

Downtown Oakland Specific Plan

Zoning Incentive Program & Affordable Housing Study Session

Summary Notes and Follow-Up Staff Responses

March 29, 2023

Overview:

The purpose of this Downtown Oakland Specific Plan (DOSP) study session was to:

1. Present additional information, analysis and materials requested by Community Advisory Group (CAG) members and members of the general public at prior meetings about the Draft Zoning Amendments;
2. Review the goals and expected outcomes of the Zoning Incentive Program (ZIP) in the context of affordable housing programs the City and the DOSP are implementing as well as other benefits provided by development projects; and
3. Receive feedback from CAG members based on this additional information.

The additional materials included a technical appendix to the economic analysis provided by Hausrath Economics Group (HEG) and materials that help clarify the Zoning Incentive Program (ZIP)'s benefits and potential to contribute to Oakland's broader affordable housing strategy as well as the DOSP's affordable housing strategy for downtown.

The materials are available under "Background Information," [here](#).

Presentation Summary:

DOSP Project Manager Joanna Winter began the meeting by providing an overview of the DOSP and Zoning process to date and discussed how feedback would be incorporated into the revised Planning Code and Zoning Map amendments. Caleb Smith from Oakland's Housing and Community Development Department (HCD) presented grounding and relevant information on the City's affordable housing strategy, including the principles and priorities, structure and services, and relevant housing and racial/equity data. This presentation illustrated the State preference towards putting affordable housing in high-resource areas, which is well-intentioned, but a barrier to putting housing downtown and close to transit and other services. This preference means that the City must put in higher amounts of investment to achieve affordable units downtown than it would elsewhere. It was also noted that about thirty (30) cents of funds collected from downtown development are spent elsewhere in the City.

Planner Michelle Matranga presented an overview of the DOSP affordable housing strategy, including the vision, goals and policies. Economic Consultant Linda Hausrath then presented HEG's findings, which illustrated ZIP benefits across various scenarios and provided an overview of all benefits/fees from new development that contribute to affordable housing and other City infrastructure and services. This included data on long-term tax benefits, Impact Fees and other public benefits. Joanna Winter wrapped up the presentation with an overview of the ZIP, explaining what its designed to achieve and summarizing the feedback staff have heard to date from community members and technical advisors.

The presentation is available [here](#).

Participants:

City Planning & Consultant Team

- Linda Hausrath, Hausrath Economics Group
- Sally Nielsen, Hausrath Economics Group
- Joanna Winter, Project Manager, Planning & Building
- Stephanie Skelton, Public Service Representative, Planning & Building
- William Gilchrist, Director of Planning & Building
- Michelle Matranga, Strategic Planning, Planning & Building
- Laura Kaminski, Strategic Planning Manager, Planning & Building
- Neil Gray, Zoning Division, Planning & Building

Other Internal & External Participants (all CAG members were invited)

- Caleb Smith, City of Oakland Department of Housing & Community Development
- Brian Mulry, Deputy City Attorney
- Tarisha Bal, Deputy City Attorney
- Naomi Schiff, Oakland Heritage Alliance, DOSP Working Group, and CAG
- Amy-Ferguson-Yep, City of Oakland Department of Race and Equity
- Rolando Reyes, NAI Northern California Commercial Real Estate Broker
- Art May, Keystone Development, West Oakland & Howard Terminal
- Austin Rosso, Ellis Partners
- Shawnee Keck, City of Oakland, Economic Development
- James E Vann, CALM, OTU, HAWG, Measure DD Coalition
- Christopher Buckley, Oakland Heritage Alliance
- Ada Chan, ABAG/MTC
- Jeff Levin, EBHO

Questions & Answers:

Community Member: What is the estimated timeline for adoption of DOSP and ZIP?

- **City Staff:** *We are targeting this Fall, 2023 for adoption.*

Community Member: For a project that uses the State Density Bonus (SDB) and does not have to pay Affordable Housing Impact Fees (AHIF) because it provides SDB-required units on-site, are the 5 percent very low-income or 10 percent low-income affordable units required on-site calculated from the base zoning? Or is it from the total number of units in the project?

- **City Staff:** *If a project is participating in the SDB, it does not pay in-lieu fees to satisfy the AHIF as long as they are providing on-site affordable units in lieu of paying the fees. The required percentage of affordable housing to achieve the State Density Bonus is calculated as a percentage of the **base** number of units, i.e. before the bonus is added.*

While not specifically referenced at the meeting, staff encourages the public to review Oakland Municipal Code (OMC) section 15.72.100(B), which establishes the number of affordable housing

units required for on-site mitigation. If the developer is providing moderate or low income units, the on-site mitigation is: Total Number of Housing Units X 10%. If the developer is providing very low-income units, then the on-site mitigation is: Total Number of Housing Units X 5%.

OMC Section 15.72.100(B) defines "Total Number of Housing Units" as "the total number of units proposed for the development project, including the affordable housing units, but not including units added by a density bonus awarded pursuant to this Section or any section within Chapter 17.107 of the Oakland Planning Code [or the SDB]." Thus, when calculating on-site mitigation, the percentage is taken from the base, including the affordable housing units provided, but excludes the units that are added by virtue of local/State density bonus law.

In prior years, the density bonus law required 10 percent of the total units. However, the SDB laws have recently increased incentives for developers so that now a developer may provide only 5 percent of on-site very low income affordable units to achieve the minimum 20% density bonus units.

Community Member: For purposes of estimating the number of affordable units that will be obtained through impact fees, what is the cost per unit?

- **City Staff:** *City estimates \$200,000 of City subsidy per affordable housing unit. Because the ZIP benefits are based on value capture, the on-site option wouldn't provide a very large number of units, nor would the subsidies be very deep. This is as opposed to receiving in-lieu fees, which can be leveraged with State and other funds for 2-3 times the impact. However, the goal of on-site affordable units is to provide them in the downtown, preventing the downtown area from becoming an exclusionary neighborhood with few affordable units.*

Community Member: When is the AHIF collected?

City Staff: *50% of the fees are paid upon building permit issued, and the rest later when the construction is complete. Impact fees are deposited in the Affordable Housing Trust Fund. For further details see OMC*

Section 15.72.070. Community Member: Is there an option where every development is required to provide some level of community benefits or in other words, a floor of community benefits applicable to any development?

- **City Staff:** *All development is required to provide community benefits through tax revenues and impact fees generally applicable to development projects. These impact fees are for housing, transportation and capital improvements as established in the OMC. The ZIP benefits would be above and beyond those requirements.*

Community Member: What is the approximate height of a development that uses the maximum number of incentives?

- **City Staff:** *The maximum allowable height varies by area of downtown as shown in the ZIP Maximum Height and Intensity Map. However, each allowable height was fully studied in the DOSP Environmental Impact Report (EIR). The ZIP height for any project must not exceed what was studied in the EIR.*

Summary of Open Discussion:

Affordable Housing

Community Member: The amount of units an impact fee yields will vary by project and vary with funding. It's difficult to have a simple comparison of on-site mitigation versus in-lieu fees contribution to affordable housing.

City Staff: On average, HCD estimates \$200,000 of City subsidy per affordable unit that are applicable to the NOFA process and resulting City-sponsored affordable housing projects. The impact fee can typically be leveraged to obtain additional funding ranging from \$2-3 for each \$1 of impact fee. The total cost of units is much higher, but we have been able to receive and leverage State funds to make up for the difference.

Community Member: The units being produced with the money generated from the in-lieu fees are much more affordable, whereas what's being built in market-rate housing is studios, and one-bedroom or two-bedroom units that are less deeply affordable.

City Staff: *The analysis indicates that the least costly option per bonus unit is to allocate 5% of the base units as on-site units affordable to very low-income households. This entitles the housing developer to 20% more market rate units than allowed under the base zoning as well as access to other incentives, concessions, and wavers that can reduce project development costs throughout.*

Community Member: There are largely concerns about homelessness, affordability and displacement in the DOSP area. There is a need to build more housing. There was varied discussion among members of the community with ideas about how to ensure the City obtains more affordable units. Options include: charging higher impact fees on the additional units under the ZIP to allow for land banking for affordable units in downtown, requiring that the ZIP community benefit be the residential benefit rather than the other options, or requiring that all residential buildings be required to provide housing as a community benefit.

City Staff: *Most development downtown has been and will likely continue to be residential, so requiring residential projects to provide residential ZIP benefits would limit how effective the ZIP is at meeting the DOSP's other goals, some of which, unlike affordable housing, have no other source of funding.*

Commercial Space Affordability

City Staff: *Providing affordable housing is a clear DOSP and City priority, but there are also concerns about existing cultural and business displacement. This is what the below market-rate commercial space benefit is designed to support. Most of the development that's been happening downtown is residential and will likely continue to be residential. Because of this, the City will not end up with affordable commercial space if the City does not plan for and incentivize it. We are not legally allowed to set rents for commercial spaces; but because the ZIP is voluntary, it is one of the few ways that affordable commercial rents can be achieved.*

Community Member: It's also limiting if we only allow below market-rate commercial space. There has been varied success in terms of historical experience of trying to put commercial into residential buildings.

City Staff: *It is going to depend on what businesses exist; there must be some sort of alignment. This is something that we would need to look at before getting too categorical.*

Community Member: One possibility is to have the developers pay a fee to have the City provide discounted commercial space as part of a master leasing program. This would take away risk from the developers. It would be better for the City if they can lease that space, but there is risk of the space remaining vacant.

Voluntary Selection of Benefits

Community Member: If we allow developers to voluntarily select the benefits that they want to provide, we invite complications and there's a danger that we won't get the benefits we desire or need. For example, all developers may decide to put up banners.

City Staff: *Selecting a benefit option would be up to the developer to some extent, but because the developers are participating in a voluntary program and the provisions of the program are therefore not allowed by right, the City has an opportunity to shape what benefits, such as what streetscape improvements look like, or providing bathroom amenities for those in need. Staff reviewing applications will make sure that proposed benefits are consistent with the Plan's goals.*

Restroom Benefit Option

Community Member: Concerned about the sociological relationship of public restrooms in lobbies and the potential that the homeless would be turned away or even just dissuaded from using these restrooms. Instead, we may want to propose opportunities to provide accessible public restrooms.

City Staff: *Equity concerns regarding restrooms have been discussed among the planning staff team. Challenges with the City providing public restrooms would be acquiring land and maintaining the restrooms; this is much more feasible to include in a development project, where the City can establish conditions of approval related to maintenance, accessibility, and equitable use.*

Mixed-Income Residential and Sociological Research

Community Member: There is less concern regarding mixing of incomes by having poor people living in the same building with affluent or higher income individuals. There may be little social interaction among classes and there are studies that show little benefit to this as compared to the provision of community benefits. What matters is that folks are in the same neighborhood and have access to same opportunities and amenities. In that sense, housing benefits would be preferable as fees that are used to build 100% affordable projects rather than provided on site in the same building as market-rate units.

City Staff: *It would be useful to see research on what actually benefits lower income households. We would welcome any research that has studied this issue. However, OMC section 15.72.100(A)(3) does require that the affordable units produced to satisfy the on-site requirement for the AHIF be "reasonably dispersed" throughout the development project.*

Further Comments

Participants are invited to share any additional comments with staff via email: plandowntownoakland@oaklandca.gov.