

Brian Mulry
Brian Mulry (Jun 13, 2014 15:42 PDT)

CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

A RESOLUTION, AS RECOMMENDED BY THE CITY PLANNING COMMISSION:

(A) ADOPTING THE DOWNTOWN OAKLAND SPECIFIC PLAN AND RELATED GENERAL PLAN TEXT AND MAP AMENDMENTS INCLUDING AMENDMENTS TO THE ESTUARY POLICY PLAN AND THE LAND USE AND TRANSPORTATION ELEMENT; AND

(B) CERTIFYING THE ENVIRONMENTAL IMPACT REPORT FOR THE DOWNTOWN OAKLAND SPECIFIC PLAN AND ASSOCIATED LEGISLATIVE ACTIONS AND MAKING RELATED CALIFORNIA ENVIRONMENTAL ACT FINDINGS

WHEREAS, Downtown Oakland serves as a regional employment center, transit hub, civic and cultural center, visitor destination, and focal point for economic activity for the City of Oakland (“City”) and contains a series of unique neighborhood districts with distinct character, needs and opportunities; and

WHEREAS, Downtown Oakland’s success as an economic, social, and cultural engine for the City is also dependent on the success of its neighborhoods and commercial hubs; and

WHEREAS, Section 65300 et. seq. of the California Government Code requires each city to adopt a comprehensive, long-term General Plan for the physical development of each city; and

WHEREAS, pursuant to Government Code Section 65450 et. seq., a city may also adopt one or more specific plans to facilitate the implementation of its General Plan; and

WHEREAS, the City seeks to adopt a specific plan for Downtown Oakland to guide downtown development to meet the City’s social and environmental needs and accommodate its projected growth; and

WHEREAS, on November 18, 2014, the City Council adopted Resolution No. 85272 C.M.S. authorizing the City to apply for, accept and appropriate grant funding from the Metropolitan Transportation Commission (“MTC”) for the initiation and preparation of the Downtown Oakland Specific Plan (“DOSP”); and

WHEREAS, Oakland City Council Resolution No. 85584 C.M.S., adopted on April 30, 2015, authorized the City Administrator to negotiate and execute a Professional Services Agreement with Dover, Kohl & Partners for development of the DOSP and Environmental Impact Report (“EIR”); and

WHEREAS, the DOSP generally encompasses the area bounded by 27th Street to the north; I-980 and Brush Street to the west; the Jack London estuary waterfront to the south; and Lake Merritt, Channel, and 5th Avenue to the east; and

WHEREAS, Planning staff involved thousands of Oakland residents in the development and review of several iterations of the Downtown Oakland Specific Plan from 2015 to 2024 through a wide variety of means, including a ten-day public charrette and open house; large public presentations; racial equity-focused interviews and focus groups; topic-focused equity working groups, neighborhood design sessions and creative solutions labs; a survey focusing on older adults and people with disabilities; public events such as Lunar New Year, farmers’ markets and the Black Joy Parade; general public meetings and hearings in person and online; online surveys; use of an online tool to receive comments on draft documents; focused meetings with priority equity groups; staff attendance at standing meetings of community organizations, Business Improvement Districts and Neighborhood Councils; sessions with UC Berkeley’s Y-PLAN program in middle and high schools; a Youth Summit; and an ongoing Community Advisory Group (“CAG”); and

WHEREAS, Planning staff also provided presentations, encouraged public participation, solicited feedback and provided updates as part of early development of the DOSP and review process at various other public meetings and Planning Commission meetings including on April 6, 2016, April 19, 2017, November 1, 2017; and

WHEREAS, Oakland City Council Resolution No. 86588 C.M.S., adopted on February 7, 2017, authorized the City Administrator to execute a Professional Services Agreement with the I-SEED team of consultants to prepare an Equity Assessment and conduct additional community engagement for the Downtown Oakland Specific Plan; and

WHEREAS, Oakland City Council Resolution No. 86588 C.M.S. also authorized the City Administrator to apply for, accept and appropriate funds from the Federal Transit Administration (“FTA”) for enhanced transportation, economic and environmental analysis to develop a comprehensive transit-oriented development strategy for downtown Oakland, as well as to enter into a memorandum of understanding with Bay Area Rapid Transit District (“BART”) for the FTA Transit-Oriented Development Pilot Program grant funds; and

WHEREAS, on July 19, 2022, the City Council adopted Resolution No. 89345 C.M.S., recognizing the disproportionate impacts of climate change on Black, Indigenous, People of Color (“BIPOC”) and low-income communities in Oakland and directing the City Administrator to engage in an equitable process for integrating climate resilience and mitigation strategies and policies into the General Plan; and

WHEREAS, Planning staff convened a Technical Advisory Committee comprised of internal City department representatives as well as other Oakland-based, neighboring, and regional governmental agency representatives to solicit input into the DOSP; and

WHEREAS, the DOSP has been through several iterations, beginning with the original Alternatives Report, followed by the Plan Options Memo, the Preliminary Draft Plan and finally the Public Review Draft of the DOSP (“Draft Plan”) and Draft Environmental Impact Report (“DEIR”), which were published for review in late 2019; and

WHEREAS, the comment period was extended beyond the legal requirement on the Draft Plan and DEIR, and the City received thousands of community comments; and

WHEREAS, as the DOSP was being finalized and the implementing zoning developed, the COVID-19 pandemic began, and while many of the DOSP’s policies and strategies already focused on many of the concerns exacerbated by the pandemic, such as the shift in retail toward online retailers and away from brick and mortar stores that occupy downtown areas, racial inequities in housing access and economic opportunity, and the need to become a more vibrant, culturally active twenty-four-hour downtown with more to offer than office buildings, these issues had accelerated and conditions had changed, so planning team took a step back to assess the plan and what might need to shift or be emphasized given the changed conditions and need for economic recovery; and

WHEREAS, the DOSP, and its Draft Environmental Impact Report (“DEIR”) and Environmental Impact Report (“EIR”) and its accompanying General Plan, Planning Code, Zoning Map and Municipal Code amendments have undergone thoughtful development and scrutiny for over eight (8) years; and

WHEREAS, Planning staff published a Preliminary Draft Downtown Oakland Specific Plan on January 16, 2019 that incorporated public feedback and the results of the City’s racial equity consultant’s equity assessment, and solicited feedback on the Preliminary Draft from the Planning Commission on January 23, 2019, February 6, 2019, and February 20, 2019; and

WHEREAS, Planning staff solicited feedback on the DOSP from the Planning Commission on May 15, 2024 and June 5, 2024, and the Community and Economic Development (“CED”) Committee of the City Council on June 25, 2024; and

WHEREAS, Planning staff considered all community feedback and incorporated responsive changes where appropriate; and

WHEREAS, the City used the community feedback received through the nine (9) years of community engagement and public hearings regarding the DOSP (2015-2024), and developed proposed Planning Code Amendments, Zoning Map, and Height and Intensity Maps that respond to this feedback and implement the policies, goals, and implementation measures of the DOSP; and

WHEREAS, the DOSP General Plan Amendments and Zoning Amendments were made available and presented for a public review at various times from 2022 to present, including on April 27, 2022 (Part I) and July 6, 2022 (Part II), with the revised versions of the DOSP General Plan Amendments and Zoning Amendments being published on April 19, 2024 prior to Planning Commission consideration of a recommendation; and

WHEREAS, in addition to facilitating public engagement meetings, Planning staff brought various elements of the DOSP legislative package to applicable City boards, committees

and commissions, encouraged public participation, and solicited feedback on the DOSP at the following public meetings and hearings: (a) the Zoning Update Committee (“ZUC”) on July 13, 2022, which was continued to August 24, 2022 and May 10, 2023; (b) the Landmarks Preservation Advisory Board (“LPAB”) on August 29, 2022, May 6 2024, which was continued to June 3, 2024; (c) the CED Committee of the City Council on June 25, 2024; and (d) the City Council on July 2, 2024 and July 16, 2024; and

WHEREAS, the City received approximately forty (40) comment letters and emails during the comment period, including recommendations from the CAG on the Draft Planning Code Amendments; and

WHEREAS, the DOSP sets forth bold strategies for physical improvement projects and supporting policies that balance community priorities; attend to the City’s most vulnerable residents, particularly those harmed by racial disparities; and carefully shape the design of downtown to accommodate necessary growth in housing, jobs, business and cultural innovation while protecting residents and businesses from displacement, preserving our most important historic resources, and activating public spaces that celebrate Oakland’s community and unique heritage; and

WHEREAS, the DOSP seeks to address community priorities for a sense of place, shelter, economic opportunity, cultural belonging, and mobility; and

WHEREAS, the DOSP provides a vision, along with goals and strategies to grow downtown in its role as a major regional employment, cultural, entertainment and residential center while meeting the needs of its most vulnerable stakeholders; and

WHEREAS, the DOSP responds to local, regional and international imperatives to develop in the center of dense urban areas served by transit and other amenities to reduce vehicle miles traveled and the impacts of greenhouse gases on climate and health; and

WHEREAS, development under the DOSP could add approximately 18.3 million square-foot of new commercial space, 1.3 million square-foot of new institutional space, and 500,000 square-foot of new industrial space resulting in approximately 57,000 jobs and \$41 million in Impact Fees to fund affordable housing and transportation improvements; and

WHEREAS, development under the DOSP could also add 29,000 new housing units, including approximately 4,000-7,000 income-restricted affordable units, resulting in \$480-544 million in Impact Fees to fund additional affordable housing; and

WHEREAS, the DOSP identifies opportunity sites that could be redeveloped over the next twenty (20) years to accommodate job-generating land uses and much-needed housing, while capitalizing on downtown’s excellent transit assets, central location, and beautiful waterfront setting; and

WHEREAS, the DOSP focuses on bringing people downtown and activating the streets to support public transit, businesses and safety, including by bringing attention to enhanced landscaping and pedestrian amenities and through culture-keeping policies that would encourage arts space, marketing and wayfinding for arts and cultural activities to keep downtown the cultural center of the region, including supporting the Black Arts Movement and Business District

(“BAMBD”); and

WHEREAS, the goals, policies and implementation actions of the DOSP are intended to guide development, set a workplan for the City to implement through interdepartmental, interagency and community partnerships, and provide a clear vision to help the City make policy and allocate resources; and

WHEREAS, the goals, policies and implementation actions of the DOSP also provide a specific vision that indicates community concord to potential funding agencies and other sources, bringing implementing projects closer to “shovel ready” and therefore helping eligibility and priority for grants; and

WHEREAS, the City has prepared an Environmental Impact Report (“EIR”) for the DOSP pursuant to CEQA and the State CEQA Guidelines to analyze potential physical environmental impacts of the proposed DOSP and its implementing Planning Code, Zoning and Height Area Maps, and General Plan text and map amendments; and

WHEREAS, the DOSP does not propose any specific private development projects, but establishes a development program representing the maximum feasible development that the City has projected can reasonably be expected to occur in the DOSP area over a 20-year planning period; and

WHEREAS, The EIR utilizes the maximum development program to assess the potential impacts of the development that is likely to occur under the DOSP; and

WHEREAS, since publication of the Draft EIR, available on the DOSP website at: www.oaklandca.gov/DOSP, the City has refined the development program, which is detailed in Table II-1 of the FEIR/RTC Document, Chapter II, entitled Plan Revisions and Draft EIR Project Description. The analysis supports that the revisions would not substantially change the findings of the Draft EIR and that they do not necessitate recirculation of the Draft EIR; and

WHEREAS, the FEIR/RTC Document is available to the public at the project website: www.oaklandca.gov/DOSP. The FEIR is also available at no charge at the Oakland Planning and Building Department, Strategic Planning Division, 250 Frank Ogawa Plaza, Suite 3315, Oakland, California, 94612; and

WHEREAS, on January 4, 2019, a Notice of Preparation of a DEIR was issued for the DOSP; and

WHEREAS, a duly noticed DEIR scoping hearing was held before the Planning Commission on February 4, 2019 and continued to February 20, 2019, to receive comments on the scope and content of the DEIR for the DOSP, with the public comment period for the scope of the EIR lasting from January 4, 2019 to February 21, 2019, extending nineteen (19) days longer than the thirty (30) days required by the California Environmental Quality Act (“CEQA”) Guidelines; and

WHEREAS, a Notice of Availability/Notice of Release of a DEIR was issued on August 30, 2019, along with publication of Draft EIR itself, both of which were made available to the public/governmental agencies for review and comment; and

WHEREAS, the DEIR review period began on August 30, 2019 and was ultimately extended to November 8, 2019 (from the required 45 days to 70 days) at the direction of the Planning Commission in response to requests of members of the public; and

WHEREAS, a duly noticed public hearing on the Draft EIR was held before the Planning Commission on October 2, 2019 and continued to November 6, 2019; and

WHEREAS, on May 1, 2024, a Notice of Availability/Release of a Final EIR and Hearing Drafts of the DOSP was issued and the Final EIR and Public Hearing Draft of the DOSP with appendices identifying responses to public comment were published, on the City of Oakland DOSP webpage, and an email notice was sent to all individuals and organizations that have requested project updates; and

WHEREAS, on May 15, 2024 and June 5, 2024, the Planning Commission held duly noticed public hearings to consider the DOSP, General Plan Map and Text Amendments, EIR and related documents, and Planning Code Text and Zoning Map Amendments; and

WHEREAS, the Planning Commission, after conducting and closing the public hearing, recommended that the City Council: (a) adopt the required CEQA findings, including certifying the EIR, (b) adopt the Standard Conditions of Approval and Mitigation Monitoring Program (“SCAMMRP”); (c) adopt a resolution to certify the EIR and make related CEQA findings, and adopt conforming amendments to the Land Use and Transportation Element (“LUTE”) and the Estuary Policy Plan (“EPP”) of the General Plan, including General Plan Text and Map Amendments; and (d) adopt an ordinance adopting the proposed Planning Code Text and Zoning Map Amendments; and

WHEREAS, the Planning Commission provided additional recommendations, which have been incorporated into the final DOSP Package, including removing the Green Loop and other non-industrial improvements from Howard Terminal, adding a policy to facilitate reuse of existing space for new arts and work/live uses, clarifying housing measures, removing the historic Floral Depot building parcel from the Zoning Incentive Program (ZIP) area, and clarifying that a new train station could be either BART or Capital Corridor, consistent with the regional Link 21 project; and

WHEREAS, on June 25, 2024, at a duly noticed public meeting, the CED Committee of the City Council voted to recommend the proposal to adopt the DOSP, certify the EIR, and adopt conforming amendments to the LUTE and EPP of the City of Oakland General Plan, including General Plan Text and Map Amendments; and

WHEREAS, the City Council held a duly noticed public hearing on July 2, 2024, to review and consider adoption of the DOSP, conforming amendments to the LUTE and EPP of the City of Oakland General Plan, including General Plan Text and Map Amendments, and EIR certification; and, now, therefore, be it

RESOLVED: that the recitals contained above in this Resolution are true and correct, are an integral part of the City Council’s decision, and are hereby incorporated as findings in support of adoption of the DOSP, related General Plan Text and Map Amendments, including to the EPP and LUTE of the City of Oakland General Plan, and EIR certification; and be it

FURTHER RESOLVED, that the City Council, as the final decision-making body for the lead agency, has independently reviewed, considered and analyzed the DOSP EIR and the CEQA findings attached hereto as **Exhibit B**; 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) all the CEQA findings attached hereto as **Exhibit B**, including rejecting mitigation measures and alternatives as infeasible and adopting a Statement of Overriding Considerations, prior to taking action in adopting of the DOSP, related amendments to the EPP and LUTE of the City of Oakland General Plan, including General Plan Text and Map Amendments, and EIR certification; and be it

FURTHER RESOLVED, that the City Council hereby certifies that the DOSP EIR has been prepared in accordance with CEQA and adopts and certifies said EIR; 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 DOSP, the Standard Conditions of Approval and Mitigation Monitoring Program (“SCAMMRP”) attached hereto as **Attachment A** to **Exhibit B**; and be it

FURTHER RESOLVED, that the City Council hereby adopts the DOSP, which is available at: https://cao-94612.s3.us-west-2.amazonaws.com/documents/DOSP_Final-Draft-Plan_042524.pdf; and be it

FURTHER RESOLVED, that the City Council hereby amends the LUTE and EPP of the General Plan Text and Maps as shown attached hereto as **Exhibit A** as General Plan Amendments; and be it

FURTHER RESOLVED, that the City Council hereby finds that with these amendments and related legislative actions, the DOSP is consistent with the General Plan;

FURTHER RESOLVED, that the City Council hereby authorizes the City Administrator or designee to make non-substantive, technical conforming changes (essentially correction of typographical and clerical errors and minor clarifications) to the DOSP, related amendments to the LUTE and EPP of the City of Oakland General Plan, including General Plan Text and Map Amendments, and EIR, prior to formal publication, without returning to the City Council or Planning Commission; and be it

FURTHER RESOLVED, that nothing in this Resolution shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any Federal or State law; and be it

FURTHER RESOLVED, that the provisions of this Resolution and the adopted DOSP and related General Plan Text and Map Amendments, including Amendments to the LUTE and EPP, are severable. If a court of competent jurisdiction determines that a word, phrase, clause, sentence, paragraph, subsection, section, Chapter or other provision is invalid, or that the application of any part of the provision to any person or circumstance is invalid, the remaining provisions of this Resolution (that can be given effect without the invalid provision or application) and the application of those provisions to other persons or circumstances are not affected by that

decision. The City Council declares that the City Council would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution; and be it

FURTHER RESOLVED: That the City Council hereby directs the Environmental Review Officer or designee to cause to be filed a Notice of Determination (“NOD”) in compliance with CEQA with the appropriate agencies; and be it

FURTHER RESOLVED, that the record before this Council relating to these actions include, without limitation, the following:

1. the DOSP, the LUTE and EPP of City of Oakland General Plan, and General Plan Text and Map amendments including all accompanying maps, papers and appendices;
2. all final staff reports, final decision letters and other final documentation and information produced by or on behalf of the City, including without limitation the EIR and supporting technical studies and appendices, and all related/supporting final materials, and all final notices relating to the DOSP, and related meetings and public hearings;
3. all oral and written evidence received by the Planning Commission and City Council during the public hearings; and all written evidence received by the relevant City Staff before and during the public hearings; and
4. all matters of common knowledge and all official enactments and acts of the City, such as: (a) the Oakland General Plan; (b) Oakland Municipal Code; (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’s decision is based are respectively: (a) Oakland Planning and Building Department, Strategic Planning 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 adoption of the DOSP shall become effective thirty (30) days from final passage of the Ordinance adopting the DOSP Legislative Amendments, as that term is defined in the accompanying Ordinance for the DOSP.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES -
NOES –
ABSENT –
ABSTENTION –

ATTEST: _____
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

