</li> <li>SCA I, Compliance with the Green Building Ordinance, OMC Chapter 18.02, for Building and Landscape Projects Using the StopWaste.Org Small Commercial or Bay Friendly Basic Landscape Checklist</li> </ul> | City of Oakland Planning and Zoning Division | <p>SCA H: Prior to issuance of a demolition, grading, or building permit;</p> <p>SCA I: Prior to issuance of a building permit.</p> |

### Recommended Measures

#### Cultural

*The following measure recommends an advisory protocol to follow regarding the assessment of potential impacts to cultural resources in the plan area. The project applicant shall work with the City's historic preservation staff to determine whether an OCHS intensive survey shall be conducted. This recommended measure will be applied on a case-by-case basis.*

Many of the residential buildings within the Jingletown/Elmwood residential neighborhood and the early industrial buildings used to produce material for the World War II effort, and that supported Oakland's role as the largest grain port on the West Coast are in need of further study to determine the presence of historic architectural resources. Further, it is expected that several types and classes of archeological sites may be present in the project area, particularly along the bayshore and in close proximity to drainages and geomorphic features. Given that less than 15% of the plan area has been inspected for prehistoric and historic cultural resources, should specific development projects be submitted, as part of the environmental review process, an OCHS intensive survey shall be conducted/confirmed (even if one already exists or if an OCHS reconnaissance survey exists). This provision would generally apply to buildings, structures, objects, district, sites, and natural features related to human presence 50 years old and older.

- If an OCHS intensive survey exists on the property it should be updated and confirmed; or
- If an OCHS reconnaissance survey exists for the property, an OCHS intensive survey shall be conducted; or
- If there is not an OCHS intensive survey, the OCHS shall be consulted to determine if it appears that a parcel may include property types that may have historical significance, and if so, an OCHS intensive survey shall be conducted.

Source: Circlepoint, 2013.

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**CEQA FINDINGS:****Certification of the Supplemental EIR, Rejection of Alternatives  
and Statement of Overriding Considerations For the Central Estuary Area Plan****I. INTRODUCTION**

1. These findings are made pursuant to the California Environmental Quality Act, (Pub. Res. Code section 21000 et seq; "CEQA") and the CEQA Guidelines (Cal. Code Regs. title 14, section 15000 et seq.) by the City of Oakland Planning Commission in connection with the Supplemental Environmental Impact Report (SEIR) prepared for the Central Estuary Area Plan (CEAP or Project), a 20-year planning document that would modify or clarify land uses and associated densities within the Central Estuary Area.
2. These CEQA findings are attached and incorporated by reference into each and every staff report, resolution and ordinance associated with approval of the Project.
3. These findings are based on substantial evidence in the entire administrative record and references to specific reports and specific pages of documents are not intended to identify those sources as the exclusive basis for the findings.

**II. PROJECT DESCRIPTION**

4. Central Estuary Area Plan encompasses the Central Estuary Area which is bounded by 19th Avenue to the north, 54th Avenue to the south, I-880 to the east and the Estuary to the west and implements the Estuary Policy Plan, which calls for maintaining the industrial character of the area, facilitating increased public access to the waterfront and improving circulation. The CEAP envisions the area becoming a hub of employment generating land uses with a mixture of industrial, commercial and residential activities, as well as connecting neighborhoods above the I-880 freeway to the significant public waterfront open space amenities including segments of the San Francisco Bay Trail. The CEAP requires changes to the general plan (text and map changes) and the zoning code; the development of design guidelines to reconcile conflicting land use priorities and implementation of transportation improvements to address infrastructure deficiencies, as summarized below.

The CEAP would maintain existing industrial uses while allowing for an increment of new commercial, residential, and office development in appropriate locations.

With respect to the General Plan, the project would expand areas designated for *Park* uses, and would also designate new Residential Mixed-Use for a portion of the West Planning Area.

Estuary Policy Plan Map Amendments include:

- A portion of the area designated as Light Industrial 2 would change to Residential Mixed Use.
- Portions of Union Point Park currently designated as Waterfront Commercial Recreation 2 would be amended to extend the Parks designation over the entirety of Union Point Park.
- The westernmost segment of Union Point Park currently designated Parks would change to Waterfront Commercial Recreation 2.
- The Parks designation would be expanded taking lands out of the Planned Waterfront Development 3 designation in the Martin Luther King Jr. Regional Shoreline Park area.

Estuary Policy Plan Text Amendments include: the allowable floor area ratio would be increased in most areas to facilitate development of modern industrial facilities.

With respect to the Planning Code, the project proposes new zoning districts for the entire Plan Area, allowing more flexibility for mixed-use development.

**Planning Code Changes:** A total of six Central Estuary "D-CE" district zones would replace the existing zoning; the proposed permitted, conditionally permitted and prohibited uses are generally consistent with the existing zones. Development standards would also generally be consistent with the existing zoning. Proposed Work/Live and Live/Work rules have been streamlined and home occupation regulations have been tailored to the Jingtowntown artisan neighborhood.

**Transportation and Infrastructure Improvements:** The allowable increment of new development under the CEAP is expected to increase demands on existing project area and nearby transportation and public services infrastructure. At present, certain project area and nearby roadways are known to operate at unacceptable conditions and several infrastructure deficiencies have been identified. Appendix A of the CEAP includes recommended transportation improvements.

### III. ENVIRONMENTAL REVIEW OF THE PROJECT

5. Pursuant to CEQA and the CEQA Guidelines, a Notice of Preparation (NOP) of an SEIR was published on November 21, 2011. The NOP was distributed to state and local agencies, published in the Oakland Tribune and mailed and emailed to individuals who have requested to specifically be notified of official City action on the project. On, December 14, 2011, the Planning Commission conducted a duly noticed EIR scoping session concerning the scope of the SEIR. The public comment period on the NOP ended on December 21, 2011.

6. A Draft SEIR was prepared for the Project to analyze its environmental impacts. Pursuant to CEQA and the CEQA Guidelines, a Notice of Availability/Notice of Release and the Draft SEIR was published on November 5, 2012. The Notice of Availability/Notice of Release of the Draft SEIR was distributed to appropriate state and local agencies, published in the Oakland Tribune, posted at four locations throughout the project area, mailed and e-mailed to individuals who have requested to specifically be notified of official City actions on the project. Copies of the Draft SEIR were also distributed to appropriate state and local agencies, City officials including the Planning Commission, and made available for public review at the Planning and Building Department (250 Frank H. Ogawa Plaza, Suite 3315) and on the City's website. A duly noticed Public Hearing on the Draft SEIR was held at the December 5, 2012, meeting of the Planning Commission and the December 10, 2012, meeting of the Landmarks Preservation Advisory Board. The Draft SEIR was properly circulated for a 45-day public review period ending on December 24, 2012.

7. The City received written and oral comments on the Draft SEIR. The City prepared responses to comments on environmental issues and made changes to the Draft SEIR. The responses to comments, changes to the Draft SEIR, and additional information were published in a Final SEIR on April 5, 2013. The Draft SEIR, the Final SEIR and all appendices thereto constitute the "EIR" referenced in these findings. The Final SEIR was made available for public review on April 5, 2013, twelve (12) days prior to the duly noticed April 17, 2013, Planning Commission public hearing. The Notice of Availability/Notice of Release of the Final SEIR was distributed to those state and local agencies who commented on the Draft SEIR, posted at four locations throughout the project site, mailed and e-mailed to individuals who have requested to specifically be notified of official City actions on the project. Copies of the Draft SEIR and Final SEIR were also distributed to those state and local agencies who commented on the Draft SEIR, City officials including the Planning Commission, and made available for public review at the Planning and Building Department (250 Frank H. Ogawa Plaza, Suite 3315), and on the City's website. Pursuant to CEQA Guidelines, responses to public agency comments have been published and made available to all commenting agencies-- through notice, publication and distribution of the Final EIR/Response to comments Document -- at least 10 days prior to the public hearing considering

certification of the EIR and the Project. The Planning Commission has had an opportunity to review all comments and responses thereto prior to consideration of certification of the EIR and prior to taking any action on the proposed project.

#### IV. THE ADMINISTRATIVE RECORD

8. The record, upon which all findings and determinations related to the approval of the Project are based, includes the following:

- a. The SEIR and all documents referenced in or relied upon by the SEIR.
- b. All information (including written evidence and testimony) provided by City staff to the Planning Commission relating to the SEIR, the approvals, and the Project.
- c. All information (including written evidence and testimony) presented to the Planning Commission by the environmental consultant and sub-consultants who prepared the SEIR or incorporated into reports presented to the Planning Commission.
- d. All information (including written evidence and testimony) presented to the City from other public agencies relating to the Project or the SEIR.
- e. All final applications, letters, testimony and presentations presented by the project sponsor and its consultants to the City in connection with the Project.
- f. All final information (including written evidence and testimony) presented at any City public hearing or City workshop related to the Project and the SEIR.
- g. For documentary and information purposes, all City-adopted land use plans and ordinances, including without limitation general plans, specific plans and ordinances, together with environmental review documents, findings, mitigation monitoring programs and other documentation relevant to planned growth in the area.
- h. The Standard Conditions of Approval for the Project and Mitigation Monitoring and Reporting Program for the Project.
- i. All other documents composing the record pursuant to Public Resources Code section 21167.6(e).

9. The custodian of the documents and other materials that constitute the record of the proceedings upon which the City's decisions are based is the Director of City Planning, Community and Economic Development Agency, or his/her designee. Such documents and other materials are located at 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, California, 94612.

#### V. CERTIFICATION OF THE SEIR

10. In accordance with CEQA, the Planning Commission certifies that the SEIR has been completed in compliance with CEQA. The Planning Commission has independently reviewed the record and the SEIR prior to certifying the SEIR and approving the Project. By these findings, the Planning Commission confirms, ratifies, and adopts the findings and conclusions of the SEIR as supplemented and modified by these findings. The SEIR and these findings represent the independent judgment and analysis of the City and the Planning Commission.

11. The Planning Commission recognizes that the SEIR may contain clerical errors. The Planning Commission reviewed the entirety of the SEIR and bases its determination on the substance of the information it contains.



12. The Planning Commission certifies that the SEIR is adequate to support all actions in connection with the approval of the Project and all other actions and recommendations as described in the April 17, 2013, Planning Commission staff report. The Planning Commission certifies that the SEIR is adequate to support approval of the Project described in the SEIR, each component and phase of the Project described in the SEIR, any variant of the Project described in the SEIR, any minor modifications to the Project or variants described in the SEIR and the components of the Project.

#### **VI. ABSENCE OF SIGNIFICANT NEW INFORMATION**

13. The Planning Commission recognizes that the Final SEIR incorporates information obtained and produced after the DEIR was completed, and that the Final SEIR contains additions, clarifications, and modifications. The Planning Commission has reviewed and considered the Final SEIR and all of this information. The Final SEIR does not add significant new information to the Draft SEIR that would require recirculation of the SEIR under CEQA. The new information added to the SEIR does not involve a new significant environmental impact, a substantial increase in the severity of a previously identified significant environmental impact, or a feasible mitigation measure or alternative considerably different from others previously analyzed that the project sponsor declines to adopt and that would clearly lessen the significant environmental impacts of the Project. No information indicates that the Draft SEIR was inadequate or conclusory or that the public was deprived of a meaningful opportunity to review and comment on the Draft SEIR. Thus, recirculation of the SEIR is not required.

14. The Planning Commission finds that the changes and modifications made to the SEIR after the Draft SEIR was circulated for public review and comment do not individually or collectively constitute significant new information within the meaning of Public Resources Code section 21092.1 or the CEQA Guidelines section 15088.5.

#### **VII. STANDARD CONDITIONS OF APPROVAL AND MITIGATION MONITORING AND REPORTING PROGRAM**

15. Public Resources Code section 21081.6 and CEQA Guidelines section 15097 require the City to adopt a monitoring or reporting program to ensure that the mitigation measures and revisions to the Project identified in the EIR are implemented. The Standard Conditions of Approval and Mitigation Monitoring and Reporting Program ("SCAMMRP") is attached and incorporated by reference into the April 17, 2013, Planning Commission staff report prepared for the approval of the Project, is included in the conditions of approval for the Project, and is adopted by the Planning Commission. The SCAMMRP satisfies the requirements of CEQA.

16. The standard conditions of approval (SCA) and mitigation measures set forth in the SCAMMRP are specific and enforceable and are capable of being fully implemented by the efforts of the City of Oakland, the applicant, and/or other identified public agencies of responsibility. As appropriate, some standard conditions of approval and mitigation measures define performance standards to ensure no significant environmental impacts will result. The SCAMMRP adequately describes implementation procedures and monitoring responsibility in order to ensure that the Project complies with the adopted standard conditions of approval and mitigation measures.

17. The Planning Commission will adopt and impose the feasible standard conditions of approval and mitigation measures as set forth in the SCAMMRP as enforceable conditions of approval. The City has adopted measures to substantially lessen or eliminate all significant effects where feasible.

18. The standard conditions of approval and mitigation measures incorporated into and imposed upon the Project approval will not themselves have new significant environmental impacts or cause a substantial increase in the severity of a previously identified significant environmental impact that were not analyzed in the SEIR. In the event a standard condition of approval or mitigation measure recommended in the SEIR has been inadvertently omitted from the conditions of approval or the SCAMMRP, that standard condition of approval or mitigation measure is adopted and incorporated from the SEIR into the SCAMMRP by reference and adopted as a condition of approval.

#### VIH. FINDINGS REGARDING IMPACTS

19. In accordance with Public Resources Code section 21081 and CEQA Guidelines sections 15091 and 15092, the Planning Commission adopts the findings and conclusions regarding impacts, standard conditions of approval and mitigation measures that are set forth in the SEIR and summarized in the SCAMMRP. These findings do not repeat the full discussions of environmental impacts, mitigation measures, standard conditions of approval, and related explanations contained in the SEIR. The Planning Commission ratifies, adopts, and incorporates, as though fully set forth, the analysis, explanation, findings, responses to comments and conclusions of the SEIR. The Planning Commission adopts the reasoning of the SEIR, staff reports, and presentations provided by the staff and the project sponsor as may be modified by these findings.

20. The Planning Commission recognizes that the environmental analysis of the Project raises controversial environmental issues, and that a range of technical and scientific opinion exists with respect to those issues. The Planning Commission acknowledges that there are differing and potentially conflicting expert and other opinions regarding the Project. The Planning Commission has, through review of the evidence and analysis presented in the record, acquired a better understanding of the breadth of this technical and scientific opinion and of the full scope of the environmental issues presented. In turn, this understanding has enabled the Planning Commission to make fully informed, thoroughly considered decisions after taking account of the various viewpoints on these important issues and reviewing the record. These findings are based on a full appraisal of all viewpoints expressed in the SEIR and in the record, as well as other relevant information in the record of the proceedings for the Project.

21. As a separate and independent basis from the other CEQA findings, pursuant to Public Resources Code section 21083.3 and Guidelines section 15183, the Planning Commission finds: (a) the project is consistent with Land Use and Transportation Element (LUTE) of the General Plan (EIR certified in March 1998); (b) the Housing Element of the General Plan (EIR certified in January 2011); (c) the Estuary Policy Plan (EIR certified in November 1998); and (d) the Historic Preservation Element of the General Plan (EIR certified in May 1998); (e) feasible mitigation measures identified in the foregoing were adopted and have been, or will be, undertaken; (f) this SEIR evaluated impacts peculiar to the project and/or project site, as well as off-site and cumulative impacts; (g) uniformly applied development policies and/or standards (hereafter called "Standard Conditions of Approval") have previously been adopted and found to, that when applied to future projects, substantially mitigate impacts, and to the extent that no such findings were previously made, the City Planning Commission hereby finds and determines that the Standard Conditions of Approval (or "SCA") substantially mitigate environmental impacts (as detailed below); and (h) no substantial new information exists to show that the Standard Conditions of Approval will not substantially mitigate project and cumulative impacts.

#### IX. SIGNIFICANT BUT MITIGABLE IMPACTS

22. Under Public Resources Code section 21081(a)(1) and CEQA Guidelines sections 15091(a)(1) and 15092(b), and to the extent reflected in the SEIR, the SCAMMRP, and the City's Standard Conditions of Approval, the Planning Commission finds that changes or alterations have been required in, or incorporated into, the components of the Project that mitigate or avoid potentially significant effects on the environment. The following potentially significant impacts will be reduced to a less than significant level through the implementation of Project mitigation measures, or where indicated, through the implementation of Standard Conditions of Approval (which are an integral part of the SCAMMRP):

23. Aesthetics: Implementation of the land use designations and zoning amendments proposed as part of the project would allow for increased land use densities possibly impacting the area's existing visual quality. However, application of SCA 5; SCA 12-19; and SCA 43-47, which address landscaping improvements and tree protection actions reduce the project's potential impacts on existing visual quality to a less than significant level. Any potential impact of new lighting will be reduced to a less than significant level through implementation of SCA 40 which requires approval of plans to adequately shield lighting to prevent unnecessary glare onto adjacent properties. Moreover, compliance with various policies and goals contained in the City's general plans and mitigation measures contained in the Land Use and

Transportation Element EIR, Housing Element EIR, Estuary Policy Plan EIR and Historic Preservation Element EIR would ensure there would not be significant adverse aesthetic impacts.

24. Air Quality AQ-1, AQ-2 and AQ-3 (Toxic Air Contaminants; Diesel Particulate Matter): Future development facilitated by CEAP would include residential, industrial, commercial and other land uses potentially conflicting with the Bay Area 2010 Climate Action Plan (CAP). The projected vehicle miles traveled and vehicle trips would grow at a lesser rate than the Plan Area service population. Therefore, the rate of projected growth in the Plan Area would be consistent with the CAP. Furthermore, development within the Plan Area would minimize regional and local air pollutant emissions by encouraging use of transit, alternative transportation modes, and sustainable development patterns, consistent with CAP guidance for local agency land use and transportation policies, thus reducing this impact to less than significant.

Additionally, the potential exposure of new residents to toxic air contaminants (TAC) in the form of diesel particulate matter (DPM) poses a risk, however, application of the City's SCA B which would entail the preparation of site-specific health risk assessments, would reduce DPM exposure to a less than significant level.

25. Green House Gases GHG-1 (Plan-level) and GHG-2: Although the project would produce greenhouse gas emissions from multiple sources, including stationary sources, the expected level of emissions will be below the plan level threshold. Additionally, application of the City's SCAs including parking and transportation demand management requirements, waste reduction plans, landscaping requirements, erosion and sedimentation control plans, and stormwater and creek protection plans, as well as a requirements for a greenhouse reduction plan would reduce this impact to a less than significant level.

The proposed project would not fundamentally conflict with a plan, policy, or regulation adopted for the purpose of reducing greenhouse gas (GHG) emissions. The project would allow for a diverse mix of land uses and transportation and infrastructure improvements that provide stronger connections to transit, reflective of some of the strategies in place to reduce greenhouse gas emissions. Additionally, City ordinances are in place to achieve GHG reductions through building standards and waste reduction and recycling requirements. Further, all new development in the Plan Area would be subject to the City's SCA F Greenhouse Gas Reduction Plan which would require certain projects to develop a GHG Reduction Plan and to minimize exhaust emissions by managing use of construction equipment, vehicles and portable equipment.

26. Biological Resources: Development under the CEAP could result in habitat modifications, including removal of trees. However, compliance with the City's SCA 43-47 (requiring special action around protected trees) as well as SCA D (requiring plans for reducing potential bird collisions) would reduce these impacts to less than significant levels. Potential impacts to riparian habitat are reduced to a less than significant level through the application of SCA 55 and SCA 77 (requiring an erosion and sedimentation control measures), SCA 75 (requiring stormwater pollution prevention plan); SCA 83; SCA 85 and SCA 86 (requiring creek protection measures). Moreover, compliance with various policies, and goals contained in the City's general plans and other regulatory requirements would ensure there would not be significant adverse biological impacts.

27. Cultural Resources: It is possible that future development projects in the Plan Area could involve demolition of, or impacts to cultural or historic resources. The recommended measure developed for this project (requiring an intensive survey be prepared) would help to identify currently unidentified historic resources. Any such impact would be reduced to a less than significant level, through application of SCA 56 and 57 (property relocation rather than demolition and prevention of vibrations to adjacent historic structures). Further limiting the impact of new development on cultural resources would be application of SCA 52, SCA 54 and SCA E, which impose requirements for specified procedures to be followed, including halting of construction activities and implementation of appropriate mitigation, should a cultural resource, human remains, or a paleontological resource be discovered on-site during construction. Moreover, compliance with various policies, and goals contained in the City's general plans and other regulatory requirements would ensure there would not be significant adverse cultural resource impacts.

28. Geology and Soils: Development under the CEAP could expose people or structures to seismic hazards such as groundshaking or liquefaction, could be subjected to geologic hazards including expansive soils, subsidence, seismically induced settlement and differential settlement, or could result in erosion. These impacts will be reduced to a less than significant level through the implementation of SCA 24, 34, 55, 58, 60, 75, 77, 82 and 85, which require construction management plans, erosion and sedimentation control, storm water pollution prevention, and creek monitoring. Moreover, compliance with various policies, and goals contained in the City's general plans and other regulatory requirements would ensure there would not be significant adverse geology and soils impacts.

29. Hazards and Hazardous Materials: Future commercial and industrial development projects consistent with the CEAP would involve hazardous materials. However, application of SCA 74 (requires a hazardous materials business plan) would reduce this impact to a less than significant level. Future development may occur on contaminated sites, however this impact would be reduced to a less than significant level through implementation of the following SCAs: SCA 35 (hazards best management practices) 41 and 42 (asbestos removal requirements), SCA 61, 66, 67 (review by the Fire Services Division), SCA 62 (Phase I and/or Phase II Report), SCA 63 and 65 (Lead-based paint/coatings, asbestos, or PCB occurrence assessment and measures), SCA 64 (environmental site assessment reports remediation), and SCA 68 and SCA 69 (best management practices for soil and ground water). SCA 4, which requires applicants to comply with all other applicable Federal, State regional and local laws, would also reduce this impact to less than significant. Moreover, compliance with various policies, and goals contained in the City's general plans and other regulatory requirements would ensure there would not be significant adverse hazards and hazardous materials impacts.

30. Hydrology/Water Quality: New construction under the CEAP would involve activities that could result in erosion and generation of pollutants that could be carried off site and/or alter the existing drainage pattern of the site and surrounding area. Due to the extensive history and use of hazardous substances in the Plan Area, it is possible that ground-disturbing activities associated with construction may expose contaminated soils or groundwater and result in the potential to spread the contaminants to surface waters. After construction, there would be an increase in the land use density and new development can be expected to create additional impervious surfaces. Implementation of Standard Conditions of Approval 24, 34, 35, 55, 75-83, 85-86, and 89-91, would ensure that development under the CEAP would not result in significant impacts as a result of runoff/erosion, groundwater depletion and/or flooding/hazards, and would have a less than significant impact on hydrology and water quality. These Standard Conditions require: construction management plans, measures to reduce erosion and sedimentation, hazards and best management practices, stormwater pollution prevention measures, creek monitoring, measures for post-construction stormwater management, creek protection and landscaping plans, and adequate stormwater and sewer capacity. Additionally, requirements are in place for measures to reduce possible impacts from future structures being located in a flood plain. Further, the Design Guidelines developed as part of the project contain provisions for stormwater management that further reduce possible hydrology/water quality impacts from future development. Therefore, application of the SCAs described above, as well as the design guidelines, reduces this impact to less than significant. Moreover, compliance with various policies, and goals contained in the City's general plans and other regulatory requirements would ensure there would not be significant adverse hydrology and water quality impacts.

31. Noise: Project construction and operation would potentially increase construction noise levels and excessive ground borne vibration. This impact will be reduced to a less than significant level through the implementation of Standard Conditions of Approval, which require practices and procedures to reduce noise generation during construction and project operational noise on the surrounding area. Specifically, compliance with SCA-28 (limiting hours and days of construction); SCA-29 (construction contractors use a site-specific noise reduction program); SCA-30 (applicants track and respond to noise complaints); SCA-39 (applicants attenuate pile-driving and other extreme noise generators); SCA-57 (project applicants determine threshold levels of vibration and cracking that could damage fragile historic buildings during construction); SCA A(f) (applicants limit vehicle speeds on unpaved roads to 15 miles per hour); and SCA-32 (any future development's mechanical equipment on site shall comply with the performance standards of Section 17.120 of the Oakland Planning Code and Section 8.18 of the Oakland Municipal Code) would reduce construction noise and operational noise impacts from development under the proposed CEAP to a less-than-significant level. If residential uses

are located near an existing railway line or high volume roadway or other loud land use, residents could be exposed to excessive interior noise and ground-borne vibration. These potential impacts would be reduced to less than significant through the application of SCA-31 (noise reduction in the form of sound-rated assemblies, i.e., windows, exterior doors, and walls) and/or SCA-38 and SCA-39, (project to reduce groundborne vibration at the project site and incorporate special building methods to reduce groundborne vibration). Any noise from new ventilation equipment on the new residential construction would be required to comply with the stationary noise provisions of Chapter 17 of the Oakland Municipal Code and would reduce impacts to a less-than-significant level. Moreover, compliance with various policies, and goals contained in the City's general plans and other regulatory requirements would ensure there would not be significant adverse noise impacts.

32. Public Services: Future development allowed under the CEAP could result in additional residents and employees. This potential increase in population would result in increased demand for the City's fire, police, and school services. These impacts will be reduced to a less than significant level through the implementation of Standard Conditions of Approval 4, 61, 71, 73, conditions which require building plans for development to be submitted to Fire Services for review and approval, that the project adequately addresses fire hazards, and that construction equipment has spark arrestors. Moreover, compliance with various policies, and goals contained in the City's general plans and other regulatory requirements would ensure there would not be significant adverse public services impacts.

33. Traffic and Transportation:

- a) Intersection #10 (E 9th St / E 8th St / NB 880 off-ramp, signalized all-way stop control) Under Existing plus Project conditions, project-related vehicle traffic would degrade the AM peak hour LOS from LOS F with 80 seconds of delay (No Project) to LOS F with 85 seconds of delay (plus Project). The project would add greater than 10 vehicle trips at this intersection and it meets Caltrans peak hour traffic signal warrant (California MUTCD Warrant 3). Implementation of Mitigation TRAN-1 including operational and safety improvements at the 29th/23rd Ave. overcrossing would reduce this impact to a less than significant level.
- b) Intersection #26 (High St / Coliseum Way, signalized) Under Existing plus Project conditions, project-related vehicle traffic would degrade the PM peak hour LOS from LOS C with 30 seconds of delay (No Project) to LOS E with 75 seconds of delay (plus Project). Implementation of Mitigation TRAN-2 including 42<sup>nd</sup> Avenue/High Street access improvements would reduce this impact to a less than significant level.
- c) Intersection #1 (Embarcadero / 16th Avenue, unsignalized side-street stop control) Under Interim Year 2020 and Cumulative Year 2035 plus Project conditions, project-related vehicle traffic would degrade the PM peak hour LOS at from LOS E with 49 seconds of delay (No Project) to LOS F with 51 seconds of delay (plus Project). The project would add greater than 10 vehicle trips at the intersection and it meets Caltrans peak hour traffic signal warrant (California MUTCD Warrant 3). Implementation of Mitigation TRAN-4 including the installation of a traffic signal and reconfiguring lanes and optimizing signal timing would reduce this impact to a less than significant level.
- d) Intersection #18 (Fruitvale Ave / E 9th St, signalized) Under Interim Year 2020 and Cumulative Year 2035 plus Project conditions, project-related vehicle traffic would degrade the PM peak hour LOS at from LOS D with 43 seconds of delay (No Project) to LOS E with 58 seconds of delay (plus Project). Implementation of Mitigation TRAN-6 including providing a dedicated SB left-turn lane to EB Fruitvale, modifying the signal operation and phasing to provide protected left-turn movements and optimizing signal timings would reduce this impact to a less than significant level.
- e) Roadway Segment #21 (High Street: 1-880 to Tidewater) Under Existing, Interim Year 2020, and Cumulative Year 2035 plus Project conditions, project-related vehicle traffic would degrade the PM peak hour roadway segment LOS from LOS D or better to F. Implementation of Mitigation TRAN-29 includes access improvements to the 42<sup>nd</sup> Ave / High St. area that will reduce this impact to a less than significant level.

34. Utilities/Service Systems: New construction under the CEAP would result in increased solid waste, stormwater and wastewater generation. These impacts will be reduced to a less than significant level through the implementation of Standard Conditions of Approval 36, which requires solid waste reduction and recycling and SCA 91, which requires project applicants to confirm the state of repair of the City's surrounding stormwater and sanitary sewer system, and to make the necessary infrastructure improvements to accommodate the proposed project. Additionally, SCA H and SCA I require compliance with the City's Green Building Ordinance. Moreover, compliance with various policies, and goals contained in the City's general plans and other regulatory requirements would ensure there would not be significant adverse utilities/service systems impacts.

#### X. SIGNIFICANT AND UNAVOIDABLE IMPACTS

35. Under Public Resources Code sections 21081(a)(3) and 21081(b), and CEQA Guidelines sections 15091, 15092, and 15093, and to the extent reflected in the EIR and the SCAMMRP, the Planning Commission finds that the following impacts of the Project remain significant and unavoidable, notwithstanding the imposition of all feasible Standard Conditions of Approval and mitigation measures as set forth below.

36. Air Quality AQ-3 (Gaseous TACs) AQ-4 (Exposure to Objectionable Odors): All locations in the Plan Area are within 1,000 feet of the I-880 freeway, a high volume roadway or active rail lines. Several locations within the Plan Area include stationary sources of air pollutants, such as backup generators or industrial uses. Future development could include residential development within these areas of air quality risk. For toxic air contaminants (TAC) originating from gaseous sources, implementation of SCA C (which requires that measures be incorporated into the project to reduce the potential risk due to exposure to toxic air contaminants from gaseous emissions), as well as SCA B (which requires appropriate measures be incorporated into the project design in order to reduce the potential health risk due to exposure to diesel particulate matter), cannot with certainty reduce risks to a less-than-significant level. In addition, while CEQA requires mitigation measure(s) when a significant and unavoidable impact is identified, no measures or techniques are available to reduce the impact of gaseous TACs on sensitive receptors. Therefore, this is a significant and unavoidable impact. This potential unavoidable significant impact is overridden as set forth below in the Statement of Overriding Considerations. Moreover, these individual significant TAC impacts would make a considerable contribution to the affected residents' exposures to regional TAC concentrations. Therefore, cumulative TAC impacts would be significant and unavoidable. Additionally, all locations within the Plan Area are less than one mile from a potential odor source. The Bay Area Air Quality Management District advises that there are no feasible mitigation measures to reduce the impact of siting receptors near odor sources, except for increasing the distance between the receptor and the source. Consequently, a proposed development could potentially expose occupants to substantial/frequent odor. Therefore, the City conservatively assumes that this may result in a significant and unavoidable impact. These potential unavoidable significant impacts are overridden as set forth below in the Statement of Overriding Considerations.

37. Greenhouse Gases GHG-1 (project-level): The project would permit an increase in the level of allowable future GHG emissions during demolition, construction, and operational phases. Estimated GHG emissions from development facilitated by the CEAP would exceed the project-level annual thresholds, as well as the total annual threshold. Future projects would be subject to the City's SCAs. SCA F would require a greenhouse gas reduction plan. SCA 25 would require future projects implement strategies to reduce on-site parking demand and single-occupancy vehicles. SCA 36 would require a construction and demolition waste reduction and recycling plan. Additional SCAs regarding landscape requirements and tree placement would also apply as would several SCAs dealing with stormwater management. Adherence to the City's SCAs and other policies would reduce the GHG-production potential of each new development within the Plan Area, but until such projects are proposed and evaluated, the efficacy of these measures in reducing GHG emissions below relevant thresholds cannot be determined with certainty. No other mitigation is considered feasible, therefore impacts at the project level are conservatively considered significant and unavoidable. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

38. Traffic and Transportation<sup>1</sup> **TRAN-3**, Intersection #29 (Coliseum Wy/NB 880 off-ramp, unsignalized side-street stop control): Under Existing, Interim Year 2020, and Cumulative Year 2035 plus Project conditions, project-related vehicle traffic would degrade the AM and PM peak hour Level of Service (LOS) from LOS D with 25 seconds of delay (AM) and 28 seconds of delay (PM) to LOS F with 122 seconds of delay (PM) and 69 seconds of delay (PM). The project would add greater than 10 vehicle trips at this intersection and it meets Caltrans peak hour traffic signal warrant (California MUTCD Warrant 3). No feasible mitigation measures were identified for this intersection, therefore, the impacts are significant and unavoidable. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

39. Traffic and Transportation **TRAN-5**, Intersection #3 (E 12th / 22nd Ave / 23rd Ave, signalized): Under Interim Year 2020 and Cumulative Year 2035 plus Project conditions, project related vehicle traffic would degrade the PM peak hour LOS at intersection #3 from LOS E with 69 seconds of delay (No Project) to LOS E with 70 seconds of delay (plus Project). The project traffic would cause the average delay at two critical movements (northbound left and westbound left) to degrade by more than six seconds over the No Project condition. No feasible mitigation measures were identified for this intersection, therefore, the impacts are significant and unavoidable. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

40. Traffic and Transportation **TRAN-7** and **TRAN-17**, Intersection #22 (42nd Ave / International Blvd, signalized): Under Interim Year 2020 and Cumulative Year 2035 plus Project conditions, project-related vehicle traffic would degrade the PM peak hour LOS from LOS E with 73 seconds of delay (No Project) to LOS F with 85 seconds of delay (plus Project). Under Cumulative Year 2035 plus Project conditions, project-related vehicle traffic would exacerbate the AM and PM peak hour LOS F condition. The intersection's v/c ratio increases by over 0.05 in the PM. No feasible mitigation measures were identified for this intersection, therefore, the impacts are significant and unavoidable. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

41. Traffic and Transportation **TRAN-8** and **TRAN-19**, Intersection #25 (High St / San Leandro St, signalized): Cumulative Year 2035 plus Project conditions, project-related vehicle traffic would degrade the PM peak hour LOS from LOS C with 22 seconds of delay (No Project) to LOS E with 56 seconds of delay (plus Project). Under Cumulative Year 2035 plus Project conditions, project-related vehicle traffic would degrade the AM peak hour LOS from LOS E to F. In the PM peak hour, project traffic would exacerbate a LOS F condition by causing the v/c ratio to increase by 0.20. No feasible mitigation measures were identified for this intersection, therefore, the impacts are significant and unavoidable. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

42. Traffic and Transportation **TRAN-9** and **TRAN -21**, Intersection #28 (High St / Fenside Blvd, signalized): Under Interim Year 2020 and Cumulative Year 2035 plus Project conditions, project-related vehicle traffic would degrade the AM peak hour LOS from LOS D with 52 seconds of delay (No Project) to LOS E with 68 seconds of delay (plus Project). Under Cumulative Year 2035 plus Project conditions, project-related vehicle traffic would degrade the AM peak hour LOS from LOS E with 80 seconds of delay (No Project) to LOS F with 94 seconds of delay (plus Project). In the PM peak hour, project traffic would cause LOS to degrade from LOS D to E. No feasible mitigation measures were identified for this intersection, therefore, the impacts are significant and unavoidable. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

<sup>1</sup> The City already requires as a Standard Condition of Approval (SCA-24), the development of a Transportation Demand Management (TDM) Plan for developments with 50 residential units or greater.

43. Traffic and Transportation TRAN-10, Intersection #8 (29th Ave / E 12th St, signalized): Under Cumulative Year 2035 plus Project conditions, project-related vehicle traffic would degrade the PM peak hour LOS from LOS E with 58 seconds of delay (No Project) to LOS E with 59 seconds of delay (plus Project). The project traffic would cause the average delay at two critical movements (northbound left from E 12th to 29th and westbound left from 29th to E 12th) to degrade by more than six seconds over the No Project condition. No feasible mitigation measures were identified for this intersection, therefore, the impacts are significant and unavoidable. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

44. Traffic and Transportation TRAN-11, Intersection #12 (29th Ave / Ford St, signalized with the 29th/23rd Overcrossing Project): Under Cumulative Year 2035 plus Project conditions, project-related vehicle traffic would degrade the PM peak hour LOS from LOS D with 44 seconds of delay (No Project) to LOS E with 61 seconds of delay (plus Project). Although Mitigation TRAN-11, which requires that future project sponsors shall develop detailed design plan for intersection improvements to the Park Street Triangle, subject to the review and approval of the City of Oakland Transportation Services Division, these impacts were conservatively deemed to be significant and unavoidable (SU) because of the complex issues associated with the intersection, and because the specific improvements to be implemented, according to City standards, must be finalized after a detailed intersection/signalization engineering design study is performed and a preferred, detailed design selected by the City. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

45. Traffic and Transportation TRAN-12, Intersection #13 (29th Ave / 23rd Ave / Park St, unsignalized side-street stop control): Under Cumulative Year 2035 plus Project conditions, project-related vehicle traffic would exacerbate the AM peak hour LOS F condition. The project would add greater than 10 vehicle trips at this intersection and it meets Caltrans peak hour traffic signal warrant (California MUTCD Warrant 3). No feasible mitigation measures were identified for this intersection, therefore, the impacts are significant and unavoidable. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

46. Traffic and Transportation TRAN-13, Intersection #14 (Park St / Lincoln Ave / Tilden Wy, signalized): Under Cumulative Year 2035 plus Project conditions, project-related vehicle traffic would degrade the PM peak hour LOS from LOS F with 104 seconds of delay (No Project) to LOS F with 109 seconds of delay (plus Project). No feasible mitigation measures were identified for this intersection, therefore, the impacts are significant and unavoidable. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

47. Traffic and Transportation TRAN-14, Intersection #16 (Fruitvale Ave / E 12th St, signalized): Under Cumulative Year 2035 plus Project conditions, project-related vehicle traffic would degrade the AM and PM peak hour LOS from LOS E with 60 seconds of delay (AM, No Project) and 68 seconds (PM, No Project) to LOS E with 68 seconds of delay (AM, plus Project) and 73 seconds of delay (PM, plus Project). In both the AM and PM, the project traffic would cause the average delay at the intersection to degrade by more than four seconds over the No Project condition. No feasible mitigation measures were identified for this intersection, therefore, the impacts are significant and unavoidable. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

48. Traffic and Transportation TRAN-15, Intersection #17 (Fruitvale Ave / San Leandro St / E 10th St, signalized): Under Cumulative Year 2035 plus Project conditions, project-related vehicle traffic would exacerbate the AM peak hour LOS F condition. The principle cause for the delay is the left-turn movement from westbound Fruitvale to southbound San Leandro. The intersection's v/c ratio would increase by 0.04. No feasible mitigation measures were identified for this intersection, therefore, the impacts are significant and unavoidable. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.



49. Traffic and Transportation TRAN-16, Intersection #21 (Tilden Wy / Fenside Blvd / Blanding Ave, signalized): Under Cumulative Year 2035 plus Project conditions, project-related vehicle traffic would degrade the PM peak hour LOS from LOS E with 71 seconds of delay (No Project) to LOS E with 75 seconds of delay (plus Project). No feasible mitigation measures were identified for this intersection, therefore, the impacts are significant and unavoidable. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

50. Traffic and Transportation TRAN-18, Intersection #23 (High St / International Blvd, signalized): Under Cumulative Year 2035 plus Project conditions, project-related vehicle traffic would degrade the AM peak hour LOS from LOS D with 44 seconds of delay (No Project) to LOS E with 69 seconds of delay (plus Project). In the PM peak hour, project traffic would degrade the LOS from LOS E to F. No feasible mitigation measures were identified for this intersection, therefore, the impacts are significant and unavoidable. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

51. Traffic and Transportation TRAN – 20, Intersection #27 (High St / SB 880 off-ramp / Oakport St, signalized plus additional improvements constructed with the 42nd Avenue / High Street Access Project): Under Cumulative Year 2035 plus Project conditions, project-related vehicle traffic would degrade the AM peak hour LOS from LOS C with 44 seconds of delay (No Project) to LOS E with 80 seconds of delay (plus Project). In the PM peak hour, project traffic would degrade the LOS from LOS B to E. No feasible mitigation measures were identified for this intersection, therefore, the impacts are significant and unavoidable. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

52. Traffic and Transportation TRAN-22, Intersection #33 (23rd Ave / NB 880 on-ramp, new signalized intersection with the 29th/23rd Overcrossing Project): Under Cumulative Year 2035 plus Project conditions, project related vehicle traffic would exacerbate the PM peak hour LOS F condition. The v/c ratio increases by 0.01. No feasible mitigation measures were identified for this intersection, therefore, the impacts are significant and unavoidable. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

53. Traffic and Transportation TRAN-23, Roadway Segment (on northbound I-880 at 50<sup>th</sup> Ave): Under Interim Year 2020 plus Project conditions, project-related vehicle traffic would degrade the AM peak hour roadway segment LOS from LOS E to F. No feasible mitigation measures were identified for this segment, therefore, the impacts are significant and unavoidable. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

54. Traffic and Transportation TRAN-24, TRAN-26, TRAN-27, Roadway Segment (on northbound I-880 at 16<sup>th</sup> Ave): Under Interim Year 2020 plus Project conditions, project-related vehicle traffic would degrade the PM peak hour roadway segment LOS from LOS E to F. Under Cumulative Year 2035 plus Project conditions, project-related vehicle traffic would degrade the AM peak hour roadway segment LOS from LOS E to F. Under Cumulative Year 2035 plus Project conditions, project-related vehicle traffic would degrade the PM peak hour roadway segment LOS from LOS E to F. No feasible mitigation measures were identified for this segment, therefore, the impacts are significant and unavoidable. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

55. Traffic and Transportation TRAN-25 and TRAN-28, Roadway Segment (on northbound I-880 at Fruitvale Ave): Under Interim Year 2020 plus Project conditions, project-related vehicle traffic would degrade the PM peak hour roadway segment LOS from LOS E to F. Under Cumulative Year 2035 plus Project conditions, project-related vehicle traffic would degrade the PM peak hour roadway segment LOS from LOS E to F. No feasible mitigation measures were

identified for this segment, therefore, the impacts are significant and unavoidable. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

56. Traffic and Transportation TRAN-30, Roadway Segment (High Street: Tilden to Central): Under Existing, Interim Year 2020, and Cumulative Year 2035 plus Project conditions, project-related vehicle traffic would degrade the AM peak hour roadway segment LOS from LOS D or better to F. No feasible mitigation measures were identified for this segment, therefore, the impacts are significant and unavoidable. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

57. Traffic and Transportation TRAN-31, Roadway Segment (International Blvd: 29th Ave to Fruitvale Ave): Under Cumulative Year 2035 plus Project conditions, project-related vehicle traffic would degrade the AM peak hour roadway segment LOS from LOS E or better to F. No feasible mitigation measures were identified for this segment, therefore, the impacts are significant and unavoidable. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

58. Traffic and Transportation TRAN-32, Roadway Segment (International Blvd: Fruitvale Ave to 42nd Ave): Under Cumulative Year 2035 plus Project conditions, project-related vehicle traffic would exacerbate the LOS F condition during the AM and PM peak hours. No feasible mitigation measures were identified for this segment, therefore, the impacts are significant and unavoidable. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

59. Traffic and Transportation TRAN-33, Roadway Segment (International Blvd: 42nd Ave to High St): Under Cumulative Year 2035 plus Project conditions, project-related vehicle traffic would exacerbate the LOS F condition during the AM peak hour. No feasible mitigation measures were identified for this segment, therefore, the impacts are significant and unavoidable. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

60. Traffic and Transportation TRAN-34, Roadway Segment (International Blvd: High St to 50th Ave): Under Cumulative Year 2035 plus Project conditions, project-related vehicle traffic would exacerbate the LOS F condition during the AM and PM peak hours. No feasible mitigation measures were identified for this segment, therefore, the impacts are significant and unavoidable. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

61. Traffic and Transportation TRAN-37, Traffic Safety: The project has the potential to introduce additional vehicle, bicycle and pedestrian traffic to existing at-grade railroad crossings thereby potentially contributing to safety issues along railroad corridors. For example vehicle traffic generated by new development may potentially cause vehicle queuing at intersections resulting in traffic backing up onto at-grade railroad crossings, possibly resulting in train/automobile/pedestrian collisions and potentially causing injuries and/or fatalities. A substantial increase in traffic generated by development could substantially increase hazards that occur between incompatible uses (i.e. motor vehicles and trains, or pedestrians and trains) and would constitute a significant impact. Although application of SCA G, Railroad Crossings, which would require a Transportation Impact Study to identify potentially dangerous crossing conditions at at-grade railroad crossings caused by future projects and the project's resulting requirement to incorporate appropriate measures to reduce potential adverse impacts, the impact is nonetheless significant. No feasible mitigation measures were identified for this impact; therefore, the impacts are significant and unavoidable. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

62. Traffic and Transportation Previously Identified Impacted Intersections: The City of Oakland has previously identified intersections which were found to have significant and unavoidable traffic-related impacts from recently published EIRs or traffic studies for development projects. These intersections (see Table 4.4-2 in the Draft SEIR) were identified in the Draft SEIR in order to provide more information about potential traffic-related impacts and to provide CEQA clearance for future projects. No feasible mitigation measures were identified for these intersections, and while a Transportation Impact Study may still be required, in accordance with standard City policy and practice, the impacts are nevertheless significant and unavoidable. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

## XI. FINDINGS REGARDING ALTERNATIVES

63. The Planning Commission finds that specific economic, social, environmental, technological, legal or other considerations make infeasible the alternatives to the Project described in the SEIR for the reasons stated below. And that despite the remaining significant unavoidable impacts, the Project should nevertheless be approved, as more fully set forth in Section XII below, Statement of Overriding Considerations.

64. The SEIR evaluated a reasonable range of alternatives to the project that was described in the Draft SEIR. Of the seven alternatives considered, two were not analyzed in detail as explained in the Draft SEIR. The two alternatives that were not analyzed in detail in the Draft SEIR include: a) Alternative Location and b) Particulate Matter (PM) Exclusion Zone. The Planning Commission adopts the SEIR's analysis and conclusions eliminating these two alternatives from further consideration. Each reason given in the EIR for rejecting an alternative constitutes a separate and independent basis for finding that particular alternative infeasible, and, when the reasons are viewed collectively, provides an overall basis for rejecting an alternative as being infeasible. The five potentially feasible alternatives analyzed in detail in the EIR represent a reasonable range of potentially feasible alternatives that reduce one or more significant impacts of the Project or provide decision makers with additional information. These alternatives include: Alternative 1: the No Project Alternative, Alternative 2: the Reduced Retail Alternative, Alternative 3: the Mitigated Alternative, Alternative 4: Theoretical Maximum Buildout Alternative, and Alternative 5: Maximum Infrastructure. As presented in the SEIR, the alternatives were described and compared with each other and with the proposed project. After the No Project Alternative (1), Alternative (3) Mitigated Alternative was identified as the environmentally superior alternative.

65. The Planning Commission certifies that it has independently reviewed and considered the information on the alternatives provided in the SEIR and in the record. The SEIR reflects the Planning Commission's independent judgment as to alternatives. The Planning Commission finds that the Project provides the best balance between the project sponsor's objectives, the City's goals and objectives, and the Project's benefits as described in the Staff Report and in the Statement of Overriding Considerations below. While the Project may cause some significant and unavoidable environmental impacts, mitigation measures and the City's SCAs identified in the EIR mitigate these impacts to the extent feasible. The five alternatives proposed and evaluated in the EIR are rejected for the following reasons. Each individual reason presented below constitutes a separate and independent basis to reject the project alternative as being infeasible, and, when the reasons are viewed collectively, provide an overall basis for rejecting the alternative as being infeasible.

66. Alternative 1: No Project / No Development Alternative: Under the No Project Alternative, the Project would preserve the existing land use regulations in the Plan Area, namely the Estuary Policy Plan of the City's General Plan, as well as all existing zoning regulations. Existing regulations would continue to allow for new development in the Plan Area but at different intensities/densities than without the project. The No Project Alternative also excludes the Design Guidelines included in the CEAP. Alternative 1 would have a less-than significant impact related to compliance with the applicable clean air plan, however, in terms of exposure to gaseous toxic air contaminants, Alternative 1 would result in significant and unavoidable impacts at the plan and project level. Alternative 1 would allow for a lesser amount of new development with a coterminous lesser amount of greenhouse gas impact. Alternative 1 would retain existing industrial

zoning and would potentially have greater potential to result in new noise from operational uses. As described in the Draft EIR, many of the intersections and roadway segments experience so much congestion that they are projected to operate at unacceptable conditions in the future. The remaining environmental topics would result in less than significant impacts under both the Project and No Project Alternative. The No Project Alternative is rejected as infeasible because it does not meet many of the basic project objectives including:

- Providing for the revitalization of existing land uses and to enhance the amenity of the waterfront and the livability of the area.
- Maintaining and enhancing the economic role of the planning area.
- Recommending design standards and guidelines to allow a diverse range of land uses in the Central Estuary area to continue to co-exist and thrive, including existing and new higher density residential and live-work developments.
- Provide a framework for realizing needed transportation and infrastructure improvements in the Central Estuary area, including stronger connections to the Central Estuary's recreational assets and transit stations.
- Further, the No Project Alternative would not increase the development intensities ignoring the needs of contemporary industrial facilities; it would not update the zoning to create harmonious transitions in land uses and streamline the home occupation, work/live and live/work standards, and it would not identify recommended transportation improvements needed for the area.

67. Alternative 2: Reduced Retail Alternative: Alternative 2 would reduce the allowable level of commercial/retail development in the Central-East subarea from about 268,000 sq. ft. to about 130,000 sq. ft. about a 50 percent reduction in allowable intensity relative to the CEAP. Alternative 2 would have similar air quality impacts as the Project. Due to the reduction in automobile traffic under Alternative 2, the greenhouse gas emissions and noise would have less of an impact compared to the Project. Transportation impacts would be less significant under Alternative 2 than the proposed Project, however, any increment in new trips results in significant and unavoidable impacts. Impacts to the remaining environmental topic areas would be similar to the Project. The Reduced Retail Alternative is rejected as infeasible because:

- It defeats the objective of encouraging retail and commercial development in the Central-East subarea. The Central-East subarea is located adjacent to, and has good visibility from the I-880 freeway. Reducing the retail development potential of the subarea undermines the Plan's objective of encouraging the reuse of existing warehouse properties, as well as the construction of new facilities, for high quality retail and commercial uses.
- A reduction in the commercial area does not meet the objectives of the Plan relating to enhancing the economic role of the planning area by creating new jobs, increasing revenues (sales, property and other taxes), and spin off activities (as Plan workers spend some of their income on goods in the Plan area).
- The air quality, noise and transportation impacts still remain significant and unavoidable impacts.

68. Alternative 3: Mitigated Alternative: Alternative 3 would reduce the allowable level of development to a level that would avoid triggering any significant traffic impacts at the Plan Area intersections or roadways, which is about 150 new residential units. Since several of the area intersections and roadways currently operate at or below acceptable levels, even a very small increase in traffic would lead to a significant and potentially unavoidable impact. Alternative 3 would still have significant impacts in terms of exposure to odors and gaseous toxic air contaminants. Assuming Alternative 3 involves just 150 new residential units, it would not result in significant levels of greenhouse gas emissions. Noise and Transportation impacts would be reduced to less than significant under Alternative 3. Impacts to all other environmental topics would be less than significant. The Mitigated Alternative was rejected as infeasible because:

- It does not meet the basic objectives of increasing intensity in niche/specialty markets to support food processing/distribution in the Food Industry Cluster area and intensifying sites targeted for redevelopment as industrial and service-oriented uses in the Tidewater Area, which would contribute to the overall viability of the area.
- A reduction in the commercial and industrial development potential in the area does not meet the objectives of the Plan relating to expanding growth industries in order to realize economic benefits such as employment opportunities and an increased tax base.
- A reduction in the allowable level of development does not meet the objectives of the Plan relating to enhancing the economic role of the planning area by creating new jobs, increasing revenues (sales, property and other taxes), and spin off activities (as Plan workers spend some of their income on goods in the Plan area).
- Exposure to gaseous air contaminants remains a significant impact.

69. Alternative 4: Theoretical Maximum Buildout Alternative: Alternative 4 assumes the Plan Area is built out to the maximum level of development possible under the CEAP. Building out every parcel in the Plan Area to the maximum intensity would result in residential development about 10 times greater than what currently exists in the Plan Area, along with substantial increases in the intensity of commercial and industrial development. Because Alternative 4 would allow an increment of growth substantially greater than the project, Alternative 4 can be assumed to result in significantly more intense environmental effects for every environmental topic considered. All of the Project's significant and unavoidable impacts would be substantially increased in intensity by Alternative 4. Alternative 4 was rejected as infeasible because:

- All environmental impacts were significantly more severe than the Project under Alternative 4.
- Buildout of each site to the maximum intensity is unrealistic given historical and projected development patterns.
- The infrastructure necessary to support development would be cost prohibitive and have secondary impacts themselves.

70. Alternative 5: Maximum Infrastructure Alternative: Alternative 5 considers the possibility that the city and other appropriate lead agencies construct the full program of transportation improvements identified in the CEAP. The transportation improvements consist of a mixture of roadway/intersection capacity expansions, transit improvements and pedestrian/bicycle enhancements. Alternative 5 will result in significant impacts in terms of exposure to odors and gaseous TACs, similar to the Project. Alternative 5 would introduce new roadways that have some potential to increase vehicle miles traveled relative to the Project, therefore, Alternative 5's degree of impact on greenhouse gas emissions would be greater than that of the project. Similarly, noise and traffic impacts would be greater under Alternative 5 due to the potential increase in vehicle traffic. The basic development program in Alternative 5 would be similar to the Project. As such, many of the impacts to other environmental topics would be similar. However, the increased construction of roadways in and around the Plan Area would have a greater potential than the project to affect archeological and historic resources. Alternative 5 was rejected as infeasible because:

- The transportation projects contemplated as part of this alternative are neither funded nor approved.
- The transportation projects contemplated as part of this alternative are currently cost prohibitive to implement and thus considered economically infeasible at this time as there are no identified funding sources.
- Air quality and greenhouse gas impacts would be intensified under Alternative 5, possibly resulting in more significant impacts than the Project, due to higher vehicle traffic associated with transportation improvements.

## **XII. STATEMENT OF OVERRIDING CONSIDERATIONS**

71. The Planning Commission finds that each of the following specific economic, legal, social, technological, environmental, and other considerations and the benefits of the Project separately and independently outweigh the remaining significant unavoidable adverse impacts discussed above in Section X, and is an overriding consideration independently warranting approval. The remaining significant unavoidable adverse impacts identified above are acceptable in light of each of the overriding considerations that follow. Each individual benefit/reason presented below constitutes a separate and independent basis to override each and every significant unavoidable environmental impact, and, when the benefits/reasons are viewed collectively, provide an overall basis to override each and every significant unavoidable environmental impact.

72. The CEAP updates the goals and policies of the Estuary Policy Plan, and provides more detailed guidance for specific areas within the Central Estuary area where some land use change from existing conditions is anticipated.

73. The CEAP improves the role of the estuary as a major citywide amenity. Objectives in the Plan to further develop the Bay Trail, requirements in the zoning code to buffer certain uses in close proximity to the waterfront and waterfront-oriented design guidelines all support the enhancement of the waterfront as a citywide resource. Further, recommended transportation improvements suggest ways for improving access to the waterfront from neighborhoods above 1-880.

74. The CEAP provides for the revitalization of existing land uses to enhance the amenity of the waterfront and the livability of the area. The Plan contains updated vision statements for each subarea and the zoning code provides a contemporary regulatory framework to transform the area into an attractive location for modern industrial businesses. The Plan documents reinforce the waterfront as a significant citywide resource.

75. The CEAP would achieve the objective of expanding opportunities for and the attractiveness of the estuary as a place to live by developing zoning standards that would foster a variety of housing types including single-family, live/work and higher density housing.

76. The CEAP provides the framework for maintaining and enhancing the economic role of the planning area including growing niche/specialty markets to support food processing/distribution in the Food Industry Cluster area and intensifying sites targeted for redevelopment as industrial and service-oriented uses in the Tidewater Area, which would contribute to the overall viability of the area.

77. The CEAP would create employment opportunities, increase revenues (sales, property and other taxes), and promote spin off activities (as Plan workers spend some of their income on goods in the Plan area).

78. The permitting of housing opportunities in close proximity to employment generating land uses supports the City and regional objectives for achieving a jobs/housing balance.

79. The design guidelines will allow a diverse range of land uses in the Central Estuary area to continue to co-exist and thrive, including existing and new higher density residential, live-work developments and commercial and industrial uses.

80. The CEAP provides a framework for realizing needed transportation and infrastructure improvements in the Central Estuary area, including stronger connections to the Central Estuary's recreational assets and transit stations.

*Mark P. Wald*

City Attorney

2013 MAY 16 PM 4:12  
**OAKLAND CITY COUNCIL**

**ORDINANCE No. \_\_\_\_\_ C.M.S.**

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**AN ORDINANCE, AS RECOMMENDED BY THE CITY PLANNING COMMISSION, AMENDING THE OAKLAND PLANNING CODE TO CREATE THE CENTRAL ESTUARY DISTRICT ZONING REGULATIONS AND MAKE CONFORMING CHANGES TO OTHER PLANNING CODE SECTIONS AND THE OAKLAND ZONING MAP**

**WHEREAS**, the Estuary Policy Plan (EPP) of the General Plan, adopted in 1999, includes Policy MF-2, which calls for the City to “[d]evelop a Companion Document to the EPP, to be called the Estuary Plan Implementation Guide,” which would function as an implementation component for the Central Estuary area by setting out a more defined overall vision, developing specific development standards and design guidelines to shape the character of new development in a more cohesive way and by recommending future transportation improvements; and

**WHEREAS**, on December 9, 2008, the Oakland City Council adopted Resolution No. 81696 C.M.S. which authorized the City Administrator to enter into a Professional Services contract with Community Design + Architecture to prepare a Specific Plan and Environmental Impact Report for the Central Estuary area, which would satisfy EPP Policy MF-2; and

**WHEREAS**, as part of the public outreach effort, six community workshops were held between March 2009 and November 2009, resulting in three alternative draft concepts and a draft community preferred alternative; and

**WHEREAS**, the three alternative concepts and a draft community preferred alternative were presented for comment at public hearings before the Parks and Recreation Advisory Commission, Landmarks Preservation Advisory Board, Planning Commission, Community & Economic Development (CED) Committee, and City Council between December 2009 and July 2010; and

**WHEREAS**, on July 20, 2010, the City Council adopted a modified land use alternative for the Central Estuary area (in Resolution No. 82944 C.M.S.) which represents less change from existing conditions than was originally envisioned during the community outreach process of 2009. The originally proposed Specific Plan was then renamed an “Implementation Guide”, and re-worked to conform to the City Council’s direction; and

**WHEREAS**, between July and September 2012, the Draft Central Estuary Implementation Guide, including General Plan and Planning Code Amendments and Design Guidelines was presented to advisory boards, including the Zoning Update Committee and Design Review Committee of the Planning Commission, as well as the Bicycle and Pedestrian Advisory Committee and the Landmarks Preservation Advisory Board each of which provided comments unique to their topic area, including changing the title of the document to the “Central Estuary Area Plan”; and

**WHEREAS**, the Central Estuary Area Plan includes amendments to the 1999 Estuary Policy Plan to: (1) update existing General Plan goals, and strategies to reflect direction established in the Central Estuary Area Plan, (2) increase the allowable Floor Area Ratios (FARs), and (3) to update the land use map to accommodate compatible uses; and

**WHEREAS**, the existing zoning for the Central Estuary has not been updated to implement the 1999 Estuary Policy Plan's land use classifications for the Central Estuary; and

**WHEREAS**, City Planning staff have created six new Central Estuary zones (two D-CE commercial zones, two D-CE residential and commercial mixed zones and two D-CE industrial zones) to replace the existing zoning in the area, and propose to apply existing open space zoning designations to two open space zones to implement the Estuary Policy Plan classifications (as amended by this planning process) in the Central Estuary area, as well as make changes associated to the new Central Estuary zones throughout the Planning Code; and

**WHEREAS**, these new Central Estuary D-CE zones and two open space zones are proposed to be mapped in the Central Estuary area based on the Estuary Policy Plan land use map (as amended by this planning process) for the Central Estuary; and

**WHEREAS**, the Central Estuary Area Plan meets the Estuary Policy Plan Policy MF-3: "Adopt and Enforce Development Regulations Which Reflect the Land Use Policies Established by the EPP". The zoning developed as part of the Central Estuary Area Plan achieves this policy; and

**WHEREAS**, the Central Estuary Area Plan includes new design guidelines to allow a diverse range of land uses in the Central Estuary area to continue to co-exist while minimizing incompatibilities; and

**WHEREAS**, the Central Estuary Area Plan recommends transportation and infrastructure improvements to address infrastructure deficiencies in the Central Estuary area; and

**WHEREAS**, on November 21, 2011, a Notice of Preparation (NOP) of a Supplemental Environmental Impact Report (SEIR) for the Central Estuary Area Plan was published; and

**WHEREAS**, a duly noticed EIR scoping hearing was held before the City Planning Commission on December 14, 2011, to receive comments on the scope and content of the EIR for the Central Estuary Area Plan; and

**WHEREAS**, a Notice of Availability / Notice of Release of a Draft SEIR was issued on November 5, 2012, and a Draft SEIR was published on November 9, 2012, that was available to the public/governmental agencies for review and comment; and

**WHEREAS**, on December 5, 2012, the Central Estuary Area Plan and the draft Supplemental EIR were presented to the Planning Commission, with a detailed account of the comments received at previous advisory boards meetings and the Planning Commission provided additional comments and directed staff to revise the documents and to initiate the formal adoption process; and



**WHEREAS**, on December 10, 2012, the Central Estuary Area Plan and the draft Supplemental EIR were presented to the Landmarks Preservation Advisory Board who provided additional comments; and

**WHEREAS**, on April 4, 2013, a Notice of Availability/Release and Final Supplemental EIR were published and made available for review and comments; and

**WHEREAS**, on April 17, 2013, after making the changes requested by the advisory boards and City Planning Commission, the revised Final Draft Central Estuary Area Plan was presented at a duly noticed public hearing of the City Planning Commission; and

**WHEREAS**, the City Planning Commission, after conducting and closing the public hearing, (a) adopted the required California Environmental Quality Act (CEQA) findings, including certifying the EIR, rejecting alternatives as infeasible, and adopting a Statement of Overriding Considerations; (b) adopted the Central Estuary Area Plan Standard Conditions of Approval and Mitigation Monitoring Program (SCAMMRP); and (c) recommended the City Council adopt the Central Estuary Areas Plan, new Design Guidelines and General Plan and Planning Code Amendments based, in part, upon the CEAP Adoption Findings; and (d) recommended that City Council authorize staff to make minor ongoing revisions to the adopted Design Guidelines for the Central Estuary and to make non-substantive, technical conforming edits to the Planning Code that may have been overlooked in deleting old sections and cross-referencing new sections to the new Central Estuary District Zones Regulations (which are essentially correction of typographical and/or clerical errors); and

**WHEREAS**, The Central Estuary Area Plan was considered at a regular, duly noticed, meeting of the Community and Economic Development Committee of the City Council on May 28, 2013, and the Committee recommended adoption of the Plan and related documents; and

**WHEREAS**, the Central Estuary Area Plan and related documents were considered at a regular, duly noticed, public hearing of the City Council on June 4, 2013; now, therefore

**THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

Section 1. The City Council finds and determines the forgoing recitals to be true and correct and hereby makes them a part of this Ordinance.

Section 2. The City Council, as the final decision-making body for the lead agency, has independently reviewed, considered and analyzed the Central Estuary Area Plan Supplemental EIR, and the CEQA findings of the City Planning Commission contained in the approved April 17, 2013, City Planning Commission Report.

Section 3. The City Council, as the final decision-making body for the lead agency, hereby confirms, adopts and incorporates by reference into this Ordinance (as if fully set forth herein) the CEQA findings contained in the approved April 17, 2013, City Planning Commission Report prior to taking action in approving the amendments to Planning Code and Oakland Zoning Map.

Section 4. The City Council adopts and incorporates by reference into this Ordinance (as if fully set forth herein), as conditions of approval of the Central Estuary Area Plan, the Standard Conditions of Approval and Mitigation Monitoring Program (SCAMMRP) contained in the approved April 17, 2013, City Planning Commission Report.

Section 5. Title 17 of the Oakland Planning Code is hereby amended to (a) create new zones for the Central Estuary and (b) make related text amendments to the Oakland Planning Code; as detailed in Exhibit A, attached hereto and hereby incorporated by reference.

Section 6. The City Council hereby authorizes Planning Staff to make non-substantive, technical conforming changes (essentially correction of typographical and clerical errors) prior to formal publication of the Amendments in the Oakland Planning Code.

Section 7. The Oakland Zoning Map is hereby amended to map the new commercial, mixed, industrial and open space zones as indicated in Exhibit B, attached hereto and hereby incorporated herein by reference.

Section 8. This Ordinance shall be effective 30 days from the date of final passage by the City Council, but shall not apply to (a) building/construction related permits already issued and not yet expired; (b) to zoning applications approved by the City and not yet expired; or to (c) zoning applications deemed complete by the City as of the date of final passage. However, zoning applications deemed complete by the City prior to the date of final passage of this Ordinance may be processed under provisions of these Planning Code amendments if the applicant chooses to do so.

Section 10. Nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

Section 11. If any section, subsection, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional, the offending portion shall be severed and shall not affect the validity of the remaining portions which shall remain in full effect.

Section 12. The City Council finds and determines that the existing zoning for the Central Estuary is inadequate and contrary to public interest and that the proposed zoning will implement the policies presented in the Estuary Policy Plan (as amended by this planning process) and create certainty for the developers and the public regarding the City's expectations for new development.

Section 13. That the record before this Council relating to this Ordinance includes, without limitation, the following:

1. the Central Estuary Area Plan, Design Guidelines, Planning Code and Estuary Policy Plan Amendments including all accompanying maps, papers and appendices;
2. all final staff reports, final decision letters and other final documentation and information produced by or on behalf of the City, including without limitation the Supplemental Environmental Impact Report and supporting technical studies and appendices, and all related/supporting final materials, and all final notices relating to the Central Estuary Area Plan and attendant hearings;

3. all oral and written evidence received by the City Planning Commission and City Council during the public hearings on the Central Estuary Area Plan; and all written evidence received by the relevant City Staff before and during the public hearings on the Central Estuary Area Plan;
4. all matters of common knowledge and all official enactments and acts of the City, such as (a) the General Plan; (b) Oakland Municipal Code, including, without limitation, the Oakland real estate regulations and Oakland Fire Code; (c) Oakland Planning Code; (d) other applicable City policies and regulations; and , (e) all applicable state and federal laws, rules and regulations;

**Section 14.** That the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based, are respectively: (a) Planning and Building Department - Planning and Zoning Division, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, California; and (b) Office of the City Clerk, One Frank H. Ogawa Plaza, 1st Floor, Oakland California.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF, and PRESIDENT KERNIGHAN

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

DATE OF ATTESTATION: \_\_\_\_\_

## **Exhibit A**

Exhibit A-1 Planning Code Chapter 17.101E D-CE Central Estuary District Zones Regulations

Exhibit A-2 Non-Substantive, Technical Conforming Edits to the Oakland Planning Code

## Chapter 17.101E

### D-CE CENTRAL ESTUARY DISTRICT ZONES REGULATIONS

#### SECTIONS:

- 17.101E.010 Title, Intent, and Description
- 17.101E.020 Required Design Review Process
- 17.101E.030 Permitted and Conditionally Permitted Activities
- 17.101E.040 Permitted and Conditionally Permitted Facilities
- 17.101E.050 Property Development Standards
- 17.101E.060 Permitted Frontage Types
- 17.101E.070 Special Regulations for Work/Live Units
- 17.101E.080 Special Regulations for Live/Work Units in the D-CE-3 and D-CE-4 Zones
- 17.101E.090 Special Regulations for Mini-lot and Planned Unit Developments
- 17.101E.100 Special Regulations for Home Occupancy in the D-CE-3 Zone
- 17.101E.110 Special Parking Regulations for the D-CE Zones
- 17.101E.112 Other Zoning Provisions

#### 17.101E.010 Title, Intent, and Description

- A. Title and Intent. The provisions of this chapter shall be known as the D-CE Central Estuary District Zones Regulations. The intent of the D-CE zones is to:
1. Implement the Central Estuary Area Plan (CEAP) in the Central Estuary District;
  2. Preserve and enhance opportunities for business and employment development in uses that can benefit from proximity to existing commercial, industrial and mixed use facilities in the area;
  3. Encourage the creation of mixed-use districts that integrate various combinations of residential, industrial, commercial, public open space and civic uses;
  4. Establish development standards that allow residential, industrial, commercial, public open space and civic activities to compatibly co-exist;
  5. Provide convenient access to public open space and the waterfront;
  6. Improve access to the waterfront and recreational opportunities along the waterfront, including boat launches and marinas;
  7. Encourage quality and variety in building and landscape design, as well as compatibility in use and form;
  8. Encourage development that is respectful of the environmental qualities that the area has to offer;
  9. Provide a framework of development standards that takes into account the scale, massing and context of the surrounding community; and
  10. Provide a set of procedures and practices to review and consider future design of new building construction.
  11. Preserve and enhance distinct neighborhoods in the Central Estuary District.

B. **Description of Zones.** This Chapter establishes land use regulations for the following six zones:

1. **D-CE-1 Central Estuary District Commercial Zone – 1 (Embarcadero Cove).** The D-CE-1 zone is intended to create, maintain, and enhance areas of the Central Estuary that have a mix of marine, office and other commercial uses.
2. **D-CE-2 Central Estuary District Commercial Zone – 2 (High Street Retail).** The D-CE-2 zone is intended to create, maintain, and enhance areas of the Central Estuary with a wide range of commercial uses with direct street frontage and access to the freeway.
3. **D-CE-3 Central Estuary District Mix Zone – 3 (Jingletown/Elmwood).** The D-CE-3 zone is intended to create, preserve, and enhance areas of the Central Estuary that have a mix of industrial, heavy commercial and residential development. This zone is intended to promote housing with a strong presence of commercial and industrial activities.
4. **D-CE-4 Central Estuary District Mix Zone – 4 (Mixed Use Triangle).** The D-CE-4 zone is intended to create, maintain and enhance areas of the Central Estuary that have a mix of industrial and heavy commercial activities. Higher density residential development is also appropriate in this zone.
5. **D-CE-5 Central Estuary District Industrial Zone – 5 (Food Industry Cluster/High St. Warehouse Wedge/Tidewater South).** The D-CE-5 zone is intended to create, preserve, and enhance areas of the Central Estuary that are appropriate for a wide variety of heavy commercial and industrial establishments. Uses with greater off-site impacts may be permitted provided they meet specific performance standards.
6. **D-CE-6 Central Estuary District Industrial Zone – 6 (Con Agra/Owens Brockway/Tidewater North).** The D-CE-6 zone is intended to create, preserve and enhance areas of the Central Estuary that are appropriate for a wide variety of businesses and related commercial and industrial establishments that may have the potential to generate off-site impacts, such as noise, light/glare, odor, and traffic. This zone allows industrial and manufacturing uses, transportation facilities, warehousing and distribution, and similar related supporting uses. Uses that may inhibit such uses, or the expansion thereof, are prohibited. This district is applied to areas with good freeway, rail, seaport, and/or airport access.

17. 101E.020 **Required Design Review**

- A. Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Designated Historic Property, Potentially Designated Historic Property, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.
- B. In addition to the design review criteria listed in Chapter 17.136, conformance with the design review guidelines in the Design Guidelines for the Central Estuary is required for any proposal in the D-CE zones subject to the design review procedure in Chapter 17.136.
- C. Where there is a conflict between the design review criteria contained in Chapter 17.136 and the design review guidelines contained in the Design Guideline for the Central Estuary, the design objectives in the Design Guidelines for the Central Estuary shall prevail.

### 17.101E.030 Permitted and Conditionally Permitted Activities

For the purposes of this chapter only, the following definition is added as an Activity. Definitions for the other Activities listed in Table 17.101E.01 are contained in the Oakland Planning Code Chapter 17.10.

#### A. Definitions

1. Boat and Marine Related Sales, Rental, Repair and Servicing Activities include the sale, rental, leasing and incidental cleaning, servicing, and repair of boats and other vehicles and facilities associated with water- and marine-based travel and movement. This classification also includes activities associated with docks and marinas where boats and ships are anchored, moored, rented, sold or serviced.

Table 17.101E.01 lists the permitted, conditionally permitted, and prohibited activities in the D-CE zones. The descriptions of these activities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.

“P” designates permitted activities in the corresponding zone.

“C” designates activities that are permitted only upon the granting of a Conditional Use permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

“L” designates activities subject to certain limitations or notes listed at the bottom of the table.

“--” designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

| Table 17.101E.01: Permitted and Conditionally Permitted Activities |        |        |        |        |        |        |                        |
|--|--------|--------|--------|--------|--------|--------|------------------------|
| Activities   | D-CE-1 | D-CE-2 | D-CE-3 | D-CE-4 | D-CE-5 | D-CE-6 | Additional Regulations |
| <b>Residential Activities</b>                                      |        |        |        |        |        |        |                        |
| Permanent  | --     | --     | P(L1)  | P(L1)  | --     | --     |                        |
| Residential Care   | --     | --     | P(L1)  | P(L1)  | --     | --     | 17.102.212             |
| Service-Enriched Permanent Housing                                 | --     | --     | C(L1)  | C(L1)  | --     | --     | 17.102.212             |
| Transitional Housing   | --     | --     | C(L1)  | C(L1)  | --     | --     | 17.102.212             |
| Emergency Shelter  | --     | --     | C(L1)  | C(L1)  | --     | --     | 17.102.212             |
| Semi-Transient   | --     | --     | C      | C      | --     | --     | 17.102.212             |
| Bed and Breakfast  | --     | --     | P      | --     | --     | --     | 17.10.125              |
| <b>Civic Activities</b>  |        |        |        |        |        |        |                        |
| Essential Service  | P      | P      | P      | P      | P      | P      |                        |
| Limited Child-Care Activities                                      | --     | --     | P      | --     | --     | --     |                        |
| Community Assembly   | --     | --     | P (L2) | --     | C      | --     |                        |
| Recreational Assembly  | P      | C      | P (L2) | C      | C      | --     |                        |
| Community Education  | P      | P      | C      | C      | C      | --     |                        |
| Nonassembly Culmral  | P      | P      | P (L3) | P(L3)  | *C     | --     |                        |
| Administrative   | P      | P      | P (L3) | P(L3)  | C      | --     |                        |
| Health Care  | --     | --     | C      | C      | --     | --     |                        |

| Table 17.101E-01: Permitted and Conditionally Permitted Activities |        |        |            |            |             |        |                        |
|--|--------|--------|------------|------------|-------------|--------|------------------------|
| Activities   |        |        |            |            |             |        | Additional Regulations |
|  | D-CE-1 | D-CE-2 | D-CE-3     | D-CE-4     | D-CE-5      | D-CE-6 |                        |
| Special Health Care  | --     | --     | --         | --         | --          | --     |                        |
| Utility and Vehicular  | C      | C      | C          | C          | C           | C      |                        |
| Extensive Impact   | C      | C      | C          | C          | C           | C      |                        |
| Commercial Activities  |        |        |            |            |             |        |                        |
| General Food Sales   | P      | P      | P (L4)     | P (L4)     | P (L5)      | P (L5) |                        |
| Full Service Restaurants   | P      | P      | P (L4)     | P (L4)     | P (L5)      | P (L5) |                        |
| Limited Service Restaurant and Café                                | P      | P      | P (L4)     | P (L4)     | P (L5)      | P (L5) |                        |
| Fast-Food Restaurant   | --     | C      | --         | --         | C           | --     | 17.102.210 and 8.09    |
| Convenience Market   | C      | C      | C          | C          | --          | --     | 17.102.210             |
| Alcoholic Beverage Sales   | C      | C      | C          | C          | C           | --     | 17.102.21 & 17.102.040 |
| Mechanical or Electronic Games                                     | C      | C      | C          | C          | --          | --     | 17.102.210             |
| Medical Service  | --     | --     | --         | --         | --          | --     |                        |
| General Retail Sales   | P      | P      | P (L5)     | P (L5)     | P (L5)      | --(L6) |                        |
| Large-Scale Combined Retail and Grocery Sales                      | --     | C      | --         | --         | --          | --     |                        |
| Consumer Service   | P      | P      | P          | P          | P           | --     |                        |
| Consultative and Financial Service                                 | P      | P      | P (L3)     | P          | C           | --     |                        |
| Check Cashier and Check Cashing                                    | --     | C      | --         | --         | --          | --     | 17.102.430             |
| Consumer Cleaning and Repair Service                               | --     | P      | C          | C          | C           | --     |                        |
| Consumer Dry Cleaning Plant  | --     | C      | --         | --         | C           | C      |                        |
| Group Assembly   | C      | C      | C          | C          | C           | C (L8) |                        |
| Personal Instruction and Improvement Services                      | P      | P      | C          | C          | C           | C (L8) |                        |
| Administrative   | P      | P      | P (L3)     | P (L3)     | P           | --(L9) |                        |
| Business, Communication, and Media Services                        | P      | P      | P          | P          | P           | P      |                        |
| Broadcasting and Recording Services                                | P      | P      | P          | P          | P           | P      |                        |
| Research Service   | P      | P      | P(L3)(L10) | P(L3)(L10) | P           | P      |                        |
| General Wholesale Sales  | --     | P (L7) | P (L2)     | P (L3)     | P (L3)(L11) | P      |                        |
| Transient Habitation   | C      | C      | C          | C          | --          | --     | 17.102.370             |
| Building Material Sales  | --     | P      | P (L2)     | P (L12)    | P           | --     |                        |



**Table 17.101E-01: Permitted and Conditionally Permitted Activities**

| Activities   | D-CE-1 | D-CE-2     | D-CE-3     | D-CE-4     | D-CE-5  | D-CE-6  | Additional Regulations |
|--|--------|------------|------------|------------|---------|---------|------------------------|
| Boat and marine related sales, rental, repair and servicing  | P      | --         | --         | --         | --      | C       |                        |
| Automobile and Other Light Vehicle Sales and Rental          | --     | C          | --         | --         | --      | C       |                        |
| Automobile and Other Light Vehicle Gas Station and Servicing | --     | C          | --         | --         | C       | P(L14)  |                        |
| Automobile and Other Light Vehicle Repair and Cleaning       | --     | C (L13)    | --         | --         | C       | P(L14)  |                        |
| Taxi and Light Fleet-Based Services                          | --     | --         | --         | --         | --      | C       |                        |
| Automotive Fee Parking                                       | --     | --         | --         | C          | C       | C       |                        |
| Animal Boarding  | --     | C          | C          | C          | --      | --      |                        |
| Animal Care  | --     | P          | C          | C          | --      | --      |                        |
| Undertaking Service  | --     | --         | --         | --         | C       | C       |                        |
| <b>Industrial Activities</b>                                 |        |            |            |            |         |         |                        |
| Custom Manufacturing   | C      | P          | P (L3)     | P (L3)     | P       | P       | 17.102.040             |
| Light Manufacturing  | C      | P          | P(L2)(L10) | P(L3)(L10) | P       | P       | 17.102.040             |
| General Manufacturing  | --     | --         | --         | --         | P       | P       |                        |
| Heavy/High Impact  | --     | --         | --         | --         | --      | C       |                        |
| Research and Development                                     | P (L2) | P(L3)(L10) | P(L3)(L10) | P(L3)(L10) | P       | P       |                        |
| Construction Operations                                      | --     | --         | --         | C          | P (L14) | P (L14) |                        |
| <b>Warehousing, Storage, and Distribution</b>                |        |            |            |            |         |         |                        |
| A. General Warehousing, Storage and Distribution             | C      | --         | P (L2)     | P (L3)     | P       | P       |                        |
| B. General Outdoor Storage                                   | --     | --         | --         | --         | P (L14) | P (L14) |                        |
| C. Self- or Mini Storage                                     | --     | --         | --         | C          | C       | --      |                        |
| D. Container Storage   | --     | --         | --         | --         | P (L14) | P (L14) |                        |
| E. Salvage/Junk Yards  | --     | --         | --         | --         | --      | C       |                        |
| <b>Regional Freight Transportation</b>                       |        |            |            |            |         |         |                        |
| A. Seaport   | --     | --         | --         | --         | --      | C       |                        |
| B. Rail Yard   | --     | --         | --         | --         | C       | C       |                        |
| <b>Trucking and Truck-Related</b>                            |        |            |            |            |         |         |                        |

| <b>Table 17.101E.01: Permitted and Conditionally Permitted Activities</b>   |         |         |         |         |         |             |                               |
|---|---------|---------|---------|---------|---------|-------------|-------------------------------|
| <b>Activities</b>   |         |         |         |         |         |             | <b>Additional Regulations</b> |
|   | D-CE-1  | D-CE-2  | D-CE-3  | D-CE-4  | D-CE-5  | D-CE-6      |                               |
| A. Freight/Truck Terminal   | --      | --      | --      | --      | P (L14) | P(L14)      |                               |
| B. Truck Yard   | --      | --      | --      | --      | C       | P(L14)      |                               |
| C. Truck Weigh Stations   | --      | --      | --      | --      | P       | P(L14)      |                               |
| D. Truck & Other Heavy Vehicle Sales, Rental & Leasing  | --      | --      | --      | --      | P(L14)  | P(L14)      |                               |
| E. Truck & Other Heavy Vehicle Service, Repair, and Refueling   | --      | --      | --      | --      | P(L14)  | P(L14)      |                               |
| Recycling and Waste-Related   |         |         |         |         |         |             |                               |
| A. Satellite Recycling Collection Centers   | --      | P (L15) | P (L15) | P (L15) | P (L15) | P (L15)     | 17.10.040                     |
| B. Primary Recycling Collection Centers   | --      | --      | --      | --      | --      | C (L16)     | 17.73.035                     |
| Hazardous Materials Production, Storage, and Waste Management   |         |         |         |         |         |             |                               |
| A. Small Scale Transfer and Storage   | --      | --      | --      | --      | C       | C(L14, L17) |                               |
| B. Industrial Transfer/Storage  | --      | --      | --      | --      | --      | C(L14, L17) |                               |
| C. Residuals Repositories   | --      | --      | --      | --      | --      | C(L14, L17) |                               |
| D. Oil and Gas Storage  | --      | --      | --      | --      | --      | C(L14, L17) |                               |
| Agriculture and Extractive Activities   |         |         |         |         |         |             |                               |
| Crop and animal raising   | C (L18) | C (L18) | C (L18) | C (L18) | C (L18) | C (L18)     |                               |
| Plant nursery   | --      | C       | C       | C       | P       | P           |                               |
| Mining and Quarrying  | --      | --      | --      | --      | --      | --          | 17.102.220                    |
| Accessory off-street parking serving prohibited activities  | C       | C       | C       | C       | C       | C           | 17.102.100 & 17.102.110       |
| Additional activities that are permitted or conditionally permitted in an adjacent zone, on lots near the boundary thereof. | C       | C       | C       | C       | C       | C           | 17.102.110                    |

**Limitations on Table 17.101E.01:**

- L1. No Residential Care, Service-Enriched Permanent Housing, Transitional Housing, or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such activity. See Section 17.102.212 for other regulations regarding these activities.

- L2. The total floor area devoted to these activities by a single establishment shall only exceed ten thousand (10,000) square feet upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure).
- L3. The total floor area devoted to these activities by a single establishment shall only exceed twenty-five thousand (25,000) square feet upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure).
- L4. The total floor area devoted to a grocery store shall only exceed twenty thousand (20,000) square feet upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). The total floor area devoted to a restaurant shall only exceed three thousand (3,000) square feet upon the granting of a conditional use permit (see Chapter 17.134 for the CUP procedure).
- L5. These activities are only allowed on the ground floor of a building. Except in D-CE-4, the total floor area devoted to these activities by any single establishment may only exceed five-thousand (5,000) square feet upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure).
- L6. Retail is only allowed as an accessory use per Section 17.10.040.
- L7. The total floor area devoted to these activities by a single establishment shall not exceed five thousand (5,000) square feet.
- L8. Entertainment, educational and athletic services are not permitted.
- L9. Administrative activities accessory to an existing industrial activity are limited to twenty percent (20%) of floor area in D-CE-6.
- L10. Not including accessory activities, this activity shall take place entirely within an enclosed building. Other outdoor activities shall only be permitted upon the granting of a conditional use permit (see Chapter 17.134 for the CUP procedure).
- L11. These activities are only allowed in the Tidewater South area of D-CE-5, not permitted in any other areas of D-CE-5.
- L12. This activity is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134) if it is the principal activity on a lot that is twenty five thousand (25,000) square feet or larger or covers twenty five thousand (25,000) square feet or more of floor area.
- L13. This activity is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) and that all repair and servicing is performed in an enclosed building.
- L14. A Conditional Use Permit is required if located within 300 feet of a) the estuary shoreline; b) the D-CE-3 zone; or c) any Open Space zone (see Chapter 17.134 for the CUP procedure). This activity is permitted if beyond 300 feet.
- L15. Permitted within a grocery store or other large associated development, but if it is a stand alone collector center than a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) is required. If the recycling collection is placed within the parking lot the overall parking requirements for the principal activity shall still be met.
- L16. A Conditional Use Permit (see Chapter 17.134 for the CUP procedure) is required for this activity, but is not permitted within 300 feet of a) the estuary shoreline; b) the D-CE-1, D-CE-2, D-CE-3, or D-CE-4 zone; or c) any Open Space zone. All special regulations for primary collection centers in the industrial zones must be met as listed in Section 17.73.035.
- L17. This activity is only permitted upon determination that the proposal conforms to the general use permit criteria set forth in the Conditional Use Permit procedure in Chapter 17.134 and to all of the following additional use permit criteria:

1. That the project is not detrimental to the public health, safety, or general welfare of the community;
2. That the project is or will be adequately served by roads and other public or private service facilities;
3. That the project is consistent with the regional fair-share facility needs assessment and siting criteria established in the Alameda County Hazardous Waste Management Plan;
4. That the cumulative effects of locating the project within the proposed area have been analyzed and where applicable, measures that minimize adverse impacts to the surrounding community have been incorporated into the project.

L18. Crop and Animal Raising is only permitted upon determination that the proposal conforms to the general use permit criteria set forth in the Conditional Use Permit procedure in Chapter 17.134 and to all of the following additional use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic;
2. Agricultural chemicals or pesticides will not impact abutting properties or the surrounding neighborhood; and
3. The soil used in growing does not contain any harmful contaminants and the activity will not create contaminated soil.

#### 17.101E.040 Permitted and conditionally permitted facilities

For the purposes of this chapter only, the following definitions are added as facility types. Definitions for the other facility types listed in Table 17.101E.02 are contained in the Oakland Planning Code Chapter 17.10.

##### A. Definitions

1. "Live/Work" means a room or suite of rooms that are internally connected maintaining a common household that includes: (a) cooking space and sanitary facilities that satisfy the provisions of other applicable codes; and (b) adequate working space reserved for, and regularly used by, one or more persons residing therein. A Live/Work unit is intended to accommodate both residential and nonresidential activities. This definition is the equivalent to the definition for Residentially Oriented Joint Living and Working Quarters (JLWQ) contained in the Building Code, Chapter 3B, Section 3B.2.4.
2. "Work/Live" means a room or suite of rooms that are internally connected maintaining a common household that includes: (a) cooking space and sanitary facilities that satisfy the provisions of other applicable codes, and (b) adequate working space reserved for, and regularly used by, one or more persons residing therein. A Work/Live unit is intended to accommodate a primary nonresidential activity with an accessory residential component.

Table 17.101E.02 lists the permitted, conditionally permitted, and prohibited facilities in the D-CE zones. The descriptions of these facilities are contained in Chapter 17.10.

- "P" designates permitted facilities in the corresponding zone.
- "C" designates facilities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).
- "L" designates facilities subject to certain limitations listed at the bottom of the Table.
- "--" designates facilities that are prohibited.

| Table 17.101E.02: Permitted and Conditionally Permitted Facilities |       |  |  |  |  |  |                        |
|--|-------|--|--|--|--|--|------------------------|
| Facilities   | Zones |  |  |  |  |  | Additional Regulations |

|   | D-CE-1 | D-CE-2 | D-CE-3 | D-CE-4 | D-CE-5 | D-CE-6 |            |
|---|--------|--------|--------|--------|--------|--------|------------|
| <b>Residential Facilities</b>           |        |        |        |        |        |        |            |
| One-Family Dwelling                     | --(L1) | --(L1) | P      | -(L1)  | -(L1)  | -(L1)  |            |
| One-Family Dwelling with Secondary Unit | --(L1) | --(L1) | P      | -(L1)  | -(L1)  | -(L1)  | 17.102.360 |
| Two-Family Dwelling                     | --(L1) | --(L1) | P      | -(L1)  | -(L1)  | -(L1)  |            |
| Multifamily Dwelling                    | --(L1) | --(L1) | P      | P      | -(L1)  | -(L1)  |            |
| Rooming House                           | --(L1) | --(L1) | P      | P      | -(L1)  | -(L1)  |            |
| Mobile Home                             | --     | --     | --     | --     | --     | --     |            |
| Live/Work                               | --     | --     | P      | P      | --     | --     |            |
| <b>Nonresidential Facilities</b>        |        |        |        |        |        |        |            |
| Enclosed Nonresidential                 | P      | P      | P      | P      | P      | P      |            |
| Open Nonresidential                     | P      | P      | C      | C      | P      | P      |            |
| Work/Live                               | --     | --     | P      | P      | C      | --     |            |
| Sidewalk Café                           | P      | P      | P      | P      | C      | --     | 17.102.335 |
| Drive-In                                | C      | C      | --     | C      | --     | --     |            |
| Drive-Through                           | C      | C      | --     | C (L2) | C )    | C      | 17.102.290 |
| <b>Telecommunications Facilities</b>    |        |        |        |        |        |        |            |
| Micro Telecommunications                | C      | P(L3)  | C      | C      | P(L3)  | P(L3)  | 17.128     |
| Mini Telecommunications                 | C      | P(L3)  | C      | C      | P(L3)  | P(L3)  | 17.128     |
| Macro Telecommunications                | C      | C      | C      | C      | C      | P(L3)  | 17.128     |
| Monopole Telecommunications             | C      | C      | C      | C      | C      | P(L3)  | 17.128     |
| Tower Telecommunications                | --     | --     | --     | --     | --     | P(L3)  | 17.128     |
| <b>Sign Facilities</b>                  |        |        |        |        |        |        |            |
| Residential Signs                       | --     | --     | P      | P      | --     | --     | 17.104     |
| Special Signs                           | P      | P      | P      | P      | P      | P      | 17.104     |
| Development Signs                       | P      | P      | P      | P      | P      | --     | 17.104     |
| Realty Signs                            | P      | P      | P      | P      | P      | P      | 17.104     |
| Civic Signs                             | P      | P      | P      | P      | P      | P      | 17.104     |
| Business Signs                          | P      | P      | P      | P      | P      | P      | 17.104     |
| Advertising Signs                       | --     | --     | --     | --     | --     | --     | 17.104     |

**Limitations on Table 17.101E.02:**

- L1. See Chapter 17.114 – Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities.
- L2. Drive through facilities are not allowed to locate between the front property line and the building.

- L3. See Section 17.128.025 for restrictions on Telecommunication Facilities near residential or D-CE-3 and D-CE-4 zones.

#### 17.101E.050 Property Development Standards

- A. Zone Specific Standards. Table 17.101E.03 below prescribes development standards specific to individual zones. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table. "N/A" designates the regulation is not applicable to that zone.

| Table 17.101E.03 Property Development Standards   |  |          |           |          |            |           |                        |
|---|--|----------|-----------|----------|------------|-----------|------------------------|
| Development Standards   | Zones  |          |           |          |            |           | Additional Regulations |
|   | D-CE-1   | D-CE-2   | D-CE-3    | D-CE-4   | D-CE-5     | D-CE-6    |                        |
| Minimum Lot Dimensions  |  |          |           |          |            |           |                        |
| Width mean  | 25 ft  | 25 ft    | 35 ft.    | 35 ft.   | 25 ft.     | 25 ft.    | 1                      |
| Frontage  | 25 ft  | 25 ft    | 35 ft.    | 35 ft.   | 25 ft.     | 25 ft.    | 1                      |
| Lot area  | 4,000 sf.  | 4,000 sf | 4,000 sf. | 4,000 sf | 10,000 sf. | 10,000 sf | 1                      |
| Minimum/Maximum Setbacks –<br>See also Design Guidelines for the Central Estuary Section 3.3.   |  |          |           |          |            |           |                        |
| Minimum from  | 0 ft   | 0 ft     | 10 ft     | 10 ft    | 5 ft.      | 5 ft.     | 2                      |
| Minimum interior side   | 0 ft   | 0 ft     | 4 ft      | 0 ft     | 0 ft.      | 0 ft.     | 2                      |
| Minimum street side of a corner lot   | 0 ft   | 0 ft     | 4 ft      | 5 ft     | 5 ft       | 5 ft      | 2                      |
| Rear (residential facilities)   | N/A  | N/A      | 10 ft     | 10 ft    | N/A        | N/A       | 3                      |
| Rear (nonresidential facilities)  | 0 ft   | 0 ft     | 0 ft      | 0 ft     | 0 ft       | 0 ft      | 2                      |
| Side and Rear Setbacks for Smaller Lots   | See Table 17.101E.04 for setbacks for smaller lots   |          |           |          |            |           |                        |
| Height Regulations –<br>See also Design Guidelines for the Central Estuary Section 4.2.   |  |          |           |          |            |           |                        |
| Maximum height  | 45   | 85       | 45/55     | 75       | 85         | N/A       | 4, 5, 6, 7             |
| Fence heights & other regulations   | See Chapter 17.108.140 for fences, dense hedges, barriers, & free standing walls; and Design Guidelines for the Central Estuary Section 3.8. |          |           |          |            |           |                        |
| Minimum fence height in yards adjacent to open space zones  | See Chapter 17.108.140 for fences, dense hedges, barriers, & free standing walls; and Central Estuary Design Guidelines Section 3.8.         |          |           |          | 8 ft       | 8 ft      | 8                      |
| Maximum fence height adjacent to open space zones   | 8  | N/A      | 8         | 8        | 12 ft      | 12 ft     | 8                      |
| Maximum Residential Density (square feet of lot area required per dwelling unit) –<br>See also Design Guidelines for the Central Estuary Section 4.3. |  |          |           |          |            |           |                        |
| Regular Units   | N/A  | N/A      | 700       | 700      | N/A        | N/A       | 9, 10                  |
| Rooming Units   | N/A  | N/A      | 350       | 350      | N/A        | N/A       | 9, 10                  |
| Maximum Nonresidential FAR - See Design Guidelines Section 4.3.   | 2.0  | 3.0      | 3.0       | 3.0      | 3.0        | 2.0       | 10                     |
| Minimum Usable Open Space -<br>See also Design Guidelines for the Central Estuary Section 3.10.   |  |          |           |          |            |           |                        |
| Group Usable Open Space per   | N/A  | N/A      | 150 sf    | 100 sf   | N/A        | N/A       | 11                     |

| Table 17.101E.03 Property Development Standards  |  |        |                        |                        |          |          |                        |
|--|--|--------|------------------------|------------------------|----------|----------|------------------------|
| Development Standards  | Zones  |        |                        |                        |          |          | Additional Regulations |
|  | D-CE-1   | D-CE-2 | D-CE-3                 | D-CE-4                 | D-CE-5   | D-CE-6   |                        |
| regular unit   |  |        |                        |                        |          |          |                        |
| Group usable open space per regular unit when private open space substituted                                       | N/A  | N/A    | 30                     | 20 sf                  | N/A      | N/A      | 11                     |
| Group usable open space per rooming unit   | N/A  | N/A    | 75 sf                  | 50 sf                  | N/A      | N/A      | 11                     |
| Group usable open space per rooming unit when private open space is substituted                                    | N/A  | N/A    | 15 sf                  | 10 sf                  | N/A      | N/A      | 11                     |
| Minimum Parking and Loading Requirements   | See Chapter 17.116 for loading and automobile parking; Chapter 17.117 for bicycle parking; and Design Guidelines for the Central Estuary Sections 3.2, 3.5, 3.6 and 3.8. |        |                        |                        |          |          | 12                     |
| Courtyard Regulations  | N/A  | N/A    | See Section 17.108.120 | See Section 17.108.120 | N/A      | N/A      |                        |
| Landscaping Regulations –<br>See also Design Guidelines for the Central Estuary Section 3.8 and 5.                 |  |        |                        |                        |          |          |                        |
| Site Landscaping (including parking lot)   | See Chapters 17.110, 17.124 and 17.102.400 for buffering, landscaping and screening standards.   |        |                        |                        |          |          | 13, 14, 15             |
| Site landscaping (% of lot area)   | See Chapters 17.110, 17.124 and 17.102.400   |        |                        |                        | 5%       | 5%       | 14                     |
| Parking lot landscaping (% of lot area)  | See Chapters 17.110, 17.124 and 17.102.400   |        |                        |                        | 10%      | 10%      | 14                     |
| Driveway and Site Access Regulations –<br>See also Design Guidelines for the Central Estuary Sections 3.4 and 3.7. |  |        |                        |                        |          |          |                        |
| Minimum Distance of driveway or site access from any residential or open space boundary                            | See Section 17.116.210 Driveways and Maneuvering Aisles for Parking  |        |                        |                        | 50 ft    | 50 ft    | 16                     |
| Driveway Width Maximum   | See Section 17.116.210 Driveways and Maneuvering Aisles for Parking  |        |                        |                        | 35 ft    | 35 ft    | 17                     |
| Pedestrian Walkway   | N/A  | N/A    | N/A                    | N/A                    | Required | Required | 18                     |
| Frontage Type Standards  | See Table 17.101E.04. - See also Design Guidelines for the Central Estuary Section 4.1.  |        |                        |                        |          |          |                        |

**Additional Regulations for Table 17.101E.03:**

1. See Section 17.106.010 and 17.106.020 for exceptions to lot area, width mean, and street frontage regulations.
2. See also Section 17.108.130 for allowed projections into setbacks, and see the “Design Guidelines for the Central Estuary”, Sections 3.3 and 4.1.
3. In the D-CE-3 and D-CE-4 zones, see Section 17.108.080 for the required interior side and rear yard setbacks on a lot containing two or more living units and opposite a legally required living room window.

Wherever a rear lot line abuts an alley, one-half (1/2) of the right-of-way width of the alley may be counted toward the required minimum rear setback; provided however, that the portion of the minimum rear setback actually on the lot itself shall not be so reduced to less than ten (10) feet. Also, see Section 17.108.130 for allowed projections into setbacks.

4. Buildings shall have a thirty (30) foot maximum height at the setback line associated with any lot line that directly abuts a lot with a residential building. This maximum height increases one (1) foot for every foot away from the applicable setback line if the residential building on the abutting lot has a height of thirty (30) feet or less. If the residential building on the abutting lot has a height of greater than thirty (30) feet, the maximum height increases four (4) feet for every foot away from the applicable setback line. An increase in allowable height resulting from construction away from a setback line shall not result in a height greater than the maximum height allowed in the zone. See Section 17.108.030 for allowed projections above height limits and 17.108.020 for increased height limits for civic buildings.
5. In the D-CE-3 zone, the fifty-five (55) foot height maximum may only be achieved if the proposed building is scaled to a context that will be compatible with adjacent uses. See the "Design Guidelines for the Central Estuary", Section 3 and 4.
6. In the D-CE-3 zone, the maximum heights may be exceeded in the following situations:  
Structures that are either: 1) on lots adjacent to, or directly across the street from a freeway right of way or Bay Area Rapid Transit (BART) right of way that contains above-ground tracks; and 2) located within the closest one hundred twenty five (125) feet of the lot from the freeway or BART right of way are eligible for a seventy five (75) foot height limit. This additional height is permitted only upon the granting of a conditional use permit (see Chapter 17.134) and approval pursuant to the regular design review procedure (see Chapter 17.136). See also the "Design Guidelines for the Central Estuary", Section 3 and 4.
7. In the D-CE-3 zone, the outdoor storage of materials shall not exceed sixteen (16) feet in height on a lot. Further, outdoor storage may not be higher than eight (8) feet if both: (1) the storage is within fifteen (15) feet from any property line of a lot containing residential activities and (2) the storage faces any windows of a residential facility. Outdoor storage may also not be higher than eight (8) feet if it is within fifteen (15) feet from the front property line. The height of all outdoor storage shall also be restricted according to the Oakland Fire Code regulations. Sites with outdoor storage shall be screened in conformance to the "Design Guidelines for the Central Estuary". In the D-CE-5 and D-CE-6 zones, the height of outdoor materials stored within the required side or rear setback shall be no higher than eight (8) feet. However, outdoor materials may be stored up to ten (10) feet if they are no higher than a solid masonry wall that is located between the materials and the property line associated with the required setback in which the materials are located. In this case, buffer planting must be installed between the storage area and the masonry wall. The aisle width and material composition of all stored material, and the ultimate height of all outdoor materials stored beyond the required setback shall be according to the Fire Code regulations.
8. In the D-CE-5 and D-CE-6 zones, this regulation applies to all property lines which directly abut a residential or open space zone, except those fronting a public street. Buffering requirements also apply to:  
a) new development; or expansion of an industrial or commercial building by more than 20 percent (20%) of total floor area, or b) addition or expansion of an existing building so that the lot coverage exceeds 35 percent (35%), whichever is greatest. The planting requirement may be reduced but not eliminated if appropriate and approved by the Planning Director. The twelve (12) foot maximum fence height may only be achieved with additional screening. The fence or wall design shall be approved by the Planning Director. See also "Design Guidelines for the Central Estuary", Section 3.8 and 4.1.
9. In the D-CE-3 and D-CE-4 zones, see Chapter 17.107 and Section 17.106.060 for affordable and senior housing incentives. A Secondary Unit may be permitted when there is no more than one unit on a lot, subject to the provisions of Section 17.102.360. Also applicable are the provisions of Section 17.102.270 with respect to additional kitchens for a dwelling unit, and the provisions of Section 17.102.300 with respect to dwelling units with five or more bedrooms. In the D-CE-3 zone, new construction on a vacant



lot that is greater than five thousand (5,000) square feet shall only result in a total of one unit on the lot upon the granting of a conditional use permit (see Chapter 17.134 for the conditional use permit process). This requirement does not apply to the expansion of the floor area or other alteration of an existing Single Family Dwelling.

10. No portion of lot area used to meet the residential density requirements shall be used as a basis for computing the maximum nonresidential FAR unless the total nonresidential floor area on the lot is less than 3,000 square feet.
11. In the D-CE-3 and D-CE-4 zones, usable open space is not required for Work/Live, and is only required on lots with two residential or Live/Work units or more, and not required for single family homes with secondary units. Each square foot of private usable open space equals two square feet towards the total usable open space requirement. All usable open space shall meet the standards contained in Chapter 17.126, except that group usable open space may be located anywhere on the lot, provided the Frontage Type design guidelines are followed (see Section 4.1 of the "Design Guidelines for the Central Estuary").
12. In the D-CE-5 zone, parking for new development shall be located at the rear of the site or at the side of the building except for drop-off areas, which may be at the entry, except where access to existing loading docks and/or rail lines is required. New truck loading docks shall not be located closer than fifty (50) feet from property line as measured from the subject dock to any property boundary if located within three hundred (300) feet of a residential zone, unless such a distance requirement will impede direct access to a rail line. Truck docks shall be located such that trucks do not encroach into the public right of way. All existing loading docks are not subject to this requirement.
13. Any new principal residential building or addition over five hundred (500) square feet requires submittal and approval of a landscaping and buffering plan for the entire site, excluding secondary units of five hundred (500) square feet or less. The landscaping and buffering plan shall contain the following:
  - a. Landscaping and buffering that is consistent with the "Design Guidelines for the Central Estuary";
  - b. An automatic system of irrigation for all landscaping shown in the plan;
  - c. A minimum of one (1) fifteen-gallon tree, or substantially equivalent landscaping as approved by the Director of City Planning, for every twenty-five (25) feet of street frontage or portion thereof. On streets with sidewalks where the distance from the face of the curb to the outer edge of the sidewalk is at least six and one-half (6 ½) feet, the trees shall be street trees to the satisfaction of the City's Tree Division.
  - d. At least one (1) fifteen (15) gallon tree in the parking lot for every six (6) parking spaces for projects that involve new or existing parking lots of three thousand (3,000) square feet or greater.
  - e. A minimum of five (5) feet of landscaping shall be required adjacent to the front and street side property lines for parking lots of three thousand (3,000) square feet or greater. Where parking stalls face into the required buffer area, the width of the required landscaping shall be increased by two (2) feet unless wheel stops are installed.
14. In the D-CE-5 and D-CE-6 Zones, the following landscape requirements apply:
  - a. Submittal and approval of a landscape plan for the entire site and street frontage is required for the establishment of a new Nonresidential Facility and for additions to Nonresidential Facilities of over one thousand (1,000) square feet (see Section 17.124.025). A minimum of five percent (5%) of the lot area shall be landscaped. Landscaping and buffering must be consistent with guidelines in the "Design Guidelines for the Central Estuary", Section 3.8.
  - b. Required parking lot landscaping: For all lots associated with new construction with more than 25,000 sf. of floor area, a minimum of ten percent (10%) of parking lot area shall be landscaped accompanied by an irrigation system that is permanent, below grade and activated by automatic timing controls; permeable surfacing in lieu of irrigated landscaping may be provided if approved

through design review procedure in Chapter 17.136. Shade trees shall be provided at a ratio of one (1) tree for every ten (10) spaces throughout the parking lot. Parking lots located adjacent to a public right-of-way shall include screening consistent with the landscaping and buffering guidelines in the "Design Guidelines for the Central Estuary".

15. For all non-residential projects over 1,000 square feet street trees are required. In addition to the general landscaping requirements set forth above, a minimum of one fifteen-gallon tree, or substantially equivalent landscaping consistent with city policy and as approved by the Director of City Planning, shall be provided for every twenty (20) feet of street frontage or portion thereof and, if a curbside planting strip exists, for every twenty-five (25) feet of street frontage. On streets with sidewalks where the distance from the face of the curb to the outer edge of the sidewalk is at least six and one-half (6 ½) feet, the trees to be provided shall include street trees to the satisfaction of the Tree Division.
  16. In the D-CE-5 and D-CE-6 Zones, the site and driveway access requirement applies to new development; or expansion of industrial or commercial buildings by more than 20 percent (20%) floor area; or b) addition or expansion of an existing building so that the building to land ratio exceeds 35 percent (35%), which ever is greater; and all new driveway projects. This requirement may be waived administratively if such distance requirement will impede direct access to a rail line. Also applicable are the provisions of Section 17.116.
  17. In the D-CE-5 and D-CE-6 Zones, a driveway shall not exceed thirty-five (35) feet in width without obtaining approval from the Engineering Department of Building Services through the Driveway Appeal Process. Also applicable are the provisions of Section 17.116.
  18. In the D-CE-5 and D-CE-6 Zones, a clearly defined and hghted walkway, at least four (4) feet wide, shall be provided between the main building entry and a public sidewalk for all new development. On-site walkways shall be separated from on-site automobile circulation and parking areas by landscaping, a change in paving material, or a change in elevation. See the "Design Guidelines for the Central Estuary", Section 3.4, 3.7 and 5.
- B. Setbacks for Smaller Lots. Table 17.101E.04 below prescribes reduced setback standards for lots less than 4,000 square feet. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table.

| Table 17.101E.04: Setbacks for Smaller Lots |                              |                        |
|---|------------------------------|------------------------|
| Regulation                                  | Lot Size                     | Additional Regulations |
|   | ≤ 3,000 sf or ≤ 35 feet wide |                        |
| Minimum Setbacks                            |                              |                        |
| Minimum interior side                       | 3 ft                         | 1                      |
| Minimum street side                         | 3 ft                         | 1                      |
| Rear  | 10 ft                        | 1                      |

Additional Regulations for Table 17.101E.04:

1. See Section 17.108.130 for allowed projections into setbacks.

## 17.101E.060 Permitted Frontage Types

### A. Applicability.

The frontage types described below are only applicable to the Central Estuary zones.

### B. Definitions. (See the "Design Guidelines for the Central Estuary", Section 4.1)

The following definitions apply to this chapter only:

1. **Public Frontage** - The Public Frontage type accommodates very public uses, where interaction with the street and open spaces is desirable and welcomed, requiring little or no transition between the two. The Public Frontage is fully open to the street with large amounts of glazing. Windows may go from ground floor to ceiling and may be operable to promote a close indoor/outdoor relationship. Entries and windows are frequent, creating an inviting visual and physical connection with activity along the street. This frontage type is often associated with shopfronts and dining establishments. Live/Work facilities where retail shopfronts are a component may also be associated with this frontage type.
2. **Semi-Public Frontage** - The Semi-Public Frontage is defined by a moderate amount of permeability. This frontage type requires some transition from the public realm, which may be in the form of a landscaped setback, vertical separation or less transparency. This frontage type maintains a fair amount of glazing, though in a configuration that offers more privacy to interior uses that require some separation from the street, such as higher window sills, than the Public Frontage type. Building access may be less frequent than the Public Frontage or defined by a singular entry lobby and though generally still open and welcoming, may be somewhat more restricted than the Public Frontage. Entries may be characterized by porches, stoops, terraces, or lobbies. It is most often associated with employment uses, though it is flexible enough to accommodate Work/Live, warehousing, distribution and manufacturing, as it allows ample amounts of natural light balanced with a greater sense of privacy and buffer from street activity.
3. **Private Frontage** - This frontage requires the most privacy and buffering between interior uses and adjacent streets, the waterfront, public plazas, and open spaces. A transition zone is necessary to provide a clear distinction between public and private space. This frontage type is closely associated with residential and Live/Work facilities.
4. **Service Frontage** - Service Frontages are defined by large expanses of blank walls with few doors and windows, mostly broken by garage doors and truck bays. Building entries are minimal with few pedestrian amenities and are not elaborately detailed. This frontage is associated with warehousing, distribution, and sometimes manufacturing businesses. This frontage is also utilized by large-format, warehouse style retailers. This frontage is commonly found in the Central Estuary area, but should be avoided or used sparingly along public spaces.

- C. Table 17.101E.05 below prescribes development standards specific to frontage types allowed. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table. Intent, guidance and application of building Frontage Types can be found in the D-CE Design Guidelines for the Central Estuary.

| Table 17.101E.05: Frontage Type Standards See Design Guidelines 4.1 |  |                           |   |   |                           |
|---|--|---------------------------|---|---|---------------------------|
|   | Blank Wall<br>(maximum length in feet) |                           | Transparency min.<br>glazed area<br>(percent of building<br>façade) | Access<br>(spacing in<br>feet or per<br>unit) | Additional<br>Regulations |
|   | Primary lot<br>frontage                | Secondary lot<br>frontage |   |   |                           |
| Public Frontage   | 10 ft.                                 | 15 ft.                    | 50%   | 50 ft. max.                                   | 1, 2                      |
| Semi-Public Frontage  | 20 ft.                                 | 20 ft.                    | 40%   | 75 ft. max.                                   | 1, 2                      |
| Private Frontage  | 25 ft.                                 | 25 ft.                    | N/A   | Min. 1 per<br>unit or lobby                   | 1, 2                      |
| Service Frontage  | 35 ft.                                 | 35 ft.                    | N/A   | Min. 1 per<br>primary lot<br>frontage         | 1, 2, 3                   |

**Additional Regulations for Table 17.101E.05:**

1. Minimum glazed area is measured between 2' - 0" and 9' - 0" above adjacent interior finished floor elevation.
2. Glazed garage doors and entry doors, transom windows and display windows may be counted toward minimum glazed area.
3. Not required to be interrupted by windows and doors, but shall incorporate other blank wall elements as described in the Façade Articulation (Section 4.7) and Building Frontage Types (Section 4.1) in the "Design Guidelines for the Central Estuary".

**17.101E.070 Special Regulations for Work/Live Units.**

**A. Applicability.**

1. Work/Live space shall be considered Commercially/ Industrially Oriented Joint Living and Working Quarters under the Building Code. Any building permit plans for the construction or establishment of work/live units shall: (1) clearly state that the proposal includes Commercially/Industrially Oriented Joint Living and Working Quarters and (2) label the units intended to be these units as Commercially/ Industrially Oriented Joint Living and Working Quarters. This requirement is to assure the City applies building codes that allow industrial activities in work/live units in the industrial zones.
2. Work/Live units are nonresidential facilities and counted towards the nonresidential floor area ratio, not the residential density.
3. D-CE-3 and D-CE-4 Zones. A Work/Live unit in the D-CE-3 and D-CE-4 zones must meet all applicable regulations contained in this section. The D-CE-3 and D-CE-4 zones regulations in this section supersede regulations contained in Section 17.102.190 relating to the conversion of buildings originally designed for commercial or industrial activities into joint living and working quarters.
4. D-CE-5 Zone. A Work/Live unit in the D-CE-5 zone must meet all applicable regulations contained in this section. The D-CE-5 zones regulations in this section supersede regulations

contained in Section 17.102.190 relating to the conversion of buildings originally designed for commercial or industrial activities into joint living and working quarters for work/live units.

5. D-CE-1, D-CE-2, and D-CE-6 Zones. Work/Live units are not allowed in the D-CE-1, D-CE-2, or D-CE-6 zones.

**B. Definition.**

The following definitions apply to this chapter only:

1. For purposes of Work/Live conversion, an "existing building" must be at least ten (10) years old and originally designed for industrial or commercial occupancy.
2. "Residential floor area" shall be considered areas containing bedrooms, sleeping areas, kitchen areas and bathrooms and hallways serving such areas.
3. "Nonresidential floor area" shall include floor areas designated for working.

**C. Regular design review required.** Establishment of a Work/Live unit shall only be permitted upon determination that the proposal conforms to the regular design review criteria set forth in the design review procedure in Chapter 17.136 and to all of the following additional criteria:

1. That the exterior of a new building containing primarily Work/Live units in the industrial zones has a commercial or industrial appearance. This includes, but is not necessarily limited to, the use of nonresidential building styles or other techniques;
2. That units on the ground floor level of a building have a business presence on the street. This includes, but is not necessarily limited to, providing roll-up doors at the street or storefront style windows that allow interior space to be visible from the street, a business door that is oriented towards the street, a sign or other means that identifies the business on the door and elsewhere, a prominent ground floor height, or other techniques;
3. That the layout of nonresidential floor areas within a unit provides a functional and bona fide open area for working activities;
4. That the floor and site plan for the project include an adequate provision for the delivery of items required for a variety of businesses. This may include, but is not necessarily limited to, the following:
  - a. Service elevators designed to carry and move oversized items,
  - b. Stairwells wide and/or straight enough to deliver large items,
  - c. Loading areas located near stairs and/or elevators,
  - d. Wide corridors for the movement of oversized items; and
  - e. That the floor and site plan for the project provide units that are easily identified as businesses and conveniently accessible by clients, employees and other business visitors.

D. Table 17.101E.06 below prescribes special regulations for Work/Live units. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table.

"P" designates permitted activities in the corresponding zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"--" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

"N/A" designates the regulation is not applicable to that zone.

| Table 17.101E.06 Special Regulations for Work/Live Units   |        |        |   |   |   |        |                        |
|--|--------|--------|---|---|---|--------|------------------------|
| Development Standards  | Zones  |        |   |   |   |        | Additional Regulations |
|  | D-CE-1 | D-CE-2 | D-CE-3  | D-CE-4  | D-CE-5  | D-CE-6 |                        |
| <b>Activities Allowed</b>  |        |        |   |   |   |        |                        |
| Work/Live - new construction   | --     | --     | P   | P   | --  | --     |                        |
| Work/Live - conversion of existing building  | --     | --     | P   | P   | C   | --     | 1                      |
| Activities allowed in a Work/Live unit   | N/A    | N/A    | Same permitted and conditionally permitted activities as described in Section 17.101E.030 | Same permitted and conditionally permitted activities as described in Section 17.101E.030 | Same permitted and conditionally permitted activities as described in Section 17.101E.030 | N/A    |                        |
| Minimum Size of Work/Live Unit   | N/A    | N/A    | 800 sf  | 800 sf  | 800 sf  | N/A    |                        |
| Maximum Nonresidential FAR - Sec Design Guidelines Section 4.3.  | N/A    | N/A    | 3.0   | 3.0   | N/A   | N/A    | 2                      |
| Work/Live Unit Type Permitted See Table 17.101E.06 for definitions of the different types of Work/Live units.                |        |        |   |   |   |        |                        |
| Type 1   | --     | --     | P   | P   | C   | --     | 3                      |
| Type 2   | --     | --     | P   | P   | --  | --     | 3                      |
| <b>Minimum Usable Open Space - See also Design Guidelines for the Central Estuary Section 3.10.</b>                          |        |        |   |   |   |        |                        |
| Group Usable Open Space per Work/Live unit   | N/A    | N/A    | 75 sf   | 75 sf   | N/A   | N/A    | 4                      |
| <b>Parking and Loading Requirements - See also Design Guidelines for the Central Estuary Sections 3.2, 3.5, 3.6 and 3.8.</b> |        |        |   |   |   |        |                        |
| Minimum parking spaces required per Work/Live unit   | N/A    | N/A    | 1   | 1   | N/A   | N/A    | 5                      |
| Unassigned visitor or employee parking space required per 5 Work/Live units  | N/A    | N/A    | 1   | 1   | N/A   | N/A    | 5                      |
| <b>Required Bicycle Parking with Private Garage</b>  |        |        |   |   |   |        |                        |
| Short-term space per 20 Work/Live units  | N/A    | N/A    | 1   | 1   | N/A   | N/A    | 6                      |
| Minimum short-term spaces  | N/A    | N/A    | 2   | 2   | N/A   | N/A    | 6                      |
| <b>Required Bicycle Parking without Private Garage</b>   |        |        |   |   |   |        |                        |
| Short-term space per 20 Work/Live units and long-term space per 4 units  | N/A    | N/A    | 1   | 1   | N/A   | N/A    | 6                      |

| Table 17.101E.06 Special Regulations for Work/Live Units                          |        |        |              |              |        |        |                        |
|---|--------|--------|--------------|--------------|--------|--------|------------------------|
| Development Standards   | Zones  |        |              |              |        |        | Additional Regulations |
|   | D-CE-1 | D-CE-2 | D-CE-3       | D-CE-4       | D-CE-5 | D-CE-6 |                        |
| Minimum short-term spaces and minimum long-term spaces                            | N/A    | N/A    | 2            | 2            | N/A    | N/A    | 6                      |
| Required Loading - See also Design Guidelines for the Central Estuary Section 3.6 |        |        |              |              |        |        |                        |
| < 25,000 sf   | N/A    | N/A    | No berth     | No berth     | N/A    | N/A    | 7                      |
| 25,000 – 69,999 sf  | N/A    | N/A    | 1 berth      | 1 berth      | N/A    | N/A    | 7                      |
| 70,000 – 130,000 sf   | N/A    | N/A    | 2 berths     | 2 berths     | N/A    | N/A    | 7                      |
| Each additional 200,000 sf  | N/A    | N/A    | 1 more berth | 1 more berth | N/A    | N/A    | 7                      |
| Public Entrance to Nonresidential Floor Area                                      | N/A    | N/A    | Yes          | Yes          | Yes    | N/A    | 8                      |

#### Additional Regulations for Table 17.101E.06:

1. Use Permit Criteria. A conditional use permit for a work/live unit may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134 and to both of the following additional use permit criteria:
  - a. That the workers and others living there will not interfere with, nor impair, the purposes of the particular zone; and
  - b. That the workers and others living there will not be subject to unreasonable noise, odors, vibration or other potentially harmful environmental conditions.
2. Work/Live units are nonresidential facilities and counted towards the nonresidential floor area ratio, not the residential density.
3. See Table 17.101E.06 for definitions of the different types of Work/Live units.
4. Open space standards apply to new construction only. For conversion of existing buildings, maintaining existing open space is required to at least these minimum standards. All required usable open space shall meet the useable open space standards contained in Chapter 17.126, except that all useable open space may be provided on roof tops, podiums or other non ground-level areas. Further, each square foot of private useable open space equals two square feet towards the total usable open space requirement.
5. Parking standards apply to new construction only. For conversion of existing buildings, maintaining existing parking is required to at least these minimum standards. See Chapter 17.116 for other off-street parking and loading standards.
6. See Chapter 17.117 for other bicycle parking requirements.
7. See Chapter 17.116 for other loading standards.
8. Each D-CE-3 and D-CE-4 Work/Live unit shall have at least one public entrance that is directly adjacent to nonresidential floor area. A visitor traveling through this business entrance shall not be required to pass through any residential floor area in order to enter into the nonresidential area of the unit.

- E. Table 17.101E.07 below describes the different types of Work/Live units. Each new Work/Live unit shall qualify as at least one of the following Unit Types:

| Table 17.101E.07: Definitions of the Different Types of Work/Live Units |                                |   |   |                        |
|---|--------------------------------|---|---|------------------------|
| Unit Type   | Maximum residential floor area | Special requirements  | Separation between residential and nonresidential floor area  | Additional Regulations |
| Type 1  | One-third                      | All remaining floor area to be used for the primary non-residential activity.   | Nonresidential floor area and residential floor area shall be located on separate floors (including mezzanines) or be separated by an interior wall (see Note 2, below, for an exception for kitchens)  | 1, 2                   |
| Type 2  | 50 percent                     | 1. At least 75% of the ground floor must be dedicated to nonresidential floor area; and<br>2. The ground floor must be directly accessible to the street and have a clearly designated business entrance. | Nonresidential floor area and residential floor area shall be located on separate floors (including mezzanines) or be separated by an interior wall (see Note 2, below, for an exception for kitchens). | 1, 2, 3                |

**Additional Regulations for Table 17.101E.07:**

1. All required plans for the creation of Work/Live units shall: (1) delineate areas designated to contain residential activities and areas designated to contain nonresidential activities, and (2) contain a table showing the square footage of each unit devoted to residential and nonresidential activities. See 17.102.190 for regulations regarding converting facilities originally designed for industrial or commercial occupancy to joint living and working quarters.
2. For Work/Live in D-CE-3 and D-CE-4 zones, a kitchen may be open to non-residential floor area if the kitchen is adjacent to and directly accessible from a residential floor area or stairs that lead to residential floor area. In these kitchens not separated by an interior wall, the kitchen is only required to be separated from the nonresidential floor area by a partition that can be opened and closed.
3. Each D-CE-3 and D-CE-4 Work/Live unit shall contain no more than one fully equipped kitchen. A D-CE-3 and D-CE-4 Work/Live unit may contain a second sink and counter to serve the nonresidential floor area.

**F. Additional Regulations for all Work/Live units**

1. Each Work/Live unit shall contain at least one tenant that operates a business within that unit. That tenant shall possess a valid and active City of Oakland Business Tax Certificate to operate a business out of the unit.
2. For any Work/Live unit, a statement of disclosure shall be: (1) provided to prospective owners or tenants before a unit or property is rented, leased, or sold, and (2) recorded with the County of Alameda as a Notice of Limitation and in any other covenant, conditions and restrictions associated with a facility. This statement of disclosure shall contain the following acknowledgments:
  - a. The Work/Live unit is in a nonresidential facility that allows commercial and/or industrial activities that may generate odors, truck traffic, vibrations, noise and other impacts at levels and during hours that residents may find disturbing.
  - b. Each Work/Live unit shall contain at least one tenant that operates a business within that unit. This tenant must possess an active City of Oakland Business Tax Certificate for the operation out of the unit.



3. Each building with a Work/Live unit shall contain a sign that: (1) is permanently posted; (2) is at a common location where it can be frequently seen by all tenants such as a mailbox, lobby, or entrance area; (3) is made of durable material; (4) has a minimum dimension of nine by eleven inches and lettering at least one-half an inch tall. This sign shall contain the following language: "This development contains work/live units. As such, please anticipate the possibility of odors, truck traffic, noise or other impacts at levels and hours that residents may find disturbing."
4. The development of Work/Live units in the industrial zones shall not be considered adding housing units to the City's rental supply, nor does it create "conversion rights" under the City's condominium conversion ordinance, O.M.C. Chapter 16.36, nor are the development standards for work/live units intended to be a circumvention of the requirements of the City's condominium conversion ordinance, O.M.C. Chapter 16.36.

**17.101E.080 Special Regulations for Live/Work Units in the D-CE-3 and D-CE-4 Zones.**

**A. Applicability.**

1. Live/Work units are residential facilities and shall be counted towards the residential density, not the nonresidential floor area ratio, and may create "conversion rights" under the City's Condominium Conversion Ordinance, Chapter 16.36. The same requirements contained in the City's Condominium Conversion Ordinance that relate to residential units shall apply to Live/Work units.
2. D-CE-3 and D-CE-4. A Live/Work unit in the D-CE-3 and D-CE-4 zones must meet all applicable regulations contained in this section. Regulations in this section supersede regulations contained in Section 17.102.190 relating to the conversion of buildings originally designed for commercial or industrial activities into joint living and working quarters.
3. D-CE-1, D-CE-2, D-CE-5, and D-CE-6. Live/work units are not allowed in the D-CE-1, D-CE-2, D-CE-5, or D-CE-6 zones.

**B. Definition.**

The following definitions apply to this chapter only: For purposes of Live/Work conversion, an "existing building" must be at least ten (10) years old and originally designed for industrial or commercial occupancy.

1. "Residential floor area" shall be considered areas containing bedrooms, sleeping areas, kitchen areas and bathrooms and hallways serving such areas.
2. "Nonresidential floor area" shall include floor areas designated for working.

**C. New Floor Area.** (applies only to Live/Work conversions of existing buildings). New floor area may be created that is entirely within the existing building envelope; however, in no case shall the height, footprint, wall area or other aspect of the exterior of the building proposed for conversion be expanded to accommodate Live/Work area, except to allow dormers not exceeding the existing roof height and occupying no more than ten (10) percent of the roof area, and incremental appurtenances such as elevator shafts, skyhighs, rooftop gardens or other facilities listed in Section 17.108.130.

**D. Regular Design Review Required.** Regular design review approval for D-CE-3 and D-CE-4 Live/Work units may be granted only upon determination that the proposal conforms to the regular design review criteria set forth in the design review procedure in Chapter 17.136 and to all of the following additional criteria:

1. That the layout of nonresidential floor areas within a unit provides a functional and bona fide open area for working activities;

2. That, where appropriate for the type of businesses anticipated in the development, the floor and site plan for the project include an adequate provision for the delivery of items required for a variety of businesses. This may include, but is not necessarily limited to, the following:
  - a. Service elevators designed to carry and move oversized items,
  - b. Stairwells wide and/or straight enough to deliver large items,
  - c. Loading areas located near stairs and/or elevators and
  - d. Wide corridors for the movement of oversized items.

E. Table 17.101E.08 below prescribes special regulations for Live/Work units. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table.

"P" designates permitted activities in the corresponding zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"--" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

"N/A" designates the regulation is not applicable to that zone.

| Table 17.101E.08 Special Regulations for Live/Work Units in D-CE-3 and D-CE-4 Zones                                 |   |   |                        |
|---|---|---|------------------------|
| Development Standards   | D-CE-3  | D-CE-4  | Additional Regulations |
| Activities Allowed  | Same permitted and conditionally permitted activities as described in Section 17.101E.030 and any that would qualify as a home occupation in a residential facility (see Section 17.101E.100) | Same permitted and conditionally permitted activities as described in Section 17.101E.030 and any that would qualify as a home occupation in a residential facility (see Section 17.101E.100) |                        |
| Maximum Residential Density   | Same as Table 17.101E.03  | Same as Table 17.101E.03  | 1                      |
| Minimum Usable Open Space See Design Guidelines Section 3.10.   | Same as Table 17.101E.03  | Same as Table 17.101E.03  |                        |
| Parking and Loading Requirements See also Design Guidelines for the Central Estuary Sections 3.2, 3.5, 3.6 and 3.8. |   |   |                        |
| Minimum parking spaces required per work/live unit  | 1   | 1   | 2                      |
| Required Bicycle Parking with Private Garage  |   |   |                        |
| Short-term space per 20 Live/Work units   | 1   | 1   | 3                      |
| Minimum short-term spaces   | 2   | 2   | 3                      |
| Required Bicycle Parking without Private Garage   |   |   |                        |
| Short-term space per 20 Live/Work units and long-term space per 4 units   | 1   | 1   | 3                      |
| Minimum short-term spaces and minimum long-term spaces  | 2   | 2   | 3                      |
| Required Loading See also Design Guidelines for the Central Estuary Section 3.6                                     |   |   |                        |
| < 50,000 sf   | No berth  | No berth  | 4                      |

| <b>Table 17.101E.08 Special Regulations for Live/Work Units in D-CE-3 and D-CE-4 Zones</b> |               |               |                               |
|--|---------------|---------------|-------------------------------|
| <b>Development Standards</b>   | <b>D-CE-3</b> | <b>D-CE-4</b> | <b>Additional Regulations</b> |
| 50,000 – 149,999 sf  | 1 berth       | 1 berth       | 4                             |
| 150,000 – 299,000 sf   | 2 berths      | 2 berths      | 4                             |
| Each additional 300,000 sf   | 1 more berth  | 1 more berth  | 4                             |

**Additional Regulations for Table 17.101E.08:**

1. Live/Work units are residential facilities and shall be counted towards the residential density, not the nonresidential floor area ratio.
2. See Chapter 17.116 for other off-street parking and loading standards.
3. See Chapter 17.117 for other bicycle parking requirements.
4. See Chapter 17.116 for other loading standards. However, the minimum height or length of a required berth listed in Chapter 17.116 may be reduced upon the granting of regular design review approval (see Chapter 17.136), and upon determination that such smaller dimensions are ample for the size and type of trucks or goods that will be foreseeably involved in the loading operations of the activity served. This design review requirement shall supersede the requirement for a conditional use permit stated in Section 17.116.220.

**F. Additional Regulations for Live/Work units**

1. The amount of floor area in a D-CE-3 and D-CE-4 Live/Work unit designated as residential floor area is not restricted.
2. Any building permit plans for the construction of D-CE-3 and D-CE-4 Live/Work units shall: (1) clearly state that the proposal includes Live/Work facilities, and (2) label the units intended to be Live/Work units. This requirement is to assure the City applies building codes appropriate for a Live/Work facility.
3. For any Live/Work unit in a D-CE-3 and D-CE-4 zone, a statement of disclosure shall be: (1) provided to prospective owners or tenants before a unit or property is rented, leased, or sold, and (2) in any covenant, conditions, and restrictions associated with a facility. This statement of disclosure shall contain an acknowledgment that the property is in a facility that allows commercial and/or light industrial activities that may generate odors, truck traffic, vibrations, noise and other impacts at levels and during hours that residents may find disturbing.
4. Each building with a Live/Work unit in the D-CE-3 and D-CE-4 zone shall contain a sign that: (1) is permanently posted; (2) is at a common location where it can be frequently seen by all tenants such as a mailbox, lobby, or entrance area; (3) is made of durable material; (4) has a minimum dimension of nine by eleven inches and lettering at least one-half an inch tall. This sign shall contain the following language: "This development contains Live/Work units. As such, please anticipate the possibility of odors, truck traffic, noise or other impacts at levels and hours that residents may find disturbing."

**17.101E.090 Special Regulations for Mini-lot and Planned Unit Developments.**

- A. Mini-lot Developments. In mini-lot developments, certain regulations that apply to individual lots in the D-CE-3 and D-CE-4 zones may be waived or modified when and as prescribed in Section 17.102.320.

- B. **Planned Unit Developments.** Large integrated developments shall be subject to the Planned Unit Development regulations in Chapter 17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the D-CE-3 and D-CE-4 zones, and certain of the other regulations applying in said zone may be waived or modified.

**17.101E.100 Special Regulations for Home Occupation in the D-CE-3 Zone**

- A. **Purpose and Applicability.** The special home occupation regulations described below shall only apply in the D-CE-3 zone. The purpose of these regulations is to prescribe the expanded conditions under which nonresidential activities may be conducted in the D-CE-3 zone when incidental to Residential Activities. These special home occupation regulations are intended to incentivize the preservation of historic homes in the Jingletown/Elmwood neighborhood, and to encourage more home-based artisan crafts in the district. The historic character-defining features of the structures must be maintained. For home occupation regulations in all other zones, see Planning Code Chapter 17.112.

B. **Definitions.**

1. A "home occupation" is an accessory activity of a nonresidential nature which is performed within a living unit, or within a garage or accessory structure attached or detached thereto and located on the lot as the living unit, or, for crop growing activities, in an outdoor area on the same lot as a living unit by an occupant of the living unit and which is customarily incidental to the residential use of the living unit. A home occupation may include, but is not limited to, the handicraft or custom manufacture of products, crop growing activities (unless the activities include mechanized farming equipment), the conduct of an art or profession, the offering of a service, or the conduct of a business, subject to the provisions of this Chapter.
2. For the purpose of this chapter, a "crop growing activity" is the cultivation of fruits, vegetables, plants, flowers, herbs, and/or ornamental plants for sale.

C. **Exclusions.**

The following activities shall not in any case qualify as home occupations:

1. Introductory service;
2. Teaching of organized classes totaling more than six (6) persons at a time;
3. Accommodation of more than three (3) paying guests within a One-Family Dwelling Residential Facility, or of any number of paying guests within a living unit in any other type of Residential Facility;
4. Operation of a beauty parlor with more than two (2) hairdrying machines;
5. Maintenance of a construction contractor's storage or construction yard or garage;
6. Care, treatment, or boarding of animals for profit;
7. Crop growing activities that include the use of mechanized farm equipment.

D. **Requirements.**

1. **Location.** A home occupation shall only be performed in the following locations:
  - a. Within a living unit by a resident thereof;
  - b. Within an attached or detached garage or accessory structure reserved for a living unit; however, existing parking must be maintained or replacement parking provided.

- c. For crop growing activities only, in an outdoor area on the same lot as a living unit, but only if the home occupation activity does not include the use of mechanized farming equipment.
- 2. Customers by Appointment. Professional and personal services shall only be provided by appointment except in rare and unusual circumstances. Regular walk-in clients are prohibited.
- 3. Nonresident Employees. One nonresident employee is permitted. For the purpose of this chapter, the term "nonresident employee" includes an employee, business partner, co-owner, or other person affiliated with the home occupation, who does not live at the site, but who visits the site as part of the home occupation business. One "nonresident employee" does not include when there are sequential employee shifts with each shift staffed by a different employee, even when only one nonresident employee is at the site at any one time. Only one nonresident employee is permitted per residential unit, even if more than one home occupation business operates at the subject unit.
- 4. Articles Sold. Articles offered for sale shall be limited to those produced on the premises, except where the home occupation serves as an agent or intermediary between off-site suppliers and off-site customers, in which case all articles, except for samples, shall be received, stored, and sold directly to customers at off-premises locations.
- 5. Exterior Appearance and Signs. There shall be no outside or window display of materials or products. No outside or window Sign shall advertise or otherwise identify the home occupation except for one Sign with a display surface of not more than one (1) square foot on any face. Such Sign shall be nonmoving, and its illumination, if any, shall be indirect and non-flashing. There shall be no other exterior indication of the home occupation, and no impairment of the residential appearance of the facilities within which the home occupation is conducted.
- 6. Vehicular Storage. No commercial or passenger vehicle carrying any Sign advertising or otherwise identifying the home occupation shall be parked on any portion of the lot where such Sign is visible at any lot line of the lot containing the home occupation.
- 7. Traffic Generation. The home occupation shall not generate vehicular traffic substantially greater than that normally generated by Residential or Nonresidential Activities in the surrounding area.
- 8. Nuisances. The home occupation shall be so conducted as not to cause offensive or objectionable noise, vibration, smoke, odors, humidity, heat, cold, glare, dust, dirt, or electrical disturbance which is perceptible by the average person at or beyond any lot line of the lot containing the home occupation.
- 9. Hazards. Activities involving hazardous materials (such as fire, chemicals and/or more than three (3) machines) may require additional city permits, including but not limited to, a building permit for updated building facilities.
- E. Application. For Activities involving hazardous materials, the applicant shall submit a site plan, floor plan and description of the business (including machinery used, materials and materials storage, etc) for review by the Planning and Zoning, Building Services and Fire Departments. See the City's Basic Application for Development Review for the floor plan and site plan requirements; See also the City's Supplemental Questionnaire for Proposed Activities/Uses.
- F. Required approval.

No home occupation in the D-CE-3 zone shall be permitted unless the Director of City Planning certifies that it will conform to the special home occupation regulations contained in this Section. The Director may fix a termination date upon a home occupation in order to affect a periodic review thereof. The Director's determination shall be subject to appeal pursuant to the administrative appeal procedure in Chapter 17.132.

#### 17.101E.110 Special Parking Regulations for the D-CE Zones

For the purposes of this chapter only, the following regulations apply to the Boat and Marine Related Sales, Rental, Repair and Servicing Activity. Auto parking regulations for other activity types are contained in Chapter 17.116 Off-Street Parking and Loading Requirements. Bicycle parking regulations for other activity types are contained in Chapter 17.117 Bicycle Parking Requirements.

##### A. Off-street parking—Commercial Activities.

The following amounts of off-street parking are required for the specified Commercial Activity when located in the indicated zones and occupying facilities of the specified sizes, and shall be developed and maintained pursuant to the provisions of Article IV of Planning Code Chapter 17.116 Off-Street Parking and Loading Requirements.

| Commercial Activity Type                                    | Zone              | Minimum Total Size for Which Parking Required | Requirement   |
|---|-------------------|---|---|
| Boat and Marine Related Sales, Rental, Repair and Servicing | D-CE-1 and D-CE-6 | 10,000 square feet of floor area.             | One (1) space for each 1,000 square feet of floor area. |

##### B. Required bicycle parking—Commercial activities.

Subject to the calculation rules set forth in Chapter 17.117 Bicycle Parking Requirements Section 17.117.080, the following amounts of bicycle parking are required for the specified Commercial Activity and shall be developed and maintained pursuant to the provisions of Article II of chapter 17.117.

| Commercial Activity Type                                    | Long-term Bicycle Parking Requirement   | Short-term Bicycle Parking Requirement  |
|---|---|---|
| Boat and Marine Related Sales, Rental, Repair and Servicing | 1 space for each 12,000 square feet of floor area. Minimum requirement is 2 spaces. | 1 space for each 20,000 square feet of floor area. Minimum requirement is 2 spaces. |

#### 17.101E.112 Other Zoning Provisions

The following table contains referrals to other regulations that may apply:

- A. General Provisions. The general exceptions and other regulations set forth in Chapters 17.102, 17.104, 17.106, and 17.108 shall apply in the D-CE zones.
- B. Parking and Loading. Off-street parking and loading shall be provided as prescribed in the off-street parking and loading requirements in Chapter 17.116.
- C. Nonconforming Uses. Nonconforming uses and changes therein shall be subject to the nonconforming use regulations in Chapter 17.112.
- D. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in the D-CE zones.
- E. Landscaping and Screening Standards. The regulations set forth in Chapter 17.124 and Chapter 17.102.400, screening of utility meters, etc., shall apply in the D-CE zones.
- F. Buffering. All uses shall be subject to the applicable requirements of the buffering regulations in Chapter 17.110 with respect to screening or location of parking, loading, storage areas, control of artificial illumination, and other matters specified therein.
- G. Noise, odor, smoke. Performance standards regarding the control of noise, odor, smoke, and other objectionable impacts in Chapter 17.120 shall apply in the D-CE zones.

- H. Microwave dishes and energy production facilities regulations in Chapter 17.102.140 shall apply in the D-CE zones.
- I. Electroplating activities. Special regulations applying to electroplating activities in Chapter 17.102.340, shall apply in the D-CE zones.
- J. S-19 Health and Safety Protection Overlay Zone.

Non-Substantive, Technical Conforming Edits to the Oakland Planning Code – deletions are shown in strikethrough, additions are shown in underline.

Chapter 17.33 - CN NEIGHBORHOOD CENTER COMMERCIAL ZONES REGULATIONS

17.33.040 - Permitted and conditionally permitted facilities.

Table 17.33.02 lists the permitted, conditionally permitted, and prohibited facilities in the CN zones. The descriptions of these facilities are contained in Chapter 17.10.

"P" designates permitted facilities in the corresponding zone.

"C" designates facilities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates facilities subject to certain limitations listed at the bottom of the table.

"—" designates facilities that are prohibited.

Table 17.33.02: Permitted and Conditionally Permitted Facilities

| Facilities                              | Zones |       |       |       | Additional Regulations |
|---|-------|-------|-------|-------|------------------------|
|   | CN-1  | CN-2  | CN-3  | CN-4  |                        |
| Residential Facilities                  |       |       |       |       |                        |
| One-Family Dwelling                     | —(L1) | —(L1) | —(L1) | —(L1) |                        |
| One-Family Dwelling with Secondary Unit | —(L1) | —(L1) | —(L1) | —(L1) | 17.102.360             |
| Two-Family Dwelling                     | P(L2) | P(L2) | P(L3) | P     |                        |
| Multifamily Dwelling                    | P(L2) | P(L2) | P(L3) | P     |                        |
| Rooming House                           | P(L2) | P(L2) | P(L3) | P     |                        |
| Mobile Home                             | —     | —     | —     | —     |                        |
| Nonresidential Facilities               |       |       |       |       |                        |
| Enclosed Nonresidential                 | P     | P     | P     | P     |                        |
| Open Nonresidential                     | C(L4) | C(L4) | C(L4) | C(L4) |                        |
| Sidewalk Cafe                           | P     | P     | P     | P     | 17.102.335             |
| Drive-In                                | —     | —     | —     | C     |                        |
| Drive-Through                           | —     | —     | —     | C     |                        |
| Telecommunications Facilities           |       |       |       |       |                        |
| Micro Telecommunications                | P(L5) | P(L5) | P(L5) | P(L5) | 17.128                 |
| Mini Telecommunications                 | P(L5) | P(L5) | P(L5) | P(L5) | 17.128                 |
| Macro Telecommunications                | C     | C     | C     | C     | 17.128                 |
| Monopole Telecommunications             | C     | C     | C     | C     | 17.128                 |
| Tower Telecommunications                | —     | —     | —     | —     | 17.128                 |
| Sign Facilities                         |       |       |       |       |                        |
| Residential Signs                       | P     | P     | P     | P     | 17.104                 |
| Special Signs                           | P     | P     | P     | P     | 17.104                 |
| Development Signs                       | P     | P     | P     | P     | 17.104                 |
| Realty Signs                            | P     | P     | P     | P     | 17.104                 |
| Civic Signs                             | P     | P     | P     | P     | 17.104                 |



|                   |   |   |   |   |        |
|-------------------|---|---|---|---|--------|
| Business Signs    | P | P | P | P | 17.104 |
| Advertising Signs | — | — | — | — | 17.104 |

**Limitations on Table 17.33.02:**

**L1.** See Chapter 17.114 — Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities.

**L2.** Construction of new ground floor Residential Facilities is not permitted except for incidental pedestrian entrances that lead to one of these activities elsewhere in the building.

**L3.** Ground floor construction of new Residential Facilities is only permitted on interior lots and requires the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP process). New construction of ground floor residential facilities is not permitted on a corner lot.

**L4.** No conditional use permit is required for Open Nonresidential Facilities to accommodate either seasonal sales or and special event activities.

**L5.** No new or expanded Fast-Food Restaurants with Drive-Through Nonresidential Facilities shall be located closer than five hundred (500) feet of an elementary school, park, or playground. See Sections 17.103.030 and 17.103.100 for further regulations regarding Drive-Through Nonresidential Facilities.

**L6, L5.** See Section 17.128.025 for restrictions on Telecommunication Facilities near residential-er, HBX zones, or D-CE-3 or D-CE-4 zones.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011)

**Chapter 17.35 - CC COMMUNITY COMMERCIAL ZONES REGULATIONS**

**17.35.040 - Permitted and conditionally permitted facilities.**

Table 17.35.02 lists the permitted, conditionally permitted, and prohibited facilities in the CC zones. The descriptions of these facilities are contained in Chapter 17.10.

"P" designates permitted facilities in the corresponding zone.

"C" designates facilities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates facilities subject to certain limitations listed at the bottom of the Table.

"—" designates facilities that are prohibited.

**Table 17.35.02: Permitted and Conditionally Permitted Facilities**

| Facilities                              | Zones |       |       | Additional Regulations |
|---|-------|-------|-------|------------------------|
|   | CC-1  | CC-2  | CC-3  |                        |
| Residential Facilities                  |       |       |       |                        |
| One-Family Dwelling                     | —(L1) | —(L1) | —(L1) |                        |
| One-Family Dwelling with Secondary Unit | —(L1) | —(L1) | —(L1) | 17.102.360             |
| Two-Family Dwelling                     | P(L2) | P(L3) | —     |                        |
| Multifamily Dwelling                    | P(L2) | P(L3) | —     |                        |
| Rooming House                           | P(L2) | P(L3) | —     |                        |
| Mobile Home                             | —     | —     | —     |                        |
| Nonresidential Facilities               |       |       |       |                        |

|                                      |       |       |       |            |
|--------------------------------------|-------|-------|-------|------------|
| Enclosed Nonresidential              | P     | P     | P     |            |
| Open Nonresidential                  | P     | P     | P     |            |
| Sidewalk Cafe                        | P     | P     | P     | 17.102.335 |
| Drive-In                             | C     | C     | C     |            |
| Drive-Through                        | C     | C     | C     |            |
| <b>Telecommunications Facilities</b> |       |       |       |            |
| Micro Telecommunications             | P(L4) | P(L4) | P(L4) | 17.128     |
| Mini Telecommunications              | P(L4) | P(L4) | P(L4) | 17.128     |
| Macro Telecommunications             | C     | C     | C     | 17.128     |
| Monopole Telecommunications          | C     | C     | C     | 17.128     |
| Tower Telecommunications             | —     | —     | —     | 17.128     |
| <b>Sign Facilities</b>               |       |       |       |            |
| Residential Signs                    | P     | P     | P     | 17.104     |
| Special Signs                        | P     | P     | P     | 17.104     |
| Development Signs                    | P     | P     | P     | 17.104     |
| Realty Signs                         | P     | P     | P     | 17.104     |
| Civic Signs                          | P     | P     | P     | 17.104     |
| Business Signs                       | P     | P     | P     | 17.104     |
| Advertising Signs                    | —     | —     | —     | 17.104     |

**Limitations on Table 17.35.02:**

**L1.** See Chapter 17.114 — Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities.

**L2.** Construction of new ground floor Residential Facilities is only permitted if part of a development that has a majority of floor area is devoted to commercial activities.

**L3.** Construction of new ground floor Residential Facilities is not permitted except for incidental pedestrian entrances that lead to one of these activities elsewhere in the building.

**L4.** No new or expanded Fast-Food Restaurants with Drive-Through Nonresidential Facilities shall be located closer than five hundred (500) feet of an elementary school, park, or playground. See Sections 17.103.030 and 17.103.100 for further regulations regarding Drive-Through Nonresidential Facilities.

**L5.L4.** See Section 17.128.025 for restrictions on Telecommunication Facilities near residential, or HBX zones, or D-CE-3 and D-CE-4 zones.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011)

**Chapter 17.37 - CR REGIONAL COMMERCIAL ZONES REGULATIONS**

**17.37.040 - Permitted and conditionally permitted facilities.**

Table 17.37.02 lists the permitted, conditionally permitted, and prohibited facilities in the CR-1 zone. The descriptions of these facilities are contained in Chapter 17.10.

"P" designates permitted facilities in the corresponding zone.

"C" designates facilities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates facilities subject to certain limitations listed at the bottom of the Table.

"—" designates facilities that are prohibited.

Table 17.37.02: Permitted and Conditionally Permitted Facilities

| Facilities                              | Zone  | Additional Regulations |
|---|-------|------------------------|
|   | CR-1  |                        |
| Residential Facilities                  |       |                        |
| One-Family Dwelling                     | —(L1) |                        |
| One-Family Dwelling with Secondary Unit | —(L1) |                        |
| Two-Family Dwelling                     | —(L1) |                        |
| Multifamily Dwelling                    | —(L1) |                        |
| Rooming House                           | —(L1) |                        |
| Mobile Home                             | —(L1) |                        |
| Nonresidential Facilities               |       |                        |
| Enclosed Nonresidential                 | P     |                        |
| Open Nonresidential                     | P     |                        |
| Sidewalk Cafe                           | P     | 17.102.335             |
| Drive-In                                | C     |                        |
| Drive Through                           | C     |                        |
| Telecommunications Facilities           |       |                        |
| Micro Telecommunications                | P(L2) | 17.128                 |
| Mini Telecommunications                 | P(L2) | 17.128                 |
| Macro Telecommunications                | C     | 17.128                 |
| Monopole Telecommunications             | C     | 17.128                 |
| Tower Telecommunications                | —     | 17.128                 |
| Sign Facilities                         |       |                        |
| Residential Signs                       | P     | 17.104                 |
| Special Signs                           | P     | 17.104                 |
| Development Signs                       | P     | 17.104                 |
| Realty Signs                            | P     | 17.104                 |
| Civic Signs                             | P     | 17.104                 |
| Business Signs                          | P     | 17.104                 |
| Advertising Signs                       | —     | 17.104                 |

Limitations for Table 17.37.02:

L1. See Chapter 17.114, Nonconforming Uses, for additions and alterations to legal nonconforming residential facilities.

L2. See Section 17.128.025 for restrictions on Telecommunication Facilities near residential-or, HBX zones, or D-CE-3 and D-CE-4 zones.

## Chapter 17.100A - S-19 HEALTH AND SAFETY PROTECTION COMBINING ZONE REGULATIONS

### 17.100A.030 - Zones with which the S-19 may be combined.

A. The standards of this combining zone shall apply to the following zoning districts:

1. Housing and Business Mix (HBX) zones;
2. D-CE-3 and D-CE-4 (Central Estuary District) zones;
23. CIX-1 (Commercial Industrial Mix-1) zone;
34. CIX-2 (Commercial Industrial Mix-2) and IG (General Industrial) and IO (Industrial Office) zoning districts that are within three hundred (300) feet from any residential, open space, or institutional zone boundary.

## Chapter 17.104 - GENERAL LIMITATIONS ON SIGNS

### 17.104.020 - General limitations on signs— RU-4 and RU-5 zones, and all Commercial and Industrial zones.

The following limitations shall apply to the specified signs in the RU-4 and RU-5 zones and all Commercial and Industrial zones, except as otherwise provided herein, and are in addition to the limitations, if any, prescribed for signs in the applicable individual zone regulations and development control maps:

- A. Design Review. No business, civic, or residential sign shall be constructed or established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136
- B. Permitted Aggregate Sign Area.
  1. In the RU-4 and RU-5 zones and all Commercial zones, the maximum aggregate area of display surface of all business, civic, and residential signs on any one lot shall be one square foot for each one foot of lot frontage in the case of an interior lot, or 0.5 square feet for each one foot of lot frontage in the case of a corner lot. The aggregate shall include only one face of a double-faced sign. The total amount of aggregate sign area shall not exceed two hundred (200) square feet on any one property. Exceptions to the total amount of aggregate sign area normally allowed on any one property may be approved pursuant to the regulations in Subsection B(3) below and to the small project design review procedure in Chapter 17.136
  2. In all Industrial zones, the maximum aggregate area of display surface of all business, civic and residential signs on any one lot shall be one square foot for each one foot of lot frontage in the case of an interior lot, or 0.5 square feet for each one foot of lot frontage in the case of a corner lot. The aggregate shall include only one face of a double-faced sign. The total amount of aggregate sign area shall not exceed three hundred (300) square feet on any one property. Exceptions to the total amount of aggregate sign area normally allowed on any one property may be approved pursuant to the regulations in Subsection B(3) below.
  3. Exception to Aggregate Sign Area Limits. The following exceptions to the aggregate sign area limits may be approved:

- a. In cases in which the maximum aggregate sign area for a property is already being utilized by a portion of the existing tenant spaces in a multi-tenant building or complex, twenty (20) square feet of sign area for each tenant space in the multi-tenant building or complex without existing signage on site is allowed if approved pursuant to the small project design review procedure in Chapter 17.136
  - b. Signs conforming to a Master Sign Program approved pursuant to Section 17.104.070
- C. Maximum Height.
- 1. Attached Signs. The maximum height of any sign that is attached to a building may not exceed the height of the building wall that it is attached to.
  - 2. Freestanding Signs. The maximum height of any freestanding sign in the CC, M-20, M-30, M-40, CIX-1, CIX-2, IG, and IO, and D-CE zones is twenty (20) feet. The maximum height in the RU-4 and RU-5 zones and all other Commercial and Industrial zones is ten (10) feet.

#### Chapter 17.108 - GENERAL HEIGHT, YARD, AND COURT REGULATIONS

##### 17.108.020 - Different maximum height in certain situations.

General Height for Civic Facilities with Increased Yards. On parcels in the RH, RD, RM, RU, CN, CC, CR, HBX, M-20, S-15, and OS, and D-CE zones that have a height limit of less than seventy-five (75) feet, a facility accommodating or serving any Civic Activity may, notwithstanding the maximum height prescribed for facilities in general in the applicable individual zone regulations, have a height of up to seventy-five (75) feet upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 if the minimum depth or width, as the case may be, of each front, side, and rear yard, if any, otherwise required is increased for such facility by one foot for each foot by which the facility exceeds the aforesaid maximum height. To the extent allowed by the conditional use permit, the greater height authorized by this subsection may be exceeded by the projections allowed by Section 17.108.030

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 12376 § 3 (part), 2001; Ord. 12272 § 4 (part), 2000; Ord. 12078 § 5 (part), 1998; Ord. 11892 § 6, 1996; prior planning code § 7071)

#### Chapter 17.110 - BUFFERING REGULATIONS

##### 17.110.040 - Special buffering requirements.

- A. Open Storage Areas on Same Lot as Residential Facility—Screening Required Within Three Years. In all zones, on any lot which contains both a Residential Facility and any area devoted to open storage or display of goods or materials, said open storage or display area shall be screened from all abutting lots, streets, alleys, and paths, and private streets or other ways described in Section 17.106.020, by dense landscaping not less than five and one-half (5½) feet high and not less than three (3) feet wide, or by a decorative screening fence or wall not less than five and one-half (5½) feet high, subject to the standards for required landscaping and screening in Chapter 17.124 and the exceptions stated in said chapter. Existing open storage and display areas on such lots shall either be removed or provided with the above prescribed screening within three years after the effective date of the zoning regulations.
- B. Screening of Open Parking, Loading, and Storage Areas in the CN, CR-1, M-20, D-CE-3, and S-15 zones. In the CN, CR-1, M-20, D-CE-3, and S-15 zones, open parking, loading, and storage areas

shall be subject to the same screening and setback requirements as are set forth in subsections A and B of Section 17.110.020. Existing nonconforming storage areas in said zones shall be subject to the provisions of Section 17.114.140.

- C. Location of Detached Accessory Buildings on Corner Lot Abutting a Key Lot in a Residential Zone. In all zones, on any reversed corner lot which abuts a key lot located in any residential zone, no detached accessory building shall be located within five (5) feet from the abutting side lot line of the key lot. No detached accessory building on such lot shall be located closer to the street line on which the key lot fronts than a distance equal to the minimum front yard depth required on the key lot, unless the accessory building is at least thirty-five (35) feet from the side lot line of the key lot. An accessory building shall be considered detached from any principal building on the same lot if the only roofed attachment thereto consists of a breezeway or similar structure exceeding neither twelve (12) feet in height nor eight (8) feet in width.
- D. Other Provisions. Also applicable are the special provisions, if any, set forth in the applicable individual zone regulations and development control maps with respect to landscaping and screening and controls on parking, loading, and other specified uses; the requirements set forth in Section 17.102.140 for stables, corrals, and similar facilities; and the screening and other standards prescribed for required usable open space in the standards for required usable open space in Chapter 17.126

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12872 § 4 (part), 2008; Ord. 11892 § 10, 1996; prior planning code § 7115)

#### Chapter 17.112 - HOME OCCUPATION REGULATIONS

##### Sections:

17.112.010 - Title, purpose, and applicability.

17.112.020 - Definitions.

17.112.030 - Exclusions.

17.112.040 - Requirements.

17.112.050 - Required approval.

17.112.010 - Title, purpose, and applicability.

The provisions of this Chapter shall be known as the home occupation regulations. The purpose of these regulations is to prescribe the conditions under which limited nonresidential activities may be conducted when incidental to Residential Activities. Except as may otherwise be specified in Chapter 17.101E for the D-CE zones, these regulations shall apply to all activities of a nonresidential nature which are incidental to Residential Activities when such nonresidential activities would not be allowed if they were not incidental to Residential Activities. See Chapter 17.101E Central Estuary District Zones Regulations for home occupation regulations specific to the D-CE Central Estuary District zones.

(Prior planning code § 7300)

#### Chapter 17.116 - OFF-STREET PARKING AND LOADING REQUIREMENTS

17.116.010 - Title, purpose, and applicability.

The provisions of this chapter shall be known as the off-street parking and loading requirements. The purpose of these regulations is to require adequate off-street parking and loading, thereby reducing traffic

congestion, allowing more efficient utilization of on-street parking, promoting more efficient loading operations, and reducing the use of public streets for loading purposes. Except as may otherwise be specified in Chapter 17.101E for the D-CE zones, these requirements shall apply to the indicated activities as specified hereinafter. See Chapter 17.101E Central Estuary District Zones Regulations for parking regulations specific to Boat and Marine Related Sales, Rental, Repair and Servicing for the D-CE Central Estuary District zones.

#### Chapter 17.117 - BICYCLE PARKING REQUIREMENTS

##### 17.117.010 - Title, purpose, and applicability.

The provisions of this chapter shall be known as the bicycle parking requirements. The purpose of these regulations is to require secure and adequate long term and short term parking for bicycles, thereby promoting alternative transportation, providing additional, more sustainable transportation choices for residents and commuters, and reducing traffic congestion and air pollution. Except as may otherwise be specified in Chapter 17.101E for the D-CE zones, these requirements shall apply to the indicated activities as specified hereinafter. See Chapter 17.101E Central Estuary District Zones Regulations for bicycle parking regulations specific to Boat and Marine Related Sales, Rental, Repair and Servicing for the D-CE Central Estuary District zones.

#### Chapter 17.120 - PERFORMANCE STANDARDS

##### 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 indicated in subsection A, B, or C as modified where applicable by the adjustments indicated in subsection D or E. Further noise restrictions are outlined in Section 8.18.010 of the Oakland Municipal Code.

- A. Residential Zone Noise Level Standards. The maximum allowable noise levels received by any residential zone are described in Table 17.120.01.

Table 17.120.01 establishes the maximum allowable receiving noise levels:

TABLE 17.120.01

##### MAXIMUM ALLOWABLE RECEIVING NOISE LEVEL STANDARDS, RESIDENTIAL AND CIVIC

| Cumulative Number of Minutes in Either the Daytime or Night time One Hour Time Period | Daytime 7 a.m. to 10 p.m. | Nighttime 10 p.m. to 7 a.m. |
|---|---------------------------|-----------------------------|
| 20  | 60                        | 45                          |
| 10  | 65                        | 50                          |
| 5   | 70                        | 55                          |
| 1   | 75                        | 60                          |
| 0   | 80                        | 65                          |

- B. **Commercial Noise Level Standards.** The maximum allowable noise levels received by any land use activity within any commercial zone (including the Housing and Business Mix (HBX) zone and the Central Estuary District D-CE-3 and D-CE-4 zones) are described in Table 17.120.02.

Table 17.120.02 establishes the maximum allowable receiving noise levels:

**TABLE 17.120.02**

**MAXIMUM ALLOWABLE RECEIVING NOISE LEVEL STANDARDS**

| Cumulative Number of Minutes in Either the Daytime or Nighttime One Hour Time Period | Anytime |
|--|---------|
| 20   | 65      |
| 10   | 70      |
| 5  | 75      |
| 1  | 80      |
| 0  | 85      |

- C. **Manufacturing, Industrial, Agricultural and Extractive Noise Level Standards.** The maximum allowable noise levels received by any land use activity within any industrial, manufacturing or mining and quarrying zone are described in Table 17.120.03.

Table 17.120.03 establishes the maximum allowable receiving noise levels:

**TABLE 17.120.03**

**MAXIMUM ALLOWABLE RECEIVING NOISE LEVEL STANDARDS, dBA**

| Cumulative Number of Minutes in Any One Hour Time Period | Anytime |
|--|---------|
| 20   | 70      |
| 10   | 75      |
| 5  | 80      |
| 1  | 85      |
| 0  | 90      |

- D. In the event the measured ambient noise level exceeds the applicable noise level standard in any category above, the stated applicable noise level shall be adjusted so as to equal the ambient noise level.
- E. Each of the noise level standards specified above in subsections A, B, and C shall be reduced by five dBA for a simple tone noise such as a whine, screech, or hum, noise consisting primarily of speech or music, or for recurring impulse noise such as hammering or riveting.
- F. **Noise Measurement Procedures.** Utilizing the "A" weighing scale of the sound level meter and the "slow" meter response (use "fast" response for impulsive type sounds), the noise level shall be measured at a position or positions at any point on the receiver's property. In general, the microphone shall be located four (4) to five (5) feet above the ground; ten (10) feet or more from the nearest reflective surface, where possible. However, in those cases where another elevation is deemed appropriate, the latter shall be utilized. If the noise complaint is related to interior noise levels, interior noise measurements shall be made within the affected residential unit. The measurements shall be made at a point at least four (4) feet from the wall, ceiling or floor nearest the noise source, with windows in the normal seasonal configuration.



G. Temporary Construction or Demolition Which Exceed the Following Noise Level Standards.

1. The daytime noise level received by any residential, commercial, or industrial land use which is produced by any nonscheduled, Intermittent, short-term construction or demolition operation (less than ten (10) days) or by any repetitively scheduled and relatively long-term construction or demolition operation (ten (10) days or more) shall not exceed the maximum allowable receiving noise levels described in Table 17.120.04.

Table 17.120.04 establishes the maximum allowable receiving noise levels:

TABLE 17.120.04

MAXIMUM ALLOWABLE RECEIVING NOISE LEVEL STANDARDS, dBA

|                        | Daily 7 a.m. to 7 p.m. | Weekends 9 a.m. to 8 p.m. |
|------------------------|------------------------|---------------------------|
| Short-Term Operation   |                        |                           |
| Residential            | 80                     | 65                        |
| Commercial, Industrial | 85                     | 70                        |
| Long-Term Operation    |                        |                           |
| Residential            | 65                     | 55                        |
| Commercial, Industrial | 70                     | 60                        |

2. The nighttime noise level received by any land use and produced by any construction or demolition activity between weekday hours of seven (7) p.m. and seven (7) a.m. or between eight (8) p.m. and nine (9) a.m. on weekends and federal holidays shall not exceed the applicable nighttime noise level standards outlined in this section.

H. Residential Air Conditioning Units and Refrigeration Systems. The exterior noise level associated with a residential air conditioning unit or refrigeration systems shall not exceed fifty (50) dBA, with the exception that systems installed prior to the effective date of this section shall not exceed fifty-five (55) dBA.

(Ord. 12875 § 2(part), 2008; Ord. 12872 § 4 (part), 2008; Ord. 11895 § 7, 1996: prior planning code § 7710)

17.120.060 - Vibration.

All activities, except those located within the IG or M-40 zone, the D-CE-1, D-CE-2, D-CE-5, or D-CE-6 zone, or in the IG or M-30 zone more than four hundred (400) feet from any residential zone boundary, 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 of the lot containing such activities. Ground vibration caused by motor vehicles, trains, and temporary construction or demolition work is exempted from this standard.

(Ord. 12875 § 2(part), 2008; Ord. 11895 § 8, 1996: prior planning code § 7711)

17.120.070 - Smoke.

All Commercial and Industrial Activities located in the zone, or In any HBX, D-CE or CIX zone shall be so operated as not to emit visible smoke as dark as Ringelmann number 2 or its equivalent opacity for more than three minutes in any one-hour period, and visible smoke as dark as Ringelmann number 1 or its equivalent opacity for more than an additional seven minutes in any one-hour period. Darker or more opaque smoke is prohibited at any time.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12899 § 4, Exh. A, 2008; Ord. 12875 § 2(part), 2008; prior planning code § 7712)

**17.120.080 - Particulate matter and air contaminants.**

All Commercial, Manufacturing and Industrial Activities which are located in a residential zone or the M-20, S-3, or CIX<sub>1</sub> zone, or any HBX<sub>1</sub> zone, D-CE-3, or D-CE-4 zone, or which are located in the D-CE-1, D-CE-2, D-CE-5, D-CE-6, M-30, CIX-2, IG<sub>1</sub> or IO zone within four hundred (400) feet of any boundary of a residential zone, shall be so operated as not to emit particulate matter or air contaminants which are readily detectable without instruments by the average person at or beyond any lot line of the lot containing such activities.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12875 § 2(part), 2008; prior planning code § 7713)

**17.120.090 - Odor.**

When located in the zones specified below, all Commercial, Industrial and Manufacturing Activities shall be so operated as not to emit matter causing unpleasant odors which are perceptible by the average person at the following point of determination described in Table 17.120.05. Table 17.120.05 establishes the maximum allowable receiving noise level standards.

**Table 17.120.05: Points of Determination for Odor**

| Zone in Which Activities are Located  | Point of Determination  |
|---|---|
| Any residential zone, M-20, S-3, the HBX zones, <u>D-CE 3, D-CE-4, or CIX-1 zone</u> .                                      | At or beyond any lot line of the lot containing the activities. |
| <u>D-CE-1, D-CE-2, D-CE-5, D-CE-6, M-30, CIX-2, IG or IO zone</u> if within 400 feet of any boundary of a residential zone. | At or beyond any boundary of a residential zone.                |

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12875 § 2(part), 2008; prior planning code § 7714)

**17.120.110 - Humidity, heat, cold, and glare.**

When located in the zones specified below, all Commercial and Manufacturing 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 of determination described in Table 17.120.06. Table 17.120.06 establishes the maximum allowable receiving noise level standards.

**Table 17.120.06: Points of Determination for Humidity, Heat, Cold and Glare**

| Zone in Which Activities are Located  | Point of Determination  |
|---|---|
| Any residential zone, M-20, S-3, HBX zones, <u>D-CE 3, D-CE-4, or CIX-1 zone</u> .  | At or beyond any lot line of the lot containing the activities. |
| <u>D-CE-1, D-CE-2, D-CE-5, D-CE-6, M-30, CIX-2, IG or IO zone</u> if within 400 feet of any boundary of a residential zone. | At or beyond any boundary of a residential zone.                |

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12875 § 2(part), 2008; prior planning code § 7715)

17.120.120 - Electrical disturbance.

All Commercial, Industrial and Manufacturing Activities located in a residential zone or the M-20, S-3, ~~or HBX, D-CE-3, D-CE-4,~~ or CIX-1 zone, or located in the D-CE-1, D-CE-2, D-CE-5, D-CE-6, CIX-2, IG or M-30 or M-40 zone and within four hundred (400) feet of any boundary of a residential zone, shall be so operated as not to cause electrical disturbance adversely affecting the operation of any equipment on any other lot.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12875 § 2(part), 2008; prior planning code § 7716)

Chapter 17.128 - TELECOMMUNICATIONS REGULATIONS

17.128.025 - Restrictions on telecommunications facilities.

- A. Any Telecommunications Facility shall not be permitted in, or within one hundred (100) feet of the boundary of, any residential zone, ~~or HBX zone, or D-CE-3 or D-CE-4 zone,~~ except upon the granting of a major conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134
- B. Any Monopole Telecommunications Facilities shall not be permitted in, or within three hundred (300) feet of the boundary of, any residential zone, ~~or HBX zone, or D-CE-3 or D-CE-4 zone,~~ except upon the granting of a major conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134
- C. Any Telecommunications Facility whose antennas and equipment are not fully concealed from view shall not be permitted within three hundred (300) feet of the boundary of residential zones RH-1 through RU-1 inclusive, ~~or any HBX zone, or D-CE-3 or D-CE-4 zone,~~ except upon the granting of a major conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 13060, § 2(Exh. A), 3-1-2011)

17.128.060 - Mini Facilities.

- A. General Development Standards for Mini Facilities.
  - 1. The Mini Facilities shall be located on existing buildings, poles or other existing support structures.
  - 2. The equipment cabinet(s) must be concealed from public view or placed underground. The cabinet must be regularly maintained.
  - 3. Mini Facilities may exceed the height limitation specified for all zones but may not exceed fifteen (15) feet above the roof line or parapet. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.
  - 4. The applicant shall submit written documentation demonstrating that the emissions from the proposed project are within the limits set by the Federal Communications Commission.
- B. Design Review Criteria for Mini Facilities. In addition to the design review criteria listed in Chapter 17.136, the following specific additional criteria must be met when design review is required before an application can be granted:
  - 1. Antennas should be painted and/or textured to match the existing structure.
  - 2. Antennas mounted on architecturally significant structures or significant architectural details of the building should be covered by appropriate casings which are manufactured to match existing architectural features found on the building.

3. Where feasible, antennas can be placed directly above, below or incorporated with vertical design elements of a building to help in camouflaging.
  4. Equipment cabinets shall be concealed from view or placed underground.
  5. That all reasonable means of reducing public access to the antennas and equipment has been made, including, but not limited to, placement in or on buildings or structures, fencing, anti-climbing measures and anti-tampering devices.
  6. For antennas attached to the roof, maintain a 1:1 ratio (example: ten feet high antenna requires ten feet setback from facade) for equipment setback unless an alternative placement would reduce visual impact; treat or screen the antennas to match existing air conditioning units, stairs, elevator towers, or other background; avoid placing roof mounted antennas in direct line with significant view corridors.
- C. Conditional Use Permit Criteria for Mini Facilities. In addition to the conditional use criteria listed in Chapter 17.134, the following specific additional criteria must be met before a conditional use permit can be granted:
1. The project must meet the special design review criteria listed in subsection B of this section.
  2. The proposed project must not disrupt the overall community character.
  3. In the residential RH, RD, RM, RU-1, or RU-2 zones, and in HBX zones, and in the D-CE-3 and D-CE-4 zones, the project must not have any visual impact.
- (Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 13060, § 2(Exh. A), 3-1-2011; Ord. 12768 § 3 (part), 2006; Ord. 12272 § 4 (part), 2000; Ord. 11904 § 5.01 (part), 1996; prior planning code § 8506)

#### 17.128.080 - Monopoles.

##### A. General Development Standards for Monopoles.

1. Applicant and owner shall allow other future wireless communications companies including public and quasi-public agencies using similar technology to collocate antenna equipment and facilities on the monopole unless specific technical or other constraints, subject to independent verification, at the applicant's expense, at the discretion of the City of Oakland Zoning Manager, prohibit said collocation. Applicant and other wireless carriers shall provide a mechanism for the construction and maintenance of shared facilities and infrastructure and shall provide for equitable sharing of cost in accordance with industry standards. Construction of future facilities shall not interrupt or interfere with the continuous operation of applicant's facilities.
2. The equipment shelter or cabinet must be concealed from public view or made compatible with the architecture of the surrounding structures or placed underground. The shelter or cabinet must be regularly maintained.
3. When a monopole is in a residential zone or adjacent to a residential use, it must be set back from the nearest residential lot line a distance at least equal to its total height.
4. In all zones other than the D-CE-5, D-CE-6, IG, CIX-1, CIX-2, and IO zones, the maximum height of Monopole Telecommunications Facilities and connecting appurtenances may be increased from the otherwise required maximum height to forty-five (45) feet upon the granting of a Conditional Use Permit (see Chapter 17.134 for the Conditional Use Permit Procedure).
5. In the D-CE-5, D-CE-6, CIX-1, CIX-2, and IO zones, the maximum height of Monopole Telecommunications Facilities and connecting appurtenances may be increased from the otherwise required maximum height to eighty (80) feet upon the granting of a Conditional Use Permit (see Chapter 17.134 for the Conditional Use Permit Procedure).
6. in the IG zone, the maximum height of Monopole Telecommunications Facilities and connecting appurtenances may reach a height of forty-five (45) feet. These facilities may reach a height of

eighty (80) feet upon the granting of Regular Design Review approval (see Chapter 17.136 for the Design Review Procedure).

7. The applicant shall submit written documentation demonstrating that the emissions from the proposed project are within the limits set by the Federal Communications Commission.
8. Antennas may not extend more than fifteen (15) feet above their supporting structure.

#### 17.128.110 - Site location preferences.

New wireless facilities shall generally be located on the following properties or facilities in order of preference:

- A. Co-located on an existing structure or facility with existing wireless antennas.
- B. City owned properties or other public or quasi-public facilities.
- C. Existing commercial or industrial structures in non-residential zones (excluding all HBX zones and the D-CE-3 and D-CE-4 zones).
- D. Existing commercial or industrial structures in residential zones, or HBX zones, or the D-CE-3 or D-CE-4 zones.
- E. Other non-residential uses in residential zones, or HBX zones, or the D-CE-3 or D-CE-4 zones.
- F. Residential uses in non-residential zones (excluding all HBX zones and the D-CE-3 and D-CE-4 zones).
- G. Residential uses in residential zones, or HBX zones, or the D-CE-3 or D-CE-4 zones.

Facilities locating on an A, B or C ranked preference do not require a site alternatives analysis. Facilities proposing to locate on a D through G ranked preference, inclusive, must submit a site alternatives analysis as part of the required application materials. A site alternatives analysis shall, at a minimum, consist of:

- a. The identification of all A, B and C ranked preference sites within one thousand (1,000) feet of the proposed location. If more than three sites in each preference order exist, the three such closest to the proposed location shall be required.
- b. Written evidence indicating why each such identified alternative can not be used. Such evidence shall be in sufficient detail that independent verification, at the applicant's expense, could be obtained if required by the City of Oakland Zoning Manager. Evidence should indicate if the reason an alternative was rejected was technical (e.g. incorrect height, interference from existing RF sources, inability to cover required area) or for other concerns (e.g. refusal to lease, inability to provide utilities).

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 13060, § 2(Exh. A), 3-1-2011; Ord. 12768, § 3 (part), 2006)

### Chapter 17.134 - CONDITIONAL USE PERMIT PROCEDURE

#### 17.134.020 - Definition of major and minor conditional use permits.

- A. Major Conditional Use Permit. A conditional use permit is considered a major conditional use permit if it involves any of the following:
  3. Special Situations. Any project that involves any of the following situations:
    - i. Any Telecommunications Facility in or within one hundred (100) feet of the boundary of any residential zone, or HBX zone, or the D-CE-3 or D-CE-4 zone;

- j. Any Telecommunications Facility whose antennas and equipment are not fully concealed from view within three hundred (300) feet of the boundary of the RH, RD, RM, RU-1, or RU-2 zones, or any-HSX zone, or the D-CE-3 or D-CE-4 zone.

17.136.030 - Small project design review.

C. Procedures for Consideration—Small Project Design Review. The Director of City Planning may, at his or her discretion, consider an application for small project design review according to the following Three-Track process, or if additional consideration is required, determine that the proposal shall be reviewed according to the regular design review procedure in Section 17.136.040.

- 1. Track One Procedure—Small Project Design Review Proposals Not involving a Local Register Property; or an Upper-Story Addition requiring the Track Three review procedure pursuant to Subsection (C)(3):

- a. The Director of City Planning, or his or her designee, shall determine whether the proposal meets the requirements for small project design review as set forth in this section.
- b. Decision by the Director of City Planning. The Director, or his or her designee, may approve or disapprove a Track One proposal determined eligible for small project design review and may require such changes therein or impose such reasonable conditions of approval as are in his or her judgment necessary to ensure conformity to the applicable small project design review criteria in Section 17.136.035.
- c. The decision by the Director, or his or her designee, shall be final immediately and not appealable.

- 2. Track Two Procedure—Small Project Design Review Proposals involving a Local Register Property:

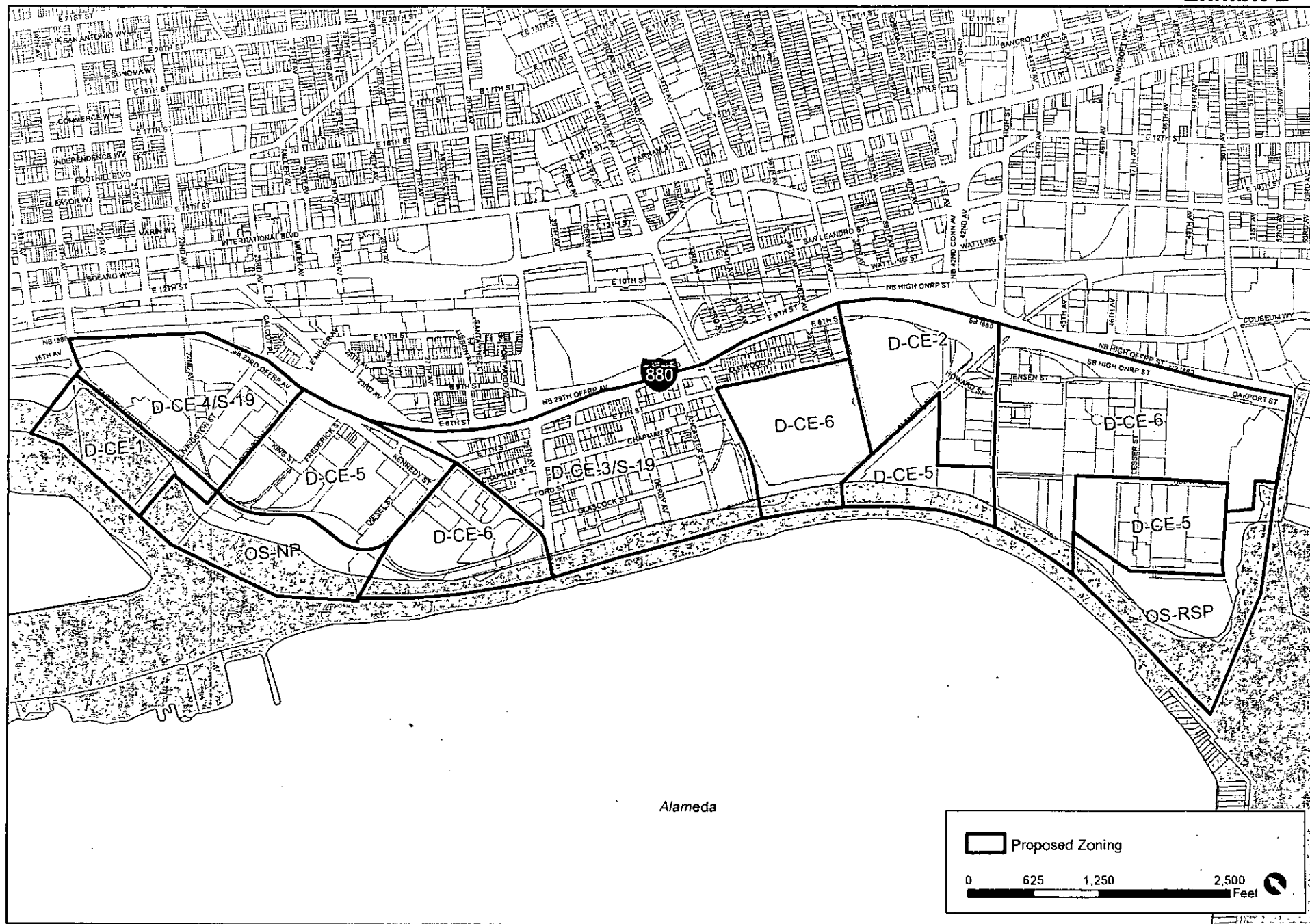
- a. The Director of City Planning, in concert with the City of Oakland's Historic Preservation staff, shall determine whether a proposed addition or alteration involving a Local Register Property will have a significant effect on the property's character-defining elements. "Character-defining elements" are those features of design, materials, workmanship, setting, location, and association that identify a property as representative of its period and contribute to its visual distinction or historical significance. Any proposed addition or alteration determined to have a significant effect on a Local Register Property's character-defining elements shall be reviewed instead according to the regular design review procedure in Section 17.136.040. Any proposed addition involving an upper-story addition of more than two hundred fifty (250) square feet in floor area or footprint to a One- or Two-Family Residential Facility or to any Building Facility in the HBX, D-CE-3, or D-CE-4 zones that is determined eligible for small project design review and to not have a significant effect on the property's character-defining elements, shall be reviewed according to the Track Three procedure in Section 17.136.030(C)(3).

17.136.040 - Regular design review.

A. Applicability. "Regular design review" shall apply to proposals that require design review pursuant to the zoning regulations of Title 17 of the Oakland Planning Code, but do not qualify for a design review exemption as set forth in Section 17.136.025 or small project design review as set forth in Section 17.136.030. Projects requiring regular design review include, but are not limited to, the following types of work:

- 1. Any proposal involving one or more of the facility, activity, building, structure, or development types that require design review pursuant to the zoning regulations of Title 17 of the Oakland Planning Code, but does not qualify for a design review exemption as set forth in Section 17.136.025, or small project design review as set forth in Section 17.136.030;

2. Any construction, addition or alteration of structures requiring a conditional use permit or variance, pursuant to the zoning regulations of Title 17 of the Oakland Planning Code;
3. New construction of one or two dwelling units, other than a secondary unit;
4. New construction of three or more dwelling units, or adding units to a property for a total of three or more dwelling units on site;
5. New construction of principal facilities in the HBX or D-CE zones;
6. The creation of any new HBX work/live unit or HBX live/work unit (see Sections 17.65.160 and 17.65.170); or the creation of any new D-CE work/live unit or D-CE live/work unit (see Sections 17.101E.070 and 17.101E.080). This requirement shall apply for both: a) conversions of existing facilities to contain either of these unit types, and b) the construction of new buildings that contain either of these unit types;
7. Cumulative additions over a three (3) year period not involving the creation of a dwelling unit that are outside the existing building envelope and exceed one thousand (1,000) square feet or one hundred percent (100%) of the total floor area or footprint on site, whichever is less;
8. Exceptions to the parking accommodation requirements for one- and two-family Residential Facilities in Section 17.102.390;
9. New or modified Signs not qualifying for a design review exemption as set forth in Section 17.136.025 or small project design review as set forth in Section 17.136.030;
10. Proposals for new or modified Telecommunications Facilities, pursuant to Chapter 17.128, but excluding those alterations to existing Telecommunications Facilities listed as a Small Project in Section 17.136.030(B);
11. Demolition or removal of any structure, or portion thereof, where the replacement project requires Regular Design Review, Conditional Use Permit or Variance;
12. Demolition or removal of any Designated Historic Property (DHP) or Potential Designated Historic Property (PDHP) pursuant to Section 17.136.075.





MPW

## NOTICE AND DIGEST

**AN ORDINANCE, AS RECOMMENDED BY THE CITY PLANNING COMMISSION, AMENDING THE OAKLAND PLANNING CODE TO CREATE THE CENTRAL ESTUARY DISTRICT ZONING REGULATIONS AND MAKE CONFORMING CHANGES TO OTHER PLANNING CODE SECTIONS AND THE OAKLAND ZONING MAP**

This ordinance provides new zoning regulations and zoning maps for the Central Estuary area of the City in support of the Central Estuary Area Plan (CEAP). The CEAP is a collection of policies and objectives, desired future land use conditions and transportation recommendations for the Central Estuary Area which is bounded by I9th Avenue to the north, 54th Avenue to the south, I-880 to the east and the Bay to the west. Aside from the zoning regulations and maps, the CEAP also includes Estuary Policy Plan (General Plan) Amendments (text and map edits) and Design Guidelines.

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

# OAKLAND CITY COUNCIL

*Mark P. Lee*  
City Attorney

2013 MAY 16 PM 12:35 RESOLUTION No. \_\_\_\_\_ C.M.S.

Introduced by Councilmember \_\_\_\_\_

**A RESOLUTION, AS RECOMMENDED BY THE CITY PLANNING COMMISSION, ADOPTING THE CENTRAL ESTUARY AREA PLAN, AMENDMENTS TO THE ESTUARY POLICY PLAN AND RELATED DESIGN GUIDELINES AND AUTHORIZING PLANNING STAFF TO MAKE (1) MINOR ONGOING REVISIONS TO THE ADOPTED DESIGN GUIDELINES FOR THE CENTRAL ESTUARY CONSISTENT WITH THE CENTRAL ESTUARY AREA PLAN, ESTUARY POLICY PLAN AND OAKLAND PLANNING CODE BUT WITH MAJOR REVISIONS TO BE MADE BY THE PLANNING COMMISSION; AND (2) NON-SUBSTANTIVE TECHNICAL CONFORMING CHANGES (ESSENTIALLY CORRECTION OF TYPOGRAPHICAL AND CLERICAL ERRORS AND MINOR CLARIFICATIONS) TO THE CENTRAL ESTUARY AREA PLAN PRIOR TO FORMAL PUBLICATION CONSISTENT WITH THE ESTUARY POLICY PLAN AND OAKLAND PLANNING CODE WITHOUT RETURNING TO THE CITY COUNCIL OR CITY PLANNING COMMISSION**

**WHEREAS**, the Estuary Policy Plan (EPP) of the General Plan, adopted in 1999, includes Policy MF-2, which calls for the City to “[d]evelop a Companion Document to the EPP, to be called the Estuary Plan Implementation Guide,” which would function as an implementation component for the Central Estuary area by setting out a more defined overall vision, developing specific development standards and design guidelines to shape the character of new development in a more cohesive way and by recommending future transportation improvements; and

**WHEREAS**, on December 9, 2008, the Oakland City Council adopted Resolution No. 81696 C.M.S. which authorized the City Administrator to enter into a Professional Services contract with Community Design + Architecture to prepare a Specific Plan and Environmental Impact Report for the Central Estuary area, which would satisfy EPP Policy MF-2; and

**WHEREAS**, as part of the public outreach effort, six community workshops were held between March 2009 and November 2009, resulting in three alternative draft concepts and a draft community preferred alternative; and

**WHEREAS**, the three alternative concepts and a draft community preferred alternative were presented for comment at public hearings of the Parks and Recreation Advisory Commission, Landmarks Preservation Advisory Board, Planning Commission, Community & Economic Development (CED) Committee, and City Council between December 2009 and July 2010; and

**WHEREAS**, on July 20, 2010, the City Council adopted a modified land use alternative for the Central Estuary Area (in Resolution No. 82944 C.M.S.) which represents less change from existing conditions than was originally envisioned during the community outreach process of 2009. The originally proposed Specific Plan was then renamed an "Implementation Guide", and re-worked to conform to the City Council's direction; and

**WHEREAS**, between July and September 2012, the Draft Central Estuary Implementation Guide, including General Plan and Planning Code Amendments and Design Guidelines was presented to advisory boards, including the Zoning Update Committee and Design Review Committee of the Planning Commission, as well as the Bicycle and Pedestrian Advisory Committee and the Landmarks Preservation Advisory Board each of which provided comments unique to their topic area, including changing the title of the document to the "Central Estuary Area Plan"; and

**WHEREAS**, the Central Estuary Area Plan includes amendments to the 1999 Estuary Policy Plan to: (1) update existing General Plan goals, and strategies to reflect direction established in the Central Estuary Area Plan, (2) increase the allowable Floor Area Ratios (FARs), and (3) to update the land use map to accommodate compatible uses; and

**WHEREAS**, the Central Estuary Area Plan includes new design guidelines to allow a diverse range of land uses in the Central Estuary area to continue to co-exist while minimizing incompatibilities; and

**WHEREAS**, the Central Estuary Area Plan recommends transportation and infrastructure improvements to address infrastructure deficiencies in the Central Estuary area; and

**WHEREAS**, on November 21, 2011, a Notice of Preparation (NOP) of a Supplemental Environmental Impact Report (SEIR) for the Central Estuary Area Plan was published; and

**WHEREAS**, a duly noticed EIR scoping hearing was held before the City Planning Commission on December 14, 2011, to receive comments on the scope and content of the EIR for the Central Estuary Area Plan; and

**WHEREAS**, a Notice of Availability / Notice of Release of a Draft SEIR was issued on November 5, 2012, and a Draft SEIR was published on November 9, 2012, that was available to the public/governmental agencies for review and comment; and

**WHEREAS**, on December 5, 2012, the Central Estuary Area Plan and the draft Supplemental EIR were presented to the Planning Commission, with a detailed account of the comments received at previous advisory boards meetings and the Planning Commission provided additional comments and directed staff to revise the documents and to initiate the formal adoption process; and

**WHEREAS**, on December 10, 2012, the Central Estuary Area Plan and the draft Supplemental EIR were presented to the Landmarks Preservation Advisory Board who provided additional comments; and

**WHEREAS**, on April 4, 2013, a Notice of Availability/Release and Final Supplemental EIR were published and made available for review and comments; and

**WHEREAS**, on April 17, 2013, after making the changes requested by the advisory boards and City Planning Commission, the revised Final Draft Central Estuary Area Plan was presented at a duly noticed public hearing of the City Planning Commission; and

**WHEREAS**, the City Planning Commission, after conducting and closing the public hearing, (a) adopted the required California Environmental Quality Act (CEQA) findings, including certifying the EIR, rejecting alternatives as infeasible, and adopting a Statement of Overriding Considerations; (b) adopted the Central Estuary Area Plan Standard Conditions of Approval and Mitigation Monitoring Program (SCAMMRP); and (c) recommended the City Council adopt the Central Estuary Area Plan, new Design Guidelines and General Plan and Planning Code Amendments based, in part, upon the CEAP Adoption Findings; and (d) recommended that City Council authorize staff to make minor ongoing revisions to the adopted Design Guidelines for the Central Estuary and to make non-substantive, technical conforming edits to the Planning Code that may have been overlooked in deleting old sections and cross-referencing new sections to the new Central Estuary District Zones Regulations (which are essentially correction of typographical and/or clerical errors); and

**WHEREAS**, the Central Estuary Area Plan was considered at a regular, duly noticed, meeting of the Community and Economic Development Committee of the City Council on May 28, 2013, and the Committee recommended adoption of the Plan and related documents; and

**WHEREAS**, the Central Estuary Area Plan and related documents were considered at a regular, duly noticed, public hearing of the City Council on June 4, 2013; now, therefore be it

**RESOLVED**, that the City Council, as the final decision-making body for the lead agency, has independently reviewed, considered and analyzed the Central Estuary Area Plan Supplemental EIR, and the CEQA findings of the City Planning Commission contained in the approved April 17, 2013, City Planning Commission Report; and be it

**FURTHER RESOLVED**, that the City Council, as the final decision-making body for the lead agency, hereby confirms, adopts and incorporates by reference into this Resolution (as if fully set forth herein) the CEQA findings contained in the approved April 17, 2013, City Planning Commission Report prior to taking action in approving the Central Estuary Area Plan; and be it

**FURTHER RESOLVED**, that the City Council adopts and incorporates by reference into this Resolution (as if fully set forth herein), as conditions of approval of the Central Estuary Area Plan, the Standard Conditions of Approval and Mitigation Monitoring Program (SCAMMRP) contained in the approved April 17, 2013, City Planning Commission Report; and be it

**FURTHER RESOLVED**, that the City Council, hereby adopts the Central Estuary Area Plan and Design Guidelines, based, in part, upon the CEAP Adoption Findings (incorporated by reference into this Resolution as if fully set forth herein); and further finds and determines that the public safety, health, convenience, comfort, prosperity and general welfare will be furthered by the adoption of the Central Estuary Area Plan; and be it

**FURTHER RESOLVED**, that the City Council hereby adopts the Estuary Policy Plan amendments as detailed in Exhibit A, attached hereto and hereby incorporated by reference, based, in part, upon the CEAP Adoption Findings (incorporated by reference into this Resolution

as if fully set forth herein); and further finds and determines that the public safety, health, convenience, comfort, prosperity and general welfare will be furthered by the adoption of these amendments; and be it

**FURTHER RESOLVED**, that the City Council hereby authorizes Planning Staff to make (1) minor ongoing revisions to the adopted Design Guidelines for the Central Estuary consistent with the Central Estuary Area Plan, Estuary Policy Plan and Oakland Planning Code, but with major revisions to be made by the Planning Commission; and (2) non-substantive technical conforming changes (essentially correction of typographical and clerical errors and minor clarifications) to the Central Estuary Area Plan prior to formal publication consistent with the Estuary Policy Plan, and Oakland Planning Code, without returning to the City Council or City Planning Commission; and be it

**FURTHER RESOLVED**, that the Environmental Review Officer, or designee, is directed to cause to be filed a Notice of Determination with the appropriate agencies; and be it

**FURTHER RESOLVED**, that the record before this Council relating to these actions include, without limitation, the following:

1. the Central Estuary Area Plan, Design Guidelines, Planning Code and Estuary Policy Plan Amendments including all accompanying maps, papers and appendices;
2. all final staff reports, final decision letters and other final documentation and information produced by or on behalf of the City, including without limitation the Supplemental Environmental Impact Report and supporting technical studies and appendices, and all related/supporting final materials, and all final notices relating to the Central Estuary Area Plan and attendant hearings;
3. all oral and written evidence received by the City Planning Commission and City Council during the public hearings on the Central Estuary Area Plan; and all written evidence received by the relevant City Staff before and during the public hearings on the Central Estuary Area Plan;
4. all matters of common knowledge and all official enactments and acts of the City, such as: (a) the Oakland General Plan; (b) Oakland Municipal Code, including, without limitation, the Oakland real estate regulations and Oakland Fire Code; (c) Oakland Planning Code; (d) other applicable City policies and regulations; and (e) all applicable state and federal laws, rules and regulations; and be it

**FURTHER RESOLVED**, that the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based, are respectively: (a) Planning and Building Department - Planning and Zoning Division, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, California; and (b) Office of the City Clerk, One Frank H. Ogawa Plaza, 1<sup>st</sup> Floor, Oakland California; and be it

**FURTHER RESOLVED**, that the recitals contained in this resolution are true and correct and are an integral part of the City Council's decision.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF and PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

DATE OF ATTESTATION: \_\_\_\_\_