

## Berkeley Draft (Received 8/10/2022) Preliminary Review Questions

#	v1 Page #	Question	Response + v3 Page #
Q1	47	Estimate needed of the number of units in need of rehabilitation/replacement (Code Enforcement estimate)	Unit numbers added in Table 3.22 Substandard Housing Issues by Tenure (2019). (p. 48) Estimate added based on code enforcement blight cases. (p. 48)
Q2	66	Can a developer combine inclusionary requirements with density bonus?	Text added under "Inclusionary Housing Ordinance" within Section 4.1.2 Zoning Ordinance." (p. 67)
Q3	GEN	Analyze use permit requirement as a potential constraint to residential development	Program 29, 33 and 35 Analyzed under 4.1.3 Permit Processing Procedures, Use Permit / Administrative Use Permit. Implementation Programs to address use permit as potential constraint: <ul style="list-style-type: none"> <li>• Program 29 Middle Housing (p. 132),</li> <li>• Program 33 Zoning Code Amendment: Residential (p. 136),</li> <li>• Program 35 Affordable Housing Overlay (p. 137)</li> </ul>
Q4	GEN	How is the City balancing use permit/neighborhood preservation ordinance and state by-right (nondiscretionary requirements for ES, LBNC, 2162, ADU, prior sites by-right, etc.?	See Section 4.1.3 Permit Processing Procedures (p. 70):  <i>"That said, the NPO has been superseded in part by subsequent adoption of the master plan and zoning updates mandated by the initiative, both of which can now be amended by ordinance."</i>
Q5	77	Emergency Shelters, 2162, Low Barrier Navigation Centers: Does by-right mean	Section 4.1.4 Emergency Shelters and Low Barrier Navigation Centers (p.

		nondiscretionary? Are there other development standards?	78). edited to clarify by-right means ministerial  Development standards are already referenced and listed on pg. 79.
Q6	79	Supportive housing is a by-right use, regardless of new/existing use	Section 4.1.4 Transitional and Supportive Housing edited. (p. 81)
Q7	81	Residential care facility should be permitted by-right (6 or fewer) in residential zones, regardless of existing/new use	4.1.5 Residential Care Facilities edited. (p. 82-3)  <i>"In the meantime, the city applies the law in a manner that supersedes local zoning."</i>
Q8	82	What are Reasonable Accommodation approval findings?	4.1.5 Reasonable Accommodation (p. 83) with findings from BMC Section 23.406.090 added.
Q9	82	2022 Building Code update?	4.1.7 Building Codes and Enforcement for 2022 edited. 2022 Building Code will be effective January 1, 2023. (p.87)
Q10	94	Is the mechanism holding these units affordable the City financing?	5.1.3 Bart Station Sites (p. 97) and Program 28-BART Station Area Planning edited.  <i>"The mechanism holding these units affordable is the City's financing and the Memorandum of Agreement (MOA) between the City and BART approved in June 2022. The MOA includes specific requirements about affordability of the future housing units."</i>
Q11	94	BART Sites: Schedule for RFQ and development	Program 28-BART Station Area Planning edited. (p. 131)
Q12	95	Entitled projects: Reasonable belief these will be permitted in the planning period? Were these counted in the 5 <sup>th</sup> Cycle?	Language from Appendix C answering both questions inserted into 5.1.4 Likely Sites (p.98):

			<i>“The City conducted an analysis of 47 permitted projects and found the average time between entitlement and permit issuance to be approximately three years to accommodate the preparation of construction documents and time needed for securing financing for higher density residential and mixed-use projects.”</i>
Q13	126	Any sites located in the Telegraph PDA/Southside/San Pablo?	Sites and income categories for San Pablo and Southside added to text. (p. 130)
Q14	128	ADU Program Incentives?	Amnesty Program for Unpermitted Dwelling Units (UDUs)—which includes ADUs—added to Program 19-Housing Condition Standards (p. 122-123).
Q15	125	Programs 27-29: Needed for RHNA? Shortfall?	Text added to 5.4 Housing Programs (p. 109) that City is not required to rezone to meet RHNA.
Q16	GEN	Programs to be amended to have a discrete timeline (e.g., month and year)	Added Month and Year where relevant. (Same as Comment 34).
Q17	Table C.10	Description of use for sites	Description of uses for sites included in Table C.10. (p. C-20-C-29)
Q18	App. C	Element must relate trends	ADU trends included on p.C-1 Development trends included on p. C-16 Use trends included on p. C-17 Affordable project development trends on p. C-18 See C5.3 for development trends (p. C-16)
Q19	C-24	Was Density Bonus used in realistic capacity assumptions?	No. Noted previously; see p. C-16

Q20	D-9/10	Element should still cite specific programs to help special needs populations	Additional text added under D3 (p. D-9 and D-10)
Q21	App. F	How was public input incorporated into programs/policies?	Text added to section 1.5 Participation of GEN. (p. 10)
Q22	GEN	What type of analysis/research was conducted for lease information?	CoStar data looking at tenants, lease length, and vacancies was pulled for non-vacant properties (when available) included in the sites inventory analysis.

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<b>Affirmatively Furthering Fair Housing</b>				
1	Patterns and trends	Analysis should describe trends over time for assessment factors (done for some, but not for all)	GEN	Trends from 2010 added.
<b>Housing Needs Assessment</b>				
2	Total Lower Income Overpaying	Add number of total LI HH overpaying + tenure	p. 58	The following text was added: <i>Approximately 76.2 percent of lower income households (13,485 out of 17,705) pay over 30% of their income towards housing, including 78.5% renter-occupied households (11,345 out of 14,455) and 65.5 percent of owner-occupied households (2,130 out of 3,250).</i>
3	Housing stock characteristics: Rehab/replacement	Estimate of number of units in need of rehab/replacement	p. 48	Added unit #'s in Table 3.22 Substandard Housing Issues by Tenure (2019)
4	Special Needs Analysis	Resources for persons with developmental disabilities?	p. 37	Addressed in 3.4.2 Persons with Disabilities / Resource for Persons with Disabilities.
<b>Sites Inventory and Analysis</b>				
5	Pipeline projects	Entitlements within the last 3 years; evidence that these will redevelop within the planning period – address the likelihood that it will redevelop in the planning period (use previous examples, 3-4 year buildout range) Add a monitoring program as well with additional actions (see Oakland finding)	p. 98, p. 136-7	Same as Q12 response above.  Language from Appendix C inserted into 5.1.4 Likely Sites:  The City conducted an analysis of 47 permitted projects and found the average time between entitlement and permit issuance to be approximately three years to accommodate the preparation of construction documents and time

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				<p>needed for securing financing for higher density residential and mixed-use projects.</p> <p>Monitoring component added to Program 34-Permit Processing and Monitoring (p. 136-137).</p>
6	BART Sites	Schedule of actions	p. 131-2	Text added under Program 28-BART Station Area Planning.
7	Nonvacant Site Analysis	<p>Add in nonvacant analysis (existing uses, likelihood that use will discontinue, lease information, etc.) for identified sites</p> <p>Add in nonvacant analysis for sites with existing zoning</p> <p>50% + reliance (resolution finding of substantial evidence)</p>	Appendix C, Table C.10, p. 19-28	Additional detail, including existing uses, lease information, nearby development and intensity of uses added to nonvacant sites. (See also response to Q22)
8	Nonvacant Site Analysis	Public comment regarding site conditions (in UC plan, etc.)	Appendix C, Table C-10, p. 20-29	<p>Fifty-one opportunity sites (including two UC-owned sites) were removed upon further analysis and public comment re: site conditions.</p> <p>The final sites inventory unit count was reduced from 16,025 to 15,153. (This reduction was also a result of unit count corrections and updates made to five entitled sites and four anticipated sites).</p>
9	Realistic Capacity	Nonresidential sites (discuss actual vs projected, potential for more, etc.)	p. C-20-C-29	<p>Column added in Table C-10 to show examples of potential unit counts when using max density listed in Table C.7.</p> <p>Paragraph added noting that the purpose of including these example numbers was to</p>

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				demonstrate how conservative our averages are and the potential/likelihood these sites have to exceed the averages we've used.
10	Small sites	Analysis on small site development	App C, p. C-18  GEN, p.99-100	Past developments on small sites already included (p. C-18). Zones added to Table C-8.  Reference added in 5.1.6 Availability of Land to Address Remaining RHNA to Appendix C, Table C-8 which lists small sites that have been developed in Berkeley as examples of recent trends.
11	Environmental constraints	HOLD: ADU Question  Other known constraints	p. 96-7	Map and text added in 5.1.2 Projected ADUs section.
12	Infrastructure	Add infrastructure capacity (water and sewer) statement	p. 89-90	EBMUD capacity data from DEIR analysis added into 4.2.1 Infrastructure Constraints.
<b>Zoning for a Variety of Housing Types</b>				
13	Emergency Shelters	Add discussion of development standards and clarify by right (and if nondiscretionary); acreage, capacity and proximity to services	p. 78	Added to "Emergency Shelters" section under 4.1.4 that they are allowed by-right particularly in higher density R and commercial districts which are close to services and transit access.
14	Multifamily Housing	Use permit? (any by-right zones?)	p. 76	Added middle housing reference for proposed by-right development.
15	Supportive Housing	By-right?	p. 81	See Section 4.1.4 Transitional and Supportive Housing. Clarified "all zones where multifamily and mixed-uses are permitted". (Same as Q6 above)

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16	Residential Care (<6 persons)	By-right?	p. 82	Edited 4.1.5 Residential Care Facilities. Clarified “in all zones where residential use is permitted.” (Same as Q7 above)
17	Manufactured housing	Subject to use permit?	p. 76	Treated the same as single-family housing – addressed in the initial draft – <i>“Mobile homes or manufactured homes, as defined in the Berkeley Zoning Ordinance and consistent with State law, are considered dwelling units if they are mounted on a permanent foundation and connected to all utilities. Therefore, mobiles homes intended for single family occupancy are subject to the same permit requirements and development standards as conventional single-family housing.”</i>
18	ADUs	ES-R zone clarification	p. 96	Text added to clarify. – <i>“In addition, there is no specific prohibition of ADUs in the ES-R district. In 2008, in consideration of urgent life safety issues, the City of Berkeley established that no new dwelling unit of any kind may be established in the ES-R until the City adopts a new specific plan for the area that addresses issues including emergency access, routes of egress, geologic risks, and other risk factors related to the natural environment and public infrastructure (BMC section 23.202.070). The City will be reassessing its vulnerabilities with a 2024 update to the Local Hazard Mitigation Plan and as part of a comprehensive Safety, Land Use, and Environmental Justice Element update in 2026 (see also Program 27 -Priority</i>



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				<i>Development Areas (PDAs), Commercial and Transit Corridors).</i> ”
<b>Governmental and Non-governmental Constraints</b>				
19	Land use controls	Cumulative impact; sample or recent project	p. 69, C-3, C-10	Added text to clarify, as well as references to Table 4.3: Density of Mixed-Use Projects (10 or more Units), and Appendix C Tables C-3 Likely Sites and C-6 Pipeline Sites.
20	Processing and permit procedures	<ul style="list-style-type: none"> <li>• Discuss typical procedures, who approves, public hearings</li> <li>• List and analyze findings of approval</li> <li>• Public comment re: CEQA</li> <li>• Use permit for multiple residential uses as a potential constraint</li> <li>• Design Review</li> <li>• Use permit and Neighborhood Preservation Ordinance</li> </ul>	p. 70-74	<ul style="list-style-type: none"> <li>• See Table 4.5 Typical Permit Processing Times (p. 70).</li> <li>• Listed and analyzed under “Use Permit / Administrative Use Permit” under Section 4.1.3 Permit Processing Procedures (p. 71-74)</li> <li>• Multiple required use permits for a single project are processed concurrently. (p. 70)</li> <li>• Design Review discussed on p. 72-73.</li> <li>• Use Permit discussed on p. 71 and Neighborhood Preservation Ordinance (superseded by adoption of master plan and zoning updates) discussed on pg. 70 under 4.1.3 Permit Processing Procedures.</li> </ul>
21	Prior Sites	Program for by-right (non discretionary)	p. 135	See Program 32 – By-Right Approval on Reused Sites for Affordable Housing.
22	On-/off-site Improvement	Analyze impact of on/off-site improvements	p. 89	Reference added to Figure 5.1 Residential development map and statement that required improvements do not constrain development.
23	Persons with disabilities	Clarify reasonable accommodation findings Definition of family	p. 81-83, p. 134	Edited 4.1.5 Reasonable Accommodation (p. 83) with findings from BMC Section 23.406.090.

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		Group home permitting – use permit		<p>p. 81-82 – Definition of Family – <i>“The definition for household is not restrictive based on relation or number of household members. Therefore, the Zoning Ordinance definitions do not constraint the development of housing for persons with disabilities.”</i></p> <p>Residential Care Facilities – <i>Comply with State law, which supersedes local zoning.</i> (p. 83)  Program 31-Zoning Code Amendment: Special Needs Housing proposed to amend local ordinance. (p. 134)  (Same as Comment 29 and Q5.)</p>
24	Non-governmental	Timing and density	p. 93	<p>Added text to 4.2.3 Market Constraints on timing and density that the City will monitor for progress (timing) and that higher density projects, including density bonus, are common (density).</p> <p>Timing: Added reference to Program 36- Adequate Sites for RHNA and Monitoring (p. 138-9)</p> <p>Density: Clarified – <i>“In addition, none of Berkeley’s higher density residential districts (R-3, R-4, R-5, R-S, R-SMU) have a maximum density standard. Only one commercial district has a maximum density standard: C-AC has maximum densities of 120 to 250 units per acre depending on affordability levels. Developments are largely regulated by form, which ensures that density is not a constraint to development.”</i></p>

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25	Other locally adopted Ordinance	Inclusionary + Density Bonus	p. 111 p.137-138	See Program 3 – Citywide Affordable Housing Requirements (Council adoption anticipated Dec 2022) (p. 111)  See Program 35 – Affordable Housing Overlay and Southside Local Density Bonus (Target December 2024 and December 2026) (p. 137-138)
<b>Housing Programs</b>				
26	Sites	Depends on complete analysis		TBD
27	Constraints	Depends on complete analysis		TBD
28	AFFH	Depends on complete analysis		TBD
29	Sites	2162, Low Barrier Navigation Center: by-right (nondiscretionary)  Entitled/pipeline: Review at 3 year period (Jan. 2026) and assess progress with addt'l actions	p. 80-1 p. 134-5 p. 139	Clarified that city applies the law (AB 101 low barrier navigation centers and AB 2162 supportive housing) in a manner that supersedes local zoning.  Also see Program 31-Zoning Code Amendment: Special Needs Housing.  Program 36 Adequate Sites for RHNA and Monitoring
30	At-risk	Qualified entities	p. 147	Programs/quantified objectives added under Conservation
31	Sites	Prior sites: by-right (nondiscretionary)	p. 135	Addressed in Comment 21 above and Program 32.

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32	Quantified Objectives	Conservation could/should go beyond just at-risk actions	p. 147	Added Program 6-Fair Housing and Program 19-Housing Condition Standards
33	Beneficial Impact	1, 4, 12 Gen: Midpoint review okay for non-statutory programs	p. 138-9	Added Jan 2026 assessment target in Program 36-Adequate Sites for RHNA and Monitoring. See also Comment 29.
<b>Programs</b>				
34	Timing	Discrete timeline for programs (e.g., month and year)	p. 109-140	Added Month and Year where relevant. (Same as Q16)
35	ADU	Monitoring within 2 years and efforts including, but not limited to, rezoning if assumptions not being met Incentives	p. 133	Added ADU monitoring to Program 30-ADUs.
<b>Questions, Follow Ups, FYI, To Be Determined</b>				
36	FYI	Electronic sites inventory		OK
37	TBD	Public comments (participation and how it was incorporated)	p. 10	Text added to section 1.5 Participation.
38	TBD	AFFH Review		See Comment 1 above.
39	TBD	ADU ordinance and accountability section check in (10/10 separate cover)		Under separate cover.
40	TBD	Review and revise: special needs evaluation	p. D-9 and D-10	Additional text added under D3 Effectiveness in Meeting the Housing Needs of Special Needs Populations (p. D-9 and D-10)
41	TBD	AB 725	p. 101	Added AB 725 compliance statement to 5.1.7 Summary of RHNA Strategies.
42	TBD	Other questions and follows ups		TBD

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43	FYI	Other general plan elements	p. 130	See Program 27-Priority Development Areas( PDAs), Commercial and Transit Corridors. Land Use, Safety, and Environmental Justice Element Update
44	TBD	Rezone timing	p. 109	Clarified – <i>“While the City is not required to rezone or up-zone to meet its RHNA (described in Section 5.1 Summary of Land Available for Housing and Appendix C Sites Inventory), as a pro-housing community, the City is pursuing several rezoning programs to increase its residential capacity.”</i>
45	TBD	Shortfall	p. 109	Same as Comment 44 above.