



Office of the City Manager

## ACTION CALENDAR

September 9, 2014

To: Honorable Mayor and Members of the City Council

From:  Christine Daniel, City Manager

Submitted by: Eric Angstadt, Director, Planning and Development

Subject: Civic Center District Overlay Berkeley Municipal Code Chapter 23E.98

### RECOMMENDATION

1. Adopt a Resolution adopting the 2014 Civic Center District Overlay Negative Declaration, and
2. Adopt first reading of an Ordinance adding Berkeley Municipal Code Chapter 23E.98, the Civic Center District Overlay.

### FISCAL IMPACTS OF RECOMMENDATION

The adoption of the ordinance itself will have no fiscal impacts. The impact on property development has not been specifically analyzed.

### CURRENT SITUATION AND ITS EFFECTS

The Council referral (Attachment 3) requests that the City Manager draft an ordinance establishing a Civic Center District Overlay (Overlay) zone consistent with the Civic Center District Overlay section of the proposed initiative ordinance submitted to the City Clerk on April 8, 2014 and titled "Initiative Ordinance Amending Downtown Zoning Provisions and Creating Civic Center Historic District Overlay Zone."

Attachment 4 is a map which identifies all parcels to be included in the proposed Overlay. The draft Overlay zoning ordinance (Attachment 2) is written to include the Applicability, Purposes, Uses Permitted, and Development Standards sections of a typical zoning ordinance. In addition, three new Zoning Ordinance definitions (Public Market, Museum, and Live Performance Theatre) are proposed in a Definitions section specific to the Overlay.

This ordinance is written to be a "stand alone" Chapter of the Zoning Ordinance, and would be added to the City of Berkeley Zoning Ordinance, as Chapter 23E.98. Staff recommends that the three new definitions be part of the Berkeley Civic Center District

Overlay zoning, and not a part of the overall Definitions Chapter 23F.04 of the Zoning Ordinance.

Properties within the proposed Overlay have different zoning district designations including Restricted Two-Family Residential District (R-2), Multi-Family Residential District (R-3) and Downtown Mixed-Use Commercial District (C-DMU). These districts have varying Uses Permitted lists and Development Standards. The Overlay zoning would limit the heights for structures on all parcels to 50 feet and includes some additional Development Standards applicable to the Overlay area. Proposed Section 23E.98.040.B (“Development Standards”) states that all other underlying zoning district development standards would apply. This means that other than height, all underlying development standards such as parking, setbacks, lot coverage and all others would be applied in the case of redevelopment of the parcel or additions to existing structures.

The timing of the referral (June 24, 2014) and Council-directed date of consideration (September 9, 2014) required that the Planning Commission consider the Overlay in August. A supplemental report(s) will provide the Council with the Commission’s actions and relevant comments, additional public comments and a modified Negative Declaration if necessary.

#### BACKGROUND

The initiative ordinance is scheduled for the November 2014 ballot. The Council decided to hold a public process (Council and Planning Commission) to consider the Overlay as it is drafted in the initiative.

#### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report.

#### CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

A Negative Declaration of Environmental Effect has been publicly noticed and circulated as required by the California Environmental Quality Act (CEQA). Any written public comments and City responses will be made available to the Council and community prior to the Council consideration of the Overlay, as part of the supplemental report noted earlier.

Attachment 1 is the draft resolution to adopt the Negative Declaration certifying that there are no significant impacts resulting from the Overlay project as proposed. The draft resolution and draft Negative Declaration (Attachment 1 and Exhibit A, respectively) may be modified based on Planning Commission action and/or comments received from the public. Updated documents will be provided to the Council, if necessary, in a Supplemental package, which may include a report and other updated documents.

RATIONALE FOR RECOMMENDATION

The Civic Center District Zoning Overlay is a useful tool to guide oversight and use in the Civic Center area. The existing Civic Center Historic Overlay (adopted 1998) identifies both the physical characteristics of buildings and the civic nature of the Civic Center.

The Council referred Overlay (June 2014) is intended to preserve the integrity of the Civic Center area of the City by addressing in particular, Uses Permitted, and Development Standards. The intent of the ordinance and the three new definitions is to allow flexibility of uses, with significant public participation in any decisions where change of use or modification of existing structures is proposed.

Staff recommends that the Overlay as drafted, including the three new definitions, be adopted as the Berkeley Civic Center District Overlay Zoning (23E.98). As proposed, the ordinance and definitions will meet the intended goal of the Overlay and take into consideration the new definitions where they are most applicable. In addition, the staff recommendation accounts for the needed CEQA review of the additional definitions in the context of the Overlay area. Additional CEQA review would be necessary if the new definitions were applicable throughout the City.

The Planning Commission Staff Report, dated August 27, 2014 (Attachment 6), provides additional information regarding the rationale for the Overlay.

ALTERNATIVE ACTIONS CONSIDERED

The process included only one option the Council referred Ordinance in Attachment 3.

CONTACT PERSON

Eric Angstadt, Director, Planning and Development, 981-7410  
Alex Amoroso, Principal Planner, 981-7520

Attachments:

1. ND draft Resolution for Adoption  
Exhibit A: Draft Neg Dec
2. Civic Center Overlay Draft Ordinance
3. City Council Referral
4. Civic Center Overlay District map
5. PC ND and PH Notice
6. Planning Commission staff report (8/27/14)

RESOLUTION NO. ##,###-N.S.

ADOPTING THE 2014 CIVIC CENTER DISTRICT OVERLAY NEGATIVE DECLARATION FOR PURPOSE OF APPROVING THE 2014 CIVIC CENTER DISTRICT OVERLAY ZONING CHAPTER 23E.98

WHEREAS, the City of Berkeley has prepared and publicly noticed in conformance with the California Environmental Quality Act (CEQA), a Negative Declaration for the Civic Center District Overlay Chapter 23E.98; and

WHEREAS, the Draft Negative Declaration (Exhibit A) was released on July 28, 2014 for review and public comment, and the period for public comment was 30 days as required by CEQA regulations, and closed on August 27, 2014; and

WHEREAS, the City received comments from interested individuals, organizations and agencies on the Draft Negative Declaration , both in writing and at a duly noticed Public Hearing before the Planning Commission on August 27, 2014; and

WHEREAS, a response to comments on the Draft Negative Declaration , as well as revisions to the Draft Negative Declaration were prepared and released to the public as required by law; and

WHEREAS, the Draft Negative Declaration and Response to Comments, together constitute the complete record of the Negative Declaration on the Project; and

WHEREAS, on August 27, 2014 the Planning Commission found the Negative Declaration complete and adequate, and the Planning Commission recommended the Negative Declaration to the Council to be adopted; and

WHEREAS, the City Council has carefully reviewed the Negative Declaration , and in its independent judgment, finds it adequate and sufficient in all respects.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council hereby adopts the Negative Declaration for the Civic Center District Overlay Chapter 23E.98.

Exhibit A: Draft Negative Declaration

**City of Berkeley  
Initial Study Checklist  
Civic Center District Overlay**

The proposed Civic Center District Overlay Project is a project under the California Environmental Quality Act (CEQA). This Initial Study was prepared by PlaceWorks for the City of Berkeley (City), Land Use Planning Division. This Initial Study was prepared pursuant to the CEQA (Public Resources Code Sections 21000 et seq.), CEQA Guidelines (Title 14, Section 15000 et seq. of the California Code of Regulations).

- 1. **Project Title:** Civic Center District Overlay
  
- 2. **Lead Agency Name and Address:** City of Berkeley  
Land Use Planning Division  
2120 Milvia Street, 2<sup>nd</sup> Floor  
Berkeley, Ca 94704
  
- 3. **Contact Person and Phone Number:** Alex Amoroso  
Planning Commission Secretary  
City of Berkeley  
Land Use Planning Division  
2120 Milvia Street, 2<sup>nd</sup> Floor  
Berkeley, Ca 94704  
(510) 981-7520
  
- 4. **Project Location:** Berkeley, CA
  
- 5. **Project Sponsor's Name and Address:** City of Berkeley  
Land Use Planning Division  
2120 Milvia Street, 2<sup>nd</sup> Floor  
Berkeley, Ca 94704
  
- 6. **General Plan Land Use Designation:** Downtown, Institutional, Open Space
  
- 7. **Zoning:** Restricted Two-family Residential (R-2)  
Multiple-family Residential (R-3)  
C-DMU Core  
C-DMU Outer Core  
C-DMU Buffer
  
- 8. **Surrounding Land Uses and Setting:** See page 4 of this Initial Study
  
- 9. **Description of Project:** See pages 4-7 of this Initial Study

10. **Other Required Approvals:**

The Project and environmental review will be adopted and approved by the City of Berkeley, without oversight or permitting by other agencies.

**ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED**

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a Potentially Significant Impact, as indicated by the checklist on the following pages.

- |  |  |  |
|--|--|--|
| <input checked="" type="checkbox"/> Aesthetics               | <input checked="" type="checkbox"/> Agriculture & Forestry Resources | <input checked="" type="checkbox"/> Air Quality                        |
| <input checked="" type="checkbox"/> Biological Resources     | <input checked="" type="checkbox"/> Cultural Resources               | <input checked="" type="checkbox"/> Geology & Soils                    |
| <input checked="" type="checkbox"/> Greenhouse Gas Emissions | <input checked="" type="checkbox"/> Hazards & Hazardous Materials    | <input checked="" type="checkbox"/> Hydrology & Water Quality          |
| <input checked="" type="checkbox"/> Land Use                 | <input checked="" type="checkbox"/> Mineral Resources                | <input checked="" type="checkbox"/> Noise                              |
| <input checked="" type="checkbox"/> Population & Housing     | <input checked="" type="checkbox"/> Public Services                  | <input checked="" type="checkbox"/> Recreation                         |
| <input checked="" type="checkbox"/> Transportation/Traffic   | <input checked="" type="checkbox"/> Utilities & Service Systems      | <input checked="" type="checkbox"/> Mandatory Findings of Significance |

**Determination:**

On the basis of this initial evaluation:

- I find that the proposed project **COULD NOT** have a significant effect on the environment and a **NEGATIVE DECLARATION** will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION** will be prepared.
- I find that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.
- I find that the proposed project **MAY** have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or **NEGATIVE DECLARATION** pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or **NEGATIVE DECLARATION**, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Alex Amoroso  
\_\_\_\_\_  
Printed Name

Planning Commission Secretary  
\_\_\_\_\_  
Title

## ***A. OVERVIEW AND BACKGROUND***

This Initial Study checklist was prepared to assess the environmental effects of the proposed Civic Center District Overlay, herein referred to as “proposed Overlay” or “proposed Project.” This Initial Study consists of a depiction of the existing environmental setting, as well as the Project description, followed by a description of various environmental effects that may result from the proposed Project. A detailed Project description and environmental setting discussion are provided below.

## ***B. LOCATION***

The proposed Civic Center District Overlay area (proposed Overlay area) is located mostly within the Downtown area of the city of Berkeley and partially within the area that serves as a buffer to the Downtown, directly to the west. Figure 1 shows the regional and local location of the Civic Center District Overlay. Figure 2 shows the Overlay boundaries in relation to the borders of the existing Downtown Area Plan and Civic Center Historic District.

Regional vehicular access is provided by Interstate 80 (I-80), California State Route 13 (SR 13) and California State Route 24 (SR 24). The proposed Overlay area is adjacent to the Downtown Berkeley Bay Area Rapid Transit (BART) Station and is accessible by multiple bus lines operated by the Alameda-Contra Costa Transit District (AC Transit).

The proposed Overlay area encompasses Assessor’s parcel numbers (APN’s) 057 202000400, 057 202700500, 057 202601500, 057 202100100, 057 202100200, 057 202202000, 057 202200600, 057 201701601, and a portion of 057 202000503. These parcels are identified on Figure 3. Structures on these parcels include the United States Postal Service (USPS) Post Office building on Allston Way, the Veteran’s Memorial Building, the Old City Hall, the Courthouse, Martin Luther King Jr. Civic Center Park, the Martin Luther King Jr. Civic Center building, the Berkeley YMCA, portions of the Berkeley Community Theater and Little Theater, and Berkeley High School.

## ***C. EXISTING SETTING***

The proposed Project includes amendments to the Berkeley Municipal Code (BMC), adding a new Civic Center District Overlay.

### **1. Berkeley General Plan**

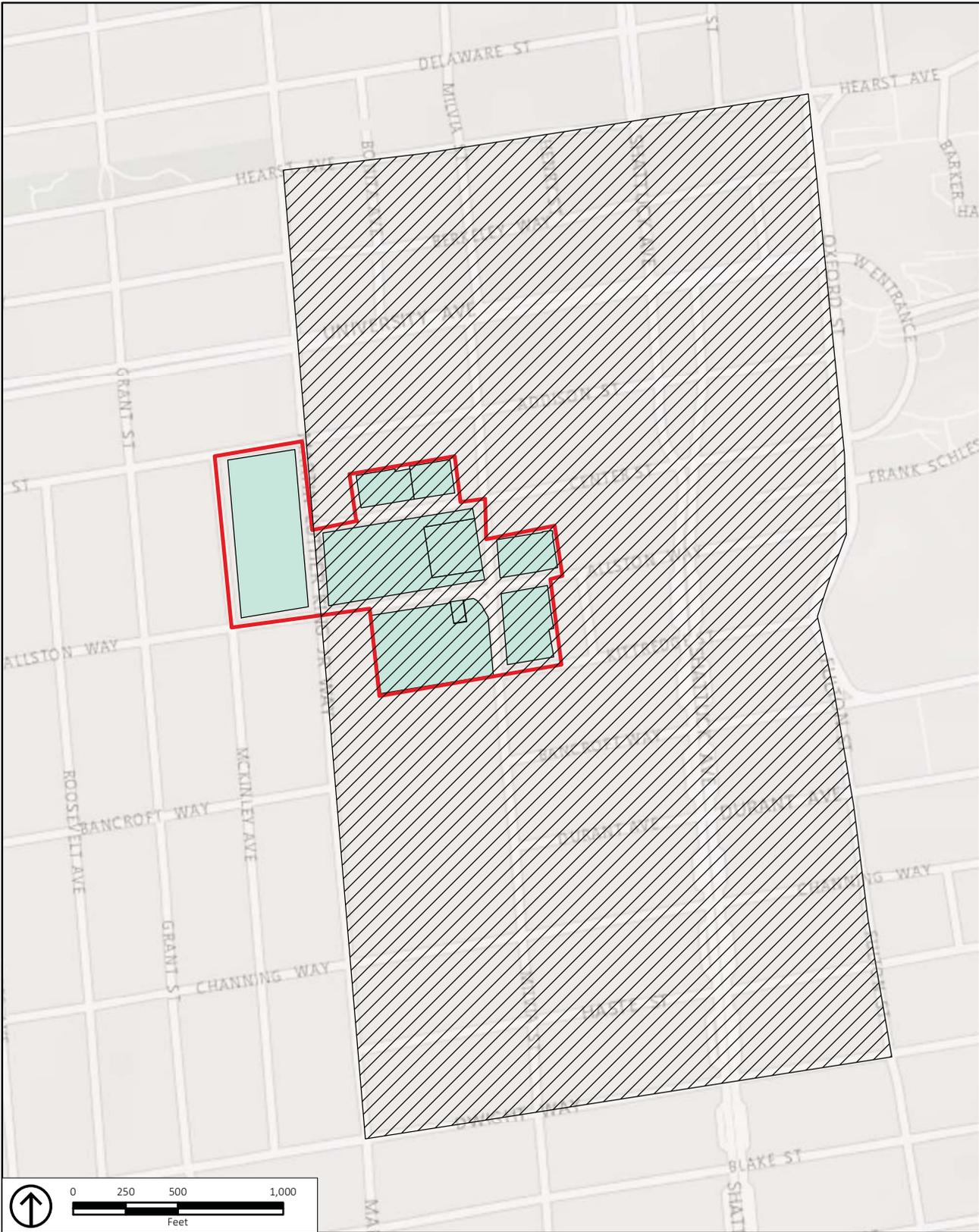
The Berkeley General Plan is the primary planning document for the City. It is periodically updated and serves as the constitution for development, which means that it guides the general development pattern in the city. The most recent iteration of the Berkeley General Plan was adopted in 2003.

Berkeley General Plan Policy LU-22, Civic Center, in the Land Use Element of the plan calls for the City to: “Maintain the Civic Center as a cohesively designed, well-maintained, and secure place for community activities, cultural and educational uses, and essential civic functions and facilities.”





INITIAL STUDY



Source: PlaceWorks, 2014; ESRI 2010.



Civic Center District  
Overlay Area



Berkeley Historic Civic Center  
District Boundary  
Downtown Area Plan Boundary

Figure 2  
Overlay Area



- 1) APN 057 201701601 (Old City Hall/Courthouse/Public Safety Building)
- 2) APN 057 202202000 (Veterans Memorial Building)
- 3) APN 057 202200600 (State Farm Insurance Building/  
City offices. 1947 Center Street)
- 4) APN 057 202100200 (Civic Center Park)
- 5) APN 057 202100100 (Civic Center Building)
- 6) APN 057 202601500 (Downtown Berkeley YMCA)
- 7) APN 057. 202000400 (Berkeley High School)
- 8) APN 057 202700500 (Berkeley Main Post Office)
- 9) Portion of APN 057 202000503 (which contains the Berkeley Community  
Theater/Florence Schwimley Little Theater)

Source: PlaceWorks, 2014.

- Berkeley Historic Civic Center District Boundary
- Civic Center District Overlay Parcels

Figure 3  
Existing Land Uses

## 2. Downtown Area Plan

The Downtown Area Plan (DAP) was adopted in 2012 and replaces the Berkeley Downtown Plan that was adopted in 1990. The DAP provides a vision, goals, and policies for the direction of development and preservation in Downtown Berkeley on a more detailed level than the General Plan, and also provides implementation measures to carry out the plan's goals and policies.

Policy LU-1.4, in the land use section of this plan calls for the City to: "Focus City government and civic activity in the Civic Center area, and recognize Downtown's central role in providing community services."

### ***D. PROJECT DESCRIPTION***

The proposed Project includes an implementing ordinance that would amend Sub-Title 23E, Provisions Applicable in All Non-Residential Districts, of the BMC, with the addition of proposed Chapter 23E.98, Civic Center District Overlay. This proposed implementing ordinance is consistent with the Civic Center District Overlay section of the proposed petition-driven initiative ordinance submitted to the City Clerk on April 8, 2014, titled "Initiative Ordinance Amending Downtown Zoning Provisions and Creating Civic Center Historic District overlay Zone," hereafter referred to as "proposed ballot measure." The proposed Project would offer the City the opportunity to refine and adopt a portion of the proposed ballot measure, while still allowing the entirety of the proposed ballot measure to be voted on in a separate city-wide general election in November 2014. The full text of the implementing ordinance can be found in Appendix A, Civic Center District Overlay, of this Initial Study.

The Berkeley City Clerk has certified that an adequate number of voter signatures was obtained by the proponents of the proposed ballot measure, and the Berkeley City Council voted to place the proposed ballot measure before Berkeley voters during the November 2014 General Election.

The implementing ordinance would establish a Civic Center District Overlay (proposed Overlay) that seeks to preserve civic/public uses of historic buildings, such as the USPS Post Office building, Old City Hall, and open space in the Civic Center area. Establishing the Civic Center District Overlay would implement General Plan Policy LU-11, Civic Center, and DAP Policy LU-1.4, which, respectively, direct the City to "Maintain the Civic Center as a cohesively designed, well-maintained, and secure place for community activities, cultural and educational uses, and essential civic functions and facilities," and "Focus City government and civic activity in the Civic Center area, and recognize Downtown's central role in providing community services."

Additionally, the implementing ordinance for the proposed Overlay contains the following specific purposes:

- Preserve and protect the integrity of the City of Berkeley Historic Civic Center through preservation of existing buildings and open space listed in the Civic Center Historic District;
- Allow a set of uses which are civic in nature and support active community use;
- Promote uses which combined or individually will maintain public access to the historic buildings and resources; to promote appropriate uses which respect the Civic Center's historic significance in unifying the community and forming a link to Berkeley's past;
- Promote the cultural and architectural heritage of the Civic Center, to preserve the Civic Center district as a place for government functions, community activities, cultural and educational uses; and civic functions and facilities; and

- Promote uses which could financially support the goal of upgrading and preserving the existing historic buildings and resources.

The proposed Overlay would apply to the following parcels, as shown on Figure 3:

- APN 057 201701601 (Old City Hall/Courthouse/Public Safety Building)
- APN 057 202202000 (Veterans Memorial Building)
- APN 057 202200600 (State Farm Insurance Building/City offices. 1947 Center Street)
- APN 057 202100200 (Civic Center Park)
- APN 057 202100100 (Civic Center Building)
- APN 057 202601500 (Downtown Berkeley YMCA)
- APN 057. 202000400 (Berkeley High School)
- APN 057 202700500 (Berkeley Main Post Office)
- Portion of APN 057 202000503 (which contains the Berkeley Community Theater/Florence Schwimley Little Theater )

In order for the proposed Overlay to achieve the purposes discussed above, it would limit the uses that would be conditionally permitted in the proposed overlay and amends the level of zoning review for these conditionally permitted uses. Upon passage of the implementing ordinance, there would not be any use that is permitted by right within the Overlay. The uses that would be conditionally permitted include: libraries; judicial courts; museums; parks and playgrounds; public safety and emergency services; government agencies and institutions; public schools and educational facilities; non-profit cultural arts, environmental, community services and historical organizations; live performance theaters; and public markets. Generally, these uses are refinements of uses that are permitted in the underlying zoning districts (Restricted Two-family Residential (R-2), Multiple-family Residential (R-3), C-DMU Core, C-DMU Outer Core, and C-DMU Buffer). Additionally, the proposed Overlay would include three new definitions that would be added to BMC section 23F.04.010. These are new definitions for “Live Performance Theater,” “Museum,” and “Public Market.” The exact language of the proposed definitions for these terms can be found in Appendix A, Civic Center District Overlay.

The other primary component of the proposed Overlay is the addition of new development standards applicable within the proposed Overlay. These development standards would be adopted as section 23E.98.040 of the BMC. The first of these standards declares that all new buildings in the proposed Overlay and all additional Gross Floor Area (GFA) within the proposed Overlay would be subject to a maximum building height of 50 feet. This provision would supersede the development standards relating to building height in the underlying zoning districts. The second new development standard included as a part of the proposed Overlay states that all new buildings, additional GFA, or changes of use would remain subject to the parking, set back, and other development standards of the underlying zoning district, in addition to the other applicable requirements in the proposed Overlay, including height limits.

***E. POTENTIAL PHYSICAL CHANGES***

The proposed Project would have little potential to result in significant adverse physical changes since the implementing ordinance would limit the development capacity of the parcels within the overlay that are zoned C-DMU Core, C-DMU Outer Core, and C-DMU Buffer, and would only allow for existing and previously studied development potential on the remaining parcels in the Overlay area, which are zoned R-2 and R-3. Moreover, as discussed above, all of the uses that could be conditionally permitted under the proposed Overlay are already allowed in the existing underlying zoning districts, and the changes to permitted uses merely represent refinements of the uses that are currently allowed. Additionally, the uses that currently exist within the overlay area are consistent with the uses that would be permitted as a result of passage of the proposed Overlay.

ENVIRONMENTAL CHECKLIST

1. AESTHETICS

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings and historic buildings within a State scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

a) *Would the project have a substantial adverse effect on a scenic vista?*

Potential future development permitted under the proposed Project would have the potential to affect scenic vistas and/or scenic corridors if new or intensified development blocked views of areas that provide or contribute to such vistas or corridors. Potential effects could include blocking views of a scenic vista/corridor from specific publically accessible vantage points or the alteration of the overall scenic vista/corridor itself. Such alterations could be positive or negative, depending on the characteristics of individual future development projects and the subjective perception of observers.

A scenic vista is a sweeping or noteworthy view of a natural or human-made landscape, usually from a specific point or defined area. A scenic corridor is a linear transportation route that offers a series of short-range to long-range scenic views or vistas along its length. Public view corridors are areas in which views and vistas are available from publicly accessible viewpoints, such as city streets. However, scenic vistas and corridors are generally interpreted more narrowly as offering long-range views of specific, recognized scenic features (e.g. open space lands, ridgelines, or bodies of water). On its own, the ability to view natural or man-made objects at various distances is not sufficient to establish the status of a scenic view or corridor.

Figure 24, Some Major Urban Design Features, in the Urban Design and Preservation Element of the Berkeley General Plan, designates example view corridors and identifies prominent buildings. The proposed Project would not affect any of the example view corridors, since they are not proximate to the site; however the proposed overlay area does contain Old City Hall, which is designated as a prominent building. Any physical changes that affected long range views of this prominent building or others in the area could be considered significant.

The proposed Project has the greatest potential to affect the aesthetics of the site and scenic vistas in proximity of the site through its modification of development standards. However, since the implementing ordinance would serve to lessen development potential in the proposed Overlay, there would be little potential for increased adverse impacts to aesthetic resources. In addition to existing design review requirements remaining in place, the proposed Overlay would serve to discourage certain use changes within the Civic Overlay. Significant changes to the built form of the Civic Overlay area are therefore less likely under the proposed project than under existing regulations.

The parcels within the proposed Civic Overlay area are zoned R-2, R-3, C-DMU Core, C-DMU Outer Core, and C-DMU Buffer. In the R-2 district, as described in section 23D.28.070 of the BMC, the maximum average height permitted is 28 feet, or 35 feet in average height with an Administrative Use Permit (AUP). In the R-3 district, as described in section 23D.36.070, the maximum average height permitted is 35 feet. Since proposed Projects within the Civic Center Overlay would need to be in compliance with the height limitations of both the Overlay and the underlying zoning district, the proposed Overlay and its height provisions would have no effect on the allowable height on parcels already subject to height limits of less than 50 feet.

Parcels zoned C-DMU Core and C-DMU Outer Core currently allow a maximum height of 60 feet, which may be increased to 75 feet with a use permit. Parcels zoned C-DMU Buffer currently allow a maximum building height of 50 feet, which may be increased to 60 feet with a use permit. The proposed changes to development standards within the Civic Center District Overlay would serve to reduce the building height potential for buildings on parcels with these zoning designations that fall within the Civic Overlay. The proposed Overlay would thus serve to maintain or reduce potential development intensity and the potential for subsequent impacts to existing views.

Under existing development standards, the greatest potential impacts to scenic corridors and vistas would result from development of new structures along Shattuck Avenue and along east-west oriented streets between Shattuck Avenue and Oxford Street. Potential development in these areas could affect scenic vistas of the Berkeley hills from portions of Downtown Berkeley. The proposed Civic Center District Overlay would not contain parcels located in any of these specific areas that were previously identified as having the greatest potential to impact scenic vistas. This is true in part because existing intervening structures already obscure views of the Berkeley hills from areas in the vicinity of the proposed Civic Center District Overlay. Additionally, since many of the parcels within the proposed Civic Center District Overlay contain existing structures with historic designations, it is unlikely that these structures would be replaced by larger structures with the potential to obscure or otherwise impact scenic vistas.

The proposed Overlay would reduce the potential for impacts to scenic vistas; parcels within the proposed Civic Center District Overlay would not be likely to experience development that would impact existing scenic vistas; and no other part of the proposed Overlay would substantially affect scenic vistas. Therefore, a *less-than-significant* impact would result in this respect.

b) *Would the project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings and historic buildings within a State scenic highway?*

There are no State-designated scenic highways in the immediate vicinity of the proposed Civic Overlay area. The closest State-designated scenic highway is the portion of I-580 from the San Leandro city limit to SR 24 in Oakland. Due to the presence of intervening buildings and vegetation, even the portions of I-580 that are closest to Berkeley do not present significant views of the area, and the Overlay area is therefore not visible from this portion of the freeway. Therefore, *no impact* would result in this respect.

c) *Would the project substantially degrade the existing visual character or quality of the site and its surroundings?*

One of the most prominent features of the proposed Project is that it would limit changes to the built environment that could otherwise potentially occur under existing zoning, with respect to the uses and height of individual projects developed within the Civic Overlay area. The proposed Overlay would permit a narrower selection of uses than is currently permitted in the underlying zoning districts. Additionally, as discussed above, the changes to development standards included as a part of the proposed Project would serve to either place stricter limits on potential building height or maintain existing limits for potential building height. The

proposed Overlay would therefore neither allow larger buildings nor permit new uses not already included under existing zoning. Moreover, as discussed in the Project description, the existing uses in the Overlay area conform to the list of permitted uses included as a part of the proposed Project; adoption and implementation of the proposed Overlay would therefore not hinder the continuation of existing uses. The proposed Overlay would therefore reduce the degree to which the visual character of the area could change relative to what would potentially be permitted under existing regulations. For these reasons a *less-than-significant* impact would result with respect changes to the visual character or quality of the site and its surroundings.

d) *Would the project create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?*

Substantial light and glare come mainly from commercial areas, safety lighting, traffic on major arterials, freeways, streetlights, and structures with reflective surfaces or visible interior/exterior light sources. The proposed Overlay does not contain any regulations which pertain to light and glare. Under implementation of the proposed Project, existing regulations related to light and glare would remain in force. Although there is not a direct relationship, increased building intensity may be associated with additional sources of light and glare.

The EIR for the DAP found a less than significant impact with respect to new sources of light and glare.<sup>1</sup> As discussed above, the proposed Project would either maintain or restrict development potential on the individual parcels in the Overlay area. This would serve to reduce the potential for additional light and glare as a result of future development, as compared to what could occur under existing regulations. Therefore, a *less-than-significant* impact would result in this respect.

The EIR for the Downtown Area Plan also evaluated the potential for shadow impacts that could result from development under the Plan. Identified possible shadow impacts were a result of potential high-rise development on parcels in close proximity to the Berkeley BART station. The proposed Civic Center District Overlay would neither permit taller buildings with the potential to create previously identified shadow impacts, nor would it contain the parcels from which such shadows could be cast. Therefore, shadow-related impacts from the proposed Project would be *less than significant*.

2. AGRICULTURE AND FORESTRY RESOURCES

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with an existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<sup>1</sup> City of Berkeley, Berkeley Downtown Area Plan EIR, January 2009, pages 4-69 through 4-24.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
Would the project:				
d) Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of farmland to non-agricultural use or of conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The proposed Overlay area is within an area surrounded by urban development. The proposed Overlay area does not contain any agricultural lands or timberland.

a) *Would the project convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?*

The proposed Overlay area does not contain any farmland and is classified as Urban and Built-Up Land by the Department of Conservation’s Farmland Mapping and Monitoring Program.<sup>2</sup> Therefore, there would be *no impact* to important farmland.

b) *Would the project conflict with an existing zoning for agricultural use, or a Williamson Act contract?*

As described above, the proposed Overlay area is located in a highly urbanized area, and does not contain agricultural resources. The underlying zoning of the sites that would be included in the proposed overlay include R-2, R-3, C-DMU Core, C-DMU Outer Core, C-DMU Buffer. None of the parcels in the proposed Overlay area are zoned for agricultural use or are governed by a Williamson Act Contract. Therefore, *no impact* would result.

c) *Would the project conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?*

As described above, the proposed Overlay area is located in a highly urbanized area, and does not contain timberland or forest land resources. The underlying zoning of the sites that would be included in the proposed overlay include R-2, R-3, C-DMU Core, C-DMU Outer Core, C-DMU Buffer. Therefore, since the site does not contain timberland or forestland *no impact* would result in this respect.

d) *Would the project result in the loss of forest land or conversion of forest land to non-forest use??*

According to mapping data from the California Department of Forestry and Fire Protection, the proposed Overlay area does not contain woodland or forest land cover and is described as urban. Therefore, the proposed Project would have *no impact* with respect to the loss of forest land or conversion of forest land to non-forest use.<sup>3</sup>

<sup>2</sup> California Department of Conservation, Division of Land Resource Protection, Farmland Mapping and Monitoring Program, 2012, Alameda County Important Farmland 2012.

<sup>3</sup> The State of California, Fire Resources and Assessment Program, The Management Landscape, <http://frap.fire.ca.gov/data/frapgismaps/pdfs/landscapesmap.pdf>, accessed May 3, 2014.

- e) *Would the project involve other changes in the existing environment which, due to their location or nature, could result in conversion of farmland to non-agricultural use or of conversion of forest land to non-forest use?*

As discussed above, the proposed Overlay area does not contain any agricultural or forest lands on site, nor is it surrounded by lands which contain agricultural or forest lands. Therefore, the project would have *no impact* with respect to agricultural and forestry resources.

**3. AIR QUALITY**

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project area is in non-attainment under applicable federal or State ambient air quality standards (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

The Bay Area Air Quality Management District (BAAQMD) is the regional air quality agency for the San Francisco Bay Area Air Basin (SFBAAB), which comprises all of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, and Santa Clara Counties; the southern portion of Sonoma County; and the southwestern portion of Solano County. Accordingly, Berkeley is subject to the rules and regulations imposed by the BAAQMD, as well as the California ambient air quality standards adopted by the California Air Resources Board (CARB) and national ambient air quality standards adopted by the United States Environmental Protection Agency (U.S. EPA).

- a) *Would the project conflict with or obstruct implementation of the applicable air quality plan?*

The Bay Area 2010 Clean Air Plan is the current regional control strategy to reduce ozone, particulate matter (PM), air toxins, and greenhouse gases (GHGs) for the City of Berkeley. The 2010 Clean Air Plan was based on the ABAG population and employment projections for the San Francisco Bay Area, including growth that would be accommodated under the City’s General Plan. The EIR for the Downtown Area Plan determined that increased potential for residential and employment growth in Downtown Berkeley would conflict with the Clean Air Plan assumptions, potentially resulting in greater regional emissions of nonattainment air pollutants.<sup>4</sup> However, the proposed Project would include new use limitations that would generally preclude the development of new residential or large employment uses within the Civic Center District Overlay. Overall, the proposed Civic Overlay would be anticipated to preserve population and employment within the Overlay District at current levels. Since the proposed Project would serve to limit development potential in the Overlay area and would encourage the continuation of existing uses, the proposed Project would not contribute to

<sup>4</sup> City of Berkeley, Berkeley Downtown Area Plan EIR, January 2009, pages 4-69 through 4-72.

the potential for increased population and employment that could conflict with or obstruct implementation of the Bay Area 2010 Clean Air Plan. Therefore, the impact in this regard would be *less than significant*

b) *Would the project violate any air quality standard or contribute substantially to an existing or projected air quality violation?*

Implementation of the Project would not directly result in violations of air quality standards or contribute to an existing or projected air quality violation. The existing air quality policies and regulations of BAAQMD and the City of Berkeley would remain in place and would not be affected under implementation of the proposed Overlay. Future development within the proposed Civic Center District Overlay would be evaluated under CEQA to determine potential air quality impacts and propose mitigation measures to offset potential impacts. Therefore implementation of the Project would result in a *less-than-significant* impact.

c) *Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project area is in non-attainment under applicable federal or State ambient air quality standards (including releasing emissions which exceed quantitative thresholds for ozone precursors)?*

BAAQMD monitors air quality at several locations in the San Francisco Bay Air Basin. Historically, problematic criteria pollutants in urbanized areas include ozone, particulate matter, and carbon monoxide. Combustion of fuels and motor vehicle emissions are a major source of each of these three criteria pollutants. Berkeley is within the San Francisco Bay Area Air Ozone non-attainment area as delineated by the U.S. EPA.

As discussed in Section III.a above, potential future development permitted under the proposed Project would allow for the continuation of existing uses and a reduction in the potential for increased development intensity. The existing air quality policies and regulations of BAAQMD and the City of Berkeley would remain in place and would not be affected under implementation of the proposed Overlay. Future development proposals would be evaluated under CEQA to determine the potential for air quality impacts and propose mitigation measures to offset potential impacts. Therefore implementation of the Project would result in a *less-than-significant* impact.

d) *Would the project expose sensitive receptors to substantial pollutant concentrations?*

In the context of air pollution, sensitive receptors typically include residential uses or institutional uses, such as schools, hospitals, and elder care facilities. In regard to residential uses, decreased overall development potential and limits on potential uses of parcels within the Civic Overlay would generally serve to preclude the development of new residential units within the overlay. In regard to sensitive institutional uses, the proposed Civic Overlay would generally serve to maintain existing institutional uses. Hospitals and elder care facilities would not be permitted within the proposed Civic Center District Overlay. School uses already exist within the Civic Center District Overlay, and such uses would continue be permitted. Any new school uses would be subject to project-level analysis to determine air pollution impacts. The proposed Civic Center District Overlay would generally reduce the potential to expose sensitive receptors to substantial pollutant concentrations from what could occur under existing regulations. In addition, all future development proposals would be evaluated under CEQA to determine the potential for air quality impacts and propose mitigation measures to offset potential impacts. Therefore, implementation of the Project would result in a *less-than-significant* impact in this regard.

e) *Would the project create objectionable odors affecting a substantial number of people?*

Odors are also an important aspect of local air quality conditions. Major sources of odors include restaurants, industrial uses, and wastewater treatment plants. Uses that generate objectionable odors must comply with

applicable air quality regulations. Nevertheless, due to the subjective and sensitive nature of human perception of odor, those regulations and their attendant thresholds are usually not sufficient to reflect the public’s reaction to locally produced odors.

While there are a substantial number of residents and employees in the vicinity of the proposed Civic Overlay District, the proposed Project would not newly allow any uses that would increase the potential for generation of objectionable odors. For uses that would continue to be allowed, project-level environmental review or staff evaluation of project permits would serve to evaluate and address potential impacts resulting from objectionable odors. Moreover, because the proposed Overlay would serve to restrict uses, such as private restaurants, that are sometimes associated with strong odors, the potential for odor-related impacts would be decreased relative to existing regulations. Therefore a *less-than significant impact* would occur in this respect.

**4. BIOLOGICAL RESOURCES**

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a) Have a substantial adverse effect, either directly or through habitat modifications, on a plant or animal population, or essential habitat, defined as a candidate, sensitive or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.), through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Conflict with an adopted Habitat Conservation Plan, Natural Community Conservation Plan or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

a) *Would the project have a substantial adverse effect, either directly or through habitat modifications, on a plant or animal population, or essential habitat, defined as a candidate, sensitive or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?*

Special-status plants include: those listed as “Endangered,” “Threatened,” or “Candidate for Listing” by the California Department of Fish and Wildlife (CDFW) or the U.S. Fish and Wildlife Service (USFWS); those

included in the California Rare Plant Rank; or those considered special-status in local or regional plans, policies, or regulations. Special-status animals include those listed as “Endangered,” “Threatened,” or “Candidate for Listing” by the CDFW or the USFWS; those designated as “Watch List,” “Species of Special Concern,” or “Fully Protected” by the CDFW; and those considered “Birds of Conservation Concern” by the USFWS. Given the highly urbanized character and intensity of development in the area, it is unlikely that any portion of the proposed Civic Center District Overlay provides suitable habitat for special-status wildlife species. However, there are a variety of trees in the area, some of which may provide suitable nesting habitat for migratory birds.

The Federal Migratory Bird Treaty Act (MBTA) prohibits individuals from hunting, killing and attempting to take any migratory bird included in list of migratory birds included in the MBTA. This list of birds includes almost every native bird in the United States. Moreover this law also applies to parts of birds, nests, and eggs. This means that killing or destroying a migratory bird nest would be a violation of the MBTA.

Any projects proposed within the Civic Center District Overlay would be required to be in compliance with applicable laws for the protection of special-status species. Although it is unlikely that special-status species have a permanent presence in the highly developed Civic Center District Overlay, proposed projects will be required to account for potential habitat for special-status species and/or undertake appropriate response measures if special-status species are discovered onsite. Therefore project-level review, as well as adherence to the MBTA, Endangered Species Act, and all other applicable regulations regarding the protection of wildlife species would ensure that implementation of the proposed Project would result in a *less-than-significant* impact with respect to substantial adverse effects to sensitive or special-status species.

*b) Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?*

The Environmental Management Element of the Berkeley General Plan establishes policies for the management and conservation of the city’s natural resources. As discussed above, the Civic Center District Overlay is in a highly urbanized area and does not contain any riparian habitat. Although runoff from future projects or construction sites could potentially reach downstream riparian areas, such areas are highly limited in the portions of Berkeley downstream from the potential Civic Center District Overlay. Additionally, because the potential Civic Center District Overlay is already characterized by urban land uses with high proportion of impervious surface, future projects would be unlikely to cause significant increases to stormwater runoff. Moreover, future projects would be required to comply with all applicable regulations for protection of water quality, including, most notably, the regulations of the San Francisco Bay Regional Water Quality Control Board (RWQCB) and Alameda County’s C.3 Stormwater Technical Guidance. These regulations would likely serve to decrease future from potential projects relative to existing structures and uses, and would ensure that pollution levels in such runoff are within acceptable limits. Given the lack of riparian habitat in the vicinity of the Civic Center District Overlay and continued compliance with local and regional water quality regulations and stormwater discharge requirements, impacts in this respect would be *less than significant*.

*c) Would the project have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.), through direct removal, filling, hydrological interruption or other means?*

There are not currently any wetlands in the proposed Civic Center District Overlay as defined by Section 404 of the Clean Water Act. Therefore *no impact* would occur in this respect. As discussed above under section 4.b, compliance with all applicable requirements associated with the protection of water quality in stormwater

runoff, for projects permitted within the Civic Center District Overlay, would reduce potential indirect impacts to wetlands in areas downstream of the Overlay.

d) *Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species, or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?*

As stated in the Berkeley Downtown Area Plan EIR, the proposed Overlay area is located in a highly urbanized context. No wildlife corridors or nursery sites have been identified in the Overlay area. Therefore *no impact* would occur in this respect.<sup>5</sup>

e) *Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?*

In 2006, the City of Berkeley adopted Ordinance 6,905-N.S which declared a moratorium on removal of single stem coast live oak trees with a circumference of 18 inches or more and any multi-stemmed coast live oak with an aggregate circumference of 26 inches or more, at a distance of four feet up from the ground. This ordinance applies throughout the city of Berkeley. The proposed Project does not include the removal of any trees protected by this ordinance. Potential future development permitted under the proposed Project would be required to comply with the provisions of Ordinance 6,905-N.S.

Policy EM-29 in the General Plan requires the City to maintain, and enhance street and park trees to improve the environment and provide habitat. Additionally, DAP Policy OS-2.4 calls for the maintenance of mature trees growing on public land, whenever possible. The proposed Civic Center District Overlay would not serve to conflict with or obstruct these or other policies related to biological resources since none of the components of the implementing ordinance would alter existing regulations related to biological resources or directly cause physical actions that could impact biological resources. Therefore, a *less-than-significant* impact would result with respect to a conflict with local policies or ordinances protecting biological resources.

f) *Would the project conflict with an adopted Habitat Conservation Plan, Natural Community Conservation Plan or other approved local, regional, or state habitat conservation plan?*

The only Habitat Conservation Plans or Natural Community Conservation Plans in Alameda County are the East Alameda County Conservation Strategy and the East County Parks Habitat Conservation Plan/Natural Community Conservation Plan. The plan area boundaries of these documents do not encompass the city of Berkeley or the proposed Civic Center District Overlay. There are not any other approved local, regional, or State habitat conservation plans which apply to the Overlay area. Therefore, there would be *no impact* in this respect.

**5. CULTURAL RESOURCES**

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a) Cause a substantial adverse change in the significance of a historical resource as defined in California Code of Regulations Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

<sup>5</sup> City of Berkeley, Berkeley Downtown Area Plan EIR, January 2009, page 4-91

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to California Code of Regulations Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

a) *Would the project cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?*

The types of cultural resources that meet the definition of historical resources under CEQA generally consist of districts, sites, buildings, structures, and objects that are significant for their traditional, cultural, and/or historical associations. As shown in Figure 2, the majority of the Civic Center District Overlay area coincides with the Civic Center Historic District. The Berkeley Historic Civic Center District was placed on the national Register of Historic Places in 1998. The only portion of the Overlay area that does not fall within the Civic Center Historic District is the portion of Berkeley High School that falls within the Overlay area. The EIR for the DAP found that any demolition of historic structures could constitute a significant and unavoidable impact.<sup>6</sup> However, the proposed Overlay would serve to protect the historical integrity of structures within the Overlay by prohibiting or disincentivizing demolition, redevelopment and/or substantial changes in use on the subject parcels. Such disincentives would be the result of decreased maximum building heights and stricter limits on potential uses for parcels within the Overlay. Under existing zoning, new residential or commercial uses would potentially be allowed on parcels within the proposed Overlay. By prohibiting new residential uses and the majority of private commercial uses, such as retail, hotels, private offices, and restaurants, the proposed overlay would decrease the likelihood of the sort of redevelopment that could impact historic resources. Furthermore, as individual projects are proposed, they would be required to evaluate and potentially mitigate potential impacts to historic resources. Therefore, the proposed Overlay would not result in a substantial adverse change in the significance of a historical resource as defined in Section 15064.5, resulting in a *less-than-significant* impact.

b) *Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?*

Archeological resources are the material remains of past cultures or periods. These resources often remain hidden until earth-moving activities for construction are performed. As discussed above, the Civic Center District Overlay is located in an urbanized area that has been intensely developed for decades. This means that the majority, if not the entire proposed Overlay area has been disturbed as a result of past construction activities. This reduces the probability that potential future construction would unearth significant archeological resources. Moreover, the proposed project does not include specific construction Projects, and projects that are permitted under the proposed Overlay would be required to undergo separate CEQA review. As a part of this review, projects would be required to evaluate and potentially mitigate any impacts to archaeological resources. If archaeological resources were discovered during the course of construction for any future project, construction activities would need to be halted until the discovered resources could be effectively

<sup>6</sup> City of Berkeley, Berkeley Downtown Area Plan EIR, January 2009, page 4-117 through 4-120

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evaluated, relocated, preserved, and/or documented. Finally, the Berkeley General Plan, Urban Design and Preservation Element, contain policies which would serve to protect archeological resources. Part C of policy UD-2, Regulation of Significant Properties, requires that any project that may adversely affect an archaeological site, consult with the North Central Information Center of the California Historical Resources Information System, require a site evaluations if indicated by the California Historical Resources Information System, and attempt to prevent or mitigate any adverse impacts. Additionally, Policy, UD-1, Inventory, requires the City to acquire and maintain generalized information on what parts of Berkeley, and which types of sites, are sufficiently likely to contain notable archaeological materials as to warrant further, site-specific investigation. For these reasons, a *less-than-significant* impact would result with respect to archaeological resources.

c) *Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?*

No fossils, unique paleontological resources, or unique geologic features are known to be present in the proposed Civic Center District Overlay.<sup>7</sup> Additionally, as discussed above in part b), the Overlay would be located in an urbanized area that has been intensely developed for decades. This means that the majority, if not the entirety of the Overlay area has been disturbed as a result of past construction activities. This reduces the probability that potential future construction would unearth significant paleontological resources. Additionally, as is the case with archeological resources, potential future projects permitted under the proposed project would be required to conduct project-level analysis of the potential to affect paleontological resources and to mitigate those potential impacts to the extent feasible. Finally, in the event that paleontological resources or unique geological features were discovered on a specific project site, all project work would need to be halted until the resources or features could be documented, relocated, or preserved. Therefore, a *less-than-significant* impact would result with respect to paleontological resources.

d) *Would the project disturb any human remains, including those interred outside of formal cemeteries?*

As shown in Figure 1, the vast majority of the proposed Civic Center District Overlay is within the boundaries of the DAP. The EIR for the DAP stated that there are no formal cemeteries located within the downtown area, and no human remains are known to be present.<sup>8</sup> However, similar to archeological and paleontological resources, it is still possible that potential future development in the Overlay area could unearth human remains that have not previously been exposed. The long history of development in the area would reduce this possibility, but the chance still exists. All construction permitted under the proposed Project that includes earthmoving activities would be subject to subsequent project-level environmental review, and potential impacts to human remains would be evaluated and mitigated when feasible. Additionally, in the event that human remains were discovered on a specific project site, all project work would need to be halted until remains could be documented and removed, if appropriate. Therefore a *less-than-significant* impact would result in this respect.

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<sup>7</sup> City of Berkeley, Berkeley Downtown Area Plan EIR, January 2009, page 4-101

<sup>8</sup> City of Berkeley, Berkeley Downtown Area Plan EIR, January 2009, page 4-101

6. GEOLOGY AND SOILS

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv) Landslides, mudslides or other similar hazards?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Be located on expansive soil, as defined in Section 1803.5.3 of the California Building Code, creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The entire Bay Area is located within the San Andreas Fault Zone, which is composed of multiple active faults where moderate to strong earthquakes have been generated. The Hayward Fault runs through Berkeley, northeast of the proposed Civic Center District Overlay.

The Alquist-Priolo Earthquake Fault Zoning Act was passed in 1972 to provide a Statewide mechanism for reducing the hazard of surface fault rupture to structures used for human occupancy. The main purpose of this Act is to prevent the siting of buildings used for human occupancy across the traces of active faults. Although Berkeley is affected by a State-designated Alquist-Priolo fault, the proposed Overlay area is not located within an Alquist-Priolo Earthquake Fault Zone.<sup>9</sup>

Liquefaction is the rapid transformation of saturated, loose, fine-grained sediment to a fluid-like state due to seismic ground shaking. Liquefaction could damage foundations, disrupt utility service, and cause damage to roadways. The majority of the Overlay area is mapped as having a low to moderate risk of liquefaction; however, the areas surrounding the historic channel and current culverted location of Strawberry Creek are noted as having a high risk of liquefaction.<sup>10</sup>

<sup>9</sup> State of California Department of Conservation, 1982, Special Studies Zones map, Oakland West Quadrangle.  
<sup>10</sup> Association of Bay Area Governments, Earthquakes and Hazards Program, Interactive Hazards Mapping, <http://gis.abag.ca.gov/website/Hazards/?hlyr=liqSusceptibility>, Accessed on July 21, 2014.

a) *Would the project expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death involving: i) rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42; ii) strong seismic ground shaking; iii) seismic-related ground failure, including liquefaction; iv) landslides, mudslides, or other similar hazards?*

- i) The proposed Project does not incorporate specific construction projects and the proposed Overlay does not coincide with a Special Studies Zone as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map that includes the Downtown Berkeley area. The nearest area within a Special Studies Zone Boundary is located approximately one mile to the east of the Overlay area, along Gayley Road. This particular Alquist-Priolo zone surrounds a portion of the Northern Hayward Fault as shown on Figure 11, Active Earthquake Faults in the San Francisco Bay Region, in the Disaster Preparedness and Safety Element of the Berkeley General Plan. Since the Overlay area is not within a Special Studies Zone, the risk to people or structures from ground rupture would be *less than significant*.
- ii) According to the EIR for the DAP, ABAG has classified the Modified Mercalli Intensity Shaking Severity Level of ground shaking anticipated in the Downtown Area during a major earthquake as "VII – Strong." A major seismic event on one of the major active faults in the region could result in significant ground shaking in the Downtown Area. The design of all new development within the Downtown Area would be consistent with current Uniform Building Code and City of Berkeley design requirements and guidelines for buildings constructed in areas of high seismic risk (as required by General Plan Policy S-14 and Policy S-15), reducing the potential impact to a level of *less than significant*.<sup>11</sup>
- iii) and iv) According to liquefaction susceptibility maps provided by the Association of Bay Area Governments, the majority of the Overlay area is mapped as having a low to moderate risk of liquefaction; however, the areas surrounding the historic channel and current culverted location of Strawberry Creek are noted as having a high risk of liquefaction.<sup>12</sup> The proposed Overlay area is identified as flatland by ABAH and does not carry a significant risk of earthquake-induced landslides, debris flows, or other types of landslides.<sup>13</sup> Therefore, the impact with regard to landslides would be *less than significant*. Additionally, as individual future projects are proposed within the Overlay area, they would be required to undertake project-level environmental review to determine potential liquefaction hazards and appropriate mitigation or remediation techniques. The design of all new development within the Downtown Area would be consistent with current Uniform Building Code and City of Berkeley design requirements and guidelines for buildings constructed in areas of high seismic risk (as required by General Plan Policy S-14 and Policy S-15), reducing the potential impact to a level of *less than significant*.<sup>14</sup>

<sup>11</sup> City of Berkeley, Berkeley Downtown Area Plan EIR, January 2009, page 4-130

<sup>12</sup> Association of Bay Area Governments, Earthquakes and Hazards Program, Interactive Hazards Mapping, <http://gis.abag.ca.gov/website/Hazards/?hlyr=liqSusceptibility>, Accessed on July 21, 2014 (Based on data provided by the USGS).

<sup>13</sup> Association of Bay Area Governments, Earthquakes and Hazards Program, Interactive Hazards Mapping, <http://gis.abag.ca.gov/website/Hazards/?hlyr=cgsLandsldZones>, Accessed on July 21, 2014.

<sup>14</sup> City of Berkeley, Berkeley Downtown Area Plan EIR, January 2009, page 4-130

b) *Would the project result in substantial soil erosion or the loss of topsoil?*

As described above, the proposed Project does not incorporate specific development proposals that could affect soil erosion or the loss of topsoil. Future projects permitted within the proposed Overlay would be subject to subsequent CEQA review to identify and potentially mitigate any impacts related to soil erosion. Additionally, adherence to construction best management practices (BMPs) for potential future projects within the Overlay would serve to prevent substantial soil erosion or the loss of topsoil in the construction phase. Given that the proposed Overlay would apply to a highly urbanized area mostly characterized by structures and impervious surfaces, the potential for soil erosion and topsoil loss is low—with the possible exception of construction periods, when underlying soils could be exposed. Given that the minimal potential for soil erosion and top soil loss aside from construction, and given that construction sites would be required to undertake measures to minimize erosion and runoff, implementation of the proposed Overlay would result in a *less-than-significant* impact in this regard.

c) *Would the project be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?*

As discussed above, only a small portion of the Overlay area falls within an area with high potential for liquefaction and no portion of the Overlay area is considered to be at significant risk of landsliding, either as a result of earthquakes or other factors.<sup>15</sup> Additionally, the Overlay area is identified in its entirety as “Flatland” in ABAG-provided landslide maps, sits at an average elevation of approximately 165 feet above sea level, and is located approximately 1.6 miles from the nearest major body of water. Given these considerations, the overall risk of subsidence, lateral spreading, or collapse would be anticipated to be low. Additionally, as individual projects are proposed they would be required to undertake project-level environmental review to determine site-specific risks of liquefaction, landslides, lateral spreading, subsidence, and collapse. In the expected limited instances where such risks were found to present on a particular site, the project would be required to employ remediation or construction techniques to address such hazards, consistent with current Uniform Building Code and City of Berkeley design requirements and guidelines for buildings constructed in areas of high seismic risk (as required by General Plan Policy S-14 and Policy S-15). Remediation or construction techniques could include grading, soil strengthening, structural engineering components, and landscape methods, all of which are subject to City of Berkeley inspection services. Therefore, implementation of the proposed Overlay would result in a *less-than-significant* impact in this respect.

d) *Would the project be located on expansive soil, as defined in Section 1803.5.3 of the California Building Code, creating substantial risks to life or property?*

The EIR for the DAP indicates that expansive soils may be present in Downtown Berkeley. However, under the proposed Project, General Plan Policy S-14 would continue to apply to parcels and development projects within the Overlay, and would continue to serve to reduce the risk from development on expansive soils.<sup>16</sup> General Plan Policy S-14 contains the following actions:

- When appropriate, utilize the environmental review process to ensure avoidance of hazards and/or adequate mitigation of hazard-induced risk.

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<sup>15</sup> Association of Bay Area Governments, Earthquakes and Hazards Program, Interactive Hazards Mapping, <http://gis.abag.ca.gov/website/Hazards/?hlyr=cgsLndslidZones>, Accessed on July 21, 2014..

<sup>16</sup> City of Berkeley, Berkeley Downtown Area Plan EIR, January 2009, page 4-131

- Require soil investigation and/or geotechnical reports in conjunction with development/redevelopment on sites within designated hazard zones such as areas with high potential for soil erosion, landslides, fault rupture, liquefaction and other soil-related constraints.
- Place structural design conditions on new development to ensure that recommendations of the geotechnical/soils investigations are implemented.
- Encourage owners to evaluate their buildings' vulnerability to earthquake hazards, fire, landslides, and floods and to take appropriate action to minimize the risk.
- Develop criteria for disaster-resistant land use regulations to ensure that new construction reduces rather than increases risk of all kinds.

With continued implementation of General Plan Policy S-14 individual development projects would be required to mitigate potential impacts from expansive soils, and the impact would therefore be less than significant.

e) *Would the project have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?*

Future development within the proposed Overlay would be served by the City's municipal sewer system and would not require septic tanks or alternative wastewater disposal systems, resulting in *no impact*.

**7. GREENHOUSE GAS EMISSIONS**

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with an applicable plan, policy, or regulation of an agency adopted for the purpose of reducing the emissions of GHGs?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

a) *Would the project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?*

In 2006, California adopted Assembly Bill 32 (AB 32), the Global Warming Solutions Act of 2006. AB 32 established a statewide GHG emissions reduction goal to reduce statewide GHG emissions to 1990 levels by 2020. AB 32 established a legislative short-term (2020) mandate for State agencies in order to put California on-track toward achieving the long-term GHG reduction goal of Executive Order S-03-05 to stabilize carbon dioxide (CO<sub>2</sub>) emissions by 2050.

As discussed above, the proposed Project would reduce the overall development capacity within the proposed Civic Center District Overlay, which is already a built-out area of Berkeley. Additionally, the permitted uses described in the implementing ordinance and listed in Section D of this Initial Study are similar to existing uses in the area, and are actually more limited than what would be allowed under current zoning. Therefore, increases to the scale of development or changes to the character of development and uses are less likely under implementation of the proposed Overlay than under current regulations. Potential development under implementation of the Overlay is therefore less likely to result in significant direct or indirect increases to GHG emissions than development that would be allowed under current regulations. Furthermore, with the close proximity to transit, and limited parking viability, future residents and visitors in the area will likely con-

tinue to rely heavily on mass transportation, reducing the potential for significant increases in vehicle miles travelled, which is a significant contributor of GHGs.

The EIR for the DAP found that adoption and implementation of the DAP would not have significant impacts with regard to the direct or indirect emission of GHGs.<sup>17</sup> Given that the proposed Overlay would serve to slightly reduce development capacity within the Downtown Area, while continuing to implement policies for green construction, energy efficiency, and alternative transportation, the proposed Project would be likely to slightly reduce direct and indirect GHG emissions resulting from ongoing implementation of the DAP. Therefore, implementation of the proposed Overlay would result in a *less-than-significant* impact in this respect.

b) *Would the project conflict with an applicable plan, policy, or regulation of an agency adopted for the purpose of reducing emissions of GHGs?*

Applicable plans adopted for the purpose of reducing GHG emissions include CARB's Scoping Plan, the MTC's/ ABAG's *Plan Bay Area*, and Berkeley's Climate Action Plan (CAP). A consistency analysis with these plans is presented below.

#### *Scoping Plan*

In accordance with Assembly Bill 32 (AB 32), the CARB developed the *2008 Scoping Plan* to outline the State's strategy to achieve 1990 level emissions by year 2020. In May 2014, CARB released its First Update to the Climate Change Scoping Plan, with revised data, scientific findings, and GHG reduction strategies. To estimate the reductions necessary, CARB projected Statewide 2020 business as usual (BAU) GHG emissions (i.e. GHG emissions in the absence of statewide emission reduction measures, as recommended in the scoping plan). In 2008, CARB identified that the State as a whole would be required to reduce GHG emissions by 28.5 percent from year 2020 BAU to achieve the targets of AB 32.<sup>18</sup> A revised BAU 2020 forecast conducted after publication of the *2008 Scoping Plan* by CARB shows that the state would have to reduce GHG emissions by 21.6 percent from BAU without the corporate average fuel economy standards (Pavley) and the 33 percent Renewable Portfolio Standard (RPS) or 15.7 percent from the adjusted baseline (i.e. with Pavley and 33 percent RPS).<sup>19</sup>

Statewide strategies to reduce GHG emissions include the Low Carbon Fuel Standard (LCFS), California Appliance Energy Efficiency regulations; California Building Standards (i.e. CALGreen and the 2008 Building and Energy Efficiency Standards); California Renewable Energy Portfolio standard (33 percent RPS); changes in the corporate average fuel economy standards (e.g. Pavley I and Pavley II); and other measures that would ensure the State is on target to achieve the GHG emissions reduction goals of AB 32.

New structures permitted under the proposed Project would meet the current Building and Energy Efficiency Standards. The 2013 Building and Energy Efficiency Standards became effective January 1, 2014. The 2013 Standards are 25 percent more energy efficient than the 2008 standards for residential buildings. The new buildings would also be constructed in conformance with CALGreen, which requires high-efficiency water fixtures for indoor plumbing and water efficient irrigation systems. New development would also be subject to the City's Green Building Checklist and required to provide an Energy Efficiency Analysis. Additionally, new or remodeled structures over 20,000 square feet in the Downtown area would be required to meet

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<sup>17</sup> City of Berkeley, Berkeley Downtown Area Plan EIR, January 2009, page 4-85

<sup>18</sup> California Air Resources Board (CARB), 2008, Climate Change Scoping Plan: A Framework for Change.

<sup>19</sup> California Air Resources Board (CARB), 2012, Status of Scoping Plan Recommended Measures, [http://www.arb.ca.gov/cc/scopingplan/status\\_of\\_scoping\\_plan\\_measures.pdf](http://www.arb.ca.gov/cc/scopingplan/status_of_scoping_plan_measures.pdf).

LEED Gold Standards. The proposed Project would not conflict with statewide programs adopted for the purpose of reducing GHG emissions. Impacts would be *less than significant*.

#### *MTC's/ABAG's Plan Bay Area*

To achieve MTC's/ABAG's sustainable vision for the Bay Area, the *Plan Bay Area* land use concept plan for the region concentrates the majority of new population and employment growth in the region in Priority Development Areas (PDAs). PDAs are transit-oriented, infill development opportunity areas within existing communities. Overall, well over two-thirds of all regional growth by 2040 is allocated within PDAs. PDAs are expected to accommodate 80 percent (or over 525,570 units) of new housing and 66 percent (or 744,230) of new jobs.<sup>20</sup> Consequently, an overarching goal of the regional plan is to concentrate development in areas where there are existing services and infrastructure, rather than allocate new growth in outlying areas where substantial transportation investments would be necessary to achieve the desired reductions in per capita passenger vehicle ownership, vehicle miles traveled, and associated GHG emissions. However, while the One Bay Area plan does call for adding new higher-intensity, mixed-use development in the Downtown Berkeley core area, near BART, the vision also seeks to “build on the area’s cultural, educational, and historic assets to ensure that downtown is truly healthy, livable and economically vital.” Additionally, the “Visions for Priority Development Areas, Jobs-Housing Connection Strategy” of Plan Bay Area calls for adding new higher-density, mixed use development in the core areas near BART and the AC Transit hub in ways that respect the area’s existing historic character. This makes it clear that concerns for the preservation of historic resources could potentially outweigh the transit oriented development goals of the plan. Finally, the Civic Center District Overlay area only occupies a fraction of the Downtown Berkeley PDA, which means that the increased mixed-use and residential development called for in the plan could occur in other areas in the PDA. Therefore the proposed Project would not be in conflict with Plan Bay Area and impacts would be *less than significant*.

#### *Berkeley Climate Action Plan*

The City of Berkeley adopted a Climate Action Plan (CAP) in 2009. The goals and policies identified in the CAP represent the City’s actions to achieve the GHG reduction targets of AB 32 for target year 2020. A consistency analysis with the proposed Project to the applicable goals and policies in the CAP is shown in Table 1. In certain respects, the proposed overlay would be inconsistent with certain policies of the CAP, or have mixed consistency with certain policies the CAP. However, under Goal 1, the CAP recognizes that it is imperative to protect sites of historical significance, which the proposed Project would achieve through increasing the restrictiveness of zoning regulations in the proposed Overlay area, which contains designated historical resources as described in Section 5 of this Initial Study. Moreover, the CAP recognizes the benefits to the environment as a result of the preservation of historic resources. On page 30, the CAP states that, “Preservation and reuse of existing buildings not only preserves embodied energy in buildings, but also reduces the GHG emissions associated with demolishing a building, transporting demolition debris, and building a new building’s.” therefore any inconsistencies of the proposed Project with policies of the CAP would be outweighed by the ways in which it would be consistent with the CAP. As shown in detail in Table 1, below, the proposed Project would not conflict with the CAP and associated impacts would be *less than significant*.

TABLE 1 | **PROJECT CONSISTENCY WITH BERKELEY’S CLIMATE ACTION PLAN**

Applicable Goals/Policies	Consistency Analysis
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<sup>20</sup> Metropolitan Transportation Commission (MTC) and Association of Bay Area Governments (ABAG), 2013, Plan Bay Area: Strategy for a Sustainable Region, July 18.

Sustainable Transportation & Land Use Goal 1: Increase Density along Transit Corridors.

<p>Policy a: Encourage the development of housing (including affordable housing) retail services, and employment centers in areas of Berkeley best served by transit</p>	<p><i>Mixed.</i> The proposed Overlay area is within walking distance from the Downtown Berkeley BART station and the proposed Project would prohibit the development of housing in the proposed Overlay area, whereas continuation of the current regulations in the proposed Overlay area would permit some residential development. In this regard, the proposed Overlay is inconsistent with the CAP. However, the proposed Overlay area only represents a small portion of the total land area of Downtown Berkeley, leaving ample space for the development of housing outside of the proposed Overlay area. Additionally, given the number of historic structures in this area, even without implementation of the proposed Overlay, housing capacity in this area would have been very low relative to the remainder of Downtown. The fact that the proposed Overlay would continue to allow housing development elsewhere in the Downtown is consistent with the Goals of the CAP. Therefore the proposed Overlay’s consistency with this policy of the CAP is mixed.</p>
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Sustainable Transportation & Land Use Goal 2: Increase and enhance urban green and open space, including local food production, to improve the health and quality of life for residents, protect biodiversity, conserve natural resources, and foster walking and cycling

<p>Policy: Require new developments in specified areas to contribute to street level open space on site or in the public realm</p>	<p><i>Consistent.</i> The proposed Project would not change regulations related to required dedications of open space for potential future projects in the proposed Overlay area.</p>
<p>Policy b: Promote tree planting, landscaping, and the creation of green and open space that is safe and attractive and that helps to restore natural processes</p>	<p><i>Consistent.</i> Nothing in the proposed Project would discourage additional tree planting, landscaping, or the creation of green open space.</p>

Sustainable Transportation & Land Use Goal 3: Manage parking more effectively to minimize driving demand and to encourage and support alternatives to driving

<p>a. Policy: Design and implement parking strategies to create disincentives for driving – especially for single-occupancy commuting – and, where possible, to build revenue for transportation services.</p>	<p><i>Consistent.</i> The proposed Project would not be in conflict with this Policy. Parking regulations in the proposed Overlay area would be in accordance with the underlying zoning district and therefore unchanged upon approval of the proposed Project.</p>
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5. Goal: Accelerate Implementation of the City’s Bicycle & Pedestrian Plans

<p>a. Policy: Continue to expand and improve Berkeley’s bicycle and pedestrian infrastructure</p>	<p><i>Consistent.</i> The proposed Project would not be in conflict with this Policy. Regulations relating to pedestrian and bicycle infrastructure would be unchanged upon approval of the proposed Project.</p>
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8. HAZARDS AND HAZARDOUS MATERIALS

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
<p>a) Create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Emit hazardous emissions or handle hazardous materials, substances or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Be located on a site which is included on a list of hazardous material sites compiled pursuant to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are inter-mixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a) <i>Would the project create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials?</i>				

The proposed Overlay would allow a variety of conditional uses, described in Section D above. None of the potential future uses would be anticipated to entail the use or disposal of significant quantities of hazardous materials. Therefore impacts under this criterion would be consistent with those found in the EIR for the DAP, which stated:

Individual households, and most commercial or office uses, would be expected to operate motor vehicles as a matter of routine, which would generally involve the on-vehicle storage and use of gasoline or diesel fuel. In addition, Downtown residents and workers could be expected to routinely use limited quantities of products for periodic cleaning, repair and maintenance or for landscape maintenance/pest control that could contain hazardous materials. Those using these products would be responsible for their safe use, and would be required to comply with all applicable regulations regarding the disposal of household hazardous waste (as users are today), and the routine use and disposal of small quantities of these common household products or motor vehicle fuels would not pose a significant risk to human health or the environment...<sup>21</sup>

<sup>21</sup> City of Berkeley, Berkeley Downtown Area Plan EIR, January 2009, page 4-138

Although the DAP would permit laboratory uses in certain areas of the Downtown, laboratory uses would generally not be permitted within the proposed Civic Center District Overlay. However, if incidental laboratory uses were to be developed in the Overlay area, compliance with existing regulations and standard safety procedures related to the handling of hazardous materials at these facilities would be expected to reduce potential impacts to a level of less than significant. Therefore, since implementation of the proposed Overlay would not permit new uses beyond those envisioned by the DAP, the potential impact would be *less than significant*.

b) *Would the project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?*

As described above, none of the uses that would be allowed under implementation of the proposed Overlay would present a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. Therefore, a *less-than-significant* impact would result.

c) *Would the project emit hazardous emissions or handle hazardous materials, substances or waste within one-quarter mile of an existing or proposed school?*

A portion of Berkeley High School (APN 057 202000400) is within the proposed Overlay. However, as discussed above, none of the uses that would be allowed under implementation of the proposed Overlay would be reasonably anticipated to emit or handle hazardous materials. Industrial uses more typically associated with the use, transport, and emission of such materials would be prohibited in the Overlay. Commercial uses within the Overlay would be limited to public markets, live performance theaters, and museums; none of these uses are typically associated with the emission or handling of significant amounts of hazardous materials. Moreover, since implementation of the proposed Overlay would not newly permit any uses not permitted by the DAP, impacts associated with hazardous materials within a quarter mile of a school would not be substantially different from those anticipated by the EIR for the DAP, which found a less-than-significant impact.<sup>22</sup> Therefore, implementation of the proposed Overlay would have a less-than-significant impact in this regard.

d) *Would the project be located on a site which is included on a list of hazardous material sites compiled pursuant to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or the environment?*

The proposed Overlay area does not contain any sites included on a list of hazardous material sites compiled pursuant to Government Code Section 659605.<sup>23</sup> Therefore, implementation of the proposed Overlay would not present a significant hazard to the public in this respect, and the impact would be *less than significant*.

e) *For a project within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?*

The closest public airport to the proposed Overlay area is the Oakland International Airport. The proposed Overlay area is not located within the Airport Influence Area designated in the Oakland International Airport Land Use Compatibility Plan.<sup>24</sup> Therefore, *no impact* would result.

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<sup>22</sup> City of Berkeley, Berkeley Downtown Area Plan EIR, January 2009, page 4-139

<sup>23</sup> California Department of Toxic Substances Control, EnviroStor Database, <https://www.envirostor.dtsc.ca.gov/>, Accessed on July 21, 2014

<sup>24</sup> Alameda County Community Development Agency, 2010, Oakland International Airport Land Use Compatibility Plan, Figure 3-1.

- f) *For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?*

There are no private airstrips located within two miles of the proposed Overlay area. Therefore, the Project would have *no impact* in this respect.

- g) *Would the project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?*

The Berkeley General Plan Disaster Preparedness and Safety Element contains the following policies related to emergency response:

#### Policy S-1 Response Planning

Ensure that the City's emergency response plans are current and incorporate the latest information on hazards, vulnerability, and resources. (Also see Transportation Policy T-28.)

#### Policy S-2 Neighborhood Preparation and Education

Continue to provide education, emergency preparedness training, and supplies to the community at the neighborhood level to support neighborhood- and community-based disaster response planning.

Additionally, in 2004, the City adopted a Disaster Mitigation Plan. This plan contains objectives and actions aimed to improve the safety of residents in the case of a disaster. These objectives include reducing the potential for life loss, injury, and economic damage to Berkeley residents from earthquakes, wildfires, landslides, and floods. Actions in the plan are ranked as being "Important Actions," "High Priority Actions," and "Very High Priority" actions. Some of the Very High Priority actions in the plan include strengthening or replacing important City-owned and City-used buildings that are known to have structural weaknesses.

The proposed Project would be consistent with these policies, objectives, and actions, and their implementation would continue under the proposed Project. Implementation of the proposed Overlay would not obstruct or inhibit emergency evacuation, operations, or other responses. Therefore, a *less-than-significant* impact would result.

- b) *Would the project expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?*

According to the California Department of Forestry and Fire Protection (CAL FIRE), the proposed Overlay area is not located within a fire hazard severity zone.<sup>25</sup> Therefore, the risk of wildland fire in the proposed Overlay area is considered to be low and the impact would be *less than significant*.

## 9. HYDROLOGY AND WATER QUALITY

<sup>25</sup> California Department of Forestry and Fire Protection, 2008, Very High Fire Hazard Severity Zones in LRA.

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a significant lowering of the local groundwater table level?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
j) Expose people or structures to a significant risk of inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Urban development has two types of potential impacts to stormwater runoff hydrology. Impervious surfaces, such as roads, sidewalks, and buildings, prevent the natural infiltration of stormwater into the soil and thus create higher runoff volumes. In addition, more rapid transport of runoff over impermeable surfaces, combined with higher runoff volumes, causes elevated peak flows. This increase in flow can adversely impact stormwater drainage systems.

The National Pollutant Discharge Elimination System (NPDES) permit program was established by the Federal Clean Water Act (CWA) to regulate municipal and industrial discharges to surface waters of the United States from their municipal separate storm sewer systems (MS4s). In California, the State Water Resources Control Board (SWRCB) has broad authority over water quality control issues for the State. The SWRCB is responsible for developing Statewide water quality policy and exercises the powers delegated to the State by the federal government under the CWA.

The City of Berkeley is within the jurisdiction of the San Francisco Bay Regional Water Quality Control Board (RWQCB) (Region 2). The San Francisco Bay RWQCB adopted a Water Quality Control Plan for the San Francisco Bay Basin (the Basin Plan) that designates beneficial uses, establishes water quality objectives,

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and contains implementation programs and policies to achieve those objectives for all waters addressed through the Basin Plan.<sup>26</sup> Additionally, the City of Berkeley's 2011 Watershed Management Plan contains recommendations aimed at ensuring the continued health of the local watershed.

a) *Would the project violate any water quality standards or waste discharge requirements?*

As described above, the proposed Project would affect the zoning regulations that govern the uses that would be permitted on the proposed Overlay area. The proposed Project does not include specific construction Projects; however, future construction and the operation of future project could have affects on water quality and waste discharge. Since the Project would allow for the continuation of the uses that currently exist on the proposed Overlay area and all of the uses that would be permitted are currently allowed, potential future uses permitted under the proposed Project would be similar with respect to their impacts on water quality and waste discharge. Moreover, subsequent projects permitted under the proposed Project would be required to undergo separate CEQA review, wherein the project's potential to violate water quality standards or waste discharge requirements would be evaluated and mitigated when feasible. Consistent with City of Berkeley requirements under the NPDES permit, individual project proponents, construction contractors, and building maintenance personnel would remain responsible for implementing and monitoring strategies to prevent water quality impacts or inappropriate waste discharge. Therefore, a *less-than-significant* impact would result.

b) *Would the project substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a significant lowering of the local groundwater table level?*

As described above, the proposed Overlay area is located in a highly urbanized setting, that the majority of the Overlay area characterized by impervious surface and artificial drainage structures. Rainfall and runoff in these areas does not contribute substantially to groundwater recharge. Given that Downtown Berkeley is built out and given that the proposed Overlay would actually decrease overall development capacity in the Civic Center District, implementation of the Overlay would not serve to increase the proportion of impervious surface or otherwise impede any small amount of groundwater recharge that currently takes place. . Potential and existing projects in the Overlay area would receive water service from EBMUD, would not draw upon groundwater supplies, and would therefore not deplete sources of groundwater. Additionally, regulations pertaining to impervious surfaces which affect groundwater recharge would be unaffected by the proposed Overlay. Therefore, a *less-than-significant* impact would result.

c) *Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?*

Adoption of the proposed Overlay would not incorporate specific construction projects. Ongoing development within the Overlay area would not modify existing drainage patterns or alter the course of a stream or river. As discussed above, the Overlay area is almost entirely built out, with drainage occurring through the City stormwater system. Strawberry Creek, which is the only waterway that traverses the Overlay area, currently flows through a culvert and would not be impacted by potential projects within the Overlay. Therefore, the proposed Project would not result in exacerbated erosion, siltation, and flooding and a *less-than-significant* impact would result.

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<sup>26</sup> San Francisco Bay RWQCB, 2007, *Water Quality Control Plan (Basin Plan) for the San Francisco Bay Basin*, [http://www.swrcb.ca.gov/rwqcb2/basin\\_planning.shtml](http://www.swrcb.ca.gov/rwqcb2/basin_planning.shtml), accessed on May 14, 2014.

- d) *Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial flooding on- or off-site?*

See Section 9.c above. The impact in this respect would be *less than significant*.

- e) *Would the project provide substantial additional sources of polluted runoff, or otherwise substantially degrade water quality?*  
As discussed previously, Downtown Berkeley is built out and is located in a highly urbanized area. The Overlay area is already characterized by structures and other impervious surfaces, and redevelopment of the parcels within the overlay would not result in significant increases to urban runoff. The uses that would be permitted within the proposed Overlay would be substantially similar to what currently exists in the Overlay area, and would actually be somewhat more limited than what would be allowed under current zoning. These particular uses would not be expected to create substantial polluted runoff. Additionally, the proposed Project would serve to decrease development capacity of the Overlay area, which makes increases to runoff even less likely than under existing regulation. Finally, as discussed previously, future projects and construction activities would be required to comply with City regulations under the NPDES permit. Given these considerations, the impact would be *less than significant*.

- f) *Would the project provide otherwise substantially degrade water quality?*

As discussed above in section 9.a and 9.e, the status of water quality on the Proposed Overlay area and in surrounding areas would not significantly change with implementation of the proposed Project. A *less-than-significant* impact would result.

- g) *Would the project place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?*

The proposed Project does not include the development of housing, nor would it permit the development of new housing. *No impact* would result in this respect.

- b) *Would the project place within a 100-year flood hazard area structures which would impede or redirect flood flows?*

No portion of the proposed Overlay area is shown as being within a 100 year flood hazard area, as shown on the Flood Insurance Rate Map prepared by the Federal Emergency Management Agency (FEMA).<sup>27</sup> Therefore, *no impact* would result in this respect.

- i) *Would the project expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?*

The Dam Failure Inundation Hazard Map for Berkeley/Albany, provided by the Association of Bay Area Governments, shows areas which could be potentially inundated as a result of the failure of dams which retain water in the reservoirs in the area.<sup>28</sup> The proposed Overlay area is not shown as being in an area subject to inundation. Additionally, as discussed above the proposed Overlay area is not within a 100-year flood hazard area. Therefore, the proposed Project would not expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a dam or levee and a *less-than-significant* impact would result.

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<sup>27</sup> Federal Emergency Management Agency, Flood Insurance Rate Map, Alameda County California and Incorporated Areas, Panel 57 of 725, Map Number 06001C0067G, August 3, 2009, Accessed on July 22, 2014

<sup>28</sup> Association of Bay Area Governments, Dam Failure Inundation Hazard Map for Berkeley/Albany, October 20, 2003, Accessed on July 22, 2014. <http://www.abag.ca.gov/cgi-bin/pickdamx.pl>

j) *Would the project potentially be inundated by seiche, tsunami, or mudflow?*

The Tsunami Inundation Map for Emergency Planning for the Oakland West Quadrangle shows the areas of Berkeley that would be potentially vulnerable to inundation by a tsunami.<sup>29</sup> These areas are all directly adjacent to the San Francisco Bay and do not include the proposed Overlay area. Since San Francisco Bay is the nearest major body of water, the Overlay area would not be subject to tsunamis or seiche. Since the proposed Overlay area is not directly at the base of unstable hillsides, mudflows would not be a significant risk to the Project. A *less-than-significant* impact would result.

**10. LAND USE AND PLANNING**

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

a) *Would the project physically divide an established community?*

Implementation of the proposed Project would not involve any structures, land use designations, or other features (i.e. freeways, railroad tracks) that would physically divide an established community. In fact, since the existing uses on the project site already align with the proposed uses list found in section 23E.98.030, and since a stated purpose of the proposed Project is the preservation of historic structures, minimal changes in the built environment area anticipated. Additional, the list of permitted uses includes uses that are already part of the allowed uses in the underlying zoning districts in the proposed Overlay area. Therefore, since the Project would not result in a substantial change from existing conditions with respect to the potential to physically divide an established community, a *less-than-significant* impact would result.

b) *Would the project 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?*

The following tables include a consistency analysis for the proposed Project with respect to the relevant policies from the Berkeley General Plan and the DAP. Although implementation of the proposed Overlay would be inconsistent with certain policies in the DAP and General Plan, those inconsistencies would be counter-balanced by consistency with other key policies. Such tension within a general or specific plan is to be expected, as their policies must balance sometimes competing values. For example, a goal of maximizing the production of affordable housing must be balanced with preserving historic structures. As shown, the proposed Project would appropriately balance consistency with the various policies of applicable plans, would not conflict with the General Plan or DAP, and a *less-than-significant* impact would result.

<sup>29</sup> California Emergency Management Agency (CalEMA), the University of Southern California (USC), and the California Geological Survey (CGS), Tsunami Inundation Map for Emergency Planning – Oakland West Quadrangle, July 31, 2009. Accessed July 22, 2014

**Berkeley General Plan**

TABLE 2 **PROJECT CONSISTENCY WITH BERKELEY’S GENERAL PLAN**

Applicable Goals/Policies	Consistency Analysis
<p><b>Policy LU-1: Community Character.</b> Maintain the character of Berkeley as a special, diverse, unique place to live and work.</p>	<p><i>Consistent.</i> By making zoning provisions in the Civic Center area more restrictive, the proposed Project would serve to maintain the character of the proposed Overlay area. Moreover, since the existing uses in the proposed Overlay area already align with the proposed list of permitted uses, no significant change in the character of the area is anticipated.</p>
<p><b>Policy LU-2 Preservation.</b> Protect Berkeley’s character by identifying, restoring, and preserving historic buildings. (Also see Urban Design and Preservation Policies UD-1 through UD-3.)</p>	<p><i>Consistent.</i> By making zoning provisions in the Civic Center District more restrictive, the proposed Project would serve to disincentivize changes in use in the proposed Overlay area, thereby protecting the historic resources that exist.</p>
<p><b>Policy LU-3 Infill Development.</b> Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale. (Also see Urban Design and Preservation Policies UD-16 through UD-24.)</p>	<p><i>Consistent.</i> The proposed zoning overlay would apply to future infill development and would serve to balance the need for infill development with the need to preserve historic resources. Since the proposed Project would not alter regulations relating to design or siting it would be consistent with this policy.</p>
<p><b>Policy LU-4 Discretionary Review.</b> Preserve and enhance the aesthetic, environmental, economic, and social character of Berkeley through careful land use and design review decisions.</p>	<p><i>Consistent.</i> The proposed Project would increase the level of discretionary review for future projects in the proposed Overlay area. By making regulations more restrictive, the proposed Project would contribute to the preservation of the aesthetic and social character of the Overlay area.</p>
<p><b>Policy LU-16 Downtown Plan.</b> Implement the Downtown Plan and take actions to achieve the three goals of the Plan:</p> <ol style="list-style-type: none"> <li>1. Express and enhance Berkeley’s unique social and cultural character in the Downtown.</li> <li>2. Create an appealing and safe Downtown environment, with a comfortable pedestrian orientation.</li> <li>3. Diversify, revitalize, and promote the Downtown economy.</li> </ol>	<p><i>Consistent.</i> A full analysis of the proposed Project’s consistency with the DAP is included below in Table 3.</p>
<p><b>Policy LU-17 Downtown Development Standards.</b> Maintain the physical character of the Downtown.</p>	<p><i>Consistent.</i> As discussed above, by making zoning provisions in the Civic Center area more restrictive, the proposed Project would serve to disincentivize changes in the physical character of the portion of Downtown Berkeley within the proposed Overlay area.</p>
<p><b>Policy LU-18 Downtown Affordable Housing Incentives.</b> Maximize the supply of affordable housing in the Downtown.</p>	<p><i>Inconsistent.</i> The proposed Project would prohibit the construction of housing units, including affordable housing, in the proposed Overlay area. However, the proposed Overlay area only represents a small portion of the total land area of Downtown Berkeley, leaving ample space for the development of affordable housing outside of the proposed Overlay area. Additionally, given the number of historic structures in this area, even without implementation of the proposed Overlay, housing capacity in this area would have been very low relative to the remainder of Downtown.</p>
<p><b>Policy LU-20 Downtown Pedestrian and Transit Orientation.</b> Reinforce the pedestrian orientation of the Downtown.</p>	<p><i>Consistent.</i> Since the proposed Project would not affect regulations pertaining to pedestrian and transit amenities, and would not result in adverse changes to pedestrian facilities, no conflict would result.</p>

**Policy LU-22 Civic Center.** Maintain the Civic Center as a cohesively designed, well-maintained, and secure place for community activities, cultural and educational uses, and essential civic functions and facilities. (Also see Urban Design and Preservation Policy UD-38 Action A.)

*Consistent.* As discussed above, by making zoning provisions in the Civic Center area more restrictive, the proposed Project would serve to disincentivize changes in the use and built form of the proposed Overlay area, thereby protecting the historic resources that currently exist and accomplishing the intent of this policy.

**Policy LU-23 Transit-Oriented Development.** Encourage and maintain zoning that allows greater commercial and residential density and reduced residential parking requirements in areas with above-average transit service such as Downtown Berkeley. (Also see Transportation Policy T-16.)

*Inconsistent.* As discussed above, the proposed Project would prohibit the construction of housing units and most potential commercial activities in the proposed Overlay area. Additionally, the potential density would be reduced within the Overlay area. However, the proposed Overlay area only represents a small portion of the total land area of Downtown Berkeley, leaving ample space for the development of high-density residential and commercial uses outside of the proposed Overlay area. Additionally, given the number of historic structures in this area, even without implementation of the proposed Overlay, the ability to develop high-density commercial and residential uses would have been very constrained relative to the remainder of Downtown.

**Policy LU-25 Affordable Housing Development.** Encourage development of affordable housing in the Downtown Plan area, the Southside Plan area, and other transit-oriented locations. (Also see Housing Policy H-16.)

*Inconsistent.* The proposed Project would prohibit the construction of housing units, including affordable housing, in the proposed Overlay area. However, the proposed Overlay area only represents a small portion of the total land area of Downtown Berkeley, leaving ample space for the development of affordable housing outside of the proposed Overlay area. Additionally, given the number of historic structures in this area, even without implementation of the proposed Overlay, housing capacity in this area would have been very low relative to the remainder of Downtown.

## Downtown Area Plan

TABLE 3 **PROJECT CONSISTENCY WITH BERKELEY’S DOWNTOWN AREA PLAN**

Applicable Goals/Policies	Consistency Analysis
<b>Policy LU-1.1: Downtown Uses.</b> Encourage uses that allow people who live, work and learn in Downtown to meet daily needs on foot.	<i>Consistent.</i> The proposed Project would promote the continuation of civic and institutional uses, which would contribute to allowing those who live, work and learn in Downtown to meet daily needs on foot.
<b>Policy LU-1.2: Culture &amp; Entertainment.</b> Encourage unique cultural and entertainment uses that serve the city and region, including museums, live theater, and cinemas (see Economic Development chapter).	<i>Consistent.</i> Live theaters and museums are among the uses that would be permitted in the proposed Overlay.
<b>Policy LU-1.4: Civic Focus.</b> Focus City government and civic activity in the Civic Center area, and recognize Downtown’s central role in providing community services.	<i>Consistent.</i> As discussed above, by making zoning provisions in the Civic Center area more restrictive, the proposed Project would serve to disincentivize changes in use in the proposed Overlay area, thereby protecting the civic and institutional uses that exist there.
<b>Policy LU-1.5: Downtown Intensities &amp; Building Heights.</b> To advance Downtown as a vibrant city center and encourage car-free options near transit, accommodate urban intensities by using building heights that are appropriate and feasible, as indicated in Table LU-1 and “Figure LU-1, Land Use & Building Heights.” All new buildings shall deliver significant public benefits, many of which should be in proportion to building	<i>Consistent.</i> The 50 foot maximum height included as a part of the proposed Overlay would not conflict with the minimum heights shown in Table LU-1 of the DAP, which shows that the minimum height for the core area is 50 feet, 40 feet for the outer core, and none for buffer areas. The proposed Overlay would have no impact on studies required for tall buildings outside of the proposed Overlay area.

height (see Policy LU-2.1). Buildings exceeding a height of 85 feet shall be subject to shadow studies and visual analysis, – and buildings exceeding a height of 120 feet shall be subject to wind analysis – to avoid detriment to residential areas, public streets and public open spaces, and if necessary require modifications to the project design including setbacks and stepbacks to reduce view and shadow impacts (see policies under Goals ES-4, LU-2, and HD-1, as well as footnotes in Table LU-1). Provide appropriate transitions to Residential areas that surround Downtown as described in Policies LU-4.2.

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**Policy LU-3.1: Housing Needs.** Accommodate a significant portion of Berkeley’s share of regional housing growth as defined by Regional Housing Needs Assessments (RHNA) within the Core Area, Outer Core, Corridor, and Buffer areas, as compared with other appropriate areas in Berkeley.

*Mixed.* The proposed Project would prohibit the construction of housing units, including affordable housing, in the proposed Overlay area. However, the proposed Overlay area only represents a small portion of the total land area of Downtown Berkeley, leaving ample space for the development of affordable housing outside of the proposed Overlay area. Additionally, given the number of historic structures in this area, even without implementation of the proposed Overlay, housing capacity in this area would have been very low relative to the remainder of Downtown. Therefore it will remain possible to accommodate a significant proportion of Berkeley’s RHNA in other areas of the Downtown.

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**Policy LU-4.1: Transit-Oriented Development.** Encourage use of transit and help reduce regional greenhouse gas emissions, by allowing buildings of the highest appropriate intensity and height near BART and along the Shattuck and University Avenue transit corridors (see Goal ES-3).

*Mixed.* As discussed above, the proposed Project would prohibit the construction of housing units and most potential commercial activities in the proposed Overlay area. Additionally, the potential density would be reduced within the Overlay area. However, Policy LU-4.1 also incorporates language directing the City to allow buildings of the “highest *appropriate* intensity and height. [emphasis added]” Given the need to protect historic resources in the Overlay area, the development restrictions in the proposed Project may be viewed as “appropriate.”

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**Policy LU-4.3: Historic Resources.** Preserve historic buildings and sites of Downtown, and provide where appropriate for their adaptive reuse and/or intensification (see Policies ES-4.1, LU-2.1 and HD-1.1).

*Consistent.* . As discussed above, the proposed Project would prohibit the construction of housing units and most potential commercial activities in the proposed Overlay area. Additionally, the potential density would be reduced within the Overlay area. This would serve to preserve the historic buildings and character of the Civic Center District.

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c) *Conflict with any applicable habitat conservation plan or natural community conservation plan?*

As discussed above in Section IV.f above, there are no habitat conservation plans or natural community conservation plans within the city limits, therefore implementation of the proposed Project would not conflict with any such plans. Consequently, there would be *no impact*.

11. MINERAL RESOURCES

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a) Result in the loss of availability of a known mineral resource that would be of value to the region or the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The California Department of Conservation, Geological Survey (CGS) classifies lands into Aggregate and Mineral Resource Zones (MRZs) based on guidelines adopted by the California State Mining and Geology Board, as mandated by the Surface Mining and Reclamation Act of 1974. These MRZs identify whether known or inferred significant mineral resources are present in areas. Lead Agencies are required to incorporate identified MRZs resource areas delineated by the State into their General Plans.<sup>30</sup> The City of Berkeley has no General Plan land use designation for mineral resources.

a) *Would the project result in the loss of availability of a known mineral resource that would be of value to the region or the state*

Due to Berkeley’s relatively long history of urbanization, there are not any mineral extraction operations currently in operation.<sup>31</sup> Lead agencies are required to incorporate identified MRZs resource areas delineated by the State into their General Plans. There are no designated mineral resources located within Berkeley or the proposed Overlay area, as illustrated in Berkeley’s General Plan, there would therefore be *no impact* with regard to the loss of a valuable mineral resource.

b) *Would the project result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?*

There are no mineral resources delineated on any land use plan which covers the Berkeley area or the proposed Overlay area. Therefore, there would be *no impact* with regard to the loss of a valuable mineral resource.

12. NOISE

Would the project result in:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or other applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Exposure of persons to or generate excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

<sup>30</sup> Public Resources Code Section 2762(a)(1).

<sup>31</sup> City of Berkeley, City of Berkeley General Plan, Environmental management Element, page 2.

Would the project result in:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
c) Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

The primary sources of noise in Berkeley include cars, trucks, buses, trains, industrial operations, and activities associated with neighborhoods and school, including lawn mowing and leaf blowing. Noise in Berkeley is regulated by chapter 13.40 of the Berkeley Municipal Code. This portion of the Code contains provisions related to general noise regulations, interior and exterior noise standards, as well as noise measurement procedures. In Berkeley, the established noise standards are dependent on the zoning designation of the area. Section 13.40 of the Municipal Code also establishes limits to how early and how late noisy construction activities are permitted to take place. Policy EM-43, Noise Reduction, in the Environmental Management Element of the General Plan, calls for the City to reduce significant noise levels and minimize new sources of noise.

a) *Would the project result in exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or other applicable standards of other agencies?*

The proposed Project would reduce the average development potential in the Civic Center District Overlay, and all of the uses that are in the proposed uses list in section 23E.98.030 of the proposed Overlay are already allowed in the underlying zoning districts. This means that no part of the proposed Overlay would introduce increased intensity or density, or substantially different uses which would generate additional noise, as compared to existing conditions. As individual projects are proposed, they would be required to demonstrate that their use is compatible with the existing noise environment, that their interior noise environment would comply with any applicable regulations, and that construction and activities associated with the project would not violate local noise standards. Therefore, a *less-than-significant* impact would result with respect to the exposure of persons to or generation of noise levels in excess of standards established in the local General Plan or noise ordinance, or other applicable standards of other agencies.

b) *Would the project result in exposure of persons to or generate excessive groundborne vibration or groundborne noise levels?*

Ongoing significant levels of vibration are typically associated with industrial uses, which would not be permitted within the Overlay area. However, construction activities can sometimes generate substantial levels of vibration perceptible at adjacent properties. The EIR for the DAP found significant vibration impacts as a result of ongoing construction of residential, employment, and mixed use developments through the Downtown; however, most of this development would take place outside of the proposed Overlay area. The pro-

posed Project seeks to preserve existing uses and built form within the Overlay area, and would serve to limit the development capacity therein. This means that a minimal amount of the total construction activity anticipated under the DAP would take place within the Overlay area. Vibration-intense activities such as pile driving, excavation, and drilling are typically associated with subterranean construction. Given that residential and large-scale employment uses would not be permitted in the proposed Overlay, it is unlikely that subterranean construction and associated high levels of vibration would occur in this area. Additionally, future individual projects within the proposed Overlay would be required to undergo project-level CEQA review to determine and potentially mitigate their impacts with regard to groundborne vibration and groundborne noise levels. Therefore, implementation of the proposed Overlay would result in a *less-than-significant* impact with respect to groundborne vibration and groundborne noise levels.

c) *Would the project result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?*

The EIR for the DAP found that a significant and unavoidable impact would result with respect to permanent increases to ambient noise in certain areas of the Downtown. These permanent increases to ambient noise levels were the result of anticipated residential and employment growth throughout the Downtown under the DAP. The proposed Project, however, would preclude new residential uses within the Overlay area and would generally serve to ensure that new uses in the Overlay area are consistent with the uses that are already present. These existing and potential future uses would not include industrial uses that are typically associated with operations-related permanent increases to ambient noise levels in urbanized areas. A 3 decibel increase in noise levels is generally regarded as the minimum increase necessary to result in a significant impact. With regard to increases to ambient noise levels resulting from traffic, a rough doubling of traffic volumes is necessary to result in a 3 decibel increase. Given that the proposed Project would seek to preserve existing uses and structures, and would also serve to limit redevelopment in the Overlay area, a doubling of traffic volumes related to uses in the Overlay area would be very unlikely to occur. Since neither operations nor traffic relating to implementation of the proposed Project are anticipated to result in substantial permanent increases to ambient noise levels, the impact in this regard would be *less than significant*.

d) *Would the project result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?*

Substantial temporary or periodic increases to ambient noise levels are typically associated with construction activities. The EIR for the DAP found significant construction noise impacts as a result of ongoing construction of residential, employment, and mixed use developments through the Downtown; however, most of this development would take place outside of the proposed Overlay area. The proposed Project seeks to preserve existing uses and built form within the Overlay area, and would serve to limit the development capacity therein. This means that a minimal amount of the total construction activity anticipated under the DAP would take place within the Overlay area. Additionally, future individual projects within the proposed Overlay would be required to undergo project-level CEQA review to determine and potentially mitigate their impacts with regard to construction noise. Therefore, implementation of the proposed Overlay would result in a *less-than-significant* impact with respect to substantial temporary or periodic increases to ambient noise levels.

e) *For a project located within an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?*

The proposed Overlay area is not within an airport land use plan or within 2 miles of a public use airport. The nearest public use airport is Oakland International Airport. The proposed Overlay area is not located within

the airport land-use plan, airport influence area, or 55 dBA CNEL noise contours for the Oakland International Airport. Therefore, *no impact* would result in this respect.

f) *For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?*

There are no private use airstrips or airports within 2 miles of the project site. Therefore, *no impact* would result in this respect.

**13. POPULATION AND HOUSING**

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Displace substantial numbers of existing housing units, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Berkeley is the fourth largest city in Alameda County behind the cities of Oakland, Fremont, and Hayward. In 2010 there were a total of 112,580 residents.<sup>32</sup> This is up from a total population of 102,743 in the year 2000, representing a 10 percent increase in 10 years.<sup>33</sup> In 2010 there were a total of 46,029 households in Berkeley.<sup>34</sup> This is up from the 44,955 households that existed in 2000, representing a 2 percent increase.<sup>35</sup> This shows that the rate of new housing developed in Berkeley has not kept pace with the rate of population growth. Given these respective increases, it is unsurprising that persons per household, or average household size, has increased from 2.16 to 2.17 from 2000 to 2010.<sup>36,37</sup>

The Association of Bay Area Governments (ABAG) projects that Berkeley’s population will reach 134,600 by 2035.<sup>38</sup> This relatively low rate of growth as compared to surrounding areas is largely a result of the generally built-out nature of the city. Additionally, the ABAG projects that the total number of jobs in Berkeley will increase from 77,110 in 2010 to 95,780 in 2035. This would represent an increase in jobs of 24 percent from 2010 to 2035.

<sup>32</sup> Association of Bay Area Governments, Projections 2013, Jurisdictional Boundary Table.  
<sup>33</sup> U.S Census Bureau, Profile of General Demographic Characteristics: 2000 Census Summary File 1, Table DP-1.  
<sup>34</sup> Association of Bay Area Governments, Projections 2013, Jurisdictional Boundary Table.  
<sup>35</sup> U.S Census Bureau, Profile of General Demographic Characteristics: 2000 Census Summary File 1, Table DP-1.  
<sup>36</sup> U.S Census Bureau, Profile of General Demographic Characteristics: 2000 Census Summary File 1, Table DP-1.  
<sup>37</sup> Association of Bay Area Governments, Projections 2013, Jurisdictional Boundary Table.  
<sup>38</sup> Association of Bay Area Governments, Projections 2013, Jurisdictional Boundary Table

a) *Would the project induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?*

The proposed Project would prohibit new residential projects within the proposed Overlay and would reduce the overall development capacity within the Overlay area. The Project would seek to maintain existing uses and structures in the area, and would not include the development of infrastructure that could induce population growth. Therefore, a *less-than-significant* impact would result with respect to substantial population growth.

b) *Would the project displace substantial numbers of existing housing units, necessitating the construction of replacement housing elsewhere?*

The proposed Project would not displace housing units. As discussed in the Project description above, the proposed Project would not interfere with the continuation of uses that currently exist in the proposed Overlay area. It is true that mixed use projects including residential units are allowed at this time and the proposed Project would prohibit development of residential units in the future; however, since development of residential units in the proposed Overlay area is speculative at this time, and since implementation of the proposed Overlay would not result in the removal of existing housing, no displacement of existing units would occur. Therefore, a *less-than-significant* impact would result with respect to the displacement of existing housing units.

c) *Would the project displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?*

As discussed above in part b) of this section, the proposed Project would not interfere with the continuation of residential uses that currently exist in the proposed Overlay area. Additionally, while residential development would be prohibited in the future, this would apply to new projects, and existing residents would be unaffected. Therefore, a *less-than-significant* impact would result with respect to the displacement of substantial numbers of people

**14. PUBLIC SERVICES**

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

a) *Would the project result in substantial adverse physical impacts associated with the provision of new or physically governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:*

The primary purpose of a public services impact analysis is to examine the impacts associated with physical improvements to public service facilities required to maintain acceptable service ratios, response times or other performance objectives. Public service facilities require improvement (i.e., construction of new, renovation or expansion of existing) as demand for services increases. Increased demand is typically driven by increases in population or, to a lesser extent, employment. The proposed Project would have a significant environmental impact if it would exceed the ability of public service providers to adequately serve the residents of the city, thereby requiring construction of new facilities or modification of existing facilities. As discussed in Section XII, Population and Housing, above, the proposed Project would not directly or indirectly result in population growth. Since the intent of the proposed Overlay is to preserve existing uses, it would also not result in significant employment growth. Additionally, the proposed Project does not include the construction of any new public service facilities or expansion of existing facilities. Implementation of the proposed Project would therefore neither cause new impacts in regard to provision of City services nor exacerbate any existing ones; thus, a *less-than-significant* impact would occur.

**15. PARKS AND RECREATION**

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a) Increase the use of existing neighborhood and regional parks or other recreational facilities, such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

a) *Would the project increase the use of existing neighborhood and regional parks or other recreational facilities, such that substantial physical deterioration of the facility would occur or be accelerated?*

Civic Center Park (MLK Memorial Park) is the only City-operated recreational facility in the Overlay area. Other parks in the vicinity of the proposed Overlay area include Presentation Mini-Park, Ohlone Park, People’s Park, and the Becky Temko Tot Park. Increased use of recreational facilities in an area is typically associated with population growth and development of new residences. The proposed Project would not add housing to the Overlay area and also would prohibit the development of additional residential units in the Overlay area. This would serve to reduce the potential for deterioration of recreational facilities in the area in the future. Therefore, a *less-than-significant* impact would result with respect to a substantial deterioration of recreational facilities.

b) *Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse effect on the environment?*

The proposed Project would only serve to specify new development standards and acceptable uses for the Civic Center District Overlay, and would therefore not directly include or require expansion of recreational facilities. The potential for adverse effects on the environment as a result of the development of recreational

facilities would be assessed when a specific development project is proposed within the Civic Center District Overlay. Therefore, a *less-than-significant* impact would result in this respect.

**16. TRANSPORTATION AND TRAFFIC**

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit??	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g. sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

*a) Would the project conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?*

The EIR for the DAP found that with adopted mitigations, implementation of the DAP would have less than significant impacts with respect to transportation and traffic. The proposed Project would have no effect on the circulation system of Berkeley as it would not increase development potential and would not directly or indirectly result in population growth. Since the proposed project would permit a narrower range of uses and would serve to decrease the overall development capacity of the Overlay area, the proposed Project would not increase vehicle trips or vehicle miles traveled. Additionally, implementation of all applicable General Plan and DAP policies and mitigations related to transportation and traffic would remain in place under implementation of the proposed Overlay. The proposed Project would therefore not contribute to any worsened impacts related to traffic and transportation. As such, implementation of the proposed Project would not conflict with any applicable plan, ordinance, or policy which establishes measures of effectiveness for the performance of the circulation system. Consequently, impacts would be *less than significant*.

- b) *Would the project conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?*

See Section 16.a above. Impacts would be *less than significant*.

- c) *Would the project result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?*

The proposed Project is not located within two miles of a public or a private use airport, nor is it within the Airport Influence Area (AIA) in any land use compatibility plan for any airport. Therefore *no impact* would result in this respect.

- d) *Would the project substantially increase hazards due to a design feature (e.g. sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?*

Under implementation of the proposed Project and ongoing implementation of the DAP, no hazardous design features would be added to Berkeley's transportation network. Any changes to roadways would continue to be undertaken in compliance with applicable local, State, or other design standards. The proposed Project does not contain any provisions related to street design and for this reason would have no impact to the future design of streets in the Overlay area. Moreover, the proposed Project does not include specific development proposals which could have direct impacts to street design, nor would it permit new uses that could negatively impact street design. Therefore, *no impact* would result in this respect.

- e) *Would the project result in inadequate emergency access?*

Under implementation of the proposed Project and ongoing implementation of the DAP, Berkeley's transportation network would not be modified in any manner that would result in inadequate emergency access. Any changes to roadways would continue to be undertaken in compliance with applicable local, State, or other design standards. The proposed Project does not contain any provisions related to street design and for this reason would have no impact to the accessibility of streets in the Overlay area. Moreover, the proposed Project does not include specific development proposals which could have direct impacts to emergency access, nor would it permit new uses that could negatively impact emergency access. Therefore, the proposed Project would not result in inadequate emergency access and a *less-than-significant* impact would result.

- f) *Would the project conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?*

Under implementation of the proposed Project, implementation would continue for DAP, General Plan, and other City of Berkeley policies, plans, and programs relating to public transit, bicycle, or pedestrian facilities. Any changes to these facilities would continue to be undertaken in compliance with the currently applicable plans, policies, and programs. The proposed Project does not contain any provisions related public transit, bicycle, or pedestrian facilities, and for this reason would have no impact upon the provision or quality of these facilities in the overlay area. Therefore, a *less-than-significant* impact would result.

17. UTILITIES AND SERVICE SYSTEMS

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Have insufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

*Water Supply*

Water supplied to the proposed Overlay area is provided by the EBMUD, which sources the majority of its water from the Mokelumne River watershed in Amador County. In total, EBMUD's water entitlement by source is 325 million gallons per day (MGD) from the Mokelumne River, up to 10 MGD from the terminal reservoirs, and 134 MGD through a contract with the U.S Bureau of Reclamation.<sup>39</sup>

*Wastewater*

Wastewater from the proposed Overlay area is treated at the EBMUD wastewater treatment plant, in West Oakland. This plant provides secondary treatment up to a maximum flow of 168 million gallons per day (MGD) and primary treatment can be provided for up to a peak flow of 320 MGD.<sup>40</sup>

*Stormwater*

Berkeley's original storm drainage system is more than 100 years old. The city has roughly 78 miles of storm drainage pipelines ranging from 6 inches in diameter to 6 feet in diameter, constructed with a variety of materials including metal, clay, brick and mortar, and reinforced and unreinforced concrete.<sup>41</sup>

<sup>39</sup> City of Berkeley, 2008, Southside Plan DEIR, Chapter 4g, page 216.

<sup>40</sup> EBMUD, 2010. Urban Water Management Plan (UWMP).

<sup>41</sup> City of Berkeley, 2008, Southside Plan DEIR, Chapter 4g, page 213.

### *Solid Waste*

Approximately 80 percent of the solid waste produced in Berkeley is collected and hauled by the City of Berkeley Solid Waste Management Division to the City-operated transfer station, located at Harrison Street and 2<sup>nd</sup> Street in Berkeley. The majority of the solid waste that originates in Berkeley is disposed of at the Altamont Landfill located approximately three and a half miles to the northeast of the city of Livermore.<sup>42</sup> Other landfills that received solid waste produced in the city of Berkeley include the Keller Canyon Landfill (located south of the community of Bay Point), the Potrero Hills Landfill (located south of Suisun City), the Recology Hay Road facility (east of the City of Vacaville), the Vasco Road Sanitary landfill (located east of the city of Livermore), and the Redwood Landfill (located northeast of the city of Novato).

a) *Would the project exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?*

Allowed uses under implementation of the proposed Project would be consistent with existing uses within the proposed Overlay. Heavy industrial uses or agricultural processing, where pollutant loads and waste water volumes are often heavy, are not present and would continue to be prohibited in the Overlay area. Additionally, the proposed Project would serve to both decrease overall development capacity and preserve existing structures and uses within the Overlay area. For these reasons, it is not anticipated that implementation of the proposed Project would result in substantial changes to wastewater production or subsequent treatment requirements. Therefore, a *less-than-significant* impact would result.

b) *Would the project require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?*

As described above, the proposed Project would not result in a substantial change with respect to wastewater generation or treatment requirements from uses in the proposed Overlay area. Average development potential would be reduced, future uses would generally remain consistent with existing uses, and the proposed permissible uses are not typically associated with the generation of large amounts of wastewater. Thus, the proposed Project is not anticipated to result in increased wastewater generation that could prompt the construction or expansion of wastewater facilities. Therefore, a *less-than-significant* impact would result.

c) *Would the project require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?*

Future projects permitted within the Overlay area would be reviewed for their respective contributions to the use of stormwater drainage capacity. As discussed previously, the majority of the Overlay Zone District is developed with impervious surfaces, so future development is not anticipated to result in substantial increases to stormwater runoff over existing conditions. It is thus unlikely that new or expanded stormwater drainage facilities would be necessary as a result of implementation of the proposed Project; however, if expansion of facilities were required, such projects would be evaluated and potentially mitigated in subsequent project-level CEQA review. Therefore, a *less-than-significant* impact would result.

d) *Would the project have insufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?*

The proposed Project would prohibit new residential projects within the proposed Overlay and would reduce the overall development capacity within the Overlay area. Additionally, the Project would seek to maintain

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<sup>42</sup> Cal Recycle, Cal recycle website, <http://www.calrecycle.ca.gov/LGCentral/Reports/Viewer.aspx?P=OriginJurisdictionIDs%3d43%26ReportYear%3d2012%26ReportName%3dReportEDRSJurisDisposalByFacility>, accessed May 18, 2014.

existing uses and structures in the area. Altogether, implementation of the proposed Project would thus serve to limit future increases to local demand for water. Additionally, local, regional, and State-wide policies and programs for water conservation are anticipated to further reduce the demand for water within the City of Berkeley over the implementation of the DAP and the proposed Project.<sup>43</sup> Given these considerations, the proposed Project would not result in additional demand for water supplies and the resulting impact would be *less than significant*.

e) *Would the project result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments*

See the discussion under Section 17.b above. The impact in this respect would be *less than significant*.

f) *Would the project be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?*

As discussed above, the majority of the solid waste that originates in Berkeley is disposed of at the Altamont landfill,<sup>44</sup> as well as several other facilities described above. According to the Solid Waste Facility Permit for the Altamont landfill, the anticipated closure date of the facility is 2025. The EIR for the DAP found that with continued implementation of other city-wide policies, implementation of the DAP would result in a less than significant impact in regard to landfill capacity for solid waste. The proposed Project would serve to maintain existing uses and decrease overall development capacity in the Overlay area. Since the proposed Project would not increase development potential or substantially change permitted uses, no significant change to the production of solid waste or demands for its disposal would occur, and the impact would therefore be *less than significant*.

g) *Would the project comply with federal, state, and local statutes and regulations related to solid waste?*

As described above, the proposed Overlay Zone would not result in a substantial change with respect to solid waste generation within the Overlay area. Moreover, all of the solid waste disposal sites listed above operate under permits from federal, State, and local statutes and regulations. A *less-than-significant* impact would result.

**18. MANDATORY FINDINGS OF SIGNIFICANCE**

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

<sup>43</sup> City of Berkeley, Berkeley Downtown Area Plan EIR, January 2009, page 4-329

<sup>44</sup> Cal Recycle, Cal recycle website,

<http://www.calrecycle.ca.gov/LGCentral/Reports/Viewer.aspx?P=OriginJurisdictionIDs%3d43%26ReportYear%3d2012%26ReportName%3dReportEDRSJurisDisposalByFacility>, accessed May 18, 2014.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

a) *Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?*

As discussed previously, the proposed Overlay area is located in a highly urbanized environment that does not contain substantial undeveloped or vacant land capable of supporting significant habitat for fish, wildlife, plant or animal communities, or rare/endangered species. Any projects proposed within the Civic Center District Overlay would be required to be in compliance with applicable laws for the protection of special-status species. Although it is unlikely that special-status species have a permanent presence in the highly developed Civic Center District Overlay, proposed projects will be required to account for potential habitat for special-status species and/or undertake appropriate response measures if special-status species are discovered onsite. Therefore project-level review, as well as adherence to the MBTA, Endangered Species Act, and all other applicable regulations regarding the protection of wildlife species would ensure that implementation of the proposed Project would result in a *less-than-significant* impact with respect to habitat loss or degradation.

The proposed Project would result in more restrictive zoning regulations in the proposed Overlay area, as compared to existing conditions and development potential would be reduced. Moreover, the Project would serve to protect the existing Berkeley Historic Civic Center District. As individual projects are proposed under implementation of the proposed Overlay, these projects would be subject to City of Berkeley policies and processes related to the protection and preservation of historic resources. Therefore, the Project would not have the potential to directly degrade the environment or eliminate important examples of the major periods of California history or prehistory and a *less-than-significant* impact would result in this respect.

b) *Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?*

As discussed in sections 7 and 10, the proposed Project would prohibit residential development in an area that is well served by public transit. In the event additional restrictions were placed on residential development in other areas of Downtown Berkeley, there would be the potential for significant impacts from a conflicts with General Plan, Downtown Area Plan, and Climate Action Plan goals encouraging transit-oriented development and affordable housing, as well as potential indirect impacts related to increased vehicle trips. However, the City of Berkeley is not currently proposing such projects and the City is continuing its implementation of the DAP and General Plan. The Civic Center District Overlay would only affect a small portion

of Downtown Berkeley; additionally, this area of Downtown Berkeley already had limited capacity for additional housing under the DAP as a result of the presence of multiple historic structures. Given the importance of these historical resources in the proposed Overlay area, the need to preserve these resources arguably overrides the need to provide housing in this area. This is consistent with General Plan and DAP policies encouraging preservation of historic resources. Therefore, a *less-than-significant* impact would result in this respect.

c) *Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?*

As discussed throughout this report, the proposed Project would not result in any significant impacts. Overall development potential would be reduced, new uses would generally be consistent with existing uses, and the project would serve to protect the historic resources that exist in the proposed Overlay area. None of the components of the proposed Project would cause substantial adverse effects on human beings, either directly or indirectly. A *less-than-significant* impact would result.

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ORDINANCE NO. ####–N.S.

ENACTING CHAPTER 23E.98 OF THE BERKELEY ZONING ORDINANCE, CIVIC CENTER DISTRICT OVERLAY

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Chapter 23E.98 is enacted to read as follows:

**Chapter 23E.98**

**CIVIC CENTER DISTRICT OVERLAY**

**23E.98.010 Applicability of Regulations**

**23E.98.020 Purposes**

**23E.98.030 Uses Permitted**

**23E.98.040 Development Standards**

**23E.98.050 Definitions**

**23E.98.010 Applicability of Regulations**

The regulations in this Chapter apply to the area coterminous with the Civic Center Historic District designated under Chapter 3.24 and are applicable to the following parcels:

1. APN 057 201701601 (Old City Hall/Courthouse/Public Safety Building)
2. APN 057 202202000 (Veterans Memorial Building)
3. APN 057 202200600 (State Farm Insurance Building/City offices, 1947 Center Street)
4. APN 057 202100200 (Civic Center Park)
5. APN 057 202100100 (Civic Center Building)
6. APN 057 202601500 (Downtown Berkeley YMCA)
7. Portion of APN 057 202000503 which contains the Berkeley Community Theater/Florence Schwimley Little Theater
8. APN 057 202000400 (Berkeley High School)
9. APN 057 202700500 (Berkeley Main Post Office)

**Section 23E.98.020 Purposes**

The general purpose of the overlay district is to implement General Plan Policy LU-22 Civic Center: “ Maintain the Civic Center as a cohesively designed, well-maintained, and secure place for community activities, cultural and educational uses, and essential civic functions and facilities”, as well as Downtown Area Plan Policy LU-1.4:

“Focus City government and civic activity in the Civic Center area, and recognize Downtown’s central role in providing community services.”

The specific purposes are to:

- A. Preserve and protect the integrity of the City of Berkeley Historic Civic Center through preservation of existing buildings and open space listed in the Civic Center Historic District.
- B. Allow a set of uses, which are civic in nature, and support active community use.
- C. Promote uses, which combined or individually will maintain public access to the historic buildings and resources.
- D. Promote appropriate uses which respect the Civic Center’s historic significance in unifying the community and forming a link to Berkeley’s past.
- E. Promote the cultural and architectural heritage of the Civic Center.
- F. Preserve the Civic Center District as a place for government functions, community activities, cultural and educational uses, and civic functions and facilities.
- G. Promote uses which could financially support the goal of upgrading and preserving the existing historic buildings and resources.

**Section 23E.98.030 Uses Permitted**

The following table identifies all permitted uses and sets forth the Permit required for each allowed use. Each use and structure shall be subject to either a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a Public Hearing (UP/PH). All properties in the Civic Center District Overlay are restricted to only those uses listed below, regardless of uses permitted in the underlying zoning district.

Use and Required Permits		
Use	Classification	Special Requirements (if any)
Libraries	UP(PH)	
Judicial Courts	AUP	
Museums	UP(PH)	
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Government Agencies and Institutions	AUP	
Public Schools/Educational Facilities	UP(PH)	

Non-Profit Cultural, Arts, Environmental, Community Service and Historical Organizations	UP(PH)	
Live Performance Theatre	UP(PH)	
Public Market	UP (PH)	

**Section 23E.98.040 Development Standards**

- A. All new buildings and additional Gross Floor Area within the Civic Center District Overlay shall be subject to a maximum building height of 50 feet.
- B. All new buildings, additional Gross Floor Area, or changes of use shall be subject to the parking, set back requirements and other development standards of the underlying District, in addition to the other applicable requirements of this Title.

**Section 23E.98.050 Definitions**

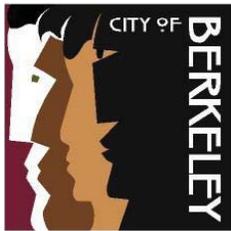
The following definitions are applicable only in the Civic Center District Overlay:

Live Performance Theatre: An establishment that has a permanent stage for the presentation of live performances and entertainment and which contains an audience viewing hall or room with fixed seats.

Museum: A non-profit, permanent institution in the service of society and its development, open to the public, which acquires, conserves, researches, communicates and exhibits the tangible and intangible heritage of humanity and its environment for the purposes of education, study and enjoyment.

Public Market: An open air or enclosed marketplace, including a farmer’s market, with multiple owner operated and/or independent merchants selling retail food items and handcrafted goods from local and regional producers, so long as 75% or more of retail space is devoted to the sale of General or Specialized food products and no more than 25% of retail space is devoted to one or more of the following Incidental Uses: owner operated and/or independent Carry Out Food and/or Quick Service Restaurants selling food from local and regional producers and sales of Retail Products from local and regional produce

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.



Office of the Mayor

CONSENT CALENDAR

June 24, 2014

To: Members of the City Council  
From: Mayor Tom Bates and Councilmember Jesse Arreguin  
Subject: Civic Center District Overlay Zone

RECOMMENDATION

Request the City Manager to draft an ordinance establishing a Civic Center District Overlay Zone and to bring it to the Council for a first reading at the Sept. 9, 2014 meeting. The ordinance should be consistent with the Civic Center District Overlay section of the proposed initiative ordinance submitted to the City Clerk on April 8, 2014 and titled "Initiative Ordinance Amending Downtown Zoning Provisions and Creating Civic Center Historic District Overlay Zone." That section is attached to this item.

BACKGROUND:

On April 8, 2014, a Notice of Intent to Circulate Petition was submitted to the Berkeley City Clerk for an initiative ordinance that would amend downtown zoning and create a Civic Center District Overlay. The City Attorney prepared a summary of the proposed ordinance titled "Initiative Ordinance Amending Downtown Zoning Provisions and Creating Civic Center Historic District Overlay Zone."

Upon certification of the required number of voter signatures to place the measure on the ballot, the City Council is required to either adopt the proposed measure or to place it on the Nov. 4, 2014 ballot.

One element of the proposed ordinance would establish a Civic Center District Overlay that seeks to preserve appropriate uses of historic buildings such as the Post Office and open space in the Civic Center area. This element of the proposed ordinance is related to but distinct from other zoning changes contained in the measure, and it enjoys strong community support.

FISCAL IMPLICATIONS OF RECOMMENDATION

The fiscal implications could be significant but are difficult to quantify because they would depend on developments yet to be determined. Implementing the proposed zoning overlay would not have significant fiscal impacts on the City.

ENVIRONMENTAL SUSTAINABILITY

The environmental impacts of the proposed ordinance, like the fiscal impacts, are difficult to assess since they would depend on uses yet to be determined.

CONTACT PERSON

Tom Bates, Mayor, 981-7100

ATTACHMENTS:

1. "Civic Center District Overlay" section of the proposed initiative ordinance

Section 4. That Chapter 23E.98 is hereby added to the Berkeley Municipal Code to read as follows:

Chapter 23E.98

CIVIC CENTER DISTRICT OVERLAY

23E.98.010    Applicability of Regulations  
23E.98.020    Purposes

**23E.98.030 Uses Permitted**  
**23E.98.040 Development Standards**

**23E.98.010 Applicability of Regulations**

The regulations in this Chapter apply to the area coterminous with the Civic Center Historic District designated under Chapter 3.24 and are applicable to the following parcels:

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8. APN 057 202000400 (Berkeley High School)
9. APN 057 202700500 (Berkeley Main Post Office)

**Section 23E.98.020 Purposes**

The general purpose of the overlay district is to implement General Plan Policy LU-22 Civic Center: "Maintain the Civic Center as a cohesively designed, well-maintained, and secure place for community activities, cultural and educational uses, and essential civic functions and facilities", as well as Downtown Area Plan Policy LU-1.4: "Focus City government and civic activity in the Civic Center area, and recognize Downtown's central role in providing community services."

The specific purposes are to:

- A. Preserve and protect the integrity of the City of Berkeley Historic Civic Center through preservation of existing buildings and open space listed in the Civic Center Historic District.
- B. Allow a set of uses, which are civic in nature, and support active community use.
- C. Promote uses, which combined or individually will maintain public access to the historic buildings and resources.
- D. Promote appropriate uses which respect the Civic Center's historic significance in unifying the community and forming a link to Berkeley's past.
- E. Promote the cultural and architectural heritage of the Civic Center.
- F. Preserve the Civic Center District as a place for government functions, community activities, cultural and educational uses, and civic functions and facilities.
- G. Promote uses which could financially support the goal of upgrading and preserving the existing historic buildings and resources.

**Section 23E.98.030 Uses Permitted**

The following table identifies all permitted uses and sets forth the Permit required for each allowed use. Each use and structure shall be subject to either a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a Public Hearing (UP/PH). All properties in the Civic Center District Overlay are restricted to only those uses listed below, regardless of uses permitted in the underlying zoning district.

<u>Use and Required Permits</u>		
<u>Use</u>	<u>Classification</u>	<u>Special Requirements (if any)</u>
<u>Libraries</u>	<u>UP(PH)</u>	

<u>Judicial Courts</u>	<u>AUP</u>	
<u>Museums</u>	<u>UP(PH)</u>	
<u>Parks and Playgrounds</u>	<u>ZC</u>	
<u>Public Safety and Emergency Services</u>	<u>UP(PH)</u>	
<u>Government Agencies and Institutions</u>	<u>AUP</u>	
<u>Public Schools/Educational Facilities</u>	<u>UP(PH)</u>	
<u>Non-Profit Cultural, Arts, Environmental, Community Service and Historical Organizations</u>	<u>UP(PH)</u>	
<u>Live Performance Theatre</u>	<u>UP(PH)</u>	
<u>Public Market</u>	<u>UP (PH)</u>	

**Section 23E.98.040 Development Standards**

- A. All new buildings and additional Gross Floor Area within the Civic Center District Overlay shall be subject to a maximum building height of 50 feet.
- B. All new buildings, additional Gross Floor Area, or changes of use shall be subject to the parking, set back requirements and other development standards of the underlying District, in addition to the other applicable requirements of this Title.

Section 5. That Berkeley Municipal Code Section 23F.04.010 is hereby amended so as to insert therein, in alphabetical order, the following three additional definitions:

**Live Performance Theatre:** An establishment that has a permanent stage for the presentation of live performances and entertainment and which contains an audience viewing hall or room with fixed seats.

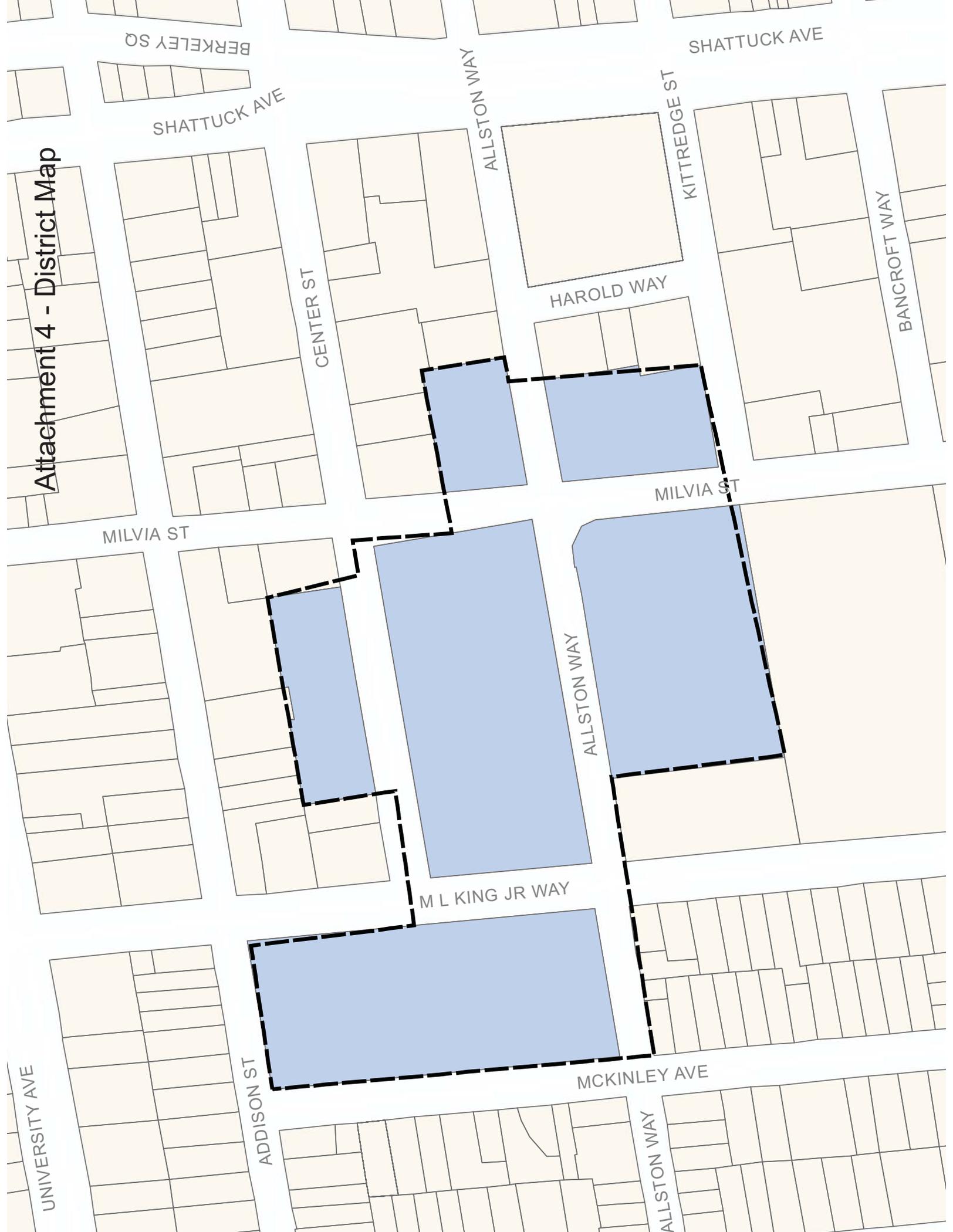
**Museum:** A non-profit, permanent institution in the service of society and its development, open to the public, which acquires, conserves, researches, communicates and exhibits the tangible and intangible heritage of humanity and its environment for the purposes of education, study and enjoyment.

**Public Market:** An open air or enclosed marketplace, including a farmer's market, with multiple owner operated and/or independent merchants selling retail food items and handcrafted goods from local and regional producers, so long as 75% or more of retail space is devoted to the sale of General or Specialized food products and no more than 25% of retail space is devoted to one or more of the following Incidental Uses: owner operated and/or independent Carry Out Food and/or Quick Service Restaurants selling food from local and regional producers and sales of Retail Products from local and regional producers.

**Section 6. Exempt from Environmental Review**



Attachment 4 - District Map





# NOTICE OF INTENT TO ADOPT A NEGATIVE DECLARATION

Pursuant to the State of California Public Resources Code and the “Guidelines for Implementation of the California Environmental Quality Act (CEQA) of 1970” as amended to date, this is to advise you that the city of Berkeley has prepared an Initial Study and intends to adopt a Negative Declaration for the following project.

The proposed Ordinance would apply to the following parcels:

- APN 057 201701601 (Old City Hall/Courthouse/Public Safety Building)
- APN 057 202202000 (Veterans Memorial Building)
- APN 057 202200600 (State Farm Insurance Building/City offices, 1947 Center Street)
- APN 057 202100200 (Civic Center Park)
- APN 057 202100100 (Civic Center Building)
- APN 057 202601500 (Downtown Berkeley YMCA)
- APN 057 202000400 (Berkeley High School)
- APN 057 202700500 (Berkeley Main Post Office)
- Portion of APN 057 202000503 (which contains the Berkeley Community Theater/Florence Schwimley Little Theater )

County of Alameda  
July 28, 2014

## PURPOSE

The purpose of this document and the Initial Study is to describe the potential impacts of the project, if any. The Initial Study provides evidence that this project will not have a significant effect on the environment and therefore does not require the preparation of an Environmental Impact Report under the California Environmental Quality Act (CEQA). This document was prepared pursuant to CEQA and the CEQA Guidelines (Public Resources Code, Division 13 and California Code of Regulations, Title 14, Chapter 3) for the project described below.

## PROJECT DESCRIPTION

### Proposed Project:

Establish in the Zoning Ordinance a Civic Center Overlay District, Chapter 23E.98. The draft Zoning Ordinance includes Applicability, Purposes, Uses Permitted and Development Standards, and would regulate development on the identified parcels within the Overlay area. In addition, three new Definitions (Museum, Live Performance Theatre, and Public Market) would be added to the Zoning Ordinance.

Zoning District: The project includes parcels in the Downtown Commercial Mixed Use (C-DMU) Core, Outer Core and Buffer, as well as in the Restricted Two Family Residential District (R-2) and the Multi Family Residential District (R-3).

General Plan Designation: Downtown, Low-Medium Residential and Institutional General Plan designations.

Neighborhood Setting: The subject project is the Civic Center of the City of Berkeley; which includes civic, educational and institutional uses of the City. It is adjacent to the Downtown area to the east, Berkeley High School to the south, residential districts to the West and residential and commercial districts to the north.

## **PROJECT APPLICANT**

City of Berkeley, 1947 Milvia Street, Berkeley CA

## **MANDATORY FINDING OF SIGNIFICANCE**

There is no substantial evidence, in light of the whole record before the Agency, that the project may have a significant effect on the environment.

## **PUBLIC REVIEW AND COMMENT**

From **July 28, 2014 to August 27, 2014 at 5 p.m.**, this document and its initial study of environmental effects are available for public review during normal office hours at the Land Use Planning Division, 2120 Milvia Street, 2<sup>nd</sup> floor, Berkeley, CA. Members of the public must arrive by 4 p.m. in order to view documents. The document can also be viewed at the following link:

[http://www.ci.berkeley.ca.us/Planning\\_and\\_Development/Land\\_Use\\_Division/Environmental\\_Impact\\_Analysis.aspx](http://www.ci.berkeley.ca.us/Planning_and_Development/Land_Use_Division/Environmental_Impact_Analysis.aspx)

**Planning Commission Hearing on the Project:** 7PM, August 27, 2014, North Berkeley Senior Center

During this period, written comments may be submitted to:

Land Use Planning Division  
2120 Milvia Street  
Berkeley, CA 94704  
Attn: Alex Amoroso, Principal Planner  
E-mail: [aamoroso@cityofberkeley.info](mailto:aamoroso@cityofberkeley.info)

Prepared by: Alex Amoroso, AICP, Principal Planner



# PLANNING COMMISSION

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## NOTICE OF PUBLIC HEARING

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### AUGUST 27, 2014

#### Consider: Civic Center District Overlay Zoning

The Planning Commission, of the City of Berkeley, will hold a Public Hearing on the above matter, on **Wednesday, August 27, 2014**, at the North Berkeley Senior Center, 1901 Hearst Ave. (at Martin Luther King, Jr. Way), Berkeley, California (wheelchair accessible). The meeting starts at 7:00 p.m.

**PROJECT DESCRIPTION:** The Civic Center Overlay District Chapter 23E.98 draft Zoning Ordinance includes Applicability, Purposes, Uses Permitted and Development Standards. In addition, three new Definitions (Museum, Live Performance Theatre, and Public Market), will be considered. The language of the ordinance is attached to this notice.

**LOCATION:**

The proposed Ordinance would apply to the following parcels, as shown on the attached map:

- APN 057 201701601 (Old City Hall/Courthouse/Public Safety Building)
- APN 057 202202000 (Veterans Memorial Building)
- APN 057 202200600 (State Farm Insurance Building/City offices. 1947 Center Street)
- APN 057 202100200 (Civic Center Park)
- APN 057 202100100 (Civic Center Building)
- APN 057 202601500 (Downtown Berkeley YMCA)
- APN 057. 202000400 (Berkeley High School)
- APN 057 202700500 (Berkeley Main Post Office)
- Portion of APN 057 202000503 (which contains the Berkeley Community Theater/Florence Schwimley Little Theater )

**ENVIRONMENTAL REVIEW STATUS Public Review Information:** The City will receive comments on the proposed negative declaration from July 28, 2014 until August 27, 2014 at 5 p.m. See below for address and e-mail to which comments may be submitted. Proposed negative declaration and reference documents are available for review at the Land Use Planning Division, 2120 Milvia St., Berkeley, 2<sup>nd</sup> floor, or online at:

[http://www.ci.berkeley.ca.us/Planning\\_and\\_Development/Land\\_Use\\_Division/Environmental\\_Impact\\_Analysis.aspx](http://www.ci.berkeley.ca.us/Planning_and_Development/Land_Use_Division/Environmental_Impact_Analysis.aspx)

## PUBLIC COMMENT & FURTHER INFORMATION

Comments may be made verbally at the Public Hearing, and in writing before the hearing. Written comments or questions concerning this project should be directed to:

Alex Amoroso  
Planning Commission Secretary  
City of Berkeley  
Land Use Planning Division  
2120 Milvia Street, 2<sup>nd</sup> Floor  
Berkeley, CA 94704

E-mail: [aamoroso@CityofBerkeley.info](mailto:aamoroso@CityofBerkeley.info)  
Telephone: (510) 981-7410

To assure distribution to Commission members prior to the meeting, ***correspondence must be received by 12:00 noon, seven (7) days before the meeting.*** For items with more than ten (10) pages, fifteen (15) copies must be submitted to the Secretary by this deadline. For any item submitted less than seven (7) days before the meeting, fifteen (15) copies must be submitted to the Secretary prior to the meeting date.

## COMMUNICATION ACCESS

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To request a meeting agenda in large print, Braille, or on audiocassette, or to request a sign language interpreter for the meeting, call (510) 981-7410 (voice) or 981-6903 (TDD). Notice of at least five (5) business days will ensure availability. Agendas are also available on the Internet at: [www.ci.berkeley.ca.us](http://www.ci.berkeley.ca.us).

## FURTHER INFORMATION

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Questions should be directed to Alex Amoroso at [aamoroso@CityofBerkeley.info](mailto:aamoroso@CityofBerkeley.info).

**Chapter 23E.98**

**CIVIC CENTER DISTRICT OVERLAY**

**23E.98.010 Applicability of Regulations**

**23E.98.020 Purposes**

**23E.98.030 Uses Permitted**

**23E.98.040 Development Standards**

**23E.98.010 Applicability of Regulations**

The regulations in this Chapter apply to the area coterminous with the Civic Center Historic District designated under Chapter 3.24 and are applicable to the following parcels:

1. APN 057 201701601 (Old City Hall/Courthouse/Public Safety Building)
2. APN 057 202202000 (Veterans Memorial Building)
3. APN 057 202200600 (State Farm Insurance Building/City offices, 1947 Center Street)
4. APN 057 202100200 (Civic Center Park)
5. APN 057 202100100 (Civic Center Building)
6. APN 057 202601500 (Downtown Berkeley YMCA)
7. Portion of APN 057 202000503 which contains the Berkeley Community Theater/Florence Schwimley Little Theater
8. APN 057 202000400 (Berkeley High School)
9. APN 057 202700500 (Berkeley Main Post Office)

**Section 23E.98.020 Purposes**

The general purpose of the overlay district is to implement General Plan Policy LU-22 Civic Center: “Maintain the Civic Center as a cohesively designed, well-maintained, and secure place for community activities, cultural and educational uses, and essential civic functions and facilities”, as well as Downtown Area Plan Policy LU-1.4:

“Focus City government and civic activity in the Civic Center area, and recognize Downtown’s central role in providing community services.”

The specific purposes are to:

- A. Preserve and protect the integrity of the City of Berkeley Historic Civic Center through preservation of existing buildings and open space listed in the Civic Center Historic District.
- B. Allow a set of uses, which are civic in nature, and support active community use.
- C. Promote uses, which combined or individually will maintain public access to the historic buildings and resources.
- D. Promote appropriate uses which respect the Civic Center’s historic significance in unifying the community and forming a link to Berkeley’s past.
- E. Promote the cultural and architectural heritage of the Civic Center.

- F. Preserve the Civic Center District as a place for government functions, community activities, cultural and educational uses, and civic functions and facilities.
- G. Promote uses which could financially support the goal of upgrading and preserving the existing historic buildings and resources.

**Section 23E.98.030 Uses Permitted**

The following table identifies all permitted uses and sets forth the Permit required for each allowed use. Each use and structure shall be subject to either a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a Public Hearing (UP/PH). All properties in the Civic Center District Overlay are restricted to only those uses listed below, regardless of uses permitted in the underlying zoning district.

<u>Use and Required Permits</u>		
<u>Use</u>	<u>Classificatio</u>	<u>Special Requirements (if any)</u>
<u>Libraries</u>	<u>UP(PH)</u>	
<u>Judicial Courts</u>	<u>AUP</u>	
<u>Museums</u>	<u>UP(PH)</u>	
<u>Parks and Playgrounds</u>	<u>ZC</u>	
<u>Public Safety and Emergency Services</u>	<u>UP(PH)</u>	
<u>Government Agencies and Institutions</u>	<u>AUP</u>	
<u>Public Schools/Educational Facilities</u>	<u>UP(PH)</u>	
<u>Non-Profit Cultural, Arts, Environmental, Community Service and Historical Organizations</u>	<u>UP(PH)</u>	
<u>Live Performance Theatre</u>	<u>UP(PH)</u>	
<u>Public Market</u>	<u>UP (PH)</u>	

**Section 23E.98.040 Development Standards**

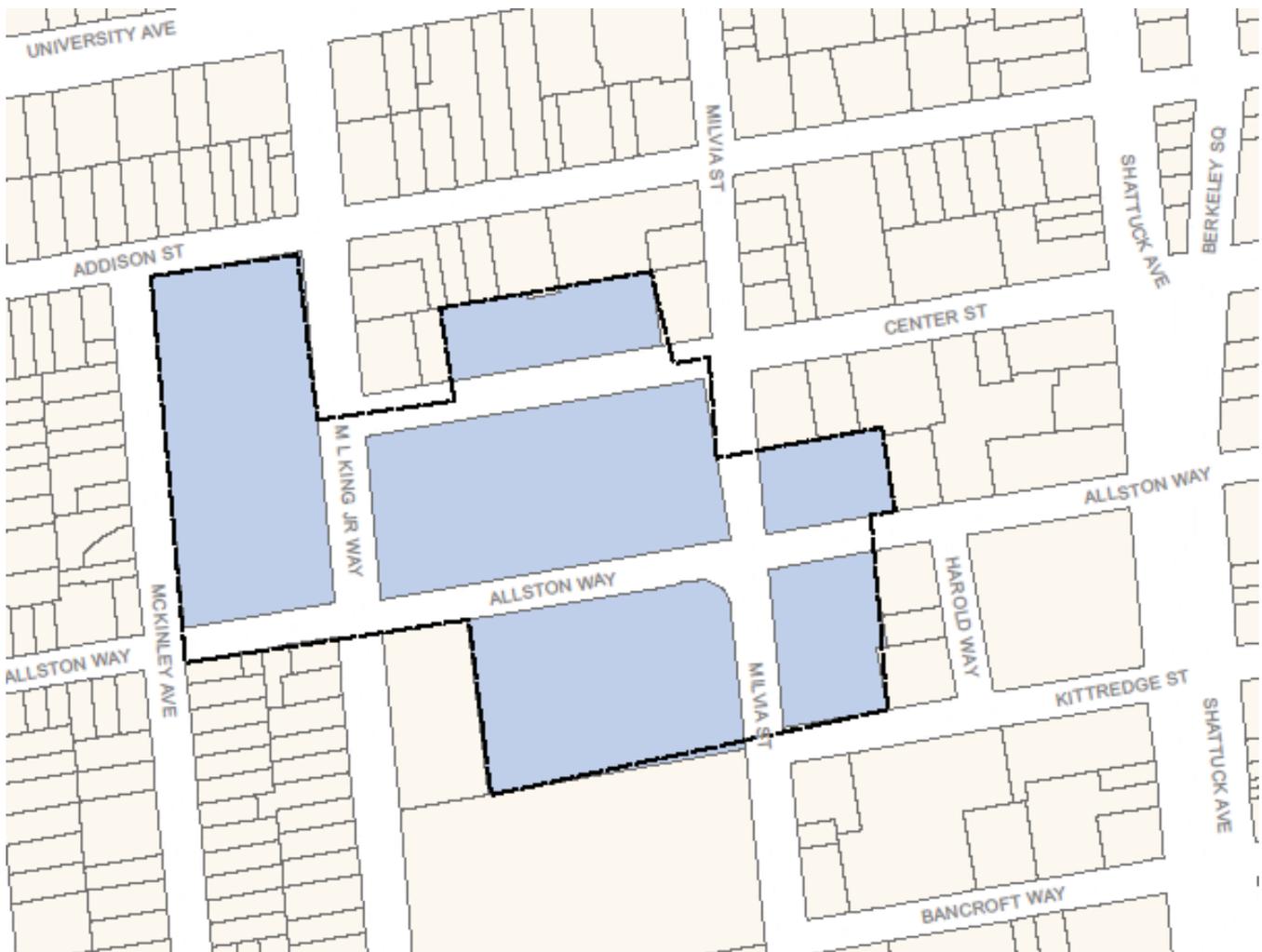
- A. All new buildings and additional Gross Floor Area within the Civic Center District Overlay shall be subject to a maximum building height of 50 feet.
- B. All new buildings, additional Gross Floor Area, or changes of use shall be subject to the parking, set back requirements and other development standards of the underlying District, in addition to the other applicable requirements of this Title.

**Live Performance Theatre:** An establishment that has a permanent stage for the presentation of live performances and entertainment and which contains an audience viewing hall or room with fixed seats.

**Museum:** A non-profit, permanent institution in the service of society and its development, open to the public, which acquires, conserves, researches, communicates and exhibits the tangible and intangible heritage of humanity and its environment for the purposes of education, study and enjoyment.

**Public Market:** An open air or enclosed marketplace, including a farmer's market, with multiple owner operated and/or independent merchants selling retail food items and handcrafted goods from local and regional producers, so long as 75% or more of retail space is devoted to the sale of General or Specialized food products and no more than 25% of retail space is devoted to one or more of the following Incidental Uses: owner operated and/or independent Carry Out Food and/or Quick Service Restaurants selling food from local and regional producers and sales of Retail Products from local and regional produce

**Proposed Civic Center District Overlay Area:**





Planning and Development Department  
Land Use Planning Division

## STAFF REPORT

DATE: August 27, 2014

TO: Members of the Planning Commission

FROM: Alex Amoroso, Principal Planner

SUBJECT: Council Referral: Civic Center District Overlay – Public Hearing

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### Recommendation

1. Hold a Public Hearing on the draft Civic Center District Overlay Ordinance Chapter 23E.98 (Attachment 1) and the Draft Negative Declaration (Attachment 2).
2. Consider and make recommendations to the Council regarding the Negative Declaration and draft Zoning Ordinance.

### Introduction

The Council Referral (Attachment 3) requested that the City Manager draft an ordinance establishing a Civic Center Historic Overlay (Overlay) zone consistent with the Civic Center District Overlay section of the proposed initiative ordinance submitted to the City Clerk on April 8, 2014, and titled “Initiative Ordinance Amending Downtown Zoning Provisions and Creating Civic Center Historic District Overlay Zone”.

Attachment 4 is a map which identifies the area included in the proposed Overlay. The draft Overlay Zoning Ordinance includes the Applicability, Purposes, Uses and Development Standards sections of a typical zoning ordinance. In addition, three new Zoning Ordinance definitions (Public Market, Museum, and Live Performance Theatre) are proposed in a Definitions section specific to the Overlay. This Overlay ordinance is written to be a “stand alone” section of the Zoning Ordinance, and would be added to the City of Berkeley Zoning Ordinance as Chapter 23E.98.

Properties within the proposed Overlay have different zoning district designations including Restricted Two-Family Residential District (R-2), Multi-Family Residential District (R-3), and Downtown Mixed-Use Commercial District (C-DMU). These districts have varying Use lists and Development Standards; the proposed Overlay includes Development Standards applicable to the Overlay area as described in the Discussion.

The timing of the referral (June 24, 2014) and Council-directed date of consideration (September 9, 2014) requires that the Planning Commission consider the Overlay in

August. Chapter 23A.20 (Sections .030 and .060) dictate the noticing requirements which have been followed for this process. The Commission meeting of 8/27/14 is the required Public Hearing for the Overlay. The Council is not obligated to hold a Public Hearing prior to their action on the Overlay and the Neg Dec.

### **Discussion**

The draft Overlay ordinance proposed in the citizen initiative and Council Referral are nearly identical; the only difference is the addition of a Definitions section. It has several sections including Applicability, Purposes, Uses Permitted, Development Standards and Definitions, each of which are discussed in brief.

**Applicability** – The Overlay applies to eight whole parcels and a portion of a ninth, all described by Assessor Parcel Number (APN) and name in the text of the draft ordinance. The Overlay includes three underlying zoning districts: Downtown Mixed Use Commercial (C-DMU), Restricted Two-Family Residential (R-2), and Multiple Family Residential (R-3). Attachment 5 is a map showing the Overlay area with underlying zoning districts.

**Purposes** – The Overlay Purposes directly reference General Plan Policy LU-22 and Downtown Area Plan (DAP) Policy LU-1.4 and add seven “specific purposes”, focusing attention on preserving the historical, cultural, and architectural significance of the Civic Center.

**Uses Permitted** – The Uses Permitted is limited to a set of ten uses, the majority of which require a discretionary review (Administrative Use permit, or Use Permit with Public Hearing); only Parks and Playgrounds are allowed with a Zoning Certificate. In general, the list represents activities and uses already occurring in the Overlay.

**Development Standards** – There are two components to the Development Standards:

1. Maximum height of 50 feet is allowed for any new structures and/or additions of Gross Floor Area.
2. All other development standards (setbacks, parking, and etcetera) of the underlying zoning district of a particular parcel are applicable.

**Definitions** – The draft ordinance language (and initiative language) includes three definitions, which do not currently exist in the Zoning Ordinance: Live Performance Theatre, Museum, and Public Market. The citizen initiative incorporates these definitions into the Zoning Ordinance Chapter Definitions 23F.04.

Staff is recommending that these three definitions be included only in the Overlay Chapter 23E.98. The reasoning behind this recommendation is that the definitions are comparable to activities and uses already occurring in the Overlay. However, those uses are not typical of, nor are they defined for the rest of the City.

Constraining the three uses to the Overlay allows for the environmental review to address the potential impacts in the context of existing similar uses in the Overlay. As a result, the Negative Declaration shows there are no significant impacts resulting from adding these uses to the Overlay. Adding these three uses throughout the City would require a more rigorous environmental review, because of the nature of the uses and the potential for them to occur in any zoning districts. The potential impacts cannot be

evaluated in the broader context and meet the timelines of the proposed Overlay consideration.

### **Environmental Review**

The citizen initiative, which includes the proposed Overlay, is exempt from CEQA as stated in the body of the initiative:

“Pursuant to Section 15378(b)(3) of the California Environmental Quality Act (CEQA) Guidelines, this initiative is exempt from environmental review because the initiative is a “submittal [...] to a vote of the people [...] of a particular community that does not involve a public agency sponsored initiative”, and is not classified as a project under CEQA.”

However, the Council Referral is a public agency sponsored action, so is subject to CEQA. The proposed Overlay zoning has been reviewed in the following manner. A Negative Declaration of Environmental Effect has been publicly noticed and circulated, as required by the California Environmental Quality Act (CEQA). Attachment 6 includes both the Public Hearing Notice for the Ordinance and the Notification of Intent to Adopt a Negative Declaration. The Neg Dec public comment period closes on August 27, 2014.

### **Staff Recommendation and Next Steps**

Staff recommends that the Commission consider and refer the Overlay ordinance as drafted, and the Draft Negative Declaration along with received comments, to the Council for consideration and adoption.

Staff will send to the Council a Supplemental Report of the Commission consideration and action(s), prior to their September 9<sup>th</sup> meeting. This report will be accompanied by any comments and responses for the Negative Declaration public review, and a final version of the Neg Dec.

### **Attachments:**

1. Draft Zoning Ordinance
2. Draft Negative Declaration
3. Council Referral
4. Overlay map
5. Overlay map with zoning
6. Public Hearing Notices