



TECHNICAL MEMORANDUM

February 23, 2010
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To: Ms. Hannah Lindelof, Dyett & Bhatia

From: Denise Conley, Conley Consulting Group

Subject: Affordable Housing Assessment Lake Merritt Station Area Plan

This memorandum considers the affordable housing implications of projected development within the Lake Merritt Station Area. Below we discuss the requirements and the likely public financial burden of including affordable units within the Planning Area. In addition, strategies for retaining housing affordability with transit oriented development (TOD) in the Planning Area are described.

It is a major assumption of this analysis that in the absence of policy to the contrary, the market place will produce housing that is priced well beyond the financial capacity of current Planning Area and Oakland residents. It should be noted that market rate housing which has declined in value due to the recession, to prices or rents consistent with affordable housing standards is not considered affordable because it can and likely will increase in price when market conditions improve. Additionally, market rate housing even at depressed rents is unaffordable to extremely low income households, who are frequently served by at least a portion of the units in most publicly-assisted rental housing. The abundance of housing now priced in the affordable range is not a long term affordable housing resource.

The City of Oakland does not have an affordable housing inclusionary program; that is a policy requiring a fixed portion of residential dwelling units (du) in new developments to be made affordable to low and moderate income households (HH). Such a policy has been discussed in the past and may be considered by the City Council in the future. As a result, most new affordable housing is assisted with a combination of federal, state and local funds. The City pools its redevelopment generated housing set aside (HSA) tax increment funds to support development of affordable housing citywide. In the city almost 3,000 affordable units were funded, at least in part, with tax increment HSA funds and locally administered funds from the Federal HOME program between 2000 and 2009. In Oakland the burden of financing affordable

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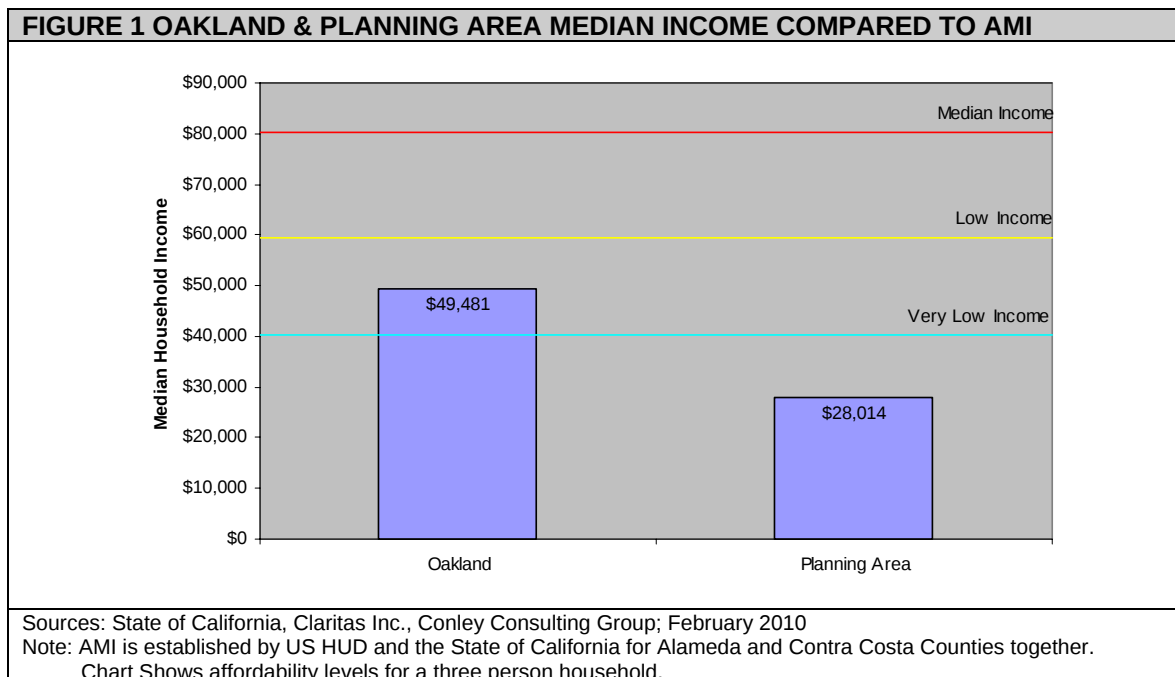
housing, after exhaustion of state and federal subsidy sources, typically falls upon municipal resources. In cities like San Francisco, although substantial public funds are allocated to providing affordable housing, there is an inclusionary housing policy requiring all market rate housing developments to provide a portion of units, at affordable prices and rents.

A. Affordable Housing Defined

Affordable housing, per the State of California, is defined as housing which is available for the longest feasible time at prices affordable to low and moderate income HH within a specific geographic area, based on the local Area Median Income (AMI). AMI's are defined by the U.S. Department of Housing and Urban Development (HUD). The affordability levels and income limits for the area which includes Oakland are described below:

<u>Affordability Level</u>	<u>AMI level</u>	<u>2009 HH Income limits¹</u>
Moderate Income	Between 81% and 120% of AMI	\$ 107,150
Low income	Between 51% and 80% of AMI	\$ 66,250
Very Low Income	Up to 50% of AMI	\$ 44,650

In 2009, the HUD defined median income for a four person HH in the area which includes Oakland as well as all of Alameda and Contra Costa Counties was \$89,300, well above the \$49,481 median HH income for the average 2.65 person Oakland HH (See Figure 1). The median income household for Oakland is within the state definition of low income households based on AMI. Less than a third of households in the city have incomes above the AMI. The Planning Area has an even lower median HH income at \$28,014, which is less than 40% of AMI. Only about 300 of the 6,159 households in the Planning Area (4.8%) have incomes above the AMI. The Planning Area has a much higher percentage of renters (84.3%), who generally have lower incomes than homeowners. Citywide only 41.1% of households are renters.



¹ AMI is determined annually by HUD by HH size and income limits are determined annually by the California Housing and Community Development (HCD). Limits are shown here for a four person household. At the time this memo was written the 2010 standards had not yet been released.

B. Planning Area Affordable Housing Targets

1. Redevelopment Requirements

Most of the Lake Merritt Planning Area is located within the Oakland Central District Redevelopment Project Area, which was established in 1969 prior to the State of California adopting redevelopment affordable housing production requirements.² The rest of the Planning Area east of Fallon Street, plus the blocks including the former Bart Headquarters site and parking lot, is part of the Central City East Redevelopment Project Area, which was established in 2003.

In Project Areas adopted after 1976 the California Redevelopment Law (CRL) requires that 15% of newly constructed or substantially rehabilitated housing units within the Project Area by entities other than the Redevelopment Agency must be made affordable to low and moderate income HH (the “housing production requirement”). The CRL also requires that 40% of these units be made affordable to very low income households, which means that over time 6% of all the housing produced in the Project Area must be made affordable to very low income households. These requirements do not currently apply to the Central District, but would apply if the Plan is extended as discussed below.

In addition, for all project areas including the Central District any low and moderate income housing units that are removed due to redevelopment activities must be replaced by the Redevelopment Agency.

The Redevelopment Plan for the Central District is now set to expire in either 2012 or 2013³. A redevelopment extension is being contemplated for the Project Area. Per the CRL the extension would be for an additional 10 years. Extension of the time limits for the Redevelopment Plan would cause the housing production requirement to apply to all units for which building permits are issued after the plan’s extension. This would impose an inclusionary requirement on the Redevelopment Agency for the redevelopment project area as a whole, but not necessarily on individual housing developments. As a result, construction of new market rate housing would trigger additional responsibility for the Agency to produce or assist in the production of affordable housing.

CCG estimates that the housing market will likely produce between 398 and 664 units in the Planning Area by 2015⁴. We note that in the Planning Area there are currently 1,230 units in the development pipeline, of which 789 units are fully entitled. For illustrative purposes, the impact of adopting CRL affordable housing production guidelines for the entire Planning Area is shown in Table 1 below.

² The Central District Redevelopment Project Area was established in 1969 and is set to expire in either 2012 or 2013; although there is widespread thought that Oakland may act to amend the plan to extend the time period.

³ Depending on how the city responds to the latest \$46 Million “State Take” of redevelopment funds to solve the state budget deficit.

⁴ CCG, *Lake Merritt Station Area Market Opportunity Analysis*, 2010, represents 30% to 50% of the ABAG Planning Area projections.

TABLE 1 AFFORDABILITY AT CRL LEVELS ⁵ , 2015	
Affordability Level	Affordable Units
Very low Income	24 - 40
Moderate, Low and V. Low	60 - 100
Total Units Built	398 - 664
Source: Conley Consulting Group; ABAG, <i>SF Housing Needs Plan</i> , 2008	

2. Regional Housing Needs Allocation (RHNA)

Pursuant to California's Housing Element law, ABAG periodically allocates the Bay Area housing burden, including affordable housing, across all communities in the region periodically. While communities must adopt housing elements that demonstrate that there is sufficient land with adequate zoning to accommodate this need, there is no enforcement mechanism to compel communities to actually develop this housing. The most recent RHNA was prepared for the period 2007 through 2014. The housing need allocation for the City of Oakland as a whole is shown in Table 2.

TABLE 2 OAKLAND RHNA 2007-2014, ABAG	
Affordability Level	Housing Need (units)
Very low Income	1,900
Low income	2,098
Moderate Income	3,142
Above Moderate	7,489
Total Need	14,629
Source: Conley Consulting Group; ABAG, <i>SF Housing Needs Plan</i> , 2008	

Thus, from 2007 through 2014 ABAG designates 27% of Oakland's RHNA to be affordable to low and very low income households, another 22% for moderate income households, and 51% for above moderate income households. Applying this proportion to ABAG's projection of 1310 new households in the Planning Area through 2015⁶ would suggest the following distribution of units by affordability level:

TABLE 3 Inferred Planning Area Housing Need Allocation (2010-15)	
Affordability Level	Housing Need (units)
Very Low Income	172
Low income	190
Moderate Income	286
Above Moderate	679
Total Need	1,327 ⁷
Source: Conley Consulting Group, 2010	

⁵ For illustrative purposes only. The 15% affordable housing production (inclusionary) requirement does not currently apply to the Central District Project Area. Per the CRL, if the project area is extended a 15% affordable production requirement will apply.

⁶ The RHNA is only for the period 2007-2014 for the city as a whole. The RHNA methodology assigns affordability levels based on a formula that is likely to change over time. Nevertheless, CCG has used the 2007-14 affordable income distribution to illustrate the local affordability burdens of the RHNA.

⁷ Per Dyett & Bahtia, 1800 units were constructed in the Planning area between 2000 and 2009. ABAG projects an increase of 1358 new HH between 2000 and 2005. By deduction, 442 new households were projected for the Planning Area between 2005 and 2010. ABAG also projects 1769 new HH in the Planning Area between 2005 and 2015. Also by deduction (given the 442 new HH between 2005 and 2010), 1327 new households were projected between 2010 and 2015. Note that we have not made an adjustment for the difference between new housing units and new HH (e.g. vacant units).

C. Local Gap Financing Burden for Affordable Housing

Financing for affordable housing usually comes from multiple sources specific to the income categories and household types targeted by state and federal housing programs. However, after tapping all of the available subsidy sources, there is usually a balance left over which requires local gap financing. City Staff reports that for new construction projects funded during the last two competitive funding rounds, the local subsidy range was between \$101,000-\$141,000/unit for rentals, and \$74,000-\$234,000 for ownership units. The average per unit subsidy over the last two years for both rental and ownership properties is just under \$123,000/unit.

Assuming a similar mix of housing products were built in the Planning Area and that the available affordable housing subsidy sources yield similar levels of non local funding through 2015, the local funding requirement for the units to be made affordable for very low, low, and moderate income households under the Redevelopment Inclusionary or ABAG RHNA methodology is illustrated in Table 4 below.

TABLE 4 Local Public Cost, Planning Area Affordable Housing 2010-2015, \$2010				
	Units per CRL ¹	Local Cost ²	Units per RHNA	Local Cost
Affordable Units	80	\$9.8 million	648	\$84.1 million
Source: Conley Consulting Group, February 2010				
1 Mid point of the range in Table 1, and is the estimate of total units built in the Planning Area.				
2 At an average of \$123,000/unit local subsidy (in 2010 dollars), after application of non local subsidies, across all unit types.				

As shown in Table 4, the estimated local financial burden for the CRL approach and the affordable portion of the allocated RHNA is estimated at roughly \$9.8 and \$84.1 million, respectively.

D. Affordability Through 2035

If the methodology applied above were extended to the later portions of the planning period, the local financial burdens of the CRL and RHNA approaches to affordability would be between \$139.3 million and \$633.8 million, respectively (see Table 5).

TABLE 5 Local Public Cost, Planning Area Affordable Units 2010-2035, \$2010				
	Units per CRL ¹	Local Cost ²	Units per RHNA	Local Cost
Total Construction/need	7,550		10,500	
Affordable Units	1,133	\$139.3M	5,145	\$633.8 M
Source: Conley Consulting Group, February 2010				
1 Mid point of the range in Table 4				
2 At an average of \$123,000 local subsidy per unit (\$2010) , after application of non local subsidies, across all unit types.				

E. Planning Area Affordability Strategies

1. Affordable Housing Unit Types

Area residents, including members of the Chinatown Coalition, stress the need for additional affordable family housing in the Planning area. The Planning Area has traditionally served as a port of entry for new Asian immigrants, who typically can not afford market rate housing. While an accurate estimate of future immigration is not available, these families would be attracted to and simultaneously support the area's vibrant retail uses.

Affordable units should be sized to support the area's small households as well as families requiring 2 and 3 bedroom units. Although some larger units are desirable, city sources report that the only persistent vacancies for Planning Area affordable housing projects are in four bedroom units.

In the near term (through 2015 or even 2020) CCG recommends creating opportunities for development of at least 80 affordable units, or 15% of the total units actually developed, consistent with the CRL⁸. Given the current Planning Area demographics, up to 75% of these units should be targeted to low and very low income families, with the remainder targeted to seniors. Citywide, expenditure of HSA funds is subject to a proportionality test based on the RHNA. No more than 44% of HSA funds can be used for units affordable to moderate income households and at least 29% and 27% of HSA funds, respectively, must be used for units affordable to low and very low income households. Further, no more than 10.5% of HSA funds can be allocated to units restricted to senior households. These restrictions must be met over time, and do not apply to individual projects or neighborhoods.

Between 2004 and 2009 approximately 21% of HSA funds have been spent on senior housing, meaning that the Agency has substantially exceeded the proportionality restriction. Consequently, the Agency is unlikely to be able to commit additional HSA funds to senior housing projects until after 2014. The city's Federal HOME funds may still be expended on senior developments, but those funds total only approximately \$4 million city-wide on annual basis, which might not be enough to fund a single new affordable senior development.

Given the proportional expenditure requirement, more senior units cannot be assisted in Oakland until after 2014, so it may not be possible to develop additional senior units in the near term.

We note that the age restricted units will be especially attractive to older Asian residents of Oakland and other East Bay communities who desire an opportunity to live in affordable units in an area where their language is spoken and the goods and services they require are available. Of course units that are financed by the City or Redevelopment Agency will be required to comply with affirmative fair marketing requirements to ensure outreach to groups otherwise less likely to apply.

2. Funding Sources

Most affordable housing in the planning area will be funded with a mix of local and non local sources. Low income housing tax credits (LIHTC), Federal HOME funds, mortgage revenue bonds, and HUD funds. With few exceptions, non local subsidy sources are not adequate, even

⁸ Currently there are 143 approved affordable senior units in the development pipeline, so it is possible that in the near term affordable housing will exceed 15% of the new housing development in the Planning Area.

in combination, to fully subsidize the cost differential to make new housing development affordable to low and moderate income households.

Tax increment is the most important local source of funding for affordable housing. By policy, Oakland normally dedicates 25% of the tax increment funds to affordable housing, or 5% more than required by the state law. However, for fiscal years 2008-09, 2009-10 and 2010-11, some or all of the 5% additional contribution has been allocated to pay for a portion the Supplemental Revenue Augmentation Funds (SERAF) transfers required by the state. For the Central District and most Project Areas in Oakland, these housing funds are pooled into a city wide HSA fund and used to fund development of affordable housing throughout the city. However, HSA funds are retained within the Central City East and West Oakland Project Areas and dedicated exclusively to providing affordable housing in those Project Areas. HSA funds are allocated on a competitive basis, subject to an annual Notice of Funds Availability (NOFA) process.

Citywide, expenditure of HSA funds is subject to a proportionality test based on the RHNA. No more than 44% of HSA funds can be used for units affordable to moderate income households and at least 29% and 27% of HSA funds, respectively, must be used for units affordable to low and very low income households. Further, no more than 10.5% of HSA funds can be allocated to units restricted to senior households. These restrictions must be met over time, and do not apply to individual projects or neighborhoods.

It must be noted that even if the 15% CRL affordability production requirement is met, new housing in the Planning Area will be occupied by households with higher incomes than current residents. The Station Area plan should support development of a mixed income community that doesn't alter the income distribution of the area's population, which will require more resources and a commitment to achieving higher levels of affordability than are specified in the CRL.

However, since Oakland's affordable housing funds are administered on a city-wide basis without a fixed allotment of resources to particular neighborhoods⁹, within current city housing policy guidelines it is not feasible to reserve a pool of funds for the Planning Area. HSA funds are allocated on a competitive basis as notices of funding availability (NOFA) are released. Proposal evaluation procedures for future NOFAs will favor TOD locations and other Priority development Areas, which should be a competitive advantage for strong affordable housing development proposals in the Planning Area. Further, today there are several neighborhoods in Oakland that are actively resisting development of more affordable housing, based on the opinion that those neighborhoods have already received more than their 'fair share' of affordable unit development. Thus, with careful planning and dedicated effort, the Planning Area may capture a higher proportion of local affordable funds.

Based on the CRL and given the projected total (market and non market) housing development over the 25 year planning period, 1,133 affordable housing units should be constructed in the Planning Area. These units are eligible for HSA funding, even if the Central District Project Area is not extended past its current termination date.

Nevertheless, it is highly unlikely that enough local funds can be secured to provide gap financing, after application of state and federal resources, for affordable housing to meet the Planning Area's proportionate share of the affordable housing units designated for Oakland in the RHNA (see Table 5).

⁹ With the exception of the Central City East and West Oakland Project Areas, which retain their HSA funds for use within those Project Areas' boundaries.

3. Other Strategies

a. Land Banking

As we understand it, many land owners in the Planning Area are patient investors, willing to hold sites (sometimes across generations) to achieve their long term objectives. Historically, site turnover has been infrequent in the Planning Area. Further, land values in Chinatown have historically been the highest in downtown Oakland. Because of the Planning Area's strong economic vitality and constrained geography¹⁰, high rents support strong property values.

Thus, acquiring and designating sufficient sites for affordable housing development in the Planning Area should be a public goal. In most parts of the Planning Area, affordable housing would be developed in higher density projects over ground floor retail uses. The current economic crises and relative absence of development pressure may represent an opportunity to acquire sites for affordable housing development in the Planning Area.

b. Incorporate Affordable Housing in Mixed Use Developments

Give the scarcity of sites, another approach might be to include affordable housing in mixed use developments. Pacific Renaissance Center is one example of that approach, including market rate, affordable housing, service and retail uses. While that project illustrates some of the issues associated with maintaining affordability over the long term, it did succeed in incorporating affordable housing in a development located at the heart of the districts commercial core.

c. Reduce Parking Ratios to Reduce Development Costs

The Planning Area has a high degree of transit dependence, given that 49% of area households do not own a car. In contrast less than 20% of Oakland households do not own cars. Immigrants and other prime target populations for affordable housing in the Planning Area are particularly receptive to TOD housing solutions, and would be well served by affordable housing with lower parking ratios. The average construction cost for an unnecessary parking space, which generally ranges from \$25,000 to \$60,000, represents a significant reduction in the local cost burden for an affordable housing unit described above. Thus, reducing parking ratios for housing development in the Planning Area would extend the number of units that could be funded with available local housing funds. The city is currently nearing the end of a multi year effort to revise the zoning code for the first time in decades with a separate effort to revise parking regulations scheduled to be undertaken following completion of the rezoning. At that time lowered parking requirements, consistent with TOD standards and the needs of the local population, should be encouraged for the Planning Area. However, we note that conventional lenders may resist efforts to reduce parking ratios.

¹⁰ Due to discrimination, historically Asian households and businesses were only permitted to locate in Chinatown. More recently, this trend has been reinforced by property owner resistance to leasing to Chinatown oriented businesses on the western side of Broadway. In the interim years, the land area available to Chinatown was reduced by public land assembly on the area's eastern and southern edges.