



EBHO

EAST BAY HOUSING ORGANIZATIONS

May 14, 2014

Laura Kaminski, AICP
 City of Oakland
 250 Frank H. Ogawa Plaza, Suite 3315
 Oakland, CA 94612

Dear Ms. Kaminski:

Congratulations to you and your colleagues on an impressive and visionary Plan for the Broadway Auto-Row neighborhood.

As you know, EBHO is a 30-year-old membership-based coalition devoted to preserving and creating affordable housing opportunities in Alameda and Contra Costa Counties through education, advocacy and coalition building. As a co-convenor of the Better Broadway Coalition, you have heard from us, our members and coalition partners over the course of the planning process. Notably, we have coordinated feedback on the Plan from our membership, which includes non-profit developers, architects, limited-income senior residents of affordable housing, and other housing experts and Broadway Valdez stakeholders. Therefore, thank you for partnering with us to take into consideration a broad range of technical feedback and community interests.

We appreciate that many of the suggestions we have offered over various comment letters and meetings are now reflected in the Plan. However, our members have identified some areas that still require attention:

- Lack of an affordable housing requirement in the Plan Area
- Developer bonus and incentives programs should be mandatory programs
- Anti-displacement policies need improvement
- Ground floor North End zoning needs to be more flexible

EBHO members have a long history of collaborating with local government staff to provide technical assistance in the shaping of plans and policies, and we would be happy to discuss any of these points further with you. In our comments below, we first recognize and appreciate that several of our recommendations are reflected in the Final Plan, and then elaborate upon the list of policy proposals listed above.

ZONING CHANGES IN THE NORTH END

We are glad to see that the height limits proposed in the Draft Plan were changed in the Final Plan, specifically in sub-sections of D-BVD-3 (Final Plan B5, figure B.4). Instead of allowing by-right heights of 200 and 135 feet (roughly from I-580 to Hawthorne between Broadway and Webster, and from Hawthorne to 30th and Broadway and Webster, respectively), these heights have been changed to 135/200 and 85/135, with the greater heights allowed only with a Conditional Use Permit (CUP). However, we remain concerned that if the City increases the base level height limits (as is already the case in the proposed Plan) without requiring affordable housing, it will be missing an important opportunity. At a minimum, we recommend that the upper level height limits be allowed only with the inclusion of affordable housing. This would be advantageous to the City and the community because it would use increased land value created through upzoning to fund affordable housing development. The plan should specify the conditions for allowing the increased heights rather than making vague references to unspecified CUP requirements. Further, while we are glad to see these changes in the areas mentioned, we would like to see similarly limited heights in the D-BVD-3 south of 30th St., because it would provide the same advantages to the City and the community.

NON-CUP VARIANCES FOR SENIOR HOUSING AND AFFORDABLE HOUSING

We are pleased to see there will no longer be a CUP required for reduced parking for senior housing, reduced parking requirements for the provision of affordable housing, and reduced open space requirements for both senior and affordable housing (FEIR 5-5). These policies may facilitate the development of affordable housing in the Plan Area, which is gravely needed, as affordability decreases and development and demand increase in the Plan Area and citywide. However, we remain concerned that these measures provide relatively small incentives.

15% AFFORDABLE HOUSING REQUIREMENT IN THE PLAN AREA

Next, we must again emphasize our appeal to strengthen the 15% affordability “target” (4.2.5) into a requirement. This would help low and moderate income Oaklanders continue to call the Broadway Valdez neighborhood their home. Further, the City’s most RHNA numbers include an allocation of 27% of all units for very low and low income households. Although Redevelopment agencies have been dissolved, Redevelopment law is still in place, which requires at least 15% of housing within the redevelopment areas to be affordable to low and moderate income households. We reiterate that at least 300 units of affordable housing is an achievable and necessary goal if residents and the local workforce are to be able to live and shop in the Plan Area. If Oakland is to continue to be a regional leader in affordable housing, it must maintain minimum affordable housing requirements in its desirable PDAs.

BENEFITS & INCENTIVES VS. REQUIREMENTS - ACHIEVING AFFORDABLE HOUSING IN A HEATED REAL ESTATE MARKET

We appreciate that the City plans to pursue a developer bonus and incentive strategy, as described in 4.4.7, and specifically in policy LU-10.9:

Develop a variety of bonuses and incentives to attract new businesses and desirable development to the Plan Area, while incorporating clear measurable criteria that ensure community benefits and amenities are delivered to the City.

We and our partners have advocated for such an incentives program with the goal of allowing developers to build at greater densities and heights in exchange for the provision of affordable housing. Likewise, are also glad to see in 4.4.7, 8.4.3 and 8.6-D2 that the City is planning to develop a future citywide affordable housing policy for all Priority Development Areas and other large development projects, and that the BVDSP will align with this future citywide policy. EBHO and its members plan to advocate for the development of such a policy and be a partner and resource to the City as it puts together this “Citywide Public Benefit Zone” program.

Although we have previously been enthusiastic about a benefits and incentives program, development interest in Oakland has increased dramatically over the last two years and especially rapidly over the last six months. We think it would be reasonable to strengthen such a community benefits program from a voluntary incentive-based program to a *requirement for developer contributions*. Our previous support of a developer bonus and incentives program was tied to an understanding that the City would maintain existing height and density limits, and only allow more intensive development in return for community benefits and affordable housing. Part of what makes the proposal for incentives and bonuses less attractive is that the City is already allowing higher density and height without any community benefit requirement. Under these conditions, we are concerned about the effectiveness of a voluntary bonus and incentives program in producing affordable housing. Existing incentive programs, such as the density bonus, are rarely utilized, in part because Oakland's zoning and development standards already permit the types of development that the market will support. Further, it gives us concern that the City has not undertaken a study to assess whether developers are interested in bonuses, and whether such developer benefits and incentives would be effective in producing affordable housing.

NEED FOR A CITYWIDE REQUIREMENTS-BASED POLICY

To reiterate, as Oakland becomes more and more desirable, development is rapidly becoming more competitive. The City's decisions, investments and actions in the BVD will channel investment and development in the area for the long term given the Plan's 25 year horizon. Intensified development in the BVD and throughout the City is likely to result in higher land prices and higher returns for land-owners in

response to an increasingly competitive market. As such, the City would be justified in requiring that these unearned profits be shared with the community in the form of affordable housing and other benefits. For this reason, as the City develops its citywide affordable housing policy for all the PDAs and other large development projects (including the BVD), EBHO will advocate for a program that require developer contributions rather than a voluntary bonus and incentives program. We strongly urge the City to undertake a nexus study and an economic feasibility study to determine the appropriate requirement levels, and we are confident that these requirements will be supported by the market and not hinder development.

ALIGNING THE BVDSP WITH THE FUTURE CITYWIDE AFFORDABLE HOUSING POLICY

Because we support a citywide affordable housing policy along these lines, we appreciate that the Plan acknowledges that a future citywide policy will consider requiring developers to pay fees to finance increased affordable housing needs:

The City is currently developing citywide policy on how to fund affordable housing. Among other actions, the City will explore conducting a nexus study, if required, and an economic feasibility study to evaluate new programs to achieve this objective, including, but not limited to, incentive zoning and *impact fees* for new housing development [*italics added*] (4.4.7)

We think it is important that the City send a clear signal to developers now that it is planning to adopt specific affordable housing requirements on a citywide basis. We propose the following language:

DEVELOPMENT OF HOUSING FOR A RANGE OF INCOMES AND NEEDS:

The City is committed to equitable development in Specific Plan Areas, Priority Development Areas (PDAs) and large development projects that provides housing for a range of economic levels to ensure the development of thriving, vibrant, complete communities

The City intends, as part of a citywide policy, to require developers in Specific Plan Areas, PDAs and large development projects to make contributions to assist in the development of affordable housing, through options that may include impact fees, land dedication, and inclusionary zoning. Among other actions, the City will conduct a nexus study and an economic feasibility study to evaluate new programs to achieve this objective, including inclusionary zoning and impact fees for new housing development. The study will be completed no later than July 1, 2015.

The City will also consider programs for acquisition and land banking of opportunity sites in these areas to ensure that development of affordable housing takes place within the Plan Area, and doesn't simply generate fee revenue that builds affordable housing elsewhere.

ANTI-DISPLACEMENT AND PRESERVATION OF AFFORDABLE HOUSING

Thank you for reassessing the displacement risk along Waverley. The findings in 5.2 of the FEIR show that up to 94 units (a considerable increase from the original estimate of 30) are currently located in a Retail Priority Site and are thus at risk of removal from the housing supply while the existing residents are at risk of displacement from their homes and community.

Now more than ever we urge you to adopt strong anti-displacement policies for the Plan Area. Although these 94 homes are not significant according to the CEQA criteria (reiterated in FEIR 5.2) in the context of the 169,710 overall units in Oakland, they are significant given the character of the Broadway Valdez neighborhood - and they are certainly significant to the families and workers who call them home. Adopting strong anti-displacement policies in the Plan Area would make Broadway Valdez a leader in anti-displacement issues, which are rapidly attracting concern in Oakland and throughout the region. Therefore, we urge you to adopt strong anti-displacement measures. For example in 8.4.3, the Plan reads that, as an anti-displacement strategy, the condominium conversion “Area of Primary Impact” could be extended to include the area west of Broadway in the Planning Area... which would require rental housing that is converted to condos to be replaced (in the area)” (8.4.3, page 264). This would be a good start to protecting the ‘market affordable’ housing stock in the plan area, but additional actions are needed.

We propose the following language:

PRESERVATION OF AFFORDABLE HOUSING AND ANTI-DISPLACEMENT POLICIES

The City will take measures to ensure that higher density and mixed-use development close to transit avoids displacement of existing lower income communities preserves existing affordable housing resources.

The City will strengthen existing policies and adopt new policies to prevent displacement of existing residents and preserve existing housing affordable to lower income residents, including both publicly-assisted and non-assisted housing that currently has affordable rents. This may include, among other policies, the following:

- Strengthen the Rent Stabilization Ordinance.
- Strengthen and harmonize relocation benefits under the City's Ellis Act Ordinance, Code Enforcement Relocation Ordinance, and SRO Preservation Ordinance.
- Strengthen the City's Condominium Conversion Ordinance by extending protections to 2-4 unit buildings throughout the entire City, eliminating provisions that allow condominium conversion credits to be generated by existing housing rather than newly developed housing,

and establishing mandatory tenant protections as part of the requirement for Tenant Assistance Plans.

- Require one-for-one replacement, with units of comparable size and affordability, of all housing units demolished or converted to non-residential use by either public or private action. These replacement units should not be counted toward meeting the City's RHNA requirement, given that they maintain but do not increase the affordable housing stock.
- Develop and implement programs for the acquisition and rehabilitation of existing rental housing and its preservation as permanently affordable housing for lower income individuals and families.

NORTH END GROUND FLOOR ZONING FLEXIBILITY

In section 4.3.2, policy LU-9.1 reads: The North End is envisioned as an attractive, mixed-use area that provides a mix of active ground floor uses (e.g. retail, commercial services, dining, entertainment, etc.) along Broadway, complemented with primarily upper floor residential, office, professional service, etc. uses."

We continue to advocate for flexible ground floor zoning in the North End. We respect the goal of creating a mixed-use, retail-oriented corridor, but to require commercial uses on the ground floor of each site, resulting in continuous commercial frontage in the North End, would have a limiting effect. In reiteration of our 11/12/2013 comment letter on the Draft BVDSP and Draft EIR, some of the sites designated for mixed use residential on the North End of the Broadway corridor would be most successfully developed with non-commercial uses on the ground floor, such as community and supportive services. Such non-commercial ground floor uses would not interfere with - and would even support - the greater retail focused vision for the plan area. Further, if the retail market is not strong enough to support 100% ground floor retail, or if such uses are difficult to finance, this could serve to discourage any development, in some cases allowing only residential could serve as a catalyst for other retail in the area. Therefore, we urge the City to avoid placing additional requirements for ground floor retail on the sites in the 'northern combining zone' (Policy LU 10.5).

Thank you for your consideration of these complex issues. Stronger affordable housing and anti-displacement policies will position the plan area well for PDA-related funding such as One Bay Area Grants, but also will help promote a balanced neighborhood that provides opportunities for low- and moderate-income Oaklanders and encourage sustainable and economically vibrant development.

Again, we support the overall goals and vision of the plan, and we acknowledge that staff has incorporated many different interests and made significant changes throughout this process. We look

forward to meeting with you in the coming months to help shape a final Specific Plan and EIR that will truly facilitate an equitable, balanced and vibrant Broadway Valdez district.

Thank you for your consideration. Oakland has been a leader in affordable housing, and we hope this standard will be upheld in the plan area. Further, strong affordable housing and anti-displacement policies in the plan area will make it eligible for One Bay Area grant funding. The policies we recommend will allow for intensified development in the plan area while ensuring that the Broadway Valdez District can be a home for the City's workforce, families, and low-income residents, and a complete community for everyone who works, lives, and recreates in the neighborhood.

Sincerely,

Amie Fishman
Executive Director