



AGENDA REPORT

TO: Jestin D. Johnson
City Administrator

FROM: William Gilchrist
Director, Planning &
Building Department

SUBJECT: Certification of the Final
Environmental Impact Report for
Phase 1 of the City of Oakland 2045
General Plan Update and Adoption of
the Safety and, Environmental Justice
Elements and the Planning Code Text
and Map Amendments

DATE: August 22, 2023

City Administrator Approval

Date: Aug 31, 2023

RECOMMENDATION

Staff Recommends That The City Council Conduct A Public Hearing On September 19, 2023 And Upon Conclusion:

(1) Adopt a Resolution, as Recommended by the City Planning Commission, Approving the Following Actions:

(A) Certifying the Environmental Impact Report And Making Related California Environmental Quality Act Findings;

(B) Adopting an Amendment to the Safety Element of the City of Oakland General Plan;

(C) Adopting the Environmental Justice Element as a New Element of the City of Oakland General Plan; And

(D) Adopting Conforming Amendments to the Land Use and Transportation Element of the City of Oakland General Plan, including General Plan Map Amendments, As Part of Implementation of the Recently Adopted 2023-2031 Housing Element; And

(2) Adopt an Ordinance, as Recommended by the City Planning Commission, Adopting Various Planning Code Text, and Map Amendments to Implement Actions Proposed in Phase 1 of the City of Oakland 2045 General Plan Update, Including

(A) Updates to the Detached Unit Residential (RD) Zone, Changes to Density in Mixed Housing Type Residential (RM) Zones, Hillside Residential-4 (RH-4) Zone, and Urban Residential (RU) Zones, Creation of a New Two- to Four-Family Residential Facility Type, Changes to Conditional Use Permit Requirements (Including Elimination of Conditionally Permitted Densities), Creation of a New

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Regional Commercial-2 (CR-2) Zone, Changes to Parking Requirements, Height Changes Along Transit Corridors, and Density and Zoning Map Changes;

(B) Creating A New S-13 Affordable Housing Combining Zone;

(C) Creating A New S-14 Housing Sites Combining Zone;

(D) Amending Conditional Use Permit Requirements for Housing and Business Mix (HBX) Commercial Zones, Commercial Industrial Mix (CIX), General Industrial (IG), and Industrial Office (IO) Zones;

(E) Amending Expiration Timelines for Nonconforming Uses and CUP Termination Timelines for Truck-Intensive Uses;

(F) Adopting Amendments to Facilitate the Production of Special Housing Types such as Rooming Units, Efficiency Units, Employee Housing, Residential Care Facilities, Transitional and Supportive Housing, Low Barrier Navigation Centers, and Emergency Shelters;

(G) Adopting Various Amendments Which Codify Administrative Practices, Update References, Clarify Language, and Other Conforming Changes; And

(H) Adopting Appropriate California Environmental Quality Act Findings.

EXECUTIVE SUMMARY

The Oakland 2045 General Plan Update (GPU) process began in late 2021 and is being undertaken in two phases: Phase 1 includes updates to the City of Oakland (City) General Plan Housing Element (approved by City Council on January 31, 2023 ([89565 CMS](#))), updates to the Safety Element, creation of City's first Environmental Justice (EJ) Element, associated Planning Code, Zoning Map, and General Plan Text and Map Amendments. A [Racial Equity Impact Analysis \(REIA\)](#) has been prepared that analyzes each Element to support the development of equitable policies that are concrete, data-driven, outcome-oriented, and problem-solving.

As part of the California Environmental Quality Act (CEQA) review, the City has prepared an Environmental Impact Report (EIR) to address the City's updates to its Safety Element and adoption of a new EJ Element, the proposed Planning Code, Zoning Map, Height Map, and General Plan text and map amendments, including several Housing Element Implementation (HEI) actions contained in the 2023-2031 Housing Element. All comments that were received during the Draft EIR public comment period have been compiled and responded to in the Response to Comments (RTC) Document, along with non-substantive changes and clarifications to the Draft EIR. The RTC Document, together with the Draft EIR, constitutes the [Final EIR for Phase 1 of the Oakland 2045 General Plan Update](#).

The proposed Planning Code and Zoning Map Amendments implement several key actions proposed in the [2023-2031 Housing Element \(See Attachment F\)](#) and are key to maintaining the City's Housing Element compliance and certification that the California Housing and Community Development Department (State HCD) bestowed in February 2023, the City's Prohousing Designation, which the State awarded in 2022, the City's competitive position for Community and Economic Development Committee
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state affordable housing grants, and the City's local land use control. Pursuant to Senate Bill (SB) 1035, the City is required to review and update the Safety Element, in line with the adoption of the General Plan Housing Element. Under SB 1000, Oakland is required to adopt either an EJ Element or EJ policies throughout the General Plan Elements concurrent with updates to the Housing and Safety Elements.

The Final EIR and the Public Hearing Drafts of the Safety and EJ Element, Planning Code, Zoning Map, General Plan Text and Map Amendments, were published on July 26, 2023, and are available for review on the project's webpage at <https://www.oaklandca.gov/topics/general-plan-update>. The Public Hearing Drafts reflect feedback from the community through letters, emails, and in-person statements at public meetings and hearings. A full discussion of the Public Hearing Drafts of the Safety and EJ Element, Planning Code, Zoning Map, General Plan Text and Map Amendments and the Final EIR can be found in the [August 2, 2023, Report to the City Planning Commission](#), also included as **Attachment A**.

The Board of Forestry and Fire Protection conducted a formal review of the City's Safety Element at the regularly scheduled Resource Protection Committee (RPC) meeting on August 22, 2023 at 1.00 PM. A copy of the Board's comments are included as **Attachment D**.

The purpose of this public hearing is to receive comments from the Community and Economic Development (CED) Committee and the public on the Final EIR, Public Hearing Drafts of the Safety and EJ Element, Planning Code, Zoning Map, and associated General Plan Text and Map Amendments, before receiving the CED Committee's recommendation to City Council on the following adoptions:

- An amendment to the Safety Element of the City's General Plan; and
- The Environmental Justice (EJ) Element as a New Element of the City's General Plan; and
- Planning Code Text and Map Amendments and Conforming Amendments to the Land Use and Transportation Element of the City's General Plan, including General Plan Map Amendments; and
- CEQA findings for the Final EIR in **Attachment B**, which include certification of the Final EIR, rejection of alternatives as infeasible, and a Statement of Overriding Considerations; and
- Standard Conditions of Approval and Mitigation Monitoring Reporting Program (SCAMMRP) in **Attachment C**.

BACKGROUND AND LEGISLATIVE HISTORY

1. SAFETY ELEMENT AND ENVIRONMENTAL JUSTICE ELEMENT

Safety and EJ Element Requirements

The City's current Safety Element was adopted in 2004 and subsequently amended to incorporate the City's Local Hazard Mitigation Plan in 2012, 2016, and 2021. Pursuant to

Senate Bill (SB) 1035, the City is required to review and update the Safety Element, as needed, every eight years in line with the adoption of the General Plan Housing Element. SB 1035 and SB 379 (both amending Gov. Code § 65302) require all cities to address climate change adaptation and resilience in their General Plan Safety Element.

On July 19, 2022, the Oakland 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. The City Council's direction is consistent with SB 1035 and SB 379.

SB 1000, passed in 2016, requires that cities and counties with disadvantaged communities (*referred to as "Environmental Justice Communities" or "EJ Communities" in Oakland¹*), adopt a standalone EJ Element or EJ policies throughout the General Plan Elements. These policies must aim to reduce health risks in EJ Communities, promote safe and sanitary homes, food access, physical activity, public facilities, promote civic engagement in the public decision-making process, and prioritize improvements and programs that address the needs of disadvantaged communities. Under SB 1000, Oakland is required to adopt an EJ Element at the same time that the Housing and Safety Elements are updated. The City has opted to adopt both a standalone EJ Element and include EJ policies within the other General Plan Elements.

Oakland Municipal Code Section 2.29.170, specifies that the City "will intentionally integrate, on a Citywide basis, the principles of 'fair and just' in all the City does in order to achieve equitable opportunities for all people and communities," as well as City Council Resolution 89249: Declaring Racism A Public Health Crisis, states that the City "declares racism a public health crisis and recognizes the severe impact of racism on the well-being of Oakland residents and the City overall."

Public Hearing Drafts of Safety and EJ Element

In response to community feedback and feedback received at the [May 17, 2023](#) Planning Commission Meeting, the [June 27, 2023](#) CED Committee meeting and the [July 11, 2023](#) Public Safety Committee (PSC) meeting, staff updated existing policies and actions and added new actions in the Safety and EJ Element. [Comment letters](#) received on the public review drafts of the Safety and EJ Elements and [staff responses](#) are also available on the project webpage.

As stated earlier, the Public Hearing Drafts of the [Safety](#) and [EJ](#) Elements, were published on July 26, 2023, and are available for review on the project's webpage at <https://www.oaklandca.gov/topics/general-plan-update>. A full discussion of the Public Hearing Drafts of the Safety and EJ Element, can be found in the [August 2, 2023, Report to the City](#)

¹ While State law uses the term "disadvantaged communities," the City of Oakland has opted to use the term "Environmental Justice Communities," in line with recommendations from the California Environmental Justice Alliance.⁴ This is based on the recognition that, in addition to identifying the problems and areas that are unfairly impacted (i.e., "disadvantaged") by cumulative burdens, gaining equitable access to environmental benefits, investments, and other resources for low-income communities and communities of color is also an important aspect of environmental justice.

[Planning Commission](#), also included as **Attachment A**, pages 1 through 17. See also a memo from the Deeply Rooted Collaborative included as **Attachment E**.

Racial Equity Impact Analysis for Safety and EJ Elements

Both the Safety and EJ Elements are accompanied by a [REIA](#) to ensure that both Elements prioritize policies to reduce the risks and harmful impacts faced by the City’s most vulnerable and frontline communities, whether the risks are from daily exposure to pollution or from structural disasters. The REIA provides an assessment of the proposed goals and actions in the draft EJ and Safety Elements, shedding light on the communities within Oakland that experience the greatest environmental justice and safety burdens. For each group of goals and actions, the analysis begins with a statement of who the action stands to benefit, and which parties may be, or perceive themselves to be, burdened by it. Next, the REIA identifies existing challenges and equity gaps that can limit each action’s effectiveness in reducing disparities.

Finally, the REIA provides recommendations using visual icons to strengthen each action or bolster implementation in ways that overcome existing barriers to achieving substantive equitable outcomes.

Review by California Geological Survey of the Department of Conservation and Board of Forestry and Fire Protection

Pursuant to Government Code Section 65302.5(a), the City submitted the Public Review Draft Safety Element and technical studies used to develop the Element to the California Geological Survey of the Department of Conservation for a 45-day review period and to the Board of Forestry and Fire Protection for a 90-day informal review period. Staff from the Board of Forestry and Fire Protection reviewed staff updates to the Safety Element to meet state requirements. The Board of Forestry and Fire Protection conducted a formal review of the City’s Safety Element at the regularly scheduled Resource Protection Committee (RPC) meeting on August 22, 2023 at 1.00 PM. A copy of the Board’s comments are included as **Attachment D**.

2. PLANNING CODE AND GENERAL PLAN TEXT AND MAP AMENDMENTS

The proposed amendments to the Oakland Planning Code redefine certain zoning designations and change development standards to allow for a range of multi-unit or “missing middle”² housing types and affordable housing in existing neighborhoods, including currently single-family-dominated neighborhoods; and along corridors, transit-proximate areas, and high resource neighborhoods. The proposed amendments encourage a range of different housing types, incentivize affordable housing, reduce constraints on housing development, and protect areas and populations affected by pollution.

² “Missing Middle” housing refers to a range of building types with multiple units—compatible in scale and form with detached single-family homes—located in a walkable neighborhood.

The General Plan text and map amendments include conforming changes to ensure that the policies, allowed uses, and allowed densities included in the Planning Code and Zoning Map are consistent with General Plan designations and policies.

The Planning Code text and map amendments implement 18 actions proposed in the [2023-2031 Housing Element](#), one policy in the [Safety Element](#), and one action in the [EJ Element](#) and were credited for Housing Element compliance and the ProHousing Designation by State HCD. These actions respond to increasing housing pressures, further fair housing, reduce environmental burden, address safety concerns due to natural and human-made hazards, and prompt many of the proposed revisions to the Planning Code.

In addition, the Planning Code amendments also implement the following City Council directives to:

- Address the limited availability of housing options, reduced housing affordability, exclusionary zoning, and the racial and economic segregation impacts of single-family-only zoning in the city ([Resolution No. 88554 C.M.S.](#));
- Eliminate parking requirements for affordable housing projects of ten (10) units or less ([Resolution No. 89341 C.M.S.](#));
- Address conditional permitting requirements for healthcare activities for the residential area north of Children's Hospital between 53rd and 55th Streets and MLK and Highway 24 ([Resolution No. 85601 C.M.S.](#)) and [associated April 15, 2015 supplemental report](#);
- ;
- Eliminate requirements for telecommunication facility applicants to establish a sinking fund in response to the [City Auditor's](#) report;
- Revise Open Space zoning regulations so that Park Uses consistent with a City Council-adopted Park Master Plan ([Resolution No. 13712 C.M.S.](#)) are permitted by right; and
- Address the intensity of commercial and industrial activities close to residential such as ghost kitchens.
- Rezone parcel where Fire Station 29 is proposed to provide uses desired by the community.

Direction from California Housing and Community Development Department

In response to feedback from the State HCD on the 2023-2031 Housing Element, the GPU team created [Appendix J: Zoning Proposals](#) in the [2023-2031 Housing Element](#), which included a summary of preliminary draft zoning proposals to implement the proposed zoning, rezoning, and upzoning actions in the Housing Action Plan. Appendix J provided a high-level overview to serve as a starting point for community discussions on proposed Missing Middle and Related Planning Code Amendments, Affordable Housing Overlay (AHO) Zone, Housing Sites Overlay Zone, and Industrial Code Amendments.

State HCD requires timely implementation of the proposed Planning Code and Zoning Map amendments in order to maintain the City's Housing Element compliance and Prohousing Designation.

Racial Equity Impact Analysis of the Planning Code Amendments

The proposed Planning Code amendments further equitable implementation of 18 actions identified in the Housing Element, one policy in the Safety Element and one action in the EJ Element. Staff analysis of how the proposed Planning Code amendments further equity by

addressing the REIA recommendations for each of the 20 actions and policies is available on the [General Plan Update \(GPU\) website](#).

Hearing Draft - Planning Code and General Plan Text and Map Amendments

In response to community feedback and feedback received at the [March 15, 2023](#) and [April 12, 2023](#) meetings of the Zoning Update Committee (ZUC) of the Planning Commission, the [May 1, 2023](#) Landmarks Preservation Advisory Board meeting and two study sessions at the [July 11, 2023](#) CED Committee and [July 18, 2023](#) Special City Council meeting, staff proposed several revisions to the Planning Code amendment package - including updates to definitions and references, a new definition for By Right Residential Approval in Section 17.09.040, a new Section 17.136.023 for Projects subject to By Right Residential Approval, clarifying updates to Chapter 17.95 S-13 Affordable Housing Combining Zone Regulations and Chapter 17.96 S-14 Housing Sites Combining Zone Regulations, and updates to conform with Assembly Bill (AB) 2923 (2018) baseline zoning standards for BART-owned parcels. A full discussion of the Planning Code, Zoning Map, and General Plan Text and Map Amendments can be found in the [August 2, 2023, Report to the City Planning Commission](#), also included as **Attachment A**, pages 18 through 31.

3. PLANNING COMMISSION RECOMMENDATION

On August 2, 2023, the Oakland City Planning Commission conducted a public hearing to consider a recommendation that the City Council certify the Final EIR for Phase 1 of the Oakland 2045 General Plan Update, adopt Amendments to the City's General Plan to update the Safety Element, adopt a new EJ Element to the General Plan, and adopt Planning Code, Zoning Map, and General Plan Text and Map Amendments to Implement Actions Proposed in Phase 1 of the City of Oakland 2045 General Plan Update. For a full discussion of the Public Hearing Drafts of the Safety and EJ Element, Planning Code, Zoning Map, General Plan Text and Map Amendments and the Final EIR, see the [August 2, 2023, Report to the City Planning Commission](#), also included as **Attachment A**. Comment letters received for the Planning Commission Meeting are posted on the [GPU website](#).

The Planning Commission received approximately 13 public comments and questions. After public comments, the Planning Commission discussed public feedback on noticing for specified residential projects subject to By Right Residential Approval and suggested that staff explore ways to use the [City's Online Permitting System](#) to provide project information. The Commission also followed up on identifying Interstate 880 as a barrier in the EJ Element. Additionally, , the Planning Commission discussed comments from the Building & Construction Trades Council of Alameda County (Building Trades) to include construction workforce standards. The Planning Commission recommended that the City Council certify the EIR and adopted related findings and conditions and adopt the Safety and EJ Elements, and adopt the Planning Code amendments subject to certain revisions discussed below and provided upon unanimous vote (one absent) the following recommendation:

1. Adopt the CEQA findings for Phase 1 of the Oakland 2045 General Plan Update, which include certification of the EIR, rejection of two mitigation measures as infeasible; rejection of alternatives as infeasible, and a Statement of Overriding Considerations;
2. Adopt the Standard Conditions of Approval and Mitigation Monitoring Reporting Program (SCAMMRP);
3. Adopt a Resolution Approving the Following Actions:
 - A. Certifying the Environmental Impact Report And Making Related California Environmental Quality Act Findings;
 - B. Adopting an Amendment to the Safety Element of the City of Oakland General Plan;
 - C. Adopting the Environmental Justice Element as a New Element of the City of Oakland General Plan; And
 - D. Adopting Conforming Amendments to the Land Use and Transportation Element of the City of Oakland General Plan, including General Plan Map Amendments, As Part of Implementation of the Recently Adopted 2023-2031 Housing Element; And;
4. Adopt an Ordinance Adopting Planning Code Text and Map Amendments to Implement Actions Proposed in Phase 1 of the City of Oakland 2045 General Plan Update, as provided and Adopting California Environmental Quality Act Findings, with the following revisions recommended by the Planning Commission:
 - a. That additional zoning standards such as lot coverage, lot frontage, and average lot width requirements be struck from the Missing Middle Code Package; and
 - b. The general Planning Code Amendments, under Section 17.108.140C.2.a, be amended to add the words “for safety and security” after “public safety hazard.”

With the additional recommendation moved by Commissioner Sugrue and passed by the Planning Commission on a 4-2 vote (one absent), that the City Council adopt construction workforce standards as part of the General Plan Update under the guidance from staff.

ANALYSIS AND POLICY ALTERNATIVES

The following section discusses (1) staff revisions to the EJ Element in response to community and Commissioner feedback, (2) Planning Commission’s recommendations to the Planning Code Text and proposed revisions, and (3) the additional recommendation to City Council to adopt construction workforce standards as part of the GPU:

1. Staff revisions to Policy EJ 7.11 in the Public Hearing Draft EJ Element

Staff updated Policy EJ 7.11 to identify Interstate 880 as a barrier. The revised policy reads as follows:

EJ-7.11 Partnerships. Coordinate partnerships with Caltrans and the Port to activate and increase access to parks and greenways with community programming and events, as well as to explore the potential for new greenway resources, including ways to reconnect areas divided by I-980 and I-880.

Staff recommends that the City Council approve the Planning Code amendments as revised in response to the Planning Commission comments

2. Discussion of Planning Commission Recommendation to Planning Code Text and Proposed Revisions

The Planning Commission recommended the following additional revisions to the Planning Code in their recommendation to the City Council on August 2, 2023:

Strike additional zoning standards such as lot coverage, lot frontage, and average lot width requirements from the Missing Middle Code Package.

Add to the General Planning Code Amendments, under Section 17.108.140C.2.a, the words “for safety and security” after “public safety hazard.”

In response, staff revised the Planning Code text as follows:

Zoning Standards: Lot Coverage (OMC Section 17.15 and 17.17):

Following the Planning Commission recommendation, staff have removed the maximum lot coverage standards for three or more units in the Detached Unit Residential (RD) Zone and Mixed Housing Type Residential (RM-2 and RM-3) Zones. RM-1 did not have any maximum lot coverage requirements since three or more units were not previously allowed in the zone. Staff updated Table 17.15.03 in Section 17.15.050 and Table 17.17.03 in Section 17.17.050, and corresponding Regulation 19 in Tables 17.15.03 and 17.17.03 to clarify that maximum lot coverage and maximum Floor Area Ratio (FAR) will only apply to lots with one to two dwelling units, excluding any permitted Accessory Dwelling Units (ADU). The Urban Residential (RU) Zones do not have any maximum lot coverage. Staff did not remove the maximum lot coverage and maximum FAR requirements in the Hillside Residential (RH-4) Zone as three or more units are not allowed in the zone.

Zoning Standards: Lot Frontage and Average Lot Width (OMC Section 17.106):

The Oakland Planning Code does not use the term “Average Lot Width.” The Planning Code currently allows exceptions to lot width mean and street frontage requirements in Sections 17.106.010 and 17.106.020. Staff have updated Section 17.106.020 to clarify that this exception applies to both minimum street frontage and minimum lot width mean requirements.

Safety (OMC Section 17.108)

Following Planning Commission recommendation, staff updated Sections 17.108.140B.2.a, and 17.108.140C.2.a to clarify that the Director of City Planning or his or her designee can grant an exception to the use of restricted materials for fences or walls by making a determination that it would increase safety and security or in instances where trespassing can constitute a public safety hazard.

Noticing for Projects Subject to By-Right Residential Approval

Finally, as stated previously, the Planning Commission discussed in detail community feedback on the staff proposal to remove noticing requirements for specified residential projects subject to

By Right Residential Approval, and suggested that staff explore ways to use the [City's Online Permitting System](#) to provide information on projects subject to By-Right Residential Approval.

Staff recommends that the City Council approve the [Planning Code amendments](#) as revised in response to the Planning Commission comments. Alternatively, the City Council could direct staff to strike the provision removing noticing requirements for residential projects subject to By Right Residential Approval.

3. Discussion of Planning Commission Recommendation to Adopt Construction Workforce Standards

The Planning Commission also had the following additional recommendation to City Council (4-2 vote with one absent):

The City Council adopt construction workforce standards as part of the General Plan Update under the guidance from staff.

S-14 Housing Sites Combining Zone

The City's is required to plan for the accommodation of its Regional Housing Needs Allocation (RHNA) of 26,251 new units by the end of 2030. **Table 1** provides the total number of dwelling units projected to be developed in sites identified in the previous Housing Element Cycles and the Sixth Housing Element Cycle.

Table 1: Summary of Realistic Capacity for Sites in the 2023-2031 Housing Element without Planning Entitlement or Building Permit as of July 31, 2023

Income Category	Previous Housing Element Cycles (2007-2014 and 2015-2023)		Sixth Housing Element Cycle (2023-2031)	
	Sites	Number of Dwelling Units	Sites	Number of Dwelling Units
Low Income (LI)	23	962	165	7,692
Moderate Income (MI)	143	3,158	60	1,183
Above Moderate Income (AMI)	20	2,997	310	11,886
Total	175	7,117	408	20,761

As stated previously, the proposed Planning Code text and map amendments implement key actions outlined in the adopted and certified Housing Element, which were credited for Housing Element compliance and the Prohousing Designation. See **Attachment F** for 2023-2031 Housing Element Actions credited for compliance and State HCD's follow up in July 2023 and August 2023 on the City's progress in meeting the timelines committed to the State.

Action 3.4.10 in the 2023-2031 Housing Element seeks to reduce constraints to development to significantly increase production of housing to match housing need. The proposed S-14 Housing Sites Combining Zone implements **Action 3.4.10** and applies to all sites in the Housing Sites Inventory, included in Tables C5a, C5b, C-26, in Appendix C of the 2023-2031 Housing Element. This includes sites that were included in the prior Housing Element cycles and new sites identified for the sixth Housing Element cycle between 2023-2031. Development projects proposed within the S-14 Housing Sites Combining Zone must be a Majority Residential Use, i.e. a use consisting of residential units only or mixed use developments consisting of residential and non-residential uses with at least two-thirds of the square footage designated for residential activity, or transitional or supportive housing and comply with minimum residential density requirements that equals no less than seventy-five percent (75%) of the Realistic Capacity, i.e. the projected residential development capacity, stated in terms of total probable number of dwelling units, capable of being achieved on the site.

Pursuant to State Law, the City will allow by-right development for projects with at least 20 percent of the units affordable to lower incomes on Prior Housing Element sites. If a project is proposed on a parcel included in the Housing Sites Inventory and is not a Prior Housing Element Sites parcel, the project shall be subject to By Right Residential Approval if the project proposes at least as many lower- and moderate-income units as shown in the Housing Sites Inventory, the project overall proposes at least as many total units as described as the Realistic Capacity for the parcel, and the project satisfies at least one of the following conditions:

- A. At least twenty percent (20%) of the total housing units are restricted to very low income households;
- B. At least twenty-five percent (25%) of the total housing units are restricted to any combination of very low- and lower-income household;
- C. At least forty percent (40%) of the total housing units are restricted to any combination of very low-, low-, and moderate-income households.

A project shall not be eligible for By Right Residential Approval under this section if the project proposes development in phases or proposes more than one hundred thousand (100,000) square feet of floor area, unless one hundred percent (100%) of the housing units, other than manager's units, are restricted to very low-, low- and moderate-income residents.

Building Trades Comment letters to Incorporate Construction Workforce Standards in the S-14 Housing Sites Combining Zone

On May 19, 2023, the Building Trades submitted a comment letter in response to the Phase I of the Oakland 2045 General Plan Update Draft EIR (**Attachment G**). The comment letter was received after the close of the comment period of the Draft EIR. The comments stated that the City should incorporate construction workforce standards as part of the proposed housing overlays: the S-13 Affordable Housing Combining Zone and the S-14 Housing Sites Combining Zone and the City's Standard Conditions of Approval (SCA). Following direction from the CED Committee, staff met with representatives from the Building Trades on July 14, 2023 and provided clarifications on the intent and scope of the proposed S-13 and S-14 Combining Zones.

Subsequently, the Building Trades submitted a revised comment letter on August 1, 2023, ahead of the August 2, 2023 Planning Commission Hearing (**Attachment G**). The revised letter stated that the City should incorporate construction workforce standards in the proposed S-14 Housing Sites Combining Zone through the City's SCAs.

Since the August 2, 2023, Planning Commission Hearing, Planning staff have been meeting weekly with the Building to discuss their request to include new construction workforce standards into the proposed S-14 Combining Zone. At the August 21, 2023, meeting, representatives from the Building Trades indicated that they will be submitted a revised proposal. Staff received a revised letter dated August 28, 2023, that stated that the Building Trades are working on providing the updated language for proposed construction workforce standards to be incorporated in the S-14 Housing Overlay Combining Zone that will be submitted in a subsequent letter and that these proposed standards will apply to housing development projects of 50 units or more (to be consistent with state legislation) in the S-14 Housing Overlay Zone (**Attachment G**).

Direction from State HCD

On August 16, 2023, and August 23, 2023, Planning Staff met with State HCD staff to discuss the implications of imposing additional requirements on development beyond what was committed in the 2023-2031 Housing Element, such as new construction workforce standards as part of the proposed S-14 Housing Sites Combining Zone. State HCD stated that its [determination of compliance of the City's Housing Element](#) (Article 10.6 of the Government Code) is based on the City's commitment to remove constraints to development and significantly increase housing production to meet the City's RHNA allocation. State HCD also communicated to the City that that any additional requirements on development should be carefully evaluated to identify potential impacts on the City's housing production commitments within the certified Housing Element. Based on the evaluation, State HCD may decide whether any impact crosses a threshold requiring further amendment to the City's Housing Element in order to maintain certification.

Based on this feedback from HCD, and the fact that workforce standards are not the Planning Bureau's typical area of expertise or jurisdiction; the administrative and enforcement burdens on City staff are not yet known, and an economic analysis of any impacts on housing construction has not been undertaken, Planning staff are not prepared to make a recommendation on any new construction workforce standards at this time. The City of Berkeley began a public discussion on new construction workforce standards in 2019; and then after a break due to COVID, renewed the discussion in 2022, and finally made a decision on [new standards](#) in 2023, subject to further feasibility analysis on the impacts of new healthcare and apprenticeship requirements on private development studies and a 2024 effective date. Planning staff recommend that the City also allow sufficient time for the public to discuss and deliberate new workforce standards before any adoption.

Finally, adoption of the Planning Code and Zoning Map amendments is instrumental in maintaining the City's Housing Element compliance and Prohousing Designation. A compliant Housing Element along with the Prohousing Designation ensures that the City remains competitive for state affordable housing grants and continues to maintain local land use control.

Staff recommends that the City Council approve the Planning Code amendments as revised in response to the Planning Commission comments. Alternatively, the City Council could direct staff to undertake further analysis on the potential implications of imposing new construction workforce standards as part of the proposed S-14 Housing Sites Combining Zone or revisions. Delay in adopting the Planning Code amendments as a whole will cause the City to fall behind in meeting its committed timelines as identified in the 2023-2031 Housing Element for several actions that identified a June-July 2023 timeline. Significantly missing these timelines could lead to State HCD finding pursuant to Government Code Section 65585(i)(1)(A) that the City has failed to act in a manner consistent with its adopted housing element, which could lead to revocation of housing element compliance or referral to the Attorney General.

Finally, the updated Safety Element, new EJ Element, and the proposed amendments to the Planning Code and General Plan Text and Map Amendments advance the following Citywide priorities:

- **Housing, Economic, and Cultural Security:** The proposed Planning Code text and map amendments include changes that are intended to encourage different housing types in Oakland (duplexes, triplexes, fourplexes, etc.), incentivize affordable housing, reduce constraints on housing development, add housing in areas well served by transit and resources that have historically been exclusionary, and reduce environmental burden on populations that are already affected by pollution. The General Plan text and map amendments include conforming changes to ensure that the policies, allowed uses, and allowed densities included in the Planning Code and Zoning Map are consistent with General Plan designations and policies which support the construction of housing, environmental justice and safety.
- **Holistic Community Safety:** The Safety Element and new EJ Element include policies that integrate environmental justice considerations into the planning elements and address historic disenfranchisement of and disinvestment in EJ Communities, preparing for and minimizing the impacts of natural and human-made disasters and climate stressors.
- **Responsive, Trustworthy Government:** The GPU process promotes meaningful civil engagement in public decision-making processes and the proposed zoning amendments implement objectives and policies that address the most pressing needs in the community, particularly where social and racial inequity is most prevalent.

FISCAL IMPACT

The City's adoption of the updated Safety Element and the new EJ Element will ensure compliance with State Law requirements. Adoption of the Planning Code and Zoning Map amendments will implement several actions in the 2023-2031 Housing Element, remove constraints to housing development and incentivize affordable housing. As stated previously, Adoption of the Planning Code and Zoning Map amendments is instrumental in maintaining the City's Housing Element compliance and Prohousing Designation. A compliant Housing Element along with the Prohousing Designation ensures that the City remains competitive for state affordable housing grants and continues to maintain local land use control.

PUBLIC OUTREACH / INTEREST

The City's GPU team began community engagement for Phase 1 of the Oakland 2045 GPU in Winter 2021, focused on housing, zoning, natural and human-made hazards, and environmental justice and industrial lands. The community engagement process placed particular emphasis on engaging communities historically underrepresented and excluded from traditional planning processes and often most negatively impacted by City policies. It involved close coordination between the City – Planning Staff, Community Consultant team (Deeply Rooted in Oakland Partnership) and Technical Consultant team (Dyett and Bhatia).

Community Outreach

The GPU team solicited community feedback through a wide range of community events such as pop-ups, cultural events, townhalls, focused discussions and interviews, neighborhood workshops, online engagement such as videos, social media updates, multilingual community education factsheets, listserv updates, presentations to community groups and Neighborhood Councils, and Equity Working Group meetings.

Chapter 1 of the Public Hearing Draft [Safety](#) and [EJ](#) Element provides a description of the community engagement process and a summary of community outreach activities. Information on all community engagement events, including engagement summaries; workshop and townhall presentations, recordings, and meeting summaries; and discussion group summaries, are provided via the [GPU website](#), e-newsletters, and social media updates. Additional information on the Deeply Rooted in Oakland Partnership can be found here:

<https://www.deeplyrooted510.org/communityoutreach>.

Additional reports presented to the Planning Commission on [May 18, 2022](#), [September 21, 2022](#), [May 17, 2023](#), to the ZUC and LPAB on [March 15, 2023](#), [April 12, 2023](#), and [May 1, 2023](#), to the CED Committee on [February 22, 2022](#), [May 24, 2022](#), [September 27, 2022](#), [June 27, 2023](#), and [July 11, 2023](#), to the PSC on [October 11, 2022](#), [October 24, 2022](#), and [July 11, 2023](#), and the City Council on [July 26, 2022](#) and [July 18, 2023](#) provide detailed information on community engagement process.

This meeting was noticed in the Oakland Tribune, as well as in emails sent to subscribers to the General Plan Update email listserv.

COORDINATION

The Safety Element update and development of the new EJ Element was a multi-department effort with the Planning and Building Department collaborating closely with key City partners – Office of the City Administrator (Sustainability and Resilience Division), Department of Race and Equity, Office of the City Attorney, Department of Transportation, Emergency Management Services Division - Fire Department, Public Works Department, Department of Violence Prevention, Police Department, Economic & Workforce Development Department, Housing and Community Development Department, Public Library, and Parks, Recreation and Youth Development.

The proposed Planning Code Amendments were prepared with the technical assistance of the following City departments: Planning and Building Department, Office of the City Attorney, Department of Race and Equity, Department of Transportation, Emergency Management Services Division of the Fire Department, Public Works Department, Housing and Community Development Department.

This report has been reviewed by the Office of the City Attorney and the Budget Bureau.

SUSTAINABLE OPPORTUNITIES

Economic: By adopting an updated General Plan Safety Element, Oakland residents, businesses and the essential civic functions of the government will be better prepared following a natural or human-caused disaster, and the City's economy could therefore recover more readily. Concurrent adoption of a General Plan EJ Element will ensure improved access to economic opportunities by promoting safe and healthy homes and public facilities and reduce economic burden from healthcare expenses by addressing the unique or compounded health risks due to prolonged pollution exposure and improved air quality in Oakland's most vulnerable communities.

The proposed Planning Code amendments do not propose specific development projects or directly approve physical development. However, the proposed amendments are intended to remove constraints to the City's ability to achieve its housing production goals under its certified Housing Element. The amendments include specific proposals to redefine zoning designations and change development standards in zoning districts that have historically served as single-family neighborhoods to allow for more types of multi-unit housing development; to create a more streamlined development review process, to adopt an affordable housing overlay zone that would provide for ministerial approval and other incentives to qualifying affordable housing developments; and to additionally create a "by right" or ministerial approval process for qualifying housing development located on sites identified in the Housing Element housing sites inventory.

The City is required to plan for the accommodation of its Regional Housing Needs Allocation (RHNA) of 26,251 new units by the end of 2030, with a 15 percent (15%) buffer. The proposed Planning Code amendments would create opportunities for added more housing in areas near BART stations, along transit corridors, and in existing lower-density residential neighborhoods. Adoption of these changes and the Planning Code Amendments reflecting the AHO and Focused on Environmental Protection in Industrial Zones is estimated to produce an additional 5,184 housing units within the RHNA projection period ending in 2030. Based on the City's current General Plan and zoning regulations, approximately 36,274 units are already allowed under the City's adopted General Plan, zoning, and Specific Plans. The EIR associated with Phase 1 of the Oakland General Plan Update analyzes a development program of approximately 41,458 new dwelling units, focused primarily in high resource neighborhoods such as the Rockridge area, along transit corridors and in the AHO.

Environmental: Adoption and implementation of an updated General Plan Safety Element would help preserve Oakland's environmental quality by minimizing potential damage from safety hazards and disasters, including sea level rise and wildfire risks. Concurrent adoption of

an EJ Element will ensure that environmental justice considerations are integrated into the planning elements and address historic disenfranchisement of and disinvestment in EJ Communities, preparing for and minimizing the impacts of natural and human-made disasters and climate stressors.

Oakland's lack of sufficient housing options worsens air pollution, as community members priced out of the local housing market are forced to drive long distances to their jobs. The City's 2030 Equitable Climate Action Plan (ECAP) recognizes that households living near employment-dense areas and transit corridors have lower carbon footprints than those living in less dense areas further from transit (www.oaklandca.gov/projects/2030ecap). Affordable housing located near transit is particularly impactful, as low-income households are more likely not to own cars if they have access to quality transportation options. To that end, the ECAP Action TLU-1 calls for the General Plan, upon its next update, to align with the City's greenhouse gas (GHG) reduction, adaptation, resilience, and equity goals.

The proposed updates align with ongoing work to implement community-driven strategies from the West Oakland Community Action Plan (WOCAP); and are intended to improve health and eliminate racial disparities in exposure to air pollution for impacted communities, reduce air pollution from high impact industrial zones adjacent to residential zones, and minimize conflicting siting of sensitive uses (e.g., schools) in industrial zones.

The proposed amendments to the Planning Code are part of the City's ongoing efforts to implement the actions in the 2023-2031 Housing Element Housing Action Plan, further fair housing, advance environmental justice, remove constraints to housing development, address safety concerns due to natural and human-made hazards, and help streamline the Planning approval process. The proposed Planning Code and General Plan text and map amendments, in combination with the proposed Zoning and Height Area Map changes, are anticipated to alter how and where new housing is produced throughout the City.

Race & Equity: The Safety and EJ Elements are accompanied by an [REIA](#) to ensure that both Elements prioritize policies to reduce the risks and harmful impacts the City's most vulnerable and frontline communities face, whether the risks are from daily exposure to pollution or from structural disasters.

The proposed Planning Code amendments include specific proposals to redefine zoning designations and change development standards in zoning districts that have historically served as single-family neighborhoods to allow for "missing middle" housing development; to create a more streamlined development review process; to adopt an affordable housing overlay zone that would provide for ministerial approval and other incentives to qualifying affordable housing developments; and to additionally create a "by right" or ministerial approval process for qualifying housing development located on sites identified in the Housing Element housing sites inventory.

The REIA of the [2023-2031 Housing Element, Safety, and Environmental Justice \(EJ\) Elements](#) provides an equity impact assessment for the actions outlined in these elements, and includes an analysis of who stands to benefit or be burdened, outlines existing challenges and equity gaps. The REIA provides recommendations to strengthen each action or bolster implementation in ways that overcome existing barriers to achieving substantive equitable outcomes.

An Equity Working Group, composed of 20 diverse community members who advocate for solutions that advance equitable and healthy neighborhoods and convened by Deeply Rooted has been created to work with City Staff and the GPU team to make sure that the General Plan's Housing, Safety, Environmental Justice, Land Use, Transportation, Noise, and Open Space/Conservation/Recreation Policies, and key Zoning issues align with community concerns and needs. The Equity Working Group will also support outreach efforts to ensure that geographies and populations that are most burdened by environmental justice inequities are engaged in identifying community needs and assets and providing feedback on proposed solutions.

The Deeply Rooted Youth Fellowship is trained in intersecting each General Plan Element with how to conduct community engagement, how to read Elements and convey Elements to their peers, and in turn teach adults how to conduct youth outreach. In addition, the Deeply Rooted Youth Fellowship is also designing an enhanced youth-focused community engagement effort. This includes but is not limited to collaborating with the Oakland Youth Commission, Save the Bay, Mycelium Youth Network, Frontline Catalysts, and more.

The updated General Plan Safety Element would direct improvements to public infrastructure and critical facilities which can result in more disaster-resistant neighborhoods and prepare residents to respond to and recover more quickly from natural or human-caused events.

Concurrent adoption of the City's first EJ Element will promote meaningful civic engagement in the public decision-making process and identify objectives, policies, improvements, and programs that address the most pressing needs in the community, particularly where social and racial inequities are most prevalent.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The City has prepared an Environmental Impact Report (EIR) for Phase I of the Oakland 2045 General Plan Update pursuant to the California Environmental Quality Act (CEQA) and the State CEQA Guidelines to analyze potential physical environmental impacts of the proposed City of Oakland Planning Code, Zoning and Height Area Maps, and General Plan text and map amendments implementing its 2023-2031 Housing Element, updates to its Safety Element and its adoption of a new EJ Element.

An EIR Scoping Session was held at the [April 20, 2022](#), Planning Commission meeting to solicit comments from the Planning Commission and the public on the types of information and analysis that should be considered in the General Plan Update Draft EIR.

The Phase I Oakland 2045 General Plan Update Draft EIR was available for a 45-day comment period between March 24, 2023, and May 9, 2023. The City Planning Commission held a public meeting to receive comments on the Draft EIR on [April 19, 2023](#).

The [Final EIR](#) was published on July 26, 2023, and is available on the City's webpage: <https://www.oaklandca.gov/topics/general-plan-update> and on its Current Environmental Review Documents webpage at <https://www.oaklandca.gov/resources/current-environmental-review-ceqa-eir-documents-2011-present>.

The August 2, 2023, Planning Commission staff report (**Attachment A**, pages 30 through 38) includes a detailed summary of the CEQA process, timelines, findings, and overall summary of the environmental review for the project. What follows is a brief summary of the overall environmental review for the project.

Significant and Unavoidable Environmental Impacts

The proposed project will result in significant and unavoidable impacts associated with the following environmental topics: Aesthetics (Shadow, Wind, and Cumulative Shadow and Wind), Air Quality (Criteria Air Pollutant Emissions, On-Site Exposure to Toxic Air Contaminants, Exposure of Sensitive Receptors to Fine Particulate Matter and Toxic Air Contaminants, and Cumulative Exposure of Sensitive Receptors to Fine Particulate Matter and Toxic Air Contaminants), Cultural Resources (Historic Architectural Resources, and Cumulative), and Hazard/Wildfire, most of which could not be reduced below adopted thresholds of significance by standard conditions of approval and/or mitigation measures. The impacts of the Proposed Project would remain significant even with implementation of identified mitigation measures.

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

Infeasible Mitigation Measures

The City may reject a mitigation measure recommended in an EIR if it finds that it would be infeasible to implement the measure because of specific economic, legal, social, technological, or other considerations. The City finds Mitigation Measure AES-1 and AES-2 to be infeasible and will have to adopt findings regarding infeasible mitigation measures (see **Attachment B: CEQA Findings**).

CEQA Thresholds of Significance

Finally, consistent with the finding that mitigation measure AES-1 and AES-2 addressing shadow and wind related impacts are infeasible, the City is proposing to amend the CEQA Thresholds of Significance Guidelines to delete the following thresholds of significance (see **Attachment B: CEQA Findings**):

- AES-6 (Cast shadow that substantially impair the function of a building using passive solar heat collection, solar collectors for hot water heating, or photovoltaic solar collectors);
- AES-7 (Cast shadow that substantially impairs the beneficial use of any public or quasi-public park, lawn, garden, or open space);
- AES-8 (Cast shadow on a historic resource, as defined by CEQA Guidelines section 15064.5(a), such that the shadow would materially impair the resource's historic significance by materially altering those physical characteristics of the resource that convey its historical significance and that justify its inclusion on or eligibility for listing in the National Register of Historic Places, California Register of Historical Resources, Local Register of historical resources, or a historic resource survey form with a rating of 1-5); and
- AES-10 (Create winds that exceed 36 miles per hour for more than one hour during daylight hours during the year)

Jestin D. Johnson, City Administrator

Subject: Certification of the Final Environmental Impact Report for Phase 1 of the City of Oakland 2045 General Plan Update and Adoption of the Safety and, Environmental Justice Elements and the Planning Code Text and Map Amendments

Date: August 22, 2023

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These existing thresholds are CEQA thresholds previously adopted by the City and are not included in the aesthetics thresholds that exist in Appendix G of the CEQA Guidelines. The CEQA Guidelines do not include thresholds pertaining to shadow and wind impacts and therefore their deletion brings the City's thresholds in closer alignment with the State CEQA Guidelines.

CEQA Alternatives

Chapter 5, Alternatives to the Project, of the EIR includes the analysis of two alternatives beyond the "No Project Alternative" to the Project that meets the requirements of CEQA. These alternatives include Alternative 1: The No Project Alternative, Alternative 2: The No Affordable Housing Overlay Buffer Zone on parcels in the Very High Fire Hazard Severity Zone Alternative, and Alternative 3: The No Missing Middle Alternative.

After the No Project Alternative, Alternative 3, the No Missing Middle Alternative, was identified as the environmentally superior alternative. However, this alternative would again not meet the City's objectives for the Proposed Project and would fail to achieve implementation of City of Oakland Resolution No. 88554, requesting Planning Bureau Staff study and the Planning Commission to consider allowing fourplexes in areas currently designated for single-family residences. In addition, this alternative would not be consistent with Goals 3, 4, and 5 of the City of Oakland General Plan 2023-2031 Housing Element Housing Action Plan to address systemic housing inequity and affirmatively further fair housing.

In summary, City Planning staff recommends the City Council follow the Planning Commission's recommendation (discussed above) that the City Council adopt the CEQA findings in **Attachment B**, which includes certification of the EIR, rejection of two mitigation measures as infeasible, rejection of alternatives as infeasible, and a Statement of Overriding Considerations.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Conduct A Public Hearing On September 19, 2023, And Upon Conclusion:

- (1) Adopt a Resolution, as Recommended by the City Planning Commission, Approving the Following Actions:
 - (A) Certifying the Environmental Impact Report And Making Related California Environmental Quality Act Findings;
 - (B) Adopting an Amendment to the Safety Element of the City of Oakland General Plan;
 - (C) Adopting the Environmental Justice Element as a New Element of the City of Oakland General Plan; And
 - (D) Adopting Conforming Amendments to the Land Use and Transportation Element of the City of Oakland General Plan, including General Plan Map Amendments, As Part of Implementation of the Recently Adopted 2023-2031 Housing Element; And
- (2) Adopt an Ordinance, as Recommended by the City Planning Commission, Adopting Various Planning Code Text, and Map Amendments to Implement Actions Proposed in Phase 1 of the City of Oakland 2045 General Plan Update, Including
 - (A) Updates to the Detached Unit Residential (RD) Zone, Changes to Density in Mixed Housing Type Residential (RM) Zones, Hillside Residential-4 (RH-4) Zone, and Urban Residential (RU) Zones, Creation of a New Two- to Four-Family Residential Facility Type, Changes to Conditional Use Permit Requirements (Including Elimination of Conditionally Permitted Densities), Creation of a New Regional Commercial-2 (CR-2) Zone, Changes to Parking Requirements, Height Changes Along Transit Corridors, and Density and Zoning Map Changes;
 - (B) Creating A New S-13 Affordable Housing Combining Zone;
 - (C) Creating A New S-14 Housing Sites Combining Zone;
 - (D) Amending Conditional Use Permit Requirements for Housing and Business Mix (HBX) Commercial Zones, Commercial Industrial Mix (CIX), General Industrial (IG), and Industrial Office (IO) Zones;
 - (E) Amending Expiration Timelines for Nonconforming Uses and CUP Termination Timelines for Truck-Intensive Uses;
 - (F) Adopting Amendments to Facilitate the Production of Special Housing Types such as Rooming Units, Efficiency Units, Employee Housing, Residential Care Facilities, Transitional and Supportive Housing, Low Barrier Navigation Centers, and Emergency Shelters;
 - (G) Adopting Various Amendments Which Codify Administrative Practices, Update References, Clarify Language, and Other Conforming Changes; And
 - (H) Adopting Appropriate California Environmental Quality Act Findings.

For questions regarding this report, please contact Lakshmi Rajagopalan, Planner IV, at 510-238-6751.

Respectfully submitted,



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Attachments (7):

- A. Attachment A: August 2, 2023, Planning Commission Staff Report without attachments.
- B. Attachment B: CEQA Findings: Certification of the EIR, Rejection of Alternatives and Statement of Overriding Considerations
- C. Attachment C: Standard Conditions of Approval/Mitigation Monitoring and Reporting Program
- D. Attachment D: California Board of Forestry and Fire Protection's comments on the City of Oakland's Safety Element, dated 8.28.23
- E. Attachment E: Deeply Rooted Collaborative Memo to the City Council, dated 8.28.23
- F. Attachment F: 2023-2031 Housing Element Actions credited for compliance and State HCD's follow up in July 2023 and August 2023 on the City's progress in meeting the timelines committed to the State
- G. Attachment G: Comment Letters from Building and Construction Trades Council of Alameda County, dated August 28, 2023, August 1, 2023, and May 19, 2023