

# Downtown Oakland Specific Plan (DOSP) Draft Zoning Amendments

## BAMBD Meeting: October 24, 2022

### Summary

#### Attendees

##### Staff

- Brian Mulry, City Attorney
- Daniel Findley, Planning
- Darlene Flynn, Race & Equity
- Joanna Winter, Planning
- Khalilha Haynes, Planning
- Kristen Zaremba, Cultural Affairs
- Laura Kaminski, Planning
- Neil Gray, Planning
- Stephanie Skelton, Planning
- Tonya Love, District 3 Office
- William Gilchrist, Planning & Building
- Eric Arnold, Oakulture, KQED, EBALDC, Museum of Jazz and Art, Equity Team, Black Culture Keepers, DOSP CAG/Working groups, etc.
- Esailama Artry-Diouf
- Feleciai Favroth
- Gabirella Folino
- Hiroko Kurihara
- Kimberly Gasaway
- Marco Frazier
- Marquis Engle, Malonga Arts Collective

##### Registrants/Attendees

- Ada Chan
- Ayodele Nzinga, BAMBD, CDC, Lower Bottom Playaz, Inc
- Bamidele Agbaseg be-Demerson
- Danica Simonet
- David Allen
- Destiny Muhammad
- Milton Ashley
- Naomi Diouf
- Naomi Schiff, Oakland Heritage Alliance
- Oscar Edwards
- Rashida Chase
- Roberto Bedoya
- Sean Dickerson
- Teshone Jones

#### Presentation

Staff presented an overview of the Draft Zoning Amendments and then focused on how the Zoning Amendments relate to goals particularly relevant to the BAMBD. This includes a BAMBD Arts & Culture Combining (overlay) Zone that prioritizes ground floor commercial space for a broad range of arts and cultural uses. It also includes a Zoning Incentive Program that allows developers additional height, residential density and commercial floor area in return for community benefits including affordable housing, below market-rate commercial space, culturally-relevant streetscape improvements and public restrooms. Other non-zoning strategies are also needed to support the BAMBD.

## Discussion & Questions

### Extent of BAMBD Arts & Culture Combining Zone

- How far does the Zoning overlay go into in West Oakland?
  - *The BAMBD extends through west Oakland, but the zoning overlay is entirely within the DOSP area. It only covers the 3 areas on the map and is designed as a pilot. It does not include Swan's Market, which is not part of the BAMBD.*
- Is it applicable to public rights of way (ROW) and/or public property?
  - *The zoning applies to public property, but not street ROW, other than to development adjacent to it*
- The initial nodes should at least cover all the downtown section, especially since the West Oakland portion will need other approaches
- Combining zone should include Kahn's Alley & Latham Square
- If people are walking down 14<sup>th</sup> right up to Broadway and then nothing on the other side of city hall, we need to make it cohesive. We need to connect the dots because private sectors are only focused on individual development.
- There needs to be attention to detail so someone knows that they are in a special area, would like to keep a sense of place as you are moving from one node to another. You make your investment in the areas that are the most naturally connected.

### Definitions

- How is "multiethnic" character defined? Needs to be defined in a document
  - Refers to pan-African diaspora as well as there is some overlap between the BAMBD and Chinatown; those communities are co-existing. Could define this better, but the resolution that formed the BAMBD refers to African Americans, Afro-Caribbeans and Africans.
- See the presentation and the [Draft Amendments](#) for the definition of "arts and culture"

### Zoning Incentive Program (ZIP)

- ZIP fees cannot be used for maintenance and upkeep because they are one-time fees rather than recurring sources of revenues, and we cannot guarantee how much money we will get through the program because it depends on development. Other sources of funding are needed for ongoing use.
- The rental rates assumed for below market rate commercial space are 50% of market rate.

### Below-Market Rate (BMR) Commercial Spaces

- Can the ZIP in-lieu funds be used to subsidize the ground floor for cultural uses if there is no developer offer of BMR space?
  - *Similar to the problem with using them for maintenance, these are not on-going sources. We do not have any way of predicting what the funds are going to be and how we can use them. City staff are trying to identify whether there is nonetheless a way for the in-lieu fees to be used to subsidize space.*

- The City is not allowed according to State law to establish affordability levels for commercial space (unlike residential units). That is why the city proposes incentivizing developers to provide affordable commercial space through the ZIP.
- One-way commercial prices decrease is when there are many vacant spaces. Developers/ property owners won't rent spaces cheaper voluntarily. A lot of artists ended up in these spaces in Seattle
  - This is one of the theories behind limiting uses in the overlay to arts and culture
  - Leaving them empty is great if use is protected. If you can't rent it to anyone else but artists and culture makers, that works but how long does that take?
  - Restricting ground floor space can be effective if there is some guarantee of either below market rate or a rent subsidy that supports at risk population.
  - There are many vacant spaces now, yet prices have not lowered.
  - Staff are considering whether a tenancing program, developed to manage ZIP-dedicated BMR commercial space, could help with this.
  - We need a continuum of a Creative Economic Development strategy
  - Consider a fine/fee for long-term commercial vacancies
- Consider requiring small ground floor spaces to support small businesses. If you are not requiring these, what is your analysis on why not? What is the impact on equity?
- Cultural easements offer community benefits
  - *City staff have heard from different developers that developers could provide cultural easements incentivized by reduced tax rates; that's something we can look at promoting in this area.*
- Consider commercial condo-type ownership structure, with, nonprofit arts organizations as owners
  - *City is considering this as it develops a tenancing program: should it be ownership model with land trust, or if the city would do a master lease. Looking into options.*
- The City could set an example with low rates in the Lionel Wilson Building and those little retail spaces facing Frank Ogawa Plaza in 250 Dalziel Building.
  - *The City does rent its retail spaces at below market rates to organizations or businesses that offer "cultural and social benefits" to the City consistent with O.M.C. Section 2.42.110*

#### Additional Strategies Needed to Support the BAMBD Beyond Zoning

- The combining zone is an initial pilot to see what can be done with zoning, the City and community partners will need to put more effort into it (placemaking) to grow cultural districts. We are trying to implement a cultural program that goes beyond zoning.
- There needs to be a specific intention to make street fairs and block parties, and street closures easier to happen. Vendors need to see vibrancy which would make them want to take part in this district.
- What can the District 3 office do to support the cultural district?
- Over the years as funds become available, we need to have some plans ready, and a clear sense of what the district needs. There should be something that works within the vocabulary of design and form that lets you know you are in the BAMBD, although there should be differences in character between different blocks

- Need strategies like pop ups to activate the areas between the institutional and initial nodes of activity/zoning interventions
- Temporary spaces are not always helpful to artists, or arts organizations unless there is a continuum of business growth that provides a next place location
- The City has a history of not enforcing code violations; we need a more vigilant approach
- Minneapolis had a great program called the green line. The two principal strategies were working hard to retain businesses of color, and to brand them to where they had an aesthetic. They also have support from collaboratives and foundations. Need to know who we are building for and be clear about the constituency's needs to be successful. They spent a lot of time to help businesses understand cashflow. It shouldn't just be a dialogue with constituencies and developers, it must be beyond with other partners. Need a comprehensive approach.

## Chat Log

16:04:31 From Stephanie Skelton (Planning & Building) to Everyone:

Here is the link to the meeting with this afternoon's presentation:

<https://www.oaklandca.gov/meeting/bamdb-zoning-amendments-meeting>

16:05:42 From William Gilchrist to Everyone:

Hamjambo, yote rafiki zangu! Habari zenu?

16:05:43 From Joanna Winter (Planning & Building, she/her) to Everyone:

Joanna Winter, she/her, Planning Bureau

16:05:54 From Marquis Engle (Malonga Arts Collective) Admin. Manager to Everyone:

Marquis Engle here with the Malonga Arts Collective. He/Him

16:06:03 From ayodele nzinga to Everyone:

ayodele nzinga - she we her us - BAMBD CDC, Lower Bottom Playaz, Inc

16:06:07 From Naomi Schiff to Everyone:

Naomi Schiff, Oakland Heritage Alliance

16:07:38 From Eric Arnold to Everyone:

Eric Arnold he/him. Oakulture, KQED, EBALDC, Museum of Jazz and Art, Equity Team, Black Culture Keepers, DOSP CAG/Working group, etc.

16:07:58 From Kristen Zaremba, City of Oakland-Cultural Affairs/Public Art to Everyone:

Kristen Zaremba, she/her, Oakland Cultural Affairs

16:09:30 From William Gilchrist to Everyone:

Bill Gilchrist, City of Oakland Planning and Building Director. Karibuni hapa!

16:09:59 From Eric Arnold to Everyone:

sign in with Google

16:12:05 From Kristen Zaremba, City of Oakland-Cultural Affairs/Public Art to Everyone:

I also registered, and then had to sign in to Zoom with my regular profile and password.

16:13:07 From Eric Arnold to Everyone:

habari gani Bill

16:13:28 From Naomi Schiff to Everyone:

can you please invite Felicia Favroth text 510-967-6661

16:13:40 From Ada Chan ABAG/MTC to Everyone:

Ada Chan with ABAG/MTC

16:14:04 From ayodele nzinga to Everyone:

1-867-4295

16:14:32 From ayodele nzinga to Everyone:

1-867-4295 4150

16:14:40 From Rashida Chase to Everyone:

Rashida Chase

Liberated Culture, Ina Noire

16:14:41 From ayodele nzinga to Everyone:

Join #

16:14:58 From Stephanie Skelton (Planning & Building) to Everyone:

Naomi here is the link to register if this helps: <https://us06web.zoom.us/meeting/register/tZlqc-uhqz8rH9SIUmUiiQ5VwDVkM6l1bxi#/registration>

16:15:00 From Hiroko Kurihara to Everyone:

So, we're supposed to use chrome?

16:15:05 From Naomi Schiff to Everyone:

Feliciai Favroth feliciai1@aol.com

16:15:19 From Naomi Diouf to Everyone:

Hi Marquis

16:17:17 From Stephanie Skelton (Planning & Building) to Everyone:

Here is the meeting link that has the presentation:

<https://www.oaklandca.gov/meeting/bamdb-zoning-amendments-meeting>

16:29:51 From Eric Arnold to Everyone:

how are "arts & culture uses" defined?

16:45:47 From ayodele nzinga to Everyone:

1. The initial nodes should at least cover all of the downtown section.

16:46:17 From ayodele nzinga to Everyone:

especially since West Oakland portion will need some other mechanism to help animate it

16:46:44 From Kristen Zarembo, City of Oakland-Cultural Affairs/Public Art to Everyone:

Re: BAMBD overlay: How are zoning nodes defined? Is PROW and/or public property applicable? For example, it looks as if Frank Ogawa Plaza is not included but 150 FOP is? Would be great to ease permitting of temporary & permanent arts installations and activities in public space as a part of this program.

16:47:03 From Eric Arnold to Everyone:

swan's is outside of the BAMBD footprint

16:47:47 From Eric Arnold to Everyone:

my question is about block closures, street festivals, etc. how will these specifically be supported?

16:48:15 From Hiroko Kurihara to Everyone:

If an area or node is defined and a project comes in outside of the 'areas' we may lose an opportunity. I agree with Ayodele that ALL of the DT BAMBD should be covered

16:48:24 From ayodele nzinga to Everyone:

2. restricting ground floor space can be effective if there is some guarantee of either below market rate or a rent subsidy that supports at risk population

16:50:17 From Hiroko Kurihara to Everyone:

Can density incentives be tied to % of BMR?

16:50:26 From ayodele nzinga to Everyone:

The broad definition of cultural use is good -- how will it be tended on an ongoing basis? What happens if the space is unaffordable will it remain empty or be filled with some other type of leasee?

16:52:59 From Naomi Schiff to Everyone:

City could set an example with low rates in the Lionel Wilson Building and those little retail spaces facing FO Plaza in 250 Dalziel building.

16:53:02 From Eric Arnold to Everyone:

DTO lost something like 600 parking spaces... that impacts ability for patrons to get to arts venues...

16:53:59 From Marquis Engle (Malonga Arts Collective) Admin. Manager to Everyone:

I must run. Looking forward to learning more.

16:54:00 From ayodele nzinga to Everyone:

what is the policy that guides the use of in lieu of funds -?

16:54:02 From Naomi Schiff to Everyone:

And what about the old parking garage behind city hall? Is that included? Would be ideal for aff. housing with arts in ground floor.

16:55:08 From ayodele nzinga to Everyone:

are there strategies like pop ups to activate the dark spaces you don't deem worthy of paying attention to now?

16:58:51 From ayodele nzinga to Everyone:

there at the very least needs to be some visual continuity — and some encouragement to bring life to the non-nodes

17:01:11 From Naomi Schiff to Everyone:

The city is a main cause of the deadness at the plaza.

17:01:17 From ayodele nzinga to Everyone:

vendors should most definitely be included

17:01:23 From Hiroko Kurihara to Everyone:

Just to confirm: we're not able establish level of affordability of ground floor spaces? Can we make them affordable in perpetuity, i/e 'run with the land'? And in the same vein, what about Cultural Easements?

17:01:32 From ayodele nzinga to Everyone:

It's a part of economic development

17:01:51 From Kristen Zarembo, City of Oakland-Cultural Affairs/Public Art to Everyone:

Should include Kahn's Alley & Latham Square

17:03:29 From ayodele nzinga to Everyone:

can the in-lieu funds be used to subsidize the ground floor for cultural use if there is no developer offer of BMR -- space no one can afford is useless

17:05:36 From Eric Arnold to Everyone:

right. block parties can literally be one block

17:06:53 From Naomi Schiff to Everyone:

What about potential commercial condo-type ownership structure, with nonprofit arts orgs as owners?

17:07:14 From ayodele nzinga to Everyone:

Yes, Latham Square and Kahn's Alley should be nodes.

17:08:08 From Hiroko Kurihara to Everyone:

Cultural Easements: offer community ownership

17:10:47 From Hiroko Kurihara to Everyone:

Does Oakland have a fine/fee for long time vacancies? If so, when is it triggered and who's tracking it?

17:11:14 From Eric Arnold to Everyone:

well, to Darlene's point, we have to focus on equity... which has a restorative/mitigative component

17:11:48 From Naomi Schiff to Everyone:

Darlene is right! Don't use developer reward as the first measure.

17:11:50 From ayodele nzinga to Everyone:

to leave them empty is great if use is protected -- if you cant rent it to anyone else but artists and culture makers -- that works but how long does that take -- and meanwhile?

17:12:28 From Hiroko Kurihara to Everyone:

TEmporary spaces are not always helpful to artists/or arts orgs unless there is a continuum of 'business growth' that provides a 'next place' location.

17:12:44 From Eric Arnold to Everyone:

you have to prioritize cultural uses to promote growth

17:12:53 From ayodele nzinga to Everyone:

can there be a penalty for empty space

17:13:16 From Eric Arnold to Everyone:

of the district. otherwise you wind up with sF Fillmore, post- African American displacement..

17:13:16 From Hiroko Kurihara to Everyone:

Yes, Ayo, SF has penalties in place.

17:13:23 From ayodele nzinga to Everyone:

yes to Darlenes suggesstion

17:15:32 From Eric Arnold to Everyone:

the city has a history of not enforcing code violations i.e. blight against big property owners like banks... youd need a more vigilant approach here

17:16:46 From Hiroko Kurihara to Everyone:

Yes! a continuum of a Creative Economic Development strategy

17:20:00 From Eric Arnold to Everyone:

see Policylink's report on Cultural Arts and Equitable development

17:20:11 From Stephanie Skelton (Planning & Building) to Everyone:

<https://cao-94612.s3.amazonaws.com/documents/2022-10-24-BAMBD-Presentation.pdf>

17:20:31 From William Gilchrist to Everyone:

Kwaheri, marafiki zangu!

17:20:55 From Eric Arnold to Everyone:

thanks Joanna and staff!

17:21:10 From Hiroko Kurihara to Everyone:

Thanks everyone!

17:21:11 From marco frazier to Everyone:

thank you

17:21:15 From Eric Arnold to Everyone:

kwa heri bill

17:21:23 From Naomi Schiff to Everyone:  
thank you!