

Chapter 3A

Land Use and Planning

Introduction

This land use and planning analysis includes a review of the applicable land use plans and development requirements for the project site. The City's land use plans, policies, and regulations pertaining to the project site are found in the City of Oakland General Plan (General Plan), consisting, in part, of the Land Use and Transportation Element (LUTE), Historic Preservation Element (HPE), and Estuary Policy Plan (EPP), and in the Oakland Planning Code (Zoning Ordinance). This chapter discusses the proposed project's potential impacts with regard to land use and planning.

Setting

Environmental Setting

The proposed project site is located in the Jack London District of downtown Oakland, California. The site consists of the western two-thirds of the block bounded by 3rd Street, Franklin Street, 2nd Street, and Broadway. The project site is approximately 35,000 sf, or 0.80 acre, and includes five parcels along Broadway and 3rd Street: 200 Broadway, 210 Broadway, 228 Broadway, 419 3rd Street and 447 3rd Street.

The project site is presently occupied by two one-story corner buildings containing restaurants, located at 200 and 228 Broadway. Three-quarters of the project site is a publicly available surface parking lot that accommodates 73 vehicles. The project site is bordered by commercial development to the north, south, and west and the produce district to the east. Produce market buildings occupy the rest of the block adjacent to the project site and the area across 2nd and 3rd Streets.

Regulatory Setting

City of Oakland General Plan

The General Plan sets forth the policy framework that governs land use in the city. The LUTE of the General Plan designates the site for Waterfront Mixed Use (WMU). Uses permitted under this designation include retail, dining, and entertainment uses. The EPP (described below) supplements and further sets forth land use policies and objectives. The EPP designates the project site as Retail, Dining, and Entertainment District (RD&E).

Although the EPP provides the primary source of guidance for land use decisions affecting the project site, a number of land use policies and objectives contained in the LUTE are relevant to the proposed project site and its surroundings. These policies and objectives are listed below. Historic preservation policies are discussed in Chapter 3B.

LUTE Objectives and Policies Applicable to the Project:

Policy D1.10. Planning for the Jack London District

Pedestrian-oriented entertainment, live-work enterprise, moderate-scale retail outlets and offices should be encouraged in the Jack London Waterfront area.

D3.1. Promoting Pedestrians

According to this policy, pedestrian-friendly commercial areas should be promoted within the Jack London District.

D4.2. Fostering a Positive Business Climate

A positive business climate that encourages attraction of new businesses and retention of existing businesses in downtown Oakland should be fostered to promote Oakland's location (transportation) advantages and other amenities.

D6.1. Developing Vacant Lots

Construction on vacant land or to replace surface parking lots should be encouraged throughout the downtown, where possible.

D7.1. Advocating for Downtown

Downtown Oakland's advantages for regional office development, including its position as the hub for regional transportation, should be advocated at state and regional planning levels.

D8.3. Attracting Private Office Development

Private office development should be aggressively attracted to the downtown.

D9.1 Concentrating Commercial Development

Concentrate region-serving or "destination" commercial development in the corridor around Broadway between 12th and 21st streets, in Chinatown, and

along the Jack London Waterfront. Ground-floor locations for commercial uses that encourage a pedestrian-friendly environment should be encouraged throughout the downtown.

D10.1 Encouraging Housing

Housing in the downtown should be encouraged as a vital component of a 24-hour community.

D10.3 Framework for Housing Densities

Downtown residential areas should generally be within the Urban Density Residential and Central Business District density range where not otherwise specified. The height and bulk should reflect existing and desired district character, the overall city skyline, and the existence of historic structures or areas.

D10.6 Creating Infill Housing

Infill housing that respects surrounding development and the streetscape should be encouraged in the Downtown to strengthen or create distinct districts.

D11.1 Promoting Mixed-Use Development

Mixed-use developments should be encouraged in the downtown for such purposes as to promote its diverse character, provide for needed goods and services, support local art and culture, and give incentive to reuse existing vacant or underutilized structures.

D11.2 Locating Mixed-Use Development

Mixed-use development should be allowed in commercial areas, where the residential component is compatible with the desired commercial function of the area.

W10.2 Defining Jack London Square

The area should reflect its current dominant use of commercial and entertainment uses and activities such as restaurants, retail, theater, hotel, farmers market, concert series, boat shows, and other entertainment and cultural activities. Other appropriate uses include office, live/work, and waterfront density residential development as described in the Land Use Classifications in Chapter 3.

W10.3 Defining Jack London Square Development Intensity and Characteristics

Development in this area should be high intensity commercial, entertainment, and cultural activities which capitalize on proximity to downtown, existing area of bigger establishments retailing durable goods, existing produce district with offices and live/work spaces, and proximity to ferry and AMTRAK stations. Development must be sensitive to open, public gathering spaces such as boardwalks, open plazas, outside eating areas for restaurants, etc. Properties along the shoreline should be particularly sensitive to public uses and access due to the unique potential for direct water access and viewing opportunities of the estuary, San Francisco Bay, City of Alameda, San Francisco skyline, and Port of Oakland shipping activity.

W.10.4 Defining Jack London Square Mixed-Use Characteristics

The character of this area should be mixed use. Higher-density housing, single-use housing, and live/work lofts and units are appropriate within the area and developments. Mixed use should be sensitive to the surrounding character and design of existing buildings as well as the desire to have the shoreline fully accessible to the public.

W10.7 Jack London Square Area Design Criteria

Developments in this area should be designed to enhance direct access to and along the water's edge, maximize waterfront views and vistas, and make inviting public pedestrian access and spaces. Development and amenities must be sensitive to the surrounding character of pedestrian-oriented activities with focus on cultural and retail entertainment. Traditional and historic buildings and structures are character defining and should be preserved, adapted for new uses, or integrated into new development, where feasible.

Estuary Policy Plan

The EPP has a more focused geographic scope and is more specific in nature. Adopted in 1999, the EPP establishes land use policies governing the location, intensity, and character of future development along the Oakland waterfront. The EPP designates the project site as RD&E-2, with a maximum floor area ratio (FAR) of 7:1 per parcel and a residential density of 134 units.

The Estuary planning area includes three districts: the Oak-to-9th Avenue District, the San Antonio/Fruitvale District, and the Jack London District, wherein which the proposed project site is located. The Jack London District encompasses 225 acres of land between Adeline Street on the west and Oak Street on the east. The EPP reinforces the Jack London District as an important dining and entertainment venue by promoting a mixture of retail, dining, entertainment, and visitor-serving uses oriented to significant gathering places and public access areas along the waterfront. This district contains a mixture of multi-family housing, live/work units, hotel, office, retail, dining, public facilities, and industrial and warehouse uses.

In addition to providing land use designations for parcels located within the plan area, the EPP also provides policies that establish the location and configuration of open space and public access facilities, as well as policies and recommendations for the improvement of transportation facilities. Below are the general objectives for land use and the land use policies for the RD&E-2 designation identified in the EPP. These objectives and policies are based on and reinforced by the objectives set forth in the General Plan LUTE, Open Space, Conservation and Recreation, Historic Preservation, and Housing Elements. Only those policies and objectives applicable to the project site are listed below. The applicability of General Plan historic preservation policies to the project is addressed in Chapter 3B, "Cultural Resources," of this document.

The development strategy contained in the EPP for lower Broadway, which is a portion of the Jack London District, is to encourage redevelopment and intensification of the 100, 200, 300, and 400 blocks as an entertainment (music and cinema) and dining destination. The EPP envisions the Jack London District will play an increasingly important role in contributing to quality of life in Oakland and in making the waterfront a more visible part of the City. The area is closely tied to downtown Oakland, both physically and functionally. The continued redevelopment of the Jack London District is essential not only for the district itself, but also as part of a citywide and downtown improvement strategy that will help to reposition the downtown as a multidimensional activity center (City of Oakland 1999a). The land uses should be a mix of uses that build on the amenity of the waterfront and provide a strong connection with the downtown. And specifically, within the Jack London District, the EPP reinforces existing trends toward commercial and residential land uses. New uses should be promoted as infill development at Jack London Square and along the Broadway spine to create an intense area of public interest and activity that seamlessly links the waterfront to downtown Oakland (City of Oakland 1999a).

Land Use Objectives and Retail, Dining & Entertainment District Policies

- Objective LU-1: Provide for a broad mixture of activities within the Estuary area.
- Objective LU-3: Expand opportunities and enhance the attractiveness of the Estuary as a place to live.
- Objective LU-4: Develop the Estuary area in a way that enhances the City's long-term economic development.
- Objective LU-5: Provide for the orderly transformation of land uses while acknowledging and respecting cultural and historical resources.
- Policy JL-1: Reinforce retail, dining, and entertainment uses along the waterfront, and extend these uses along Broadway to create a regional entertainment destination.
 - JL-1.1: Expand commercial uses along the entire five-block frontage of lower Broadway . . .Upper level office uses and ground-floor retail uses should be encouraged, to promote activity and daytime populations on the streets
- Policy JL-4: Preserve the historic character of the produce district, and encourage activities that create a viable urban mixed-use district.

Zoning Ordinance

Policies set forth in the General Plan are implemented through enforcement of the City's zoning regulations. Zoning regulations prescribe the allowable uses within specified zoning districts and impose development standards on those

uses. Under the City's existing zoning ordinance, the project site is zoned C-45 (Commercial)/S-4 (Design Review). Allowable uses under the C-45 zone include, but are not limited to, residential, office, retail, and restaurant uses. The S-4 overlay zone is typically combined with other zones to enhance the visual quality of the area. Design-oriented regulations applicable under the S-4 zone are supplementary to the regulations applying in the zones with which the S-4 zone is combined (i.e., the C-45 zone).

The City is currently undertaking a comprehensive revision of its planning and zoning regulations to make them consistent with the General Plan adopted in March 1998. A draft zoning map is expected to be complete in 2002. Because the General Plan was adopted more recently than the zoning regulations, the General Plan and zoning regulations may conflict. When a conflict occurs between zoning regulations and the General Plan, the General Plan supercedes the zoning regulations.

To address potential conflicts between the General Plan and zoning regulations, the City adopted "Guidelines for Determining Project Conformity with General Plan and Zoning Regulations." This document, adopted in May 1998 (amended in November 1999, August 2001, and December 2001), establishes the following factors to be considered in determining project conformity with the General Plan:

- The General Plan Land Use Classification and Zoning District within which the proposed project is located;
- The Zoning Land Use classification of the project (activity and facility type);
- The Project Intensity (residential density and/or nonresidential FAR); and
- Relevant General Plan policies from all adopted elements.

In order to "clearly conform" to the General Plan, a project must be found to clearly conform by all relevant factors. If the project is found to clearly not conform in any one factor, then the entire project is in nonconformance.

Table 3 of the Guidelines establishes maximum densities for residential uses and maximum FAR¹ in each of the General Plan land use classifications. Maximum FAR and density (in principal parts per gross acre) are also given an assumed net-to-gross ratio, a maximum density in principal units per net acre, and a minimum square footage of site area per principal unit. For this part of Oakland, residential developments (and mixed-use developments) are given an assumed net-to-gross ratio of 75%. The maximum density allowed for this site is 167 principal units per net acre, as per the Guidelines for Determining General Plan Conformity. Ordinance No. 12349 (adopted July 24, 2001 by Oakland City Council) is an amendment to the City's planning code applicable to mixed-use projects within the Central Business District and Jack London District (Oakland Planning Code Section 17.106.030). This ordinance defines that the allowable

¹ Floor area ratio (FAR) is the square footage of total building floor area divided by the area of the lot. Floor area means horizontal areas of all floors, excluding areas used for parking or loading and related driveways and maneuvering aisles, per Section 17.09.040.

intensity of development is measured by the maximum FAR allowed by the zone, provided the maximum number of residential units allowed by the General Plan and EPP is not exceeded. Based on this, the maximum development intensity for this project site is 245,000 sf (35,000 sf of lot area x 7.0 FAR) with a maximum of 134 residential units (35,000 sf of lot area/261 sf of lot area per dwelling unit or $35,000/43,575 = .8032 \times 167$). The maximum residential density under the C-45/R-80 zoning is 116 units (35,000/300), without a conditional use permit. With an interim conditional use permit, the density may not exceed what is allowed under the EPP (134 units). Here, the proposed number of residential units is 109, and the proposed gross square footage (excluding parking) is 245,000. Thus, the project does not exceed the General Plan residential density, the C-45/R-80 zoning residential density, nor the allowable FAR. (The calculation of FAR does not include the structured parking, per Section 17.09.040 of the Zoning Ordinance.)

Impacts and Mitigation Measures

Methodology

As discussed above, the type and physical character of land uses allowable on the project site are determined by the General Plan, including the EPP, and zoning regulations. Land Use and Planning impacts associated with the proposed project were determined by assessing the level of consistency between the project and associated construction activities and the policies set forth in the aforementioned land use plans. The overall effect of the proposed project on existing land uses both on and surrounding the project site as well as the effect of the existing setting on the proposed project occupants was considered in determining the level of significance of potential project-related land use impacts.

Thresholds of Significance

The City has developed criteria to be used in evaluating land-use-related impacts. These criteria are a compilation of CEQA checklist criteria and specific policies and guidelines developed by the City. The project would have a significant impact if it would:

- disrupt or divide the physical arrangement of an established community (including low-income or minority community);
- fundamentally conflict with any 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; or

- fundamentally conflict with any applicable habitat conservation plan or natural communities conservation plan.

Impacts of the Proposed Project

The proposed project is a mixed-use development comprising approximately 137,000 gsf of residential space (109 market-rate for-sale housing units), 8,000 gsf of ground floor retail space, and 100,000 gsf of office space, resulting in a total of approximately 245,000 gsf excluding 290 parking spaces located in structured parking (110,000 gsf).

Impact 3A-1: Division of an existing community (Less than Significant)

The proposed project is an urban infill project along the Broadway corridor commercial area. The Broadway corridor functions as a major transportation and commercial corridor, serving as a gateway and connection from the central part of downtown to the waterfront. In addition, Broadway serves as a transition area between the produce district to the east and the Lower Broadway District to the west. Construction of a new building on the site would not disrupt or divide the physical arrangement of any of these established communities. The overall scale and intensity of the project would make it distinct from surrounding buildings. However, the project would be consistent with EPP goals to focus large-scale buildings along the Broadway corridor. Additionally, the project would incorporate design measures to impart consistency with the adjacent produce district and to encourage pedestrian circulation and activity in the project area. Therefore, this impact is considered less than significant. No mitigation is required.

Impact 3A-2: Consistency with plans and policies (Less than Significant)

Although the following section provides information and analyses regarding the consistency of the project with the General Plan, the Planning Commission will ultimately determine whether the project is consistent with the General Plan, after balancing various competing General Plan policies.

General Plan

Policy D1.10. Planning for the Jack London District

As recommended by Policy D1.10, the proposed project would include ground floor retail and commercial upper story office space in the Jack London waterfront area.

D3.1. Promoting Pedestrians

The proposed project will be designed to make the portion of the building along the street appear pedestrian in scale. The facades and building massing have been designed so that the building as a whole would appear smaller in scale than a 14-story tower. Stepbacks of the building mass are used to decrease the apparent mass so that the perception of building height would be minimized from a pedestrian perspective. The project includes ground floor retail uses, which would promote pedestrian activities along the street. Ground floor design features include storefront bays and canopies to reflect the historic pedestrian-scale storefront elements in the adjacent produce district. A detailed description of pedestrian-friendly design elements of the project is contained in Chapter 3G, “Visual Quality,” of this EIR.

D4.2. Fostering a Positive Business Climate

The project would promote business expansion in downtown Oakland by providing office and commercial space for new businesses. In addition to providing approximately 137,000 gsf of residential space, the proposed mixed-use development would include about 8,000 gsf of retail space and about 100,000 gsf of office space. The project would also encourage the retention of existing businesses in the area by increasing the number of residents in the area and thereby increasing local business patronage.

D6.1. Developing Vacant Lots

This policy encourages eliminating surface parking lots in favor of parking structures or underground parking associated with other development. About three-quarters of the project site is currently occupied by a surface parking lot. The project would eliminate this lot and provide parking on the basement, first, and second levels of the proposed building.

D8.3. Attracting Private Office Development

This policy states that private office development should be aggressively attracted to the downtown. The proposed project would provide approximately 100,000 sf of new office space.

D9.1 Concentrating Commercial Development

Locating commercial uses on ground floors to encourage a pedestrian-friendly environment is encouraged by this policy. The project would provide ground-level retail space fronting Broadway. Also in support of this policy is the fact that this project would locate an intense mixed-use project along the Broadway commercial corridor.

D10.1 Encouraging Housing

Policy D10.1 recommends that housing be encouraged in the Downtown area as a vital component of a 24-hour community. As stated previously, the proposed project would include 109 dwelling units.

D10.3 Framework for Housing Densities

The allowable density of housing proposed as part of the project is determined in accordance with the EPP RD&E-2 designation. As described in Chapter 3B, “Cultural Resources,” of this EIR, the scale and massing of the proposed 14-story building would dominate the primarily one-, two-, and three-story buildings of the general area. To the extent feasible, the proposed project would reflect the existing character of the area by attempting to conform to the design characteristics of the produce district and lower Broadway.

D10.6 Creating Infill Housing

The proposed project is an infill development. As described previously, the project as a whole would be designed to complement surrounding development so that it enhances, rather than detracts from, the character of surrounding uses. A detailed description of the project design specifications that would promote consistency between the project and surrounding uses is included in Chapter 3G, “Visual Quality,” of this EIR.

D11.1/D11.2 Promoting/Locating Mixed-Use Development

The proposed mixed-use project conforms to the City’s goal of locating this type of development in the downtown area as a means of providing needed goods and services; encouraging the reuse existing vacant or underused structures; and, where compatible, providing more housing in commercial areas.

W10.2–10.4, 10.7 Policies Related to Defining Jack London Square

The proposed project would conform to City policies regarding the types of uses that should be encouraged in the Jack London Square area. The mix of commercial and office uses would provide more services for current residents and visitors in the area. In addition, new residential units would generate local patrons for existing uses such as restaurants, stores, theaters, hotels, farmers markets, concert series, boat shows, and other entertainment and cultural activities.

In conclusion, the proposed project is consistent with the above-described General Plan policies. No mitigation is required.

Estuary Policy Plan

As described above, the proposed project would involve constructing a mixed-use development comprising retail, office, residential, and parking uses. Such uses are allowable land uses under the EPP RD&E-2 designation. Additionally, the RD&E-2 designation allows a maximum FAR of 7.0.

The proposed 109 housing units, 8,000 gsf of retail space, and 100,000 gsf of office space would conform to development guidelines set forth in the EPP. The project would also be consistent with applicable land use objectives identified in the EPP because it would:

- contribute to a broad mixture of activities within the Estuary area;
- expand opportunities and enhance the attractiveness of the Estuary as a place to live;
- redevelop a site within the lower Broadway area with more intense uses and taller building forms;
- introduce new office and retail uses to the Estuary area that enhance the City's long-term economic development; and
- provide for the transformation of land uses in a way that acknowledges nearby cultural and historical resources.

The proposed project would also be consistent with applicable policies specifically related to the RD&E designation. In accordance with Policy JL-1, the project would extend commercial uses, including retail, along the frontage of lower Broadway. In addition, consistent with Policy JL-4, the project would provide a mixed-use project that would contribute to the viability of this area; and the proposed building would incorporate elements like canopies that depict the unique features of adjacent buildings in the produce district. No mitigation is required.

Zoning Regulations

Land uses proposed under the project are consistent with land uses allowed under the C-45 zone. As described previously, the project would involve development of a mixture of residential, retail, office, and parking uses. All of these uses are allowed under C-45 zoning regulations. The maximum density allowed for this site is 167 principal units per net acre, as per the Guidelines for Determining General Plan Conformity. Ordinance No. 12349 (adopted July 24, 2001 by Oakland City Council) is an amendment to the City's zoning ordinance applicable to mixed-use projects within the Central Business District and Jack London District (Oakland Planning Code Section 17.106.030). This ordinance defines that the allowable intensity of development is measured by the maximum FAR allowed by the zone, provided the maximum number of residential units allowed by the General Plan and EPP is not exceeded. Based on this, the maximum development intensity for this project site is 245,000 sf (35,000 sf of lot area x 7.0 FAR) with a maximum of 134 residential units (35,000 sf of lot area/261 sf of lot area per dwelling unit or $35,000/43,575 = .8032 \times 167$). The maximum residential density under the C-45/R-80 zoning is 116 units (35,000/300), without a conditional use permit. With an interim conditional use permit, the density may not exceed what is allowed under the EPP (134 units). Here, the proposed number of residential units is 109, and the proposed gross square footage (excluding parking) is 245,000. Thus, the project does not exceed the General Plan residential density, the C-45/R-80 zoning residential density, nor the allowable FAR.

Based on an analysis of the consistency of the project with the development standards contained within the C-45 and R-80 zoning regulations, the proposed project would be generally consistent with those requirements. As described in Chapter 3D, “Public Services and Utilities,” the project is required to provide 150 sf of open space per residential unit. The proposed project would supply 5,850 sf of group open space and 10,585 sf of private open space (which counts as 2:1); therefore the open space requirements would be complied with. As described in Chapter 3G, “Visual Quality,” the proposed project incorporates stepbacks in the building mass to minimize the height of the building above the fifth floor. In addition, large bays and canopies would be incorporated to reflect the adjacent produce district. Building heights would be tallest along Broadway and shortest adjacent to existing produce district buildings.

Based on the above discussion, a less-than-significant impact related to the project’s consistency with City zoning regulations is expected to occur. No mitigation is required.

Impact 3A-3: Consistency with habitat conservation or natural communities conservation plans (No Impact)

The proposed project would not conflict with any adopted habitat conservation or natural community conservation plans because no such plans apply to the project site. Therefore, no mitigation is required.

Impact 3A-4: Consistency with other land use and planning considerations; compatibility with existing land use (Potentially Significant)

The compatibility of projects with existing land uses is typically evaluated in terms of the type, intensity, and visual quality of the proposed use compared to adjacent existing uses.

The proposed project would be an infill development located within an existing highly urbanized area. In terms of the land use type, the project would be generally compatible with surrounding commercial (i.e., restaurant, retail, nighttime entertainment, and hotel) uses. As described below, residential uses associated with the project would be subject to potential nuisances associated with living in an urban environment, such as early morning and nighttime noise and traffic. However, it is expected that residents choosing to live in the area would be aware of such issues, and would accept a certain level of inconvenience as a trade-off for the accessibility of amenities within the Downtown and Waterfront districts.

One source of potential conflict would arise from the location of the project site adjacent to the existing produce district. Uses within the produce market generally operate between the hours of 2 a.m. and 11 a.m. Early morning hours of operation characteristic of the market may conflict with proposed residential

uses, especially with regard to impacts from noise associated with truck and forklift activity on residents and impacts from traffic congestion surrounding the residential egress from the building. Noise impacts could be annoying to new residents; however, a substantial impact from noise would not result from the proposed project, but from existing activities (see Chapter 3F, “Noise”). Similarly, whereas traffic congestion surrounding the proposed parking driveway during early morning hours would be a nuisance to residents and produce market business owners, it would not represent a substantial effect of the proposed project, but an existing condition that would potentially affect residents at the project site. In addition, the produce district is proposed for relocation in the EPP. The existing location is not adequate to provide the type of modern distribution facility that the market would eventually require.

The project’s location at the nexus of a developing vibrant pedestrian neighborhood, including restaurants, retail, services, transit, and nighttime entertainment is also a source of concern related to land use compatibility. Noise and traffic associated with nighttime entertainment activities in the surrounding areas would potentially affect residents at the project site. However, it is expected that people who would choose to live in such an area would consider the neighborhood and its existing nighttime entertainment uses an amenity, rather than a nuisance. Furthermore, existing zoning allows the development of residential uses on the project site. It is the City’s intent to develop this area as a vibrant, mixed-use district, including residential uses co-existing with traditionally urban uses. Impacts associated with the compatibility of the existing uses and the proposed project are further addressed in the noise and traffic analysis (Chapters 3F and 3C, respectively) contained in this EIR. It is unlikely that conflicts between nighttime entertainment uses and new residents would occur because residents would be moving into this vibrant area by choice, however, the residents of the proposed project could represent a potential impact on existing and future nighttime entertainment uses through complaints to nearby businesses, the police department, and city officials. This would represent a potential problem to nighttime entertainment uses that currently exist and a disincentive to future uses that are being encouraged to develop in this area. Changes in the neighborhood that would not encourage these nighttime entertainment uses would be inconsistent with the EPP. To encourage existing and future nighttime entertainment uses in this area, the project sponsor could require new residents to sign a notice indicating their knowledge and acceptance of the noise levels related to the nighttime entertainment district (and produce district) that are around the project site. The form would indicate that activities and gatherings during the late evening and early morning are typical and should be expected. The City could recommend this as a condition of approval.

Compatibility issues also arise with regard to the project’s appearance and scale, as it relates to surrounding development. The visual quality and scale of the project would be compatible with surrounding uses to the extent that design elements similar to those associated with existing uses would be incorporated into the project. Project compatibility with existing uses would be ensured with design features incorporated into the project, as well as with implementation of mitigation measures proposed in the Visual Quality (Mitigation Measures 3G-1 and 3G-2) sections of this EIR. Implementation of these measures would also

address mass and scale discrepancies by minimizing the perception of the height of the building from the pedestrian perspective. The combination of design elements incorporated into the project, measures proposed in the Cultural Resources and Visual Quality chapters of this EIR, and consideration of the City's goals for future development in the project area (i.e., high-density, mixed-use development) would substantially minimize compatibility impacts associated with visual quality.

The potential conflict between new residents and existing and proposed nighttime entertainment uses would be addressed through the following mitigation measure, which is also included within the noise analysis provided in Chapter 3F.

Mitigation Measure 3F-3: Comply with the California Building Code.

The project applicant will comply with the California Noise Insulation Standards by implementing the following measures:

- a. As part of the final building plans submitted for the Building Permit, the project applicant shall incorporate special acoustical treatment in the building design to reduce interior noise in occupied dwelling units to 45 L_{dn}^2 or less. Treatments may include, but are not limited to, use of acoustically rated windows, and specialized building materials and construction methods. If windows must be closed to achieve this decibel rating, the dwelling units will be provided with forced fresh-air ventilation.
- b. The project applicant will retain a qualified acoustical consultant to evaluate and recommend specific acoustical and building layout treatments to reduce noise at outdoor activity areas to 60 L_{dn} or less. Treatments could include, but are not limited to, placement of primary building structures or other noise barriers between outdoor activity areas and major roadways in the area.
- c. As part of the building permit application, the project applicant will specify and confirm the specific treatments to be incorporated into the project design to achieve the exterior and interior standards. The project applicant will incorporate the recommended acoustical treatments into the project design and construction of the building and prepare a report demonstrating that exterior and interior goals of 60 L_{dn} and 45 L_{dn} , respectively, have been achieved.

With implementation of mitigation measures 3G-1, 3G-2, and the above described measure, this potential impact is reduced to less-than-significant.

² L_{dn} (Day-Night Level): The energy average of sound levels occurring during a 24-hour period with 10 dB added to the sound levels occurring during the period from 10 p.m. to 7 a.m. See Chapter 3F "Noise," for a complete description of noise measurements.

Table of Contents

Chapter 3A 1

Land Use and Planning.....1

Introduction.....1
 Setting1
 Environmental Setting.....1
 Regulatory Setting.....2
 Impacts and Mitigation Measures7
 Methodology.....7
 Thresholds of Significance.....7
 Impacts of the Proposed Project8

List of Acronyms

City of Oakland General Plan (General Plan).....1
 Land Use and Transportation Element (LUTE).....1
 Historic Preservation Element (HPE).....1
 Estuary Policy Plan (EPP).....1
 Zoning Code1
 Waterfront Mixed Use (WMU).....2
 Retail, Dining, and Entertainment District (RD&E).....2
 floor area ratio (FAR)4
 C-45 (Commercial).....6
 S-4 (Design Review).....6

List of Citations

City of Oakland 1997 Estuary Policy Plan.....5
 City of Oakland 1977 Estuary Policy Plan.....5

List of Figures

Error! No table of figures entries found.

List of Tables

Error! No table of figures entries found.

Miscellaneous

Error! No table of figures entries found.