

Downtown Oakland Specific Plan (DOSP) Zoning

Incentive Zoning Program: Initial Structural Recommendations

The initial recommendations below outline key characteristics of a zoning incentive program for the Downtown Oakland Specific Plan (DOSP) area. They reflect the input of Planning Commissioners, Community Advisory Group (CAG) members, City staff, and the community at large, as well as EPS case study research concerning a range of existing community benefits programs. The desired key characteristics for the DOSP zoning incentive program include:

- **Formulaic Program.** DOSP community benefit contribution requirements should be systematically determined, not negotiated. The program will need to establish a dollar value, metric, or formula for determining the community benefit contribution for each project that opts to participate in the program. The calculation method will be clear and transparent, which will facilitate implementation, provide the development community with certainty about program costs, and make reporting and auditing of the program straightforward.
- **Diversity of Benefits.** The program will seek to generate a wide variety of community benefits, and provide flexibility for projects that may be better positioned to accommodate one type of benefit desired by the community than another. Because there are differing community needs in different areas of downtown, the list of qualifying benefits will be tailored to the community it is within, but overall there should be a limit of the total number of qualifying benefits in the program to limit a dilution of monies that will not be enough to accomplish a sufficient amount of any individual benefit category.
- **Incentives Layering.** The program will seek to encourage layering of local development incentives with non-local benefits programs. The City and stakeholders wish to encourage the use of Transferable Development Rights (TDRs) to promote historic preservation in Downtown Oakland while also encouraging the use of non-local development incentives such as the State Density Bonus and federal and state tax credits for historic buildings and affordable units.

The incentives to be offered by the City will be formalized in the new zoning that will implement the specific plan. These zoning incentive program recommendations assume that density, height and/or floor area ratio (FAR) bonuses, similar to those formulated for financial testing, will be the primary incentive offered through the local program. These development intensity bonuses could also include allowing more density per square foot in order to allow more units within the same building envelope and/or increased height along with increased density. Allowing for more units within the same building construction type could further incentivize developers to take advantage of the bonus program.

New open space requirements, design standards and other code provisions separate from the zoning incentive program will also be developed and adopted as part of new zoning for the DOSP area to provide community benefits through regulatory requirements, separate from those provided by developers voluntarily through the incentive program.

Initial Recommendations

- **Establish a Bonus Payment Program.** The simplest and most transparent method for projects to participate in a DOSP zoning incentive program is through a payment option. The City could establish standardized monetary charges for development incentives in the DOSP area. For example, the City could publish an updated per-square-foot payment requirement for density bonuses annually. The bonus payment amount should be linked to the value of the density bonus or other incentive. One option for setting the charge is for the bonus payment level to be established as a percentage of construction cost (e.g., per square foot building permit valuation), similar to the basis currently used for the city’s “percent for art” program. In addition to providing easy implementation, certainty for applicants, and straightforward tracking, the payment approach allows for the pooling of resources across multiple projects, providing a funding mechanism that can scale up to fund more significant community benefit projects. This approach would enable the City to be flexible about specific community benefits priorities and funding.
- **Provide an In-Lieu Option.** As an alternative to the bonus payment approach, applicants might be allowed to fulfil their “payment” for the development bonus through the direct provision of on-site or off-site community benefits. The bonus payment requirements would establish the value of community benefits that must be provided on- or off-site to earn the development incentive(s) sought. The applicant would need to obtain approval of their on- or off-site community benefit proposal from the City.
- **Offer Cumulative Bonuses.** Allow developers to take advantage of both the State Density Bonus and the local DOSP bonus, potentially requiring developers to utilize the DOSP bonus first and then allowing developers to layer the State Density Bonus on top of the DOSP bonus.
- **Allow Layering of Incentives with Transferable Development Rights (TDRs).** The DOSP zoning incentive program might allow for the use of the State Density Bonus for affordable housing on top of the TDR allowed maximum density. This would allow developers to utilize the State Density Bonus in addition to the local TDR density bonus. Creating an option that encourages use of TDR may promote increased use of TDRs downtown, though the TDR program parameters may also need to be revised to encourage use.
- **Establish a DOSP Implementation Committee.** Considering the diversity of community benefits sought, and evolving priorities within the community, an implementation committee for the DOSP could help to direct community benefit funds to important projects that fall within the designated buckets of benefits outlined in the ordinance. The committee, which was described in the Draft Plan, would include stakeholders representing different neighborhoods and priority community issues. The group would be tasked with making recommendations on how the City moves forward with implementation of the DOSP, and to what extent the City should establish and/or fund programs or projects that generate community benefits for Downtown Oakland and the City of Oakland as a whole.