

## CHAPTER IV

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# Environmental Setting, Impacts, and Mitigation Measures

## Introduction to the Environmental Analysis

### Overview

The analysis provided in this EIR has been prepared in accordance with CEQA, as amended (Public Resources Code Section 21000, et seq.), and the State CEQA Guidelines (California Code of Regulations sections 15000 through 15378).

This chapter contains a discussion of 1) Environmental Setting (baseline conditions and regulatory background), 2) Environmental Impacts Analyses (direct, indirect or secondary, short-term, and cumulative) that could result from the proposed project, and 3) Mitigation Measures and City of Oakland Standard Conditions of Approval that would, to the extent possible, reduce or eliminate adverse impacts identified in this chapter.

### Scope of Analysis

Throughout this EIR, the analysis addresses the potential impacts of all activities that would result from development of the entire project site and during all development phases. Pursuant to Section 15358(b) of the CEQA Guidelines and the City of Oakland's amendment to the Oakland General Plan (City of Oakland, 2005a), the analysis focuses on the *physical* impacts that may result for the project. Further, the analysis identifies the significance criteria used to assess the significance of adverse environmental effects and reports the significance of impacts (both prior to and after implementation of mitigation). Where appropriate and relevant, potential impacts specific to a certain phase of development or development site are identified as such, with mitigation measures or standard conditions also identified accordingly.

This EIR addresses each environmental topic for which the project could result in a physical environmental effect under CEQA. As indicated in the Chapter I (Introduction), the City elected not to prepare an Initial Study, which may have narrowed the scope of environmental topics that the EIR would include. The analysis in this EIR was also scoped to respond to NOP comments that pertained to potential environmental effects of the project under CEQA. Thus, all such comments are addressed within the information and analysis presented throughout this document. (Comment letters received in response to the NOP are provided in **Appendix B** to this EIR.)

The analysis considers impacts that would occur during construction and during operation of the project through buildout (Year 2025) and cumulative conditions (Year 2025). Although not required by CEQA, a 2010 interim year analysis is included in this EIR to assess potential near-term traffic, air quality, and noise impacts that could result with initial phases of the project.<sup>1</sup>

## Environmental Baseline

Overall, pursuant to Section 15125(a) of the CEQA Guidelines, this EIR measures the physical impacts of the proposed project against “baseline” of physical environmental conditions at and near the project (typically from a local and regional perspective, as appropriate). The “baseline” is the combined circumstances existing around the time the NOP of the EIR was published, which is November 2005.<sup>2</sup> In most cases, the baseline condition relevant to the environmental topic being analyzed is described within each environmental topic section in Chapter IV. In some cases (such as Section IV.B, *Visual Quality*, Section IV.C, *Transportation, Circulation and Parking*, and IV.K, *Population, Housing and Employment*), discussion of the baseline condition is detailed or restated in the *Impacts Analysis* to provide the impact analysis in the most reader-friendly format and organization. In cases where the timing of the baseline condition used is substantially different from the November 2005 baseline, the alternative baseline is described within the specific topic sections in Chapter IV.

The baseline for the 2010 interim year analysis that is presented in this EIR to assess near-term traffic and traffic-related air quality and traffic-related noise impacts associated with the project. The 2010 baseline was established by the Alameda County Congestion Management Agency’s (ACCMA) Countywide Transportation Demand Model, with land uses within Oakland modified by Hausrath Economic Group (HEG) to reflect the City’s updated growth scenario for 2010 (discussed under *Cumulative Analysis Context*, below). Similarly, the baseline for the 2025 cumulative year analysis for traffic and traffic-related air quality and traffic-related noise impacts are derived using ACCMA’s Countywide Transportation Demand model with land uses reflecting the City’s updated growth scenario for 2025.

The baseline also includes the policy and planning context in which the project is proposed. This is discussed in detail within Section IV.A, *Land Use, Plans and Policies*, and identifies any inconsistencies between the proposed project and applicable, currently adopted plans and policies. As appropriate, this section also considers changes to existing plans (i.e. General Plan Land Use Diagram, part of the Land Use and Transportation Element; Coliseum Redevelopment

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<sup>1</sup> The 2010 analysis assumes that the entire project would be constructed and occupied by year 2010. This assumption is also more conservative than the City of Oakland’s Cumulative Growth Scenario, updated for this EIR analysis, which assumes only development equivalent to Sites I and II of the project would be constructed and occupied by 2010. The project sponsor has indicated that it is not likely that the project phasing would result in either level of development being constructed and occupied by year 2010. Thus, the project impacts, mitigation measures, and standard conditions identified in this EIR may likely occur at a time later than shown since the project would likely be developed at a time later than the analysis assumes.

<sup>2</sup> Except as specified otherwise, any reference to “existing” conditions throughout this EIR refers to the baseline condition as of around November 2005.

Plan) the project proposes, as well as all reasonably foreseeable plan updates/amendments that the City is currently considering (i.e., 2007 Bicycle Master Plan Update).

## Cumulative Analysis Context

Pursuant to the requirements of CEQA, this EIR evaluates potential project-level impacts and potential cumulative impacts. A cumulative impact occurs when the impact of two or more individual impacts, when considered together, are substantial or compound or increase other environmental impacts. The cumulative analysis is intended to describe the “incremental impact of the project when added to other, closely related past, present, or reasonably foreseeable future projects” that can result from “individually minor but collectively significant projects taking place over a period of time” (CEQA Guidelines Section 15355). A cumulative analysis discussion is provided for each environmental topic addressed in this EIR, and unless specified otherwise, the geographic context for each cumulative analysis in the City of Oakland. (Also see *Impact Overview* discussion in Chapter VI, which summarizes the cumulative impacts identified throughout Chapter IV).

The cumulative analysis year established for this EIR analysis is 2025. To establish the 2025 cumulative context and baseline conditions for this analysis, the City of Oakland updated its detailed Oakland Cumulative Growth Scenario and Land Use Database in March 2006 to ensure that updated cumulative impacts are appropriately considered within the context of future citywide and regional growth and development. The City’s updated growth scenario and land use database incorporates 2000 Census data, projections series available from the Association of Bay Area Governments (ABAG) at the time this EIR was prepared, and considers foreseeable, future development projects in the area. As detailed in the March 2006 updated Oakland Cumulative Growth Scenario in **Appendix D**, HEG, under direction of the City, has compiled a list of proposed, approved, and reasonably foreseeable development projects that the City expects to be completed in Oakland by 2025. The numbers in Oakland’s updated growth scenario are similar to the ABAG projections currently incorporated into the ACCMA Travel Model. However, Oakland’s updated growth scenario used in this EIR analysis provides more specificity about growth and development.<sup>3</sup> Considering the reasonably foreseeable development, in addition to the projected growth that would occur on the project site as part of the project, HEG developed population, housing, and employment forecasts for year 2025 that are used for the cumulative analysis in this EIR.

## Mitigation Measures and Standard Conditions of Approval

As indicated above, project-specific mitigation measures are identified throughout the EIR to reduce or eliminate adverse impacts of the project. The mitigation measures determined to be

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<sup>3</sup> Appendix D includes a comparison table of the updated Oakland Cumulative Growth Scenario with the ABAG *Projections 2002* for Oakland and the ABAG projections, as incorporated into the Alameda County CMA Travel Model for use in transportation analyses. (ABAG *Projections 2002* series provides the basis for the numbers in the CMA model at the time the analysis for this EIR was prepared. See further discussion in Appendix D to this EIR.)

feasible and effective to reduce or avoid potentially significant impacts 1) will be included as part of the design, construction, and operations of the proposed project; 2) will be made conditions of approval for the project; and 3) will be subject to the monitoring and reporting requirements of CEQA and the terms of the discretionary approvals for the project.

The City's Uniformly Applied Development Standards are incorporated into projects as conditions of approval regardless of a project's environmental determination. As applicable, the Uniformly Applied Development Standards are adopted as requirements of an individual project when it is approved by the City and are designed to, and will, substantially mitigate environmental effects. Throughout this EIR, these standards are identified as "Standard Conditions of Approval."

In reviewing project applications, the City determines which of the standard conditions are applied, based upon the zoning district, community plan, and the type(s) of permit(s)/approvals(s) required for the project. Depending on the specific characteristics of the project type and/or project site, the City will determine which Development Standards apply to each project; for example, Development Standards related to creek protection permits will only be applied projects on creekside properties.

The Development Standards incorporate development policies and standards from various adopted plans, policies, and ordinances (such as the Oakland Planning and Municipal Codes, Oakland Creek Protection, Stormwater Water Management and Discharge Control Ordinance, Oakland Tree Protection Ordinance, Oakland Grading Regulations, National Pollutant Discharge Elimination System (NPDES) permit requirements, Housing Element-related mitigation measures, California Building Code, and Uniform Fire Code, among others), which have been found to substantially mitigate environmental effects. Where there are peculiar circumstances associated with a project or project site that will result in significant environmental impacts despite implementation of the Development Standards, the City will determine whether there are feasible mitigation measures to reduce the impact to less than significant levels in the course of appropriate CEQA review.

## Significance Thresholds

The City of Oakland has established local Thresholds/Criteria of Significance Guidelines (referred to as "Thresholds"), which have been in general use by the City since at least 2002, to help clarify and standardize analysis and decision-making in the environmental review process in the City of Oakland. The Thresholds are offered as guidance in preparing all environmental review documents, such as this EIR. The Thresholds are intended to implement and supplement provisions in the CEQA Guidelines for determining the significance of environmental effects, including Sections 15064, 15064.5, 15065, 15382 and Appendix G and are used to evaluate the proposed project in this EIR, as there are no unique factors that warrant the use of different thresholds.

## Impact Classifications

The following level of significance classifications are used throughout this EIR:

**Potentially Significant (PS)** – The impact of the project may reach or exceed the defined threshold of significance, however it is not evident that, even in the theoretical worst-case standard conditions, a significant impact would occur. Feasible mitigation measures or standard conditions of approval may or may not be identified to reduce the potentially significant impact to a less-than-significant level.

**Significant and Unavoidable (SU)** – The impact of the project reaches or exceeds the defined threshold of significance. No feasible mitigation measure or condition of approval is available to reduce the significant impact to a less-than-significant level. In these cases, feasible mitigation measures or standard conditions are identified to reduce the significant impact to the maximum feasible extent, and the significant unavoidable classification is noted. Impacts are also classified as significant and unavoidable if a feasible mitigation measure is identified that would reduce the impact to a less-than-significant level, but the approval and/or implementation of the mitigation is not within the City of Oakland’s or the project sponsor’s sole control; as a result, this Draft EIR cannot presume implementation of the mitigation measure and the resulting less-than-significant impact level.

**Less than Significant (LTS)** – The impacts of the project either before or after implementation of feasible mitigation measures or standard conditions of approval do not reach or exceed the defined threshold of significance. Generally, no additional mitigation measures or standard conditions of approval are required although there are cases where standard conditions are identified even when the impact is LTS.

**Beneficial Impact (B)** – The impact of the project would improve the environment, regardless of the defined threshold of significance. Generally, no mitigation measures or standard conditions of approval are required or identified.

**No Impact (N)** – No noticeable adverse effect on the environmental would occur.

## Nomenclature of Impacts, Mitigation Measures, and Standard Conditions

### ***Impact Statements***

All impacts in this EIR are identified by an abbreviated designation that corresponds to the environmental topic addressed (e.g., “HAZ” for hazardous materials). The topic designator is followed by a number that indicates the sequence in which the impact statement occurs within the section. For example, “Impact HAZ-1” is the first (i.e., “1”) hazardous materials impact identified in the EIR. All impact statements are presented in bold text.

### ***Mitigation Measures***

Each mitigation measure is numbered to correspond with the impact that it addresses. Where multiple mitigation measures address a single impact, each mitigation measure is indicated by a

lower-case letter. For example “Mitigation Measure HAZ-1a” is the first (i.e., “a”) mitigation identified to address the first (i.e., “1”) hazardous materials impact (i.e., “HAZ”). Generally, all mitigation measure statements are presented in bold text, although where the mitigation measure includes lengthy detailed discussion that is part of a mitigation measure (for example, mitigation measures related to traffic impacts), the discussion text may be presented in plain text format for readability.

### ***Standard Conditions***

Standard conditions are presented the same as described above for mitigations measures. For example, “Standard Condition HAZ-2” is the second impact (i.e., “2”) identified for hazardous materials. Mitigation measures and standard conditions identified to address the potentially significant impacts of the project are presented using a single numbering sequence, without regard to category; for example, Mitigation Measure HAZ-1, Standard Condition HAZ-2, Mitigation Measure HAZ-3, Mitigation Measure HAZ-4, etc.

## A. Land Use, Plans and Policies

This section describes the existing land uses, adopted General Plan land use classifications, and zoning designations on and around the project site. This section also describes the applicable plans and policies that guide development in the project area and evaluates the project's consistency with these plans and policies and other existing land use regulations.

Following the discussion of the project's relationship to various plans and policies, this section identifies any potentially significant land use impacts and, if necessary, appropriate mitigation measures or standard conditions of approval. Pursuant to the City's amendment to the Oakland General Plan (City of Oakland, 2005a), as well as Section 15358(b) of the CEQA Guidelines, mitigation measures are proposed only to address *physical* impacts that may result for the project. Moreover, in considering appropriate mitigation measures or standard conditions of approval, this section recognizes that "the fact that a specific project does not meet all General Plan goals, policies, and objectives does not inherently result in a significant effect on the environment within the context of [CEQA]" (City of Oakland, 2005a).

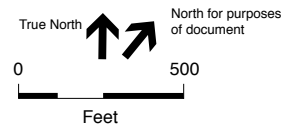
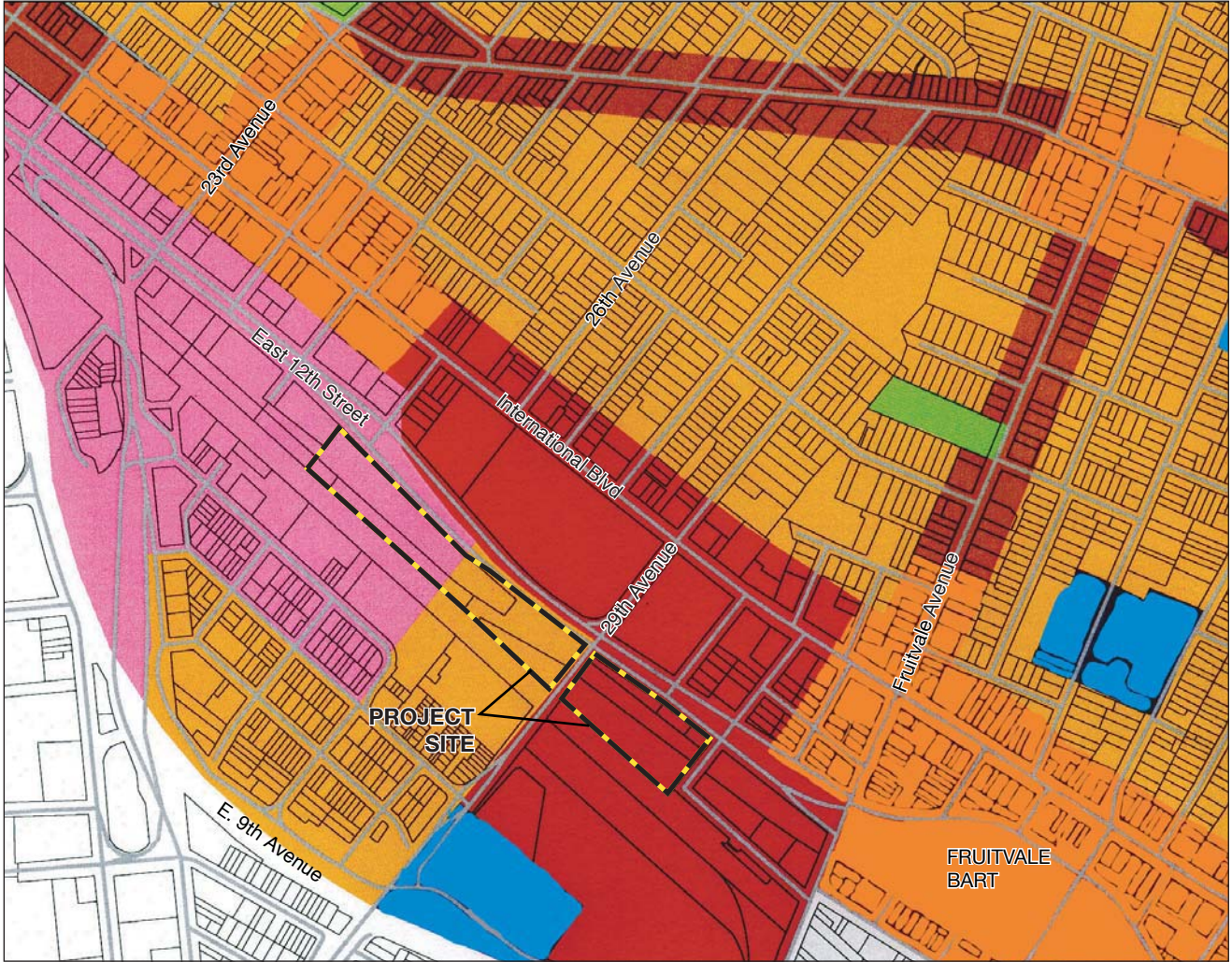
### Introduction

#### Land Use Classifications and Zoning

The project site is located in a central eastern area of the City of Oakland, approximately two miles east of Lake Merritt and slightly more than one-half mile north of the Oakland Estuary. **Figure III-1** (in Chapter III, Project Description) locates the site along the south side of East 12<sup>th</sup> Street<sup>4</sup>, between approximately 26<sup>th</sup> Avenue on the west and Derby Avenue on the east. The Union Pacific Railroad (UPRR) tracks form the southern boundary of the site. The City of Oakland's General Plan Land Use and Transportation Element (LUTE) locates the project site within the San Antonio portion of the San Antonio/Fruitvale/Lower Hills Planning Area. As depicted in **Figure IV.A-1**, which shows the existing Oakland General Plan Land Use Classifications for the project area and vicinity, generally the western one-third of the project site and abutting areas are located within the *Business Mix* land use classification (generally along East 12<sup>th</sup> Street and southward). The central nearly one-third of the site (parcels at the southwest corner of 29<sup>th</sup> Avenue and East 12<sup>th</sup> Street) and areas directly south lie within the *Mixed Housing Type Residential* classification, and the eastern one-third of the site (parcels at the southeast corner of 29<sup>th</sup> Avenue and East 12<sup>th</sup> Street) and surrounding areas are within the *Regional Commercial* classification. (**Figure IV.A-2**, which delineates existing zoning on and surrounding the project site, also shows existing General Plan land use classifications for the site and surrounding areas.) The existing land use

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<sup>4</sup> For purposes of this EIR, and following Oakland convention, East 12<sup>th</sup> Street runs east-west and 29<sup>th</sup> Avenue runs north-south.



— Project Boundary

**General Plan**

Residential Hillside	Community Commercial	General Industrial / Transportation
Detached Unit Residential	Housing and Business Mix	Institutional
Mixed Housing Type*	Central Business District	Resource Conservation Area
Urban Residential	Regional Commercial*	Park & Urban Open Space
Neighborhood Center	Business Mix*	Estuary Plan Area

\* Existing classification on portion of project site.

SOURCE: City of Oakland, 2006.

Gateway Community Development Project . 204358

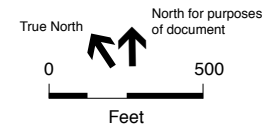
**Figure IV.A-1**  
Existing Oakland General Plan  
Land Use Classifications:  
Project Site and Vicinity



EXISTING ZONING AND GENERAL PLAN



PROPOSED ZONING AND GENERAL PLAN



classifications are generally consistent with the immediately abutting properties, which include *Business Mix*, *Mixed Housing Type Residential*, and *Community Commercial*.

**Figure IV.A-2**, Existing and Proposed General Plan and Zoning, shows the site is currently located entirely within the M-30 General Industrial Zone. The area north of the project site and East 12<sup>th</sup> Street is primarily within the C-40 Community Thoroughfare Commercial Zone, with a small area of C-60 City Service Commercial Zone located west of 26<sup>th</sup> Avenue, and a two-block area of R-30 One-Family Residential Zone around Derby Avenue. All areas directly west, south, and east of the project site (south of East 12<sup>th</sup> Street) are within the M-30 General Industrial Zone, with properties zoned M-20 Light Industrial, M-20 / S-13 Mixed Use Development Zone, and M-40 Heavy Industrial located further south, southeast, and southwest of the site approximately two to three blocks. Immediately east of the project site is a large parcel within the S-15 Transit Oriented District Zone given its proximity to the Fruitvale BART Station.

The R-40 Garden Apartment Residential Zone exist for the residential neighborhood (commonly referred to as “Jingletown”), nearly two blocks south of the project site. This is one of the two residentially zoned areas near the project site (the other being the small R-30 One-Family Residential Zone north of East 12<sup>th</sup> Street, around Derby Avenue).

## On-site Uses and Ownership

The approximately 9.7-acre project site consists of several contiguous properties, and includes an unoccupied hardware store and former lumberyard, six commercial buildings, a Caltrans facility, and a 951-unit self-storage facility, owned by the project sponsor and operated and maintained by its affiliate, Self-Storage U.S.A. The self-storage facility exists on the west side of 29<sup>th</sup> Avenue and has operated since 1993, with a major component of new storage units installed in 2004. The project sponsor owns all of the land within the project site, west of 29<sup>th</sup> Avenue. East of 29<sup>th</sup> Avenue, the project sponsor owns a vacant parcel of land that extends east-west through the middle of the site. The remainder of the site east of 29<sup>th</sup> Avenue includes three small, one- and two-story commercial buildings along East 12<sup>th</sup> Street (at and near the corner at Derby Avenue) and the Caltrans maintenance facility, which is located adjacent to the railroad tracks and Derby Avenue.

## Land Use Approvals

As discussed in Chapter III (Project Description), the City approvals that the project sponsor is seeking for the project include the following, without limitation:

- General Plan Amendment to the Land Use and Transportation Element and Diagram (Government Code Section 65350)
- Redevelopment Plan Amendment (Health and Safety Code Section 33450)
- Rezoning (Oakland Planning Code Chapter 17.144)
- Development Agreement with the City of Oakland (Oakland Planning Code Chapter 17.138; Government Code Section 65864)

- Disposition and Development Agreement with the Oakland Redevelopment Agency (Health & Safety Code Section 33430)
- Preliminary Development Plan (PDP) and Final Development Plan (FDP) / Final Design Review for a Planned Unit Development (PUD) (Oakland Planning Code Chapter 17.140 )
- Variances (Oakland Planning Code Chapter 17.148)
- Subdivision Map (Subdivision Map Act Oakland Municipal Code Title 16)
- Tree Removal Permit (Oakland Municipal Code Chapter 12.36)
- Encroachment Permits (Oakland Municipal Code Chapter 12.08)
- Demolition Permits (Oakland Municipal Code Chapter 15.36)
- Excavation Permits (Oakland Municipal Code Chapter 12.12)
- P-Job Permit (Oakland Municipal Code Chapter 12.20)
- Building Permits

### ***General Plan and Redevelopment Plan Amendments and Rezoning as Part of Project***

The project sponsor has requested approval of a General Plan Amendment, Redevelopment Plan Amendment, and Rezoning to facilitate development of the proposed project. Because the task of an EIR is to disclose what the impacts of the project will be if the project is approved and developed, these proposed changes to the General Plan land use classification, Redevelopment Plan land use designation, and zoning designation are considered part of the “whole of the action” evaluated in this EIR. If the project is approved and developed, the General Plan and Redevelopment Plan will have been amended and the zoning changed, thus, the project inherently would not “fundamentally conflict with any applicable land use plan... or zoning ordinance” as a result of not being consistent with an existing land use classification or zoning designation on the project site.

The EIR evaluates the project’s consistency with General Plan and Redevelopment Plan policies, and to measure the project’s *environmental* impacts, the EIR compares the circumstances existing during and after project development to the “baseline,” which is the *physical* circumstances existing before project approval (discussed above). This EIR also presents a comparison of the impacts of development under the current General Plan, Redevelopment Plan and zoning to the impacts of development under the proposed changes as part of the “Redevelopment Consistent with General Plan Alternative” discussed in Chapter V. Environmental Setting

## **Land Uses**

### ***Previous Land Uses***

The project site and vicinity are located in an area that has undergone tremendous change in the last 120 years. Although large agricultural estates and residential subdivisions were once the primary land use, the railroad brought industrial uses to the area (including a railroad station), and a mix between industrial, commercial, and residential uses has been in existence ever since.

Several land uses in the area pre-date the railroad, including the current site of the ASCEND Elementary School, which has been a school site since before the turn of the 20<sup>th</sup> century, and several residences in the area. The construction of I-880 and, later, the Bay Area Rapid Transit (BART) system further disrupted land use patterns in the area. In recent years, the City's focus on sustainable development, land use compatibility in mixed use areas, and transit-oriented development (TOD) (as supported by numerous Oakland General Plan policies the characteristics outlined by the ACCMA [ACCMA, 2007]), has encouraged and facilitated new residential, retail, and commercial use development in the area.

### **Site Vicinity Land Uses**

The project site lies along two of Oakland's arterials: East 12<sup>th</sup> Street and 29<sup>th</sup> Avenue.<sup>5</sup> Arterial streets are defined in the LUTE as part of the "basic network for through-traffic between different sections of the city, defining the form of residential, industrial and commercial areas of the city." The LUTE further describes that arterials "connect freeways with collector streets and provide limited direct vehicle access to adjoining properties. Arterials are streets designed to carry heavy traffic volumes at speeds lower than freeways and expressways, typically 30-45 miles per hour" (City of Oakland, 2005a; LUTE p. 129).

The project site fronts the south side of East 12th Street and both sides (east and west) of 29<sup>th</sup> Avenue, which provides direct access to the City of Alameda via the Park Street Bridge and indirect access to I-880.

**Figure III-1** (in Chapter III, Project Description) provides an aerial that identifies several major nearby land uses, and land uses in the areas surrounding the project site are described below.

### **East of the Project Site**

Derby Avenue forms the eastern boundary of the project site and is a segmented local street that extends from East 15<sup>th</sup> Street to East 10<sup>th</sup> Street, which turns east (paralleling the railroad tracks that form the southern border of the site) for two blocks to Fruitvale Avenue.<sup>6</sup> A BART surface parking lot extends eastward from Derby Avenue to Fruitvale Avenue, and the Fruitvale BART Station parking structure exists on the east side of Fruitvale Avenue. Further east, beyond the BART parking structure and extending to 35<sup>th</sup> Avenue (approximately four blocks east of the project site), is Fruitvale Transit Village, which is a mixed-use, transit-oriented development that includes a public library branch, a childcare facility, residences (approximately 50 multifamily units), a health clinic, eateries, and retail and office uses. The Fruitvale BART Station and its surface parking lots are immediately south of the Fruitvale Transit Village. ASCEND (A School Cultivating Excellence, Nurturing Diversity) Elementary School, designed for approximately 380 Kindergarten through eighth grade students, is operated by Oakland Unified School District, and is located at 37<sup>th</sup> Avenue, nine blocks or approximately one-half mile from the project site.

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<sup>5</sup> Twenty-ninth Avenue is considered an arterial by the LUTE south of International Boulevard.

<sup>6</sup> Derby Avenue resumes south of the railroad tracks, the Fruitvale Station Shopping Center, and I-880 and extends to the Estuary.

Single-family homes and homes converted to multifamily use exist next to and beyond the school.

### **South of the Project Site**

The UPRR tracks and right-of-way form the southern boundary of the project site, and an at-grade railroad crossing exists across 29<sup>th</sup> Avenue. South of the railroad right-of-way abutting the site is a self-storage facility east of 29<sup>th</sup> Avenue, and the Lucasey industrial manufacturing plant facility and the City of Oakland's animal shelter, west of 29<sup>th</sup> Avenue. Two blocks southeast (across 29<sup>th</sup> Avenue) is the 157,900 square foot Fruitvale Station Shopping Center, which includes an major grocery store, office supply store, and automotive parts store as anchor commercial uses supported by a mix of sit-down and drive-through fast-food businesses and smaller commercial retail stores and personal services uses. Lazear Elementary School and playfield fronts 29<sup>th</sup> Avenue and is directly south and east of the shopping center. Operated by Oakland Unified School District, the school serves approximately 350 kindergarten through fifth grade students.

Two blocks directly south of the project site, along the west side of 29<sup>th</sup> Avenue, is Jingtown, a long-established neighborhood with a mix of new and established housing, businesses and industrial uses. Defining uses include lofts and live-work units, single-family and multifamily homes, small businesses, art studios, and trucking-related industrial facilities with on-site storage and visible loading docks. Jingtown extends south to I-880 and west to the 23<sup>rd</sup> Avenue overpass.

### **West of the Project Site**

A maintenance facility owned by the Oakland Housing Authority (OHA) is located immediately west of the project site. The site includes surface parking for OHA employees, and a corporate yard that provides outdoor storage for equipment and above-ground storage tanks. Several commercial buildings continue along the south side of East 12<sup>th</sup> Street to the 23<sup>rd</sup> Avenue overpass, where a small park (CalCot Park) is located. Along the north side of East 12<sup>th</sup> Street is a drive-through fast-food restaurant, several car repair operations, a service station and a variety of retail and commercial uses. Although not visible from the site due to the relatively flat topography of the area and intervening development, Lake Merritt and downtown Oakland are approximately 2.5 miles west of the project area.

### **North of the Project Site**

The northern boundary of the project site is formed by East 12<sup>th</sup> Street, which includes the elevated BART tracks and support pillars above and within its landscaped median. The north side of East 12<sup>th</sup> Street includes the St. Joseph's Professional Center, a large distinctive brick office complex that faces International Boulevard. The playfields for the Cesar Chavez Education Center are also north of East 12<sup>th</sup> Street, directly opposite the project site and have nighttime lighting. The Education Center provides facilities for three schools: Think College Now, an elementary school for students in Kindergarten through third grade; International Community School, an autonomous small school that serves students in Kindergarten through the fifth grade,

and Urban Promise Academy, an autonomous small school that serves students in the sixth through eighth grades. East of 29<sup>th</sup> Avenue, along the north side of East 12<sup>th</sup> Street, Goodwill Industries operates a facility that includes a donation intake center, a job training facility, and a retail store. Beyond the Goodwill Industries facility, single-family and multifamily residences occupy the blocks on the north side of East 12<sup>th</sup> Street, to Derby Avenue.

One block north of East 12<sup>th</sup> Street is International Boulevard, which extends from West Oakland through downtown Oakland (as 14<sup>th</sup> Street), East Oakland, and the City of San Leandro (as East 14<sup>th</sup> Street), until it reaches the City of Hayward and becomes Mission Boulevard, approximately seven miles from Oakland's eastern city limit line. In the vicinity of the project site, International Boulevard is the heart of the Fruitvale community's busy commercial district, with a variety of shops, businesses, and restaurants that attract customers from throughout the Bay Area.

## City Plans, Policies, and Regulations

Applicable plans and major policies and regulations that pertain to the Gateway Community Development Project are presented below, followed by a discussion of the project's overall consistency (or inconsistency) with each plan. Several land use plans, policies, and regulations apply to the project site. Consistent with CEQA, every Oakland General Plan policy that *could* apply to the project is not included here. The policies listed below are those that most directly pertain to the environmental effects of the project and that emerged as points of interest or controversy during the environmental scoping and community outreach processes.

Conflicts with a General Plan do not inherently result in a significant effect on the environment within the context of CEQA. As stated in Section 15358(b) of the CEQA Guidelines, “[e]ffects analyzed under CEQA must be related to a physical change.” Section 15125(d) of the Guidelines states that EIRs shall discuss any inconsistencies between the proposed project and applicable General Plans in the “Setting” section of the document (not under “Impacts”).

Further, Appendix G of the Guidelines (Environmental Checklist Form) makes explicit the focus on *environmental* policies and plans, asking if the project would “*conflict with any applicable land use plan, policy, or regulation . . . adopted for the purpose of avoiding or mitigating an environmental effect*” (emphasis added). Even a response in the affirmative, however, does not necessarily indicate the project would have a significant effect, unless a physical change would occur. To the extent that physical impacts may result from such conflicts, such physical impacts are analyzed elsewhere in this EIR.

Regarding a project's consistency with the General Plan in the context of CEQA, the Oakland General Plan states the following:

*The General Plan contains many policies which may in some cases address different goals, policies and objectives and thus some policies may compete with each other. The Planning Commission and City Council, in deciding whether to approve a proposed project, must decide whether, on balance, the project is consistent (i.e., in general harmony) with the General Plan. The fact that a specific*

*project does not meet all General Plan goals, policies and objectives does not inherently result in a significant effect on the environment within the context of the California Environmental Quality Act (CEQA). (City Council Resolution No. 79312 C.M.S.; adopted June 2005) (City of Oakland, 2005a)*

### **City of Oakland General Plan**

The Oakland General Plan establishes comprehensive, long-term land use policies for the City. Consistent with state law, the General Plan includes the Land Use and Transportation Element (LUTE) (adopted March 24, 1998, as amended); the Historic Preservation Element (adopted March 8, 1994, as amended); the Open Space, Conservation, and Recreation (OSCAR) Element (adopted June 11, 1996); the Safety Element (adopted November 2004); the Housing Element (adopted June 14, 2004); the Noise Element (adopted June 21, 2005); the *Bicycle Master Plan* (adopted July 1999); the *Pedestrian Master Plan* (adopted November 2002 as part of the LUTE); and the *Scenic Highways Element* (adopted September 3, 1974). The City also adopted the *Estuary Policy Plan* as an element of the General Plan (adopted June 8, 1999, as amended).

Each element of the General Plan is discussed below, except the *Estuary Policy Plan* and the *Scenic Highways Element* since the project site is not located within or near the boundaries of the *Estuary Policy Plan* (which is generally along the Estuary, from Jack London Square to 66<sup>th</sup> Avenue) or a designated scenic highway (Interstate 580 to State Route 24, and State Route 13).

### **Land Use and Transportation Element**

Adopted on March 24, 1998, the City's Land Use and Transportation Element (commonly referred to as "the LUTE") identifies policies for utilizing Oakland's land as change takes place and establishes an action program to implement its land use policies through development controls and other strategies. As described in the LUTE, the project site lies within the San Antonio portion of the San Antonio/Fruitvale/Lower Hills Planning Area, which is at the geographic center of the city. The Planning Area boundaries generally extend from the Oakland Estuary, north to State Route (SR) 13 and the southern boundary of the City of Piedmont, west to Lake Merritt and Harrison Street, and east to High Street and a portion of Interstate 580 (I-580).

As introduced above, the LUTE shows the project site located within three General Plan land use classifications (see **Figures IV.A-1 and/or IV.A-2**). The intent, desired character, and certain specific development or land use limitations (as summarized from the LUTE) of each of the existing classification on the site are described below.

#### *Existing General Plan Land Use Classifications on the Project Site*

- **Business Mix** - The intent of the *Business Mix* land use classification is to "create, preserve and enhance areas of the City that are appropriate for a wide variety of business and related commercial and industrial establishments." The LUTE further states: "High impact industrial uses including those that have hazardous materials on-site may be allowed provided they are adequately buffered from residential areas. High impact or large scale commercial retail uses should be limited to sites with direct access to the regional

transportation system.” The maximum floor-to-area ratio (FAR)<sup>7</sup> is 4.0 and primary uses would include light industry, research and development, and low-impact manufacturing.

As shown in **Figures IV.A-1 and IV.A-2**, *Business Mix* applies to the portion of the project site located along East 12<sup>th</sup> Street, between 26<sup>th</sup> Avenue and an imaginary north-south line extending between Mitchell Avenue (to the north of East 12<sup>th</sup> Street) and Lisbon Avenue (to the south of the railroad tracks). Commercial self-storage uses currently exists within the *Business Mix* area of the project site and is consistent with that land use classification.

- **Mixed Housing Type Residential** - The intent of the *Mixed Housing Type Residential* land use classification is to “create, maintain, and enhance residential areas typically located near the City’s major arterials and characterized by a mix of single family homes, townhouses, small multi-unit buildings, and neighborhood businesses where appropriate.” The LUTE further states: “Respect for environmental quality, coupled with opportunities for additional housing and neighborhood-friendly businesses is desired, as well as the transition from industry that generates impacts detrimental to residences.” The maximum density is 30 principal units per gross acre.

As shown in **Figures IV.A-1 and IV.A-2**, *Mixed Housing Type Residential* applies to the portion of the project site located along East 12<sup>th</sup> Street between 29<sup>th</sup> Avenue and west of an imaginary line extending between Mitchell Avenue (to the north of East 12<sup>th</sup> Street) and Lisbon Avenue (to the south of the railroad tracks). This portion of the site is now occupied by buildings associated with a former ACE Hardware-Lumber Yard store and a former auto accessories store, and presently houses the trailer offices of Safe Storage U.S.A., an affiliate of the project sponsor. The current commercial self-storage uses on the site are not consistent with the existing *Mixed Housing Type Residential* land use classification.

- **Regional Commercial** - The intent of the *Regional Commercial* land use classification is to “maintain, support and create areas of the City that serve as region-drawing centers of activity.” The LUTE adds that the desired character and land use mix for this classification would be “[a] mix of commercial, office, entertainment, arts, recreation, sports, and visitor serving activities, residential, mixed use development and other uses of similar character or supportive of regional drawing power.” The maximum density for this land use classification is 125 units per gross acre and the maximum FAR is 4.0.

As shown in **Figures IV.A-1 and IV.A-2**, *Regional Commercial* applies to the entire block along East 12<sup>th</sup> Street, between 29<sup>th</sup> Avenue and Derby Avenue. This portion of the site is now occupied by the Caltrans South Oakland Maintenance Facility along the southern portion of the site and by three commercial buildings fronting East 12th Street, one of which is an operating automotive repair use. The existing uses on the site are generally consistent with the existing *Regional Commercial* land use classification.<sup>8</sup>

#### *Proposed General Plan Land Use Classification for the Project Site*

The project has requested a General Plan Amendment to remove the aforementioned land use classifications from the project site and designate the *Community Commercial* classification on the site to allow the land uses and residential densities proposed by the project.

<sup>7</sup> The floor-to-area ratio (FAR) is the gross floor area of a building divided by total site area, excluding parking.

<sup>8</sup> The General Plan is “silent” on the conformity of “Commercial Automotive Repair/Cleaning Activities,” “Civic Utility and Vehicular Activities” (the Caltrans maintenance facility), and “Non-residential Open Facilities” (the Caltrans outdoor storage yard) within the *Regional Commercial* land use classification.

- **Community Commercial** - The intent of the *Community Commercial* land use classification is to “identify, create, maintain, and enhance areas suitable for a wide variety of commercial and institutional operations along the City’s major corridors and in shopping districts or centers.” The LUTE states the desired character and uses for this classification include neighborhood center uses and large-scaled retail and commercial uses...and complemented by the addition of urban residential development and compatible mixed use development. This land use classification would allow a maximum 125 units per gross acre and, for non-residential uses, a maximum FAR of 5.0.

The project proposes to apply *Community Commercial* to the entire project site. The proposed overall residential density and FAR for the project (considering the entire project site) is approximately 84 units per gross acre and 2.7 FAR, respectively -- less than the maximums permitted in the *Community Commercial*.

**Table IV.A-1**, Summary of Existing and Proposed General Plan Land Use Classifications, is provided in the *Impact Analysis* (see Impact LU-2) within this section and summarizes the requirements and allowances for each land use classification relevant to the proposed project.

#### *Relevant LUTE Policies*

LUTE policies that apply to the project and that are particularly relevant to the potential effects of the project on the physical environment are listed and discussed below:<sup>9</sup>

- The vitality of existing neighborhood mixed use and community commercial areas should be strengthened and preserved (*LUTE Policy I/C3.4 Strengthening Vitality*).
- Existing industrial, residential, and commercial activities and areas which are consistent with long term land use plans for the City should be protected from the intrusion of potentially incompatible land uses (*LUTE Policy I/C4.1, Protecting Existing Activities*).
- Facilitating the construction of housing units should be considered a high priority for the City of Oakland (*LUTE Policy N3.1, Facilitating Housing Construction*).
- In order to facilitate the construction of needed housing units, infill development that is consistent with the General Plan should take place throughout the City of Oakland (*LUTE Policy N3.2, Encouraging Infill Development*).
- The City should actively encourage development of housing in designated Mixed Housing Type Residential and urban housing areas through regulatory and fiscal incentives, assistance in identifying parcels that are appropriate for new development, and other measures (*LUTE Policy N3.5, Encouraging Housing Development*).
- Residential developments should be encouraged to face the street and to orient their units to desirable sunlight and views, while avoiding unreasonably blocking sunlight and views for neighboring buildings, respecting the privacy needs of residents of the development and surrounding properties, providing for sufficient conveniently located on-site open space, and avoiding undue noise exposure (*LUTE Policy N3.9, Orienting Residential Development*).

<sup>9</sup> The LUTE includes objectives and policies that pertain to five policy areas: Industry and Commerce (I/C), Transportation and Transit-Oriented Development (T), Downtown (D), Waterfront (W), and Neighborhoods (N). LUTE objectives and policies are indicated by these alpha designators.

- Residential areas should be buffered and reinforced from conflicting uses through the establishment of performance-based regulations, the removal of non-conforming uses, and other tools (*LUTE Policy N5.2*).
- New residential development in Detached Unit and Mixed Housing Type Residential areas should be compatible with the density, scale, design, and existing or desired character of surrounding development (*LUTE Policy N7.1, Ensuring Compatible Development*).
- Infrastructure availability, environmental constraints and natural features, emergency response and evacuation times, street width and function, prevailing lot size, predominant development type and height, scenic values, distance from public transit, and desired neighborhood character are among the factors that could be taken into account when developing and mapping zoning designations or determining “compatibility.” These factors should be balanced with the citywide need for additional housing (*LUTE Policy N7.2, Defining Compatibility*).
- The height of development in urban residential and other higher density residential areas should step down as it nears lower density residential areas to minimize conflicts at the interface between the different types of development. (*LUTE Policy N8.2, Making Compatible Interfaces Between Densities*)
- Consistency between the General Plan and Zoning Regulations should be provided within a reasonable time period of adoption of the final elements (i.e., Housing, Safety, or Noise elements) in the 1990s’ General Plan update. . . . (*LUTE Policy N11.1, Required Zoning Consistency*)
- Prior to submitting required permit application(s), project sponsors of medium and large scale housing developments should be encouraged to meet with established neighborhood groups, adjacent neighbors, and other interested local community members, hear their concerns regarding the proposed project, and take those concerns into consideration. It is suggested that the relationship established between the developer and the community continue throughout the construction process to minimize the impacts of construction activity on the surrounding area (*LUTE Policy N11.6, Suggested Proactive Developer and Community Relations*).
- Adequate school capacity should be available to meet the needs of Oakland’s growing community. The City and the Oakland Unified School District (OUSD) should work together to establish a continuing procedure for coordinating residential and commercial development and exploring residential and commercial development and exploring the imposition of mutually agreed upon reasonable and feasible strategies to provide for adequate school capacity. The City and OUSD should jointly consider where feasible and appropriate, finding mechanisms such as assessment districts, Redevelopment Agency funding (AB 1290), use of surplus, City-owned land, bond issues, and adjacent or shared use of land or school facilities with recreation, libraries, child care and other public uses. (*LUTE Policy N12.2*)
- Electrical, telephone, and related distribution lines should be undergrounded in commercial and residential areas, except where special local conditions such as limited visibility of the poles and wired make this unneeded. They should also be underground in appropriate institutional, industrial, and other areas, and generally along freeways, scenic routes, and heavily traveled streets. Programs should lead systematically toward the eventual undergrounding of all existing lines in such places. Where significant utility extensions are

taking place in these areas, such as in new subdivisions, utilities should be installed underground from the start. (*LUTE Policy N12.4, Undergrounding Utility Lines*)

- The City will require new development, rebuilding, or retrofit to incorporate design features in their projects that encourage use of alternative modes of transportation such as transit, bicycling, and walking. (*Policy T4.1, Incorporating Design Features for Alternative Travel*)
- The City should make efforts to improve the visual quality of streetscapes. Design of the streetscape, particularly in neighborhoods and commercial centers, should be pedestrian oriented, including lighting, directional signs, trees, benches, and other support facilities. (*LUTE Policy T6.2, Improving Streetscapes*)
- New parking facilities for cars and bicycles should be incorporated into the design of any project in a manner that encourages and promotes safe pedestrian activity. (*LUTE Policy D3.2, Incorporating Parking Facilities*)

Key implementation strategies identified in the LUTE for the San Antonio/Fruitvale/Lower Hills Planning Area include “support transit development,” and “improve underutilized properties back into productive use, such as.... properties near BART...” (City of Oakland, 1995a; LUTE, p.212).

#### *Project Consistency with LUTE Policies*

**Overall LUTE Consistency.** The proposed project would be generally consistent with the LUTE policies identified above. The project site is located one block from the Fruitvale shopping area along International Boulevard and is located three blocks from mixed use Fruitvale Transit Village adjacent to the Fruitvale BART Station. As such, the project would strengthen the vitality of surrounding commercial and mixed-use areas by increasing the potential consumer base for goods and services, and by transforming the site from an underutilized commercial/industrial property to an attractive residential development with a 24-hour presence. The project would support policies that encourage infill housing and mixed use development by providing neighborhood-serving retail services and up to 810 new residential units. Because of its close proximity to the Fruitvale BART Station (approximately 1,900 feet or 0.36 miles between the BART Station entrance and the East 12<sup>th</sup> Street at 29<sup>th</sup> Avenue intersection), the project would support policies that encourage use of public transit, and is considered to be transit-oriented development, as described and encouraged in the LUTE as well as the ACCMA. The project entails several characteristics of an effective TOD, as specified by the ACCMA: mixed-use development of moderately high-density housing co-located with local-serving businesses, continuous sidewalks and convenient access to trunkline transit; and located within one-third mile of a transit station (ACCMA, 2007).

As a PUD subject to design review for all phases of development, the project would be consistent with LUTE policies that encourage high quality design, underground utilities, and site and building design features that limit potentially adverse shadow and noise effects on residential uses, particularly noise from trains passing adjacent to the site. The project also would support pedestrian activity and the use of bicycles and other alternative modes of transportation; it would maintain and improve sidewalks adjacent to the project to ensure safe connectivity to nearby

activity centers and would not preclude the development of any bicycle facilities proposed on adjacent streets (see discussion of the *Oakland Bicycle Master Plan*, below).

The project's consistency with the General Plan land use classifications and diagram is discussed in detail under *Zoning, Guidelines for Determining General Plan Conformity in Oakland – Resolving Existing Zoning and General Plan Conflict* within this *Environmental Setting*, and within Impact LU-2 regarding project consistency with applicable plans, policies, and regulations, provided further in this section.

**Consistency with Surrounding Land Uses.** As previously described, predominate land uses surrounding the project site include the railroad tracks that abut its southern boundary and industrial and storage uses beyond, small and large-scaled commercial and retail uses, school facilities, and a mix of residential areas (discussed below). The proposed project, which entails a mix of high-density multifamily residential and townhomes with structured parking, ground floor commercial space envisioned for neighborhood retail uses, publicly-accessible open space as well as potential as community education facility, would complement the land uses in the surrounding area. Immediately adjacent uses (OHA maintenance facilities building, school playfields, Goodwill donation intake area, vacant industrial building) would not be adversely impacted by the proposed project – particularly as modified through the environmental scoping process to avoid shading effects on adjacent playfields. While the project would introduce residential units adjacent to existing, active railroad tracks, the project will incorporate specific design and mitigation measures to minimize the potential adverse noise and vibration effects that could result. Overall, the proposed project is consistent with the large-scale mixed use residential development near transit that the General Plan envisions through numerous policies.

The project would incrementally remove an existing self-storage facility from the site. Further, the proposed General Plan Amendment and Rezoning also would remove approximately three acres of land that currently could be potentially be redeveloped with job-producing industrial (custom, light, general, or heavy) uses given the existing M-30 General Industrial Zoning combined with the *Business Mix* land use classification. Additionally, the proposed change would remove nearly four acres of land that currently could be developed (or redeveloped) with industrial (custom or light) uses given the existing M-30 General Industrial Zoning combined with the *Regional Commercial* classification. As part of the citywide zoning update process, the City is currently considering a comprehensive citywide policy regarding the conversion of lands with industrial zoning and land use classifications to residential uses. While the City has not adopted a policy as of preparation of this EIR, as stated above, the project would result in the approximately seven acres of land (at the east and western ends of the site) being transformed into a well-designed, residential mixed use development that supports numerous LUTE policies (as well as other General Plan policies discussed throughout this section) and visions for the growth and change along the East 12th Street Corridor.

**Sensitivity to Surrounding Residential Uses.** Residential uses in the vicinity are located on the north side of East 12<sup>th</sup> Street, directly across from the project site, between 30<sup>th</sup> Avenue and Derby Avenue and between International Boulevard and East 12<sup>th</sup> Street. This enclave of single-

and multi-family residential homes extends beyond the project site toward Fruitvale Avenue. Most of the homes are oriented toward the local street on which they are located, and away from East 12<sup>th</sup> Street and International Boulevard. Most are designed as single-family homes, some of which are subdivided. The project site is further separated from the north side of East 12<sup>th</sup> Street by a wide landscaped street median that also includes elevated BART tracks and the large pillars that support the tracks. Other residential uses include the Jingtletown community, separated from the site by the railroad tracks and a swath of industrial buildings to the south.

The project sponsor has considered and revised the design and configuration of new development to minimize potential effects related to massing and height. Although nearby residences are already effectively separated from the site by elevated BART tracks, the East 12<sup>th</sup> Street median, the railroad tracks, and/or other commercial and industrial uses, the proposed project would be set back from East 12<sup>th</sup> Street by landscaping and smaller townhomes. Larger structures would be located behind the townhomes or set back from the townhomes. Although the project would result in new shadow cast across East 12<sup>th</sup> Street, this shadow would not be considered a significant impact and would occur during winter months in the late afternoon. (See Section IV.B, *Visual Quality*, which provides a more detailed discussion of shadow and potential impacts related to visual quality at the site and in the vicinity.) Because the project is a PUD, the project would be subject to final design review, which will further evaluate the project against specific criteria related to bulk, height, aesthetics and appropriateness within its setting, beyond that considered here for the purposes of environmental effects under CEQA.

**Street-Level Design and Activity.** The project applicant proposes four multifamily buildings ranging from eight to twelve stories in height (approximately 72 to 122 feet tall), 43 three-story townhomes (approximately 30 feet), and two towers of up to 15 and 16 stories (approximately 152 and 162 feet tall). The residential tower of Site V would be set back from East 12<sup>th</sup> Street, and the smaller-scale three-story townhomes would front East 12<sup>th</sup> Street. The proposed townhomes, the approximately 25,950 square feet of commercial (intended for neighborhood retail use) space, the 5,000 square-foot space intended for a community education facility, and project office space would all front East 12<sup>th</sup> Street and portions of 29<sup>th</sup> Avenue at the ground-floor level. The use of landscaping, townhomes, and ground-floor commercial/community space along the street would reduce the bulk and massing of the project abutting East 12<sup>th</sup> Street (by setting the taller, bulkier buildings which would have parking on the first two to three levels to the rear of the site). Also, these uses fronting East 12<sup>th</sup> Street would facilitate “eyes” on the street to enhance safety, and create an attractive pedestrian-friendly environment. Most of the proposed commercial space would be concentrated at the intersection of East 12<sup>th</sup> Street and 29<sup>th</sup> Avenue in large, street-fronting spaces (approximately 7,110 and 13,040 square feet). Neighborhood-serving businesses envisioned for the commercial spaces in the project would include cafes/restaurants, laundry, flower shop, bakeries, etc., which would further stimulate pedestrian activity and enhance safety in the area.

**Alternative Transportation.** As noted above, the project would support the City’s policies that encourage the use of alternative transportation modes. The project site is located approximately 1,900 feet from the Fruitvale BART Station entrance, as measured from the East 12<sup>th</sup> Street at 29<sup>th</sup>

Avenue intersection. Thus, the western portion of the proposed project is over one-quarter mile away from the Fruitvale BART Station entrance, and most of the eastern portion of the proposed project is within one-quarter mile of the Fruitvale BART Station. In addition, the project site is within two blocks of major AC Transit bus lines that serve major activity and employment centers throughout the city and surrounding communities.

In summary, the project would support policies pertaining to compatible in-fill development, provision of new housing units, quality design and active ground-floor uses, reuse of underutilized properties, and development near transit. (Also, see discussion of Impact LU-2 under the *Impact Analysis* in this section.)

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### **Historic Preservation Element (HPE)**

The City adopted the General Plan's Historic Preservation Element (HPE) on March 8, 1994, and amended it on July 21, 1998. The Historic Preservation Element provides a strategy for preserving historically significant resources throughout the city. The HPE states that the strategy "seeks to promote preservation of a wide range of significant older properties and districts in a manner that is reasonably balanced with other City goals and objectives. These properties include most Victorians and other pre-1906 structures as well as post-1906 properties of historical or architectural significance" (City of Oakland, 1998; HPE p. S-2). HPE objectives and policies that apply to the project are listed and discussed below:

- The City will designate significant older properties which definitively warrant preservation as Landmarks, Preservation Districts or Heritage Properties. The designations will be based on a combination of Historical and Architectural Inventory Ratings, National Register of Historical Places criteria, and special criteria for Landmarks and Preservation District eligibility. Landmarks, properties which contribute or potentially contribute to Preservation Districts, and Heritage Properties will be called "Designated Historic Properties." (*Policy 1.3: Designated Historic Properties*)
- To protect significant archeological resources, the City will take special measures for discretionary projects involving ground disturbances located in archeologically sensitive areas. (*Policy 4.1: Archeological Resources*)

#### *Project Consistency with HPE Policies*

Based on the archival research and previous and current survey efforts conducted and consulted for this EIR analysis (see Section IV.M, *Cultural Resources*), no federal, state, or local historic resources (as defined by CEQA Guidelines Section 15064.5) exist on the site. The 1913 St. Joseph's Home for the Aged – Little Sisters of the Poor is the only recorded historic resource in the project vicinity at 2647 East 14<sup>th</sup> Street, opposite the elevated BART tracks and East 12<sup>th</sup> Street from the project site. The frontage of the property is approximately two blocks from the project site (OCHS, 1994). Since no historic resources exist on the site, and the project would not affect the integrity of the nearby historic resource (or its setting) due to its distance from the project site and significant intervening development, the proposed project would not impact any historic resources. Construction of the project would involve subsurface activity that could

potentially affect archaeological resources. As detailed in Section IV.M, *Cultural Resources* (Impacts M.1 and M.2), the project would be required to adhere to standard conditions of approval to reduce this potentially significant impact to less than significant, consistent with the HPE policies concerning archeological resources.

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### **Open Space, Conservation and Recreation Element (OSCAR)**

The Open Space, Conservation and Recreation Element (OSCAR), adopted on June 11, 1996, addresses the management of open land, natural resources, and parks in Oakland and is a state-mandated element of Oakland's General Plan. Many of the policies directly relate to significance criteria, and where applicable, the project's consistency with those policies are summarized here and referenced to the appropriate impact analysis section in this EIR. OSCAR policies<sup>10</sup> that apply to the project are listed and discussed below<sup>11</sup>:

- Enhance the availability and usefulness of Oakland's schoolyards and athletic fields as open space resources by (a) working with the Oakland Unified School District to make schoolyards and school athletic fields available to the public during non-school hours; (b) softening the harsh appearance of schoolyards by varying paving materials, landscaping, and restoring elements of the natural landscape, and (c) encouraging private schools, including church schools, to improve the visual appearance of asphalt yard areas. (*Policy OS-2.2: Schoolyard Enhancement*)
- Increase the amount of urban parkland in the seven flatland planning areas, placing a priority on land with the following characteristics (not in priority order):
  - (a) Land in areas with limited public open space, as identified in the Recreation Chapter of the OSCAR;
  - (b) Land adjacent to existing parks which has the potential to accommodate park expansion or to link together existing parks;
  - (c) Land with the potential to provide creek or shoreline access;
  - (d) Land with visual or historic significance;
  - (e) Land that can be acquired at no cost or at a reduced cost, or land where matching funds for acquisition are available;
  - (f) Land in areas with dense concentrations of people, especially children; and land in areas with large concentrations of workers or pedestrians;
  - (g) Land that is highly visible from major streets, or that is adjacent to existing public buildings, particularly police and fire stations.
  - (h) Continue to require new multi-family development to provide useable outdoor open space for its residents. (*Policy OS-4.1*)

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<sup>10</sup> Policies related to air quality and noise are included in Sections IV.D, *Air Quality* and IV.E, *Noise*. Policies related to recreation are included in Section IV.G, *Recreation*.

<sup>11</sup> The OSCAR policies that pertain to the project address Open Space (OS) and Conservation (C), and are indicated by these alpha designators.

- Discourage property owners from allowing vacant land to become a source of neighborhood blight, particularly in residential areas with large numbers of vacant lots. (*Policy OS-4.4: Elimination of Blighted Vacant Lots*)
- Protect the character of existing scenic views in Oakland, paying particular attention to: (a) views of the Oakland Hills from the flatlands; (b) views of downtown and Lake Merritt; (c) views of the shoreline; and (d) panoramic views from Skyline Boulevard, Grizzly Peak Road, and other hillside locations. (*Policy OS-10.1: View Protection*)
- Encourage site planning for new development which minimizes adverse visual impacts and takes advantage of opportunities for new vistas and scenic enhancement. (*Policy OS-10.2: Minimizing Adverse Visual Impacts*)
- Incorporate a broad and varied range of tree species which is reflected on a city-maintained list of approved trees. Street tree selection should respond to the general environmental conditions at the planting site, including climate and micro-climate, soil types, topography, existing tree planting, maintenance of adequate distance between street trees and other features, the character of existing development, and the size and context of the tree planting area. (*Policy OS-12.1: Street Tree Selection*)
- Remove street trees only if they are hazardous, severely and incurably infested with insects or blight or are severely and irreversibly damaged and deformed. Provide replacement trees in all cases where the site is suitable for street trees. (*Policy OS-12.3: Street Tree Removal*)
- Minimize hazards associated with soil contamination through the appropriate storage and disposal of toxic substances, monitoring of dredging activities, and clean-up of contaminated sites. In this regard, require soil testing for development of any site (or dedication of any parkland or community garden) where contamination is suspected due to prior activities on the site. (*Policy CO-1.2: Soil Contamination*)
- Require use of drought-tolerant plants to the greatest extent possible and encourage the use of irrigation systems which minimize water consumption. (*Policy CO-4.2: Drought-Tolerant Landscaping*)
- Discourage the removal of large trees on already developed sites unless removal is required for biological, public safety, or public works reasons. (*Policy CO-7.4: Tree Removal*)
- Encourage the use of energy-efficient construction and building materials. Encourage site plans for new development which maximize energy efficiency. (*Policy CO-13.3: Construction methods and Materials*)
- Use level of service standards of 10 acres of total parkland and four acres of local-serving parkland per 1,000 residents as a means of determining where unmet needs exist and prioritizing future capital investments. (*OSCAR Policy REC-3.1*)

#### *Project Consistency with OSCAR Element Policies*

**Parks and Usable Open Space.** The project applicant will provide useable open space on the project as part of the project. This space would include an approximately 8,000 square feet of publicly-accessible linear open space between Site II and III (west of 29<sup>th</sup> Avenue), which would include a children's park. Further, the project would provide a mix of private (decks for approximately one-half of dwelling units above grade) and common ("shared") useable open space throughout the site (at grade on the third-floor plaza level of the residential buildings) for project residents and tenants, consistent with Oakland Planning Code requirements. As a result,

this project would support policies regarding the provision of useable open space as part of multifamily developments and the provision of urban parkland accessible to the public.

The Fruitvale Planning Area (in which the project site is located) and the adjacent San Antonio Planning Area are both underserved by parks and open space, providing well below the adopted citywide goal of 4 acres of local-serving parkland per 1,000 residents. As the OSCAR recognizes, these areas are largely built out, making opportunities to create the amount of new open space needed to attain the City's goal largely infeasible. As part of the Development Agreement (which is part of the project), the project would include in the project the 8,000 square feet of publicly-accessible park/open space onsite (including a children's park) discussed above, and the project sponsor anticipates providing a financial contribution to off-site improvements, including but not limited to the Caesar Chavez Educational Center Open Gym/ Playfield at the northwest corner of 29<sup>th</sup> Avenue and East 12th Street (approximately 16,500 square-foot indoor gymnasium and 2.6-acre outdoor playfield), as well as other nearby parks and recreation facilities that may be identified in a Development Agreement.

**Scenic Resources.** The project would not result in a substantially adverse effect on a scenic resources or vista, including the Oakland Hills, the Estuary, or downtown Oakland/Lake Merritt due to the lack of, limited and/or intermittent views across the project site to these resources from public vantage points. Views to these scenic resources are primarily blocked by intervening existing development within this dense urban area. Therefore, the project would not conflict with policies regarding scenic views and visual impacts. (See Section IV.B, *Visual Quality*, for a more detailed discussion.)

**Effects to the Natural Environment.** In addition, because the project would result in cleanup of contaminated soils in accordance with local, state, and federal regulations, the project would support policies that address the remediation of contaminated sites, particularly with regard to potential effects to water quality. (See Section IV.F, *Hazardous Materials* of this Draft EIR for a detailed discussion of contamination at the project site.)

**Trees Removal and Replacement.** The OSCAR discourages the removal of all protected trees and all street trees except in certain circumstances (*Policy OS-12.3 and Policy CO-7.4*). The project would remove and replace street trees along East 12<sup>th</sup> Street. Overall, the project would remove approximately 37 trees located on and adjacent to the project site. An estimated 23 of the trees to be removed would be "protected trees" under Oakland's Tree Protection Ordinance. As such, all tree removal would conform to the City's Tree Removal and Preservation Permit requirements and standard conditions. Further, the project would replace removed trees onsite in accordance to landscaped plan incorporating plants consistent with City of Oakland criteria, and would replace all street trees in accordance with the City's Oakland's Tree Protection Ordinance. The project would therefore not conflict with OSCAR Policies OS-12.3 and CO-7.4.

### **Oakland Safety Element**

Adopted in November, 2004, the City of Oakland's Safety Element, entitled *Protect Oakland*, is intended to "reduce the potential risk of death, injuries, property damage and economic and social dislocation resulting from large-scale hazards" (City of Oakland, 2004c; p. 3). This Element addresses public safety, geologic hazards, fire hazards, hazardous materials, and flooding hazards. Given the topics that are addressed in the Safety Element, most of its policies – such as policies related to the City's response to terrorist attack or the reduction of violent crime -- generally apply citywide. However, relevant policies from the Safety Element policies are listed and discussed below:

- Develop and continue to enforce and carry out regulations and programs to reduce seismic hazards and hazards from seismically triggered phenomena. (*Safety Policy GE-1*)
- Continue, enhance or develop regulations and programs designed to minimize seismically related structural hazards from new and existing buildings. (*Safety Policy GE-3*)
- Minimize the potential risks to human and environmental health and safety with the past and present use, handling, storage and disposal of hazardous materials. (*Policy HM-1*)
- Minimize the potential risk to human and environmental health and safety associated with the past and present use, handling, storage and disposal of hazardous materials. (*Safety Policy HM-1*)

#### *Project Consistency with Safety Element Policies*

The proposed project would be required to conform to all applicable regulations and requirements regarding seismic safety, and activities to remediate all contamination at the project site. These potential effects are addressed in Sections IV.F, *Hazardous Materials*, and IV.J, *Geology, Soils and Seismicity*, and mitigation measures and standard conditions are identified to reduce all potentially significant impacts to less than significant. Therefore, the project would therefore not conflict with any of the above Safety Element policies.

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### **Housing Element**

Adopted in June 2004, the Housing Element includes "a review and assessment of the City's performance in implementing the previous Housing Element (adopted in 1992), an assessment of current and future housing needs, an inventory of resources (including sites suitable for development of housing for all economic levels), governmental and non-governmental constraints to meeting those needs, and a statement of the City's goals, policies and quantified objectives for meeting its housing needs for the period 1999-2006." (Oakland, 2004b)

The Housing Element contains a number of policies that address the provision of housing throughout the city and that focus on actions that require implementation by the City. No housing is located on the project site, and the project would therefore not result in the removal of housing. The project would result in the construction of approximately 810 new residential units for sale. The Housing Element contains the following policies relevant to the project:

- Continue to direct development toward existing communities and encourage infill development at densities consistent with the surrounding communities. (*Housing Element Policy 7.3: Infill Development*)
- Encourage a mix of land uses in the same zoning district or on the same site in certain zoning districts (*Housing Element Policy 7.5: Mixed Use Development*)

#### *Project Consistency with Housing Element Policies*

The proposed project would provide housing at a higher density than most surrounding development, but would be generally consistent with multifamily residential development allowed and that exist along International Boulevard and the Fruitvale Transit Village. Existing General Plan land use designations that permit residential use permit densities that range from 30 units per gross acre (*Mixed Housing Type Residential*) up to 125 units per gross acre (*Neighborhood Center Mixed Use* and *Community Commercial*). The project's proposed density is approximately 84 units per gross acre. Further, the project would be consistent with direction in the LUTE that supports concentrating higher-density development along major transportation corridors as well as growth and change along the East 12th Street Corridor in particular. The project also would provide a mix of residential, commercial, and civic (community education) use within a unified development located in close proximity to multiple alternative transit modes, including AC Transit and BART. Thus, the project would support applicable Housing Element policies, particularly with regard to infill and mixed use development.

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#### **Noise Element**

Adopted on June 21, 2005, the City's General Plan Noise Element is required to "analyze and quantify, to the extent practicable, current and projected noise levels from the following noise sources: major traffic thoroughfares, passenger and freight railroad operations, commercial and general aviation operations, industrial plants, and other ground stationary noise sources contributing to the community noise environment" (p. 1). These noise levels are depicted on noise contour maps that are used to guide land use decisions to reduce noise impacts, especially on sensitive receptors. According to the Noise Element, sensitive receptors include "residences, schools, churches, hospitals, elderly-care facilities, hotels and libraries and certain types of passive recreational open space" (p. 1). The Noise Element also includes a land use-noise compatibility matrix that illustrates the degree of acceptability of exposing various sensitive land uses to noise.

Noise-related policies are included in the LUTE and the OSCAR,<sup>12</sup> as well as in the Noise Element. The following policies from the Noise Element are relevant to the proposed project.

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<sup>12</sup> These policies include the potential for nuisance impacts from commercial and industrial operations on nearby residential land uses; the location of truck routes away from neighborhoods; the location of entertainment venues and large commercial operations; and the buffering of heavy industrial uses, as well as residential uses.

- Ensure the compatibility of existing and, especially, of proposed development projects, not only with neighboring land uses, but also with their surrounding noise environment. (*Noise Policy 1*)
- Protect the noise environment by controlling the generation of noise by both stationary and mobile noise sources. (*Noise Policy 2*)
- Reduce the community's exposure to noise by minimizing the noise levels that are *received* by Oakland residents and others in the City. (This policy addresses the *reception* of noise whereas Policy 2 addresses the *generation* of noise.) (*Noise Policy 3*)

#### *Project Consistency with the Noise Element Policies*

The project site is located between the UPRR tracks, which abut the southern perimeter of the site, and elevated BART tracks, which runs within the median of East 12th Street, the northern perimeter of the site and provides train service from 5:00 AM until 1:00 AM (approximately 203 weekday train trips). An analysis of the effects of the existing noise environment on the project as well as the project's effects (construction and operational) on existing noise levels, is provided in Section IV.E, *Noise*, of this EIR. The project would be required to conform to the Noise Element, as well as mitigation measures and standard conditions of approval identified to reduce to less than significant the effect of exposing proposed residential and open space uses into incompatible noise conditions for those uses. In addition, the project would reduce the exposure of the project to groundborne vibration levels with implementation of identified mitigation measures. Thus, the proposed project would not conflict with Noise Element policies.

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#### **Bicycle Master Plan**

In July 1999, the City Council adopted the Oakland Bicycle Master Plan (BMP); and an update of the Master Plan (2007 Draft Bicycle Master Plan Update) is currently underway. Among other standards, the 1999 Bicycle Master Plan contains a series of recommendations, including the number of appropriate spaces for short-term and long-term parking for bicycles. However, the City has not incorporated the recommended bicycle parking ratios into its Zoning Regulations and is considering adopting requirements that would be lower than the current recommended ratios. The 1999 Bicycle Master Plan includes the following policies that relate to the project:

- Promote secure and conveniently located bicycle parking at destinations throughout Oakland. (*BMP Policy 5*)
- Insure that the needs of bicyclist are considered in the design of new development and redevelopment projects. (*BMP Policy 8*)

While not yet adopted, the 2007 Draft Bicycle Master Plan Update proposes several policies that align with the 1999 Bicycle Master Plan policies above. Specifically, the 2007 Draft Master Plan Update maintains *BMP Policy 5* (re-designated as draft *Policy 1D*) and identifies the following City "actions" that support the policy and that are integral to existing *BMP Policy 8*:

- Development Incentives: Consider reduced automobile parking requirements in exchange for bicycle facilities as part of transportation demand management strategies in new development. (proposed *Action 1D.7*)

In addition, the 2007 Draft Bicycle Master Plan Update does not include requirements for short-term and long-term bicycle parking in development projects. It does recommend, and proposes to incorporate for City review concurrent with the 2007 Draft Bicycle Master Plan Update, a bicycle parking ordinance. As described in the Draft Bicycle Master Plan Update, the ordinance would required bicycle parking or other appropriate facilities as part of new development, would include recommended design guidelines for incorporating various facilities (e.g. racks, lockers, indoor/in-unit spaces, etc.), and would incorporate flexibility in satisfying requirements for long-term parking, including in-lieu fees.

#### *Project Consistency with Bicycle Master Plan Policies*

The 1999 Bicycle Master Plan proposes a Class 1 bicycle path along East 12th Street, west of Fruitvale Avenue, adjacent to the project site.<sup>13</sup> This bicycle lane would extend to the Fruitvale BART Station, which includes the largest bike station in any of the BART Stations, with free storage and a full-service repair shop. The proposed project would require improvements and alterations to East 12<sup>th</sup> Street to accommodate site access and vehicular and pedestrian safety, as well as access to public transit, however, in either scenario, the proposed project would not affect the ability for the City to implement the bicycle facility planned within East 12th Street.

In addition, the project would incorporate bicycle parking and storage facilities within the project at a level determined by the City and in a manner consistent with the City's practices or adopted, updated standards and regulations at the time of project construction. (See additional information on planned bikeway facilities in the project vicinity in Section IV.C, *Transportation, Circulation, and Parking*, in this EIR.)

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#### **Pedestrian Master Plan**

Adopted on November 12, 2002, as part of the LUTE, the Pedestrian Master Plan “promotes pedestrian safety and access to help ensure that Oakland is a safe, convenient, and attractive place to walk” (City of Oakland, 2002; p. 7). The Plan establishes a Pedestrian Route Network throughout Oakland, using five levels of routes: city routes, district routes, neighborhood routes, walkways, and trails. The Plan also delineates a Downtown Pedestrian District, and recommends establishment of a comprehensive “Safe Routes to School” program. The Network also “designates routes that radiate out from each BART Station to adjoining neighborhoods and commercial districts” (City of Oakland, 2002; p. 47).

East 12<sup>th</sup> Street (between 19<sup>th</sup> Avenue and Fruitvale Avenue) and 29<sup>th</sup> Avenue (south of International Boulevard) are both considered “district routes.” District routes are defined by the

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<sup>13</sup> According to BART, this bicycle facility is the second largest in the nation (<http://www.bart.gov/guide/bikes/bikeOverview.asp>, July 24, 2006).

Master Plan as having a local function linked to the location of schools, community centers, and smaller scale shopping. International Boulevard, one block north of the project site, is identified as a “City route,” a street that is considered to be a destination in of itself and is often the most direct connection between walking, transit and connections with multiple districts in the City.

The following Pedestrian Master Plan policy recommendations are most relevant to the project:

- Improve pedestrian crossings in areas of high pedestrian activity where safety is an issue. (*PMP Policy 1.1, Crossing Safety*)
- Use traffic signals and their associated features to improve pedestrian safety at dangerous intersections (*PMP Policy 1.2, Traffic Signals*).
- Create and maintain a pedestrian route network that provides direct connections between activity centers (*PMP Policy 2.1, Route Network*).
- Develop projects and programs to improve pedestrian safety around schools (*PMP Policy 2.2, Safe Routes to School*).
- Promote land uses and site designs that make walking convenient and enjoyable (*PMP Policy 3.2, Land Use*).

#### *Project Consistency with Pedestrian Master Plan Policies*

Working with City staff, the project sponsor proposes to create a pedestrian-friendly frontage along East 12<sup>th</sup> Street and to work with the California Public Utilities Commission and Union Pacific Railroad to improve pedestrian safety at the at-grade railroad crossing on 29<sup>th</sup> Avenue. In addition, the project sponsor proposes (as a community benefit which would be finalized as part of the Development Agreement) to enhance pedestrian safety at crossings serving the Cesar Chavez Education Center,. These actions would support policies that encourage safe crossings at schools and project design that supports and encourages pedestrian-oriented activity. The addition of residential uses along East 12<sup>th</sup> Street, which is a designated district route, would further encourage and support pedestrian use. Located at a critical intersection that could potentially link pedestrians with transit opportunities at the BART Station and shopping opportunities in all directions, the presence of residential uses and neighborhood retail would improve the existing environment along East 12<sup>th</sup> Street, making in safe and inviting for pedestrians. In summary, the project would support relevant policies of the Pedestrian Master Plan by providing a safe and inviting environment for pedestrians and by providing direct access to transit and shopping, and by potentially improving safety near a public school.

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#### ***Oakland “Transit First” Policy***

The “Transit First” resolution, passed by the City Council on October 29, 1996, recognizes the importance of striking a balance between economic development opportunities and the mobility needs of those who travel by means other than the private automobile. The policy favors modes of transit that have the potential to provide the greatest mobility for people, rather than vehicles.

### *Project Consistency with “Transit First” Policy*

The project site is served by major AC Transit lines along East 12<sup>th</sup> Street, International Boulevard, 29<sup>th</sup> Avenue, and buses in all directions from the Fruitvale BART Station, approximately three blocks from the project site. As indicated in Section IV.C, *Transportation, Circulation and Parking*, several AC Transit bus lines running through major north-south and east-west corridors serve the project site. These include Line 62 (an east-west bus line running along 12<sup>th</sup> Street, on the northern edge of the project site); Line 50 (a north-south bus line that transports riders from Alameda to the Oakland, operating on 29<sup>th</sup> Avenue); 82/82L line (an east-west line that runs along International Boulevard, which is one block from the project site); Lines 19 and 63 (which run from Alameda to Oakland along Fruitvale Avenue to the Fruitvale BART Station, which is two blocks from the project site); and Lines 47, 48, 53, and 54 (north-south bus lines that include a stop at the Fruitvale BART Station). Most of the buses run every 10 to 30 minutes during the peak periods.

In addition, the Fruitvale BART Station is approximately three blocks away from the site (1,900 feet as measured between the BART Station entrance and the intersection of East 12th Street and 29<sup>th</sup> Avenue); this station is served by three of the five BART lines (the Richmond – Fremont; Daly City – Fremont; and Daly City – Dublin/Pleasanton), which provides access to throughout the East Bay and San Francisco. The Fruitvale BART Station includes the largest BART bicycle facility (see *Bicycle Master Plan*, above).

Overall, the project would encourage the use of transit and support the City’s Transit First Policy because of the project’s location near public transit, which is available adjacent to the project site and at the nearby Fruitvale BART Station.

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### **Zoning Regulations**

As shown on **Figure IV.A-2**, the project site is currently located entirely within the M-30 General Industrial Zone. The intent of the M-30 Zone is to “create, preserve, and enhance areas containing a wide range of manufacturing and related establishments, and is typically appropriate to areas providing a wide variety of sites with good rail or highway access” (Planning Code, Section 17.70.010). In general, no maximum height is prescribed for this zone, except that the building heights are limited on lots located along boundaries for certain other zones; and no minimum lot size is prescribed. No residential use is permitted in an M-30 Zone.

### **Guidelines for Determining General Plan Conformity in Oakland – Resolving Existing Zoning and General Plan Conflict**

Because the General Plan was updated more recently than the Oakland Zoning Regulations (part of the Oakland Planning Code, the General Plan and Zoning Regulations may conflict in some cases in terms of allowable land uses and certain development standards (i.e., FAR and density). Section 17.01 of the Oakland Planning Code defines cases where this conflict occurs as an “express conflict.” The City has adopted *Guidelines for Determining General Plan Conformity* (General Plan Guidelines) to address situations where the zoning and the General Plan

classifications are in “express conflict” with each other (Oakland Planning Commission, 1998, as amended).

Currently, the M-30 Zone that exists on all portions of the project site does not permit the proposed land uses and residential density proposed by the project. The *Mixed Housing Type Residential* and the *Regional Commercial* General Plan land use classifications that exist on the central and eastern portions of the site, respectively, permit residential use, but only the *Mixed Housing Type Residential* classification does not permit the residential density proposed by the project. Only the *Regional Commercial* classification permits residential use at the density proposed by the project. In addition, the *Business Mix* classification at the western end of the site prohibits residential use (although it does allow commercial uses proposed by the project). (See **Table IV.A-2** within the discussion of Impact LU-2 regarding project consistency with applicable plans, policies, and regulations.) As a result, pursuant to the General Plan Guidelines, an “express conflict” currently exists on the portion of the site where the M-30 Zone is combined with the *Mixed Housing Type Residential* and *Regional Commercial* land use classifications – the M-30 Zone prohibits residential use whereas *Mixed Housing Type Residential* and *Regional Commercial* permit residential use and *Regional Commercial* permits the residential density proposed by the project.

As previously discussed, the project sponsor seeks approval of a General Plan Amendment to apply the *Community Commercial* land use classification to the entire project site, and seeks to apply the C-45 Community Shopping Commercial Zone - a “best fit” zone identified for the requested *Community Commercial* classification - and the S-4 Design Review Combining Zone to the entire project site. The General Plan Guidelines identify best fit zones for cases where a project is not permitted by zoning (e.g., residential use not permitted by M-30 Zone), and thus no specific zoning regulations for the project (e.g., development standards for residential use) are established for the property. The S-4 Zone may be combined with other zones (in this case, the C-45 Zone) to establish procedures for the design review of new and altered structures.

The General Plan Guidelines identify two possible ways to change the existing zoning designation of a property to resolve an “express conflict”: 1) with approval of an Interim Conditional Use Permit to designate and apply a best fit zone to the property, or 2) with approval of a Rezoning to change the existing zoning on the project site to a best fit zone. Through an Interim Conditional Use Permit process, a developer can propose, and the City may approve with special findings, a best fit zone that more closely conforms to the corresponding General Plan classification on a property (Oakland Planning Code Section 17.134). Rezoning is generally appropriate for larger, multi-parcel sites, such as the project site. The C-45 Zone is intended to “create, preserve, and enhance areas with a wide range of both retail and wholesale establishments serving both long and short term needs in compact locations oriented toward pedestrian comparison shopping, and is typically appropriate to commercial clusters near intersections of major thoroughfares” (Planning Code, Section 17.56.010). The C-45 Zone permits a maximum residential density consistent with the R-80 High Rise Apartment Residential

Zone (one unit per 300 square feet of site area, with conditional increases for certain situations<sup>14</sup>). This is the maximum density allowed outside of Oakland's downtown area. The proposed overall residential density for the project (considering the entire project site) is approximately one unit per 525 square feet of site area, which is less than the maximum permitted by the requested C-45 Zone.

Although the C-45 Zone could be considered the best fit zone for the existing *Regional Commercial* classification at the eastern portion of the site even without the proposed General Plan Amendment, the C-45 Zone is also considered a best fit zone for the *Community Commercial* classification. The *Community Commercial* classification would be applied to the entire project site because the intent of *Community Commercial* is more consistent with the project. In addition, without the General Plan Amendment to apply Community Commercial to the entire project site, the best fit zone for the *Mixed Housing Type Residential* area at the central portion of the site would be the R-50 Medium Density Zone, which would not allow the maximum residential density allowed by the C-45 Zone (R-80 Zone) or that is currently proposed by the project. Also, the General Plan Guidelines do not identify a best fit zone that allows residential use within the *Business Mix* area at the western portion of the site. Therefore, the project as proposed requires a General Plan Amendment and Rezoning to develop the area west of 29<sup>th</sup> Avenue (Sites I through IV, the west and central areas of the site); the project requires a Rezoning to develop the area east of 29<sup>th</sup> Avenue (Sites V and VI, the eastern area of the site).

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### ***Coliseum Area Redevelopment Plan***

The *Coliseum Area Redevelopment Plan* is implemented by the Oakland Redevelopment Agency in accordance with the California Community Redevelopment Law (state law). Adopted in 1995 and amended most recently in 1996, the Coliseum Redevelopment Plan establishes the Redevelopment Plan Project Area boundaries which extend from 22<sup>nd</sup> Avenue to the Oakland/San Leandro border and from the north side of International Boulevard to the Oakland Estuary and Doolittle Drive. The Plan states:

Because of the long-term nature of this Plan and the need to retain in the Agency flexibility to respond to market and economic conditions, property owner and developer interests and opportunities from time to time presented for redevelopment, this Plan does not present a precise plan or establish specific projects for the redevelopment, rehabilitation and revitalization of any area within the Project Area, nor does this Plan present specific proposals in an attempt to solve or alleviate the concerns and problems of the community relating to the Project Area.

The Redevelopment Plan states that the plan is designed to be consistent with all amendments to the Oakland Comprehensive Plan and its elements (Section 100, Introduction) and is therefore consistent with the LUTE's land use classifications on the project site. Relevant goals from the Redevelopment Plan's primary goals include:

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<sup>14</sup> Increased density and/or FAR is allowed with conditional use permit for certain situations, including high-density residential development over four stories in height (Oakland Planning Code, Section 17.106.040).

- The elimination of blight and the correction of environmental deficiencies in the Project Area, including, among others, small and irregular lots, faulty exterior spacing, obsolete and aged building types, mixed character or shifting uses or vacancies, incompatible and uneconomic land uses, substandard alleys and inadequate or deteriorated public improvements, facilities and utilities.
- The assembly of land into parcels suitable for modern, integrated development with improved pedestrian and vehicular circulation in the Project Area.
- The replanning, redesign and development of undeveloped areas which are stagnant or improperly utilized.
- The strengthening of retail and other commercial functions in the Project Area. The improvement of transportation access to industrial and commercial areas and the improvement of safety within the Project Area.
- The provision of land for parking and open spaces.

*Project Consistency with Redevelopment Plan Policies*

The proposed project would fully support the goals of the Coliseum Redevelopment Plan by combining several small and irregular lots to replace underutilized properties with a modern, integrated development with enhanced pedestrian circulation. The proposed commercial uses would strengthen commercial and retail uses that already exist in the area and would activate the area, improving public safety. The potential provision of affordable housing to assist the Oakland Redevelopment Agency attain its housing goals would be finalized as part of the Development Agreement for the project.

As stated above, the Redevelopment Plan is currently consistent with the LUTE's land use classifications on the project site, therefore the project sponsor has requested an amendment to the Redevelopment Plan to ensure consistency with the General Plan, as proposed for amendment.

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***Oakland Sustainable Development Initiative***

Adopted by the City Council in 1998, Oakland's Sustainable Development Initiative seeks to enhance the environmental sustainability of City operations and private development within the City. The major objectives of the Initiative include the following: economic development; employment training and continuing education; encouragement of in-fill housing, mixed use development, and sustainable ("green") building; making City operations and services a model of sustainable practices; and increasing community involvement. The Sustainable Development Initiative provides voluntary guidelines intended to preserve environmental health and increase economic development.

### *Project Consistency with Oakland Sustainable Development Initiative*

As discussed above, the proposed project would provide in-fill mixed-use development, provide pedestrian links to a variety of public transit sources (including BART and AC Transit) and proposed enhanced pedestrian access to a variety of nearby services. These include businesses, retail opportunities, childcare, as well as community services, such as the nearby Clinica de la Raza health clinic and a branch of the Oakland Public Library. The proposed project would therefore support the Oakland Sustainable Development Initiative. (See detailed discussion of the Initiative in Section IV.D, Air Quality, within the discussion of greenhouse gas emissions and climate change.)

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### **Alameda County Airport Land Use Policy Plan**

The *Alameda County Airport Land Use Policy Plan* was adopted by the Airport Land Use Commission (ALUC) of Alameda County in July 1986. Commonly referred to as an Airport Land Use Plan or “ALUP,” this land use plan is required by the California Aeronautics Act and must be prepared for airports within the County ALUC’s jurisdiction. The ALUP establishes land use compatibility standards that apply to exposure to airport-related noise, safety and hazards prevention, and includes height restriction policies for new structures located within a *Height Referral Area* defined in the ALUP. With respect to CEQA review, the ALUC’s sole legal responsibility is to make a compatibility determination for the proposed project, either by resolution adopted by the ALUC or by administrative determination by the ALUC Administrative Officer.

### *Project Consistency with the Alameda County Airport Land Use Policy Plan*

Most of the policies and standards of the ALUP do not apply to the project site since, for example, the site is not located within an ALUP *Safety Zone* or *Noise Impact Area* near any airport approach zone). However, the site is located within the ALUP’s *Height Referral Area*, which extends to East 12th Street near 12<sup>th</sup> Avenue and extends to Fruitvale Avenue near East 27<sup>th</sup> Street. Building heights within the *Height Referral Area* are generally limited to a ratio of 100 feet of horizontal distance from the end of the nearest Oakland Airport runway to one foot of building height. The project site is located approximately 14,000 feet (approximately 2.6 miles ) from the end of the nearest runway, which is located near Harbor Way Parkway at Doolittle Drive). This distance would allow an estimated maximum building height of approximately 140 feet. The maximum height of the proposed residential towers on Sites V and VI are 152 and 162 feet, respectively, and therefore would exceed the ALUP standard.

While State law primarily focuses ALUC review on airport plans, local general plans and specific plans and greatly limits the need for ALUC review of individual development projects, the proposed project would be subject to review by the ALUC because it is a major new construction project involving changes to the General Plan and zoning on the project site *and* exceeds the development standards of the ALUP *Height Referral Area* (Shutt, 2002) (ALUC, 1986). On July 12, 2007, ALUC staff conducted an administrative review of the proposed project and determined

that the proposed project would be “conditionally consistent” with the ALUP, pending an administrative review by the Federal Airports Administration (FAA) pursuant to 14 Code of Federal Regulations, part 77 (Covak, 2007). Given that the project site is located outside any runway approach area and would penetrate the height-controlled air space by a relatively small short distance (12 and 22 feet), and based on its experience with the scope of FAA review, ALUC staff anticipates that FAA’s findings will support a determination by the County that the proposed project is consistent with the ALUP. As of publication of this Draft EIR, the project sponsor has submitted to the FAA the required Notice of Proposed Construction or Alteration (FAA Form 7460-1) for review and approval

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## Land Use Impacts Discussion

### Significance Criteria

The project would result in a significant impact related to land use and plans if it would:

1. Physically divide an established community;
2. Result in a fundamental conflict between adjacent or nearby land uses;
3. 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
4. Fundamentally conflict with any applicable habitat conservation plan or natural community conservation plan.

### ***Topics for which No Impact Would Result***

The project is not located in or near an area guided by a habitat conservation plan or natural community conservation plan. Therefore, the project would not fundamentally conflict with such plans and the effect would be “no impact.” This criterion is not addressed elsewhere in this EIR.

## Impacts and Mitigation Measures

### ***Physical Division of an Established Community / Conflicts with Adjacent Land Uses***

#### **Impact LU-1: The project would not physically divide an existing community or fundamentally conflict with existing adjacent land uses. (Less than Significant)**

The proposed project would result in residential and commercial development on a site that has been used primarily to operate a self-storage facility. As detailed in the *Environmental Setting* discussion of this section, as well as in Chapter III (Project Description), other existing uses at the

site include an automotive repair shop, unoccupied commercial buildings formerly used as a hardware store and lumberyard, and other small commercial operations along East 12<sup>th</sup> Street, between 29<sup>th</sup> Avenue and Derby Avenue. Nearby uses include schools, shopping (including the Fruitvale Station Shopping Center), and existing single-family and multifamily development. The area also includes the Fruitvale BART Station and the Fruitvale Transit Village. Some active industrial uses and related commercial uses remain in the vicinity (excluding the project site). These include Dreisbach Enterprises, a refrigerated freight transloading storage operation located south of the project site and the railroad tracks, between 24<sup>th</sup> and 27<sup>th</sup> Avenues and fronting East 11<sup>th</sup> Street. Adjacent to Dreisbach Enterprises is the Lucasey Manufacturing Corporation plant facility, between 27<sup>th</sup> and Lisbon Avenues along East 11th Street, that manufactures media (television, video, etc.) mounting equipment. A steel containing storage operation exists in the eastern portion of a industrial warehouse facility located on East 10<sup>th</sup> Avenue, between Derby and Fruitvale Avenues east of the project site. While impacts of the existing environmental on the proposed project are not specifically addressed by CEQA (which assesses the effects of a project on the existing environment), each of these uses involve varying levels of truck activity as a primary or supporting component of operations, however, none are known to involve the manufacturing, handling or transport of materials or product that would pose adverse effects or nuisance to the public, including occupants of the project site. The Dreisbach and Lucasey properties are located approximately 100 feet from the nearest project site property line and are separated from the project site by the railroad tracks and the industrial buildings themselves. Open areas where truck-related activity (loading, circulation, storage, etc.) associated with these operations would occur are located primarily within buildings or oriented toward East 11th Street, located 300 to 500 feet from the nearest project site property line.

Industrial-related commercial activities near the project site include a diesel truck repair business exists at the northwest corner of 26<sup>th</sup> Avenue and East 12th Street, across East 12th Street from the western end of the project site. This business involves typical materials and operations associated with automotive repair and service activities and that are subject to existing regulatory requirements addressing vehicle emissions and the use, handling, disposal of hazardous automotive materials and equipment.

Several major industrial sites in the area have transitioned to non-industrial uses, such as new school facilities, residential neighborhoods (such as the Jingtowntown residential development south of the site), the Fruitvale Station Shopping Center, as well as the Fruitvale Transit Village. The existing and vacant industrial properties discussed above are currently within General Plan land use classifications (*Regional Commercial* and *Business Mix*) and zoning designations (M-30 General Industrial Zone and C-60 City Service Commercial Zone) that are intended for industrial uses and commercial uses that support such uses.

The proposed project would provide a residential and commercial connection to the surrounding neighborhood, which currently includes several areas of residential uses and retail businesses. The project would provide an active use for an underutilized property, better linking residential and commercial development along International Boulevard to areas south of International

Boulevard and East 12<sup>th</sup> Street, and to areas such as the Fruitvale Transit Village, area schools, the Fruitvale Station Shopping Center, and the Jingtowntown residential/live-work area.

The project would result in substantially taller and larger structures than have been previously built in the area, with the exception of, for example, older manufacturing sites, such as the Lucasey facility with include a tower structure. The only housing *immediately* adjacent to the project site is located along 30<sup>th</sup> Avenue and Derby Avenue, between International Boulevard and East 12<sup>th</sup> Street. Housing along these two streets is oriented toward 30<sup>th</sup> Avenue and Derby and away from both International and East 12<sup>th</sup> Street. Other nearby residential uses exists in Jingtowntown, which is separated from the site by the railroad tracks and a swath of industrial buildings. Based on the discussion provided in this section and throughout this EIR, the project would not result in a significant adverse effect on nearby residential uses or other sensitive receptors. Further, as discussed previously, while the project would introduce residential units adjacent to existing, active railroad tracks, the project will incorporate specific design and mitigation measures to minimize the potential adverse noise and vibration effects that could result.

Overall, the proposed project would be consistent with the large-scale mixed use residential development near transit that the General Plan envisions through numerous policies and would transform the site into a well-designed development with new residential and ground-floor commercial uses considered for the growth and change areas designated along the East 12<sup>th</sup> Street corridor. Given existing uses on and surrounding the project site, the proposed project would not, physically or perceptually divide an existing community, and would likely decrease physical barriers of expansive, vacant or underutilized industrial properties that currently exist between existing housing and area destinations (BART, International Boulevard, shopping centers and corridors, area schools and community services, etc.). The impact would be less than significant.

**Mitigation:** None Required.

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### ***Consistency with Plans, Policies, and Regulations (Pertaining to Physical Environmental Effects)***

**Impact LU-2: The project would not result in a fundamental conflict with any applicable land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. (Less than Significant)**

#### **Plans and Policies**

Conflicts with a General Plan or other relevant plans do not inherently result in a significant effect on the environment within the context of CEQA. Section 15358(b) of the CEQA Guidelines states that “effects analyzed under CEQA must be related to a physical change.” Appendix G of the CEQA Guidelines makes explicit the focus on *physical* environmental policies and plans, asking if the project would “conflict with any applicable land use plan, policy, or regulation...*adopted for the purpose of avoiding or mitigating an environmental effect*”

(emphasis added). As such, the project's conflict or inconsistency with a policy could indicate that the project would exceed an environmental threshold. To the extent that the project exceeds an environmental threshold and physical impacts may result from a policy conflict or inconsistency, such physical impacts are identified and fully analyzed in the relevant topical sections of Chapter IV in this EIR.

The Oakland General Plan contains many policies that in some cases address different or competing goals. The Planning Commission and City Council, in deciding whether to approve the project applications, must assess whether the project is consistent with the overall policies of the General Plan and must balance competing General Plan goals and objectives as part of its consideration. Additionally, the General Plan states that a specific project that does not meet all General Plan goals, policies, and objectives does not inherently result in a significant effect on the environment in the CEQA context (City of Oakland, 2005a).

There are no other plans, policies or regulations that the proposed project would conflict with.

#### *Project's Consistency with General Plan Policies*

Pursuant to CEQA Guidelines Section 15125(d), the *Environmental Setting* discussion of this chapter provides detailed discussions of the project's consistency with General Plan policies. As discussed in the *Environmental Setting*, the project would be consistent with applicable General Plan policies and other applicable plans discussed therein, particularly those that addresses potential effect to the environment considered under CEQA. In particular, the proposed project supports various LUTE policies and Coliseum Redevelopment Plan goals by creating compatible in-fill development near transit, a variety of new housing units, a development of high-quality design and active ground-floor uses, and the overall major redevelopment of underutilized properties at the confluence of two major arterials.

#### **General Plan Land Use Classifications and Development Standards**

To summarize the discussion under *Existing Land Use Classifications on the Project Site* and under *Guidelines for Determining General Plan Conformity in Oakland – Resolving Existing Zoning and General Plan Conflict* in the above *Environmental Setting*, certain existing General Plan land use classifications on the site would not permit the proposed uses and/or density or intensity (FAR) of development that the Gateway Community Development Plan proposes. **Table IV.A-1** below shows that the existing *Business Mix* classification (on approximately 3.2 acres of the site) would not permit residential use, but would permit commercial use, and the existing *Mixed Housing Type Residential* classification (approximately 2.9 acres of the site) would not allow the proposed density – thus, approximately two-thirds of the project site currently does not conform to the General Plan land use classifications as currently applied to the project site. As a result, the project sponsor has requested an amendment to the General Plan so that the entire project site would be designated *Community Commercial*, replacing all three existing classifications: *Business Mix*, *Mixed Housing Type Residential*, as well as *Regional Commercial*. Although the *Regional Commercial* classification (approximately 3.6 acres of the site) would permit the proposed use and density and intensity of the proposed project, the project is more consistent with the intent of the *Community Commercial* classification; as described in

the Oakland General Plan LUTE, *Regional Commercial* is intended for the city’s “regional-drawing centers of activity,” which is not consistent with the character of the proposed project.

*Project’s Consistency with General Plan Land Use Classifications*

With approval of the proposed General Plan Amendment, the project would be consistent with the General Plan, in particular with respect to land use and residential density. Considering the entire project development, the project would create an overall residential density of approximately 84 units per gross acre and an overall FAR of approximately 2.7. Both are less than the maximum 125 units per gross acre and maximum 5.0 FAR allowed in the *Community Commercial* General Plan land use classification.

**TABLE IV.A-1  
SUMMARY OF EXISTING AND PROPOSED GENERAL PLAN LAND USE CLASSIFICATIONS**

<b>General Plan Classification</b>	<b>Acres within Project Site</b>	<b>Residential Use Allowed</b>	<b>Maximum Residential Density (Unit per gross acre)</b>	<b>Maximum FAR<sup>a</sup></b>
<b>Existing Classifications</b>				
<i>Business Mix</i>	3.2 acres	None	n/a	4.0 FAR
<i>Mixed Housing Type Residential (MHTR)</i>	2.9 acres	Up to 87 units <sup>b</sup>	30 units per gross acre	n/a
<i>Regional Commercial</i>	3.6 acres	Up to 450 units <sup>b</sup>	125 units per gross acre	4.0 FAR
<b>Total</b>	<b>9.7 acres</b>	<b>Up to 537 units</b>		
<b>Requested through General Plan Amendment (entire site)</b>				
<i>Community Commercial</i>	9.7 acres	Up to 1,212 units <sup>b</sup>	125 units per gross acre	5.0 FAR
<b>Total</b>	<b>9.7 acres</b>	<b>Up to 1,212 units</b>		
<b>Existing Classifications by Project by Site</b>				
Site I (existing <i>Business Mix</i> )	1.8 acres	180 units	100 units per gross	3.4 FAR
Site II (existing <i>Business Mix</i> )	1.4 acres	130 units	93 units per gross	3.2 FAR
Site III (existing <i>MHTR</i> )	1.4 acres	100 units	73 units per gross	2.4 FAR
Site IV (existing <i>MHTR</i> )	1.5 acres	100 units	66 units per gross	2.1 FAR
Sites V / VI (existing <i>Regional Commercial</i> )	3.6 acres	300 units	82 units per gross	2.7 FAR
<b>Total</b>	<b>9.7 acres</b>	<b>810 units</b>	<b>(Total 84 units per gross acre proposed)</b>	<b>(Total 2.7 FAR proposed)</b>

<sup>a</sup> Floor-to-area ratio (FAR) is the gross floor area of a building divided by total site area, excluding parking.

<sup>b</sup> With approval of an Interim Conditional Use Permit or Rezoning if combined with existing M-30 Zone that prohibits residential use.

SOURCE: Oakland General Plan Guidelines, 2005; Pacific Thomas Capital, 2007.

### **Coliseum Redevelopment Plan**

The Coliseum Redevelopment Plan is designed to be consistent with all amendments to the Oakland Comprehensive Plan and its elements and is therefore consistent with the General Plan LUTE.

#### *Project's Consistency with the Coliseum Redevelopment Plan*

To summarize from the *Environmental Setting* discussion above, the proposed project would be consistent with the Redevelopment Plan in that it would revitalize existing underutilized properties. In particular, the proposed commercial uses are intended to strengthen and support existing commercial and retail activities and nodes nearby, in particular along International Boulevard and within the Fruitvale Transit Village and the Fruitvale Station Shopping Center. The Redevelopment Plan land use map is currently consistent with the General Plan LUTE Land Use Diagram, therefore, the project proposes to amend the Redevelopment Plan land use map to maintain consistency between the General Plan and the Redevelopment Plan.

### **Zoning Regulations**

The existing M-30 General Industrial Zone on the project site does not permit the development proposed by the project. **Table IV.A-2** summarizes the areas of existing conflict between the General Plan and zoning.

#### *Project's Consistency with Zoning Regulations*

The project sponsor requests to rezone the project site to the C-45 Community Shopping Commercial Zone, which is a "best fit" zone identified for the *Community Commercial* General Plan land use classification (which is requested by the proposed General Plan Amendment discussed above) and permits the uses and development intensity (residential density and FAR) envisioned for the project. Thus, with approval of the proposed Rezoning, the project would be consistent with the Zoning Regulations. The proposed overall residential density for the project (considering the entire project site) is approximately one unit per 525 square feet of site area, which is less than the one unit per 300 maximum permitted by the C-45 Zone. In addition, the proposed overall FAR is approximately 2.7, which is less than the maximum 7.0 permitted in the C-45 Zone. The Rezoning would also apply the S-4 Design Review Combining Zone to the project site to establish procedures for the design review of new and altered structures; the S-4 Zone does not regulate land uses or density/intensity of development.

In addition, the project would be consistent with all other applicable development standards and requirements of the Zoning Regulations, including specifically, the PUD Regulations and Procedures established in Chapters 17.122 and 17.140, respectively, of the Oakland Planning Code.

**TABLE IV.A-2  
INCONSISTENCY BETWEEN EXISTING AND PROPOSED GENERAL PLAN AND ZONING ON THE  
PROJECT SITE**

Existing General Plan and Zoning	Residential Use Allowed?	Maximum Residential Density (units/acre or sf)	Maximum FAR
<b>Existing Conditions</b>			
<i>Business Mix</i>	No	not permitted	4.0
M-30 Zone	No	not permitted	none identified
<i>Mixed Housing Type</i>	Yes	30 units/acre	none identified
M-30 Zone	No	not permitted	none identified
<i>Regional Commercial</i>	Yes	125 units/acre	4.0
M-30 Zone	No	not permitted	none identified
<b>Proposed Project</b>			
<i>Community Commercial</i>	Yes	125 units/acre	5.0
C-45 Zone	Yes	1.0 unit/300 sf of site area <sup>a</sup>	7.0

<sup>a</sup> Increased density and/or FAR allowed with conditional use permit for certain situations, including high-density residential development over four stories in height (Oakland Planning Code, Section 17.106.040).

SOURCE: City of Oakland Planning Commission, 2003

### Physical Change in the Environment

The extent to which the project would cause physical changes in the environment, resulting in potentially significant or significant impacts, is elsewhere throughout this EIR.

### Summary

The proposed project would conform to applicable policies in both the General Plan and other applicable land use plans and would not conflict with existing policies adopted for the purpose of avoiding or mitigating an environmental effect. Also, the project, which entails actions that would ensure the project’s consistency with the General Plan land use classification and zoning on the site (as revised by the proposed General Plan Amendment and Rezoning, if approved) would not result in a fundamental conflict with the General Plan or Zoning Regulations. The impact would be less than significant.

**Mitigation:** None Required.

### Cumulative Impacts

**Impact LU-3: The project, combined with other foreseeable development included in the Oakland cumulative growth scenario, would not result in cumulative land use impacts. (Less than Significant)**

As analyzed throughout this section, the proposed project would not result in a significant land use impact by potentially physically dividing an established community; or conflicting with adjacent or nearby land uses, applicable land use plans, policies or regulations adopted for the purpose of avoiding or mitigating an environmental effect. (The would not impact a habitat conservation plan or natural community conservation plan since none apply.)

Each of the project land use impacts considered in this section represents a site-specific effect that could not “combine” with land use effects of other past, present, and foreseeable development to create a cumulatively significant effect. For example, Impact LU-1 concludes that the project would not potentially split the existing community in which the project site exists and thus could not combine with other past, present, or foreseeable development that might, in fact, physically divide that same community, without contribution from the proposed project. Impact LU-2 evaluates the changes proposed to the General Plan, Redevelopment Plan, and zoning on the site to accommodate the proposed project – specifically high-density residential development – which are not physical environmental effects that may result from the project and considered by CEQA. Even if other foreseeable development proposes similar changes to General Plan and zoning (to effect industrial to residential conversion), such changes would not be expected to result in physical environmental *land use* impacts. It is relevant to acknowledge the City’s current process to consider a comprehensive citywide policy regarding the conversion of industrial lands<sup>15</sup> to residential uses, and that the combined effective of multiple industrial properties converting to residential use could potentially combined to substantially conflict with an applicable land use policy. However, the City has not adopted a policy regarding the industrial land conversion as of preparation of this EIR and the proposed project, which involves an industrial to residential conversion, supports numerous existing General Plan and policies (discussed throughout this section) and visions for the growth and change along the East 12th Street Corridor.

In conclusion, the proposed project would not combine with cumulative development to result in a significant cumulative land use effect.

**Mitigation:** None Required.

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