

**Development Activities Meeting: Zone Change Proposal -- Oakland Public Realm
Subdistrict E
Monday, November 29, 2021 Meeting Minutes**

Featured Speakers: Councilman Bruce Kraus, Jonathan Kamin and Todd Reidbord of Walnut Capital

Wanda Wilson introduced the Development Activities Meeting and instructed participants to utilize the chat feature of Zoom for comments, questions, and concerns regarding the discussion this evening.

Councilman Kraus read a statement from the mayor's chief of staff, Dan Gilman, and then summarized the timeline of the legislation's introduction, amendment, and transmission to the Planning Commission. He outlined the amendments made to the legislation, including the addition of maximum height and height bonus regulations, the requirement for demolition plans, and performance standard fines. He then introduced Jonathan Kamin, legal counsel for Walnut Capital, to explain the bill's details.

Kamin requested permission to present Walnut Capital's slide deck, but Wilson explained that the text of the zoning legislation would suffice. Kamin stated the legislation's goals and asserted that the legislation's OPR district designation is consistent with other OPRs in Oakland. Kamin then explained the three sub-districts within the bill: A, B, and C.

Within each of those districts, Kamin emphasized the desire for mixed-use development, and greater density to support a variety of uses. Kamin stated that mixed-use would drive a healthier "ecosystem," not just for residential operations but also for commercial operations. Kamin explained the subdistrict boundaries and sifted through some of the permitted uses within those boundaries: Subdistrict A, the southwest side of McKee Place between Louisa Street and 368 McKee Place, including Louisa Street between McKee and Halket, has a variety of uses ranging from residential to commercial and educational. Subdistrict B, the east side of Halket Street between Iroquois Way and Louisa, has similar uses to Subdistrict A but is more commercially focused. Subdistrict C, including Halket between Louisa and the Boulevard, the Boulevard between Halket and Bates, Bates between the Boulevard and Zulema, and Zulema between Coltart and Bates, is more intensive in its development uses. Walnut Capital's aspirations for Subdistrict C include a neighborhood urban open space, a grocery store, and a pedestrian bridge across the Boulevard of the Allies. All sub-districts require anywhere between 15-20% "urban open space" within them.

Kamin then went through the 24 regulations that all sub-districts in the OPR-E must abide by, per the legislation. Some critical points Kamin articulated included residential compatibility standards not applying to developments within the district, the protections set in place for the Isaly building façade, the introduction of "walk to work" housing, and the punitive penalty system for commercial buildings not adhering to the standards of given bonuses.

Wilson asked why the provision in the existing OPR districts' purpose statements stating that one intent of the Oakland Public Realm districts was to protect the character of less intensive uses from the impact of more intensive uses was not included in the OPR-E purpose statement. Kamin said, "I think the point that you're missing, and I don't want to be argumentative about it, is that if you take a look at each of the purposes of the various districts, each of them are [sic] a little bit different." Kamin said he did not feel that the purpose statement was inconsistent with the purpose of Walnut Capital's intended development.

Wilson asked why Subdistrict A, which is currently entirely residential, proposed educational classroom space, large-scale parking garages and utility general as primary uses. Todd Reidbord responded that "I think we just have a difference of opinion as to what the future of Oakland should be." Wilson asked that Reidbord address the question about uses in the proposed code. Reidbord said "I'm going to respond first to the comment, because I don't think it was accurately stated. ... The current uses of McKee Place are primarily student housing. We think that the vitality of Oakland going forward is mixed-use development. ... We think that segregating uses is old-fashioned." Reidbord said he felt that solar arrays and other generating uses should be permitted.

Wilson related that several questions in the chat questioned why residential compatibility standards had been removed. Kamin responded that there are two components to residential compatibility standards – one is massing, the other is how the building operates as a neighbor. Kamin said almost all the good-neighbor standards had been included in the code – but there were questions about how the development could be done with the massing restrictions in place. Walnut Capital believes flexibility on the massing standards would be necessary in order to permit them to accomplish their development goals.

Wilson mentioned that a number of residents are concerned that affordability in Oakland is a high-priority issue not considered in the legislation. She then introduced two South Oakland Neighborhood Group residents, who had prepared questions and data relating to affordability concerns and skepticism surrounding "Walk to Work" Housing. Reidbord interrupted to object that Walnut Capital was being sandbagged by being confronted by data that they weren't briefed on. He claimed Wilson's actions were unprofessional and inappropriate.

Ty Williams and Randy Sargent of South Oakland Neighborhood Group provided comments and data regarding the lack of affordable housing within the legislation. Williams stated this wasn't the first time he'd seen development presentations complete with loopholes and false promises, and that he was skeptical that corporate benefits were getting in the way of effective development. Sargent noted that his data was nothing new or secret. He later explained that as an Oakland resident, he has seen many of his neighbors replaced by newer and more wealthy neighbors. He also shared that as of the latest census data, 50% of all black families have lost their housing in Oakland, which has included over 2,000 families. Sargent voiced concerns that the proposed legislation would destroy existing affordability. He said that "Walk to Work" included a number of loopholes: (1) a minimum of 10% of households must pay no more than 30% of their income in rent – but without income qualifications, this is meaningless. (2)

Affordability requirement could be met in the first 12 months. No deed restriction, no intent that it last. (3) There's no requirement for affordability if the developer sells units as condominiums (which as is SOP in Oakland could be rented out by the owners). This is in contrast to Inclusionary Zoning as implemented in Lawrenceville, which includes both units for sale and for rent. (4) After tearing down buildings in zones B and C, there's no requirement to replace any housing units – so nothing would stop a future owner from removing all housing units from the area. (5) tenants only qualify for "Walk to Work" if they're employees of a particular employer. Sargent noted that the Oakland planning process had allowed for meaningful community input and asked for a real public engagement process moving forward.

Wilson said she'd noticed that section #23, which lists performance points, was pulled verbatim from 915.07 of the existing code, but that #4 from 915.07, a bonus point for including income-based affordable housing, was omitted. She asked why that particular bonus point had been omitted. Kamin said, "We have a different view of the affordable housing we're trying to create within this district. ... We think the "Walk to Work" housing is the best way to incentivize real affordable housing within this district." Walnut Capital feels this approach would generate the most income diversity in the district.

Comments and Questions:

Q: Subdistrict A on McKee, which is currently zoned as residential multi-family, has utility listed as a primary use. Utility in the zoning code allows for substation plants, wastewater treatment plants, water tanks, etc. to be permitted. Why is that being proposed for a residential area?

A: I think that we have a difference of opinion on what the future of Oakland should be. The current uses of McKee Place are primarily student housing. We believe the vitality of Oakland moving forward will be with mixed-use development. We think it's entirely appropriate to have retail uses, coffee shops, offices, a space where research can be done while having residential above it. Segregating uses is sort of old-fashioned. The future of urban development, the future of vitality and attracting new residents to Oakland is mixed-use development. With respect to individual uses within that, as we move forward, microgeneration plants, on-site energy, solar arrays, those type of sustainable uses for development should be permitted in this district. We want Oakland to be a leader in sustainability, not a follower. There's no rational or reasonable or economic reason why someone would put a large generation plant on McKee. I think you're just using scare tactics with the audience. The real intention is to use good-quality, highly sustainable mixed-use development.

Q: Why are residential compatibility standards removed from this legislation when they exist everywhere else in the city?

A: There are two components to residential compatibility standards, massing, meaning how the building is built, and how the building operates as a neighbor. For the most part, except for maybe one, all good neighbor standards are incorporated into the code I just went through. However, the massing is the only thing that's missing, and the massing component is missing because those are more designed for purely residential neighborhoods that are not mixed-use.

Q: But is there not R-1 right next to these two districts that you propose?

A: We think we put all of those good neighbor provisions in the legislation to protect the people living there. In terms of designing the massing of the building and designing good quality, sustainable, mixed-use development, we need to have some flexibility in it which is why it's written the way it is.

Q: What are the requirements for affordability? Why don't they mimic what already exists in places like Lawrenceville?

A: We have a different view of the affordable housing we're trying to create. We believe "Walk to Work" housing is the best way to incentivize real affordable housing for Oakland. Just as Uptown's vision is different from Lawrenceville, our vision for affordability looks different, and we firmly believe in ours. We didn't think it was fair to double dip or to have a program that we don't think is going to create best cross-section of affordability in the most units.

Q: We've also just determined that your definition of your "Walk to Work" Housing doesn't have real durability over time or income verification associated with it. So can you call it affordable?

A: I'm not here to debate you. Let me just say I completely disagree with what you're saying. I think this proposed code will create a far bigger range of affordability and number of units that are affordable. I heard what you and Randy said, and I respect what Randy said, but I can tell you we just have a disagreement on this one.

Q: Why does a hotel qualify as worthy of a bonus? Traditionally it doesn't happen, so why does it happen here?

A: When you're trying to create a district to promote density and demand to support amenities for the uses that are there, like a grocery store, a hotel is a good use that promotes a healthy ecosystem of uses.

Q: Why would we provide a bonus just for building residential units? That also doesn't seem like something worthy of a bonus.

A: Oakland has very unique circumstances; it's lost population over the past decade. We need more people in Oakland to create the vitality. We have a population that's probably in the high 90% students, so it's really important when thinking about the next 50 years to change the mix of which residents exist here. It's not sustainable as we stand here today. There is no grocery store. There are no businesses that serve people that live there full-time, year-round in Oakland. You need to change that dynamic or Oakland will continue to go on a downward spiral. We're trying to change that by increasing density to make Oakland more vibrant and sustainable. Encouraging more amenities and businesses increases the vitality of Oakland. That's our plan. There are a small number of people that disagree with that, but most of the people we have spoken and interacted with agree with that view.

Q: What you're proposing will accelerate displacement of our lowest income families, who are already the most vulnerable and disenfranchised in our community. Why is that being permitted?

A: I don't believe that there are any people that fit into that category. I'm not aware of any people in that category, so I don't think there's going to be any displacement on any property in this

zoning district that fits into that category. That's a false narrative that our development will displace people. It's just not true.

Q: What is the rationale for pursuing zoning legislation outside of the Oakland Plan process?

A: We've answered that 100 times. We think that the Oakland Plan is not a moratorium on development. We think that right now is the perfect time to move forward. We think it's consistent with the plan, and it's time to move forward.

Comments in the chat were articulated by Wilson, including that the community's vision of Oakland wasn't included, that the scale and residential compatibility of the plan isn't consistent with residents' desire, that this represents gentrification, and that residents were concerned about the integrity of their neighborhood changing.

Q: Walnut Capital controls low-rise buildings today. What stops you from renting those to families?

A: Students and families in the same building are not compatible. Our view is that it's better to have higher-density buildings that are compatible and have the amenities that families want.

Q: Where will the displaced students go? What happens when displaced students penetrate further into the residential neighborhoods and drive rental rates up.

A: Student housing projects are going up currently, and we think there will be plenty of supply in the system for students to be absorbed by new projects coming online.

Q: Which department or body would enforce the fines for the bonus system in the legislation?

A: I'd defer to the Department of City Planning for that. They'd be the person to ask regarding enforcement.

Q: Do you think that the bonuses written in the legislation are equivalent in value to how the building will benefit the community?

A: There is some flexibility within the bonuses. There are height caps that Councilman Kraus's office set in place when they were amending the legislation, and those caps are more strict here than in other areas.

Q: When it comes to eligibility for "Walk to Work" housing, why was gross income chosen instead of area median income (AMI)?

A: The standard we chose came from another comparable zoning ordinance. We wanted to promote flexibility that gross income allows as compared to AMI.

Q: How much of the residential area will be owner occupied?

A: Those issues have not been decided yet. The market speaks, though, and the rental market is a great landing place for people who want to live in Oakland.

Wilson articulated a comment in the chat in response to Walnut Capital that it was a false comparison to describe this development as similar to the one in Kendall Square in the Boston

area. The comment said that it was easy to increase population in that scenario because the developers were tearing down industrial warehouses and making homes, not tearing down peoples' homes. Reidbord responded to the person's comment stating that Walnut Capital doesn't plan to tear down anyone's home, and reminded attendees that student rentals are not homes.

Q: An attendee is interested that the presenters have been surprised by the pushback. At this time, we have four or five different plans and processes going on: The Oakland Plan, various Institutional Master Plans, etc. Since you have bypassed all of the processes set up for community engagement through city planning, what's stopping everyone else from bypassing public processes in the future?

A: We've had 6 or 7 public meetings. We asked OPDC to broadcast those meetings, but they chose not to. This has been a very open and transparent process. We had a meeting with OBID and one of the neighbors on Coltart. We've done a tremendous amount of community outreach.

Q: Not community outreach. The chat comment is talking about all of the pieces you work with the government on. A change in zoning is a government proposal. You're not a government agency, and you've just bypassed all of the steps.

A: We just don't agree with your statement, we think that's a false narrative, that we've bypassed any process. This went through the City Council, there was an 8-0 vote. This is just the beginning of the public process. There will be a public hearing at the Planning Commission and another back at council, and many many more meetings to go within the district. There has been no bypass of process. To the second question – we're not surprised by anything. The vast majority of people that we've talked to, that have reached out to us, applaud what we're doing. There is a small group of people, most of them are on this call today, who don't share our vision for the future of Oakland. It's up to our elected officials to see what's best for the city and what's best for Oakland. I don't think we've been disagreeable, but we can have differences of opinion. It's up to our elected officials to say what is the best thing for the city of Pittsburgh going forward.

Featured Comments and Questions from the Chat:

"Why does the 'Vision for Oakland' leave out the residents of Oakland but puts developers at the top of the food chain??"

"This is gentrification."

"We have invested countless hours The Oakland Plan, with a good faith understanding that this would be a comprehensive plan for Oakland. Why is this even being considered when this plan is so close to completion?"

"Community planning investment should be respected."

"We're losing our lowest income families, and those with kids. What you're proposing will accelerate the loss."

"I get it - it's not sustainable, but you are replacing people already here with different people. More long term residents is great but what happens to people already here. Your view is not our view so your plan does not help OUR neighborhood."

"So they are referring to not directly displacing people just second hand."

"The trade-off for bonuses for what little is actually a benefit for the neighborhood is outrageous. A grocery store can be built in any replacement for current without any bonus."

"The penalty for not providing what little benefit is promised vs the amount of bonus height and profit is laughable. Who wouldn't pay an extra 1% for 20-100% extra building? Business deduction at best."

"The outrageous heights proposed on McKee will destroy the quality of life on Coltart, especially combined with outrageous heights on Halket."