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CITY OF OAKLAND

AGENDA REPORT

2010 DEC -2 PM 12:41

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Community and Economic Development Agency
DATE: December 14, 2010

RE: **A Public Hearing and Upon Conclusion, Adoption of A Resolution Certifying the Environmental Impact Report for the 2007-2014 Housing Element and Adopting the Housing Element as recommended by the Oakland City Planning Commission**

SUMMARY

The City of Oakland (City) proposes to adopt a General Plan Amendment (GPA) for the 2007-2014 Housing Element (*Housing Element*), as part of the City's General Plan. The *Housing Element* has been furnished to the members of the City Council under separate cover.

State law requires every jurisdiction to update its *Housing Element* every five years. The *Housing Element* shows how the City will house its share of the projected population growth of Oakland, and of the larger Bay Area, as defined by the Regional Housing Needs Allocation (RHNA), produced by the Association of Bay Area Governments (ABAG). The City's RHNA is 14,629 new housing units, to be accommodated between January 2007 and June 2014. The City can accommodate the new housing without rezoning or further GPAs, through current opportunity sites, and with projects either built, under construction, approved or in predevelopment.

Pursuant to the California Environmental Quality Act (CEQA), an Environmental Impact Report (EIR) was prepared for the *Housing Element*, and certified by the Planning Commission on November 17, 2010.

The Planning Commission recommends that the City Council approve the *Housing Element*, subject to the requirements and findings contained in or attached to this agenda report.

FISCAL IMPACT

Adopting the *Housing Element* has no fiscal impact to the City. The programs catalogued in Chapter 7 of the *Housing Element* are already funded by the HUD-CDBG (2108), HUD-Home (2109), Oakland Redevelopment (2185) and the Low Mod Operations funds, in the current FY 2010-11 Amended budget, and are typically administered by the City's Housing and Community Development Division. If the City does not have an adopted *Housing Element* by the end of 2010, it could lose out on certain grant funding which the State has set aside for jurisdictions that have adopted *Housing Elements*; these funds are not budgeted.

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BACKGROUND

The purpose of a *Housing Element* is to identify current and projected housing needs, and set goals, policies, and programs to address those needs. The 2007-2014 *Housing Element* is a statement by the City of its current and future housing needs and proposed actions to facilitate the provision of housing to meet those needs at all income levels, and presents a comprehensive set of housing policies and actions between January 1, 2007 and June 30, 2014. The 2007-2014 *Housing Element* satisfies the requirements of State law, and is consistent with the other elements of the City's General Plan, adopted at various times.

Regional Housing Need Allocation (RHNA). Under State law, new housing construction need is determined, at a minimum, through a RHNA process.¹ In the RHNA process, the California Department of Housing and Community Development (HCD) determines the amount of housing needed for all income groups in each region, based on existing housing need and expected population growth. In April 2007, HCD determined that, at a minimum, the nine-county Bay Area needed to provide 214,500 units between 2007 and 2014 to satisfy regional demand. Additionally, each city's share of regional housing demand is based on a plan prepared by the Association of Bay Area Governments (ABAG), the Regional Housing Needs Determination, which was adopted in May 2008. Under the ABAG plan, the City must accommodate 14,629 new housing units between January 2007 and June 2014 to meet its "fair share" of the State's housing need.

In February 2009, the City made the draft 2007-2014 *Housing Element* available to the public on the City's website, and sent a draft to HCD, for preliminary review. The City held a community workshop on April 14, 2009 to present the *Housing Element* to residents and members of the for-profit and non-profit housing communities. On April 15, 2009, the City Planning Commission heard an informational Director's Report about the *Housing Element*. In April and May, 2009, staff presented the *Housing Element* at meetings of the project area committees of the Central City East, the West Oakland and the Broadway-MacArthur Redevelopment Areas. Following changes requested by HCD, the Revised Public Review draft of the *Housing Element* was presented at a public hearing of the Oakland City Planning Commission on June 3, 2009.

The EIR for the *Housing Element*, was discussed at four public hearings:

- October 7, 2009 Planning Commission scoping hearing
- October 19, 2009 Landmarks and Preservation Advisory Board scoping hearing
- September 15, 2010 Planning Commission DEIR hearing
- November 17, 2010 Planning Commission FEIR hearing and EIR certification

¹ California Government Code, Section 65584.

At each of these public hearings, there was discussion by the commissioners and by the public about the *Housing Element* itself: the policies, goals and implementation timeline for meeting the housing needs of Oakland residents in all income levels.

After action by the City Council, HCD will then receive the adopted *Housing Element*, and consider certifying it after a period of review.

KEY ISSUES AND IMPACTS

This section of the agenda report discusses two categories of issues: the *Housing Element* and the Environmental Impact Report.

Housing Element issues

Throughout the process of preparing the *Housing Element*, several issues recurred: 1) concerns about the numbers and percentages of affordable housing in the RHNA; 2) concern if Oakland was able to build enough housing for residents with the lowest incomes; 3) interest in housing use Green Building techniques to save resources and energy. Responses to each of these concerns are below:

1) Page 173 of the *Housing Element* addresses the question of the percentages of affordable housing in the RHNA:

A major change in the 2007-2014 RHNA for the Bay Area is that for the first time the methodology provides a significant adjustment to comply with State mandate to take into consideration existing concentrations of very low- and low-income populations. As a result, jurisdictions with high concentrations of very low- and low-income populations (relative to the regional average proportions) were assigned lower percentages of very low- and low-income need than the regional average, while jurisdictions with low concentrations were assigned higher percentages than the regional average. The result for Oakland was a significant reduction in the percentage of units assigned to the very low- and low-income categories.

2) As shown in Table 8-1 of the *Housing Element* (page 292), by 2014, Oakland expects to build 2,000 new affordable units, rehabilitate a further 2,000 affordable units, and conserve/preserve 1,800 additional affordable units. This significant commitment to the construction, rehabilitation and conservation of affordable housing, compares favorably to the production of neighboring cities. Conservatively, staff estimates a financial need of at least \$75,000 to \$100,000 per unit in local subsidies, which, to build out the numbers of units in the current RHNA, would require \$300-\$400 million over the seven year period (2007-2014). In contrast, the likely amount of funds the City will have to expend on the housing programs of the *Housing Element* are between \$100 and \$150 million.

3) *Green Building techniques to save electricity, water and other resources during the creation of new residential construction* are now part of Oakland's Municipal Code, as adopted by the City

Council on October 19, 2010. The provisions, which are voluntary through the end of 2010, will become mandatory for many types of residential development in 2011.

Environmental Impacts

An Environmental Impact Report (EIR) was prepared for the *Housing Element*. Both the EIR and the *Housing Element* were provided to the City Council under separate cover, and are available to the public, through the City's website:

www2.oaklandnet.com/Government/o/CEDA/o/PlanningZoning/s/Application/DOWD009157

These documents are also available at no charge at the Community and Economic Development Agency, Planning Division, 250 Frank Ogawa Plaza, Suite 3315, Oakland, California 94612. Additional copies are available for review at the Oakland Public Library, Social Science and Documents, 125 14th Street, Oakland CA 94612.

The current status of the environmental review for the project is as follows:

- Initial Study/Notice of Preparation (NOP) published on September 21, 2009 (screening out from further study all impacts except those relating to Transportation and Circulation; Air Quality; Noise; Climate Change/Greenhouse Gas (GHG) Emissions)
- EIR Scoping meeting before the Planning Commission held October 7, 2009
- Landmarks Preservation Advisory Board scoping meeting held October 19, 2009
- NOP comment period closed on October 21, 2009
- Notice of Availability / Notice of Release of a Draft EIR issued August 12, 2010
- Publication of Draft EIR, August 16, 2010
- Planning Commission hearing on the DEIR, September 15, 2010
- Comment period for Draft EIR ended September 30, 2010
- Notice of Availability/Release and Final EIR published November 5, 2010
- Planning Commission certification of the EIR on November 17, 2010

Initial Study and Less-than-Significant Impacts

As detailed in the Initial Study, 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 further 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.

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The *Housing Element* Draft EIR was prepared to evaluate environmental impacts of the construction of the 14,629 housing units for the following environmental topics: Transportation, Circulation and Parking; Air Quality; Noise; and Climate Change.

Significant Environmental Impacts

The EIR comprehensively assesses the full range of potential environmental impacts of the Project at a programmatic level. Other than the impacts discussed below, all of the environmental effects of the *Housing Element* can be reduced to less than significant levels through implementation of SCA and/or recommended mitigation measures (see *Attachment A* to this Agenda report—the SCAMMRP which is Attachment 3 to the November 17, 2010 Planning Commission staff report).

The proposed *Housing Element* will result in significant and unavoidable impacts associated with the environmental topics (Transportation and Air Quality), as discussed below. In order to approve the proposed *Housing Element*, Planning Commission, on November 17, 2010 adopted Statements of Overriding Consideration for these significant unavoidable impacts, finding that the benefits of adopting the *Housing Element* outweigh any significant unavoidable impacts (see *Attachment A* to this Agenda Report—the CEQA Findings, which are Attachment 1 to the November 17, 2010 Planning Commission staff report).

Transportation, Circulation Impacts

The DEIR found significant and unavoidable transportation and circulation impacts in several categories: study roadway segments; at-grade railroad crossings; and state highways (Caltrans). Further, the DEIR lists the roadway intersections which have been previously identified in other CEQA documents as having significant and unavoidable impacts. Although SCA have been imposed (requiring Transportation Demand Management Programs for housing developments of 50 or more new residential units and Construction Traffic and Parking plans), 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. Therefore, the below listed transportation-related impacts have conservatively been identified as significant and unavoidable.

Study Roadway Segments: Several study roadway segments are significantly affected by *Housing Element*-generated traffic under Existing plus project, the 2015 plus project, and the 2035 plus project scenarios. These segments are identified by study roadway segment number in the DEIR²:

² See DEIR, page 3.2-49 and following.

- #5 San Pablo Avenue (SR 123) south of Stanford Avenue in the year 2035
- #9 West Grand Avenue west of Martin Luther King Way, in the year 2035
- #11 Telegraph Avenue south of 51st Street, southbound in the year 2035
- #18 Grand Avenue between Harrison Street and I-580, in the existing plus project scenario and in the years 2015 and 2035
- #21 Fruitvale Avenue south of I-580, northbound in the existing plus project scenario and in the years 2015 and 2035
- #24 Foothill Boulevard north of Seminary Avenue, in the years 2015 and 2035
- #25 MacArthur Boulevard west of 98th Avenue, in the year 2035
- #26 MacArthur Boulevard east of Lincoln Avenue, in the year 2035
- #29 International Boulevard between 23rd Avenue and Fruitvale Avenue, in the years 2015 and 2035
- #30 International Boulevard west of Seminary Avenue, in the years 2015 and 2035

At-Grade Railroad crossings: Development under the 2007-2014 *Housing Element* 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 housing 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 housing development could substantially increase hazards that occur between incompatible uses (i.e. motor vehicles and trains, or pedestrians and trains) and would conservatively constitute a significant and unavoidable impact.

State Highway Segments: Development under the *Housing Element* would increase traffic volumes on State (Caltrans) highways within and outside the City of Oakland (in the Existing plus Project scenario):

- #45 SR 13 north of I-580
- #46 SR 24 east of I-580
- #52 I-880 north of 66th Avenue

Previously Identified Significant/Unavoidable Impacted Intersections: In addition to the study roadway segments mentioned above, 140 other intersections have been identified by the City of Oakland's Transportation Services Division as being 'impacted.' These 'impacted intersections' are operating, or are projected to operate at an unacceptable level of service (LOS), based upon published EIRs or other traffic analyses for other projects. Although it is not legally required to analyze project-related impacts for the *Housing Element*, the EIR nevertheless identifies these 'impacted intersections' in order to provide additional information about identified potential traffic-related impacts and to provide CEQA clearance for future housing development projects, pursuant to state CEQA Guidelines sections 15183, 15162 through 15164 and 15168. A summary of the impacted intersections is included in the DEIR, as Table 3.2-4.

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Air Quality Impacts

The DEIR conservatively found significant and unavoidable air quality impacts for gaseous toxic air contaminants and odors. Although the City's Standard Conditions of Approval (SCA) have been imposed (including requiring Transportation Demand Management Programs for housing developments of 50 or more new residential units, Construction Traffic and Parking plans, Health Risk Assessments, air filtration systems, and redesigning project site layouts), there is no guarantee that these measures would reduce impacts to less than significant levels. Therefore, the below listed air quality-related impacts have conservatively been identified as significant and unavoidable:

- Residential development proposed under the *Housing Element* could expose occupants at certain sites to substantial health risk from **gaseous** Toxic Air Contaminants (TACs) emitted locally from stationary sources. Absent prohibiting housing development within 1,000 feet of gaseous TAC emitters (which was analyzed as an Alternative in the EIR (see below), there are no goals, policies and objectives to minimize such potential impacts. Moreover, although compliance with the City's Standard Conditions of Approval would provide that site-specific health risk assessments would be prepared, and feasible recommended measures implemented, there is no assurance that such exposures could be reduced to less than significant levels at every site.
- Residential development proposed under the *Housing Element* could expose occupants to substantial/frequent **odor** nuisance resulting from odors emitted by strong local sources. There are no policies to reduce impacts of existing or planned sources of odors, or measures or techniques available to reduce the impacts of odors on sensitive receptors.

CEQA Alternatives

Chapter 5 of the Draft EIR includes a detailed analysis of three alternatives to the *Housing Element* that meet the requirements of CEQA—alternatives that would feasibly attain most of the project's basic objectives, and avoid or substantially lessen many of the project's significant environmental effects. The CEQA alternatives analyzed in detail in Chapter 5 include:

- *Alternative 1: No Project Alternative* – This alternative is a “no further build” scenario, which assumes that no additional housing units would be built in the City between the years 2007-2014, excepting the 1,128 units which have already been built in the City from 2007 to date.
- *Alternative 2: Transit-Oriented Growth Alternative* – this alternative would result in the development of a total of 14,629 housing units to fulfill 100 percent of the RHNA. The alternative limits residential development from being built near the ten identified roadway segments which the DEIR identified as having significant unavoidable

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impacts.³ Instead, under this alternative, the housing would be built within a quarter mile of BART stations, and on sites farther than a mile from the impacted roadway segments.

- *Alternative 3: Reduced Air Quality Impacts* – this alternative would result in the development of a total of 14,629 housing units to fulfill 100 percent of the RHNA. The alternative limits housing development to housing sites that are farther than 1,000 feet from known emitters of toxic air contaminants, specifically, gaseous contaminants, such as dry cleaners and auto body shops. Under this alternative, housing development would be encouraged on approximately 140 housing sites, and discouraged on others.

Five additional alternatives to the *Housing Element* are also considered in the Draft EIR, but were rejected as infeasible for various reasons:⁴

- “off site alternative” locating housing built under the RHNA outside of Oakland;
- Reduction in the number of housing units built by 2014;
- Air Quality (particulate matter) exclusion zone—build housing away from sources of particulate matter, such as the Port of Oakland and major freeways and high volume roadways;
- Air Quality (odors) avoidance—build housing away from sources of odor, such as food manufacturers, chemical manufacturers, or recycling operations;
- Avoid at-grade railroad crossings—build housing at locations more than ¼ mile from at-grade railroad crossings.

The Environmentally Superior Alternative is the No Project Alternative—where no new housing is built in Oakland until 2014. Under CEQA, if a No Project alternative is identified as the environmentally superior alternative, the EIR shall also identify an environmentally superior development alternative among the other alternatives. The Draft EIR identifies the environmentally superior development alternative as Alternative 2—Reduced Air Quality Impacts, because this scenario will protect public health, by locating new housing away from sources of gaseous toxic air contaminants.

Project-Level Review in the *Housing Element* EIR

The EIR is intended to reduce/eliminate the impacts associated with new residential development under the *Housing Element*. While not legally required by CEQA, the EIR, in each relevant

³ See Figure 5-1 in the DEIR, and the discussion of this alternative on pages 5-15 and following.

⁴ See Section 5.4 “Alternatives Considered but Rejected” section of DEIR.

chapter, also addresses significant and unavoidable impacts at the project-level (which includes cumulative); that is, impacts which might result from *specific* housing development projects, such as:

- *Transportation*: identified roadway segments impacts, previously identified impacted intersections, at-grade railroad crossings impacts, and identified State Highway impacts; and
- *Air Quality*: gaseous Toxic Air Contaminants (TACs) and odor impacts.

Although certain future housing projects would be required to perform additional studies and must follow the feasible recommendations resulting from such studies, no further CEQA review would be required for above identified project-level (which includes cumulative) impacts, as such impacts have already been identified as significant and unavoidable in the *Housing Element* EIR. Thus, specific residential developments would not have to prepare an Environmental Impact Report and/or Mitigated Negative Declaration solely based upon such impacts/recommendations.

The EIR also identifies project-level (which includes cumulative) less-than-significant impacts which might occur at a specific housing development, but which would *not* result in a significant impact under CEQA. For example, in the Climate Change chapter, in impact CC-1 (Project-Level thresholds), the analysis states future residential development projects would result in less-than-significant Greenhouse Gas impacts and would not be required to undergo project-specific GHG analysis under CEQA because (a) residential development under the *Housing Element* would not exceed the BAAQMD project-level threshold of 4.6 MT CO₂e per service population; or (b) alternatively, individual residential developments of less than 172 units would not exceed the BAAQMD project-level threshold of 1,100 metric tons of carbon dioxide equivalents (MT CO₂e, a typical measurement of greenhouse gas emissions).

Further, the EIR identified that residential development proposed under the *Housing Element* could expose occupants at certain sites to health risks from diesel particulate matter (DPM) from mobile and stationary sources, but that with compliance with the City's SCA, this impact would be less-than-significant.⁵ Similarly, the EIR found that traffic generated by the proposed development under the *Housing Element* would increase traffic volumes, which would emit carbon monoxide (CO), but not enough to exceed ambient air quality standards—finding this impact to be less than significant because, in part, no roadways in Oakland, except for the MacArthur Maze, exceed the screening threshold of 40,000 vehicles per hour (See page 3.3-47 of the Draft EIR.). Therefore, specific housing development projects would not be required to undergo project-specific DPM and/or CO analysis under CEQA as such impacts have already been identified as less than significant in the *Housing Element* EIR.

⁵ Specifically, SCA-94; see page 3.3-25 of the Draft EIR.

POLICY DESCRIPTION

California law (Government Code Section 65583) requires, in part, that each city and county adopt a housing element that contains:

1. Housing Needs Assessment

- Existing Conditions (See *Housing Element*, Chapter 3). A statement of population and housing characteristics, identification of special housing needs among certain population groups (seniors, large families, persons with disabilities), evaluation of housing conditions, and other projects and trends which support the goals, policies and programs of the City.
- Projected Needs (See *Housing Element*, Chapter 4). The City must accommodate 14,629 new housing units between January 2007 and June 2014 to meet its “fair share” of the State’s housing need. The allocation is equivalent to an annual need of 1,951 housing units for the seven-and-a-half-year planning period (2007-2014). Of the 14,629 new housing units required in Oakland’s RHNA:
 - 1,900 should be affordable to very low income households (those making below 50 percent of the median area income);
 - 2,089 should be affordable to low income households (those making below 80 percent of the median area income);
 - 3,142 should be affordable to moderate income households (those making below 120 percent of median area income); and
 - 7,489 should be market rate units (or “above moderate income units”).

2. Sites Inventory and Analysis

About half of Oakland’s RHNA is met by developments which are already built, are under construction, or which have been approved through the Planning Commission, but which don’t yet have building permits. There are an additional seven thousand units which are in some stages of predevelopment, where the applicants have discussed their proposals for new housing with the City. Each of the categories of housing production indicated in Table 1 is described in more detail below.

**Table 1
 Actual Housing Production and Balance of Units to be Provided**

	No. of units	No. of units
Regional Housing Needs Allocation	14,629	
Units Constructed (1/1/07-6/08)		1,128
Units with Planning Approvals (entitlements or funded with subsidies)		5,005
Units Planned (site acquisition or pre-development)		7,070
Subtotal		13,203
Remaining units to be accommodated through 2014	1,426	

Source: *Housing Element*, Table 4-2, 2010.

Units Constructed. Since January 1, 2007, 1,128 units have been constructed, satisfying eight percent of the City's RHNA.

Units with Planning Approvals. In addition to the units built or under construction, the 2007-2014 *Housing Element* identifies that between January 2007 and August 2008, 4,442 market-rate units had planning approvals (entitlements) and 563 affordable units were funded, but neither group has started construction. These 5,005 units represent 34 percent of the RHNA.

Units Planned. During the same time period, there were 7,022 market rate units and 48 affordable units in pre-development, meaning either with a formal zoning pre-application on file with the City's Planning and Zoning Division, or, in the case of the affordable housing units, with preliminary funding commitments or site acquisition assistance from the City. These 7,070 units make up 48 percent of the RHNA.

Remaining Units. Based on housing unit construction and approvals since January 1, 2007, the City has already committed to developing 90 percent of the units needed to satisfy the RHNA requirement in the planning period. The remaining 1,426 units required to meet the RHNA allocation of 14,629 units could be accommodated on City-identified Opportunity Sites. The Opportunity Sites, as illustrated in Figure 2-2 of Section 2, Project Description of the *Housing Element*, could accommodate 8,672 units, based on current market trends and recent development proposals received by the City. Development at the Opportunity Sites would not require changes to the City's *General Plan* land use designations, or require rezoning. As a result, implementation of the policies, programs, and other actions contained in the 2007-2014 *Housing Element* would not change the pattern of development anticipated by the *Land Use and Transportation Element (LUTE)* of the *General Plan*.

3. Analysis of Constraints on Housing

There are two categories of constraints to building housing in Oakland (see *Housing Element*, Chapter 6):

- Governmental Constraints: includes land-use controls, development standards, infrastructure requirements, development fees and development approval processes.
- Non governmental constraints: includes land costs, environmental hazards, land availability, construction costs, financing for real estate development, and neighborhood sentiment.

4. Housing Programs

The *Housing Element* (Chapter 5) identifies the various City programs which fund housing rehabilitation, assistance to first-time homebuyers, support housing development, and provide miscellaneous services to low- and moderate-income households.

5. Quantified Objectives

The *Housing Element* contains quantified objectives, relative to the maintenance, preservation, improvement and development of housing during the years 2007-2014 (see *Housing Element*, Chapter 8). While the City has identified sufficient sites to meet all 14, 629 units of the RHNA, the City does not anticipate having sufficient financial resources to ensure that the entire need for very low-, low- and moderate-income units will be met. A substantial portion of the City's resources are anticipated to be devoted to assisting households with the greatest needs—very low- and low-income households.

6. Statement of the City's Housing goals, policies and actions

The *Housing Element* (Chapter 7) details eight goals, forty-eight policies and one hundred and thirty three actions, including an implementation program table which identifies the agency responsible for each action, a timeline and funding sources (See Table 7-1 "Implementation Program" of the *Housing Element*). The goals in this *Housing Element* are:

- Provide adequate sites suitable for housing of all income groups
- Promote the development of adequate housing for low- and moderate-income households
- Remove constraints to the availability and affordability of housing for all income groups
- Conserve and improve older housing and neighborhoods
- Preserve affordable rental housing
- Promote equal housing opportunity
- Promote sustainable development and sustainable communities
- Increase public access to information through technology

Housing Element Adoption Findings

The *Housing Element* Adoption Findings show how the *Housing Element* meets the regulations in the Implementation Program of the *Land Use and Transportation Element*, and the provisions of the California Government Code.

In sum, the Planning Commission recommended approval of the *Housing Element* based, in part, upon the *Housing Element* Adoption Findings in *Attachment A* (Attachment 4 to the November 17, 2010 Planning Commission report).

SUSTAINABLE OPPORTUNITIES

By adopting the resolution making the *Housing Element* part of Oakland's General Plan, the City is adopting one of the goals of the *Housing Element* --Goal 7, which is to "Promote Sustainable Development and Sustainable Communities." The policies under this goal are:

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- Sustainable Residential Development Programs (7.1)
- Minimize Energy Consumption (7.2)
- Foster Low-Carbon Emissions and Development (7.3)
- Minimize Environmental Impacts from New Housing (7.4)
- Promote Household Health and Wellness by Conducting Health Impact Assessments (7.5)

In addition to the policies and actions under this important goal, staff considers the City's vision of concentrating residential and neighborhood serving commercial development on the major transit corridors, which has been Oakland's policy since the *Land Use and Transportation Element* was adopted in 1998, to be fundamental in its efforts to create sustainable opportunities for residents and business owners. Residential development on the housing sites in the proposed *Housing Element* which are along the major corridors has several benefits: provides access to AC Transit services; supports neighborhood and local-serving commercial businesses; it takes development pressure off the adjacent, low-density residential neighborhoods, and it further encourages urban in-fill (not suburban) development on sites which are otherwise vacant, or under-developed.

Economic: Under the *Housing Element*, thousands of new units of affordable and market rate housing are envisioned, subject to market conditions and the lending environment. The *Housing Element* shows housing developers where new housing could be built in the future--on Housing Opportunity Sites.

Environmental: While most environmental impacts associated with the *Housing Element* 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 *Housing Element*.

Social Equity: There are significant social equity issues which would be addressed by adopting the *Housing Element*: primarily, it establishes the policy and programmatic direction for the City in the building of housing for Oakland residents of all income levels.

DISABILITY AND SENIOR CITIZEN ACCESS

Adopting the *Housing Element* will update standing City policy and programs that are listed in Table 7-1 of the *Element*: provide housing repair funds for seniors and people with disabilities; housing search assistance for people with disabilities; make reasonable accommodations for design changes to accommodate people with disabilities.

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RECOMMENDATION(S) AND RATIONALE

On November 17, 2010, the Planning Commission recommended that the City Council approve the resolution adopting the 2007-2014 *Housing Element* as part of the City's General Plan. To support this recommendation, the Planning Commission certified the EIR for the *Housing Element*, and found that it met the CEQA findings, and made a Statement of Overriding Considerations. Further, the Planning Commission found that the *Housing Element* met adoption findings as required by state law.

If the City Council does not adopt the *Housing Element*, Oakland will be out of compliance with state law, and will not be eligible for funds made available to jurisdictions who have certified Housing Elements.

ACTION REQUESTED OF THE CITY COUNCIL

CEDA recommends the City Council approve the resolution, adopting the 2007-2014 *Housing Element* as a part of the Oakland General Plan, and reaffirm the Planning Commission's certification of the *Housing Element* EIR.

Respectfully submitted,

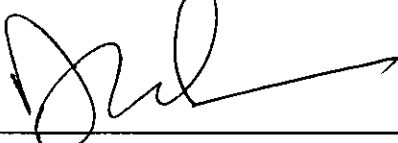


Walter S. Cohen, Director
Community and Economic Development Agency

Reviewed by: Eric Angstadt, Deputy Director

Prepared by: Devan Reiff, AICP
Planner II, Strategic Planning

APPROVED AND FORWARDED TO THE
COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE:



Office of the City Administrator

Attachment A: November 17, 2010 Planning Commission staff report and attachments

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Location: Citywide**Proposal:** The City of Oakland (City) proposes to adopt a General Plan Amendment (GPA) for the *2007-2014 Housing Element*, as part of the City's General Plan. The City must accommodate 14,629 new housing units between January 2007 and June 2014 to meet its "fair share" of housing need. The City can accommodate the new housing without rezoning or further GPAs, through current opportunity sites, and with projects either built, under construction, approved or in predevelopment.

A Final Environmental Impact Report (FEIR) has now been prepared for the project under the requirements of the California Environmental Quality Act (CEQA). The purpose of this hearing is to certify the FEIR and to consider recommending approval of the *Housing Element* to the City Council.

Applicant: City of Oakland—Community and Economic Development Agency**Case File Number:** ER08-0009 and GP09-079**Planning Permits Required:** General Plan Amendment; certification of FEIR**General Plan:** All zones**Zoning:** All zones**Environmental Determination:** A Notice of Preparation of a Draft EIR was distributed on September 22, 2009. The Notice of Availability of the Draft EIR was distributed on August 15, 2010, and the Draft EIR was published and made available to the public on August 16, 2010. The Draft EIR's 45-day public comment period ended on September 30, 2010. The Notice of Release/Availability of the FEIR was distributed and the FEIR was published and made available to the public on November 5, 2010.**Historic Status:** n/a; no housing opportunity sites contain Historic Resources.**Service Delivery District:** All**City Council District:** All**Status:** Prior Planning Commission public hearings: DEIR Hearing held September 15, 2010; Scoping session for EIR held October 7, 2009; consideration of the *Housing Element* held on June 3, 2009.**Action to be Taken:** Commission certification of FEIR and recommendation of *Housing Element* to City Council.**For Further Information:** Contact case planner Devan Reiff at (510) 238-3550 or by email: dreiff@oaklandnet.com

SUMMARY

The City of Oakland (City) proposes to adopt a General Plan Amendment (GPA) for the 2007-2014 *Housing Element (Housing Element)*, as part of the City's General Plan. The purpose of this November 17, 2010 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 Project (**Attachment 1**), which include certification of the EIR, rejection of alternatives as infeasible, and a Statement of Overriding Considerations
- Recommend the City Council adopt the *Housing Element*.

State law requires every jurisdiction to update its *Housing Element* every five years. The *Housing Element* shows how the City will house its share of the projected population growth of Oakland, and of the larger Bay Area, as defined by the Regional Housing Needs Allocation (RHNA), produced by the Association of Bay Area Governments. The City's RHNA is 14,629 new housing units, to be accommodated between January 2007 and June 2014. The City can accommodate the new housing without rezoning or further GPAs, through current opportunity sites, and with projects either built, under construction, approved or in predevelopment.

Pursuant to the California Environmental Quality Act (CEQA), a Final Environmental Impact Report (Final EIR) was prepared for the *Housing Element*, and released to the public on November 5, 2010. The *Housing Element* and the Final EIR were furnished separately to the Planning Commission, and are available to the public, through the City's website:

www2.oaklandnet.com/Government/o/CEDA/o/PlanningZoning/s/Application/DOWD009157

These documents are also available at no charge at the Community and Economic Development Agency, Planning Division, **250 Frank Ogawa Plaza, Suite 3315, Oakland, California 94612**. Additional copies are available for review at the Oakland Public Library, Social Science and Documents, 125 14th Street, Oakland CA 94612.

As more fully described and explained in the following sections of this staff report, staff recommends that the Planning Commission certify the EIR and recommend the City Council approve the *Housing Element*, subject to the requirements and findings contained in or attached to this staff report.

PROJECT DESCRIPTION***Housing Element* background**

The purpose of a *Housing Element* is to identify current and projected housing needs, and set goals, policies, and programs to address those needs. The *2007-2014 Housing Element* is a statement by the City of its current and future housing needs and proposed actions to facilitate the provision of housing to meet those needs at all income levels, and presents a comprehensive set of housing policies and actions between January 1, 2007 and June 30, 2014. The *2007-2014*

Housing Element satisfies the requirements of State law, and is consistent with the other elements of the City's *General Plan*, adopted at various times.

Regional Housing Need Allocation (RHNA). Under State law, new housing construction need is determined, at a minimum, through a RHNA process.¹ In the RHNA process, the California Department of Housing and Community Development (HCD) determines the amount of housing needed for all income groups in each region, based on existing housing need and expected population growth. In April 2007, HCD determined that, at a minimum, the nine-county Bay Area needed to provide 214,500 units between 2007 and 2014 to satisfy regional demand. Additionally, each city's share of regional housing demand is based on a plan prepared by the Association of Bay Area Governments (ABAG), the Regional Housing Needs Determination, which was adopted in May 2008. Under the ABAG plan, the City must accommodate 14,629 new housing units between January 2007 and June 2014 to meet its "fair share" of the State's housing need.

Housing Element Update Process. In February 2009, the City made the draft *2007-2014 Housing Element* available to the public on the City's website, and sent a draft to HCD, for preliminary review. The City held a community workshop on April 14, 2009 to present the *Housing Element* to residents and members of the for-profit and non-profit housing communities. Following changes requested by HCD, the Revised Public Review draft of the *Housing Element* was presented at a public hearing of the Oakland City Planning Commission on June 3, 2009.

After the Planning Commission acts, a public meeting will be scheduled before the City Council's Community and Economic Development Committee; following that committee's recommendation, the City Council will hold a public hearing to consider adopting the *2007-2014 Housing Element*. After the City Council acts, HCD will then receive the adopted *Housing Element*, and consider certifying it after a period of review.

2007-2014 Housing Element Components

California law (Government Code Section 65583) requires, in part, that each city and county adopt a housing element that contains:

Housing Needs Assessment

- Existing Conditions (See *Housing Element*, Chapter 3). A statement of population and housing characteristics, identification of special housing needs among certain population groups (seniors, large families, persons with disabilities), evaluation of housing conditions, and other projects and trends which support the goals, policies and programs of the City.
- Projected Needs (See *Housing Element*, Chapter 4). The City must accommodate 14,629 new housing units between January 2007 and June 2014 to meet its "fair share" of the State's housing need. The allocation is equivalent to an annual need of 1,951 housing

¹ California Government Code, Section 65584.

units for the seven-and-a-half-year planning period (2007-2014). Of the 14,629 new housing units required in Oakland's RHNA:

- 1,900 should be affordable to very low income households (those making below 50 percent of the median area income);
- 2,089 should be affordable to low income households (those making below 80 percent of the median area income);
- 3,142 should be affordable to moderate income households (those making below 120 percent of median area income); and
- 7,489 should be market rate units (or "above moderate income units").

Sites Inventory and Analysis

About half of Oakland's RHNA is met by developments which are already built, are under construction, or which have been approved through the Planning Commission, but which don't yet have building permits. There are an additional seven thousand units which are in some stages of predevelopment, where the applicants have discussed their proposals for new housing with the City. Each of the categories of housing production indicated in Table 1 is described in more detail below.

Table 1
Actual Housing Production and Balance of Units to be Provided

	No. of units	No. of units
Regional Housing Needs Allocation	14,629	
Units Constructed (1/1/07-6/08)		1,128
Units with Planning Approvals (entitlements or funded with subsidies)		5,005
Units Planned (site acquisition or pre-development)		7,070
Subtotal		13,203
Remaining units to be accommodated through 2014	1,426	

Source: *Housing Element*, Table 4-2, 2009.

Units Constructed. Since January 1, 2007, 1,128 units have been constructed, satisfying eight percent of the City's RHNA.

Units with Planning Approvals. In addition to the units built or under construction, the 2007-2014 Housing Element identifies that between January 2007 and August 2008, 4,442 market-rate units had planning approvals (entitlements) and 563 affordable units were funded, but neither group has started construction. These 5,005 units represent 34 percent of the RHNA.

Units Planned. During the same time period, there were 7,022 market rate units and 48 affordable units in pre-development, meaning either with a formal zoning pre-application on file with the City's Planning and Zoning Division, or, in the case of the affordable housing units, with preliminary funding commitments or site acquisition assistance from the City. These 7,070 units make up 48 percent of the RHNA.

Remaining Units. Based on housing unit construction and approvals since January 1, 2007, the City has already committed to developing 90 percent of the units needed to satisfy the RHNA requirement in the planning period. The remaining 1,426 units required to meet the RHNA

allocation of 14,629 units could be accommodated on City-identified Opportunity Sites. The Opportunity Sites, as illustrated in Figure 2-2 of Section 2, Project Description of the *Housing Element*, could accommodate 8,672 units, based on current market trends and recent development proposals received by the City. Development at the Opportunity Sites would not require changes to the City's *General Plan* land use designations, or require rezoning. As a result, implementation of the policies, programs, and other actions contained in the *2007-2014 Housing Element* would not change the pattern of development anticipated by the *Land Use and Transportation Element (LUTE)* of the *General Plan*.

Analysis of Constraints on Housing

There are two categories of constraints to building housing in Oakland (see *Housing Element*, Chapter 6):

- *Governmental Constraints*: includes land-use controls, development standards, infrastructure requirements, development fees and development approval processes.
- *Non governmental constraints*: includes land costs, environmental hazards, land availability, construction costs, financing for real estate development, and neighborhood sentiment.

Housing Programs

The *Housing Element* (Chapter 5) identifies the various City programs which fund housing rehabilitation, assistance to first-time homebuyers, support housing development, and provide miscellaneous services to low- and moderate-income households

Quantified Objectives

The *Housing Element* contains quantified objectives, relative to the maintenance, preservation, improvement and development of housing during the years 2007-2014 (see *Housing Element*, Chapter 8). While the City has identified sufficient sites to meet all 14, 629 units of the RHNA, the City does not anticipate having sufficient financial resources to ensure that the entire need for very low-, low- and moderate-income units will be met. A substantial portion of the City's resources are anticipated to be devoted to assisting households with the greatest needs—very low- and low-income households.

Statement of the City's Housing goals, policies and actions

The *Housing Element* (Chapter 7) details eight goals, forty-eight policies and one hundred and thirty three actions, including an implementation program table which identifies the agency responsible for each action, a timeline and funding sources (See Table 7-1 "Implementation Program" of the *Housing Element*). The goals in this *Housing Element* are:

- Provide adequate sites suitable for housing of all income groups
- Promote the development of adequate housing for low- and moderate-income households
- Remove constraints to the availability and affordability of housing for all income groups
- Conserve and improve older housing and neighborhoods
- Preserve affordable rental housing
- Promote equal housing opportunity
- Promote sustainable development and sustainable communities

- Increase public access to information through technology

Changes to the June 2009 Revised Draft *Housing Element*

Appendix H of the *Housing Element* details changes made to the *Housing Element* since the June 3, 2009 Planning Commission public hearing. These changes, which are minor clarifying revisions and do not affect the analysis or conclusions of the EIR, were made in response to preliminary review of the *Housing Element* by HCD; and comments from the public and Planning Commissioners. The changes include:

1. June 3, 2009 Planning Commission hearing

After the June 3, 2009 hearing, staff added more detail to these sections of the *Housing Element*:

- Senate Bill 2 (on page 230 and 247);
- removing constraints to building housing for those with disabilities (pg. 228);
- Oakland amendments to the California Building Codes (pg. 405)

2. October 19, 2009 Landmarks Preservation Advisory Board EIR Scoping Session

In response to public comment, staff refined the list of Housing Opportunity Sites (see Table C-9 in the *Housing Element*) to confirm that there were no sites that had historic resources. Further, staff added Table C-9a, showing Opportunity Sites that were either in the Local Register, or in Historic Preservation Districts.

3. September 15, 2010 Draft EIR hearing

At the September 15, 2010 public hearing to consider comments on the Draft EIR to the *Housing Element*, several commissioners raised concerns about the percentages of affordable housing in the RHNA, specifically, if Oakland was able to build enough housing for residents with the lowest incomes. Commissioners were also interested in the housing built in Oakland having Green Building techniques to save resources and energy.

An explanation of the differences in the percentages of the “affordable” housing required by the RHNA in the 1999-2006 *Housing Element* and the proposed 2007-2014 *Housing Element* was requested by a commissioner. This question has been raised in prior public hearings and workshops, and is explained in the *Housing Element* (See page 173 of the *Housing Element*):

A major change in the 2007-2014 RHNA for the Bay Area is that for the first time the methodology provides a significant adjustment to comply with State mandate to take into consideration existing concentrations of very low- and low-income populations. As a result, jurisdictions with high concentrations of very low- and low-income populations (relative to the regional average proportions) were assigned lower percentages of very low- and low-income need than the regional average, while jurisdictions with low concentrations were assigned higher

percentages that the regional average. The result for Oakland was a significant reduction in the percentage of units assigned to the very low- and low-income categories.

Green Building techniques to save electricity, water and other resources during the creation of new residential construction are now part of Oakland's Municipal Code, as adopted by the City Council on October 19, 2010. The provisions, which are voluntary through the end of 2010, will become mandatory for many types of residential development in 2011.

Housing Element Adoption Findings

The *Housing Element* Adoption Findings (**Attachment 4**) show how the *Housing Element* meets the regulations in the Implementation Program of the *Land Use and Transportation Element*, and the provisions of the California Government Code.

In sum, City Planning Staff recommends the Planning Commission recommend approval of the *Housing Element* to the City Council, based, in part, upon the *Housing Element* Adoption Findings in **Attachment 4**.

ENVIRONMENTAL REVIEW

The current status of the environmental review for the project is as follows:

- Initial Study/Notice of Preparation (NOP) published on September 21, 2009 (screening out from further study all impacts except those relating to Transportation and Circulation; Air Quality; Noise; Climate Change/Greenhouse Gas (GHG) Emissions)
- EIR Scoping meeting before the Planning Commission held October 7, 2009
- Landmarks Preservation Advisory Board scoping meeting held October 19, 2009
- NOP comment period closed on October 21, 2009
- Notice of Availability / Notice of Release of a Draft EIR issued August 12, 2010
- Publication of Draft EIR, August 16, 2010
- Planning Commission hearing on the DEIR, September 15, 2010
- Comment period for Draft EIR ended September 30, 2010
- Notice of Availability/Release and Final EIR published November 5, 2010

Several *Housing Element* documents are currently posted on the City's website, including the Draft EIR and the Final EIR. These documents can be found at the following link:

www2.oaklandnet.com/Government/o/CEDA/o/PlanningZoning/s/Application/DOWD009157

Initial Study and Less-than-Significant Impacts

As detailed in the Initial Study, 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 further 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.

The *Housing Element* Draft EIR was prepared to evaluate environmental impacts of the construction of the 14,629 housing units for the following environmental topics: Transportation, Circulation and Parking (Chapter 3.2); Air Quality (Chapter 3.3); Noise (Chapter 3.4) and Climate Change (Chapter 3.5).

Significant Environmental Impacts

The EIR comprehensively assesses the full range of potential environmental impacts of the Project at a programmatic level. Other than the impacts discussed below, all of the environmental effects of the *Housing Element* can be reduced to less than significant levels through implementation of SCA and/or recommended mitigation measures (see **Attachment 3: SCAMMRP**).

The proposed *Housing Element* will result in significant and unavoidable impacts associated with the environmental topics discussed below. In order to approve the proposed *Housing Element*, the City would 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 1: CEQA Findings**).

Transportation, Circulation Impacts

The DEIR found significant and unavoidable transportation and circulation impacts in several categories: study roadway segments; at-grade railroad crossings; and state highways (Caltrans). Further, the DEIR lists the roadway intersections which have been previously identified in other CEQA documents as having significant and unavoidable impacts. Although SCA have been imposed (requiring Transportation Demand Management Programs for housing developments of 50 or more new residential units and Construction Traffic and Parking plans), 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. Therefore, the below listed transportation-related impacts have conservatively been identified as significant and unavoidable.

Study Roadway Segments:

Several study roadway segments are significantly affected by *Housing Element*-generated traffic under Existing plus project, the 2015 plus project, and the 2035 plus project scenarios. These segments are identified by study roadway segment number in the DEIR²:

² See DEIR, page 3.2-49 and following.

- #5 San Pablo Avenue (SR 123) south of Stanford Avenue in the AM peak hour in both directions and in the PM peak hour in both directions (2035)
- #9 West Grand Avenue west of Martin Luther King Way, westbound in the AM peak hour and eastbound in the PM peak hour (2035)
- #11 Telegraph Avenue south of 51st Street, southbound in the AM peak hour and northbound in the PM peak hour (2035)
- #18 Grand Avenue between Harrison Street and I-580, eastbound in the PM peak hour (Existing plus Project), westbound in the AM peak hour, and eastbound in the PM peak hour (2015 and 2035)
- #21 Fruitvale Avenue south of I-580, northbound in the AM peak hour, southbound in the PM peak hour (Existing plus Project), in both directions in the AM peak hour, and in both directions in the PM peak hour (2015 and 2035)
- #24 Foothill Boulevard north of Seminary Avenue, westbound in the PM peak hour (2015 and 2035)
- #25 MacArthur Boulevard west of 98th Avenue, westbound in the AM peak hour and westbound in the PM peak hour (2035)
- #26 MacArthur Boulevard east of Lincoln Avenue, westbound in the AM peak hour and eastbound in the PM peak hour (2035)
- #29 International Boulevard between 23rd Avenue and Fruitvale Avenue, eastbound in the PM peak hour (2015 and 2035)
- #30 International Boulevard west of Seminary Avenue, eastbound in the PM peak hour (2015 and 2035)

At-Grade Railroad crossings

Development under the 2007-2014 *Housing Element* 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 housing 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 housing development could substantially increase hazards that occur between incompatible uses (i.e. motor vehicles and trains, or pedestrians and trains) and would conservatively constitute a significant and unavoidable impact.

State Highway Segments

Development under the Housing Element would increase traffic volumes on State (Caltrans) highways within and outside the City of Oakland (in the Existing plus Project scenario):

- #45 SR 13 north of I-580, northbound in the PM peak hour (Existing Plus Project)
- #46 SR 24 east of I-580, eastbound in the AM peak hour and both directions in the PM peak hour (Existing Plus Project)
- #52 I-880 north of 66th Avenue, northbound in the PM peak hour (Existing Plus Project)

Previously Identified Significant/Unavoidable Impacted Intersections:

In addition to the study roadway segments mentioned above, 140 other intersections have been identified by the City of Oakland's Transportation Services Division as being 'impacted.' These 'impacted intersections' are operating, or are projected to operate at an unacceptable level of service (LOS), based upon published EIRs or other traffic analyses for other projects. Although it is not legally required to analyze project-related impacts for the *Housing Element*, the EIR nevertheless identifies these 'impacted intersections' in order to provide additional information about identified potential traffic-related impacts and to provide CEQA clearance for future housing development projects, pursuant to state CEQA Guidelines sections 15183, 15162 through 15164 and 15168. A summary of the impacted intersections is included in the DEIR, as Table 3.2-4.

Air Quality Impacts

The DEIR conservatively found significant and unavoidable air quality impacts for gaseous toxic air contaminants and odors. Although SCA have been imposed (including requiring Transportation Demand Management Programs for housing developments of 50 or more new residential units, Construction Traffic and Parking plans, Health Risk Assessments, air filtration systems, and redesigning project site layouts), there is no guarantee that these measures would reduce impacts to less than significant levels. Therefore, the below listed air quality-related impacts have conservatively been identified as significant and unavoidable:

- Residential development proposed under the *Housing Element* could expose occupants at certain sites to substantial health risk from gaseous Toxic Air Contaminants (TACs) emitted locally from stationary sources. Absent prohibiting housing development within 1,000 feet of gaseous TAC emitters (which was analyzed as an Alternative in the EIR (see below), there are no goals, policies and objectives to minimize such potential impacts. Moreover, although compliance with the City's Standard Conditions of Approval would provide that site-specific health risk assessments would be prepared, and feasible recommended measures implemented, there is no assurance that such exposures could be reduced to less than significant levels at every site.
- Residential development proposed under the *Housing Element* could expose occupants to substantial/frequent odor nuisance resulting from odors emitted by strong local sources. There are no policies to reduce impacts of existing or planned sources of odors, or measures or techniques available to reduce the impacts of odors on sensitive receptors.

ALTERNATIVES ANALYZED IN DRAFT EIR

Chapter 5 of the Draft EIR includes a detailed analysis of three alternatives to the *Housing Element* that meet the requirements of CEQA—alternatives that would feasibly attain most of the project's basic objectives, and avoid or substantially lessen many of the project's significant environmental effects. The CEQA alternatives analyzed in detail in Chapter 5 include:

- *Alternative 1: No Project Alternative* – This alternative is a “no further build” scenario, which assumes that no additional housing units would be built in the City between the years 2007-2014, excepting the 1,128 units which have already been built in the City from 2007 to date.
- *Alternative 2: Transit-Oriented Growth Alternative* – this alternative would result in the development of a total of 14,629 housing units to fulfill 100 percent of the RHNA. The alternative limits residential development from being built near the ten identified roadway segments which the DEIR identified as having significant unavoidable impacts.³ Instead, under this alternative, the housing would be built within a quarter mile of BART stations, and on sites farther than a mile from the impacted roadway segments.
- *Alternative 3: Reduced Air Quality Impacts* – this alternative would result in the development of a total of 14,629 housing units to fulfill 100 percent of the RHNA. The alternative limits housing development to housing sites that are farther than 1,000 feet from known emitters of toxic air contaminants, specifically, gaseous contaminants, such as dry cleaners and auto body shops. Under this alternative, housing development would be encouraged on approximately 140 housing sites, and discouraged on others.

Five additional alternatives to the *Housing Element* are also considered in the Draft EIR, but were rejected as infeasible for various reasons:⁴

- “off site alternative” locating housing built under the RHNA outside of Oakland;
- Reduction in the number of housing units built by 2014;
- Air Quality (particulate matter) exclusion zone—build housing away from sources of particulate matter, such as the Port of Oakland and major freeways and high volume roadways;
- Air Quality (odors) avoidance—build housing away from sources of odor, such as food manufacturers, chemical manufacturers, or recycling operations;
- Avoid at-grade railroad crossings—build housing at locations more than ¼ mile from at-grade railroad crossings.

The Environmentally Superior Alternative is the No Project Alternative—where no new housing is built in Oakland until 2014. Under CEQA, if a No Project alternative is identified as the environmentally superior alternative, the EIR shall also identify an environmentally superior development alternative among the other alternatives. The Draft EIR identifies the

³ See Figure 5-1 in the DEIR, and the discussion of this alternative on pages 5-15 and following.

⁴ See Section 5.4 “Alternatives Considered but Rejected” section of DEIR.

environmentally superior development alternative as Alternative 2—Reduced Air Quality Impacts, because this scenario will protect public health, by locating new housing away from sources of gaseous toxic air contaminants.

Responses to DEIR Comments (Final EIR)

City staff received comments on the Draft EIR from two public agencies and a non-profit association. Additional oral comments were provided at the Planning Commission hearing on September 15, 2010. 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 EIR. 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 EIR. Recirculation of the Draft EIR is not warranted.

In sum, City Planning Staff recommends the Planning Commission Adopt the CEQA findings in **Attachment 1**, which include certification of the EIR, rejection of alternatives as infeasible, and a Statement of Overriding Considerations.

PROJECT-LEVEL REVIEW IN THE *HOUSING ELEMENT* EIR

The EIR is intended to reduce/eliminate the impacts associated with new residential development under the *Housing Element*. While not legally required by CEQA, the EIR, in each relevant chapter, also addresses significant and unavoidable impacts at the project-level (which includes cumulative); that is, impacts which might result from *specific* housing development projects, such as:

- *Transportation*: identified roadway segments impacts, previously identified impacted intersections, at-grade railroad crossings impacts, and identified State Highway impacts; and
- *Air Quality*: gaseous Toxic Air Contaminants (TACs) and odor impacts.

Although certain future housing projects would be required to perform additional studies and must follow the feasible recommendations resulting from such studies, no further CEQA review would be required for above identified project-level (which includes cumulative) impacts, as such impacts have already been identified as significant and unavoidable in the Housing Element EIR. Thus, specific residential developments would not have to prepare an Environmental Impact Report and/or Mitigated Negative Declaration solely based upon such impacts/recommendations.

The EIR also identifies project-level (which includes cumulative) less-than-significant impacts which might occur at a specific housing development, but which would *not* result in a significant impact under CEQA. For example, in the Climate Change chapter, in impact CC-1 (Project-Level thresholds), the analysis states future residential development projects would result in less-than-significant Greenhouse Gas impacts and would not be required to undergo project-specific

GHG analysis under CEQA because (a) residential development under the *Housing Element* would not exceed the BAAQMD project-level threshold of 4.6 MT CO₂e per service population; or (b) alternatively, individual residential developments of less than 172 units would not exceed the BAAQMD project-level Threshold of 1,100 MT CO₂e.

Further, the EIR identified that residential development proposed under the Housing Element could expose occupants at certain sites to health risks from diesel particulate matter (DPM) from mobile and stationary sources, but that with compliance with the City's SCA, this impact would be less-than-significant.⁵ Similarly, the EIR found that traffic generated by the proposed development under the Housing Element would increase traffic volumes, which would emit carbon monoxide (CO), but not enough to exceed ambient air quality standards—finding this impact to be less than significant because, in part, no roadways in Oakland, except for the MacArthur Maze, exceed the screening threshold of 40,000 vehicles per hour (See page 3.3-47 of the Draft EIR.). Therefore, specific housing development projects would not be required to undergo project-specific DPM and/or CO analysis under CEQA as such impacts have already been identified as less than significant in the Housing Element EIR.

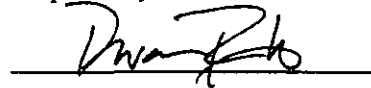
⁵ Specifically, SCA-94; see page 3.3-25 of the Draft EIR.

RECOMMENDATIONS

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

1. Adopt the CEQA findings for the *Housing Element* in **Attachment 1**, 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 3**; and
3. Recommend the City Council adopt the *Housing Element* General Plan Amendment, based, in part, upon the *Housing Element* Adoption Findings in **Attachment 4** and the Safety Element compliance statement in **Attachment 5**.

Prepared by:



Devan Reiff, AICP

Planner II

Approved for forwarding to the City Planning Commission:


Eric Angstadt
Deputy Director, CEDA

Attachments:

1. CEQA findings, including rejection of alternatives, and Statement of Overriding Considerations
2. November 5, 2010 Notice of Availability/Release of Final EIR
3. Standard Conditions of Approval and Mitigation Monitoring Reporting Program (SCAMMRP)
4. *Housing Element* Adoption Findings
5. *Safety Element* compliance statement

ATTACHMENT #1
2007-2014 Housing Element

CEQA FINDINGS

**Certification of the EIR, Rejection of Alternatives
and Statement of Overriding Considerations**

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 EIR prepared for the City of Oakland 2007-2014 Housing Element ("the Project"), SCH #2009092065.

2. These CEQA findings are attached and incorporated by reference into each and every staff report, resolution and ordinance associated with approval 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. In accordance with State law, the City of Oakland (City) proposes to adopt a General Plan Amendment (GPA) for the *2007-2014 Housing Element*, as part of the City's General Plan. The City must accommodate 14,629 new housing units between January 2007 and June 2014 to meet its "fair share" of housing need, known as the Regional Housing Needs Allocation (RHNA). The City can accommodate the new housing without rezoning or further GPAs, through current opportunity sites, and with projects either built, under construction, approved or in predevelopment.

The RHNA is equivalent to an annual need of 1,951 housing units for the seven-and-a-half-year planning period (2007-2014). Of the 14,629 new housing units required in Oakland's RHNA: 1,900 should be affordable to very low income households (those making below 50 percent of the median area income); 2,089 should be affordable to low income households (those making below 80 percent of the median area income); 3,142 should be affordable to moderate income households (those making below 120 percent of median area income); and 7,489 should be market rate units (or "above moderate income units"). The proposed project includes plans and implementation strategies to meet the City's RHNA of 14,629 units of varying affordability.

The City intends to meet the RHNA target in the following allocation:

- *Units Constructed*--Since January 1, 2007, 1,128 units have been constructed, satisfying eight percent of the City's RHNA;
- *Units with Planning Approvals*--In addition to the units built or under construction, the Housing Element identifies that between January 2007 and August 2008, 4,442 market-rate units had planning approvals (entitlements) and 563 affordable units were funded,

but neither group has started construction. These 5,005 units represent 34 percent of the RHNA.

- *Units Planned*--During the same time period, there were 7,022 market rate units and 48 affordable units in pre-development, meaning either with a formal zoning pre-application on file with the City's Planning and Zoning Division, or, in the case of the affordable housing units, with preliminary funding commitments or site acquisition assistance from the City. These 7,070 units make up 48 percent of the RHNA.
- *Remaining Units*--Based on housing unit construction and approvals since January 1, 2007, the City has already committed to developing 90 percent of the units needed to satisfy the RHNA requirement in the planning period. The remaining 1,426 units required to meet the RHNA allocation of 14,629 units could be accommodated on City-identified Opportunity Sites, which are sites zoned for higher density housing that are currently vacant or underutilized. These Opportunity Sites, which number approximately 185, could accommodate 8,672 units, based on current market trends and recent development proposals received by the City. Development at the Opportunity Sites would not require changes to the City's General Plan land use designations. As a result, implementation of the policies, programs, and other actions contained in the *2007-2014 Housing Element* would not change the pattern of development anticipated by the Land Use and Transportation Element (LUTE) of the General Plan.

The goal of developing 14,629 dwelling units under the *Housing Element* would be subject to the goals, policies, and programs of the General Plan and its Conformity Guidelines; the Municipal Code (which includes the City's Planning and Building Codes); the Standard Conditions of Approval, and the State's redevelopment laws, which permit the creation of defined redevelopment areas where property taxes assessed in the district are spent on affordable housing citywide and redevelopment area-specific improvements. All of these other adopted policies and regulations are assumed to apply to the *Housing Element* and serve to address many of the environmental impacts that might otherwise occur.

III. ENVIRONMENTAL REVIEW OF THE PROJECT

5. Pursuant to CEQA and the CEQA Guidelines, a Notice of Preparation (NOP) and an Initial Study of a Draft EIR was published on September 21, 2009. The NOP was also published in the Oakland Tribune, distributed to state and local agencies, posted on the project web site, and mailed and e-mailed to numerous individuals who have requested to specifically be notified of official City actions on the project. On October 7, 2009, the Planning Commission conducted a duly noticed EIR scoping session concerning the scope of the EIR, and a further scoping session was held at the October 19, 2009 meeting of the Landmarks Preservation Advisory Board. The public comment period on the NOP ended on October 21, 2009.

6. A Draft EIR was prepared for the Project to analyze its environmental impacts. The Notice of Availability/Notice of Release of the Draft EIR was published in the Oakland Tribune, distributed to appropriate state and local agencies, posted on the project web site, and mailed and e-mailed to numerous individuals who have requested to specifically be notified of official City actions on the project. Copies of the Draft EIR were also distributed to appropriate state and local agencies, City officials including the Planning Commission, and made available for public

review at the Oakland Main Library (124 14th Street), at the office of the Community and Economic Development Agency (250 Frank H. Ogawa Plaza, Suite 3315) and on the City's website. The Draft EIR was properly circulated for a 45-day public review period on August 12, 2010. A duly noticed Public Hearing on the Draft EIR was held at the September 15, 2010 meeting of the Planning Commission.

7. The City received written and oral comments on the Draft EIR. The City prepared responses to comments on environmental issues and made changes to the Draft EIR. The responses to comments, changes to the Draft EIR, and additional information were published in a Final EIR on November 5, 2010. The Draft EIR, the Final EIR and all appendices thereto constitute the "EIR" referenced in these findings. The Final EIR was made available for public review on November 5, 2010, twelve days prior to the duly noticed November 17, 2010 public hearing. The Notice of Availability/Notice of Release of the Final EIR was published in the Oakland Tribune, distributed to those state and local agencies who commented on the Draft EIR, posted on the project web site, and mailed and e-mailed to numerous individuals who have requested to specifically be notified of official City actions on the project and/or commented on the Draft EIR. Copies of the Draft and Final EIR were also distributed to those state and local agencies who commented on the Draft EIR, City officials including the Planning Commission, and made available for public review at the Oakland Main Library (124 14th Street), at the office of the Community and Economic Development Agency (250 Frank H. Ogawa Plaza, Suite 3315), and the on City's website, as referenced above. Pursuant to CEQA Guidelines, responses to public agency comments have been published and made available to all commenting agencies at least 10 days prior to hearing. 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 EIR and all documents referenced in or relied upon by the EIR.
- b. All information (including written evidence and testimony) provided by City staff to the Planning Commission relating to the EIR, the approvals, and the Project.
- c. All information (including written evidence and testimony) presented to the Planning Commission by the environmental consultant and subconsultants who prepared the EIR 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 EIR.
- 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 EIR.

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 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 EIR

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

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

12. The Planning Commission certifies that the EIR is adequate to support all actions in connection with the approval of the Project and all other actions and recommendations as described in the November 17, 2010 Planning Commission staff report. The Planning Commission certifies that the EIR is adequate to support approval of the Project described in the EIR, each component and phase of the Project described in the EIR, any variant of the Project described in the EIR, any minor modifications to the Project or variants described in the EIR and the components of the Project.

VI. ABSENCE OF SIGNIFICANT NEW INFORMATION

13. The Planning Commission recognizes that the Final EIR incorporates information obtained and produced after the Draft EIR was completed, and that the EIR contains additions, clarifications, and modifications. The Planning Commission has reviewed and considered the Final EIR and all of this information. The Final EIR does not add significant new information to the Draft EIR that would require recirculation of the EIR under CEQA. The new information added to the EIR does not 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 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 EIR was inadequate or conclusory or that the public was deprived of a meaningful opportunity to review and comment on the Draft EIR. Thus, recirculation of the EIR is not required.

14. The Planning Commission finds that the changes and modifications made to the EIR after the Draft EIR 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 November 17, 2010 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 have new significant environmental impacts that were not analyzed in the EIR. In the event a standard condition of approval or mitigation measure recommended in the EIR 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 EIR into the SCAMMRP by reference and adopted as a condition of approval.

VIII. 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 EIR 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 EIR. The Planning Commission ratifies, adopts, and incorporates, as though fully set forth, the analysis, explanation, findings, responses to comments and conclusions of the EIR. The Planning Commission adopts the reasoning of the EIR, 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 EIR 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 CEQA 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, for which an EIR was certified in March 1998; (b) feasible mitigation measures identified in the LUTE EIR were adopted and have been, or will be, undertaken; (c) this EIR evaluated impacts peculiar to the project and/or project site, as well as off-site and cumulative impacts; (d) 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 substantially mitigate environmental impacts (as detailed below); and (e) no substantial new information exists to show that the Standard Conditions of Approval will not substantially mitigate the 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 EIR, 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, including those which were previously screened out in the Initial Study, 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: Construction of the new residential units in the *Housing Element* could have impacts on existing visual quality, and create new sources of light and glare, as noted in the Initial Study (Chapter I). However, application of SCA 12-18, which requires certain landscape improvements, and SCA 45-47 which requires special action around protected trees, will mitigate the impacts to 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 a point below the light bulb and reflector 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 would ensure there would not be significant adverse aesthetic impacts.

24. Air Quality -- AQ-2a (Plan Level) and AQ-4a (Project Level): Residential development proposed under the *Housing Element* could expose occupants at certain sites to substantial health risks from diesel particulate matter (DPM) from mobile and stationary sources. However, compliance with the City's Standard Conditions of Approval SCA—94 (which requires housing within 1,000 feet of freeways, high-volume roadways, the Port of Oakland and stationary sources of DPM to install air filtration systems or other equivalent measures) would reduce impacts to a less-than-significant level.

25. Biological Resources: Development under the *Housing Element* could result in the removal of existing vegetation, including trees, and future creekside and wetlands development could interfere with the movement of aquatic species as noted in the Initial Study (Chapter IV). However, compliance with the City's SCA 43-47 (requiring special action around protected trees), SCA 72 and 75 and SCA 86-888 (requiring creek protection measures) would reduce these 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 biological impacts.

26. Cultural Resources: Significant impacts to cultural resources could result if housing built under the *Housing Element* were to be constructed in a manner that was not sensitive to historic resources, as noted in the Initial Study (Chapter V). Any such impact would be reduced to a less than significant level, through application of SCA 56 and 57 (property relocation rather than demolition; prevent vibrations to adjacent historic structures). Further limiting the impact of new housing on cultural resources would be application of SCA 52-54, 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.

27. Geology and Soils: Development under the *Housing Element* 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, as noted in the Initial Study (Chapter VI). These impacts will be reduced to a less than significant level through the implementation of SCA 35, 58,59,60, 68, 72, 83-86 and 89 , which require hazards best management practices, soils reports and geotechnical investigations and reports to be prepared, best management practices for soil and groundwater hazards, creekside vegetation and protection, monitoring, landscaping, as well as acquiring regulatory permits and authorizations before construction. In addition, SCA 77 and 82 (hydrology) and SCA 69 (water quality), address erosion issues. 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.

28. Hazards and Hazardous Materials: Construction under the *Housing Element* could result in exposure of construction workers, project occupants and/or the public to hazardous materials due to demolition of structures that could contain hazardous materials, disturbance of soil and groundwater that could have been impacted by historic hazardous material use, and onsite use of hazardous materials such as solvents during construction activities and operations, as noted in the Initial Study (Chapter VII). . This impact will be reduced to a less than significant level through implementation of Standard Conditions of Approval 35, 41, 42, and 61-73, which impose best management practices to protect groundwater and soils from new impacts and appropriate handling of existing impacted groundwater and soils, proper removal of asbestos containing materials and soils, and requirements for lead, asbestos, radon, and other vapor intrusion assessment and remediation, as well as Fire Services review and preparation of a Hazardous Materials Business Plan for the project. 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.

29. Hydrology/Water Quality: New construction under the *Housing Element* 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, as noted in the Initial Study (Chapter VII). After construction, there would be an increase in the land use density and new residences can be expected to create additional impervious surfaces. Implementation of Standard Conditions of Approval 20, 21, 23, 24, 34, 35, 43, 46, 47,55, 68, 72, 75-86 and 88-91, would ensure that development under the *Housing Element* 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: consultation to make changes in the public right of way; preparation of a compliance matrix for conditions of approval and a construction management plan; practices to reduce erosion and pollutants during construction and pollutant discharge during project operation; receiving a tree permit and following tree replacement and protection standards for creekside construction; preparing an erosion and sedimentation control plan; follow best management practices for soil and groundwater hazards; file a vegetation management plan on creekside properties; filing a Stormwater Pollution Prevention Plan; preparation of a post-construction Stormwater Pollution Management Plan; a maintenance agreement for stormwater treatment measures; creek permits and protections when building on creekside properties. 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.

30. Noise: Project construction and operation would potentially increase construction noise levels and excessive ground borne vibration at sensitive receptors located near Housing sites. 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) and SCA-57 (project applicants determine threshold levels of vibration and cracking that could damage fragile historic buildings during construction) would reduce construction noise impacts from development under the proposed *Housing Element* to a less-than-significant level. If residential uses are located near an existing railway line or high volume roadway, 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, (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.

31. Public Services: Project construction and occupancy of the new housing under the *Housing Element* would result in increased demands on public services, particularly on Fire services, as noted in the Initial Study (Chapter XIII). 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.

32. Traffic and Transportation -- TR-41: During construction of housing proposed under the project, there may be a need to temporarily close traffic lanes, prohibit parking, and/or block traffic lanes. Construction requires the delivery of building materials, sometimes the import or export of earth fill materials, as well as travel by construction workers on a daily basis to and from the sites, potentially disrupting local traffic flow depending on the specific construction site. Such activities are a temporary but necessary part of the construction process. This would constitute a temporary significant impact lasting throughout the construction period. However, compliance with SCA-33, which requires specific actions (truck scheduling, notification, handling complaints, accommodating pedestrians around the construction site) to mitigate most construction impacts, is expected to reduce this impact.

33. Utilities/Service Systems: New residential construction under the *Housing Element* would result in increased solid waste, stormwater and wastewater generation, as noted in the Initial Study (Chapter XVI). 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. 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

34. 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.

35. Traffic and Transportation¹ -- **TR-2, TR-4, TR-5, TR-21, TR-22**², Roadway Segment #18, Grand Avenue between Harrison Street and I-580, would operate at an unacceptable LOS in each of the Project scenarios: in the eastbound direction in the PM peak hour in the Existing Plus Project scenario; in the westbound direction in the AM peak hour, and in the eastbound direction in the PM peak hour in the Cumulative 2015 with Project scenario; in the westbound direction in the AM peak hour and in the eastbound direction in PM peak hour in the Cumulative 2035 with Project scenario. While these impacts may be mitigated through implementation of Mitigation Measures **TR1.1** and **TR1.2**,³ it is conservatively assumed that significant and unavoidable impacts might result. These potential unavoidable significant impacts are overridden as set forth below in the Statement of Overriding Considerations.

36. Traffic and Transportation -- **TR-3, TR-6, TR-7, TR-23, TR-24**⁴: Roadway Segment #21, Fruitvale Avenue south of I-580, would operate at an unacceptable LOS in each of the Project scenarios: in the northbound direction in the AM peak hour and during the PM peak hour in the southbound direction, the Existing Plus Project scenario; in the northbound and southbound directions in the AM and PM peak hours in the Cumulative 2015 with Project scenario; in the north- and southbound directions in the AM and PM peak hours in the Cumulative 2035 with Project scenario. While this impact may be mitigated through implementation of Mitigation Measures **TR1.1** and **TR1.2**, it is conservatively assumed that a

1 The City already requires as a Standard Condition of Approval (SCA-25), the development of a Transportation Demand Management (TDM) Plan for developments with 50 residential units or greater.

2 See DEIR, pages 3.2-50, 67, 68, 82 and 83.

3 TR.1 and TR.2 are mitigation measures, as identified in page 3.2-47 of the DEIR, which require traffic impact studies for residential projects, and a list of other mitigations for improvements to intersections (such as new traffic signals, among others).

4 See DEIR, pages 3.2-58, 68 and 83

significant and unavoidable impact might result. These potential unavoidable significant impacts are overridden as set forth below in the Statement of Overriding Considerations.

37. Traffic and Transportation -- TR-11: In the PM peak hour, Roadway Segment #24 Foothill Boulevard north of Seminary Avenue would operate at an unacceptable LOS in the westbound direction in the 2015 Baseline Scenario, which is a significant impact. While this impact may be mitigated through implementation of Mitigation Measures TR1.1 and TR1.2, it is conservatively assumed that a significant and unavoidable impact might result. This potential unavoidable significant impact is overridden as set forth below in the Statement of Overriding Considerations.

38. Traffic and Transportation -- TR-12: Roadway Segment #29, International Boulevard between 23rd Avenue and Fruitvale Avenue, would operate at an unacceptable LOS in the eastbound direction in the PM peak hour in the Cumulative 2015 with Project scenario. While this impact may be mitigated through implementation of Mitigation Measures TR1.1 and TR1.2, it is conservatively assumed that a significant and unavoidable impact might result. This potential unavoidable significant impact is overridden as set forth below in the Statement of Overriding Considerations.

39. Traffic and Transportation -- TR-13: Roadway Segment #30, International Boulevard west of Seminary Avenue, would operate at an unacceptable LOS in the eastbound direction in the PM peak hour in the Cumulative 2015 with Project scenario. While this impact may be mitigated through implementation of Mitigation Measures TR1.1 and TR1.2, it is conservatively assumed that a significant and unavoidable impact might result. This potential unavoidable significant impact is overridden as set forth below in the Statement of Overriding Considerations.

40. Traffic and Transportation -- TR-15, TR-16: Roadway Segment #5, San Pablo Avenue south of Stanford Avenue, would operate at an unacceptable LOS E in the north- and southbound directions in both the AM and PM peak hours in the Cumulative 2035 with Project scenario. While these impacts may be mitigated through implementation of Mitigation Measures TR1.1 and TR1.2, it is conservatively assumed that a significant and unavoidable impact might result. These potential unavoidable significant impacts are overridden as set forth below in the Statement of Overriding Considerations.

41. Traffic and Transportation -- TR-17, TR-18: Roadway Segment #9, West Grand Avenue west of Martin Luther King Jr. Way, would operate at an unacceptable LOS in the westbound direction in the AM peak hour, and in the eastbound direction in the PM peak hour in the Cumulative 2035 with Project scenario, which are significant impacts. While these impacts may be mitigated through implementation of Mitigation Measures TR1.1 and TR1.2, it is conservatively assumed that a significant and unavoidable impact might result. These potential unavoidable significant impacts are overridden as set forth below in the Statement of Overriding Considerations.

42. Traffic and Transportation -- TR-19, TR-20: Roadway Segment #11, Telegraph Avenue south of 51st Street, would operate at an unacceptable LOS in the southbound direction in the AM peak hour, and in the northbound direction in the PM peak hour in the Cumulative 2035 with Project condition, which are significant impacts. While these impacts may be mitigated

through implementation of Mitigation Measures **TR1.1** and **TR1.2**, it is conservatively assumed that significant and unavoidable impacts might result. These potential unavoidable significant impacts are overridden as set forth below in the Statement of Overriding Considerations.

43. Traffic and Transportation -- **TR-28**: During the PM peak hour, Roadway Segment #24, Foothill Boulevard north of Seminary Avenue, would operate at an unacceptable LOS in the westbound direction in the Cumulative 2035 with Project scenario, which is a significant impact. While this impact may be mitigated through implementation of Mitigation Measures **TR1.1** and **TR1.2**, it is conservatively assumed that a significant and unavoidable impact might result. This potential unavoidable significant impact is overridden as set forth below in the Statement of Overriding Considerations.

44. Traffic and Transportation -- **TR-29, TR-30**: Roadway Segment #25, MacArthur Boulevard west of 98th Avenue, would operate at an unacceptable LOS during the AM and PM peak hours in the westbound direction in the Cumulative 2035 with Project scenario, which is a significant impact. While these impacts may be mitigated through implementation of Mitigation Measures **TR1.1** and **TR1.2**, it is conservatively assumed that a significant and unavoidable impact might result. These potential unavoidable significant impacts are overridden as set forth below in the Statement of Overriding Considerations.

45. Traffic and Transportation -- **TR-31, TR-32**: Roadway Segment #26, MacArthur Boulevard east of Lincoln Avenue, would operate at an unacceptable LOS during the AM peak hour in the westbound direction, and in the PM peak hour in the eastbound direction in the Cumulative 2035 with Project scenario, which are significant impacts. While these impacts may be mitigated through implementation of Mitigation Measures **TR1.1** and **TR1.2**, it is conservatively assumed that a significant and unavoidable impact might result. These potential unavoidable significant impacts are overridden as set forth below in the Statement of Overriding Considerations.

46. Traffic and Transportation -- **TR-33, TR-34**: Roadway Segment #29, International Boulevard between 23rd Avenue and Fruitvale Avenue, would operate at an unacceptable LOS during the AM peak hour in the westbound direction, and during the PM peak hour in the eastbound direction in the Cumulative 2035 with Project scenario, these would be significant unavoidable impacts. While these impacts may be mitigated through implementation of Mitigation Measures **TR1.1** and **TR1.2**, it is conservatively assumed that significant and unavoidable impacts might result. These potential unavoidable significant impacts are overridden as set forth below in the Statement of Overriding Considerations.

47. Traffic and Transportation -- **TR-35**: During the PM peak hour, Roadway Segment #30, International Boulevard west of Seminary Avenue, would operate at an unacceptable LOS during the PM peak hour in the eastbound direction in the Cumulative 2035 scenario, which is a significant impact. While this impact may be mitigated through implementation of Mitigation Measures **TR1.1** and **TR1.2**, it is conservatively assumed that a significant and unavoidable impact might result. This potential unavoidable significant impact is overridden as set forth below in the Statement of Overriding Considerations.

48. Traffic and Transportation -- TR-43: Development under the *2007-2014 Housing Element* 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 new housing 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

Mitigation Measure **TR-43.1** (which requires a Traffic Impact Study, when otherwise required to be prepared for proposed housing developments, in accordance with standard City policies and practices, that evaluates potential impacts, and to explore and adopt feasible mitigation measures) may reduce impacts to less than significant levels. While the incorporation of mitigation measures identified TR 43.1 could reduce the project's impact to the at-grade railroad crossing to a less-than-significant level, to the extent that installation of safety mechanisms is not feasible (physically, financially or otherwise), impacts would remain significant and unavoidable. Therefore, this potential unavoidable significant impact is overridden as set forth below in the Statement of Overriding Considerations.

49. Traffic and Transportation -- TR-45: Development under the *2007-2014 Housing Element* would increase traffic volumes on State (Caltrans) highways within and outside the City of Oakland. With the development under the *Housing Element*, the following segments would exceed the City's threshold level of significance for roadway segments during peak periods:

- Roadway Segment #45: SR 13 north of I-580 would operate at an unacceptable LOS in the PM peak hour in the northbound direction in the Existing Plus Project scenario
- Roadway Segment #46: SR 24 east of I-580 would operate at an unacceptable LOS in the AM peak hour in the eastbound direction, and in the PM peak hour, in both east and west-bound directions in the Existing Plus Project scenario
- Roadway Segment #52: I-880 north of 66th Avenue would operate at an unacceptable LOS in the PM peak hour in the northbound direction in the Existing Plus Project scenario

This increase in traffic volume would constitute a significant impact on some state highway segments, and there is no mitigation available for these impacts to State Highways. These freeway segments are in dense, built-up areas, where freeway widening to increase freeway capacity could be difficult. Furthermore, the cost for freeway widening would be prohibitive since there is no funding source available to pay for such improvements. In order to minimize the *Housing Element's* impact on the freeway system, individual projects with significant unavoidable impacts on roadway segments shall develop and implement a Parking and Transportation Demand Management Plan in accordance with SCA-25⁵. These potential unavoidable significant impacts are overridden as set forth below in the Statement of Overriding Considerations.

5 The City already requires as a Standard Condition of Approval (SCA-25), the development of a Transportation Demand Management (TDM) Plan for developments with 50 residential units or greater.

50. **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 3.2-4 in the DEIR, which is incorporated herein by reference as if fully set forth herein) were identified in the DEIR in order to provide more information about potential traffic-related impacts, and to provide CEQA clearance for future housing development projects, pursuant to state CEQA Guidelines section 15183, 15162 through 15164 and 15168. 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 impact are overridden as set forth below in the Statement of Overriding Considerations.

51. **Air Quality -- AQ-2b (Plan Level), AQ-4b (Project Level) and AQ-9 (Cumulative):** Residential development proposed under the *Housing Element* could expose occupants at certain sites to substantial health risk from gaseous Toxic Air Contaminants (TACs) emitted locally from stationary sources. The majority of the housing sites would lie within an impact zone for TACs, as shown in Figures 3.3-5, 3.3-6, and 3.3-7 of the DEIR. However, typical major stationary sources of gaseous TACs (e.g., industrial facilities such as refineries, chemical plants, and chrome platers, as well as commercial facilities, such as dry cleaners and gasoline stations), are common in the City and many of the housing sites lie with their impact zones, as defined by CARB and in the BAAQMD Guidelines. Although compliance with the City's Standard Conditions of Approval (SCA-95) would provide that site-specific health risk assessments would be prepared, there is no assurance that such exposures could be reduced to a less-than-significant level at every site. 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. This potential unavoidable significant impact is overridden as set forth below in the Statement of Overriding Considerations.

52. **Air Quality -- AQ-3 (Plan Level), AQ-5 (Project Level) and AQ-10 (Cumulative):** Residential development proposed under the *Housing Element* could expose occupants to substantial/frequent odor nuisance resulting from odors emitted by strong local sources. According to BAAQMD Guidelines, objectionable odors are typically emitted by industrial and commercial operations such as wastewater treatment plants, sanitary landfills, petroleum refineries, chemical factories, and paint and coating operations. BAAQMD 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. All of the housing sites in the *Housing Element* are located within the BAAQMD-recommended odor buffer distances. Consequently, a proposed housing development could potentially expose occupants to substantial/frequent odor. Therefore, the City conservatively assumes that this may result in a significant and unavoidable impact. This potential unavoidable significant impact is overridden as set forth below in the Statement of Overriding Considerations. As such, odor impacts could

make a considerable contribution to the affected residents' exposures to odor sources in the city. Therefore, cumulative odor impacts would conservatively be significant and unavoidable. This potential unavoidable significant impact is overridden as set forth below in the Statement of Overriding Considerations.

XI. FINDINGS REGARDING ALTERNATIVES

53. The Planning Commission finds that specific economic, social, environmental, technological, legal or other considerations make infeasible the alternatives to the Project as described in the EIR despite remaining impacts, as more fully set forth in the Statement of Overriding Considerations below.

54. The EIR evaluated a reasonable range of alternatives to the project that was described in the Draft EIR. The Draft EIR identified eight alternatives to the proposed project. Of those eight identified alternatives, five were not analyzed in detail as explained in the Draft EIR. The five alternatives that were not analyzed in detail in the EIR include: (a) Off-site alternative; (b) Reduced number of housing units; (c) Particulate Matter exclusion zone; (d) avoiding sources of odor; and (e) avoiding at-grade railroad crossings. The Planning Commission adopts the EIR's analysis and conclusions eliminating these five 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.

55. The three potentially feasible alternatives analyzed in the EIR represent a reasonable range of potentially feasible alternatives that reduce one or more significant impacts of the Project. These alternatives include: (1) No Project / No Further Build; (2) Transit Oriented Growth; and (3) Reduced Air Quality Impacts. As presented in the EIR, the alternatives were described and compared with each other and with the proposed project. Alternative (3) Reduced Air Quality Impacts was identified as the environmentally superior alternative.

56. The Planning Commission certifies that it has independently reviewed and considered the information on alternatives provided in the EIR and in the record. The EIR reflects the Planning Commission's independent judgment as to alternatives. The Planning Commission finds that the Project best provides for the City's housing goals and objectives, as well as meets its obligations under State Law to demonstrate its ability to accommodate the number of new housing units in the Regional Housing Needs Allocation. While the Project does predict some significant and unavoidable environmental impacts, the EIR and City's SCAs mitigate these impacts to the extent feasible. The three other 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.

57. **No Project Alternative**—In this scenario the 'No-Project' alternative is a 'No Further Build' alternative where no additional residential units would be built in the City. The No Further Build Alternative assumes build-out of no more than 1,128 units under the *2007-2014 Housing Element*. As of June 2008, 1,128 housing units have been constructed throughout the

City, including both affordable and market rate units, which satisfies approximately eight percent of the RHNA. However, this alternative would not result in additional housing units between 2007 to 2014 beyond the 1,128 units that have already been constructed in the City. The No-Project alternative would avoid the significant unavoidable roadway impacts, the potential collision risk at railroad crossings, and impacts on State Highways. Under this alternative, no further housing would be built, so the impacts to roadway segments in the three scenarios studied (Existing, year 2015, and year 2035) would not increase beyond the existing conditions of the segments, which currently operate at an acceptable LOS; however, some roadway segments could continue to operate at unacceptable levels. Significant and Unavoidable air quality impacts would be reduced under the No-Project Alternative, since no sensitive receptors would be located near the generators of these sources. This alternative was rejected because it does not allow Oakland to meet its 2007-2014 Regional Housing Needs Allocation, as required by State Law, and is therefore not legally feasible.

Further, it does not accomplish several of the stated goals (basic project objectives) of the *Housing Element*⁶:

- Provide adequate sites suitable for housing all income groups (1)
- Promote the development of adequate housing for low and moderate income households (2)
- Conserve and improve older housing and neighborhoods (4)
- Promote sustainable development and sustainable communities (7)

58. ***Transit Oriented Growth Alternative*** would result in the development of a total of 14,629 housing units to fulfill 100 percent of the RHNA, but would limit development of residential units on housing sites within one mile of certain roadway segments, which have significant and unavoidable traffic impacts, unless the site is within one-quarter mile of a BART station. Under this Alternative, development would be encouraged on approximately 70 housing sites and discouraged on the other 116 sites, with first priority given to housing sites that are within ¼ mile of all the BART stations in Oakland (excepting the Rockridge Station).

The Transit-Oriented Growth Alternative would not improve 2015 or 2035 Baseline conditions which were forecasted without the addition of project-generated trips. This alternative would generally reduce project-generated trips along impacted roadway segments by encouraging use of transit instead of private motor vehicle. However, it is conservatively concluded that although this alternative would result in some reduction in vehicle trips, that traffic-related impacts would nevertheless remain significant and unavoidable.

The Transit-Oriented Growth alternative was rejected because it:

- would not reduce exposure of sensitive receptors (new residents) to Air Quality impacts such as gaseous Toxic Air Contaminants (TACs) or sources of odors. The Transit-

⁶ See 2007-2014 *Housing Element*, Introduction, page 18.

Oriented Growth alternative would locate new housing near BART stations, and would not restrict development on sites within the BAAQMD-recommended 1,000-foot setback area for gaseous TAC emitters, so impacts related to gaseous emissions would remain significant and unavoidable.

- • does not significantly improve traffic and transportation or reduce these impacts, despite the alternative's scenario of building housing on opportunity sites which are at least a mile from impacted roadway segments.
- does not meet several of the stated goals (basic project objectives) of the *Housing Element*:
 - Provide adequate sites suitable for housing all income groups (1)
 - Promote the development of adequate housing for low and moderate income households (2)
 - Conserve and improve older housing and neighborhoods (4)
- The alternative reduces the number of opportunity sites from 186 to 70, severely limiting the possibility of housing on many lots and sites which are now viable for new high density housing. By restricting the number of opportunity sites in this way, the City's attempt to meet these established goals would be significantly constrained.

On balance, the proposed *Housing Element* is more consistent with, and better achieves the City's vision of developing its major Transit Corridors, which has been Oakland's policy since the *Land Use and Transportation Element* was adopted in 1998, even though future residential activity may be located more than 1/4 mile from a BART station. Residential development on the housing sites in the proposed *Housing Element* which are along the major transit corridors has several secondary benefits: it provides access to AC Transit services; it supports neighborhood and local-serving commercial businesses; it takes development pressure off the adjacent, low-density residential neighborhoods, and it further encourages urban in-fill development on sites which are otherwise vacant, or under-developed, and reduces suburban sprawl (thereby reducing greenhouse gas emissions). The Transit-Oriented Growth Alternative does not allow the City to meet its stated goals from the *LUTE* and the *Housing Element*, and would further reduce these secondary benefits from residential development along the major transit corridors.

59. ***Reduced Air Quality Impacts Alternative*** would construct a total of 14,629 housing units in order to fulfill 100 percent of the RHNA. This alternative would prohibit development on housing sites that are within 1,000 feet of gaseous TAC emitters, as shown in Figure 5 2 of the DEIR. Under this alternative, development would be encouraged on approximately 140 housing sites and discouraged on the other 46 sites. The Reduced Air Quality Impacts alternative would result in the same Transportation-related impacts as with the proposed project, and would **not** avoid significant and unavoidable impacts to local roadway segments, and would include development of the same number of housing units as the proposed project, in locations where there might be congested roadways, or in areas where new development might cause increased

congestion. Transportation Impacts under this alternative would remain significant and unavoidable.

However, the sites prioritized for development under this alternative would avoid the 1,000-foot setbacks for gaseous TAC sources recommended by BAAQMD. Therefore, exposure of sensitive receptors to gaseous TACs would be reduced and would be less than significant with this alternative, as compared to their significant and unavoidable impacts under the proposed project. Odors, however, cannot be mitigated, as noted in the Air Quality chapter of the EIR.

This alternative was rejected as infeasible because it:

- did not improve traffic and transportation impacts
- only moderately lessens air quality impacts.
- does not meet several of the stated goals (basic project objectives) of the *Housing Element*:
 - Provide adequate sites suitable for housing all income groups (1)
 - Promote the development of adequate housing for low and moderate income households (2)
 - Conserve and improve older housing and neighborhoods (4)
- This alternative, similar to the Transit Oriented Growth alternative, reduces the number of opportunity sites from 186 to 140, which limits the possibility of housing on lots and sites which are now viable for new high density housing. By restricting the number of opportunity sites in this way, the City's attempt to meet these established goals would be significantly constrained.

On balance, the proposed *Housing Element* is more consistent with, and better achieves the City's vision of developing its major Transit Corridors, which has been Oakland's policy since the *Land Use and Transportation Element* was adopted in 1998, even though future residential activity may be located closer to Air Quality impacts than is recommended by BAAQMD. Residential development on the housing sites in the proposed *Housing Element* which are along the major transit corridors has several secondary benefits: it provides access to AC Transit services; it supports neighborhood and local-serving commercial businesses; it takes development pressure off the adjacent, low-density residential neighborhoods, and it further encourages urban in-fill development on sites which are otherwise vacant, or under-developed and reduces suburban sprawl (thereby reducing greenhouse gas emissions). The Reduced Air Quality Impacts Alternative does not allow the City to meet its stated goals from the *LUTE* and the *Housing Element*, and would further reduce these secondary benefits from residential development along the major transit corridors.

XII. STATEMENT OF OVERRIDING CONSIDERATIONS

60. 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 these remaining significant, adverse impacts and is an overriding consideration independently warranting approval. The remaining significant adverse impacts identified above are acceptable in light of each of these 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.

61. The *2007-2014 Housing Element* establishes locations for future housing in Oakland, market rate and affordable, showing that the City can meet its RHNA obligations under state law, without the need for rezoning or General Plan Amendments.

62. Adoption of the *Housing Element* will allow the City to pursue its stated goals, policies and objectives for improving the affordability and availability of housing for Oakland's residents. Specifically,

- Provide Adequate sites suitable for housing all income groups (Goal 1)
- Promote the development of adequate housing for low and moderate income households (Goal 2)
- Remove constraints to the availability and affordability of housing for all income groups (Goal 3)
- Conserve and improve older housing and neighborhoods (Goal 4)
- Preserve affordable rental housing (Goal 5)
- Promote equal housing opportunity (Goal 6)
- Promote sustainable development and sustainable communities (Goal 7)
- Increase public access to information through technology (Goal 8)

63. Adopting the goals, policies and objectives and programs of the *Housing Element* is essential if the City is to attempt to reduce the number of foreclosed homes, keep people in housing they currently own, and provide enough housing for all segments of its economic population, and continue to build housing that meets the precepts of high density on transportation corridors and near BART stations, as directed by the City's *Land Use and Transportation Element*, the "Focus" program from ABAG, and numerous other regional development policies.

64. Adopting the *Housing Element* goals, policies and actions is crucial for the continuation of the City's existing affordable housing programs, and opportunities for Oakland to be considered for current and future grant monies available from the State of California, as these monies are allocated to jurisdictions that have a certified *Housing Element*.

XIII. CEQA CLEARANCE FOR FUTURE HOUSING DEVELOPMENT PROJECTS

65. Although not required under CEQA, the EIR also identified some 'project-level' and 'cumulative' significant and unavoidable impacts of development of residential housing under the 2007-2014 Housing Element, such as Air Quality impacts relating to odors and gaseous toxic air contaminants; and Traffic impacts related to identified roadway segments impacts, previously identified impacted intersections, at-grade railroad crossings impacts, and identified State Highway impacts, as discussed above. Although certain future housing projects would be required to perform additional studies and must follow the feasible recommendations resulting from such studies, no further CEQA review would be required for above-identified impacts, as such impacts have already been identified as Significant Unavoidable and a Statement of Overriding Considerations adopted. Thus, specific residential developments would not have to prepare an EIR and/or Mitigated Negative Declaration solely based upon such impacts/recommendations.

66. The EIR also identifies project-level and cumulative Less than Significant Air Quality impacts (for greenhouse gas emissions, carbon monoxide, and diesel particulate matter), which might occur as a result of specific housing development, but which would not result in a significant impact under CEQA, as discussed above. Therefore, future residential development projects would result in less-than-significant impacts and would not be required to undertake project-specific (and cumulative) impact analysis under CEQA for these topics.



CITY OF OAKLAND

Community and Economic Development Agency, Planning & Zoning Division
250 Frank H. Ogawa Plaza, Suite 3315, Oakland, California, 94612-2032

NOTICE OF RELEASE AND AVAILABILITY OF HOUSING ELEMENT FINAL ENVIRONMENTAL IMPACT REPORT AND NOTICE OF PUBLIC HEARING TO CONSIDER RECOMMENDING ADOPTION OF THE 2007-2014 HOUSING ELEMENT

PROJECT TITLE: 2007-2014 *Housing Element* and Environmental Impact Report
CASE NO.: ER 08-0009; State Clearing House Number 2009092065
PROJECT SPONSOR: City of Oakland
PROJECT LOCATION: Citywide

DESCRIPTION OF PROJECT: In accordance with State law, the City of Oakland (City) proposes to adopt a General Plan Amendment (GPA) for the *2007-2014 Housing Element*, as part of the City's General Plan. The City must accommodate 14,629 new housing units between January 2007 and June 2014 to meet its "fair share" of housing need, known as the Regional Housing Needs Allocation (RHNA). The City can accommodate the new housing without rezoning or further GPAs, through current opportunity sites, and with projects either built, under construction, approved or in predevelopment. Some Housing Sites may be on the Cortese List. At this hearing, the Planning Commission will consider certifying the EIR for the *Housing Element*, and consider recommending the *Housing Element* to the City Council for final adoption.

ENVIRONMENTAL REVIEW: The preparation of the Final EIR (FEIR) has been overseen by the City's Environmental Review Officer, and the conclusions and recommendations in the document represent the independent conclusions and recommendations of the City. Starting on Friday, November 5, 2010, copies of the FEIR will be available for review or distribution to interested parties at no charge at the Community and Economic Development Agency, Planning Division, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, CA 94612, Monday through Friday, 8:30 a.m. to 5:00 p.m. Additional copies are available for review at the Oakland Public Library, Social Science and Documents, 125 14th Street, Oakland, CA 94612. The Final EIR may also be reviewed on the City's website at the "Current Environmental Review" page (paste this link into your browser):

www2.oaklandnet.com/Government/o/CEDA/o/PlanningZoning/s/Application/DOWD009157

PUBLIC HEARING: The City Planning Commission will conduct a public hearing to consider recommending the *2007-2014 Housing Element* for adoption by the City Council on **November 17, 2010, at 6:00 p.m.** in Hearing Room 1, City Hall, 1 Frank H. Ogawa Plaza. This action consists of the certification of the Final EIR and consideration of recommending the 2007-2014 Housing Element to the City Council for adoption.

A Draft EIR was released for the project on August 16, 2010 to garner public comment, under the requirements of the California Environmental Quality Act (CEQA), pursuant to Public Resources Code Section 21000 et. seq. Copies of the DEIR are available for review, as indicated above for the FEIR. The Planning Commission held a public hearing to accept public comment on the Draft EIR on September 15, 2010, and the public comment period closed on September 30, 2010. Responses to the comments received at the hearing and by the end of the comment period are presented in the FEIR.

As previously stated, although not required under CEQA, the EIR also identified some 'project-level' significant and unavoidable impacts of development of residential housing under the 2007-2014 Housing

Element, such as Air Quality impacts relating to odors and gaseous toxic air contaminants; and Traffic impacts related to identified roadway segments impacts, previously identified impacted intersections, at-grade railroad crossings impacts, and identified State Highway impacts. Although certain future housing projects would be required to perform additional studies and must follow the feasible recommendations resulting from such studies, no further CEQA review would be required for above-identified project-level impacts, as such impacts have already been identified as Significant Unavoidable. Thus, specific residential developments would not have to prepare an EIR and/or Mitigated Negative Declaration solely based upon such impacts/recommendations. Further, the EIR also identifies project-level Less than Significant Air Quality impacts (for greenhouse gas emissions, carbon monoxide, and diesel particulate matter), which might occur as a result of specific housing development, but which would not result in a significant impact under CEQA. Therefore, future residential development projects would result in less-than-significant impacts and would not be required to undergo the aforementioned project-specific impact analysis under CEQA.

If you challenge the environmental document or other actions pertaining to the Housing Element in court, you may be limited to raising only those issues raised at the public hearings described above, or in written correspondence received by the Community and Economic Development Agency, on or prior to November 17, 2010.

For further information, please contact the case planner, Devan Reiff, Planner II, at (510) 238-3550 or dreiff@oaklandnet.com.

November 5, 2010



Eric Angstadt,
Deputy Director
Community and Economic Development Agency
Environmental Review Officer

**Standard Conditions of Approval/ Mitigation Monitoring and Reporting Program (SCAMMRP)
City of Oakland 2007-2014 Housing Element *Environmental Impact Report***

Environmental Impacts	Mitigation Measures and Standard Conditions	Monitoring Responsibility	Implementation and Monitoring Timeline
3.2 Transportation			
<p>TR-1: The LOS analysis (Appendix E-6) conducted for the 2007-2014 <i>Housing Element</i> identified several roadway segments where the LOS would drop from an acceptable LOS to an unacceptable LOS with the addition of project generated traffic. The LOS analysis also identified roadway segments that operate or would operate at an unacceptable LOS without project generated traffic, where the project would increase the V/C ratio by more than 0.03. Both of these conditions would be considered a significant impact.</p>	<p>Mitigation:</p> <p><i>TR-1.1 Traffic Impact Study (TIS) for Residential Projects.</i> Prior to approval of a development application for a residential development, that may impact any roadway segment or intersection identified as having a significant impact, the project applicant shall retain a qualified traffic engineer to conduct a Traffic Impact Study (TIS), in accordance with then-current City policies and practices, to identify whether the project would contribute additional vehicular trips to a significant traffic impact on a study roadway segment(s) or intersection(s).</p> <p>The TIS shall be performed in accordance with then-current City policies and practices, and shall generally identify:</p> <ol style="list-style-type: none"> 1. The number of trips generated by the proposed project; 2. The mode split for vehicular trips (i.e. the number of generated trips that would be made by private vehicle); 3. The distribution of vehicular trips on local roadways; 4. Based on a quantitative evaluation of the information provided under 1 through 3, above, the City shall make a significance determination of the traffic impact(s) to roadway(s) or intersection(s) resulting from the proposed project; and 5. If the level of impact identified under 4 would be significant, Mitigation Measure TR-1.2 shall be employed. 	<p>City of Oakland, Transportation Services Division</p>	<p>Prior to approval of a development application</p>

¹ The City already requires as a Standard Condition of Approval (SCA-25), the development of a Transportation Demand Management (TDM) Plan for developments with 50 residential units or greater.

**Standard Conditions of Approval/ Mitigation Monitoring and Reporting Program (SCAMMRP)
City of Oakland 2007-2014 Housing Element *Environmental Impact Report***

Environmental Impacts	Mitigation Measures and Standard Conditions	Monitoring Responsibility	Implementation and Monitoring Timeline
TR-1.2	<p><i>Other Mitigations.</i> Depending on the results of the TIS conducted in TR-1.1, the project applicant's traffic engineer shall evaluate the feasibility of the following broad measures at the intersections identified in TR-1.1 above, and implement those measures determined feasible by the City:¹</p> <ul style="list-style-type: none"> • Install new traffic signals and other roadway improvements that support not only vehicle travel, but all other modes safely to and through the intersection, • Modify signal operation or phasing, • Change lane assignment, • Install bike and pedestrian facilities, and/or • Optimize signal timing (i.e., adjust the allocation of green time for each intersection approach) for the peak hours. <p>To implement those measures determined feasible by the City, the project sponsor shall submit the following to City of Oakland's Transportation Services Division for review and approval:</p> <ul style="list-style-type: none"> • Plans, Specifications, and Estimates (PS&E) to modify the intersection. 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. <p>Current City Standards call for the elements listed below:</p> <ul style="list-style-type: none"> • 2070L Type Controller w/ Cabinet 		

**Standard Conditions of Approval/ Mitigation Monitoring and Reporting Program (SCAMMRP)
City of Oakland 2007-2014 Housing Element *Environmental Impact Report***

Environmental Impacts	Mitigation Measures and Standard Conditions	Monitoring Responsibility	Implementation and Monitoring Timeline
<p>TR-2, TR-4, TR-5, TR-21, TR-22², Roadway Segment #18, Grand Avenue between Harrison Street and I-580, would operate at an unacceptable LOS in each of the Project scenarios: in the eastbound direction in the PM peak hour in the Existing Plus Project scenario; in the westbound direction in the AM peak hour, and in the eastbound direction in the PM peak hour in the Cumulative 2015 with Project scenario; in the westbound</p>	<p>Assembly and License seat,</p> <ul style="list-style-type: none"> • GPS communication (clock), • Accessible pedestrian signals (audible and tactile), and crosswalks according to Federal and State Access Board guidelines, • Countdown Pedestrian Head Module Switch out, • City Standard ADA wheelchair ramps, • Video Detection on Existing (or new, if required) Mast Arm Poles, full actuation (where applicable), • Polara Push Buttons (full actuation), • Bicycle detection (full actuation), • Pull Boxes, • Signal interconnect and communication w/ trenching (where applicable), or through (E) conduit (where applicable)- 600 feet maximum, • Conduit replacement contingency, • Fiber Switch, • PTZ Camera (where applicable), and • Signal timing plans. <p>The project sponsor shall fund, prepare, and install the approved plans and improvements.</p>	<p>Mitigation: Mitigation Measures TR-1.1 and TR-1.2 shall be implemented.</p>	<p>City of Oakland, Transportation Services Division Prior to approval of a development application</p>

² See DEIR, pages 3.2-50, 67, 68, 82 and 83.

**Standard Conditions of Approval/ Mitigation Monitoring and Reporting Program (SCAMMRP)
City of Oakland 2007-2014 Housing Element *Environmental Impact Report***

Environmental Impacts	Mitigation Measures and Standard Conditions	Monitoring Responsibility	Implementation and Monitoring Timeline
<p>direction in the AM peak hour and in the eastbound direction in PM peak hour in the Cumulative 2035 with Project scenario. While these impacts may be mitigated through implementation of Mitigation Measures TR1.1 and TR1.2 it is conservatively assumed that significant and unavoidable impacts might result.</p>			
<p>TR-3, TR-6, TR-7, TR-23, TR-24⁴: Roadway Segment #21, Fruitvale Avenue south of I-580, would operate at an unacceptable LOS in each of the Project scenarios: in the northbound direction in the AM peak hour and during the PM peak hour in the southbound direction, the Existing Plus Project scenario; in the northbound and southbound directions in the AM and PM peak hours in the Cumulative 2015 with Project scenario; in the north and southbound directions in the AM and PM peak hours in the Cumulative 2035 with Project scenario. While this impact may be mitigated through implementation of Mitigation Measures TR1.1 and TR1.2, it is conservatively assumed that a significant and unavoidable impact might result.</p>	<p>Mitigation: Mitigation Measures TR-1.1 and TR-1.2 shall be implemented.</p>	<p>City of Oakland, Transportation Services Division</p>	<p>Prior to approval of a development application</p>
<p>TR-11: In the PM peak hour, Roadway Segment #24 Foothill Boulevard north of Seminary Avenue would operate at an unacceptable LOS in the westbound direction in the 2015 Baseline Scenario, which is a significant impact. While this impact may be mitigated through implementation of Mitigation Measures TR1.1 and TR1.2, it is conservatively assumed that a significant and unavoidable impact might result.</p>	<p>Mitigation: Mitigation Measures TR-1.1 and TR-1.2 shall be implemented.</p>	<p>City of Oakland, Transportation Services Division</p>	<p>Prior to approval of a development application</p>

⁴ See DEIR, pages 3.2-58, 68 and 83

**Standard Conditions of Approval/ Mitigation Monitoring and Reporting Program (SCAMMRP)
City of Oakland 2007-2014 Housing Element *Environmental Impact Report***

Environmental Impacts	Mitigation Measures and Standard Conditions	Monitoring Responsibility	Implementation and Monitoring Timeline
<p>TR-12: Roadway Segment #29, International Boulevard between 23rd Avenue and Fruitvale Avenue, would operate at an unacceptable LOS in the eastbound direction in the PM peak hour in the Cumulative 2015 with Project scenario. While this impact may be mitigated through implementation of Mitigation Measures TR1.1 and TR1.2, it is conservatively assumed that a significant and unavoidable impact might result.</p>	<p>Mitigation: Mitigation Measures TR-1.1 and TR-1.2 shall be implemented.</p>	<p>City of Oakland, Transportation Services Division</p>	<p>Prior to approval of a development application</p>
<p>TR-13: Roadway Segment #30, International Boulevard west of Seminary Avenue, would operate at an unacceptable LOS in the eastbound direction in the PM peak hour in the Cumulative 2015 with Project scenario. While this impact may be mitigated through implementation of Mitigation Measures TR1.1 and TR1.2, it is conservatively assumed that a significant and unavoidable impact might result.</p>	<p>Mitigation: Mitigation Measures TR-1.1 and TR-1.2 shall be implemented.</p>	<p>City of Oakland, Transportation Services Division</p>	<p>Prior to approval of a development application</p>
<p>TR-15, TR-16: Roadway Segment #5, San Pablo Avenue south of Stanford Avenue, would operate at an unacceptable LOS E in the north- and southbound directions in both the AM and PM peak hours in the Cumulative 2035 with Project scenario. While these impacts may be mitigated through implementation of Mitigation Measures TR1.1 and TR1.2, it is conservatively assumed that a significant and unavoidable impact might result.</p>	<p>Mitigation: Mitigation Measures TR-1.1 and TR-1.2 shall be implemented.</p>	<p>City of Oakland, Transportation Services Division</p>	<p>Prior to approval of a development application</p>
<p>TR-17, TR-18: Roadway Segment #9, West Grand Avenue west of Martin Luther King Jr. Way, would operate at an unacceptable LOS in the westbound direction in the AM peak hour, and in the eastbound direction in the PM peak hour in the Cumulative 2035 with Project scenario, which are significant impacts. While these impacts may be mitigated through implementation of Mitigation Measures TR1.1 and TR1.2, it is conservatively assumed that a significant and unavoidable impact might result.</p>	<p>Mitigation: Mitigation Measures TR-1.1 and TR-1.2 shall be implemented.</p>	<p>City of Oakland, Transportation Services Division</p>	<p>Prior to approval of a development application</p>

**Standard Conditions of Approval/ Mitigation Monitoring and Reporting Program (SCAMMRP)
City of Oakland 2007-2014 Housing Element *Environmental Impact Report***

Environmental Impacts	Mitigation Measures and Standard Conditions	Monitoring Responsibility	Implementation and Monitoring Timeline
<p>TR-19, TR-20: Roadway Segment #11, Telegraph Avenue south of 51st Street, would operate at an unacceptable LOS in the southbound direction in the AM peak hour, and in the northbound direction in the PM peak hour in the Cumulative 2035 with Project condition, which are significant impacts. While these impacts may be mitigated through implementation of Mitigation Measures TR1.1 and TR1.2, it is conservatively assumed that significant and unavoidable impacts might result.</p>	<p>Mitigation: Mitigation Measures TR-1.1 and TR-1.2 shall be implemented.</p>	<p>City of Oakland, Transportation Services Division</p>	<p>Prior to approval of a development application</p>
<p>TR-28: During the PM peak hour, Roadway Segment #24, Foothill Boulevard north of Seminary Avenue, would operate at an unacceptable LOS in the westbound direction in the Cumulative 2035 with Project scenario, which is a significant impact. While this impact may be mitigated through implementation of Mitigation Measures TR1.1 and TR1.2, it is conservatively assumed that a significant and unavoidable impact might result.</p>	<p>Mitigation: Mitigation Measures TR-1.1 and TR-1.2 shall be implemented.</p>	<p>City of Oakland, Transportation Services Division</p>	<p>Prior to approval of a development application</p>
<p>TR-29, TR-30: Roadway Segment #25, MacArthur Boulevard west of 98th Avenue, would operate at an unacceptable LOS during the AM and PM peak hours in the westbound direction in the Cumulative 2035 with Project scenario, which is a significant impact. While these impacts may be mitigated through implementation of Mitigation Measures TR1.1 and TR1.2, it is conservatively assumed that a significant and unavoidable impact might result.</p>	<p>Mitigation: Mitigation Measures TR-1.1 and TR-1.2 shall be implemented.</p>	<p>City of Oakland, Transportation Services Division</p>	<p>Prior to approval of a development application</p>
<p>TR-31, TR-32: Roadway Segment #26, MacArthur Boulevard east of Lincoln Avenue, would operate at an unacceptable LOS during the AM peak hour in the westbound direction, and in the PM peak hour in the eastbound direction in the Cumulative 2035 with Project scenario, which are significant impacts. While these impacts may be mitigated through implementation of Mitigation Measures TR1.1 and</p>	<p>Mitigation: Mitigation Measures TR-1.1 and TR-1.2 shall be implemented.</p>	<p>City of Oakland, Transportation Services Division</p>	<p>Prior to approval of a development application</p>

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<p>TR1.2, it is conservatively assumed that a significant and unavoidable impact might result.</p>	<p>Mitigation: Mitigation Measures TR-1.1 and TR-1.2 shall be implemented.</p>	<p>City of Oakland, Transportation Services Division</p>	<p>Prior to approval of a development application</p>
<p>TR-33, TR-34: Roadway Segment #29, International Boulevard between 23rd Avenue and Fruitvale Avenue, would operate at an unacceptable LOS during the AM peak hour in the westbound direction, and during the PM peak hour in the eastbound direction in the Cumulative 2035 with Project scenario, these would be significant unavoidable impacts. While these impacts may be mitigated through implementation of Mitigation Measures TR1.1 and TR1.2, it is conservatively assumed that significant and unavoidable impacts might result.</p>	<p>Mitigation: Mitigation Measures TR-1.1 and TR-1.2 shall be implemented.</p>	<p>City of Oakland, Transportation Services Division</p>	<p>Prior to approval of a development application</p>
<p>TR-35: During the PM peak hour, Roadway Segment #30, International Boulevard west of Seminary Avenue, would operate at an unacceptable LOS during the PM peak hour in the eastbound direction in the Cumulative 2035 scenario, which is a significant impact. While this impact may be mitigated through implementation of Mitigation Measures TR1.1 and TR1.2, it is conservatively assumed that a significant and unavoidable impact might result.</p>	<p>Mitigation: Mitigation Measures TR-1.1 and TR-1.2 shall be implemented.</p>	<p>City of Oakland, Transportation Services Division</p>	<p>Prior to approval of a development application</p>
<p>TR-43. Development under the 2007-2014 <i>Housing Element</i> 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 housing 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 housing 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.</p>	<p>Mitigation: The following Mitigation Measure TR-43.1 should be applied to housing projects that generate substantial multi-modal traffic traveling across at-grade railroad crossings that could substantially increase hazards that occur between incompatible uses (i.e. motor vehicles and trains, or pedestrians and trains):</p> <p><i>TR-43.1 Transportation Impact Studies (TIS) for At-grade Railroad Crossings.</i> The TIS, otherwise required to be prepared for proposed housing developments, in accordance with standard City policies and practices, must evaluate potential impacts to at-grade railroad crossing resulting from project-related traffic. The TIS should examine whether the proposed project would</p>	<p>City of Oakland, Transportation Services Division</p>	<p>Prior to approval of development application</p>

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	<p>generate substantial multimodal traffic across at-grade railroad crossings that could substantially increase hazards that occur between incompatible uses (i.e. motor vehicles and trains, pedestrians and trains), which may include a Diagnostic Review for each railroad crossing.</p> <p>If required, the Diagnostic Review must be completed with all affected properties and Stakeholders, in coordination with the California Public Utility Commission (CPUC). It will include: roadway and rail descriptions; collision history; traffic volumes for all modes; train volumes; vehicular speeds; train speeds; and existing rail and traffic controls. Based on the Diagnostic Review and the number of Project trips, the TIS will evaluate if the proposed project increases hazards at the crossing. For example, vehicle traffic generated by the proposed project may cause vehicle queuing at intersections resulting in traffic backing up onto at-grade railroad crossings.</p> <p>Where the TIS identifies substantially hazardous crossing conditions caused by the proposed project, mitigations relative to the project's traffic contribution to the crossings may be applied through project redesign and/or incorporation of measures to reduce potential adverse impacts. Any proposed improvements must be coordinated with CPUC and affected railroads and all necessary permits/approvals obtained, including a GO 88-B Request (Authorization to Alter Highway Rail Crossings).</p> <p>These measures may include:</p> <ul style="list-style-type: none"> • Installation of additional warning signage; • Improvements to warning devices at existing highway rail crossings; • Installation of concrete panels to provide a smooth crossing surface; 		

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<p>TR-45. Development under the <i>Housing Element</i> would increase traffic volumes on State (Caltrans) highways within and outside Oakland (in the Existing Plus Project scenario):</p> <ul style="list-style-type: none"> ▪ #45 SR 13 north of I-580, northbound in the PM peak hour ▪ #46 SR 24 east of I-580, eastbound in the AM peak hour and both directions in the PM peak hour ▪ #52 I-880 north of 66th Avenue, northbound in the PM peak hour <p>The increase in traffic volume would constitute a</p>	<ul style="list-style-type: none"> • Reduction in the flangeway gap to improve pedestrian and bicyclist safety; • Installation of median separation to prevent vehicles from driving around railroad crossing gates; • Improvements to traffic signaling at intersections adjacent to crossings (e.g., signal preemption); • Prohibition of parking within 100 feet of the crossings to improve the visibility of warning devices and approaching trains; • Where soundwalls, landscaping, buildings, etc. would be installed near crossings, maintain the visibility of warning devices and approaching trains; • Elimination of driveways near crossings; • Installation of vandal-resistant fencing or walls to limit the access of pedestrians onto the railroad right-of-way; and/or • Installation of grade separations at crossings. <p>Mitigation: SCA-25-- In order to minimize the <i>Housing Element's</i> impact on the freeway system, individual projects with significant unavoidable impacts on roadway segments shall develop and implement a Parking and Transportation Demand Management Plan in accordance with the City's Standard Conditions of Approval² (SCA)-25. The plan will include strategies to reduce single occupancy travel, and increase bicycle, pedestrian, transit, and carpool use.</p>	<p>City of Oakland, Planning and Zoning Division</p>	<p>Prior to issuance of a final inspection of the building permit.</p>

² The City's Standard Conditions of Approval are in the process of being clarified, refined and updated to comply with new regulatory requirements (Revised SCAs). The Revised SCAs will provide at least equivalent levels of environmental protection. Future housing developments will be subject to the then current, Revised SCAs.

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significant impact on some state highway segments.			
Aesthetics			
I(c): Implementation of the <i>2007-2014 Housing Element</i> could have direct impacts to existing visual quality.	<p>Compliance with the following Land Use and Transportation Element (LUTE) mitigation measure and standard conditions of approval (SCA) would reduce impacts to the existing visual character to a less than significant level:</p> <ul style="list-style-type: none"> • <i>LUTE EIR</i> Mitigation Measures F.2a, F.2c, F.3b, F.3c; • SCA-12 – Required Landscape Plan for New Construction and Certain Additions to Residential Facilities; • SCA-13 – Landscape Requirements for Street Frontages; • SCA-14 – Assurance of Landscaping Completion; • SCA-15 – Landscape Maintenance; • SCA-16 – Landscape Requirements for Downslope Lots; • SCA-17 – Landscape Requirements for Street Frontages; • SCA-18 – Landscape Maintenance; • SCA-45 – Tree Removal Permit; • SCA-46 – Tree Replacement Plantings; • SCA-47 – Tree Protection During Construction. 	City of Oakland, Planning and Zoning Division	Prior to project approval SCA-12 – Prior to issuance of building permit; SCA-13, 14, 16, 17, and 46 – Prior to issuance of final inspection of the building permit; SCA-15 and 18 – Ongoing; SCA-45 and 47 – Prior to issuance of a demolition, grading, or building permit.
I(d): Development under the <i>2007-2014 Housing Element</i> could create new sources of substantial light and glare through the use of exterior lighting and reflective materials and could adversely affect day or nighttime views.	Compliance with SCA-40 (Lighting Plan) would prevent significant impacts from light and glare.	City of Oakland, Planning and Zoning Division and the Electrical Services Division of the Public Works Agency	Prior to issuance of an electrical or building permit
Biological Resources			
IV(a): Development under the <i>2007-2014 Housing Element</i> could occur in proximity to existing natural communities, including woodland, brushland, and grassland, and urban areas, which can provide suitable habitat for sensitive plant and wildlife species, including		City of Oakland, Planning and Zoning Division	Prior to project approval

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the Presidio clarkia and most beautiful jewel-flower.			
<p>IV(b): While development under the <i>2007-2014 Housing Element</i> would occur primarily in urbanized areas and would not have a substantial adverse effect on riparian or other sensitive natural communities, the effects of individual, site-specific projects on such communities must be determined at the project level.</p>	<p>Compliance with the following SCA would result in less-than-significant impacts to riparian habitat or other sensitive natural communities:</p> <ul style="list-style-type: none"> • SCA-72 - Vegetation Management Plan on Creekside Properties; • SCA-75 – Stormwater Pollution Prevention Plan (SWWP); • SCA-76 – Drainage Plan for Projects on Slopes Greater than 20%; • SCA-77 – Erosion, Sedimentation, and Debris Control Measures; • SCA-78 – Site Design Measures for Post-Construction Stormwater Management; • SCA-79 – Source Control Measures to Limit Stormwater Pollution; • SCA-80 – Post-Construction Stormwater Management Plan; • SCA-81 – Maintenance Agreement for Stormwater Treatment Measures; • SCA-82 – Erosion, Sedimentation, and Debris Control Measures; • SCA-83 – Creek Protection Plan; • SCA-84 – Regulatory Permits and Authorizations; • SCA-85 – Creek Monitoring; • SCA-86 – Creek Landscaping Plan; • SCA-87 – Creek Dewatering and Aquatic Life; • SCA-88 – Creek Dewatering and Diversion. 	<p>City of Oakland, Planning and Zoning Division</p>	<p>SCA-72 – Prior to issuance of a demolition, grading, and/or construction permit and Ongoing; SCA-76, and 78 through 80 – Prior to issuance of building permit (or other construction permit); SCA-81 – Prior to final zoning inspection; SCA-77, and 82 – Prior to issuance of demolition, grading, or construction related permit; SCA-75 and 83 – Prior to and ongoing throughout demolition, grading, and/or construction activities; SCA-84 through 86 – Prior to issuance of demolition, grading, or building permit within the vicinity of the creek; SCA 87 and 88 – Prior to start of and ongoing throughout any in-water activities.</p>
<p>IV(c): Development under the <i>2007-2014 Housing Element</i>, in or near a wetland, or an improvement that would impair or interrupt hydrological flow into such a wetland, could result in adverse effects to those wetlands.</p>	<p>Compliance with the following SCA would result in less-than-significant impacts to federally- and state-protected wetlands:</p> <ul style="list-style-type: none"> • SCA-72 - Vegetation Management Plan on Creekside Properties; • SCA-75 – Stormwater Pollution Prevention Plan (SWWP); 	<p>City of Oakland, Planning and Zoning Division</p>	<p>SCA-72 – Prior to issuance of a demolition, grading, and/or construction permit and Ongoing; SCA-76, and 78 through 80 – Prior to issuance of building permit (or other construction permit); SCA-81 –</p>

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<p>IV(d): Development under the <i>2007-2014 Housing Element</i> could result in the removal of existing vegetation, including trees, and creekside development could interfere with the movement of aquatic species.</p>	<ul style="list-style-type: none"> • SCA-76 – Drainage Plan for Projects on Slopes Greater than 20%; • SCA-77 – Erosion, Sedimentation, and Debris Control Measures; • SCA-78 – Site Design Measures for Post-Construction Stormwater Management; • SCA-79 – Source Control Measures to Limit Stormwater Pollution; • SCA-80 – Post-Construction Stormwater Management Plan; • SCA-81 – Maintenance Agreement for Stormwater Treatment Measures; • SCA-82 – Erosion, Sedimentation, and Debris Control Measures; • SCA-83 – Creek Protection Plan; • SCA-84 – Regulatory Permits and Authorizations; • SCA-85 – Creek Monitoring; • SCA-86 – Creek Landscaping Plan; • SCA-87 – Creek Dewatering and Aquatic Life; • SCA-88 – Creek Dewatering and Diversion. <p>Compliance with the following SCAs would ensure the protection of any localized wildlife movement, nesting migratory birds, and migratory fish.</p> <ul style="list-style-type: none"> • SCA-44 – Tree Removal During Breeding Season; • SCA-87 - Creek Dewatering and Aquatic Life. 	<p>City of Oakland, Planning and Zoning Division, Tree Services Division of the Public Works Agency; CDFG or USFWS, as applicable</p>	<p>Prior to final zoning inspection; SCA-77 and 82 – Prior to issuance of demolition, grading, or construction related permit; SCA-75 and 83 – Prior to and ongoing throughout demolition, grading, and/or construction activities; SCA-84 through 86 – Prior to issuance of demolition, grading, or building permit within the vicinity of the creek; SCA 87 and 88 – Prior to start of and ongoing throughout any in-water activities.</p> <p>SCA-44 – Prior to issuance of a tree removal permit; SCA-87 – Prior to the start of and ongoing throughout any in-water construction activity</p>
<p>IV(f): Removal of any protected trees resulting from housing development under the <i>2007-2014 Housing Element</i> would be subject to the provisions of the City's Tree Preservation Ordinance.</p>	<p>Compliance with the following SCA would result in less-than-significant impacts to protected trees in the City:</p> <ul style="list-style-type: none"> • SCA-43 – Tree Removal Permit on Creekside Properties; • SCA-44 – Tree Removal During Breeding Season; • SCA-45 – Tree Removal Permit; 	<p>City of Oakland, Planning and Zoning Division, Tree Services Division of the Public Works Agency; CDFG</p>	<p>SCA-43 and 46 – Prior to issuance of a final inspection of the building permit; SCA-44 – Prior to issuance of a tree removal permit; SCA 45 and 47 – Prior to issuance of a demolition, grading, or</p>

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<p>IV(g): Development under the <i>2007-2014 Housing Element</i> would be required to comply with the City of Oakland Creek Protection Ordinance (OMC Chapter 13.16) intended to protect biological resources.</p>	<ul style="list-style-type: none"> • SCA-46 – Tree Replacement Plantings; • SCA-47 – Tree Protection During Construction. <p>Compliance with the following SCA would result in less-than-significant impacts to riparian and aquatic habitats:</p> <ul style="list-style-type: none"> • SCA-72 - Vegetation Management Plan on Creekside Properties; • SCA-75 – Stormwater Pollution Prevention Plan (SWWP); • SCA-76 – Drainage Plan for Projects on Slopes Greater than 20%; • SCA-77 – Erosion, Sedimentation, and Debris Control Measures; • SCA-78 – Site Design Measures for Post-Construction Stormwater Management; • SCA-79 – Source Control Measures to Limit Stormwater Pollution; • SCA-80 – Post-Construction Stormwater Management Plan; • SCA-81 – Maintenance Agreement for Stormwater Treatment Measures; • SCA-82 – Erosion, Sedimentation, and Debris Control Measures; • SCA-83 – Creek Protection Plan; • SCA-84 – Regulatory Permits and Authorizations; • SCA-85 – Creek Monitoring; • SCA-86 – Creek Landscaping Plan; • SCA-87 – Creek Dewatering and Aquatic Life; • SCA-88 – Creek Dewatering and Diversion. 	<p>or USFWS, as applicable</p>	<p>building permit.</p> <p>SCA-72 – Prior to issuance of a demolition, grading, and/or construction permit and Ongoing; SCA-76, and 78 through 80 – Prior to issuance of building permit (or other construction permit); SCA-81 – Prior to final zoning inspection; SCA-77 and 82 – Prior to issuance of demolition, grading, or construction related permit; SCA-75 and 83 – Prior to and ongoing throughout demolition, grading, and/or construction activities; SCA-84 through 86 – Prior to issuance of demolition, grading, or building permit within the vicinity of the creek; SCA 87 and 88 – Prior to start of and ongoing throughout any in-water activities.</p>
<p>Cultural Resources</p>			
<p>V(a): Development under the <i>2007-2014 Housing Element</i> would not have direct, on-site physical impacts to existing historical resources; however, if development was undertaken in a manner that was not sensitive to historic resources, then significant impacts to historical resources</p>	<p>Compliance with the following SCA and would result in less-than-significant impacts to historical resources:</p> <ul style="list-style-type: none"> • SCA-56 – Compliance with Policy 3.7 of the <i>Historic Preservation Element (Property Relocation Rather than Demolition)</i>; 	<p>City of Oakland, Planning and Zoning Division</p>	<p>SCA-56 – Prior to issuance of demolition permit; SCA-57 – Prior to issuance of demolition, grading, or building permit</p>

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as defined by CEQA could result.	<ul style="list-style-type: none"> • SCA-57 – Vibrations Adjacent to Historic Structures. 		
V(b-d): Ground-disturbing activities under the <i>2007-2014 Housing Element</i> could potentially unearth undiscovered archaeological or paleontological resources, or human remains.	<p>Compliance with the following conditions of approval would result in less-than-significant impacts to archeological and paleontological resources and human remains:</p> <ul style="list-style-type: none"> • SCA-52 – Archaeological Resources; • SCA-53 – Human Remains; • SCA-54 – Paleontological Resources. 	City of Oakland, Planning and Zoning Division	SCA-52, 53 & 54 – Ongoing throughout demolition, grading, and/or construction
Geology and Soils			
VI(a & c): Development under the <i>2007-2014 Housing Element</i> near the Hayward fault's Alquist-Priolo Earthquake Fault Zone could expose people or structures to risk in the event of a large earthquake, including risks of ground surface rupture or violent groundshaking; hazards of subsidence and settling; landslides; and expansive soil.	<p>Compliance with the following conditions of approval would result in less-than-significant impacts to geological resources:</p> <ul style="list-style-type: none"> • SCA-35 – Hazards Best Management Practices • SCA-58 – Soils Report • SCA-59 – Geotechnical Report • SCA-60 – Geotechnical Report • SCA-68 – Best Management Practices for Soil and Groundwater Hazards 	City of Oakland, Planning and Zoning Division	SCA-35 - Prior to commencement of demolition, grading, or construction; SCA-58, 59, & 60 - Required as part of the submittal of a tentative Tract Map or tentative Parcel Map; SCA-68 - Ongoing throughout demolition, grading, and construction activities
VI(b): Development under the <i>2007-2014 Housing Element</i> would be required to comply with the City of Oakland Grading Ordinance (Ordinance No. 10312) and Sedimentation and Erosion Control Ordinance (Ordinance No. 10446) which require a permit for most earth movements of greater than 50 cubic yards of soil and preparation of a sedimentation and erosion control plan where appropriate.	<p>Compliance with the following SCA would result in less-than-significant exposures of people and structures to erosion:</p> <ul style="list-style-type: none"> • SCA-72 – Vegetation Management Plan on Creekside Properties • SCA-83 – Creek Protection Plan • SCA-85 – Creek Monitoring • SCA-86 – Creek Landscaping Plan • SCA-89 – Regulatory Permits and Authorizations 	City of Oakland, Planning and Zoning Division	<p>SCA-72 - Prior to issuance of a demolition, grading, and/or construction and Ongoing;</p> <p>SCA-83 - Prior to and ongoing throughout demolition, grading, and/or construction activities;</p> <p>SCA-85 & 86 - Prior to issuance of a demolition, grading, or building permit within vicinity of the creek;</p> <p>SCA-89 - Prior to issuance of a demolition, grading, or building permit.</p>
VI(d-e): Development under the <i>2007-2014 Housing Element</i> could expose people and structures to hazards of unsuitable soil conditions.	<p>Compliance with the following standard conditions of approval would result in less-than-significant exposures of people and structures to the hazards of unsuitable soil conditions:</p>	City of Oakland, Planning and Zoning Division, Fire Prevention	SCA-58, 59, & 60 - Required as part of the submittal of a tentative Tract Map or tentative Parcel Map; SCA-68 - Ongoing

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	<ul style="list-style-type: none"> • SCA-58 - Soils Report • SCA-59 - Geotechnical Report • SCA-60 - Geotechnical Report • SCA-68 - Best Management Practices for Soil and Groundwater Hazards • SCA-69 - Radon or Vapor Intrusion from Soil or Groundwater Sources 	Bureau Hazardous Materials Unit	throughout demolition, grading, and construction activities; SC-69 - Ongoing.

Hazards and Hazardous Materials

VII(b): Residential development under the 2007-2014 <i>Housing Element</i> could expose the public or environment to the upset or accidental release of hazardous materials.	Development under the 2007-2014 <i>Housing Element</i> would be subject to the following standard conditions of approval:	City of Oakland, Planning and Zoning Division, Fire Prevention Bureau Hazardous Materials Unit	SCA-41 - Prior to issuance of demolition permit; SCA-42, 61, 62, 63, 64, 65, 66, & 67 - Prior to issuance of a demolition, grading, or building permit; SCA-68 - Ongoing throughout demolition, grading, and construction activities; SC-69 - Ongoing.
	<ul style="list-style-type: none"> • SCA-41 - Asbestos Removal in Structures • SCA-42 Asbestos Removal in Soil • SCA-61 - Site Review by the Fire Services Division • SCA-62 - Phase I and/or Phase II Reports • SCA-63 - Lead-Based Pain/Coatings, Asbestos, or PCB Occurrence Assessment • SCA-64 - Environmental Site Assessment Reports Remediation • SCA-65 - Lead-Based Paint Remediation • SCA-66 - Other Materials Classified as Hazardous Waste • SCA-67 - Health and Safety Plan per Assessment • SCA-68 - Best Management Practices for Soil and Groundwater Hazards • SCA-69 - Radon or Vapor Intrusion from Soil or Groundwater Sources 		

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<p>VII(c): Development projects under the <i>2007-2014 Housing Element</i> could be undertaken within one-quarter mile of an existing or proposed school.</p>	<p>Individual development projects would be required to comply with the following Standard Conditions of Approval:</p> <ul style="list-style-type: none"> • SCA-35 – Hazards and Best Management Practices • SCA-41- Asbestos Removal in Structures • SCA-42 – Asbestos Removal in Soils • SCA-61 - Site Review by the Fire Services Division • SCA-62 - Phase I and/or Phase II Reports • SCA-63 - Lead-Based Pain/Coatings, Asbestos, or PCB Occurrence Assessment • SCA-64 - Environmental Site Assessment Reports Remediation • SCA-65 - Lead-Based Paint Remediation • SCA-66 - Other Materials Classified as Hazardous Waste • SCA-67 - Health and Safety Plan per Assessment • SCA-68 - Best Management Practices for Soil and Groundwater Hazards • SCA-69 - Radon or Vapor Intrusion from Soil or Groundwater Sources 	<p>City of Oakland, Planning and Zoning Division, Fire Prevention Bureau Hazardous Materials Unit</p>	<p>SCA-35 – Prior to commencement of demolition, grading, or construction; SCA-41 - Prior to issuance of demolition permit; SCA-42, 61, 62, 63, 64, 65, 66, & 67 - Prior to issuance of a demolition, grading, or building permit; SCA-68 - Ongoing throughout demolition, grading, and construction activities; SC-69 – Ongoing.</p>
<p>VII(d): Development projects under the <i>2007-2014 Housing Element</i> could be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.</p>	<p>Individual development projects would be required to comply with the following SCA:</p> <ul style="list-style-type: none"> • SCA-61 - Site Review by the Fire Services Division • SCA-62 - Phase I and/or Phase II Reports • SCA-63 - Lead-Based Pain/Coatings, Asbestos, or PCB Occurrence Assessment • SCA-64 - Environmental Site Assessment Reports Remediation • SCA-65 - Lead-Based Paint Remediation • SCA-66 - Other Materials Classified as Hazardous 	<p>Fire Prevention Bureau Hazardous Materials Unit</p>	<p>SCA-61, 62, 63, 64, 65, 66, & 67 - Prior to issuance of a demolition, grading, or building permit; SCA-68 - Ongoing throughout demolition, grading, and construction activities; SC-69 – Ongoing.</p>

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VII(h): Development under the <i>2007-2014 Housing Element</i> could expose people or structures to a significant risk of loss, injury, or death involving wildland fires.	<p align="center">Waste</p> <ul style="list-style-type: none"> • SCA-67 - Health and Safety Plan per Assessment • SCA-68 - Best Management Practices for Soil and Groundwater Hazards • SCA-69 - Radon or Vapor Intrusion from Soil or Groundwater Sources <p>Individual development projects would be required to comply with:</p> <ul style="list-style-type: none"> • SCA-70 Vegetation Management Plan • SCA-71 Fire Safety Phasing Plan • SCA-72 Vegetation Management Plan on Creekside Properties • SCA-73 Fire Safety 	City of Oakland, Planning and Zoning Division, Fire Services Division, Environmental Services Division of the Public Works Agency	SCA-70 & 72 - Prior to issuance of a demolition, grading, and/or construction and Ongoing; SCA-71 - Prior to issuance of a demolition, grading, and/or construction and concurrent with any p-job submittal permit; SCA-73 - Prior to and ongoing throughout demolition, grading, and/or construction
Hydrology and Water Quality			
VIII(a, f, g, & m): Development projects under the <i>2007-2014 Housing Element</i> could violate water quality standards or waste discharge requirements.	<p>Development under the <i>2007-2014 Housing Element</i> would be subject to the following standard conditions of approval with regard to hydrology and water quality:</p> <ul style="list-style-type: none"> • SCA-23 Compliance Matrix • SCA-24 Construction Management Plan • SCA-34 Erosion and Sedimentation Control • SCA-55 Erosion and Sedimentation Control Plan • SCA-75 Stormwater Pollution Prevention Plan (SWPP) • SCA-76 Drainage Plan for Projects on Slopes Greater than 20% • SCA-77 Erosion, Sedimentation, and Debris Control Measures • SCA-78 Site Design Measures for Post-Construction Stormwater Management • SCA-79 Source Control Measures to Limit Stormwater Pollution • SCA-80 Post-Construction Stormwater 	City of Oakland, Planning and Zoning Division, Building Services Division	SCA-23, 24 - Prior to issuance of a demolition, grading, or building permit; SCA-34 - Ongoing throughout demolition grading, and /or construction activities; SCA-55 - Prior to any grading activities; SCA-75, 83 - Prior to and ongoing throughout demolition, grading, and/or construction activities; SCA-76, 78, 79, & 80 - Prior to issuance of building permit (or other construction-related permit); SCA-77 & 82 - Prior to issuance of demolition, grading or construction-related permit; SCA-81 - Prior to final zoning inspection; SCA-84, 85, & 86 - Prior to issuance of demolition, grading, or building permit

**Standard Conditions of Approval/ Mitigation Monitoring and Reporting Program (SCAMMRP)
City of Oakland 2007-2014 Housing Element *Environmental Impact Report***

Environmental Impacts	Mitigation Measures and Standard Conditions	Monitoring Responsibility	Implementation and Monitoring Timeline
VIII(b): Development under the <i>2007-2014 Housing Element</i> could increase the amount of impervious surface and thereby, reduce the groundwater recharge potential.	<p align="center">Management Plan</p> <ul style="list-style-type: none"> • SCA-81 Maintenance Agreement for Stormwater Treatment Measures • SCA-82 Erosion, Sedimentation, and Debris Control Measures • SCA-83 Creek Protection Plan • SCA-84 Regulatory Permits and Authorization • SCA-85 Creek Monitoring • SCA-86 Creek Landscaping Plan <p>Development under the <i>2007-2014 Housing Element</i> would be subject to the following standard conditions of approval with regard to hydrology and water quality:</p> <ul style="list-style-type: none"> • SCA-35 Hazards Best Management Practices • SCA-68 Best Management Practices for Soil and Groundwater Hazards • SCA-75 SWPPP • SCA-77 Erosion, Sedimentation, and Debris Control Measures 		<p>within vicinity of the creek</p> <p>SCA-35 - Prior to commencement of demolition, grading, or construction; SCA-68 - Ongoing throughout demolition, grading, and construction activities; SCA-75 - Prior to and ongoing throughout demolition, grading, and/or construction activities; SCA-77 - Prior to issuance of demolition, grading, or construction-related permit</p>
VIII(c & I): Development under the <i>2007-2014 Housing Element</i> could result in substantial erosion or siltation on- or off-site that would affect the quality of receiving waters.	<p>Development under the <i>2007-2014 Housing Element</i> would be subject to the following standard conditions of approval with regard to hydrology and water quality:</p> <ul style="list-style-type: none"> • SCA-23 Compliance Matrix • SCA-34 Erosion and Sedimentation Control • SCA-43 Tree Removal Permit on Creekside Properties • SCA-46 Tree Replacement Plantings • SCA-47 Tree Protection During Construction • SCA-55 Erosion and Sedimentation Control Plan • SCA-72 Vegetation Management Plan on Creekside Properties • SCA-75 Stormwater Pollution Prevention Plan (SWPP) 		<p>SCA-23 & 47 - Prior to issuance of a demolition, grading, or building permit; SCA-34 - Ongoing throughout demolition grading, and/or construction activities; SCA-43 & 46 - Prior to issuance of a final inspection of the building permit; SCA-55 - Prior to any grading activities; SCA-72 - Prior to issuance of a demolition, grading, and/or construction and Ongoing SCA-75 & 83 - Prior to and ongoing throughout demolition, grading, and/or</p>

**Standard Conditions of Approval/ Mitigation Monitoring and Reporting Program (SCAMMRP)
City of Oakland 2007-2014 Housing Element *Environmental Impact Report***

Environmental Impacts	Mitigation Measures and Standard Conditions	Monitoring Responsibility	Implementation and Monitoring Timeline
<p>VIII(d & e): Development under the <i>2007-2014 Housing Element</i> could alter the peak flow rates and flow volumes draining to the existing storm drain system.</p>	<ul style="list-style-type: none"> • SCA-77 Erosion, Sedimentation, and Debris Control Measures • SCA-78 Site Design Measures for Post-Construction Stormwater Management • SCA-80 Post-Construction Stormwater Management Plan • SCA-82 Erosion, Sedimentation, and Debris Control Measures • SCA-83 Creek Protection Plan • SCA-84 Regulatory Permits and Authorization • SCA-85 Creek Monitoring • SCA-86 Creek Landscaping Plan • SCA-88 Creek Dewatering and Diversion <p>Development under the <i>2007-2014 Housing Element</i> would be subject to the following standard conditions of approval with regard to hydrology and water quality:</p> <ul style="list-style-type: none"> • SCA-20 - Improvements in the Public Right-of-Way (General) • SCA-21 - Improvements in the Public Right-of-Way (Specific) • SCA-68 - Best Management Practices for Soil and Groundwater Hazards • SCA-76 - Drainage Plan for Projects on Slopes Greater than 20% • SCA-80 - Post-Construction Stormwater Management Plan • SCA-91 - Stormwater and Sewer 		<p>construction activities; SCA-78 & 80 - Prior to issuance of building permit (or other construction-related permit); SCA-77 & 82 - Prior to issuance of demolition, grading or construction-related permit; SCA-84, 85, & 86 - Prior to issuance of demolition, grading, or building permit within vicinity of the creek; SCA-88 - Prior to start of any in-water construction activities</p> <p>SCA-20 - Approved prior to the issuance of a P-job or building permit; SCA-21 - Approved prior to the issuance of a grading or building permit; SCA-68 – Ongoing throughout demolition, grading, and construction activities; SCA-76 & 80 – Prior to issuance of building permit (or other construction-related permit); SCA-91 - Prior to completing the final design for the project’s sewer service</p>
<p>VIII(h-k): Development under the <i>2007-2014 Housing Element</i> could place housing within a 100-year flood hazard area; expose people or structures to flooding; result in inundation by seiche, tsunami, or mudflow; and/or conflict with the City of Oakland Creek Protection (OMC Chapter 13.16) ordinance.</p>	<p>Development under the <i>2007-2014 Housing Element</i> would be subject to the following standard conditions of approval with regard to hydrology and water quality:</p> <ul style="list-style-type: none"> • SCA-89 Regulatory Permits and Authorizations • SCA-90 Structures within a Floodplain 		<p>SCA-89 & 90 - Prior to issuance of a demolition, grading, or building permit</p>

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Environmental Impacts	Mitigation Measures and Standard Conditions	Monitoring Responsibility	Implementation and Monitoring Timeline
<p>IX(b): Development under the <i>2007-2014 Housing Element</i> could result in a fundamental conflict between adjacent or nearby land uses.</p>	<p>Development under the <i>2007-2014 Housing Element</i> would be subject to the following <i>LUTE EIR</i> mitigation measures and SCAs:</p> <ul style="list-style-type: none"> • MM LU-1a: Establish performance based standards which designate appropriate levels of noise, odors, light/glare, traffic volumes, or other such characteristics for industrial activities located near commercial or residential areas. (<i>1998 LUTE EIR - Mitigation Measure A.1a</i>) • MM LU-1b: Develop “performance” zoning regulations which permit industrial and commercial uses based upon their compatibility with other adjacent or nearby land uses. (<i>1998 LUTE EIR - Mitigation Measure A.1b</i>) • MM LU-1c: Develop strategies to mitigate conflicts associated with live/work and home occupation uses. (<i>1998 LUTE EIR - Mitigation Measure A.1c</i>) • MM LU-1d: Establish design requirements for large-scale commercial development that requires adequate buffers from residential uses. Use of open space, recreation space, or transit installations as buffers should be encouraged. (<i>1998 LUTE EIR - Mitigation Measure A.2a</i>) • MM LU-1e: Develop distinct definitions for home occupation, live/work and work/live operations; define appropriate locations for these activities and performance criteria for their establishment; and create permitting procedures and fees that facilitate the establishment of those activities which meet the performance criteria. (<i>1998 LUTE EIR - Mitigation Measure A.2b</i>) • MM LU-1f: Develop an incentive program to encourage the relocation of non-conforming industrial/ commercial businesses or residential uses to more appropriate locations in the City. 	<p>City of Oakland, Planning and Zoning Division</p>	<p>Prior to project approval</p>

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City of Oakland 2007-2014 Housing Element *Environmental Impact Report***

Environmental Impacts	Mitigation Measures and Standard Conditions	Monitoring Responsibility	Implementation and Monitoring Timeline
<p>IX(c): Development under the <i>2007-2014 Housing Element</i> could conflict with applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect and actually result in a physical change in the environment.</p>	<ul style="list-style-type: none"> • SCA-4 Conformance with other Requirements • SCA-5 Conformance to Approved Plans 		<p>SCA-4 - Prior to issuance of a demolition, grading, P-job, or other construction related permit; SCA-5 - Ongoing</p>
Public Services			
<p>XIII(a): Population growth and development under the <i>2007-2014 Housing Element</i> could potentially trigger the need for expanded fire and police facilities.</p>	<p>Development under the <i>2007-2014 Housing Element</i> would be subject to the following <i>LUTE EIR</i> mitigation measures and standard conditions of approval:</p> <p>LUTE EIR Mitigation Measures-</p> <ul style="list-style-type: none"> • MM D.5-1a: In reviewing major land use or policy decisions, consider the availability of police and fire protection services, park and recreation services, schools, and library services in the affected areas, as well as the impact of the project on current service levels. • MM D.5-1e: Solicit comments from the Oakland Police and Fire Departments on major new development proposals to ensure that law enforcement and fire protection impacts are appropriately addressed and mitigated. <p>Standard Conditions of Approval-</p> <ul style="list-style-type: none"> • SCA-4 Conformance with other Requirements • SCA-61 Site Review by Fire Services Division • SC-71 Fire Safety Phasing Plan • SC-73 Fire Safety (during construction) 	<p>City of Oakland, Planning and Zoning Division</p>	<p>Prior to project approval, SCA-4 - Prior to issuance of a demolition, grading, P-job, or other construction related permit; SCA-61 - Prior to the issuance of demolition, grading or building permit; SCA-71 - Prior to issuance of a demolition, grading, and/or construction and concurrent with any p-job submittal permit; SCA-73 - Prior to and ongoing throughout demolition, grading, and/or construction</p>
Utilities and Service Systems			
<p>XVI(a & d): Development under the <i>2007-2014 Housing Element</i> could exceed wastewater treatment requirements and/or result in the construction of new facilities or expansion of existing facilities.</p>	<p>Development under the <i>2007-2014 Housing Element</i> would be subject to the following standard condition of approval:</p> <ul style="list-style-type: none"> • SCA 91 Stormwater and Sewer 	<p>City of Oakland, Planning and Zoning Division</p>	<p>SCA-91 - Prior to completing the final design for the project's sewer service</p>
<p>XVI(b): Development under the <i>2007-2014 Housing Element</i> could require or result in construction of new stormwater drainage facilities or expansion of existing</p>	<p>Development under the <i>2007-2014 Housing Element</i> would be subject to the following standard condition of approval:</p>		<p>SCA-78 - Prior to issuance of building permit (or other construction-related permit);</p>

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Environmental Impacts	Mitigation Measures and Standard Conditions	Monitoring Responsibility	Implementation and Monitoring Timeline
facilities, construction of which could cause significant environmental effects.	<ul style="list-style-type: none"> • SCA-78 Site Design Measures for Post-Construction Stormwater Management • SCA-80 Post-Construction Stormwater Management Plan 		SCA-80 - Prior to issuance of building permit (or other construction-related permit)
XVI(e & f): Development under the <i>2007-2014 Housing Element</i> could exceed the capacity of a permitted landfill or violate applicable federal, State, and local solid waste statutes and regulations.	<p>Development under the <i>2007-2014 Housing Element</i> would be subject to the following <i>LUTE</i> EIR mitigation measures and standard condition of approval:</p> <p>LUTE EIR Mitigation Measures-</p> <ul style="list-style-type: none"> • MM D.4-1a: Continue to implement programs that reduce the amount of solid waste generated in the City by encouraging recycling, composting, and other activities consistent with the City's Source Reduction and Recycling Element. • MM D.4-1b: Support solid waste collection, recycling, and disposal rates that are sufficient to cover the cost of adequate, efficient service delivery. • MM D.4-1c: Establish guidelines and incentives for the recycling of construction and demolition debris and the use of recycled concrete and other recycled products in the construction of new buildings, roads, and infrastructure. <p>Standard Condition of Approval:</p> <ul style="list-style-type: none"> • SCA-36 Waste Reduction and Recycling 		SCA-36 - Prior to issuance of demolition, grading, or building permit

Attachment 4.
Housing Element Adoption Findings

In addition to the CEQA findings which must be made by the Planning Commission to certify the EIR (see **Attachment 1** of the November 17, 2010 Staff Report), there are an additional number of General Plan and State Law findings which the Commission must make in recommending the *Housing Element* to the City Council for adoption.

The City Planning Commission finds and determines:

1. The *Housing Element* meets Policy A3 of the *LUTE*: “Develop General Plan amendment cycles and related procedures”. Specifically:
 - a) as a General Plan Amendment, the *Housing Element* advances the General Plan by being an Element which is adopted by the City Council, and thus, in legal standing with the City of Oakland, and with the State of California.
 - b) the *Housing Element* is consistent with the policies of the *LUTE*, as detailed in Appendix F of the *Housing Element* (hereby incorporated by reference). Some of those policies include (among others):
 - Facilitating Housing Construction (Policy N3.1)
 - Encouraging Infill Development (Policy N3.2)
 - Encouraging Housing Development (Policy N3.5)
 - Orienting Residential Development (Policy N3.9)
 - Advocating for Affordable Housing (Policy N4.2)

Generally, Oakland’s *Land Use and Transportation Element (LUTE)* already permits high density housing and mixed use developments on the main streets and commercial corridors—which is how the 2007-2014 *Housing Element* can demonstrate that the City can accommodate the RHNA without any rezoning or General Plan Amendments. This is because the vision and specific policies contained in the *LUTE* seeks to encourage and facilitate the types of infill, re-use, mixed-use and central city/corridor-oriented residential development that are the focus of the *Housing Element*, and the City’s ability to accommodate its regional housing allocation from ABAG.

- c) There are no inconsistencies between the *Housing Element* and the *LUTE* which need to be reconciled.
- d) The Draft EIR examined the citywide impacts of implementing the *Housing Element*, and did not find any areas where the *Housing Element* is contrary to the achievement of citywide goals.

Attachment 4.
Housing Element Adoption Findings

2. That the *Housing Element* fulfills policy A7 of the LUTE implementation strategy: "Prepare and adopt remaining General Plan Elements." The relevant steps followed or being followed during the adoption of the *Housing Element* were:
 - a. Resolve policy and program issues related to technical aspects of each element
 - i. The *Housing Element* has been reviewed for consistency with State and City policies by staff of the City of Oakland and the State Division of Housing and Community Development and all policy/program issues have been resolved.
 - b. Prepare Draft Elements and environmental clearance documents
 - i. The EIR and the *Housing Element* which are the subject of this report are the documents which meet this finding
 - c. Conduct Public Hearings and adopt Draft Elements
 - i. There have been several public hearings¹ on the *Housing Element* and this November 17, 2010 hearing is to recommend adoption to the City Council, after two further public hearings in December.
 - d. Obtain State Certification of the *Housing Element*
 - i. The City has submitted the Draft *Housing Element* to staff at California Department of Housing and Community Development and has responded to comments. Upon adoption by the City Council, the final *Housing Element* will be formally submitted to HCD for certification.

¹ Prior public hearings on the 2007-2014 *Housing Element* were: the Planning Commission hearing on June 3, 2009; also a public workshop was held on April 14, 2009. The *Housing Element* policies were also discussed at the EIR scoping session at the Planning Commission on October 7, 2009, the Landmarks and Preservation Advisory Board meeting on October 19, 2009, as well as the Draft EIR hearing of the Planning Commission on September 15, 2010. Each of these public hearings were duly noticed in the *Oakland Tribune*, and through mailings to interested parties. The November 17th public hearing and the Draft EIR hearings were further noticed, per standard City practice, to neighboring jurisdictions, other state, regional or local responsible, trustee or other agencies, BART, AC Transit, the Oakland Unified School District.

Attachment 4.
Housing Element Adoption Findings

3. Adoption of the *Housing Element* meets the provisions of California Government Code Section 65351 et. seq., specifically²:
- 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 a public workshop” (Government Code section 65351).
 - b. The City provided notice of hearings in compliance with Government Code section 65352, in part, by noticing, on November 5, 2010, the proposed action to:
 - i. The neighboring cities of Alameda, Berkeley, Emeryville, San Leandro; the County of Alameda; the Port of Oakland; the Oakland Redevelopment Agency;
 - ii. The Oakland Unified School District
 - iii. The Local Agency Formation Commission
 - iv. The Association of Bay Area Governments; the Metropolitan Transportation Commission; the Regional Water Quality Control Board;
 - v. There are no Federal agencies with “operations or lands” that would be significantly affected by adopting the *Housing Element*;
 - vi. There is no branch of the US Armed Forces that have military installations or airspace that could be affected by adopting the *Housing Element*;
 - vii. East Bay Municipal Utility District, (which was consulted during the preparation of the *Housing Element*, and which has commented both on the Initial Study and the Draft EIR). Further, the City will comply with SB 1087 (Per Chapter 727, Statutes of 2004), and upon completion of the *Housing Element*, will immediately distribute a copy of the element to East Bay MUD.
 - viii. The Bay Area Air Quality District (staff worked with BAAQMD on the Air Quality Section of the DEIR, and the BAAQMD chose not to send formal comments)
 - ix. 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.

² See also footnote 1, summarizing additional noticing by the City.

Attachment 4.
Housing Element Adoption Findings

4. That the *Housing Element* meets California Government Code (Code) sections 65302 (g)(2), (3) and (5), which requires local jurisdictions, while revising their housing elements, to also examine their safety elements for new information which may have become available since the safety element was adopted related to flood hazards. Specifically, the City's current flood hazard policies and Standard Conditions of Approval, along with its participation in the FEMA National Flood Insurance Program, render the *Safety Element* in substantial compliance with the provisions of the Code, and the *Safety Element* does not need updating to meet the provisions of the Code at this time (see **Attachment 5** to the November 17, 2010 staff report).

5. That the *Housing Element*, in Appendix F "General Plan Policies" meets the provisions of Government Code Section 65583 (c)(7), which requires the identification of "means by which consistency will be achieved with other general plan elements and community goals."

6. That the City of Oakland is not in the Coastal Zone, and thus Government Code sections 65588(c) and (d), requiring the review of a housing element for jurisdictions located within a coastal zone, is not applicable.



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Attachment 5.
**Compliance with California Government Code Requiring Review of
 Safety Element During Housing Element Update**

California Government Code 65302 (g)(2), (3) and (5) (“Code”) requires local jurisdictions, while revising their housing elements, to also examine their safety elements—for new information which may have become available since the safety element was adopted. In general, section (g) (2) of the Code directs cities to prepare for, and recover quickly from, floods, and to mitigate the risks from flood hazards.

During the preparation of the *2007-2014 Housing Element*, the City spoke with staff from the City’s Public Works Agency, Office of Emergency Services and Risk Management Division; reviewed Oakland’s adopted 2004 *Safety Element of the General Plan*, and other City policy documents, such as:

- the Standard Conditions of Approval, uniformly applied as development standards, which also apply to City facilities (adopted by the City Council on November 3, 2008 via Ordinance No. 12899 C.M.S.).
- Oakland’s CEQA Thresholds/Criteria of Significance Guidelines, which also apply to City facilities mitigations from the Oakland “annex” to the Association of Bay Area Government’s 2005 Multi-Jurisdictional Local Hazard Mitigation Plan (2005 LHMP) and the 2010 update, currently under review by FEMA (2010 LHMP).¹
- Standards of the FEMA National Flood Insurance Program. Oakland participates in the Program, under Ordinance 10956 C.M.S. (1988), revised under 12960 C.M.S. (2009). Details of the ordinance that pertain to public buildings are noted below.

As a result of this review, and as detailed below, the City finds that the *Safety Element* is in substantial compliance with the provisions of the Code, and does not need updating to meet the provisions of the Code at this time.

The text of the Code is below. The City’s compliance with each provision is noted in **bold** typeface, referencing the document and page or figure where the compliance information is to be found in the 2004 Safety Element of the General Plan.

¹ The federal Disaster Mitigation Act of 2000 requires that cities, counties, and special districts have a Local Hazard Mitigation Plan (LHMP) to be eligible to receive hazard mitigation funds. Because of this, the City considers the 2010 LHMP to be functionally equivalent to the *Safety Element*, and the goals, policies and actions of the 2010 LHMP are in use by City staff today, even without FEMA’s final approval of the 2010 LHMP.

California Government Code 65302 (g)

(2) The safety element, upon the next revision of the housing element on or after January 1, 2009, shall also do the following:

(A) Identify information regarding flood hazards, including, but not limited to, the following:

(i) Flood hazard zones. As used in this subdivision, "flood hazard zone" means an area subject to flooding that is delineated as either a special hazard area or an area of moderate or minimal hazard on an official flood insurance rate map issued by the Federal Emergency Management Agency. The identification of a flood hazard zone does not imply that areas outside the flood hazard zones or uses permitted within flood hazard zones will be free from flooding or flood damage. **Safety Element, Figure 6.1 Flooding Hazards**

(ii) National Flood Insurance Program maps published by FEMA. **Safety Element, Figure 6.1 Flooding Hazards**

(iii) Information about flood hazards that is available from the United States Army Corps of Engineers. **Safety Element, Figure 6.1 Flooding Hazards**

(iv) Designated floodway maps that are available from the Central Valley Flood Protection Board. **(not applicable to Oakland)**

(v) Dam failure inundation maps prepared pursuant to Section 8589.5 that are available from the Office of Emergency Services. **Safety Element, Figure 6.1 Flooding Hazards, and "Dam Failure" section (page 106)**

(vi) Awareness Floodplain Mapping Program maps and 200-year flood plain maps that are or may be available from, or accepted by, the Department of Water Resources. **(not applicable to Oakland).**

(vii) Maps of levee protection zones. **(not applicable to Oakland)**

(viii) Areas subject to inundation in the event of the failure of project or non-project levees or floodwalls. **(not applicable to Oakland)**

(ix) Historical data on flooding, including locally prepared maps of areas that are subject to flooding, areas that are vulnerable to flooding after wildfires, and sites that have been repeatedly damaged by flooding. **Safety Element, "Hazards By Area" (Chapter 7)**

(x) Existing and planned development in flood hazard zones, including structures, roads, utilities, and essential public facilities. **Safety Element, Figure 2.1 Public Safety; Figure 6.1 Flooding Hazards**

(xi) Local, state, and federal agencies with responsibility for flood protection, including special districts and local offices of emergency services. **Safety Element, pages 99-102 and 111.**

(B) Establish a set of comprehensive goals, policies, and objectives based on the information identified pursuant to subparagraph (A), for the protection of the community from the unreasonable risks of flooding, including, but not limited to:

(i) Avoiding or minimizing the risks of flooding to new development. Safety Element, policy FL-2, "Continue or strengthen city programs that seek to minimize the storm-induced flooding hazard" (page 109) and Action F-3.5 "Refer Development proposals adjacent to floodways and floodplains to the Alameda County Flood Control and Water Conservation District (ACFCWCD or District) for its review and comment" (page 110). This action is enacted by the City's Standard Conditions of Approval #89, which requires that prior to construction within the floodway or floodplain, the project applicant shall obtain all necessary regulatory permits and authorizations from the District and shall comply with all conditions issued by that agency.

(ii) Evaluating whether new development should be located in flood hazard zones, and identifying construction methods or other methods to minimize damage if new development is located in flood hazard zones. Safety Element, Action FI-1 "Amend, as necessary, the city's regulations concerning new construction and major improvements to existing structures within flood zones, in order to maintain compliance with federal requirements and, thus, remain participant in the Nation Federal Insurance Program" (page 108). In addition, the City's Standard Conditions of Approval #90 requires that a project applicant retain a civil engineer to ensure that the project's development plans and design contain finished site grades and floor elevations that are elevated above the Base Flood Elevation (BFE) if established within a 100-year flood event. Also, the project applicant has to submit final hydrological calculations that ensure that the structure will not interfere with the flow of water or increase flooding. Further, the City's CEQA thresholds require studies to establish that a project would have a significant impact on the environment, that would require mitigation, if it would:

- Result in substantial flooding on- or off-site;
- Place housing within a 100-year flood hazard area, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map, that would impede or redirect flood flows;
- Place within a 100-year flood hazard area structures which would impede or redirect flood flows;
- Expose people or structures to a substantial risk of loss, injury or death involving flooding;
- Result in inundation by seiche, tsunami, or mudflow;
- Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course, or increasing the rate or amount of flow, of a creek, river or stream in a manner that would result in substantial erosion, siltation, or flooding, both on- or off-site.

(iii) Maintaining the structural and operational integrity of essential public facilities during flooding. Oakland participates in FEMA's Flood Insurance Program, under the statutory authority of ordinances 10956 C.M.S. (1988) and revised under 12960 C.M.S. (2009). The purpose of the Program, among other considerations, is to "promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to: to minimize damage to public facilities and

utilities” (10956 C.M.S. Section 1.3 (E)). Further, the Local Hazard Mitigation Plan contains these mitigation strategies and actions:

LHMP 2010

Both of these mitigations are marked as “existing” in the 2010 LHMP:

- **GOVT-a-1** Assess the vulnerability of critical facilities (such as city halls, fire stations, operations and communications headquarters, community service centers, seaports, and airports) to damage in natural disasters and make recommendations for appropriate mitigation.
- **GOVT-a-2** Retrofit or replace critical facilities that are shown to be vulnerable to damage in natural disasters.

(iv) Locating, when feasible, new essential public facilities outside of flood hazard zones, including hospitals and health care facilities, emergency shelters, fire stations, emergency command centers, and emergency communications facilities or identifying construction methods or other methods to minimize damage if these facilities are located in flood hazard zones. The Local Hazard Mitigation Plan contains these existing mitigation strategies and actions:

LHMP 2010

Both of these mitigations are marked as “existing” in the 2010 LHMP:

- **GOVT-a-10** Ensure that new government-owned facilities comply with and are subject to the same or more stringent regulations as imposed on privately-owned development.
- **GOVT-a-13** Ensure that any regulations imposed on private-owned businesses related to repair and reconstruction are enforced and imposed on local government's own buildings and structures.

(v) Establishing cooperative working relationships among public agencies with responsibility for flood protection. Safety Element, Policy F3.3, “Meet annually with the [District] to establish jointly the district's capital improvement program for most effectively reducing the remaining threat of storm induced flooding (page 110). In addition, the 2010 LHMP has this strategy:

- **GOVT-d-3** Recognize that a multi-agency approach is needed to mitigate flooding by having flood control districts, cities, counties, and utilities meet at least annually to jointly discuss their capital improvement programs for most effectively reducing the threat of flooding. Work toward making this process more formal to insure that flooding is considered at existing joint-agency meetings.

The Public Works Agency had several meetings this summer (2010) with the District on the Capital Improvement Plan, and meets regularly with them.

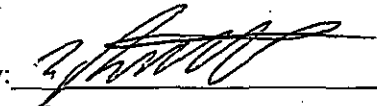
(C) Establish a set of feasible implementation measures designed to carry out the goals, policies, and objectives established pursuant to subparagraph (B). Oakland's Local Hazard Mitigation

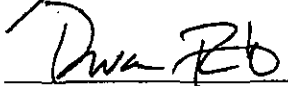
Plan (both the adopted 2005 Plan and the 2010 update, pending approval) is intended to implement the goals, policies and objectives of subparagraph B of the Code.

(3) After the initial revision of the safety element pursuant to paragraph (2), upon each revision of the housing element, the planning agency shall review and, if necessary, revise the safety element to identify new information that was not available during the previous revision of the safety element. **This memo demonstrates the City's compliance with this provision.**

(5) Prior to the periodic review of its general plan and prior to preparing or revising its safety element, each city and county shall consult the California Geological Survey of the Department of Conservation, the Central Valley Flood Protection Board, if the city or county is located within the boundaries of the Sacramento and San Joaquin Drainage District, as set forth in Section 8501 of the Water Code, and the Office of Emergency Services for the purpose of including information known by and available to the department, the office, and the board required by this subdivision. **The City contacted the State Geological Survey and the Office of Emergency Services for new information. The mapping information used in the preparation of the Safety Element is still current (i.e. location of Hayward Fault, or dam inundation hazard areas).**

In sum, as demonstrated above, the city's 2004 *Safety Element* is in substantial compliance with the provisions of the Code, and does not need updating to meet the provisions of the Code at this time.

Reviewed By:  Eric Angstadt, Environmental Officer,
City of Oakland

Prepared By:  Devan Reiff, AICP

Date: November 1, 2010

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2010 DEC -2 PM 12:41

OAKLAND CITY COUNCIL

Approved as to Form and Legality

Mark P. Walsh
City Attorney

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION CERTIFYING THE ENVIRONMENTAL IMPACT REPORT FOR THE 2007-2014 HOUSING ELEMENT AND ADOPTING THE HOUSING ELEMENT, AS RECOMMENDED BY THE OAKLAND CITY PLANNING COMMISSION

WHEREAS, California Government Code Section 65583 requires that the City prepare an update to the Housing Element of the General Plan; and

WHEREAS, the City's share of regional housing need is based on a plan prepared by the Association of Bay Area Governments (ABAG), the "Regional Housing Needs Allocation" (RHNA) that was adopted in 2007; and

WHEREAS, under the RHNA, Oakland must accommodate 14,629 new housing units between 2007 and 2014 with certain distribution of units for various income categories of Area Median Income; and

WHEREAS, in February 2009, the City published the draft 2007-2014 Housing Element and invited the public to comment, and further, held a community workshop on April 14, 2009 to present the Housing Element to residents and members of the for-profit and non-profit housing communities; and

WHEREAS, the Housing Element shows the City can accommodate the new housing in the RHNA without rezoning or further GPAs, through current opportunity sites, and with projects either built, under construction, approved or in predevelopment; and

WHEREAS, in March 2009, the City submitted the Housing Element to the State Department of Housing and Community Development (HCD) for review; and

WHEREAS, on April 30, 2009, HCD, in its response letter to the City, "commends Oakland's effort and success in addressing its housing and community development needs" and requested specific clarifications of the analysis; and

WHEREAS, in April and May, 2009, staff presented the Housing Element at meetings of the project area committees of the Central City East, the West Oakland and the Broadway-MacArthur Redevelopment Areas and heard comment from the committee members; and

WHEREAS, on June 3, 2009, after making the changes requested by HCD and responding to comments heard at the public meetings (Housing Element, Appendix H), the Revised Public Review draft of the Housing Element was presented at a duly noticed public hearing of the City Planning Commission and the Commission recommended the Housing Element be subject to California Environmental Quality Act (CEQA) review; and

WHEREAS, on September 21, 2009, an Initial Study/Notice of Preparation (NOP) was published for public review, which screening out from further study all impacts except those relating to Transportation and Circulation; Air Quality; Noise; Climate Change/Greenhouse Gas (GHG) Emissions; and

WHEREAS, duly noticed Environmental Impact Report (EIR) scoping hearings were held before the City Planning Commission on October 7, 2009 and before the Landmarks Preservation Advisory Board on October 19, 2009; and

WHEREAS, on August 12, 2010 a Notice of Availability/Notice of Release of a Draft EIR was published, and on August 16, 2010, the City published the Draft EIR, making it available to the public/governmental agencies for review and comment; and

WHEREAS, on September 15, 2010, the City Planning Commission held a duly noticed public hearing on the Draft EIR; and

WHEREAS, on November 5, 2010, a Notice of Availability/Release and Final EIR were published and made available for review and comment; and

WHEREAS, on November 17, 2010, the City Planning Commission held a duly notice public hearing on the Housing Element; and

WHEREAS, the City Planning Commission, after closing the public hearing but before taking action on the Housing Element, adopted the required California Environmental Quality Act (CEQA) findings, including certifying the EIR; rejecting alternatives as infeasible; adopting a Statement of Overriding Considerations; and adopting CEQA clearance for future housing development projects; and

WHEREAS, the City Planning Commission also recommended to the City Council adoption of the Housing Element and the Standard Conditions of Approval and Mitigation Monitoring Program (SCAMMRP); and

WHEREAS, the Housing Element was considered at a regular, duly noticed, meeting of the Community and Economic Development Committee of the City Council on December 14, 2010; and

WHEREAS, the Housing Element was considered at a regular, duly noticed, public hearing of the City Council on December 21, 2010; 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 Housing Element EIR, and the CEQA findings of the City Planning Commission contained in the approved November 17, 2010 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 November 17, 2010 City Planning Commission Report, prior to taking action in approving the Housing Element; 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 Housing Element, the SCAMMRP contained in the approved November 17, 2010 City Planning Commission Report; and be it

FURTHER RESOLVED: that the City Council hereby adopts the Housing Element as an element of the General Plan, based, in part, upon the findings of the City Planning Commission contained in the approved November 17, 2010 City Planning Commission Report (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 Housing Element; and be it

FURTHER RESOLVED: that the City Council hereby authorizes and directs the City Administrator, or designee, to file the adopted Housing Element with the California Department of Housing and Community Development for certification; 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 the Housing Element includes, without limitation, the following:

1. the Housing Element, 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 Environmental Impact Report and supporting technical studies and appendices, and all related/supporting final materials, and all final notices relating to the general plan amendment and attendant hearings;
3. all oral and written evidence received by the City Planning Commission and City Council during the public hearings on the general plan amendment; and all written evidence received by the relevant City Staff before and during the public hearings on the general

plan amendment;

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; 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) Community and Economic Development Agency, 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; 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, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER

NOES -

ABSENT -

ABSTENTION -

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