



# AGENDA REPORT

**TO:** Edward D. Reiskin  
City Administrator

**FROM:** William Gilchrist  
Director, Planning &  
Building Department

**SUBJECT:** Study Session On Oakland 2045  
General Plan Update: 2023-2031  
Housing Element

**DATE:** October 3, 2022

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City Administrator Approval

Date: Oct 4, 2022

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## **RECOMMENDATION**

**Staff Recommends That The City Council Conduct A Study Session On The 2023-2031 Housing Element Update Process As Follows: (A) Receive An Informational Presentation On The Draft 2023-2031 Housing Element; (B) Review The Letter From The State of California Department of Housing and Community Development (HCD); And (C) Provide Feedback To Staff On The Draft Housing Element.**

## **EXECUTIVE SUMMARY**

Each California city and county must update its General Plan Housing Element every eight years to adequately plan to meet the existing and projected housing needs of the community at all economic levels, including low-income households and households with special needs. Oakland's current 2015-2023 Housing Element was adopted on December 9, 2014, and the statutory deadline to adopt the 2023-2031 Housing Element is January 31, 2023. All cities have a 120-day grace period from the statutory deadline, and the housing element is considered compliant if adopted during this time.

The City of Oakland (City) has completed a draft update to the 2023-2031 Housing Element as part of Phase 1 of the 2045 General Plan Update (GPU) process. The 2023-2031 Housing Element sets forth the City's housing priorities and goals—as well as its vision for both short- and long-term housing development—to create a fair and just city. The Housing Action Plan within the 2023-2031 Housing Element proposes ambitious actions to address five overarching goals: (1) protect Oakland residents from displacement and prevent homelessness, (2) preserve and improve the existing housing stock, (3) expand affordable housing opportunities; (4) address homelessness and expand resources for the unhoused; and (5) promote neighborhood stability and health.

In addition, the GPU team are proposing to rezone select areas throughout the City to accommodate additional density, such as parcels around BART stations, along transit corridors,

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and in existing residential neighborhoods to allow for “missing middle”<sup>1</sup> housing. This rezoning proposal will unlock new sites that can accommodate affordable housing within high resource neighborhoods. See **Attachments A, B, and C** for [preliminary draft zoning proposals](#).

This agenda report highlights key information from the Draft 2023-2031 Housing Element, including actions to Affirmatively Further Fair Housing (AFFH) and to accommodate the 26,251 units assigned to Oakland through the Regional Housing Needs Allocation (RHNA) process.

The Draft 2023-2031 Housing Element can be found on the City’s webpage:

<https://www.oaklandca.gov/topics/oakland-general-plan-2045-housing-element>

## **BACKGROUND / LEGISLATIVE HISTORY**

All California cities and counties are required to adopt comprehensive, long-term General Plans to serve as the “constitution” for future development. California Law requires specific topics, also called “Elements,” to be covered in a city’s General Plan. Required General Plan topics include:

- Land use
- Circulation
- Housing
- Conservation
- Open space
- Noise
- Safety
- Environmental justice (or related goals and policies integrated in other elements).

Requirements for each element are provided in California Government Code Section 65302.

Cities and counties must update their Housing Element every eight years to demonstrate how the jurisdiction has adequately planned to meet the existing and projected housing needs of all economic segments of the community. Every eight years, the State Department of Housing and Community Development (State HCD) projects the housing need for the state, referred to as the Regional Housing Needs Allocation (RHNA). For the 6th cycle (2023-2031), the City was assigned to accommodate **26,251 units** through the RHNA allocation process. Per State law, every jurisdiction shall update their Housing Element every eight years in conjunction with the RHNA allocation to reflect changing conditions, community objectives, and goals.

Reports presented to the Planning Commission on [February 2, 2022](#), and to the Community and Economic Development (CED) Committee on [February 22, 2022](#), provided detailed information on the Housing Element requirements and sought feedback on the sites inventory process. Staff

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<sup>1</sup> Missing Middle Housing refers to a range of house-scale buildings with multiple units—compatible in scale and form with detached single-family homes—located in a walkable neighborhood. These building types, such as duplexes, fourplexes, cottage courts, and courtyard buildings, provide diverse housing options and support locally serving retail and public transportation options. From <https://missingmiddlehousing.com/>

also sought feedback on the 2023-2031 Draft Housing Element from the CED Committee on [May 24, 2022](#), and from the Planning Commission on [May 18, 2022](#), and [June 1, 2022](#).

At the May 24, 2022, CED meeting, the CED Committee directed staff to present the revised draft 2023-2031 Housing Element after incorporating comments from State HCD. At the July 26, 2022, City Council meeting, the Council directed staff to present the first public review draft 2023-2031 Housing Element and the State HCD letter to provide feedback to staff.

## **ANALYSIS AND POLICY ALTERNATIVES**

The 2023-2031 Housing Element advances the following Citywide priorities<sup>2</sup>:

**Housing, Economic, and Cultural Security:** The 2023-2031 Housing Element Update and associated zoning code amendments will identify sites and areas in the City that demonstrate the capability of being developed with affordable housing and will identify strategies and measurable outcomes to “Protect, Preserve, and Produce” affordable homes.

**Responsive, Trustworthy Government:** The 2023-2031 Housing Element Update will promote meaningful civil engagement in public decision-making processes and identify objectives and policies that address the most pressing needs in the community, particularly where social and racial inequity is most prevalent.

The analysis in this report addresses (1) the 2023-2031 Housing Element Update requirements, (2) key elements of the first draft of the Housing Elements, (3) revisions made in draft Housing Element submitted to the State HCD, and (4) response to State HCD requirements.

### **1. 2023-2031 HOUSING ELEMENT UPDATE REQUIREMENTS**

The Housing Element is one of the required elements of Oakland’s General Plan and serves as an eight-year blueprint and framework to meet the housing needs of all people within the community at all economic levels, including low-income households and households with special needs. It provides various programs to create a variety of housing to meet Oakland’s housing needs. Additionally, the Housing Element must identify adequate sites for housing and demonstrate the availability and realistic capacity for development on those sites. This General Plan element implements the declaration of State law that the availability of housing is a matter of vital statewide importance. It is more specific and directive than other General Plan elements, with detailed State guidance, reviews, and deadlines. The State HCD must review and certify the Housing Element.

Oakland’s current 2015-2023 Housing Element was adopted in 2014 and is required to be revised and adopted for the next eight-year cycle (2023-2031) by early 2023.

The 2023-2031 Housing Element sets forth the City’s housing priorities and goals—as well as its vision for both short- and long-term development—to create a fair and just city. This Housing Element also provides an evaluation of the 2015-2023 Housing Element, including an assessment of prior programs and strategies.

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<sup>2</sup> FY 2021-23 Budget Priorities: <https://stories.opengov.com/oaklandca/published/OV2Mbvvxu>

## Housing Element Requirements

For the 6th cycle Housing Element, all California jurisdictions are subject to the following State requirements:

- AB 686<sup>3</sup> (Affirmatively Further Fair Housing (AFFH) Act) (2018) - Facilitates deliberate action to explicitly address, combat and relieve disparities resulting from past patterns of segregation to foster more inclusive communities. The City is using the AFFH lens to assess housing needs, to select and distribute housing sites, identify programs and policies to strengthen communities most impacted by histories and continued patterns of housing discrimination, direct targeted community engagement/outreach strategies, and more.
- AB 215 (2021) – Extends the housing element compliance review process by requiring local governments to make draft housing elements available for public review prior to submittal to State HCD rather than conducting concurrent review. The draft must be made publicly available for at least 30 days, and the local government must consider and incorporate public comment for at least 10 business days, before sending the draft to State HCD. AB 215 also increased HCD’s review period of the first draft element submittal from 60 to 90 days and within 60 days of its receipt for a subsequent draft amendment or adoption.

The Housing Element content is highly prescribed by State law (California Government Code Sections 65580-65589) and must include:

- **Housing Needs Assessment:** Examine demographic, employment, and housing trends and conditions and identify existing and projected housing needs of the community, with attention paid to special housing needs (e.g., large families, persons with disabilities).
- **Evaluation of Past Performance:** Review the prior Housing Element to measure progress in implementing policies and programs.
- **Housing Sites Inventory:** Identify locations of available sites for housing development or redevelopment to ensure there is enough land zoned for housing to meet the future need at all income levels.
- **Community Engagement:** Implement a robust community engagement program, reaching out to all economic segments of the community with special attention paid to engaging traditionally underrepresented groups.
- **Constraints Analysis:** Analyze and recommend remedies for existing and potential governmental and nongovernmental barriers to housing development.

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<sup>3</sup> AB 686 defines “affirmatively furthering fair housing” to mean “taking meaningful actions, in addition to combat discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity” for persons of color, persons with disabilities, and other protected classes.

- **Opportunities for Energy Conservation:** Analyze opportunities for energy conservation with respect to residential development.
- **Analysis of Existing Assisted Housing Developments:** Analyze existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use
- **Policies and Programs:** Establish policies and programs to be carried out during the 2023-2031 planning period to fulfill the identified housing needs, including a rezoning plan and plans to affirmatively further fair housing.

## Timeline

As stated previously, the statutory deadline to adopt the 2023-2031 Housing Element is January 31, 2023. All cities have a 120-day grace period from the statutory deadline, and the housing element is considered compliant if adopted during this time. In order for the City to remain competitive for state affordable housing grants and maintain local land use control, the Housing Element update must be adopted within the 120-day grace period.. Prior to adoption, the Housing Element must be reviewed by State HCD for confirmation that the Housing Element adequately addresses every statutory requirement. State HCD has 90 days to review the draft. The City's Housing Element Project Timeline is available on the GPU website at <https://www.oaklandca.gov/topics/oakland-general-plan-2045-housing-element>.

Pursuant to AB 215, cities must make the first draft of the Housing Element available for public comment for at least thirty days and then must take at least ten business days to consider and incorporate public comments before sending a draft to State HCD for review. The City made the first draft available for public to review on May 12, 2022, and set June 13, 2022, as the deadline for receiving comments that would be considered before sending the draft to State HCD. The City then provided its draft Housing Element to State HCD for review on June 30, 2022. City staff incorporated changes to the draft prior to submittal to State HCD where it was feasible to do so within the short time period, while more substantive comments are proposed to be addressed in the second public draft of the Housing Element.

To ensure that the community had enough time to review and comment, the City committed to keeping the first public review draft of the Housing Element available for public comment during the 90-day State HCD review period, until September 30, 2022.

During the review period, the City has had several informal meetings with State HCD in which State HCD informed staff that the draft met many of the statutory requirements and reflected robust community engagement. State HCD indicated that there were some areas that would need revision, which are set forth in the findings letter.

Staff received the findings letter from State HCD with their review of the initial draft submission of the City's Housing Element on September 28, 2022. The State HCD findings letter has been posted on the City's website at <https://www.oaklandca.gov/topics/oakland-general-plan-2045-housing-element> and is provided as **Attachment D** to this report. The second public review draft

of the Housing Element is anticipated to be available in late November 2022 on the City's website.

### **Community Outreach and Engagement Focused on the Housing Element**

The City's GPU team began the 2023-2031 Housing Element Update in winter 2021 as part of the overall 2045 Oakland GPU process. City Staff along with the consultant team have conducted a wide range of community engagement focused on the Housing Element, including outreach to communities that have disproportionately been impacted by historic and continued patterns of housing discrimination.

Since November 2021, the GPU team has engaged with the community on the Housing Element through pop-ups, cultural events, townhalls, focused discussions, neighborhood workshops/meetings, online engagement, presentations to community groups and Neighborhood Councils, study sessions, and public hearings etc. to engage and to solicit input and guidance.

Planning staff and the consultant team have held study sessions with the Landmarks Preservation Advisory Board (LPAB), Planning Commission, Commission on Homelessness, the Community and Economic Development (CED) committee of the City Council, the City Council, four Housing Element Community Workshops, three Housing Element discussion sessions, pop-up and cultural hub events, and two Deeply Rooted Housing & Environmental Justice Community Education Workshops. In addition, the Technical Advisory Committee (TAC) provided recommendations for housing strategies/actions for housing production, preservation, and protections at the March 2022 meeting. The Equity Working Group has also met thrice between June 2022 to August 2022 to provide feedback on the Draft Housing Element.

Finally Planning staff has presented at over 40 neighborhood and community group meetings, and are also presenting at various other meetings, as requested. These community groups includes the Monarch Senior Homes – Satellite Affordable Housing Associates (SAHA) development, East Bay Housing Organizations (EBHO) Oakland Committee, and [Allen Temple Public Ministry's Virtual Townhall](#). Most recently, Staff presented to the [Rockridge Community Planning Council \(RCPC\)](#) on August 18, 2022, and to the Piedmont Avenue Neighborhood Improvement League (PANIL) on September 21, 2022.

Information on all community engagement events, including engagement summaries; workshop and townhall presentations, recordings, and meeting summaries; and discussion group summaries, are being provided via the [General Plan Update website at https://www.oaklandca.gov/topics/meetings-and-events](#), e-newsletters, and social media updates. **Table 1** provides a summary of key community feedback focused on the Housing Element.

**Table 1: Key Community Feedback From Housing Element Engagement**

Key Issues	Key Solutions
<b>1. Housing Affordability – Expand Affordable Housing Opportunities</b>	
<ul style="list-style-type: none"> <li>Lack of rental assistance</li> <li>Rents increase, but wages do not</li> <li>Seniors and families cannot afford housing</li> </ul>	<ul style="list-style-type: none"> <li>Build more deeply affordable housing</li> <li>Impact fees and inclusionary zoning</li> <li>Affordable by design housing</li> </ul>
<b>2. Habitability and Housing Quality - Preserve &amp; improve existing housing stock</b>	
<ul style="list-style-type: none"> <li>Landlords do not maintain properties adequately</li> <li>Overcrowding</li> <li>Mold, lead, water leaks, poor ventilation</li> </ul>	<ul style="list-style-type: none"> <li>Proactive inspection system</li> <li>Tax credits / programs to help homeowners improve air ventilation</li> <li>Improved enforcement for mold cleanup</li> </ul>
<b>3. Neighborhood (De)Stabilization and Cultural Preservation - Protect Oakland Residents from Displacement &amp; Prevent Homelessness</b>	
<ul style="list-style-type: none"> <li>Families losing homes during foreclosure &amp; predatory loan crisis</li> <li>Black residents and culture pushed out</li> <li>Evictions happen too often</li> </ul>	<ul style="list-style-type: none"> <li>Preference policy for displaced people in new affordable housing</li> <li>Protection from predatory lending</li> <li>Fund community land trusts and other co-ownership opportunities</li> </ul>
<b>4. Human Services and Homeless Supports - Address Homelessness and Expand Resources for the Unhoused</b>	
<ul style="list-style-type: none"> <li>City is destroying encampments</li> <li>No access to hygiene and shelter</li> <li>No financial assistance for food, rent, etc.</li> </ul>	<ul style="list-style-type: none"> <li>Access to bathrooms and showers</li> <li>Healthcare and supportive services</li> <li>Restructure City’s encampment management policy</li> </ul>
<b>5. Housing Production and Location - Promote neighborhood stability and health</b>	
<ul style="list-style-type: none"> <li>Residents living in polluted areas are at-risk of health concerns</li> <li>Housing production in high opportunity areas does not curb displacement</li> </ul>	<ul style="list-style-type: none"> <li>Build housing in gentrifying/at-risk and high opportunity areas</li> <li>Ensure City-owned land is used for affordable housing</li> <li>Consider environmental justice and climate challenges while planning for housing</li> </ul>

Across discussion groups, workshops, and other community engagement events, following key themes emerged that informed development of the Housing Element Update’s goals, policies, and actions:

- Address Homelessness: “Housing is a Human Right.”
- Protect Oakland Residents from Displacement and Preserve Existing Affordable Housing
- Focus on Building more Housing Affordable to Extremely Low, Very Low, Low, and Moderate Incomes.
- Address Housing Quality Issues.
- Build in Accountability and Success Metrics.

## 2. FIRST PUBLIC REVIEW DRAFT HOUSING ELEMENT

As stated above, pursuant to AB 215, the first draft of the Housing Element was initially made available for public review on May 12, 2022. Based on community feedback and to ensure that the community has sufficient time to review and provide feedback, the public review period for the first public review draft of the Housing Element was extended to September 30, 2022, to coincide with the 90-day State HCD review period.

The Draft Housing Element was posted on the GPU website for public review at <https://www.oaklandca.gov/topics/oakland-general-plan-2045-housing-element> and includes the following components:

- **Chapter 1: Introduction.** Provides an overview of State requirements, a summary of the organization of the Housing Element, and an explanation of the Housing Element's relationship to the General Plan
- **Chapter 2: Public Participation.** Provides a description of the public participation process and a summary of community outreach activities.
- **Chapter 3: Summary of the Housing Sites Inventory.** Summarizes the City's ability to accommodate the RHNA on available land, and the selection of sites in light of Affirmatively Further Fair Housing (AFFH) requirements.
- **Chapter 4: Housing Action Plan.** Institutes the goals, policies, and actions of the 2023-2031 Housing Element and provides quantified objectives.
- **Appendix A: Evaluation of the 2015-2023 Oakland Housing Element.** Summarizes the City's achievements in implementing goals, policies, and actions under the previous Housing Element.
- **Appendix B: Housing Needs Assessment.** Presents community demographic information, including both population and household data, to identify Oakland's housing needs.
- **Appendix C: Sites Inventory.** Outlines the selection and capacity methodology used to identify sites to accommodate the RHNA.
- **Appendix D: Assessment of Fair Housing.** Identifies fair housing issues and solutions to meet Oakland's AFFH mandate.
- **Appendix E: Housing Resources and Opportunities.** Assesses the City's financial and administrative resources available for future housing development.
- **Appendix F: Housing Constraints.** Analyzes governmental and non-governmental constraints to the development of housing.
- **Appendix G: Opportunities for Energy Conservation.** Presents opportunities to develop housing in a sustainable manner.
- **Appendix H: Glossary.** Defines key terms used in the Draft Housing Element.
- **Appendix I: Reserved for Public Outreach Materials.**

The following report section focuses on key components of the Draft 2023 – 2031 Housing Element, with particular focus on the Housing Needs Assessment, Sites Inventory, Affirmatively Furthering Fair Housing Analysis, Constraints Analysis, and the Housing Action Plan.



## Housing Needs Assessment

The Housing Needs Assessment (*Appendix B*) examines demographic, employment, and housing trends and conditions and identifies existing and projected housing needs of the community, with attention paid to special housing needs (e.g., large families, persons with disabilities).

Some of the housing needs identified in Oakland include the following:

- **Affordability:** There is an affordability gap for both renters and owners in Oakland. In addition, there are lagging production rates of affordable housing, including moderate-income housing.
- **Homelessness:** According to the February 2022 Alameda County Point-in-Time Count, there are 5,055 unhoused individuals in Oakland. The population experiencing homelessness in Oakland has increased by about 24% since the 2019 Point-in-Time Count.
- **Demographics:** The population over 65 years old in Oakland will increase significantly in the future. The aging population indicates a continued and increasing need for senior units.
- **Racial and Economic Disparities:** There are high poverty rates and housing cost burden, especially among Black or African American households in Oakland.

## Sites Inventory

The Housing Element must include an inventory of sites under existing zoning suitable for new homes in Oakland at all income levels. The purpose of the inventory is to evaluate whether zoning itself acts as a constraint on housing production, including affordable housing production. For example, many California cities are zoned predominantly for single-family homes, which limits the number of sites available for the construction of affordable housing. The sites inventory analyzes whether the City currently has a sufficient number of sites available to meet its RHNA over the next eight years, and to determine whether the distribution of these sites will help to ameliorate or further entrench existing patterns of segregation.

Chapter 3 provides a summary of the inventory approach and *Appendix C* includes the detailed site inventory. An interactive map and PDF maps by City Council District of the draft Sites Inventory are publicly available on the [Housing Element website](#).

In accordance with [State HCD's Housing Element Sites Inventory Guidebook](#), the Sites Inventory was developed based on the City's existing zoning, with close attention to:

- Lot sizes and density
- Access to neighborhood needs
- Improving access to opportunity and addressing equity consistent with the City's mandate to Affirmatively Further Fair Housing.
- Safety constraints

Given the City's inability to meet the 5th cycle RHNA for lower- and moderate-income households (see *Appendix A*), an emphasis was placed on locating sites appropriate for these income groups – particularly in higher resource areas. However, increasing access to existing high resource neighborhoods represents just one strategy to increase access to opportunity for lower-income households – the City is also committed to investing in “lower resource”

neighborhoods to increase opportunity for the existing residents of those neighborhoods – described further in *Appendix D* and *Chapter 4: Housing Action Plan*.

Based on the City’s current General Plan and zoning regulations, there is sufficient capacity to accommodate its RHNA allocation, with additional capacity identified as a buffer. In addition, the GPU team are proposing to rezone select areas throughout the city to accommodate additional density, such as parcels around BART stations, along transit corridors, and in existing residential neighborhoods to allow for “missing middle” housing. This rezoning proposal will unlock new sites that can accommodate affordable housing within high resource neighborhoods. Sites included in the inventory reflect those that are most likely to develop during the Housing Element planning period and meet the RHNA; sites that are newly made available by one of the rezoning efforts identified in the Housing Action Plan are not shown as part of this inventory since they do not reflect zoning conditions existing at the beginning of the Housing Element update process.

The Sites Inventory identifies sufficiently zoned land to accommodate the RHNA at all income levels. The inventory is divided into two major groups:

- Sites where development is underway or approved (known as “pipeline projects”) or otherwise can be credited to meet the RHNA (such as Accessory Dwelling Units, or ADUs); and
- Opportunity sites where additional development could occur. This includes: 1) potential development projects, where projects may be in pre-approval; 2) sites from the previous RHNA cycle that remain available for development; and 3) new opportunity sites, which includes both vacant and non-vacant sites and consists of City-owned sites, sites owned by Bay Area Rapid Transit (BART) or other government agencies, sites located within a specific plan area, and other sites with expressed or potential development interest.

The analysis of nonvacant properties included only those properties with realistic potential for additional development, in light of 1) existing uses on the site; 2) prevailing market conditions; 3) recent development trends; 4) expressed interests in housing development from property owners or developers; and 5) regulatory and/or other incentives to encourage recycling or intensification of existing development. A summary of capacity by housing units to meet the RHNA is provided in **Table 2**.

**Table 2: Summary of Residential Capacity to Accommodate the 2023-2031 RHNA**

	<i>Residential Units</i>				<i>Total</i>
	<i>Very-Low-Income<sup>1,2</sup></i>	<i>Low-Income<sup>1</sup></i>	<i>Moderate-Income</i>	<i>Above-Moderate-Income</i>	
Total Credits	1,985	1,936	760	9,718	14,399
<i>Pipeline Projects</i>	1,213	1,244	166	9,716	12,339
<i>Projected ADUs Adequate Sites</i>	692	692	594	0	1,978
<i>Alternative</i>	80	0	0	2	82
Potential Development Projects	386	1,480	211	6,525	<b>8,602</b>
<i>Vacant</i>	225	874	27	1,832	<b>2,958</b>
<i>Non-Vacant</i>	161	606	184	4,693	<b>5,644</b>
Available 5th Cycle RHNA		714	3,795	688	5,197
<i>Vacant</i>		23	566	3	592

<i>Non-Vacant</i>	691	3,229	685	4,605
New Opportunity Sites	5,361	980	1,735	8,076
<i>Vacant</i>	142	200	0	342
<i>Non-Vacant</i>	5,219	780	1,735	7,734
Total Capacity	11,862	5,746	18,666	36,274
6th Cycle RHNA	10,261	4,457	11,533	26,251
<i>RHNA + 15% Buffer</i>	11,801	5,126	13,263	30,189
Surplus Over RHNA	1,601	1,289	7,133	10,023
	(115.6%)	(128.9%)	(161.8%)	(138.2%)

1. Low- and very-low-income capacity on opportunity sites is consolidated per default density assumptions as described in Government Code Section 65583.2(c)(3).

2. Extremely-low-income housing need is assumed to be 50% of the total very-low-income housing need, or about 3,256 units.

Source: ABAG, *Final RHNA Plan, December 2021*; City of Oakland, 2022

While the Housing Sites Inventory documents that Oakland does have sufficient zoning capacity to meet Oakland's RHNA requirements, the City has identified in its Housing Action Plan several zoning reforms that would further increase housing production capacity and unlock additional opportunities for affordable and "missing middle" housing in high resource areas. These are in addition to the continued enforcement and strengthening of identified tenant protection and anti-displacement measures.

### **Affirmatively Furthering Fair Housing Analysis**

The Affirmatively Furthering Fair Housing (AFFH) (*Appendix D*) analysis identifies fair housing issues and solutions to meet Oakland's AFFH mandate.

Oakland is extremely diverse at the City-level, but at the neighborhood-level, geographic patterns of income segregation and racial/ethnic segregation are clear. Additionally, Oakland has Racially or Ethnically Concentrated Areas of Poverty (R/ECAPs)<sup>4</sup> localized to four clusters in the City in/around Downtown and West Oakland, in/around Fruitvale/Jingletown, and two along International Boulevard near the Coliseum. Neighborhoods across Oakland have received unequal levels of investment, rendering varying levels of opportunity for protected classes<sup>5</sup>. While access to transit may be enjoyed by all protected classes as defined by AB686, access to economic, educational, and environmental opportunities vary greatly across the City. Comparing access to opportunity with displacement risk and gentrification across the City, areas that are exclusive, stable, or in the advanced stages of gentrification offer the best access to opportunity. Much of the City has been gentrified in recent years, leaving residents in the few (predominantly BIPOC) neighborhoods that have not been gentrified to be at risk of displacement. Oakland is further impacted by the disproportionate housing needs: overcrowding rates are higher in the

<sup>4</sup> Racially or ethnically concentrated areas of poverty (R/ECAPs) are defined by HUD as census tracts with a non-white population of 50 percent or more, and a poverty rate that exceeds 40 percent or is three or more times the average tract poverty rate for the metropolitan/micropolitan area, whichever is lower. It serves as a measure of neighborhoods that are experiencing both high racial and ethnic concentration as well as high rates of poverty.

<sup>5</sup> Fair housing laws aim to ensure that people have access to housing and the resources attached to place of residence regardless of their race, national origin, family status, religion, sex, or disability, often referred to as protected classes.

City than in the County/Bay Area Region, cost burden rates are high (highest for Black and African American households and lowest for white households), and homelessness is a major public health crisis in the City. Individuals experiencing homelessness increased 83 percent between 2017 and 2022 and individuals identifying as Black or African American are disproportionately represented in the unhoused population. The goals and actions concluding this appendix have a strong focus on investing in neighborhoods considered “Low Resource” and “High Segregation and Poverty” by the State HCD/TCAC Opportunity Maps (i.e., those neighborhoods with low access to opportunity). These neighborhoods have high concentrations of BIPOC populations.

### **Constraints Analysis**

The Constraints Analysis (*Appendix F*) analyzes governmental and non-governmental constraints to the development of housing. Governmental constraints on affordable housing construction include a lack of local and State funding to support the development of affordable housing; a lack of clarity on permit streamlining processes; higher costs for all housing developments due to staffing constraints in permit processing; and the availability of concessions for market-rate housing and community perception that these concessions limit the encouragement of affordable housing development. Both market-rate and affordable housing also face constraints from development standards and green building standards. Non-governmental constraints on housing development include environmental constraints, such as risk of seismic activity, infrastructure needs for infill housing, and the high cost of land, materials, and labor in Oakland.

### **Housing Action Plan**

The Housing Element must identify specific programs to implement stated policies and achieve goals and objectives, including specific actions the City will take. Programs must also identify: a specific implementation timeframe; responsible party; a description of the responsible party's specific role in implementation; and specific, measurable outcomes, whenever possible.

The Housing Action Plan (*Chapter 4*) of the draft Housing Element contains a list of goals, policies and implementing programs intended to promote the preservation, rehabilitation, and production of housing throughout the City. The Draft Housing Element identifies policies and actions that:

- Explicitly focus on production of extremely low-, very low-, and low-income housing
- Promote the Protection, Preservation, and Production of Housing
- Open up exclusionary neighborhoods (often ‘higher resourced’) for Affordable Housing
- Invest in historically disinvested neighborhoods
- Enable residents to remain in their neighborhoods wherever this investment is occurring.

The Housing Action Plan policies and programs are oriented around a framework of five overarching goals to comprehensively address the housing crisis and needs of Oaklanders. The goals seek to significantly address disparities in housing needs and access to opportunity, replace segregated living patterns with truly integrated and balanced living patterns, transform

racially and ethnically concentrated areas of poverty into areas of opportunity, foster and maintain compliance with civil rights, and affirmatively further fair housing.

1. **Goal 1: Protect Oakland Residents from Displacement and Prevent Homelessness**

includes policies and actions that are part of a comprehensive protection strategy designed to prevent displacement and homelessness, both of which disproportionately impact Black, Indigenous, and People of Color (BIPOC) communities throughout Oakland; and in order to ensure that low-income renters and homeowners have supports, they need to be able to stay in their homes and communities as increased neighborhood investment occurs. As investments are focused in previously disinvested neighborhoods, these protections reduce displacement pressures and help existing residents stay and benefit from new amenities.

- Specific actions include:
  - Enforcing Just Cause for Eviction measures.
  - Continue to implement the Rent Adjustment Ordinance.
  - Monitor neighborhood displacement risk factors.
  - Continue and expand the Tenant Protection Ordinance.

2. **Goal 2: Preserve and Improve Existing Affordable Housing Stock** includes policies and actions that conserve and improve existing housing stock and prioritizes resources and funding for rehabilitation and safety improvements to improve health and reduce displacement pressure. Preserving affordability helps BIPOC and low-income residents remain in their homes.

- Specific actions include:
  - Support home rehabilitation programs.
  - Promote healthy homes and lead-safe housing.
  - Enforce, monitor, and preserve affordable housing covenants with an emphasis on “at-risk” units.
  - Provide additional subsidy for residential hotels.

3. **Goal 3: Expand Affordable Housing Opportunities** encourages the production of affordable housing and guide development of a more diverse range of housing choices for households of all types, incomes, and special needs; and promote changes to City tools like permitting processes and the zoning code to make it easier and faster to build affordable housing. Given history and ongoing patterns of housing discrimination, actions that further this goal are designed around increasing affordability and expanding the housing types (through zoning code amendments) permitted in high-opportunity neighborhoods will be key to ensuring that currently exclusive neighborhoods become inclusive.

- Specific actions include:
  - Support community land trusts and other shared equity models.
  - Develop zoning standards to encourage missing middle and multi-unit housing types in currently single-family-dominated neighborhoods.
  - Implement an affordable housing overlay.

- Develop permanent housing affordable to extremely-low-income (ELI) households on public land with bonus points for affordable housing projects serving special needs populations (ELI, persons with disabilities, seniors).
  - Develop a project-based rental or operating subsidy program for ELI residents.
  - Study targeted implementation of an inclusionary housing requirement.
4. **Goal 4: Address Homelessness and Expand Services for the Unhoused** recognizes “housing as a human right” and supports coordination across the spectrum, from homelessness prevention to transitional housing/shelter and services to permanent housing with resources for long-term support. By expanding access to quality homelessness services across Oakland and will be seeking to expand transitional housing options in a citywide manner, the City will work to avoid an overconcentration in homelessness and homelessness-related services in disadvantaged neighborhoods. Goal 4 and the policies and actions that implement it, will address fair housing issues as they relate to homelessness in Oakland.
- Specific actions include:
    - Expand, improve, and maintain crisis response beds.
    - Expand co-governance and partnerships with unsheltered residents in the design and delivery of homelessness services.
    - Provide development standards for Low Barrier Navigation Centers.
5. **Goal 5: Promote Neighborhood Stability and Health** addresses environmental justice by protecting residential areas from harmful pollution impacts. Additionally, as the City prioritizes investments in infrastructure, building upon existing community assets, and resources to achieve environmental justice in disinvested areas, policies and actions in Goal 5 seeks to ensure that existing residents can stay in their communities and benefit from these increased resources through opportunities for homeownership particularly for low-income communities and communities of color along with efforts in Goals 1, 2 and 3.
- Specific actions include:
    - Provide fair housing services and outreach.
    - Provide first-time homebuyer programs.
    - Encourage new affordable housing in high resource neighborhoods.
    - Promote development of mixed-income housing to reduce income-based concentration.
    - Promote infill, transit-oriented development (TOD), and mixed-use development.

### **New Actions Included in the Draft 2023-2031 Housing Element**

The following are some of the new housing actions included in the Draft 2023 – 2031 Housing Element:

- **Action 1.1.5 Provide eviction defense and implement a Right to Counsel:** Explore the feasibility of implementing a tenant right to counsel, where all tenants who receive an eviction notice or have been served with an unlawful detainer lawsuit have right to free

legal representation. This may include partnering with nonprofit organizations to provide those services.

- **Action 1.1.8 Create and maintain a rental housing registry:** A rental housing registry is a database of all rental units within Oakland and would be used to track properties subject to rent control provisions, Just Cause for Eviction measures, and other property-specific policies and requirements. In June 2022, the Oakland City Council adopted 13695 CMS to establish a rental registry in Oakland. The City will use data collected in the rental housing registry to monitor and understand neighborhood change at a more granular level, to better target anti-displacement policies, and ensure that rent increases are compliant under the Rent Adjustment Ordinance.
- **Action 2.1.3 Conduct proactive rental inspections<sup>6</sup>:** The City will develop a proactive, data-driven housing inspection program to track code compliance, with focus on safety, and housing quality among the City's rental stock. The City will work with community partners to develop appropriate enforcement mechanisms, including tenant protection and anti-displacement mechanisms to ensure tenants are not displaced as a result of proactive inspections turning up housing habitability issues and/or raising rents due to the cost of fixing habitability issues. Further, the City will prioritize inspections in areas with older housing stock and health disparities and seek funding to streamline the inspection/rehabilitation process by connecting property-owners to technical and financial assistance for safety and accessibility improvements at the time of inspection.
- **Action 2.2.8 Tenant/Community Opportunity to Purchase Act (TOPA/COPA):** A Tenant/Community Opportunity to Purchase Act, referred to as TOPA/COPA, gives tenants and nonprofit organizations the opportunity to purchase their home when it goes up for sale, thereby preserving that housing unit as affordable. The City will study the effectiveness of a TOPA/COPA model suited to local conditions, which may include targeted TOPA/COPA in certain neighborhoods, equity-building mechanisms, racial equity impact considerations, or other approaches that may be appropriate to Oakland.
- **Action 3.1.1 Develop a project-based rental or operating subsidy program for extremely-low-income residents:** Create a capitalized operating subsidy program for extremely-low-income households. This will enable the creation of extremely-low-income housing, which is only possible with the provision of public operating subsidies to ensure financial stability for the property and appropriate support services for the residents.
- **Action 3.2.1 Develop zoning standards to encourage missing middle and multi-unit housing types in currently single-family-dominated neighborhoods, including flats, duplexes, triplexes, fourplexes, townhomes/rowhouses, and ADUs:** The City will review and amend the Planning Code to encourage missing middle-density housing typologies, and develop zoning standards that allow for two, three, and four units on parcels in Detached Unit Residential (RD) and Mixed Housing Type Residential (RM) zones. The City will also reduce the minimum lot size in most Detached Unit Residential and Mixed Housing Type Residential lots to 3,000 square feet to remove constraints on lot splitting. The City will permit a variety of building types (attached, detached, bungalow

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<sup>6</sup> The Proactive Rental Inspection Program is being formalized to bring before Council for implementation during Q1 of 2023..

courts) to maximize flexibility, neighborhood scale and potential opportunities for homeownership (split lots and condominiums).

- **Action 3.2.5 Reduce constraints to the development of accessory dwelling units:** On January 18, 2022, the City updated its zoning standards related to Accessory Dwelling Units (ADUs) to be consistent with State law and offered additional allowances to encourage creation of ADUs that went beyond the minimum requirements of State law. These additional allowances include higher maximum heights allowing for two-story ADUs, reduced setbacks in some zones, larger maximum sizes for detached ADUs, removal of setback requirements and an ADU amnesty from Planning Code requirements allowing homeowners with existing unpermitted ADUs to legalize them. The City will continue to host pre-approved ADU plans on its website to facilitate reduced applicant cost and expedited review for ADUs.
- **Action 3.3.5 Implement an affordable housing overlay:** The City will create an affordable housing overlay to streamline the approval of affordable housing by right. Potential features of this overlay could include ministerial approval of 100 percent affordable housing projects, increased height and density allowances, waiver of parking requirements, and reduction of zoning barriers.
- **Action 3.4.1 Revise development standards, including allowable building heights, densities, open space and setbacks requirement:** The City will allow additional building heights and/or housing densities in certain corridors and districts. These changes include developing zoning standards for a diversity of housing types in single-family neighborhoods and along corridors, transit-proximate areas, and high resource neighborhoods (*related to Action 3.2.1*).
- **Action 3.4.2 Revise Conditional Use Permit (CUP) Requirements:** The City will revise regulations to permit multi-unit building according to objective criteria such as building type and development size, without subjecting multi-unit residential projects to CUPs in RD-2 and RM zones.
- **Action 3.4.7 Implement objective design standards:** To reduce the permitting timeline, the City has initiated a process to develop objective design standards to streamline the approval of residential, mixed-use, and commercial building types, with a particular focus on much-needed affordable housing projects in transit-rich areas. As opposed to "design guidelines," objective design standards will not be subject to interpretation, and result in faster, more predictable approvals of high-quality development that respects Oakland's history and benefits the local community.
- **Action 3.4.10 Permit sites included in prior RHNA cycles to develop with affordable housing by right:** Pursuant to State law, the City will permit vacant sites included in two consecutive prior RHNA cycles and non-vacant sites included in at least one prior RHNA to develop with owner-occupied and rental multifamily uses by right for developments in which 20 percent or more of the units are affordable to lower-income households. This means that the City cannot require any form of discretionary review or approval for such projects.
- **Action 3.8.3 Consider a tax on all vacant residential rental units:** Oakland currently has in place vacancy tax on parcels and several types of housing units – including condos, duplexes, and townhome units under separate ownership. The City will consider



extending the current vacancy tax to all residential units to encourage active use of residential units and expand the available housing supply.

- **Action 4.2.5 Expand co-governance and partnerships with unsheltered residents in the design and delivery of homelessness services:** In FY 21-22 the City opened its first co-governed program site. Co-governance is an intervention model where unsheltered residents come to an agreement about how they will live together in a community setting of an encampment. This includes, but is not limited to, selecting site leadership, determining eligibility for participation, developing community expectations for behaviors and for staffing/running the site, holding each other accountable for the agreed upon expectations, and maintaining the health and safety of the community residents. A backbone agency (nonprofit/community-based agency) works alongside residents to support the residents in the design, leadership and operations of the site. The backbone agency is the contracting entity with the City/funder and holds ultimate accountability for ensuring the safety and security of the site. The City, in partnership with unsheltered residents will continue to refine this model and to expand this model as new sites open.

### 3. REVISED DRAFT HOUSING ELEMENT DRAFT SUBMITTED TO THE STATE

As stated above, pursuant to AB 215, the first draft of the Housing Element was made available for public review between May 12, 2022 and June 13, 2022, for a 32-day review period. Prior to this review period, Staff received one (1) comment letter. During the 32-day review period, staff received 28 public comment letters. City staff took 12 business days (June 14, 2022 – June 30, 2022) to consider and incorporate public comments. The revised Draft Housing Element was submitted to State HCD for the 90-day review period on June 30, 2022. As mentioned previously, the draft Housing Element was available for public review and comment until September 30, 2022, and Staff continued to conduct focused engagement on the Draft Housing Element to obtain community feedback. Staff received an additional 9 comment letters after the end of the initial 32-day review period. The revised Draft Housing Element submitted to the State and the 38 comment letters received between May 12, 2022, until September 30, 2022, are available on the GPU website at <https://www.oaklandca.gov/topics/oakland-general-plan-2045-housing-element>.

Staff is also continuing to work on incorporating public comments that could not be addressed during the initial 32-day public comment period, as well as to continue to receive public comments after the June 13, 2022 date.

#### Updates to the Draft Submitted to State HCD

The updated Draft Housing Element submitted to State HCD on June 30, 2022, included the following key revisions.

- Chapter 2: Public Participation
  - Clarified how the City met public participation requirements (i.e., AB 215)
- Chapter 4: Housing Action Plan

- Included a new action for a mid-cycle evaluation of progress made toward meeting AFFH and site inventory goals (Action 3.3.19)
- Appendix C: Site Inventory
  - Removed certain sites from the Site Inventory based on public comment (see Table C-26 and interactive map and PDF maps by Council District on the [Housing Element website](#)).
  - Added sites based on public comment to a new table (*Recommended Sites for Future Housing (Upzoning/General Plan Update Opportunity Sites)*)
  - Updated ADU affordability levels to align with regional estimates (Table C-8: Project ADU Capacity by Affordability Level, 2023-2031)
  - Clarified Oakland's track record of facilitating conversion of non-residential to residential or mixed uses for development
- Appendix F: Constraints
  - Clarified the existing constraints around Floor Area Ratio (FAR) in mixed use zones
  - Clarified the City's "missing middle" housing strategy to address SB 9
  - Clarified that existing open space constraints will be addressed through zoning amendments (Chapter 4: Housing Action Plan, Action 3.4.1)
  - Clarified the timeline for addressing existing parking requirement constraints (Chapter 4: Housing Action Plan, Action 3.4.3)
  - Updated description of constraints for Residential Care Facilities

### Preliminary Zoning Proposals

As mentioned in the previous section, the draft Housing Element identifies several zoning reforms in the Housing Action Plan. In response to community feedback, the City has published [preliminary draft zoning proposals](#), also included as **Attachments A, B, and C**, that highlight proposed zoning changes for public review prior to focused community outreach. An interactive map is also publicly available on the [Housing Element website](#).

- **Missing Middle and Related Planning Code Amendments:** The proposed missing-middle and other related Planning Code amendments will encourage a diversity of housing types such as flats, duplexes, triplexes, fourplexes, townhomes/rowhouses, multifamily units, and accessory dwelling units (ADUs) in currently single-family-dominated neighborhoods, and along corridors, transit-proximate areas, and high resource neighborhoods such as Rockridge and remove constraints on the development of housing. See [Preliminary Draft Missing Middle and Related Amendments Proposal](#) and **Attachment A**.
- **Affordable Housing Overlay (AHO) Zone:** The proposed Affordable Housing Overlay (AHO) Zone is intended to create and preserve affordable housing restricted for extremely low-, very low-, low-, and/or moderate-income households (as defined in California Government Health and Safety Code Sections 50093, 50105, and 50106 50052.5 and in Oakland Planning Code Section 17.107.020). By-right approvals for 100% affordable housing projects will apply in the AHO Zone. See: [Summary of Preliminary Draft Affordable Housing Overlay Zone \(AHO\) Proposal](#) and **Attachment B**.

- **Housing Sites Overlay Zone:** The City is proposing to amend Action 3.4.10 to permit affordable housing by right with at least 20% affordable housing units for all sites identified in the Housing Sites inventory and create a Housing Sites Overlay Zone. The proposed Housing Sites Overlay Zone is intended to facilitate housing opportunities in Oakland and to bring attention to those sites that the City intends for housing to be built pursuant to State requirements. See [Summary of Preliminary Draft Housing Sites Overlay Zone Proposal](#) and **Attachment C**.

### Ongoing Revisions for Second Public Review Housing Element

Staff continue to work on incorporating public comments in preparation for the second Draft Housing Element, which is anticipated to be available for public review in late November 2022. Key revisions will include:

- Chapter 4: Housing Action Plan
  - Update actions with more specific timelines, as well as geographies and communities impacted by programs (esp. upzoning, rezoning, revisions to development standards)
- Appendix B: Housing Needs Assessment
  - Update with [2022 Point-in-Time Count data](#) on people experiencing homelessness in Oakland once full report is available later in 2022
  - Estimate the number of housing units in need of replacement (units that are beyond rehabilitation)
- Appendix C: Site Inventory
  - Update Table C-11: Realistic Capacity Assumptions with more information about zoning, site acreage, built density, maximum density
  - Update Table C-17: Lower-Income Projects on Small Sites with information about total capacity and zoning
  - Provide more context about how affordability determinations are made in Table C-26: City of Oakland 2023-2031 Housing Sites Inventory
- AFFH
  - Include analysis of Racially Concentrated Areas of Affluence based on July 2022 release of [new data from State HCD](#)
- Other
  - Include executive summary
  - Include new appendix with public comments and City's status on addressing comments

### 4. STATE HCD LETTER

On September 28, 2022, the State HCD concluded their 90-day review period and provided comments to the City on the Revised Draft 2023-2031 Housing Element. The letter from the State HCD is posted on the City's GPU website at <https://www.oaklandca.gov/topics/oakland-general-plan-2045-housing-element> and is also included as **Attachment D** to this report.

Planning staff are still reviewing the letter and **Table 3** provides initial staff responses and additional direction needed (also see section above on ***Ongoing Revisions for Second Public Review Housing Element***)

**Table 3: Initial Staff Responses and Council Direction Needed**

HCD Finding	Staff Response
<b>A. Housing Needs, Resources, and Constraints</b>	
<p>A1: Affirmatively Furthering Fair Housing</p>	<ul style="list-style-type: none"> <li>• Staff support State HCD’s comments to further fair housing in high opportunity areas.</li> <li>• Staff will continue to work on incorporating public comments into the assessment of fair housing</li> <li>• Staff will work on including an analysis of Racially Concentrated Areas of Affluence based on July 2022 release of new data from State HCD</li> <li>• <b>Attachment A</b> highlights preliminary zoning and height changes proposed in the City and in specific sites in Rockridge to encourage a diversity of housing types such as flats, duplexes, triplexes, fourplexes, townhomes/rowhouses, multifamily units, and accessory dwelling units (ADUs) in currently single-family-dominated neighborhoods, and along corridors, transit proximate areas, and high resource neighborhoods and remove constraints on the development of housing.</li> <li>• <b>Staff seek Council direction on HCD recommendation to include an action to establish a social housing pilot program (listed on Page 5 of 12 of the letter), or to potentially study the financial feasibility of a municipal housing development pilot program similar to analysis proposed in Berkeley by Councilmember Taplin<sup>7</sup>.</b></li> <li>• <b>Staff also seek council direction and comment on the abovementioned proposed rezoning and Rockridge AFFH efforts.</b></li> </ul>
<p>A2: Analysis and Documentation of Household Characteristics and Special Housing Needs</p>	<ul style="list-style-type: none"> <li>• Staff notes HCD comments and is working on including additional data, and the number of housing units in need of replacement (units that are beyond rehabilitation)</li> <li>• Staff will work with the City Administrator’s Office to evaluate resources, strategies, and</li> </ul>

<sup>7</sup>CM Taplin Proposes “Housing as Human Right” Resolution with Social Housing Pilot Program <https://www.terrytaplin.com/press-release/cm-taplin-proposes-housing-as-human-right-resolution-with-social-housing-pilot-program/>

HCD Finding	Staff Response
	gaps to address unmet needs of persons experiencing homelessness.
A3: Sites Inventory	<ul style="list-style-type: none"> <li>Staff notes HCD comments and will continue to work on updating Tables C-11, C-17, with more information about zoning, site acreage, built density, maximum density, and provide additional context about how affordability determinations are made in Table C-26: City of Oakland 2023-2031 Housing Sites Inventory. To avoid the likelihood of 100% non-residential development, the City is proposing to amend Action 3.4.10 to create a Housing Sites Overlay Zone requiring a minimum percentage of housing on the sites identified in the Housing Sites inventory (See <b>Attachment C</b>).</li> <li>Staff will follow up with the HCD to seek further clarification</li> </ul>
A4: Analysis of Potential and Actual Government Constraints	<ul style="list-style-type: none"> <li>Staff notes HCD comments and will continue to work on including additional information.</li> </ul>
<b>B. Housing Programs</b>	
B1: Housing Program Timelines	<ul style="list-style-type: none"> <li>Staff notes HCD comments and will work in collaboration with internal city departments to update actions with more specific timelines, as well as geographies and communities impacted by programs</li> </ul>
B2: Adequacy of Sites and Zoning	<ul style="list-style-type: none"> <li>Staff notes HCD comments and will follow up with HCD to seek further clarification</li> </ul>
B3: Remove Governmental and Nongovernmental Constraints to Maintenance, Improvement, and Development of Housing	<ul style="list-style-type: none"> <li>Staff notes HCD comments and will continue to work on including additional information.</li> </ul>
B4: AFFH	<ul style="list-style-type: none"> <li>Staff support HCD's comments to further fair housing in high opportunity areas.</li> <li>See Staff's additional comments listed under A1.</li> </ul>
B5: Assisted Housing Developments	<ul style="list-style-type: none"> <li>Staff notes HCD comments and will work on revisions to Program 2.2.2.</li> </ul>
B6: Incentivize and Promote Creation of Accessory Dwelling Units	<ul style="list-style-type: none"> <li>Staff notes HCD comments and will work on revisions to Program 3.2.4.</li> </ul>
<b>C. Quantified Objectives</b>	
C: Consider Quantified Objectives for Conserving Units Beyond At-Risk Preservation	<ul style="list-style-type: none"> <li>Staff notes HCD comments and will follow up with HCD to seek further clarification</li> </ul>

<b>HCD Finding</b>	<b>Staff Response</b>
<b>D. Public Participation</b>	
D. Public Participation	<ul style="list-style-type: none"><li>• Staff support HCD comments to further fair housing in high opportunity areas.</li><li>• Staff will continue to address and incorporate public comments</li></ul>

### **FISCAL IMPACT**

There is no fiscal impact from this agenda item, as it is informational only and is intended to seek guidance from the City Council.

### **PUBLIC OUTREACH / INTEREST**

See Section on Community Engagement and Outreach Summary Focused on the Housing Element for detailed information on public outreach conducted by the GPU team. This study session is another opportunity for public outreach.

This meeting was noticed in the Oakland Tribune as well as emails sent to subscribers to the General Plan Update email listserv.

### **COORDINATION**

The GPU will continue to be a multi-department effort, with the Planning and Building Department collaborating closely with key partners - including the following city departments: Housing & Community Development, Race and Equity, Economic & Workforce Development, Human Services, Public Works, Transportation, Parks, Recreation, and Youth Development, Fire Department, Information Technology Department, and Violence Prevention as well as the offices of the City Administrator and City Attorney.

This report has been reviewed by the Office of the City Attorney and the Budget Bureau.

### **SUSTAINABLE OPPORTUNITIES**

**Economic:** A completed 2023-2031 General Plan Housing Element will include the identification of sites suitable for affordable and market-rate housing, subject to market conditions and the lending environment. The completed Housing Element will identify sites that demonstrate the capability of being developed with affordable housing. Finally, a State-certified Housing Element will ensure that the City is eligible to apply for grants that fund affordable housing development.

**Environmental:** The lack of sufficient housing options in Oakland worsens air pollution, as community members priced out of the local housing market are forced to drive long distances to their jobs. The City of Oakland 2030 Equitable Climate Action Plan (ECAP) recognizes that

households living near employment-dense areas and transit corridors have lower carbon footprints than those living in less dense areas further from transit ([www.oaklandca.gov/projects/2030ecap](http://www.oaklandca.gov/projects/2030ecap)). Affordable housing located near transit is particularly impactful, as low-income households are more likely not to own cars if they have access to quality transportation options. To that end, the ECAP Action TLU-1 calls for the General Plan, upon its next update, to align with the City's greenhouse gas (GHG) reduction, adaptation, resilience, and equity goals.

**Race & Equity:** An Equity Working Group convened by Deeply Rooted has been created to work with City Staff and the GPU team to make sure that the General Plan's Housing, Safety, Environmental Justice, Land Use, Transportation, Noise, and Open Space/Conservation/Recreation Policies, and key Zoning issues align with community concerns and needs. The Equity Working Group will also support outreach efforts to ensure that geographies and populations that are most burdened by environmental justice inequities are engaged in identifying community needs and assets and providing feedback on proposed solutions. The General Plan Update policy applies a racial equity lens throughout the process, performing a Racial Equity Analysis, and by working with local non-profits and community-based organizations (CBOs) to have meaningful engagement with communities that have historically been excluded to improve outcomes in those communities.

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The City of Oakland is preparing an Environmental Impact Report (EIR) to assess the environmental impacts of the Environmental Justice, Housing, and Safety Element updates, and related Phase I amendments, including any implementing zoning program, in compliance with the provisions of the California Environmental Quality Act (CEQA). The Phase I Program EIR will focus on growth forecasts and potential housing sites, and also aim for mitigation measures that the City could apply as standard conditions of approval for projects, particularly those involving housing development. Key efforts will also focus on the intended use of this Program EIR to support the City's use of CEQA streamlining provisions and tiered documents for the environmental review of future plans and projects. The EIR will serve both to inform the public and decision makers of potential environmental impacts and the mitigation measures associated with the General Plan's implementation.

An EIR Scoping Session was held at the April 20, 2022, Planning Commission meeting to solicit comments from the Planning Commission and the public on the types of information and analysis that should be considered in the General Plan Update EIR.

### **ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Conduct A Study Session On The 2023-2031 Housing Element Update Process As Follows: (A) Receive An Informational Presentation On The Draft 2023-2031 Housing Element; (B) Review The Letter From The State of California Department of Housing and Community Development (HCD); And (C) Provide Feedback To Staff On The Draft Housing Element.

For questions regarding this report, please contact Lakshmi Rajagopalan, Planner IV, at 510-238-6751.

Respectfully submitted,



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Attachments (4):

- A. Preliminary Draft Missing Middle and Related Amendments Proposal
- B. Summary of Preliminary Draft Affordable Housing Overlay Zone (AHO) Proposal
- C. Summary of Preliminary Draft Housing Sites Overlay Zone Proposal
- D. State HCD Comment Letter, Dated 09/28/2022



# ATTACHMENT A

## Summary of Preliminary Draft Missing Middle and Other Related Planning Code Amendments Proposal

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The City of Oakland (City) has completed a draft update to the [2023-2031 Housing Element](#) as part of Phase 1 of the 2045 General Plan Update (GPU) process. As part of its Housing Action Plan, the City has identified several zoning reforms (see Actions 3.2.1, 3.2.5, 3.3.5, 3.4.1, 3.4.2, 3.4.7, 3.4.10, 5.2.1, 5.2.2, 5.2.7, and 5.2.8) that would further increase housing production capacity and unlock additional opportunities for affordable and “missing middle” housing in high resource neighborhoods and affirmatively further fair housing by opening up exclusionary neighborhoods, and reducing the exposure to air pollution, toxic and other environmental hazards in environmental justice communities.

At the housing element-focused engagement and outreach events, *the community requested that the City publish preliminary rezoning and overlay maps that highlight proposed zoning changes prior to focused community outreach.*

### Key Feedback on Zoning from Housing Element Outreach

- *Provide up zoning & overlay maps, in advance => Planning staff should publish rezoning maps before conducting community outreach on zoning*
- Eliminate single-family zoning due to equity considerations.
- Allow additional building heights and/or housing densities along certain corridors such as International, Foothill and MacArthur Boulevards, along BART esp. Rockridge BART, BRT and AC Transit’s Rapid Corridors
- Allow a diversity of housing types in single-family and resource rich neighborhoods and change zoning to increase density in primarily single-family areas like Rockridge
- Consider requiring that some larger lots that are currently zoned for commercial include housing at some required minimum density
- Locate affordable housing above Upper Broadway or MacArthur freeway
- Streamline current development/permitting process, particularly for low-income and non-profit builders.
- Allow approval by-right for affordable housing citywide if that the project is consistent with zoning, including density bonus
- Use zoning overlays to incentivize development
- Address the pollution along the I-880 corridor and proximity of industrial uses to residential neighborhoods in East and West Oakland
- Remedy food deserts by attracting new healthy food retailers in areas where there are lots of retail vacancies.
- Consider noise and air pollution considerations while locating housing in minority communities

Stay tuned for upcoming meetings! Email [generalplan@oaklandca.gov](mailto:generalplan@oaklandca.gov) with your comments and questions. Visit the [Oakland General Plan Update](#) page.

## **PURPOSE**

The proposed missing-middle and other related Planning Code amendments will encourage a diversity of housing types such as flats, duplexes, triplexes, fourplexes, townhomes/rowhouses, and accessory dwelling units (ADUs) in currently single-family-dominated neighborhoods, and along corridors, transit-proximate areas, and high resource neighborhoods and remove constraints on the development of housing. The City is also proposing two overlay zones:

1. **Affordable Housing Overlay (AHO) Zone:** The proposed Affordable Housing Overlay (AHO) Zone is intended to create and preserve affordable housing restricted for extremely low, very low, low, and/or moderate-income households (as defined in California Government Health and Safety Code Sections 50093, 50105, and 50106 50052.5 and in Oakland Planning Code Section 17.107.020). By-right approvals for 100% affordable housing projects will apply in the AHO Zone. See: Summary of Preliminary Draft Affordable Housing Overlay Zone (AHO) Proposal.
2. **Housing Sites Overlay Zone:** The City is proposing to amend Action 3.4.10 to permit affordable housing by right with at least 20% affordable housing units for all sites identified in the Housing Sites inventory (See Housing Sites Inventory Map and Table C-25) and create a Housing Sites Overlay Zone. The proposed Housing Sites Overlay Zone is intended to facilitate housing opportunities in Oakland and to bring attention to those sites that the City intends for housing to be built pursuant to State requirements by also requiring a minimum percentage of housing to be built on the sites. See Summary of Preliminary Draft Housing Sites Overlay Zone Proposal.

The proposed missing-middle Planning Code amendments will:

- Reduce minimum lot size and setback standards where appropriate throughout the Planning Code to facilitate small lot development.
- Revise density, maximum building heights, and minimum lot size standards to permit more housing units per lot where appropriate throughout the city in Hillside Residential RH-4, all Detached Residential (RD) Zones, all Residential Mixed Housing Type (RM) Zones, and Urban Residential RU-1 and RU-2 Zones.
- Create a new residential facility type called “Two- to Four-Family Residential Facility” that would replace the current “Two-Family Residential Facility” Type throughout the Planning Code; and change the definition of a “Multifamily Residential Facility” from the current 3 or more units to 5 or more units.
- Eliminate all conditionally permitted densities throughout Planning Code (densities will all be by right); and the current requirement for a Major Conditional Use Permit for 3 or more dwelling units in the RM-2 Zone; 7 or more dwelling units in the RM-3 or RM-4 Zone; and for any project that exceeds the basic or permitted density resulting in 7 or more dwelling units in the RU or CBD-R Zones.

## **OTHER RELATED AMENDMENTS**

Other related amendments to facilitate more housing:

- Increase permitted densities in areas near transit and along transit corridors through zoning map changes (see Figure 2).

- Reduce parking and open space requirements to lower the cost of new housing production.
- Revise open space regulations to allow flexibility on its onsite location and configuration to ensure that more of the allowed buildable area can be dedicated to new housing units.
- Remove an existing disincentive to mixed-use development outside of downtown – current regulations require that any nonresidential floor area over 3,000 sf. counts against the amount of lot area that can be used to calculate allowed residential density. The proposed amendments would utilize citywide the standard that applies now in downtown only and allow the total lot area to be used as the basis for computing both maximum nonresidential FAR and maximum residential density for mixed use projects.
- Remove conditional use permit requirements for grocery stores in food deserts.
- Streamline design review procedures and approve more project types ministerially.
- Remove unnecessary barriers in the Planning Code to the approval of Emergency Shelters.
- Reduce the allowed intensity of commercial and industrial activities permitted in the Housing and Business Mix (HBX) Commercial Zones, particularly HBX-1, to minimize impacts on the residential uses existing in and nearby these zones.
- Reduce allowed heavier industrial uses in the Commercial Industrial Mix (CIX), General Industrial (IG), and Industrial Office (IO) Zones within certain distances of residential zones, to minimize impacts on the residential uses nearby.

Table 1 lists the existing and proposed zoning changes, and Figure 1 shows existing zoning and proposed zoning changes. Figure 2 shows existing and proposed height changes along key corridors. Figure 3 shows existing and proposed height changes as part of the [Downtown Oakland Specific Plan](#). Figure 4 shows zoning and height changes on specific sites in Rockridge intended to affirmatively further fair housing and increase opportunity for lower income housing in this high-resource community.

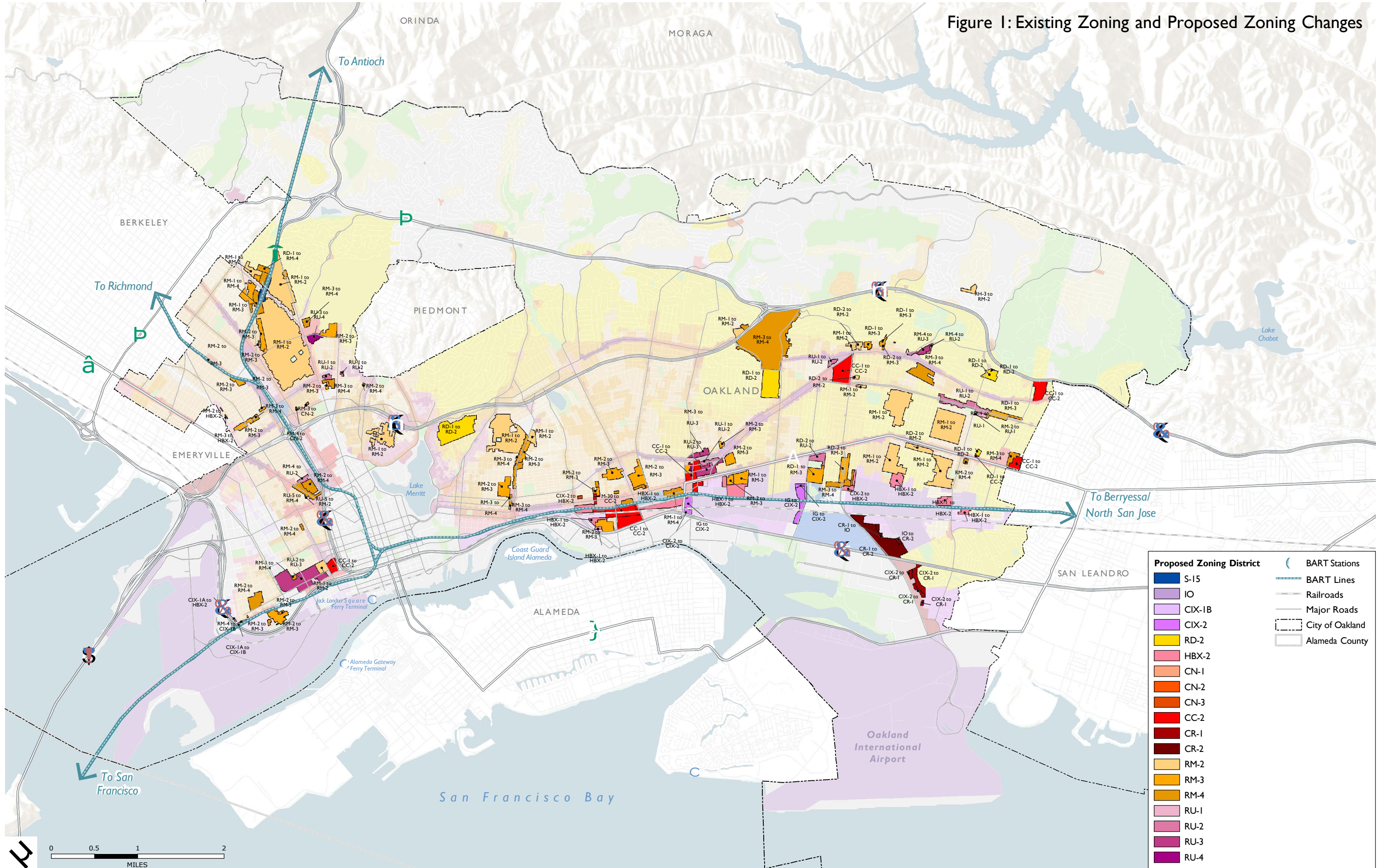
**Table I: Oakland's Missing Middle Zones**

Zoning Districts	Permitted Densities		Max. Bldg. Height		Minimum Lot Size	
	Existing	Proposed	Existing	Proposed	Existing	Proposed
RH-4	1 unit per lot	<ul style="list-style-type: none"> <li>1 unit on any legal lot;</li> <li>2 units on lots 8,000 sf. or greater (with limitation that the project is not located within the S-9 Fire Safety Protection Combining Zone; and the minimum pavement width is at least 26 ft. along the length of the adjoining street and all streets connecting lot to the nearest arterial)</li> </ul>	For All Lots with a Footprint Slope of ≤20%: Max. Wall Ht.: 25 ft. Max. Roof Ht.: 30 ft.	(Same - No Change)	6,500 sf. or 8,000 sf.	(Same - No Change)
RD-1	1 unit per lot	<ul style="list-style-type: none"> <li>1-2 units on any legal lot;</li> <li>3 units on lots 6,000 sf. or greater</li> </ul>	For All Lots with a Footprint Slope of ≤20%: Max. Wall Ht.: 25 ft. Max. Roof Ht.: 30 ft.	(Same - No Change)	5,000 sf.	2,500 sf.
RD-2	1 unit permitted per lot  ALLOWED WITH CUP: 2 units on lots 6,000 sf. or greater	<ul style="list-style-type: none"> <li>1-2 units on any legal lot;</li> <li>3 units on lots 6,000 sf. or greater;</li> <li>4 units on lots 8,000 sf. or greater</li> </ul>	For All Lots with a Footprint Slope of ≤20%: Max. Wall Ht.: 25 ft. Max. Roof Ht.: 30 ft.	(Same - No Change)	5,000 sf.	2,500 sf.
RM-1	1 unit permitted per lot  ALLOWED WITH CUP: 2 units on lots 4,000 sf. or greater	<ul style="list-style-type: none"> <li>1-2 units on any legal lot;</li> <li>For 3 or more units - 1 unit per 1,750 sf. of lot area</li> </ul>	For All Lots with a Footprint Slope of ≤20%: Max. Wall Ht.: 25 ft. Max. Roof Ht.: 30 ft.	(Same - No Change)	5,000 sf.	2,500 sf.
RM-2	<ul style="list-style-type: none"> <li>1 unit on lots less than 4,000 sf.;</li> <li>2 units on lots 4,000</li> </ul>	<ul style="list-style-type: none"> <li>1-2 units on any legal lot;</li> <li>For 3 or more units - 1 unit</li> </ul>	For All Lots with a Footprint Slope of ≤20%:	For All Lots with Footprint	2,500 sf. / 4,000 sf. / 5,000 sf.	2,500 sf.

**Table 1: Oakland’s Missing Middle Zones**

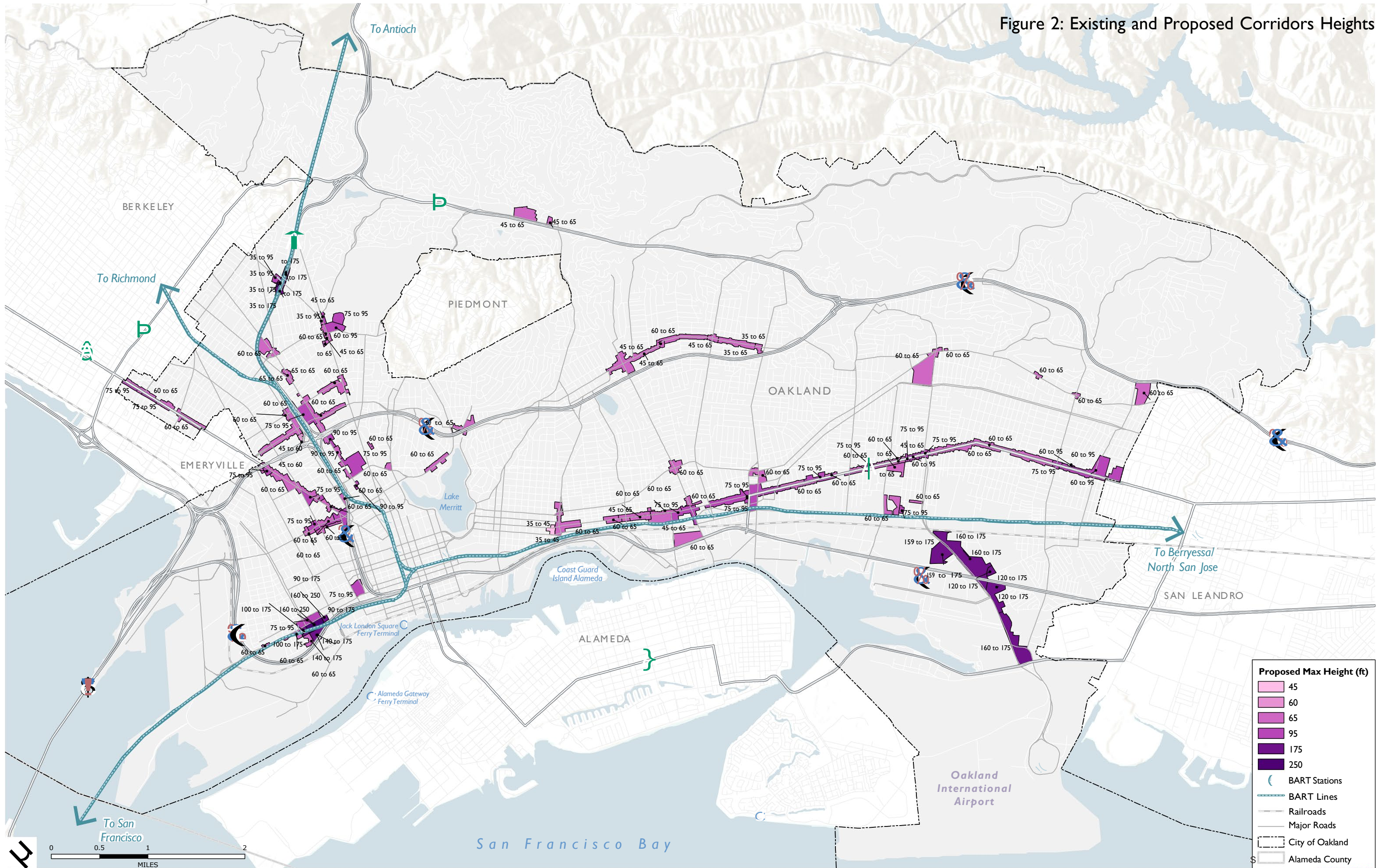
Zoning Districts	Permitted Densities		Max. Bldg. Height		Minimum Lot Size	
	Existing	Proposed	Existing	Proposed	Existing	Proposed
	sf. or greater	per 1,500 sf. of lot area	Max. Wall Ht.: 25 ft. Max. Roof Ht.: 30 ft.	Slope of ≤20%: Max. Wall Ht.: 30 ft. Max. Roof Ht.: 35 ft.		
	<p>ALLOWED WITH CUP (only on lots 4,000 sf. or greater): For 3 or more units - 1 unit per 2,500 sf. of lot area</p>					
RM-3	<ul style="list-style-type: none"> <li>1 unit on lots less than 4,000 sf.;</li> <li>2 units on lots 4,000 sf. or greater</li> </ul>	<ul style="list-style-type: none"> <li>1-2 units on any legal lot;</li> <li>For 3 or more units – 1 unit per 1,250 sf. of lot area</li> </ul>	For All Lots with a Footprint Slope of ≤20%: Max. Wall Ht.: 30 ft. Max. Roof Ht.: 30 ft.	For All Lots with Footprint Slope of ≤20%: Max. Wall Ht.: 35 ft. Max. Roof Ht.: 35 ft.	4,000 sf.	2,500 sf.
	<p>ALLOWED WITH CUP (only on lots 4,000 sf. or greater): For 3 or more units – 1 unit per 1,500 sf. of lot area</p>					
RM-4	<ul style="list-style-type: none"> <li>1 unit on lots less than 4,000 sf.;</li> <li>2 to 4 units on lots 4,000 sf. or greater at 1 unit per 1,100 sf. of lot area</li> </ul>	<ul style="list-style-type: none"> <li>1-2 units on any legal lot;</li> <li>For 3 or more units – 1 unit per 1,000 sf. of lot area</li> </ul>	For All Lots with a Foot print Slope of ≤20%: Max. Wall Ht.: 35 ft. Max. Roof Ht.: 35 ft.	(Same - No Change)	4,000 sf.	2,500 sf.
	<p>ALLOWED WITH CUP (only on lots 4,000 sf. or greater): For 5 or more units – 1 unit per 1,100 sf. of lot area</p>					
RU-1	1 unit per 1,100 sf. of lot area	<ul style="list-style-type: none"> <li>1 unit per 1,000 sf. of lot area</li> </ul>	40 feet	45 feet	4,000 sf.	2,500 sf.
RU-2	1 unit per 800 sf. of lot area	<ul style="list-style-type: none"> <li>1 unit per 750 sf. of lot area</li> </ul>	50 feet	55 feet	4,000 sf.	2,500 sf.

Figure I: Existing Zoning and Proposed Zoning Changes



Proposed Zoning District		BART Stations	
	S-15		BART Stations
	IO		BART Lines
	CIX-1B		Railroads
	CIX-2		Major Roads
	RD-2		City of Oakland
	HBX-2		Alameda County
	CN-1		
	CN-2		
	CN-3		
	CC-2		
	CR-1		
	CR-2		
	RM-2		
	RM-3		
	RM-4		
	RU-1		
	RU-2		
	RU-3		
	RU-4		

Figure 2: Existing and Proposed Corridors Heights



SOURCE: City of Oakland, 2022; ALAMEDA County GIS, 2021; Dyett & Bhatia, 2022

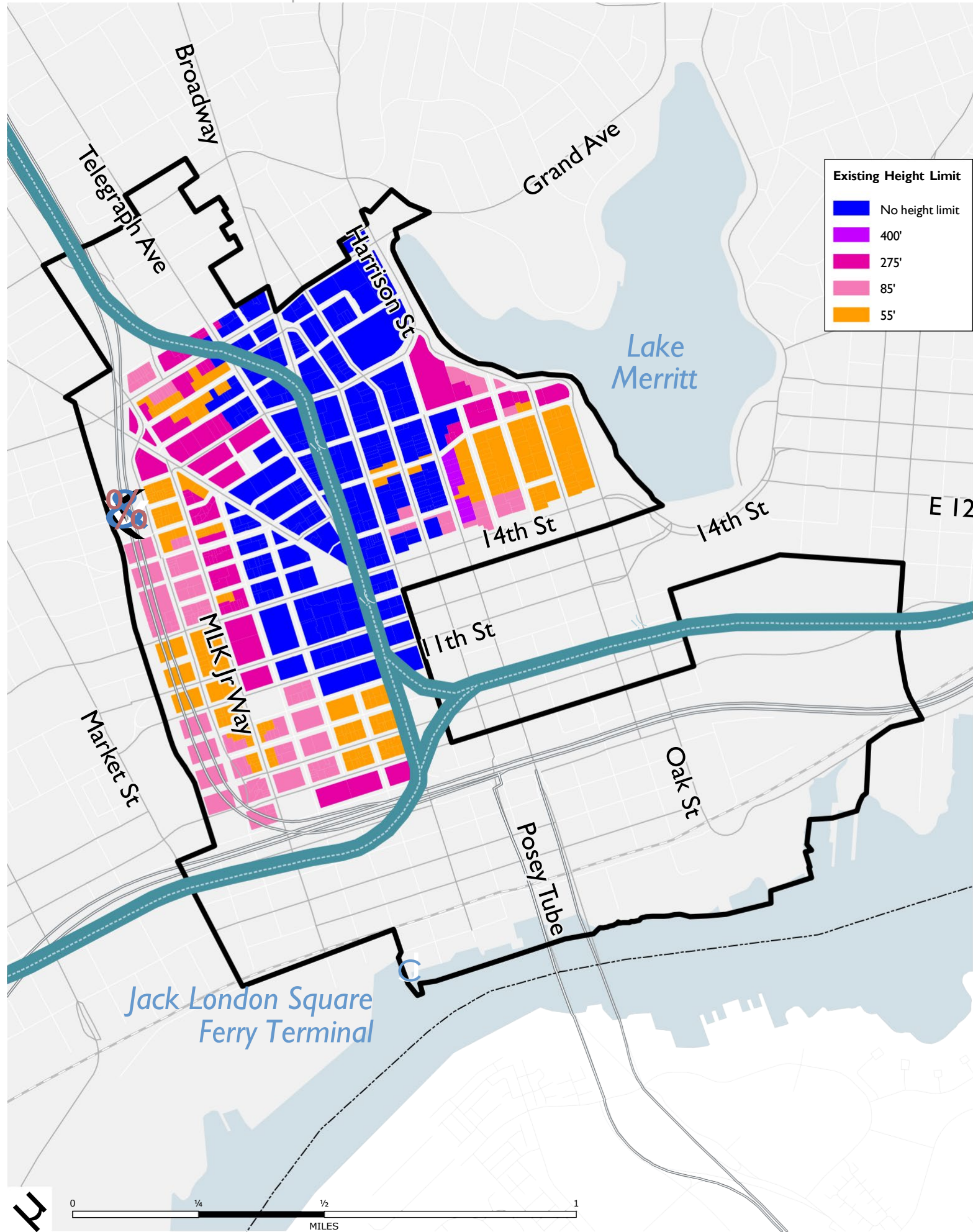
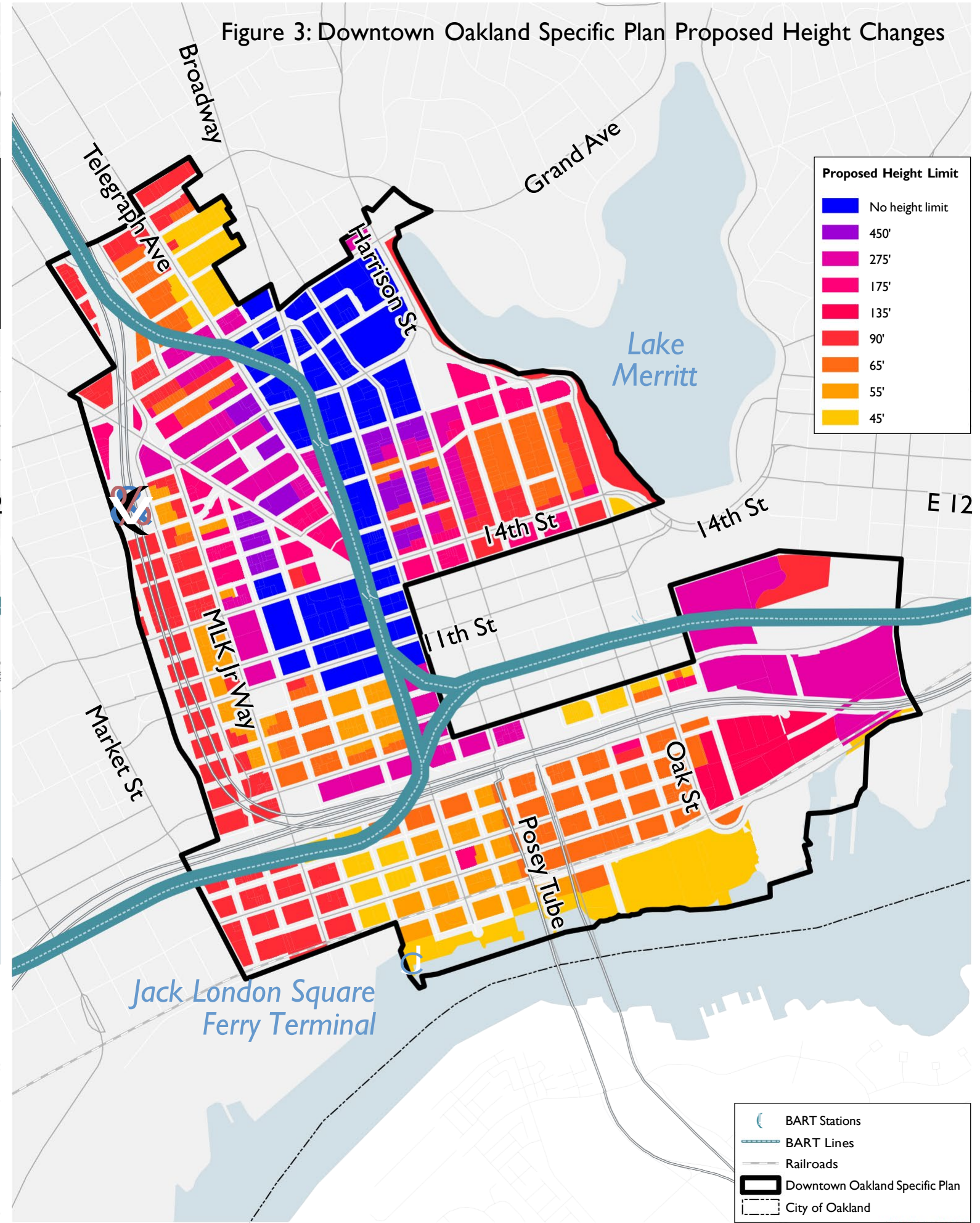
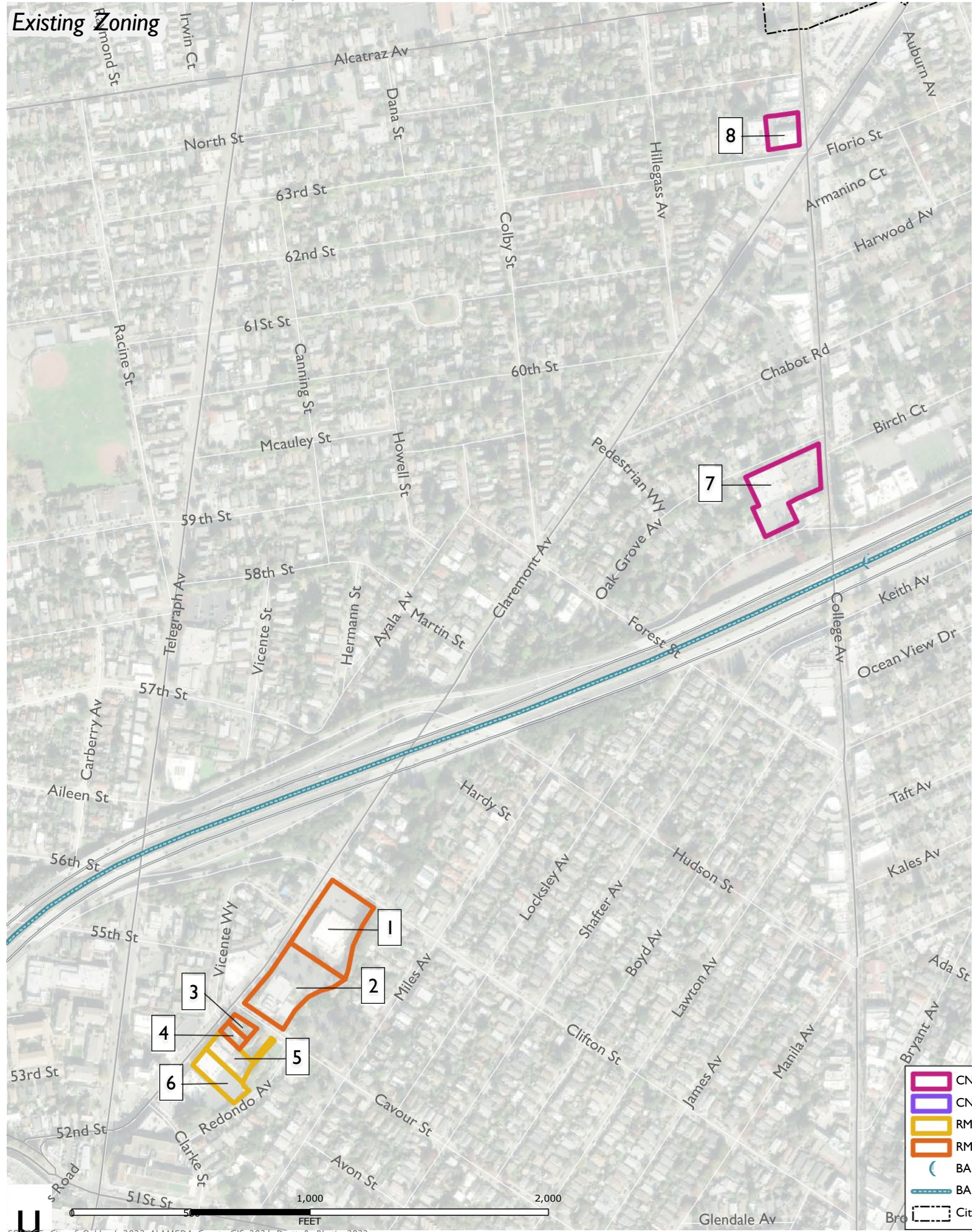


Figure 3: Downtown Oakland Specific Plan Proposed Height Changes





Existing Zoning



Proposed Zoning

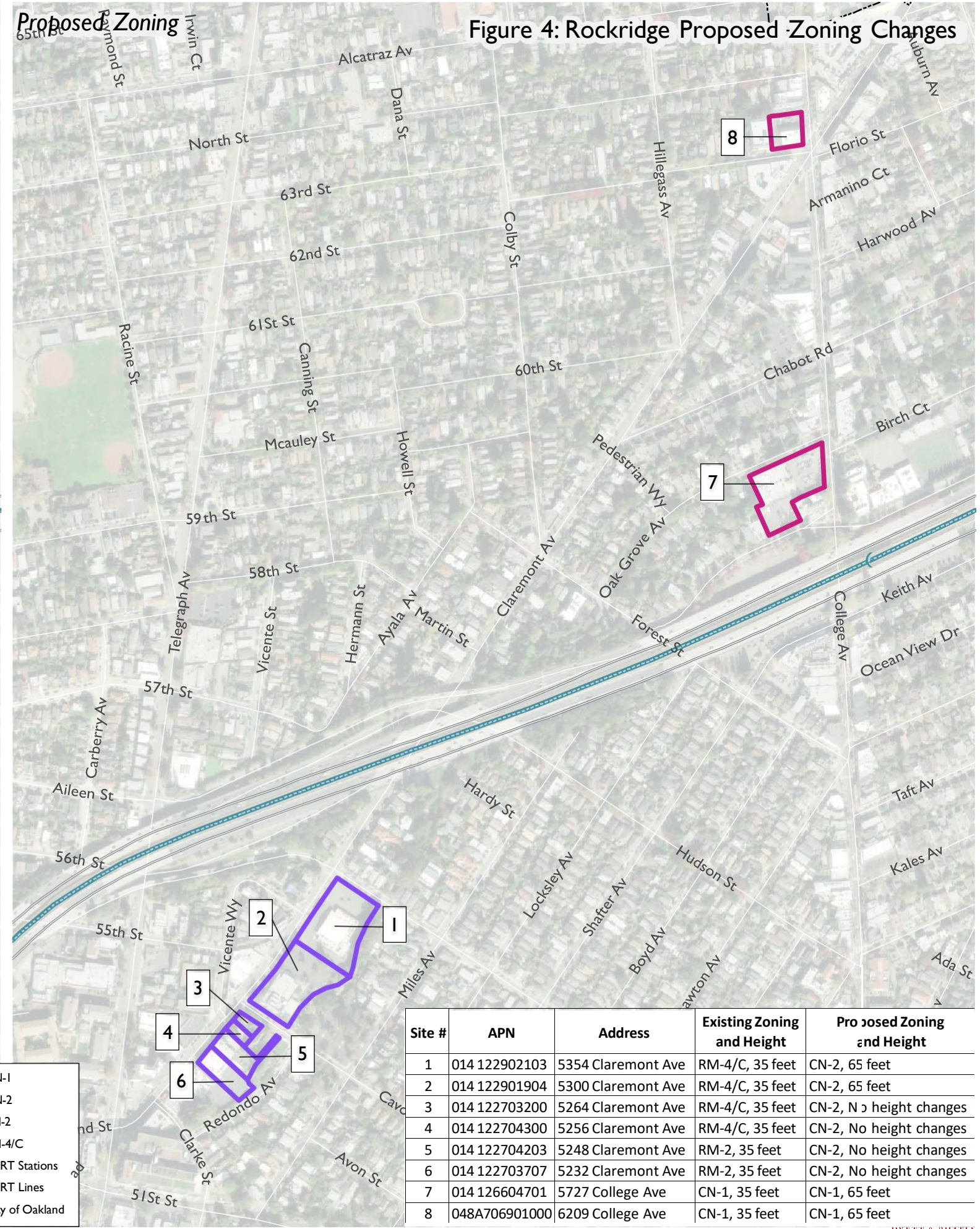


Figure 4: Rockridge Proposed Zoning Changes

- CN-1
- CN-2
- RM-2
- RM-4/C
- BART Stations
- BART Lines
- City of Oakland

Site #	APN	Address	Existing Zoning and Height	Proposed Zoning and Height
1	014 122902103	5354 Claremont Ave	RM-4/C, 35 feet	CN-2, 65 feet
2	014 122901904	5300 Claremont Ave	RM-4/C, 35 feet	CN-2, 65 feet
3	014 122703200	5264 Claremont Ave	RM-4/C, 35 feet	CN-2, No height changes
4	014 122704300	5256 Claremont Ave	RM-4/C, 35 feet	CN-2, No height changes
5	014 122704203	5248 Claremont Ave	RM-2, 35 feet	CN-2, No height changes
6	014 122703707	5232 Claremont Ave	RM-2, 35 feet	CN-2, No height changes
7	014 126604701	5727 College Ave	CN-1, 35 feet	CN-1, 65 feet
8	048A706901000	6209 College Ave	CN-1, 35 feet	CN-1, 65 feet

SOURCE: City of Oakland, 2022; ALAMEDA County GIS, 2021; Djyett & Bhatia, 2022

# **Summary of Preliminary Draft Affordable Housing Overlay Zone (AHO) Proposal**

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The City of Oakland (City) has completed a first draft update to the 2023-2031 Housing Element as part of Phase 1 of the 2045 General Plan Update (GPU) process. As part of the Housing Element’s Housing Action Plan, the City has identified several zoning reforms, including an Affordable Housing Overlay (AHO) Zone (see [Action 3.3.5](#)).

The proposed AHO Zone is intended to create and preserve affordable housing restricted for extremely low, very low, low, and/or moderate-income households (as defined in California Health and Safety Code Sections 50093, 50105, and 50106). By-right approvals for 100% affordable housing projects will apply in the AHO Zone.

Generally, the AHO Zone would allow for a bonus height for eligible affordable housing projects, as well as relaxation of other listed development standards and an elimination of any maximum residential density standards.

The City (Shown in Figure 1) would apply the AHO Zone on top of existing Hillside Residential-4 (RH-4), Detached Unit Residential (RD), Mixed Housing Type Residential (RM), Urban Residential (RU), Housing and Business Mix Commercial (HBX), Central Estuary District (D-CE), Neighborhood Center Commercial (CN), Community Commercial (CC), Central Business District (CBD), Regional Commercial (CR), Transit-Oriented Development Commercial (S-15), Broadway Valdez District (D-BV), Lake Merritt District (D-LM), and Coliseum Area District (D-CO) zones. Property development standards for each zone are shown in Table 1.

The AHO zone would not be applied to these underlying zoning districts if they are in the designated very high fire hazard severity zone (VHFHSZ). The City is studying the potential for areas that might be appropriate to be included in the VHFHSZ based on further analysis that is currently being conducted from consultants, including evacuation scenarios. In no circumstances would the AHO Zone apply within the S-9 Fire Safety Protection Combining Zone.

**Table 1: Base Zone and Property Development Standards in AHO**

<i>Zone</i>	<i>Property Development Standards</i>
RH-4*, RD, RM, RU, HBX, D-CE	<ul style="list-style-type: none"> <li>• Allow bonus height (of two additional stories)</li> <li>• Allow additional lot coverage of up to (70%)</li> <li>• Allow reduced rear setback (up to 10 feet.)</li> <li>• Allow unlimited density that fits within the allowed building envelope of new or existing structures</li> <li>• Additional height to allow a minimum of 65 feet is being studied for larger lots that could accommodate a 6-story affordable housing development.</li> </ul>
CN, CC, CBD, CR, S-15, DB-V, D-LM, D-CO	<ul style="list-style-type: none"> <li>• Allow bonus height (two - three additional stories)</li> <li>• Allow unlimited density that fits within the allowed building envelope of new or existing structures</li> <li>• Additional height to allow a minimum of 65 feet is being studied for larger lots that could accommodate a 6-story affordable housing development.</li> </ul>

\*= RH-4 parcels that are not located in the Very High Fire Hazard Severity Zone.

## EXEMPTIONS

The AHO zone would not apply in:

- Areas of the Very High Fire Hazard Severity Zone. Some parts of the Very High Fire Hazard Severity Zone may be included in the AHO zone, pending the result of further analysis on safety impacts. In no circumstances will the S-9 combining district be covered by the AHO.
- Parcels with Designated City, State, and Federal Historic Landmarks.

The AHO *height* addition would not apply in:

- Areas with established historical significance known as Areas of Primary Importance (API), if the site currently contains a structure that contributes to the Area of Primary Importance.
  - Projects in these areas must meet certain design requirements and preserve structures that contribute to the Area of Primary Importance.

## BY RIGHT APPROVAL

100 percent affordable projects proposed within the AHO zone would be subject to a ministerial approval process. A proposed project would not be subject to CEQA and would not be appealable. This would provide greater certainty to affordable housing developers that if the project is within the AHO zone and meets the objective zoning criteria listed in the Planning Code, the project will be approved and not held up through an appeal process.

Stay tuned for upcoming meetings! Email [generalplan@oaklandca.gov](mailto:generalplan@oaklandca.gov) with your comments and questions.

Visit the [Oakland General Plan Update](#) page.

**Table 2: Existing Heights vs. Proposed AHO Height Changes**

Zoning District <sup>1</sup>	Maximum Building Heights		
	Existing Heights	Proposed Height Changes as part of Missing Middle Zoning Changes	Proposed Height Changes as part of AHO <sup>2</sup>
RH-4	For All Lots with a Footprint Slope of ≤20%: Max. Wall Ht.: 25 ft. Max. Roof Ht.: 30 ft.	(Same - No Change)	Max. Wall Ht.: 45 ft. Max. Roof Ht.: 45 ft.
RD-1	For All Lots with a Footprint Slope of ≤20%: Max. Wall Ht.: 25 ft. Max. Roof Ht.: 30 ft.	(Same - No Change)	Max. Wall Ht.: 45 ft. Max. Roof Ht.: 45 ft.
RD-2	For All Lots with a Footprint Slope of ≤20%: Max. Wall Ht.: 25 ft. Max. Roof Ht.: 30 ft.	(Same - No Change)	Max. Wall Ht.: 45 ft. Max. Roof Ht.: 45 ft.
RM-1	For All Lots with a Footprint Slope of ≤20%: Max. Wall Ht.: 25 ft. Max. Roof Ht.: 30 ft.	(Same - No Change)	Max. Wall Ht.: 45 ft. Max. Roof Ht.: 45 ft.
RM-2	For All Lots with a Footprint Slope of ≤20%: Max. Wall Ht.: 25 ft. Max. Roof Ht.: 30 ft.	For All Lots with a Footprint Slope of ≤20%: Max. Wall Ht.: 30 ft. Max. Roof Ht.: 35 ft.	Max. Wall Ht.: 55 ft. Max. Roof Ht.: 55 ft.
RM-3	For All Lots with a Footprint Slope of ≤20%: Max. Wall Ht.: 30 ft. Max. Roof Ht.: 30 ft.	For All Lots with a Footprint Slope of ≤20%: Max. Wall Ht.: 35 ft. Max. Roof Ht.: 35 ft.	Max. Wall Ht.: 55 ft. Max. Roof Ht.: 55 ft.
RM-4	For All Lots with a Footprint Slope of ≤20%: Max. Wall Ht.: 35 ft. Max. Roof Ht.: 35 ft.	(Same - No Change)	Max. Wall Ht.: 55 ft. Max. Roof Ht.: 55 ft.
RU-1	40 ft.	45 ft.	65 ft.
RU-2	50 ft.	55 ft.	65 ft.
RU-3	65 ft.	65 ft.	65 ft.

1. Zones: RH-4 Hillside Residential Zone, RD-1 and RD-2 Detached Unit Residential Zones, RM-1 Mixed Housing Type Residential Zone with a footprint slope of <20%, RM-2, RM-3, and RM-4 Mixed Housing Type Residential Zones with a footprint slope of <20%, RU-1, RU-2, and RU-3 Urban Residential Zones and HBX-1 and HBX-2 Housing and Business Mix Commercial Zones
2. Note: Includes proposed new heights already in Preliminary “Missing Middle” Proposal. See: “Summary of Preliminary Missing Middle Proposal”

**Table 3: Existing vs. Proposed AHO Height Changes for HBX-1 and HBX-2 Housing and Business Mix Commercial Zones**

Zoning District	Maximum Building Heights	
	Existing	Proposed Height Changes as part of AHO
HBX-1	35 ft.	55 ft.
HBX-2	45 ft.	65 ft.
HBX-3	55 ft.	75 ft.
HBX-4	55 ft.	75 ft.

**Table 4: Existing vs. Proposed AHO Height Changes for RU-4 and RU-5 Urban Residential Zones**

RU-4 and RU-5 Height Areas	Maximum Building Heights	
	Existing	Proposed Height Changes as part of AHO
35 feet	35 ft.	55 ft.
45 feet	45 ft.	65 ft.
65 feet	65 ft.	95 ft.
95 feet	95 ft.	115 ft.
125 feet	125 ft.	145 ft.

**Table 5: Existing vs. Proposed AHO Height Changes for CN Neighborhood Commercial Zones**

CN Height Areas	Maximum Building Heights	
	Existing	Proposed Height Changes as part of AHO –
35 feet	35 ft.	55 ft.
35 feet*	35 ft*	55 ft.
45 feet	45 ft.	65 ft.
65 feet	65 ft.	95 ft.
95 feet	95 ft.	115 ft.

\* See [Table 17.33.04](#) Height, Floor Area Ratio (FAR), Density, and Open Space Regulations

**Table 6: Existing vs. Proposed AHO Height Changes for CC Community Commercial Zones**

CC Height Areas	Maximum Building Heights	
	Existing	Proposed Height Changes as part of AHO –
35 feet	35 ft.	55 ft.
45 feet	35 ft*	65 ft.
55 feet	45 ft.	85 ft.
65 feet	65 ft.	95 ft.
95 feet	95 ft.	115 ft.
125 feet	125 ft.	145 ft.
175 feet	175 ft.	200 ft.

\* See [Table 17.33.04](#) Height, Floor Area Ratio (FAR), Density, and Open Space Regulations

**Table 7: Existing vs. Proposed AHO Height Changes for New CBD Central Business District Zones in the [Downtown Specific Plan](#)**

Height Area - DOSP	New Height Areas	Proposed Height Changes as part of AHO
1	45 ft.	65 ft.
2	45 ft.	65 ft.
3	45 ft.	65 ft.
4	45 ft.	65 ft.
5	55 ft.	85 ft.
6	65 ft.	95 ft.
7	65 ft.	95 ft.
8	65 ft.	95 ft.
9	90 ft.	115 ft.
10	90 ft.	115 ft.
11	Residential not permitted	Residential not permitted
12	135 ft.	155 ft.
13	175 ft.	200 ft.
14	175 ft.	200 ft.
15	275 ft.	275 ft.
16	275 ft.	275 ft.
17	450 ft.	450 ft.
18	No height limit	No height limit

(see Figure 6, Summary of Preliminary Missing Middle Proposal for proposed DOSP height areas -1 through 18)

**Table 8: Existing vs. Proposed AHO Height Changes in the [Downtown Specific Plan - Zoning Incentive Area](#)**

<i>Height Area in DOSP - ZIP</i>	<i>New Height Areas</i>	<i>Proposed Height Changes as part of AHO</i>	
A		65 ft.	65 ft.
B		90 ft.	95 ft.
C		90 ft.	95 ft.
D		175 ft.	200 ft.
E		275 ft.	275 ft.
F		275 ft.	275 ft.
G		450 ft.	450 ft.
H	No height limit		No height limit
I	No height limit		No height limit

**Table 9: Existing vs. Proposed AHO Height Changes in the CR-2 Regional Commercial Zones**

<i>CR-2 Height Areas</i>	<i>Maximum Building Heights</i>	
	<i>Existing</i>	<i>Proposed Height Changes as part of AHO</i>
35 feet.	35 ft.	55 ft.
45 feet.	45 ft.	65 ft.
65 feet.	65 ft.	95 ft.
95 feet.	95 ft.	115 ft.
125 feet.	125 ft.	145 ft.
175 feet.	175 ft.	200 ft.

(see Figure 3 - Summary of Preliminary Missing Middle Proposal for the Zoning Incentive Area)

**Table 10: Existing vs. Proposed AHO Height Changes in the S-15 Transit-Oriented Development Commercial Zones**

<i>S-15 Height Areas</i>	<i>Maximum Building Heights</i>	
	<i>Existing</i>	<i>Proposed Height Changes as part of AHO</i>
35 feet.	35 ft.	65 ft.
45 feet.	45 ft.	65 ft.
55 feet.	55 ft.	85 ft.
65 feet.	65 ft.	95 ft.
95 feet.	95 ft.	115 ft.
110 feet.	110 ft.	130 ft.
125 feet.	125 ft.	145 ft.
175 feet.	175 ft.	200 ft.
250 feet.	250 ft.	275 ft.

**Table 11: Existing vs. Proposed AHO Height Changes in the D-BV-2, D-BV-3, D-BV-4 Broadway Valdez District Commercial Zones**

<i>D-BV-2, D-BV-3, D-BV-4 Height Areas</i>	<i>Maximum Building Heights</i>	
	<i>Existing</i>	<i>Proposed Height Changes as part of AHO</i>
45 feet.	45 ft.	65 ft.
45 feet*.	45 ft.*	65 ft.
65 feet.	65 ft.	95 ft.
95 feet.	95 ft.	115 ft.
95/135 feet.	95/135 ft.	115/155 ft.
135 feet.	135 ft.	155 ft.
135/200 feet.	135/200 ft.	155/225 ft.
250 feet.	250 ft.	275 ft.

\* See Table 17.101C.04 Height, Floor Area Ratio (FAR), Density, and Open Space Regulations

**Table 12: Existing vs. Proposed AHO Height Changes in the D-LM Lake Merritt Station Area District Zones**

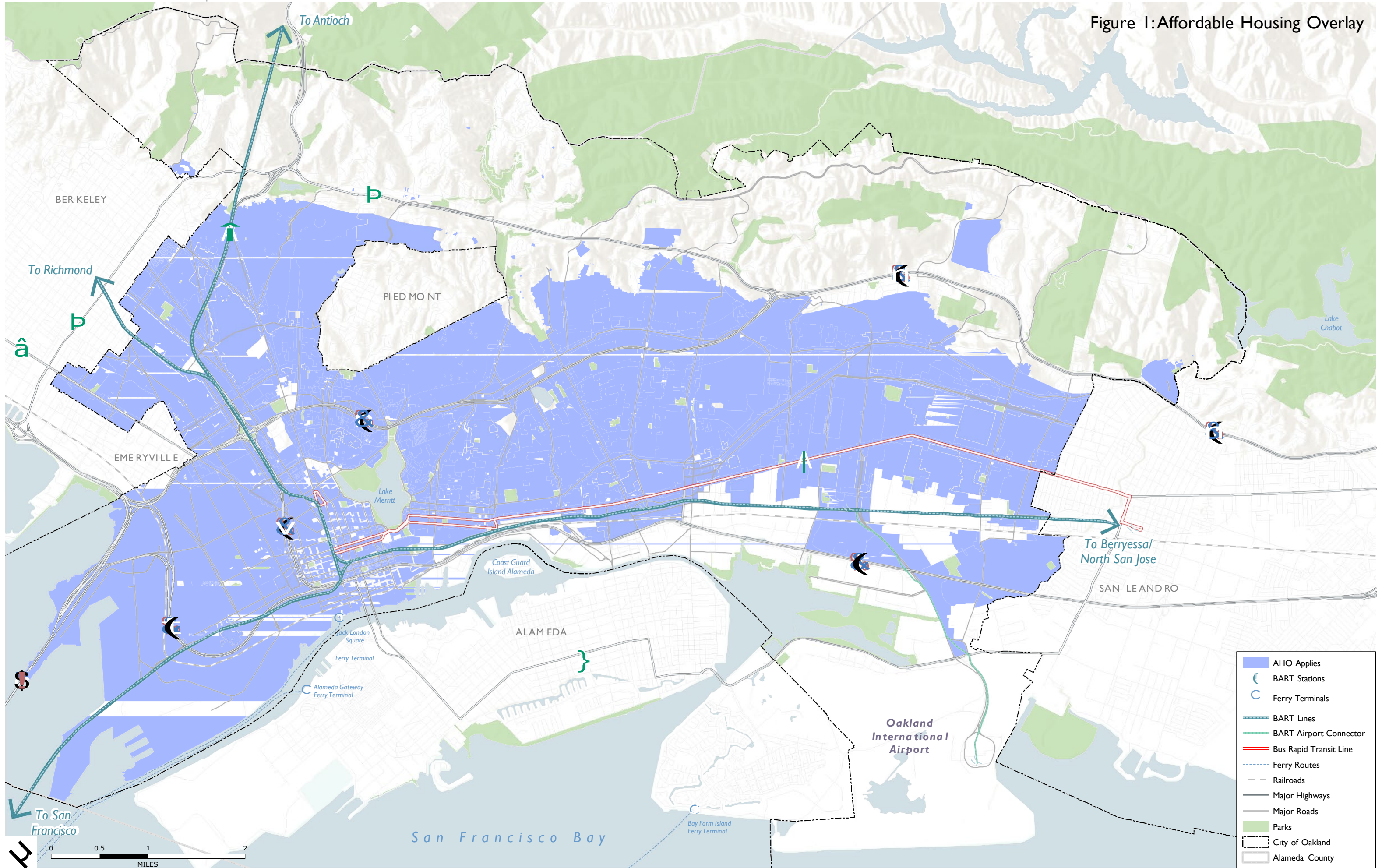
<i>D-LM Height Areas</i>	<i>Maximum Building Heights</i>	
	<i>Existing</i>	<i>Proposed Height Changes as part of AHO</i>
45 feet.	45 ft.	65 ft.
95 feet.	95 ft.	115 ft.
175 feet.	175 ft.	200 ft.
275 feet.	275 ft.	275 ft.

**Table 13: Existing vs. Proposed AHO Height Changes in the D-CO-1, D-CO-2, and D-CO-4 Coliseum Area District Zones**

<i>D-CO-1, D-CO-2, D-CO-4 Height Areas</i>	<i>Maximum Building Heights</i>	
	<i>Existing</i>	<i>Proposed Height Changes as part of AHO</i>
159 feet.	159 ft.	159 ft.
159 feet.	159 ft.	159 ft.
95 feet.	95 ft.	115 ft.



Figure I: Affordable Housing Overlay



SOURCE: City of Oakland, 2021; ALAMEDA County GIS, 2021; Dyett & Bhatia, 2022

## Summary of Preliminary Draft Housing Sites Overlay Zone Proposal

---

The City of Oakland (City) has completed a first draft update to the 2023-2031 Housing Element as part of Phase 1 of the 2045 General Plan Update (GPU) process. In accordance with [State HCD's Housing Element Sites Inventory Guidebook](#), the Sites Inventory (Table C-25) was developed based on the City's existing zoning, with close attention to:

- Lot sizes and density
- Access to neighborhood needs
- Improving access to opportunity and addressing equity consistent with the City's mandate to affirmatively further fair housing.
- Safety constraints

Based on the City's current General Plan and zoning regulations, there is sufficient capacity to accommodate its RHNA allocation, with additional capacity identified as a buffer. As part of its the Housing Element's Housing Action Plan (HAP), the City has identified several zoning reforms, including permitting sites from prior RHNA cycles to develop affordable housing by right in which 20 percent or more of the units are affordable to lower-income households. (Action 3.4.10).

The City is proposing to amend Action 3.4.10 to permit affordable housing by right with at least 20% affordable housing units for all sites identified in the Housing Sites inventory (See [Housing Sites Inventory Map](#) and [Table C-25](#)) and create a Housing Sites Overlay Zone.

The proposed Housing Sites Overlay Zone is intended to facilitate housing opportunities in Oakland and to bring attention to those sites that the City intends for housing to be built pursuant to State requirements.

### APPLICATION OF THE HOUSING SITE OVERLAY ZONE

The Housing Site Overlay zone would apply to all housing sites identified in the Housing Sites Inventory in the Housing Element (See [Housing Sites Inventory Map](#) and [Table C-25](#)).

#### Requirements

A minimum percentage of housing must be built on the site, with some allowance for limited non-residential on the site, such as the ground floor.

#### Incentives

A by right approval, as per State requirements, any projects providing at least 20% affordable housing units proposed within the Housing Opportunity Sites Overlay Zone would be subject to a ministerial approval process. A proposed project would not be subject to CEQA and would not be appealable. This would provide greater certainty to projects building at least 20% affordable units that if the project is within the Housing Opportunity Overlay Zone and meets the objective zoning criteria listed in the Planning Code, the project will be approved and not held up through an appeal process. This will also provide an incentive for mixed income buildings to be built on these designated opportunity sites.

Stay tuned for upcoming meetings! Email [generalplan@oaklandca.gov](mailto:generalplan@oaklandca.gov) with your comments and questions. Visit the [Oakland General Plan Update](#) page for more information.

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833  
(916) 263-2911 / FAX (916) 263-7453  
[www.hcd.ca.gov](http://www.hcd.ca.gov)

**ATTACHMENT D**

September 28, 2022

Christina Mun, Interim Director  
Housing & Community Development Department  
City of Oakland  
250 Frank H. Ogawa Plaza  
Oakland, CA 94612

Dear Christina Mun:

**RE: City of Oakland's 6<sup>th</sup> Cycle (2023-2031) Draft Housing Element**

Thank you for submitting the City of Oakland's (City) draft housing element update received for review on June 29, 2022. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by a conversation on August 12, 2022 with Audrey Lieberworth, Acting Planner III, Lakshmi Rajagopalan, Principal Planner, Michael Branson, Deputy City Attorney, Laura Kaminski, Strategic Planning Manager and William Gilchrist, Planning Director, as well as your consultants, Rajeev Bhatia, Alison Moore, and Mayu Tanaka. In addition, HCD considered comments from several stakeholders and members of the community, pursuant to Government Code section 65585, subdivision (c).

The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code). The enclosed Appendix describes the revisions needed to comply with State Housing Element Law.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City should continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of the statutory deadline (January 31, 2023), then any rezoning to accommodate the regional housing needs allocation, including for lower-income households, shall be completed no later than one year from the statutory deadline. Otherwise, the local government's housing element will no longer comply with State Housing Element Law, and HCD may revoke its finding of substantial compliance pursuant to Government Code section 65585, subdivision (i). Please be aware, if the City fails to adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until rezones to accommodate a shortfall of sites pursuant to Government Code section 65583, subdivision (c), paragraph (1), subparagraph (A) and Government Code section 65583.2, subdivision (c) are completed.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City must continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available while considering and incorporating comments where appropriate. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant; the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs; and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the City will meet housing element requirements for these and other funding sources.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: <https://www.opr.ca.gov/planning/general-plan/guidelines.html>.

HCD appreciates the hard work and dedication of Audrey Lieberworth, Acting Planner III, Lakshmi Rajagopalan, Principal Planner, Michael Branson, Deputy City Attorney, Laura Kaminski, Strategic Planning Manager and William Gilchrist, Planning Director, as well as your consultants, Rajeev Bhatia, Alison Moore, and Mayu Tanaka in preparation of the City's housing element. If you have any questions or need additional technical assistance, please contact Shawn Danino, of our staff, at [shawn.danino@hcd.ca.gov](mailto:shawn.danino@hcd.ca.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul McDougall", with a stylized flourish at the end.

Paul McDougall  
Senior Program Manager

Enclosure

## APPENDIX CITY OF OAKLAND

The following changes are necessary to bring the City's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing element technical assistance information is available on HCD's website at <https://www.hcd.ca.gov/hcd-memos>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <https://www.hcd.ca.gov/building-blocks> and includes the Government Code addressing State Housing Element Law and other resources.

### **A. Housing Needs, Resources, and Constraints**

1. *Affirmatively further[ing] fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2...shall include an assessment of fair housing in the jurisdiction. (Gov. Code, § 65583, subd. (c)(10)(A).)*

Local Data and Knowledge: While the element incorporates some analysis based on local data and knowledge, the element should review and incorporate public comments into the assessment of fair housing.

Racially Concentrated Areas of Affluence (RCAs): The element should analyze RCA. The analysis should evaluate pattern and trends at a local level (comparing areas within the City) and regional level (comparing the City to the region). Based on the analysis, the City should consider additional actions (not limited to the regional housing need allocation (RHNA)) to promote housing mobility and improve new housing opportunities throughout the City.

Regional Analysis: The element generally describes local patterns and trends with regards to disproportionate housing needs but must also analyze Oakland relative to the rest of the region regarding disproportionate housing needs, including displacement risks.

Affirmatively Furthering Fair Housing (AFFH) and Identified Sites: While the element provides some analysis of the sites in its inventory with regards to AFFH, it should analyze the lack of units in several higher opportunity areas (p. C-84), including but not limited to Rockridge (labeled North Oakland / Adams Point) and the area surrounding the Rockridge Bay Area Rapid Transit (BART) station. A complete analysis should fully assess how the site inventory is expected to improve and/or exacerbate fair housing conditions. This analysis should address the location, number of units by income group, magnitude of the impact and any isolation of the RHNA and could consider topics such as existing or proposed anti-displacement policies and place-based investments, and how such strategies will improve fair housing conditions when paired with the identified sites. Based on the outcomes of this analysis, the element should add or modify programs.

Goals and Actions: While the element provides additional analysis and identifies contributing factors to fair housing issues, it does not include sufficient action to overcome patterns of segregation and foster inclusive communities. As a result, programs must be added as appropriate to sufficiently respond to contributing factors to fair housing issues. In addition, all actions related to AFFH must contain specific commitment, timing, geographic targeting and metrics or numerical targets.

The element may, for example, as discussed on the August 11, 2022 call, revise Program 3.5.3 to make a firm commitment for removing design review requirements and establishing development standards for missing middle housing types. The element may also, for example, revise Action 3.5.3 to establish a social housing pilot program. Additionally, the element should commit to assessing and revising programs through a mid-cycle review. Please see HCD's AFFH memo for more information:

[https://www.hcd.ca.gov/community-development/affh/docs/affh\\_document\\_final\\_4-27-2021.pdf#page=23](https://www.hcd.ca.gov/community-development/affh/docs/affh_document_final_4-27-2021.pdf#page=23).

2. *Include an analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected needs for all income levels, including extremely low-income households. (Gov. Code, § 65583, subd. (a)(1).)*

*Include an analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition. (Gov. Code, § 65583, subd. (a)(2).)*

*Analyze any special housing needs such as elderly; persons with disabilities, including a developmental disability; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter. (Gov. Code, § 65583, subd. (a)(7).)*

Extremely Low-Income Households (ELI): While the element includes some information on ELI households relative to race, it should also evaluate tenure, overpayment, resources and strategies available and the gap and magnitude of housing needs to better formulate policies and programs.

Housing Conditions: The element provides some information on age of the housing stock. However, it must estimate the number of units in need of rehabilitation and replacement. For example, the analysis could include estimates from a recent windshield survey or sampling, estimates from the code enforcement agency, or information from knowledgeable organizations. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/housing-stock-characteristics.shtml>.

Persons Experiencing Homelessness: The element provides analysis of persons experiencing homelessness. However, given the magnitude of the need, the City should evaluate resources and strategies, gaps in addressing needs and formulate appropriate strategies to address the unmet need. For example, the element could identify and

evaluate capacity for emergency shelters, permanent supportive housing and other housing or shelter types relative to needs and address unmet needs through program actions.

3. *An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3).)*

Parcel Listing: The element must include a parcel listing or sites inventory intended to accommodate the regional housing need allocation (RHNA). The sites inventory should list parcels by assessor parcel number, size, general plan designation, zoning, existing use, realistic residential capacity and anticipated affordability. The description of existing uses should be sufficiently detailed to facilitate an analysis of the potential for additional development and may utilize indicators of potential such as age of structure, existing versus allowable floor area and improvement to land value. If a site is owned by a city or county, the description must include whether there are any plans to dispose of the property.

Pipeline and Potential Development Projects: While the element may utilize pipeline and potential development projects toward the RHNA, it must also demonstrate their affordability and availability in the planning period. Affordability must be demonstrated based on actual sales price, rent level or other mechanisms ensuring affordability (e.g., deed restrictions). Availability should account for the likelihood of project completion in the planning period and should address the status, necessary steps to issue permits, any barriers to development and other relevant factors. Given the element's reliance on pipeline projects, the element must include programs with actions that commit to facilitating development and monitoring approvals of the projects (e.g., coordination with applicants to approve remaining entitlements, supporting funding applications, expediting approvals and monitoring of project progress, including rezoning or identification of additional sites, if necessary).

Realistic Capacity: While the element lists realistic residential capacity assumptions by various zoning districts (Table C-11), it should provide supporting information for these assumptions based on recent development history, including affordability. In addition, this calculation should also account for the likelihood of 100 percent non-residential development. The element lists recent trends for residential development in non-residential zones but should also consider the development activity of 100 percent non-residential uses. For example, the element could analyze all development activity in these nonresidential zones, how often residential development occurs and adjust residential capacity calculations, policies, and programs accordingly. This analysis may incorporate any proposed policies such as residential performance standards, prohibition of commercial uses and should clarify that all zones allow residential uses, particularly 100 percent residential uses.

Nonvacant Sites: The element must include an analysis demonstrating the potential for additional development on nonvacant sites. While the element mentions underutilized



sites were identified based on assessed value (AV) and floor area (FAR) ratios, it must support the validity of these assumption in demonstrating the potential for redevelopment. For example, the element could utilize recent development activity. In addition, the element should consider additional factors such as building age, structural conditions, expressed interest in residential development and reflect those values in the sites inventory. Finally, the element should account for the extent existing uses impede additional residential development including market demand for the existing use and existing leases or contracts that would perpetuate the existing use or prevent additional residential development. For example, based on comments received, the City should also address the crediting of a site at 288 9th Avenue, where public comments reported a recently completed nonresidential project being credited for 254 units.

In addition, HCD notes the element currently does not rely on nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households. If future versions of the housing element rely upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households, the housing element must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period. (Gov. Code, § 65583.2, subd. (g)(2).) Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA.

City-Owned Sites: The element briefly describes its strategy to use City-Owned sites to accommodate a portion of the RHNA for lower income households (p. C-77). However, the element should identify which sites specifically are owned by the City and include a program with numerical objectives that ensures compliance with the Surplus Land Act, provides incentives and actions along with a schedule to facilitate development of City-owned sites. Actions should include outreach with developers, issuing requests for proposals, incentives, fee waivers, priority processing and financial assistance. The element should also update its Actions (3.3.1 and 3.3.4, for example) to describe a schedule of actions and, as described on the August 11, 2022 call, the timeline for completion of an Environmental Impact Report for these sites.

Alternative Adequate Sites: The sites inventory uses the adequate sites alternative to credit 82 units across two assisted housing sites that were acquired by the City to preserve affordability (p. C-27). However, the analysis must confirm compliance with all relevant requirements pursuant to Government Code 65583.1. This analysis may utilize HCD Alternate Adequate Sites checklist available at <https://www.hcd.ca.gov/adequate-sites-alternative>.

#### Zoning for a Variety of Housing Types:

- *Emergency Shelters:* The element mentions emergency shelters are permitted in various areas throughout the City. However, the element should also clarify shelters are permitted without discretionary action and discuss available acreage, including typical parcel sizes and the presence of reuse opportunities. In addition, the analysis should address proximity to transportation and services and any conditions inappropriate for human habitability.

- *Permanent Supportive Housing*: Supportive housing shall be a use by-right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code section 65651. The element must demonstrate compliance with this requirement and include programs if necessary.
  - *Employee Housing*: The element must demonstrate zoning is consistent with the Employee Housing Act (Health and Safety Code, § 17000 et seq.) or add or modify programs. Specifically, section 17021.5 requires employee housing for six or fewer employees to be treated as a single-family structure and permitted in the same manner as other dwellings of the same type in the same zone.
  - *Small Units*: Pursuant to public comments received, the City should consider a variety of naturally affordable housing types as part of its strategy, including efficiency units, cohousing units, and any units tied to a social housing programs and pilots. The element may also, for example, consider limited equity condominiums, pursuant to public comments.
  - *Single Room Occupancies (SRO)*: The element describes the zones in which SROs are currently permitted. However, given the success of SROs in providing housing for Extremely Low Income (ELI) households, the element should also describe how it will encourage SRO development.
4. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures... (Gov. Code, § 65583, subd. (a)(5).)*

Land Use Controls: The element identifies many land use controls as potential constraints on a variety of housing types. However, the analysis should analyze land use controls independently and cumulatively with other land use controls. The analysis should specifically address requirements related to Floor Area Ratios, open space requirements, setbacks, and limits on allowable densities. The analysis should address any impacts on cost, supply, housing choice, affordability, timing, approval certainty and ability to achieve maximum densities and include programs to address identified constraints.

Processing and Permit Procedures: The element lists design review criteria (p. F-57), however, it should also evaluate those criteria for impacts on cost, timing and especially approval certainty. For example, one finding is the project will “enhance desirable neighborhood characteristics”. The element should explain how that finding is applied and met, whether there are any impacts on cost, timing and approval certainty and add or modify programs to address any identified constraints.

Housing for Persons with Disabilities: The element describes its approval procedures for group homes for seven or more persons (p. 592), including limitations or approval criteria. However, the element should analyze these approval criteria as constraints on

approval certainty and objectivity for housing for persons with disabilities and include programs as appropriate.

## **B. Housing Programs**

1. *Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the Housing Element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available. The program shall include an identification of the agencies and officials responsible for the implementation of the various actions. (Gov. Code, § 65583, subd. (c).)*

A large share of the programs lists implementation timelines as “ongoing.” While this may be appropriate for some programs, programs with specific implementation actions must include completion dates resulting in beneficial impacts within the planning period. Programs that should be modified to add discrete timing include (but are not limited to) 1.1.3 (Strengthen Ellis Act Ordinance), 1.1.5 (Provide eviction defense and implement a right to counseling), 1.1.6 (Expand rent control in a limited manner to maintain affordability), 1.1.9 (Continue and expand the Tenant Protection Ordinance), 1.1.10 (Enforce the tenant right to return), 2.1.1 (Support home rehabilitation programs), 2.1.6 (Explore funding to improve indoor air quality), 2.2.5 (Extend local replacement unit provisions), 3.2.5 (Reduce constraints to the development of ADUs), 3.3.2 (Expansion of Section 8 vouchers), 3.3.3 (City of Oakland Rental Assistance Program), 3.3.4 (Develop permanent housing affordable to extremely-low income households on public land), 3.3.9 (Adjusting or waiving City fees and payment timing for affordable housing developments), 3.3.12 (Continue the Acquisition and Conversion to Affordable Housing Program), 3.3.13 (Expand availability of predevelopment funding and low-cost debt products for affordable housing development), 3.3.14 (Evaluate the creation of a leveraged acquisition fund or debt equity fund for small sites to support housing acquisition), 3.3.17 (Support low-income grassroots and BIPOC affordable housing developers), 3.7.1 (Incentivize development of senior housing and provide financial assistance to developers of housing for seniors and persons with special needs), 3.7.4 (Implement the sponsor-based Housing Assistance Program), 3.7.5 (Encourage a range of unit sizes including housing that matches a local household needs and family sizes), 3.8.1 (Continue to implement the Vacant Property Tax), 4.1.4 (Provide needed support and income to people who have been homeless), 4.2.4 (Increase oversight of homelessness strategies, investments and encampment operations with Homelessness Advisory Commission), 4.3.1 (Finance Construction and Maintenance of permanent supportive housing and deeply affordable housing), 5.1.1 (Provide First time home ownership incentives), 5.2.4 (Secure funding from AHSC Program), and 5.2.7 (Encourage new affordable housing in higher resource neighborhoods).

Additionally, several programs and actions have timelines that should be moved earlier in the planning period to ensure a beneficial impact. Examples include Programs 3.3.10 (Enhanced Infrastructure Financing District) and 3.5.2 (Support Housing Cooperatives).

Additionally, programs must have specific commitment to clear outcomes or deliverables. Several programs include actions with no description of how those actions will be implemented (e.g., “support”, “study”, “explore”, “evaluate”, etc.). For example, Program 3.5.2 states that the City will "support housing cooperatives, co-living, and cohousing models". However, it does not state when and how their housing types will be available. Programs should be amended, as appropriate to include specific commitment. Examples include Programs 1.1.5 (Eviction Defense), 1.1.10 (Tenant Right to Return), 1.1.13 (Preventing Displacement / Homelessness), 3.3.15 (Citywide Density Bonus Expansion), 3.3.16 (Consider revising Real Estate Transfer Tax), 3.4.3 (Revising Parking Standards), 3.4.4 (Revising Open Space Requirements) and 5.2.9 (Accountability Measures for Housing Programs).

Based on public comments received, the City should also consider revising Action 2.2.5 to develop procedures that find and support displaced tenants after demolitions, as well as ensuring that projects pursuing SB-330 protections have sufficient replacement units for tenants at risk of displacement.

2. *Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Government Code section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. (Gov. Code, § 65583, subd. (c)(1).)*

As noted in Finding A3, the element does not include a complete site analysis; therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types.

3. *Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)*

As noted in Finding A4, the element requires a complete analysis of potential governmental and nongovernmental constraints. Depending upon the results of that

analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints.

4. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics. (Gov. Code, § 65583, subd. (c)(5).)*

As noted in Finding A1, the element must include a complete assessment of fair housing. Based on the outcomes of that analysis, the element must add or modify programs. Programs to AFFH should go beyond status quo actions, include specific commitment, timing, geographic targeting and metrics or numerical targets and should generally address housing mobility, encourage new housing choices in higher resource areas, improve place-based strategies toward community revitalization and protect existing residents from displacement.

5. *The housing program shall preserve for low-income household the assisted housing developments identified pursuant to paragraph (9) of subdivision (a)... (Gov. Code, § 65583, subd. (c)(6).)*

Program 2.2.2 (Preserve Affordable Housing) should be revised with specific commitment to comply with noticing requirements, coordinate with qualified entities, assist with funding or support funding applicants and provide education and support to tenants.

6. *Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent... (Gov. Code, § 65583, subd. (c)(7).)*

Program 3.2.4 (Incentives for Accessory Dwelling Units (ADU)) should commit to should monitor permitted ADUs and affordability every other year and take appropriate action such as adjusting assumptions or rezoning within a specified time (e.g., 6 months) if assumptions are not realized.

### **C. Quantified Objectives**

*Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame. (Gov. Code, § 65583, subd. (b)(1 & 2).)*

While the element includes quantified objectives for new construction, rehabilitation and conservation by income group, it could consider quantified objectives for conservation (beyond at-risk preservation). For your information, the quantified objectives do not represent a ceiling, but rather set a target goal for the City to achieve, based on needs, resources, and constraints.

## **D. Public Participation**

*Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the Housing Element, and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(9).)*

The City made extensive efforts to reach the public, including hosting events and requesting input on suitable sites. Nonetheless, several comments questioned the lack of units in North Oakland, specifically around the Rockridge BART station, as concerns around why several eligible parcels were excluded from the inventory, and these issues must be addressed.

The City should also commit to revising Action 3.7.5 to studying second egress requirements. It can also discuss prioritizing cohousing opportunities, reducing lot size minimums in some zones to 3,000 square feet, finding suitable parcels for housing in the Dimond District, developing preapproved missing middle housing types in high opportunity areas, developing programs to address indoor air quality, analyze the cost reductions expected from removing parking minimums, analyze how the placement of historic districts relate AFFH and establish firmer commitments around the development of live/work units.