



Planning and Development Department
Land Use Planning Division

Thursday, December 1, 2022

California Department of Housing and Community Development
C/O Land Use and Planning Unit
2020 W. El Camino Ave, Suite 500
Sacramento, CA 95833

Subject: Transmittal of the City of Berkeley 2023-2031 Draft Housing Element (6th Cycle)

Dear Paul McDougall,

The City of Berkeley is pleased to submit our revised draft 6th cycle Housing Element to the California Department of Housing and Community Development (HCD) for subsequent review.

Attached is the revised draft 2023-2031 Housing Element, with redlines highlighting the revisions since the November 1, 2022 draft sent to HCD. Both clean and redlined versions of the Draft Housing Element and its six appendices are available on the City's website at: <https://berkeleyca.gov/construction-development/land-use-development/general-plan-and-area-plans/housing-element-update>.

The following is a summary of the revisions made to address HCD's comments:

1. **Suitability of Nonvacant Sites.** Added references in *Appendix C, Table C-10 Opportunity Sites-No Rezone Required* to similar development trends based on experience with Likely, Pipeline, or other recent projects for nonvacant opportunity sites. Supporting factors include land use and/or geographic trends to demonstrate that the existing land use is not an impediment to additional residential development and can be reasonably expected to discontinue within the planning period.
2. **Accessory Dwelling Units (ADUs).** Modified *Section 5.1.2 Projected ADUs* to reduce the projected number of ADUs from 100 units per year to 75 units per year to conservatively account for the City's revised February 2022 ADU ordinance that limits the number of units in the Hillside Overlay District to one ADU or one JADU per lot.
3. **Environmental Constraints.** Clarified in *Section 4.2.2 Environmental Constraints* that (1) sites with configuration constraints such as irregular shapes or utility easements were only included if there were opportunities for lot consolidation under common ownership to create a developable site, and (2) no major environmental conditions that would preclude redevelopment were identified. Explained that developments must meet stringent seismic building codes, no higher density residential developments are identified within the 100-year flood plain, and demonstrated trend of redevelopment of vehicle service stations.

4. **Zoning for a Variety of Housing Types (Emergency Shelters).** Included additional detail in *Section 4.1.4 (Emergency Shelters)* on locations (C-DMU and other Commercial districts), acreages of potential capacity, and other existing land uses (e.g., hotel/motel conversions) where emergency shelters are permitted ministerially by-right for projects of a certain bed count (up to 60 beds in the C-DMU and up to 25 beds in other Commercial districts). Added text to *Program 31-Zoning Code Amendment: Special Needs Housing* that, by December 2023, the City will identify commercial zones where emergency shelters are permitted by right depending on size, and apply only objective development standards in compliance with AB 2339.
5. **Program 28-Bart Station Area Planning.** Added to *Program 28-BART Station Area Planning* a detailed schedule of City actions and additional milestones proposed throughout the planning period. Included a reference to *Program 36-Adequate Sites for RHNA and Monitoring*, in which the City will identify alternative opportunity sites in the event that insufficient progress is made within the first three years of the planning period.
6. **Land Use Controls.** Described in *Section 4.1.2 Zoning Ordinance (Developing at Assumed Densities)* nine prototype site development projects that demonstrate existing standards do not constrain development at the assumed densities represented in the Sites Inventory. Added a summary of the February 2022 Financial Feasibility Analysis conducted by Street Level Advisors, which demonstrated that the City’s current housing development environment and proposed affordable housing fee structure does not present a barrier to residential development. Highlighted references to *Program 3-Citywide Affordable Housing Requirements*, which proposes a residential financial feasibility study, and *Program 33-Zoning Code Amendment: Residential*, which proposes zoning amendments to increase development potential to ensure adequate baseline capacity to meet RHNA.
7. **Local Processing and Permit Procedures.** Added text to *Section 4.1.3 Permit Processing Procedures for Use Permits, Administrative Use Permits, and Design Review Committee* detailing the timelines and specific procedures and findings for decision-making (staff level, Zoning Officer, and/or Zoning Adjustments Board). Clarified that the City processes all eligible housing applications (e.g., residential development or mixed use with at least two-thirds of the square-footage residential; transitional or supportive housing) under the five public hearing and meeting limit provisions of SB 330 (2019). Reiterated references to *Program 33-Zoning Code Amendment: Residential* for development of objective development standards, *Program 34-Permit Processing* amendments to reduce permit processing timelines, and *Program 29-Middle Housing* to provide a streamlined process for “middle housing” projects in lower density districts.
8. **Permit Streamlining Act.** Clarified in *Section 4.1.3 Permit Processing Procedures* that all projects—and subsequent resubmittals—are reviewed for completeness at the staff level within 30 days of initial paid invoice, in compliance with the Permit Streamlining Act.
9. **Constraints on Housing for Persons with Disabilities.** Clarified in *Section 4.1.5 Housing for Persons with Disabilities (Definition of Family)* that the City’s definition for “Family” and “Household” do not require a single lease or rental agreement, nor does the City monitor or enforce shared living expenses among household members. As a result, proposed definition amendment in *Program 31-Zoning Code Amendment: Special Needs Housing* to simplify the definition of “Household” while maintaining

distinction from other residential arrangements, such as Dormitory or Group Living Accommodation.

10. **Requests for Lesser Densities.** Explained in *Section 4.2.3 Market Constraints (Density)* that actual development trends largely reflected higher densities than those assumed in the 5th cycle Housing Element, with the exception of neighborhood commercial districts, which are typically smaller sites under separate ownership with infill or small addition projects that characteristically yield a lower density. For neighborhood commercial districts, the 6th cycle Housing Element reduced the density assumptions to reflect actual trends and anticipated capacity. In addition, added reference to *Program 27-Priority Development Areas (PDAs), Commercial and Transit Corridors* and *Program 33-Zoning Code Amendment: Residential*. The City is in the process of evaluating zoning and objective development standards, which would accommodate increased housing capacity in higher density districts, along high resource transit and commercial corridors, and include a minimum density standard to ensure adequate baseline capacity to meet RHNA targets and achieve Housing Element compliance.
11. **Beneficial Impact.** Added near-term actions and deliverables and interim milestones during the first three years of the 6th cycle planning period between 2023-2026 for the following programs to ensure beneficial impact within the eight-year planning period:
 - a. *Program 4 Housing Trust Fund* – Added near-term milestones for funding Homekey projects, Housing Trust Fund pipeline projects, Small Sites projects, and BART Station Area Planning development.
 - b. *Program 12 Workforce Housing* – Accelerated review and entitlement timeline for 110 units of workforce housing for Berkeley Unified School District (BUSD) education workers to June 2023. The City received an initial SB 35 application for the 1701 San Pablo site in October 2022.
 - c. *Program 17 Accessible Housing* – Added near-term action (December 2025) to facilitate first floor residential use that encourages accessible design in transit and service-rich neighborhoods as part of the City’s effort to adopt Objective Design Standards for higher density districts.
 - d. *Program 28 BART* – Added near-term milestones for establishing agreements with BART, selecting developer teams, funding awards and assisting with project financing, and adopting Objective Design Standards to facilitate the entitlement process.
 - e. *Program 30 ADUs* – Added near-term action (December 2023) to amend the City’s local ADU ordinance based on revised statutory requirements, including AB 2221 (detached garages, front setbacks) and SB 897 (maximum height).
 - f. *Program 33 Zoning Code Amendment: Residential* – No change, as the program already contained near-term action items.
 - g. *Program 34 Permit Processing* – Added near-term action (December 2025) to bring to Council for consideration increased thresholds for discretionary review of residential and mixed-use residential projects.
12. **Specific Neighborhoods for AFFH.** Added place-based emphasis to *Table 5.6 Summary of AFFH Actions* for the following programs:
 - a. *Program 6-Fair Housing Outreach and Enforcement* – Added targeted emphasis in Central and Southern Berkeley and areas surrounding UC Berkeley campus

where there are higher proportions of lower income households, protected groups at risk of displacement, and cost burdened renters.

- b. *Program 8-Rental Housing Safety* – Added targeted emphasis in Central and Southern Berkeley where there are higher proportions of renters and aging housing units.
- c. *Program 11-Rental Assistance* – Added targeted emphasis in Central and Southern Berkeley and areas surrounding UC Berkeley campus where there are higher proportions of cost burdened renter populations.

Pursuant to AB 215, the revised draft 2023-2031 Housing Element was made available for public comment for seven days, from Wednesday, November 23, 2022 through Wednesday, November 30, 2022. All comments received are publicly available on the City's Housing Element website at <https://berkeleyca.gov/construction-development/land-use-development/general-plan-and-area-plans/housing-element-update>.

If you have any questions, please contact Grace Wu, Principal Planner, at 415-961-9518. We look forward to scheduling a follow-up meeting and appreciate your assistance during the preparation of this update.

Sincerely,



Jordan Klein
Director, Department of Planning & Development
City of Berkeley