City of Dallas

Regulatory Incentives

Housing and Homelessness Solutions
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Presentation Overview

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Purpose

- Review regulatory incentives that directly affect the provision of affordable housing
  - Regulation can either incentivize or stymie development
- Under review today:
  - **MIHDB** - Mixed income housing development bonus
  - **Chapter 20A provisions** that require developments that receive financial incentives to reserve 10% of their units solely for voucher holders
  - A proposed **One Dallas** program to be developed that allows for on-site development of affordable units, off-site development, land dedication, or a fee in lieu of development in exchange for development bonuses

Background – Overall

- Land use regulations and economic development policies help to direct, incentivize, or even hinder development
- Rigorous zoning requirements can improve the quality of a development but also add to a development's cost
- Economic development incentives must outweigh the cost of complying with the requirements of the incentives

Background – MIHDB

- In 2014, the City signed a voluntary compliance agreement (VCA) with HUD that required a planning effort to encourage:
  - The development of affordable housing throughout the city
  - Greater economic opportunity in areas of concentrated poverty
- This planning effort led to Neighborhood Plus, which included a goal of trading incentives for affordable housing
- In 2016, the Housing Committee directed staff to begin the work on MIHDB
- In 2019, after dozens of stakeholder and committee meetings, Council approved a by-right mixed income housing development bonus (MIHDB) in the zoning regulations and an amendment to Chapter 20A (Fair Housing) that created regulations for compliance and implementation.
  - By-right bonuses guide negotiations in zoning cases with bonuses

Background – Ch. 20A-4.1

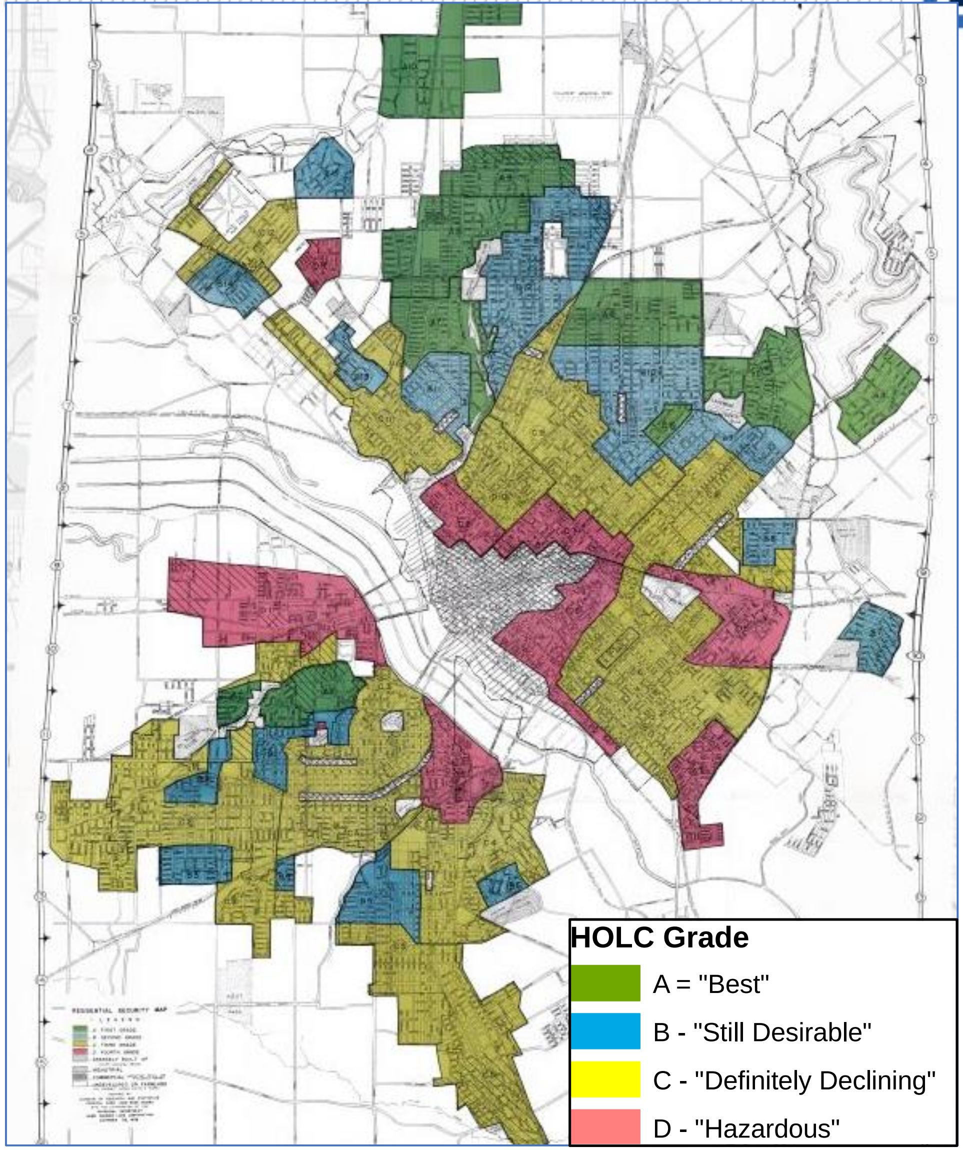
- The 2014 VCA with HUD also required Council to consider an ordinance prohibiting discrimination against voucher holders
- In 2015, the state legislature pre-empted cities from prohibiting voucher holder discrimination, but left intact cities' ability to *negotiate* non-discrimination
- In 2016, Council amended Ch. 20A-4.1. The change was designed to increase opportunities for housing voucher holders and required that all multifamily developments receiving a financial subsidy from the City reserve 10% of their units solely for voucher holders
- Since the set aside requirement was approved, **zero** multifamily developments have been completed with tax increment financing(TIF) funding alone.
  - In contrast, in the 8 years prior to 2016, the TIF program produced 24 mixed income developments in 13 TIF districts, for a total of 5,214 residential units, including **1,487 units for households under 80% AMFI.**

Background – One Dallas

- MIHDB and TIF can create mixed income developments, but on-site provision of affordable housing in expensive developments can be financially prohibitive
- Nexus Study/One Dallas
  - On October 26, 2020, HHS was briefed on a proposed study to determine a maximum justifiable fee in lieu of on-site provision of affordable housing units
  - Staff is working with the consultant to finalize the Nexus Study which will serve as the basis for a proposed One Dallas program
  - If approved, One Dallas would allow for on-site development of affordable units, off-site development, land dedication, or a fee in lieu of development in exchange for development bonuses

Equity Context

- In 1937, the Home Owners' Loan Corporation drew maps to show residential "mortgage security."
- HOLC coded the maps largely along racial, ethnic, and religious lines.
- In areas deemed "hazardous," the federal government would not insure loans.
- This is the legacy the City seeks to undo in its housing programs.



Robert K. Nelson, LaDale Winling, Richard Marciano, Nathan Connolly, et al., "Mapping Inequality," *American Panorama*, ed. Robert K. Nelson and Edward L. Ayers, accessed January 9, 2021, https://dsl.richmond.edu/panorama/redlining/#loc=12/32.784/-96.915&city=dallas-tx

MIHDB – Program Design

- **Purpose** – Create mixed income development by providing zoning bonuses for multifamily developers in exchange for on-site housing for households at 51-100% AMFI *and voucher holders*
- Intended to incentivize additional mixed-income development without requiring additional financial incentives.
- State law requires the program to be voluntary
- Two tracks:
  - By-right bonus in multifamily and mixed use districts
  - Base plus bonus structure in planned development districts

MIHDB – Program Design

- Designed to be used mostly by-right in MF and MU zoning districts: developer finds property, does their due diligence and some paperwork, pulls permit.
  - Entire process is administrative – no Council action
- But – for zoning cases, ***everything*** is negotiated – design, uses, height, setbacks, landscaping, massing, and bonuses.
  - These elements all affect project cost as well as project value
  - The case goes through staff, CPC, and Council review.

MIHDB – Process Example – Preston Center

- Developer applied for zoning - April 2020
  - Complicated height, setback, open space, and design requirements on expensive property
- Developer worked diligently with nearby property owners to incorporate their comments
- Multiple staff & developer meetings to discuss site design as well as bonus.
  - Staff recommendation: 5-15% reserved units at 51%-100% AMI
  - Developer proposal: 2.6% reserved units at 81-120% AMI (initial proposal was even fewer)
- Case went to CPC in August but was held twice.
  - CPC requested a staff briefing on MIHDB program

MIHDB – Process Example – Preston Center

- In September:
  - Developer submitted the tenth version of their proposed zoning
  - Staff briefed CPC on MIHDB program
  - CPC recommended approval for the zoning and for 5% reserved units (including units for voucher holders)
- Council approved the zoning following CPC recommendation in October 2020
- Developer currently studying whether or not to use the bonus
  - Preston Center is a high opportunity, low poverty area close to good jobs and in the Highland Park school district
- Take away: Negotiated zoning cases can take an extraordinary amount of staff, CPC, Council, and developer time, even for very good projects.

MIHDB – Process Example - Cost

- Why so few units reserved, especially in high rise developments?
- Two scenarios:
  - An 800 square foot Class A+ apartment:
    - Market rent: $3.40/ft or $2,720/month
    - Rent at 60% AMI: $741/month
    - Loss: ~$2,000/month per unit
    - Loss for 10 units **each year**: $240,000
    - Value reduction at a 4.75 cap rate for those units: $5,052,631
  - Less expensive 800 square foot apartment:
    - Market rent: $1.70/ft or $1,360/month
    - Rent at 60% AMI: $741/month
    - Loss: ~$620/month per unit
    - Loss for 10 units **each year**: $74,400
    - Value reduction at a 4.75 cap rate for those units: $1,566,315
- On-site provision is far more financially viable in low- and mid-rise buildings with lower construction costs and lower market rents

MIHDB – Projects

- 5 zoning cases approved in 2017 through early 2019, prior to Council approval of the by-right bonus
- 1 by-right development permitted in 2019
- All 6 developments currently under construction
- 1,605 total units; 100 reserved units (6%)

Zoning Approval Date	Project Name	Council District	Total Units	Reserved Units
10/25/2017	Aster Turtle Creek	14	270	9
5/23/2018	Broadstone at Cole	14	333	33
9/26/2018	Lenox Oak Lawn	2	285	12
11/28/2018	Provident McKinney	14	198	20
2/27/2019	9353 Garland Rd	9	219	11
By-right (MU-2)	Palladium Redbird	8	300	15

MIHDB – Projects

- Since approval, 20 zoning cases with a bonus approved in 2019-2020
  - 14 developments in pre-development process (and may or may not use the bonus)
  - 3 cases for large areas – longer development timeline
  - 3 developments are unlikely to use bonus
- Most cases are in Uptown, Oak Lawn, East Dallas, and northeast Dallas
  - Some LIHTC projects also have a zoning bonus
- In addition, 5 developments in pre-development process for by-right bonus

MIHDB – Evaluation

- MIHDB works best with stick-built apartments that offer moderately-priced market rents.
- High-rise developments on expensive land lead to a large gap between market rates and affordable rates, making this program financially less viable.
  - But these developments offer great opportunities to eligible households

Proposed – 20A and One Dallas

- Staff recommends exploring two new initiatives:
  - Amend Chapter 20A-4.1: For projects receiving financial incentives, remove requirement that 10% of units be leased solely to voucher holders
  - Create a One Dallas program - fee in lieu and/or off-site provision, particularly for high-rise developments, allowing these developments to use the bonus without requiring on-site provision of reserved units.

Proposed: Amend Chapter 20A-4.1

- Currently, Chapter 20A-4.1 requires all multifamily developments that receive a financial subsidy from the City to set aside 10% of their units and lease them <u>solely</u> to voucher holders for 15 years.
  - Risks vacant units if not enough voucher holders
  - Hampers City's ability to offer subsidies for affordable units in otherwise market-rate developments
- Recommendation:
  - Remove the set-aside requirement
  - Strengthen the non-discrimination and affirmative fair housing marketing language
  - Return to developing ~200 affordable units each year through the TIF and other programs

Proposed: Amend Chapter 20A-4.1

SEC. 20A-4.1. HOUSING VOUCHER INCENTIVES.

In accordance with Section 250.007(c) of the Texas Local Government Code, as amended, the city hereby creates and implements the following voluntary program to encourage acceptance of housing vouchers, including vouchers directly or indirectly funded by the federal government.

(a) Subsidy. All housing accommodations that benefit from a subsidy or financial award approved by the city council on or after the effective date of this ordinance shall not discriminate against holders of any housing vouchers, including vouchers directly or indirectly funded by the federal government and shall comply with Sec. 20A-31(g) regarding compliance with an affirmative fair housing marketing plan.

~~(b) Financial award. Multifamily housing accommodations that benefit from a financial award approved by the city council on or after the effective date of this ordinance shall set aside at least 10 percent of the dwelling units and solely lease those dwelling units to holders of housing vouchers, including vouchers directly or indirectly funded by the federal government, for a minimum of 15 years from the date of the initial issuance of the housing accommodation's certificate of occupancy. Multifamily has the meaning assigned in Section 51A-4.209 (b)(5) of the Dallas Development Code, as amended.~~ (Ord. 30246)

Proposed – One Dallas

- The proposed One Dallas program provides additional flexibility for bonuses and additional funding for mixed income communities
- In addition to on-site, developments could qualify for bonuses by
  - Paying a fee in lieu of on-site units
  - Developing units off-site
  - Donating land – particularly in high opportunity areas
  - Partnering with a non-profit to develop units
- Fees in lieu of on-site provision **create an additional, locally-controlled funding source** that can be used to provide gap financing for much-needed mixed-income housing in well-located areas
  - For example, setting aside 10 units in an expensive high rise in Uptown could cost $5 million in reduced value of the property.
  - Instead of producing 10 units, the developer would pay a fee into the housing trust fund which then would be used to provide gap funding for hundreds of units or mortgage assistance for dozens of homes.

Proposed – One Dallas

- BAE Economics is developing the Nexus Study and which will propose a fee in lieu of on-site provision
- If the committee recommends moving forward, staff will work with a consultant to develop the One Dallas program and present it to the committee in the late spring/early summer

Staff Recommendation

- Staff recommends prioritizing
  - additional use of MIHDB
  - amending 20A-4.1 to remove the strict voucher language
  - creating a One Dallas program
- Several recent studies indicate a deep need for additional housing at all price points, but particularly for households under the median income
- These initiatives complement our federal programs by creating mixed-income communities in high opportunity areas

Staff Recommendation

- Staff recommends the committee direct staff to
  - Continue to strengthen the MIHDB program
  - Amend Chapter 20A-4.1 to remove the requirement for units to be leased solely to voucher holders
  - Create a One Dallas program that allows developments to provide units on-site or off-site, to donate land for affordable housing, or to pay a fee in lieu of direct provision

Next Steps

- Continue to market MIHDB and streamline process
- Pending committee direction:
  - Return to HHS with a recommendation for an amendment to Chapter 20A-4.1
  - Engage a consultant to develop the One Dallas framework and program

Appendix

MIHDB – Program Process

- For zoning cases
  - Predevelopment discussions (as long as needed)
  - Zoning process (6 months to 2 years)
- For zoning cases and by-right
  - Developer due diligence, financing, and engineering (1 year)
  - Predevelopment meeting with Housing (1 to several meetings)
  - Restrictive covenant drafted, signed, and recorded
  - Building permit (several months)
  - Construction (2-3 years)
  - Construction completion
  - Close out (20 years)
- Note: At any point in the development process, the developer could decide not to use the bonus and/or not to build at all.

MIHDB – Eight Stage Model of Development

1. Inception of idea (overall development program)
   - What should the company build, and where should it be?
   - What market needs can be met by the company's project?
   - Will it work? (Back of the envelope pro forma calculations and drawings)
2. Refinement of idea
   - Developer looks for a potential site and researches market, zoning restrictions, potential tenants, lenders, partners, physical feasibility, etc.
   - Developers call staff and ask preliminary questions.
3. Feasibility
   - Formal market study, potential for zoning changes if needed, check if "the numbers work."
   - Initial building design, site plan, etc.
   - Continued refinement of the pro forma (costs versus income)

*Info from *ULI: Real Estate Development Principles and Process*, 3rd edition.

MIHDB – Eight Stage Model of Development

4. Negotiation of various contracts begins
   - Loan, equity, land contract, zoning, subsidies (if needed), engineering/architecture work continues, general contractor contract, sub-contractors, supplies, etc.
   - Zoning alone can take a year
5. Formal commitment
   - Entity creation, loan, equity, construction, insurance, etc. contracts signed, zoning approved, subsidies approved (if needed), all loose ends tied down.
   - From initial inception to this point can be anything from half a year to a decade, depending on all of the elements in the development.

MIHDB – Eight Stage Model of Development

6. Construction
   - 18-24 months – break ground, foundation work, "dried in" (walls, windows, roof in place, and watertight), units completed, temporary certificates of occupancy
   - Developer hires leasing/management company and begins to lease units
7. Completion and formal opening
   - Construction finishes, final punch lists, final CO, leasing continues, permanent staff hired, permanent financing replaces construction loan
8. Property, asset, and portfolio management
   - Management company in place, lease-up completed, property stabilized
   - Some developers will develop, lease up, stabilize, and *sell*. Others develop, lease up, stabilize, and *hold*.
   - Either way, income from the property is distributed to the partners, used to pay the loan, and can be used as equity for the next project.

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