



## **City of Oakland Affordable Housing Overlay Focus Group**

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**December 16, 2022, 10:00 AM – 11:30 AM**

Held via Zoom

### **Participating Organizations:**

- EAH Housing
- Housing Action Coalition
- Danco Communities
- Nonprofit Housing Association of Northern California
- Eden Housing
- California Housing Partnership
- Devine & Gong, Inc.
- East Bay Housing Organizations.
- Affirmed Housing
- Oakland Community Land Trust
- Richmond Neighborhood Housing Services
- BRIDGE Housing
- Strategic Urban Development Alliance LLC
- Oakland Community Land Trust
- East Bay Asian Local Development Corporation
- Related California
- Habitat for Humanity

Meeting facilitated by Alison Moore of Dyett & Bhatia



## SUMMARY

The objective of the Affordable Housing Overlay (AHO) focus group meeting was to solicit input on the City’s proposed Affordable Housing Overlay Zone, a designation that would allow by-right development of 100 percent affordable projects, CEQA exemption, and height and other development concessions. The zone would be applied in most areas of the city, with minor exceptions. This focus group was attended by a broad audience of stakeholders involved in the affordable housing development and advocacy community in Oakland. Key topics that emerged in this discussion were:

- The relationship between the affordable housing overlay (AHO) and other development incentives, such as SB 35 and SB 330
- Potential opportunities for regulatory relief through the AHO
- Commercial and open space requirements
- The viability of affordable housing development on smaller lots
- The expansion of by-right permitting
- Appropriate affordability ratios/the pros and cons of extending the AHO to mixed-income projects

Generally, participants expressed a positive response to the AHO proposal. Participants were interested in the relationship between the affordable housing overlay and other development incentives. Several expressed a lack of certainty about the benefit of utilizing the AHO instead of SB 35. Some, however, noted that SB 35 requires a prevailing wage, which can be a hindrance to development. The overarching concern was that the AHO might not provide as many opportunities for regulatory relief, particularly for concessions related to open space and setback and recommended additional forms of relief beyond density and lot coverage be included in the overlay. Participants shared that while open space is important, open space requirements can be one of the most difficult standards to accommodate. Similarly, affordable housing developers “emphatically” prefer not to encourage ground floor retail considering the financing challenges for affordable housing and ground floor retail.

Participants were asked to consider how the AHO might help or hinder development for several development scenarios. Developers generally agreed that projects on lot sizes smaller than 11,000-12,000 square feet are challenging to finance and that it is only possible to sustain operating costs with a critical mass of units. However, at least one developer suggested that smaller parcels in the 7,000 square foot range might be viable. Additionally, participants mentioned that despite elimination of parking requirements, it is likely that new developments would continue to include at least a minimal amount of parking, and questioned how the AHO parking standards related to new EV charging requirements. Developers noted that projects had different needs, depending on housing type (e.g., senior vs. family vs. formerly unhoused), which makes creation of a single standard difficult.

Participants weighed the merits and drawbacks of extending the AHO benefits to mixed-income projects. Some participants proposed mixed income affordability ratios to allow smaller projects access to provisions of the AHO, create more mixed-income developments,



and make for a more financially feasible project. However, other participants objected and urged the City to restrict the AHO to 100% affordable housing so that affordable housing developers might get a “leg up” on well-resourced for-profit developers and help close the gap between market rate and affordable housing production in Oakland. Many expressed strong support for by-right permitting and urged the City to consider even broader geographic application of by-right permitting for affordable housing.

## **ZONING**

- Participant questioned if there are any elements to the zoning changes that relate to building conversions to affordable housing. City staff responded that the AHO can help increase density within the building envelope.
- Participants commented that they are enthusiastic about by-right permitting.
- Participant questioned how the AHO might apply to projects like Shade Tree in Brooklyn Basin that changed use from live/work to residential. Staff responded that AHO could help increase density inside the building envelope for some historic properties.
- One participant questioned if the AHO could apply to a situation where a site has an existing historic building but also enough space to add a new building. Staff responded that it could work but would have to analyze on a case-by-case basis.
- Participant commented that they strongly advocate extending by-right permitting for 100% affordable projects citywide. They also urged the City to look more carefully at the exclusion of very high fire hazard severity (VHFHS) zones from the AHO to see if there are areas in that zone where it is appropriate to put affordable housing. City responded that they are looking into this.

## **AFFORDABLE HOUSING OVERLAY AND INCENTIVES/CONCESSIONS**

- Participants were curious about the relationship between the overlay and SB 35– will the overlay relate to setback and other project incentives? City responded that applicants would choose to go through SB 35 or AHO for incentives.
- Participant commented that they attempt to prioritize open space, when possible, but it doesn’t always work. They suggested the AHO have some flexibility on open space requirements, like SB 35.
- Participants had a positive response to the AHO not including any labor or prevailing wage requirements.
- Participant expressed that the current zoning concessions are helpful and also suggested that the AHO could provide more benefits than SB 35 and become a “super density bonus.”. They referred to “regulatory relief” opportunities such as open space and setback considerations and mentioned that there are additional forms of relief other than that go beyond density and lot coverage that should be included in the AHO.



- Participants were curious to know if the city considered eliminating or reducing commercial space requirements for 100% affordable housing projects. Most mentioned that they would not include ground floor commercial unless it was an expressed community need.
- Participants agreed that open space is a commonly requested concession. One participant mentioned that a recent project of theirs went for maximum density in order to receive height, setback, and open space concessions.

### **AFFORDABILITY CONSIDERATIONS**

- A participant commented that one of the benefits that is not often thought about in developing low-income areas is the ability to have mixed-income projects. They noted that having discretionary income from mixed-income development helps support property taxes in lower-income areas.
- Some participants proposed that smaller lots should be given different affordability options and not be limited to 100% affordable housing to incentivize development on smaller lots.
- In San Diego, the overlay requires that at least 40% of the project is affordable and specifies income percentages within that range. They have had developers take advantage of that overlay.
- Other participants urged a focus on 100% affordable. The Housing Element has a specific goal of closing the gap between affordable and moderate-income housing and policies should support this.
- Participants suggested that it's possible that private owners will increase land values to leverage the overlay requirements and recommended that the City check in on the Menlo Park overlay to see if it has resulted in more affordable housing production.
- One participant mentioned that for-profit developers are already well resourced and urged the City to give a leg up to 100% affordable housing developers. With state density bonuses, some developers can work on a small site in a well-resourced area. Some participants noted that the provision of supportive programming may not be possible in mixed-income buildings.

### **OTHER RECOMMENDATIONS**

- Some participants urged 100% affordable projects be allowed by-right citywide, if affordable housing development streamlining is the goal. By-right should not be limited geographically, but heights and density could be adjusted based on zone. It is also important to consider expanding fair/affordable housing in very high fire hazard severity zones, areas that are predominantly white/affluent.
- Participants were also curious about the challenges there might be for Oakland HCD staff to monitor a smaller number of affordable units in market rate projects vs monitoring 100% affordable projects.



## DEVELOPMENT SCENARIOS

**Scenario 1:** *Part of the proposal is to offer, in areas with a base zoning of less than 55 feet, a maximum height of at least seven stories (75 feet, 5 over 2 construction type) on larger parcels of a minimum size that could facilitate a seven-story building. What would you see as the minimum lot size to support a seven-story affordable housing development?*

- One participant commented that to build a six-story building, a 15,000 SF lot would be necessary.
- Participant responded that it depends on housing type. A senior project could go down to as low as 7,000 SF, but for families, it is likely at least 10,000 – 12,000 SF.
- Another participant shared that lots 12,000 SF and above can create enough units to be financially feasible, and anything lower than 12,000 or 11,000 SF becomes prohibitively challenging to finance. A mixed-income scenario would allow access to provisions of affordable housing overlay, with some market rate to help make smaller projects more financially feasible.
- Some participants agreed that mixed-income buildings are difficult to make work.
- Participant mentioned property tax exemption (state law) as a tool that could help offset operating expenses for workforce housing.
- A housing developer commented that important factors include a path of accessible travel to the building, and the location of underground transformers, and impediments to getting access to the building is an issue on small lots.
- Participant shared that increasing height doesn't always help if it increases the cost of construction (especially on smaller lots). To encourage affordable housing on smaller lots, it would be better to remove some of the other constraints beyond height limits (e.g., parking, open space, floor area ratio).
- Often, it's not the size, but the economics that limits the ability to build on smaller lots. Something around 4,000 SF might not be possible because cannot leverage economies of scale.
- One participant shared that smaller lots are not the type of site developers tend to look at. Another consideration for smaller sites that don't yield very many units is that there are many additional operating costs that aren't feasible.

**Scenario 2:** *In residential zones, the overlay might allow additional lot coverage of up to 70% and a reduced rear setback of 10 feet. Current setback and lot coverage requirements vary by zone. Assume you are considering a five-story development with no parking. What impacts, if any, would you experience from reduced lot setback and increased lot coverage requirements? Are there alternative standards or additional development concessions that would make your projects more feasible (for example, around open space requirements)?*

- Participants mentioned the need to consider electrification requirements such as solar and EV car chargers and wanted to know if affordable projects would receive waivers or concession from car charger requirements.



- Participant commented that they've only done permanent supportive housing in Oakland and generally try to make sure there is some parking for residents as well as staff and case workers to make sure properties are rentable in the future.
- Participants noted that parking needs will be different for senior housing or ADA requirements.

**Scenario 3:** *Assume you are building a six-story development on a 10,000 square foot lot near transit, with no parking required in a mixed-use zone, which requires a ground-floor retail use. Are you likely to still include ground floor retail? If you instead use the ground floor for housing, how much of an impact would you expect on the project's financial feasibility?*

- Developers "emphatically" would prefer not to encourage ground-floor retail. Financing the retail portion on an affordable housing project becomes challenging, and unless the community wants it developers try to avoid it, if possible.

**Scenario 4:** *What kind of affordable project would be most feasible on a small but not atypical Oakland lot of 4,000 square feet, assuming zero parking requirements? Assume you have free choice of height/density for a multifamily project or can build a duplex/triplex and/or one or more Accessory Dwelling Units.*

- One participant noted the economics are more important than zoning considerations for smaller lots; economies of scale mean most of the developers in Oakland go for bigger lots – it is important to develop smaller sites, but there is a general sense that smaller lots are harder to develop from an economic perspective. Others noted that operating expenses for rentals on small lots can be prohibitive.
- One participant noted that increasing height doesn't always help if it increases the cost of construction. To encourage affordable development, especially on smaller lots, it would be better to remove some of the other constraints beyond height limits.
- Depending on where the site is located, participants noted it becomes difficult to do a project with no parking if it's not close to transit.
- One housing developer commented that it's very difficult to sell homes without parking so they always try to include at least one parking space per unit, where possible.
- Another participant shared that for some small, infill projects, such as for formerly houseless individuals, parking is less of an issue.

**Scenario 5:** *Under what circumstances is it more feasible to build at lower heights?*

- One developer noted that feasibility decisions are made at the 5-story mark.
- Another noted that it is often on a case-by-case basis, or by type (Type 3, wood frame over concrete podium, vs. Type 4, heavy timber framing).