



Planning Commission

# AGENDA

## REGULAR MEETING OF THE PLANNING COMMISSION

This meeting is held in a wheelchair accessible location.

Wednesday, February 6, 2019  
7:00 PM

Basement Multipurpose Room  
1947 Center Street

See “*MEETING PROCEDURES*” below.

All written materials identified on this agenda are available on the Planning Commission webpage: <http://www.ci.berkeley.ca.us/ContentDisplay.aspx?id=13072>

### PRELIMINARY MATTERS

- 1. Roll Call:** Brad Wiblin, appointed by Councilmember Kesarwani, District 1  
Martinot, Steve, appointed by Councilmember Davila, District 2  
Schildt, Christine, Chair, appointed by Councilmember Bartlett, District 3  
Lacey, Mary Kay, appointed by Councilmember Harrison, District 4  
Beach, Benjamin, appointed by Councilmember Hahn, District 5  
Kapla, Robb William, appointed by Councilmember Wengraf, District 6  
Fong, Benjamin, appointed by Councilmember Robinson, District 7  
Vincent, Jeff, appointed by Councilmember Droste, District 8  
Wrenn, Rob, Vice Chair, appointed by Mayor Arreguin
- 2. Order of Agenda:** The Commission may rearrange the agenda or place items on the Consent Calendar.
- 3. Public Comment:** Comments on subjects not included on the agenda. Speakers may comment on agenda items when the Commission hears those items. (See “*Public Testimony Guidelines*” below):
- 4. Planning Staff Report:** In addition to the items below, additional matters may be reported at the meeting. **Next Commission meeting: March 6, 2019**
- 5. Chairperson’s Report:** Report by Planning Commission Chair.
- 6. Committee Reports:** Reports by Commission committees or liaisons. In addition to the items below, additional matters may be reported at the meeting.
- 7. Approval of Minutes:** Approval of Draft Minutes from the meeting on January 16, 2019.
- 8. Future Agenda Items and Other Planning-Related Events**

**AGENDA ITEMS:** All agenda items are for discussion and possible action. Public Hearing items require hearing prior to Commission action.

- 9. Action: Chair and Vice Chair Elections**  
**Recommendation:** Vote to elect Chair and Vice Chair  
**Written Materials:** N/A  
**Web Information:** N/A  
**Continued From:** N/A
- 10. Discussion: Green Affordable Housing Package Referral**  
**Recommendation:** Discuss materials and provide direction on Policy 1 Actions  
**Written Materials:** Attached  
**Web Information:** N/A.  
**Continued From:** February 15, 2017
- 11. Action: Local Hazard Mitigation Plan (LHMP) Feedback**  
**Recommendation:** Vote to approve LHMP feedback that will be shared with Berkeley's Office of Emergency Services  
**Written Materials:** Attached  
**Web Information:** <https://www.cityofberkeley.info/Mitigation/>  
**Continued From:** 1/16/19
- 12. Action: Student Housing Letter from Planning Commission**  
**Recommendation:** Review, edit and vote to approve communication from the Planning Commission  
**Written Materials:** Attached  
**Web Information:** N/A  
**Continued From:** 1/16/19

**ADDITIONAL AGENDA ITEMS:** In compliance with Brown Act regulations, no action may be taken on these items. However, discussion may occur at this meeting upon Commissioner request.

**Communications:**

- Email from Liam Will Re: Student Housing
- Email from Pablo Chong Herrera Re: Student Housing
- Email from Alexander Wilfert Re: Student Housing
- Email from Alene Pearson Re: Materials Requested at January 16, 2019 Planning Commission

**Late Communications (Received after the Packet deadline):**

None.

**Information Items**

- Report to City Council (January 29, 2019) Planning Commission Workplan 2018-2019

**ADJOURNMENT**

**Meeting Procedures**

**Public Testimony Guidelines:**

Speakers are customarily allotted up to three minutes each. The Commission Chair may limit the number of speakers and the length of time allowed to each speaker to ensure adequate time for all items on the Agenda. **To speak during Public Comment or during a Public Hearing, please line up behind the microphone.** Customarily, speakers are asked to address agenda items when the items are before the Commission rather than during the general public comment period. Speakers are encouraged to submit comments in writing. See “Procedures for Correspondence to the Commissioners” below.

**Consent Calendar Guidelines:**

The Consent Calendar allows the Commission to take action with no discussion on projects to which no one objects. The Commission may place items on the Consent Calendar if no one present wishes to testify on an item. Anyone present who wishes to speak on an item should submit a speaker card prior to the start of the meeting, or raise his or her hand and advise the Chairperson, and the item will be pulled from the Consent Calendar for public comment and discussion prior to action.

**Procedures for Correspondence to the Commissioners:**

- To have materials included in the packet, the latest they can be submitted to the Commission Secretary is close of business (5:00 p.m.), on Tuesday, eight (8) days prior to the meeting date.
- To submit late materials for Staff to distribute at the Planning Commission meeting, those materials must be received by the Planning Commission Secretary, by 12:00 p.m. (noon), the day before the Planning Commission meeting.
- Members of the public may submit written comments at the Planning Commission meeting. To submit correspondence at the meeting, please provide 15 copies, and submit to the Planning Commission Secretary before the start time of the meeting.
- If correspondence is more than twenty (20) pages, requires printing of color pages, or includes pages larger than 8.5x11 inches, please provide 15 copies.
- Written comments/materials should be directed to the Planning Commission Secretary, at the Land Use Planning Division (Attn: Planning Commission Secretary).

**Communications are Public Records:** Communications to Berkeley boards, commissions, or committees are public records and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission, or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service, or in person, to the Secretary of the relevant board, commission, or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the Secretary to the relevant board, commission, or committee for further information.

**Written material** may be viewed in advance of the meeting at the Department of Planning & Development, Permit Service Center, **1947 Center Street, 3<sup>rd</sup> Floor**, during regular business hours, or at the Reference Desk, of the Main Branch Library, 2090 Kittredge St., or the West Berkeley Branch Library, 1125 University Ave., during regular library hours.

**Note:** *If you object to a project or to any City action* or procedure relating to the project application, any lawsuit which you may later file may be limited to those issues raised by you or someone else in the public hearing on the project, or in written communication delivered at or prior to the public hearing. The time limit within which to commence any lawsuit or legal challenge related to these applications is governed by Section 1094.6, of the Code of Civil Procedure, unless a shorter limitations period is specified by any other provision. Under Section 1094.6, any lawsuit or legal challenge to any quasi-adjudicative decision made by the City must be filed no later than the 90th day following the date on which such decision becomes final. Any lawsuit or legal challenge, which is not filed within that 90-day period, will be barred.

**Meeting Access:** *This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services Specialist, at 981-6418 (V) or 981-6347 (TDD), at least three (3) business days before the meeting date.*  
*Please refrain from wearing scented products to public meetings.*



Planning Commission

1                   **DRAFT MINUTES OF THE REGULAR PLANNING COMMISSION MEETING**  
2   **January 16, 2019**

3 The meeting was called to order at 7:06 p.m.

4 **Location:** 1947 Center Street, Lower-level Multipurpose Room, Berkeley, CA

5 **1. ROLL CALL:**

6       **Commissioners Present:** Steve Martinot, Robb William Kapla, Christine Schildt, Benjamin  
7 Fong, Benjamin Beach, Mary Kay Lacey, Rob Wrenn, Jeff Vincent.

8       **Staff Present:** Secretary Alene Pearson, Elizabeth Greene, Jim Frank and Nilu  
9 Karimzadegan

10 **2. ORDER OF AGENDA:** No Change.

11  
12 **3. PUBLIC COMMENT PERIOD:** 0 speakers.

13 **4. PLANNING STAFF REPORT:**

14 Staff provided updates on the following items:

- 15 • Current vacancies on Planning Commission and JSISHL;
- 16 • City Council's second reading of the Zoning Ordinance Amendments to support small  
17 businesses on January 22, 2019;
- 18 • City Council's second reading of the 1050 Parker Rezone on January 22, 2019;
- 19 • City Council's special meeting on January 15, 2019 on the use of Measure O Funds and  
20 also on future development at North Berkeley BART;
- 21 • City Council's first reading of the Density Bonus Ordinance on January 29;
- 22 • Recognition of Prakash Pinto's service on the Planning Commission since September  
23 2016.

24 **Information Items:** None.

25 **Communication:**

- 26 • 2018-12-17 Margy Wilkinson - San Francisco Chronicle article regarding penalties for  
27 illegally demolished landmark property.
- 28 • 2018-12-20 Jeff Vincent- one email and two articles regarding housing supply and  
29 affordability

30  
31 **Late Communications (Received after the Packet deadline):**

- 32 • Email from Amir Wright Re: More Student Housing Now

- 33 • Berkeley Charrette Flyer regarding Berkeley's Zero Waste goal
- 34 • Email from Jane Hood Re: Support for More Student Housing Now
- 35 • Email from Jonathan Corn Re: Support for More Student Housing Now
- 36 • Email from Matthew Lewis Re: "Options for Encouraging Student housing in the
- 37 Southside"
- 38 • Email from Natasha Ham Re: Student Housing
- 39 • Email from Nuha Khalfy Re: 1/16/2019 – In Support of Student Housing
- 40 • Email from Samuel Taplin Re: Student Housing
- 41 • Email from Sarah Abdeshahian Re: More Student Housing Now!
- 42 • Email from Steve Martinot Re: Housing Supply and Affordability
- 43 • Letter from the Berkeley Tenant Union Re: Implementation of SB 1227 (Student Housing
- 44 Density Bonus)

45 **Late Communications** (Received and distributed at the meeting): None.

46 **5. CHAIR REPORT.** No Report.

47 **6. COMMITTEE REPORT:** None.

48 **7. APPROVAL OF MINUTES:**

49 Motion/Second/Carried (Kapla/Wrenn) to approve the Planning Commission Meeting Minutes  
50 from December 5, 2018. Ayes: Steve Martinot, Robb William Kapla, Christine Schildt,  
51 Benjamin Fong, Benjamin Beach, Mary Kay Lacey, Rob Wrenn. Noes: None. Abstain: Jeff  
52 Vincent. Absent: None. (8-0-0-0)

53  
54 **FUTURE AGENDA ITEMS AND OTHER PLANNING-RELATED EVENTS:**

55 Staff will present Policy 1 (parking related to affordable housing production) of the Green  
56 Affordable Housing Referral to the Planning Commission in February and will include comments  
57 from this meeting's discussion on Local Hazard Mitigation Plan as well. Finally the Planning  
58 Commission meetings will be held on first Wednesdays of the month, except in January and  
59 July – which will be the third Wednesday of the month.

60 **AGENDA ITEMS**

61 **9. Action: Public Hearing: Tentative Tract Map for 2747 San Pablo Avenue**

62 Planning Commission held a public hearing on the Tentative Tract Map for 2747 San Pablo  
63 Avenue, a 42 unit project with 39 dwelling units including 6 inclusionary units. Staff provided  
64 Findings for the Tract Map and Public Works confirmed no conflicts with encroachment. Staff  
65 presented the background information on the approval process on Tentative Tract Maps. The  
66 Commission asked clarifying questions regarding the project, including clarification regarding its  
67 height and number/location of Density Bonus units.

69 Motion/Second/Carried (Kapla/Vincent) to close the Public Hearing. Ayes: Steve Martinot,  
70 Robb William Kapla, Christine Schildt, Benjamin Fong, Benjamin Beach, Mary Kay Lacey, Rob  
71 Wrenn, Jeff Vincent. Noes: None. Abstain: None. Absent: None. (8-0-0-0)

72  
73  
74 Motion/Second/Carried (Vincent/Kapla) to approve the Tract Map. Ayes: Steve Martinot, Robb  
75 William Kapla, Christine Schildt , Benjamin Fong, Benjamin Beach, Mary Kay Lacey, Rob  
76 Wrenn, Jeff Vincent. Noes: None. Abstain: None. Absent: None. (8-0-0-0)

77  
78  
79 Public Comments: 0 Comments

80 **10. Action: Options for Encouraging Student Housing in the Southside**

81 Staff provided immediate, short-term and long-term actions. The immediate actions include  
82 implementing the mitigation fee aspect of SB 1227 and drafting a letter from the Council to the  
83 UC to encourage more student housing development. The short-term changes include  
84 expanding the car-free housing area and conversion of commercial space. Long-term actions  
85 include changes to the development standards that require environmental analysis. Staff  
86 announced that there is funding available for environmental analysis and an RFP for consultants  
87 will be developed. The Commission recommended that staff revisit More Student Housing Now  
88 options, GLA options and flexible ground floor uses as part of the EIR analysis.

89 The Commission requested staff to return with ZO amendments to remove parking requirements  
90 from R-S and R-SH districts and recommended further study in all R-3 and R-3H within the  
91 Southside. The Commission also recommended staff to 1) identify mechanism for student  
92 cooperatives to take advantage of SB-1227 without meeting State's requirement for 55-year  
93 master lease agreement; 2) revisit Southside Density Bonus Pilot referral that allows up to 50%  
94 bonus for additional affordable housing and 3) engage with OED on COB vacancy rates and  
95 viable depth of street-facing retails with residential in rear.

96 Motion/Second/Carried (Wrenn/Kapla) to remove parking requirements from R-S and R-SH  
97 district and have a Public Hearing and recommend further study in all R-3 and R-3H within the  
98 South Side to eliminate parking requirements Ayes: Steve Martinot, Robb William Kapla,  
99 Christine Schildt, Benjamin Fong, Benjamin Beach, Mary Kay Lacey, Rob Wrenn, Jeff Vincent.  
100 Noes: None. Abstain: None. Absent: None. (8-0-0-0)

101  
102 Motion/Second/Carried (Fong/Vincent) to remove parking requirements from all areas of the  
103 Southside. Ayes: Benjamin Fong, Jeff Vincent. Noes: Steve Martinot, Robb William Kapla,  
104 Christine Schildt, Benjamin Beach, Mary Kay Lacey, Rob Wrenn, Abstain: None. Absent:  
105 None. (1-7-0-0)

106  
107 Public Comments: 8 speakers.

108 **11. Discussion: Review First Draft Executive Summary and Mitigation Actions of**  
109 **the Local Hazard Mitigation Plan**

110 Staff presented the Executive Summary and Mitigation Actions of the draft Local Hazard  
111 Mitigation Plan (LHMP) to the Commission and discussed LHMP's goals to protect Berkeley's  
112 people, buildings, infrastructure and environment from natural hazards. Staff requested that the  
113 Commission review the document and provide comments by January 28, 2019, in order for staff  
114 to compile comments prior to the February 6<sup>th</sup> meeting. The comments the Commission  
115 approves will be forwarded to Berkeley's Office of Emergency Services (OES). OES will review  
116 and respond to comments prior to submitting the draft LHMP to Federal Emergency  
117 Management Agency (FEMA).

118 Public Comments: None.

119 **12. Action: Chair and Vice Chair Nominations**

120 Motion/Second/Carried (Wrenn/Lacey) to nominate Christine Schildt for Chair. Ayes: Steve  
121 Martinot, Robb William Kapla, Christine Schildt, Benjamin Fong, Benjamin Beach, Mary Kay  
122 Lacey, Rob Wrenn, Jeff Vincent. Noes: None. Abstain: None. Absent: None. (8-0-0-0)

123  
124 Motion/Second/Carried (Kapla/Schildt) to nominate Robb William Kapla as Vice Chair. Ayes:  
125 Steve Martinot, Robb William Kapla, Christine Schildt, Benjamin Fong, Benjamin Beach, Mary  
126 Kay Lacey, Rob Wrenn, Jeff Vincent. Noes: None. Abstain: None. Absent: None. (8-0-0-0)

127  
128 Public Comments: 0 Comments

129 **The meeting was adjourned in honor of Pinto Prakash at 9:48 pm**

130 **Commissioners in attendance: 8 of 8**

131 **Members in the public in attendance: 10**

132 **Public Speakers: 8 speakers**

133 **Length of the meeting: 2 hours and 42 minutes**





Planning and Development Department  
Land Use Planning Division

## STAFF REPORT

DATE: February 6, 2019  
 TO: Members of the Planning Commission  
 FROM: Alene Pearson, Principal Planner  
 SUBJECT: Green Affordable Housing Package Referral

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### BACKGROUND

On October 27, 2015, the City Manager referred the Green Affordable Housing Package (GAHP) to Planning Commission -- a referral that investigates ways to reduce barriers to affordable housing production (*Attachment 1: Green Affordable Housing Package Referral*) with two policy considerations:

Policy 1 focuses on exchanging off-street parking required for new development with affordable units and/or funding for affordable housing. The policy suggests five ideas to explore:

1. Reduce/eliminate parking requirement for housing that offers Transportation Demand Management (TDM) measures, car-sharing or shared-mobility programs.
2. Implement parking maximums.
3. Reduce/eliminate parking requirements for new housing that serves populations with low car ownership.
4. Reduce/eliminate parking requirements for transit-intensive housing.
5. Reduce parking requirements for new residential units near transit hubs.

Policy 2 focuses on removing structural barriers to affordable housing development through improvements and streamlining of the permitting process.

The Planning Commission discussed this item on September 21, 2016, October 19, 2016 and February 15, 2017 (*see Attachments 2 through 4 for staff reports*). The Planning Commission also discussed closing this referral out in October 18, 2017, but requested it stay active in order to discuss Policy 2 in the context of flexible ground floor use referrals (*see Attachment 5: Minutes and Staff Report from October 18, 2017*).

Since October 2017, Policy 2 has advanced as a result of new State laws, including the Housing Accountability Act, State Density Bonus law, SB-35 (Streamlined Approval Process), and State ADU law. City initiatives, such as the Housing Action Plan, Zoning Ordinance

Revision Project, and Analysis of Development Fees, are addressing goals of Policy 2, without the GAHP referral formally returning to Planning Commission.

Over the last year, Planning Commission has been asked to consider reductions to off-street parking requirements while discussing Zoning Ordinance amendments that support small businesses, add residential bicycle parking requirements, and allow for more student housing in the Southside. For each of these agenda items, Planning Commission expressed interest in receiving benefits (i.e. TDM, bike infrastructure, affordable housing) in exchange for proposed parking reductions. Similarly, requests to modify Berkeley's off-street parking requirements have been discussed recently at Zoning Adjustment Board (ZAB) meetings, at interdepartmental meetings, during development of the Local Hazard Mitigation Plan (LHMP), and in the context of recent actions taken by neighboring cities. With the renewed interest in off-street parking reform, Planning Commission is being asked to re-evaluate the actions requested in Policy 1.

## **DISCUSSION**

The actions identified in Policy 1 are intended to result in a set of benefits in exchange for parking reduction. Although the primary focus of the GAHP referral is an exchange of parking for affordable housing units, Action 1 delivers TDM measures in exchange for parking reduction. The City of Berkeley currently has a program that captures TDM measures – specifically transportation benefits for residents and employees) in the C-DMU. If Planning Commission is interested in establishing an exchange of parking for TDM measures, staff will 1) summarize Berkeley's existing regulations and existing projects/programs; 2) research TDM programs implemented by neighboring and similar cities; and 3) identify transit agencies, shared-mobility partners, and non-profits (such as Transform) that can assist in TDM program development.

***Question for Planning Commission:*** *Should staff to research TDM measures and programs that can be exchanged for off-street parking? Focus on residential and mixed-use projects? Include commercial projects?*

Action 2 requests that Berkeley implement off-street parking maximums. Currently Berkeley requires a minimum number of parking spaces for most development projects, but has no maximum parking caps. This Action removes the ability for a developer to provide excessive parking. If the Planning Commission is interested in exploring this action, staff can analyze parking regulations and ratios of current projects. This action will not return a benefit in terms of affordable units or TDM -- it would remove a developer's option to provide more off-street parking than required.

***Question for Planning Commission:*** *Should staff analyze current parking regulations and ratios of current projects to propose potential parking maximums? Focus on residential and mixed-use projects? Include commercial projects?*

Action 3, 4 and 5 all request off-street parking reduction for housing near transit or in areas with low car ownership. More specifically, the referral asks for a reduction in parking requirements for all new housing projects that are either within one half mile of a transit hub or

within 1,200 feet of an overlap between a mixed use/commercial district and a major transit corridor (*see Attachments 2 through 4 for maps outlining the difference in geographies*). State law mandates that local jurisdictions reduce off-street parking requirements for Density Bonus projects located within a one half-mile of a major transit stop. For projects more than one half-mile, parking reductions can be achieved through concessions or waivers. Density Bonus, although not the focus of the GAHP referral, provides a mechanism to exchange parking for affordable units.

***Question for Planning Commission:*** *How can parking reductions be exchanged for affordable units on non-Density Bonus projects?*

### **NEXT STEPS**

Planning Commission is asked to review Policy 1 of GAHP and provide direction by discussing the material and questions in this report.

### **ATTACHMENTS**

1. Green Affordable Housing Referral
2. September 21, 2016 Planning Commission Staff Report
3. October 19, 2016 Planning Commission Staff Report
4. February 15, 2017 Planning Commission Staff Report
5. Minutes and Staff Report from October 18, 2018 Planning Commission Meeting



OCT 27 2015

OFFICE OF THE CITY CLERK  
CITY OF BERKELEY

ACTION CALENDAR  
October 27, 2015  
(continued from October 6, 2015)

To: Honorable Mayor and Members of the City Council  
From: Councilmember Lori Droste  
Subject: Councilmember Lori Droste's Green Affordable Housing Package - Amendments

**RECOMMENDATION**

Request that the Planning Commission and City Manager investigate the feasibility of reducing barriers for the creation of new affordable housing. City Council requests that commissions and staff address and propose solutions and/or an implementation plan using the following recommendations by October 1, 2016.

**Policy 1: Designate units and funding for affordable housing by prioritizing housing over parking spaces in new developments**

1. Reduce or eliminate minimum residential parking requirements if car-sharing spaces, shared mobility devices, or transit passes or other TDM measures are provided.
2. Consider a cap on residential parking maximums.
3. Reduce or eliminate minimum parking requirements for new housing that serves populations that do not have high rates of car ownerships.
4. Reduce or eliminate minimum parking requirements for transit-intensive housing.
  - Transit-intensive housing is defined as within 1,200 feet of a transit center or within 1,200 feet of an overlap between major transit corridor and a commercial or mixed-use district.
  - Broadly defined, a *transit corridor* generally refers to a geographic area that accommodates travel or potential travel. A transit corridor is best defined as the areas around all of the stations along a transit line that have destinations or residences within reasonable distance for walking, biking, or other transit connections. ■
  - Broadly defined, a *transit hub* refers to a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or a major bus route with frequencies of service intervals of 15 minutes or less during the morning and afternoon peak commute periods. ■
5. Re-evaluate and/or reduce parking space requirements per new residential unit in areas within ½ mile of a transit hub.

*Determine a process whereby the costs saved by parking reductions will be designated for affordable units or the Affordable Housing Trust Fund.*

*Evaluate and account for impacts of parking policies on access and routes for emergency vehicles and evacuations.*

**Policy 2: Remove the structural barriers to creating more housing**

1. Improve and streamline the development review process, particularly for permanently affordable housing projects. ~~and smaller residential housing proposals~~ Review and compare Berkeley's process to that of neighboring cities.





Planning and Development Department  
Land Use Planning Division

## STAFF REPORT

DATE: September 21, 2016  
TO: Members of the Planning Commission  
FROM: Alene Pearson, Associate Planner  
Alex Amoroso, Principal Planner  
SUBJECT: Council Referral: Green Affordable Housing Package

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### INTRODUCTION

On October 27, 2015, the Council referred the Planning Commission to investigate ways to reduce barriers to affordable housing production (Attachment 1: Green Affordable Housing Package Referral). The referral includes two policies for the Planning Commission to consider: (1) designating units and funding for affordable housing by prioritizing housing over parking and (2) removing structural and procedural barriers to the creation of more housing.

This staff report includes background information and discussion topics related to both policies. Staff recommends the Planning Commission consider issues presented and direct Staff to conduct further research and/or prepare an initial referral response to City Council.

### BACKGROUND

This referral ties parking regulations to affordable housing and asks for removal of barriers to affordable housing production. In order to inform the Commission's discussion, the Background section explains the interrelationship between parking and housing. It also discusses legislation – both proposed and existing – that has the potential to affect production of affordable housing.

#### Relationship between Parking and Affordable Housing

The high cost of off-street parking is well-documented -- the national average is about \$34,000 per space (Shoup, 2016) and in Downtown Berkeley the average is about \$40,000 per space (Nelson/Nygaard, 2011). Developers usually bundle parking costs into the price of new units, which has been shown to increase housing costs by approximately 17% (Gabbe & Pierce, 2016). In addition to elevating housing prices, required on-site parking introduces a tradeoff between parking spaces and housing. This tradeoff exists

for all developers, but is especially challenging to those who are trying to maximize production of below market rate housing.

Loosening Parking Regulations for Affordable Housing Projects

Recognizing how parking requirements can impact the supply of affordable housing, various cities in California have reduced parking minimums for affordable development. Examples are provided in Table 1.

**Table 1**  
**Example Parking Reductions for Affordable Housing Projects**

Jurisdiction	Code Section	Description
Oakland	proposed June 2016	Minimum 0.50 space per unit if the project is within one-half mile of a major transit stop or 0.75 space per unit for projects in all other locations.
Los Angeles	Section 12.22 A 25 (d)	Minimum 1 space per Bonus Density restricted dwelling unit irrespective of the number of habitable rooms. Minimum 0.50 space per dwelling unit for Bonus Density restricted Very Low or Low Income senior citizens dwelling units.
San Diego	Municipal Code 142.05	Minimum parking requirements reduced by .25 space per dwelling unit for Very Low Income dwelling units.
Santa Monica	Section 9.04.10.08.040	Minimum 1.5 space per two bedroom affordable housing dwelling unit (from 2 spaces per unit).

Sources: (Oakland Planning Commission Meeting, 2016 & Southern California Association of Non-Profit Housing, 2004)

The State has also enacted legislation that requires cities to loosen parking regulations for new Density Bonus projects IF they provide a specified amount of affordable housing AND are located within half a mile of a major transit stop<sup>1</sup>. Assembly Bill 744 (AB744), which went into effect January 1, 2016, applies to both 100% affordable developments (consisting solely of rental units) and mixed-income developments (consisting of maximum number of very low- or low-income units). Under AB744, reduced parking standards (which range from 0.3 spaces per unit to 0.5 spaces per bedroom, depending on project details) must be granted to the entire housing development that obtained Density Bonus. (Attachment 2: Assembly Bill 744).

State Budget Trailer Bill 707: Streamlining Affordable Housing Approvals

Recognizing the State’s housing crisis, Governor Jerry Brown proposed a Trailer Bill to the 2016-2017 State Budget that would have streamlined eligible housing projects by mandating a “by-right” local approval process (Attachment 3: State Budget Trailer Bill 707). The Trailer Bill would have removed barriers to housing production. Although the Trailer Bill had some support, it received criticism from housing and environmental groups (who argued that it would have led to a loss of community control on CEQA and the public hearing process) and from labor groups (who unsuccessfully demanded inclusion of prevailing wage language). The Trailer Bill 707 ultimately did not pass.

<sup>1</sup> A major transit stop – as defined by AB 744 -- is an existing rail transit station, a ferry terminal or the intersection of two or more major bus routes with 15-minute headways during peak commuting hours.



### The Neighborhood Preservation Ordinance: Local Control

The Neighborhood Preservation Ordinance (NPO), adopted by the City of Berkeley in 1973, limits the City's ability to approve housing projects "by right." This ordinance was developed in response to a community perception of unchecked demolition and inappropriate replacement construction that occurred between the 1950s and the early 1970s. The NPO established stringent restrictions on demolition of residential buildings and required Use Permit approval with non-detriment findings for all proposed housing. The NPO was intended to protect neighbors and ensure appropriate development. However, it can lead to time delays and increased costs, even for single family home development, thereby impeding housing development.

### **DISCUSSION**

The two policies in this referral aim to increase affordable housing development within the City of Berkeley:

- The first policy asks for a reduction in parking requirements to encourage development of and create a funding source for affordable units. Savings from parking not built would be used to develop additional affordable housing units.
- The second policy asks for identification and removal of structural and procedural barriers to affordable housing production. It is less specific in nature compared to the focus on parking.

### Policy 1: Parking Reform

Policy 1 of this referral suggests designating units and funding for housing by prioritizing housing over parking in new developments.

As presented in Table 1, some jurisdictions have developed local ordinances that reduce parking requirements for affordable housing projects. The City of Berkeley, although it does not have such an ordinance, is required under AB 744 to loosen parking restrictions for Density Bonus projects located within a one half-mile of a major transit stop. The referral asks for a reduction in parking requirements for all new housing projects that are either within one half mile of a transit hub<sup>2</sup> or within 1,200 feet of an overlap between a mixed use/commercial district and a major transit corridor<sup>3</sup>. Staff has provided some maps (Attachment 4: Areas Identified in Parking Policies) that illustrate the reach of various policy proposals. When reviewing the maps, note that AB 744 applies only to Density Bonus projects, whereas the policies proposed in the Referral apply to all new housing developments that fall within the defined geographies.

**Question for Commission to Consider:** Referral was submitted in October 2015. AB744 came into effect in January 2016. Does AB744 accomplish Council's request to designate units for housing by prioritizing housing over parking? Should Berkeley create an ordinance that extends beyond the reach of AB 744's geography?

The referral presents five potential actions for reducing parking requirements:

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<sup>2</sup> A transit hub – in the context of this Referral – is a stop along a major bus route with 15-minute headways during peak commute periods.

<sup>3</sup> A transit corridor – in the context of the Referral – is an area along a major transit line that has destinations or residences within reasonable walking or biking distances.

- Action 1: Reduce/eliminate parking requirement for housing that offers Transportation Demand Management (TDM) measures, car-sharing or shared-mobility programs.
- Action 2: Implement parking maximums.
- Action 3: Reduce/eliminate parking requirements for new housing that serves populations with low car ownership.
- Action 4: Reduce/eliminate parking requirements for transit-intensive housing.
- Action 5: Reduce parking requirements for new residential units near transit hubs.

It also proposes to capture funding for affordable housing from reduced/eliminated parking mentioned in the actions above. In general, the City of Berkeley requires a minimum of 1 parking space per unit. Existing parking ratios allow developers and cities to exchange parking for resident or developer benefits. For example, Table 2 provides parking statistics on some recently approved housing projects. Notice that the 1931-1935 Addison Street project has waived parking in exchange for an in-lieu parking fee.

**Table 2**  
**Parking and Affordable Housing Information on Approved Development Projects**

Address	Zoning District	Total Units	Affordable Units	Parking Spaces	Parking Ratio
1950 Addison St.	C-DMU	108	5	36	.33 <sup>iii</sup>
1974 University Ave.	C-DMU Buffer	98	8	33	.33 <sup>iii</sup>
1931-1935 Addison St.	C-DMU Buffer	69	7	11 <sup>i</sup>	.33 <sup>iii</sup>
2029-2035 Blake St.	C-SA	82	8	63	.77
1500 San Pablo Ave.	C-W & R-1A	170	0 <sup>ii</sup>	150	.88

<sup>i</sup> 34 required, but 25 waived with parking in-lieu fee

<sup>ii</sup> 16 required, but 16 waived with Affordable Housing Mitigation Fee

<sup>iii</sup> projects in the C-DMU have lower parking ratios, but are required to provide residents with TDM benefits.

**Question for Commission to Consider:** In order to capture funding from parking reduction, should base parking ratios stay at their current levels? In Districts where parking ratios are already low, will the community support a parking ratio of zero? Will developers opt-in to such a program?

The Referral asks for a process where parking reduction translates into construction of more affordable units. This can be accomplished by designating funding for housing, such as a fee paid into the Affordable Housing Mitigation Fund, or by asking developers to build units in place of parking spaces.

**Question for the Commission to Consider:** If parking is exchanged for units on a specific project, where will units be built? Parking is usually provided below ground. The probable outcome would be to make more of the approved units affordable, rather than construct more on the site.

Finally, the five specific actions in the Referral propose major parking reform. Although there is a link between parking costs and housing production, parking reform can be addressed independently of affordable housing.

**Question for Commission to Consider:** Should parking be considered in the context of and in exchange for affordable housing?

Policy 2: Removing Barriers to Affordable Housing

In addition to researching legislation that could create barriers to affordable housing, staff consulted with local affordable housing developers to ask what they viewed as the primary structural barriers to affordable housing production in Berkeley. They identified the following issues:

- **Funding Availability.** Affordable housing developers identified a lack of funding as their main impediment to affordable housing projects. Numerous housing-related Council referrals and the Housing Action Plan are intended to address this issue. Staff will be working on these referrals to identify potential funds to capture and direct into the Housing Trust Fund (HTF). The more robust the HTF, the more monies available to future affordable housing projects.
- **Design Review.** Although not required for all projects in all zoning districts, Berkeley's design review process can add time and cost to affordable housing projects. Affordable housing developers identified design review as a barrier, but it exists to ensure high quality buildings that are compatible with neighborhoods. In order to alleviate its impact on projects, Design review is processed concurrently with Zoning Permits, resulting in a more streamlined Zoning Adjustment Board (ZAB) review.
- **Building Permit and Plan Check.** Affordable housing developers are often rushed to get building permits issued in order to secure grant funding. This is because the State's tax credit incentive program requires construction to begin within 60 days of tax credit receipt. Delays in plans processing often occur due to incomplete applications or submittals with details that differ from those reviewed and approved by ZAB or Design Review Committee.

In addition to the responses from local affordable housing developers, the City of Berkeley's 2015-2023 Housing Element identified potential constraints to housing production. These are: (1) Zoning Permit process, (2) Design Review permit process, and (3) Historic Preservation process. To address these identified issues, Berkeley has implemented numerous mitigation measures (Attachment 5: Constraints and Mitigations on Permitting Procedures for Berkeley, Oakland and San Francisco).

After the Housing Element adoption, and as part of the continued effort to improve the City's permitting process, the Land Use Division purchased Accela, a new permit tracking and processing system, also used by the Finance Department. This centralized permit tracking system is expected to expedite the permit process for applicants and staff.

The issue of permit processing time is not unique to Berkeley. As presented in Attachment 5, Oakland and San Francisco have also identified permit processing as a constraint to new housing production in their Housing Elements. Both cities have similar constraints and have implemented and planned mitigations to decrease permitting processing time.

**Question for Commission to Consider:** Other than funding availability, permit processing time (both Zoning and Building Permits) has been identified as an impediment to affordable housing by local developers and in Berkeley's Housing Element. Other than the measures already implemented, are there any recommendations to reduce permit processing time?

### **CONCLUSION AND NEXT STEP**

Staff requests that the Commission review the questions posed in this referral and provide direction on a response to Council and/or additional research to clarify questions.

### **Attachments**

1. Green Affordable Housing Package Referral
2. Assembly Bill 744
3. State Budget Trailer Bill 707
4. Areas Identified in Parking Policies
5. Constraints and Mitigations on Permit Processing Procedures for Berkeley, Oakland, and San Francisco

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Southern California Association of Non-Profit Housing (2004): Parking Requirements Guide For Affordable Housing Developers, [http://www.scanph.org/sites/default/files/Parking%20Requirements%20Guide\\_forweb.pdf](http://www.scanph.org/sites/default/files/Parking%20Requirements%20Guide_forweb.pdf)

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OCT 27 2015

OFFICE OF THE CITY CLERK  
CITY OF BERKELEY

Item 9 - Attachment 1  
Planning Commission  
September 21, 2016  
Page 1 of 1

ACTION CALENDAR  
October 27, 2015  
(continued from October 6, 2015)

To: Honorable Mayor and Members of the City Council  
From: Councilmember Lori Droste  
Subject: Councilmember Lori Droste's Green Affordable Housing Package - Amendments

**RECOMMENDATION**

Request that the Planning Commission and City Manager investigate the feasibility of reducing barriers for the creation of new affordable housing. City Council requests that commissions and staff address and propose solutions and/or an implementation plan using the following recommendations by October 1, 2016.

**Policy 1: Designate units and funding for affordable housing by prioritizing housing over parking spaces in new developments**

1. Reduce or eliminate minimum residential parking requirements if car-sharing spaces, shared mobility devices, or transit passes or other TDM measures are provided.
2. Consider a cap on residential parking maximums.
3. Reduce or eliminate minimum parking requirements for new housing that serves populations that do not have high rates of car ownerships.
4. Reduce or eliminate minimum parking requirements for transit-intensive housing.
  - Transit-intensive housing is defined as within 1,200 feet of a transit center or within 1,200 feet of an overlap between major transit corridor and a commercial or mixed-use district.
  - Broadly defined, a *transit corridor* generally refers to a geographic area that accommodates travel or potential travel. A transit corridor is best defined as the areas around all of the stations along a transit line that have destinations or residences within reasonable distance for walking, biking, or other transit connections. ■
  - Broadly defined, a *transit hub* refers to a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or a major bus route with frequencies of service intervals of 15 minutes or less during the morning and afternoon peak commute periods. ■
5. Re-evaluate and/or reduce parking space requirements per new residential unit in areas within ½ mile of a transit hub.

*Determine a process whereby the costs saved by parking reductions will be designated for affordable units or the Affordable Housing Trust Fund.*

*Evaluate and account for impacts of parking policies on access and routes for emergency vehicles and evacuations.*

**Policy 2: Remove the structural barriers to creating more housing**

1. Improve and streamline the development review process, particularly for permanently affordable housing projects. ~~and smaller residential housing proposals~~ Review and compare Berkeley's process to that of neighboring cities.



**Assembly Bill No. 744**

CHAPTER 699

An act to amend Section 65915 of the Government Code, relating to housing.

[Approved by Governor October 9, 2015. Filed with  
Secretary of State October 9, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 744, Chau. Planning and zoning: density bonuses.

The Planning and Zoning Law requires, when a developer of housing proposes a housing development within the jurisdiction of the local government, that the city, county, or city and county provide the developer with a density bonus and other incentives or concessions for the production of lower income housing units or the donation of land within the development if the developer, among other things, agrees to construct a specified percentage of units for very low, low-, or moderate-income households or qualifying residents. Existing law requires continued affordability for 55 years or longer, as specified, of all very low and low-income units that qualified an applicant for a density bonus. Existing law prohibits a city, county, or city and county from requiring a vehicular parking ratio for a housing development that meets these criteria in excess of specified ratios. This prohibition applies only at the request of the developer and specifies that the developer may request additional parking incentives or concessions.

This bill would, notwithstanding the above-described provisions, additionally prohibit, at the request of the developer, a city, county, or city and county from imposing a vehicular parking ratio, inclusive of handicapped and guest parking, in excess of 0.5 spaces per bedroom on a development that includes the maximum percentage of low- or very low income units, as specified, and is located within ½ mile of a major transit stop, as defined, and there is unobstructed access to the transit stop from the development. The bill would also prohibit, at the request of the developer, a city, county, or city and county from imposing a vehicular parking ratio, inclusive of handicapped and guest parking, in excess of specified amounts per unit on a development that consists solely of units with an affordable housing cost to lower income households, as specified, if the development is within ½ mile of a major transit stop and there is unobstructed access to the transit stop from the development, is a for-rent housing development for individuals that are 62 years of age or older that complies with specified existing laws regarding senior housing, or is a special needs housing development, as those terms are defined. The bill would require a subject development that is a for-rent housing development for individuals that are 62 years of age

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or older or a special needs housing development to have either paratransit service or unobstructed access, within  $\frac{1}{2}$  mile, to fixed bus route service that operates at least 8 times per day. The bill would authorize a city, county, or city and county to impose a higher vehicular parking ratio based on substantial evidence found in an areawide or jurisdictionwide parking study, as specified. The bill would make findings and declarations, including that the subject of the bill is a matter of statewide concern and not a municipal affair.

By imposing additional duties on local governments in awarding density bonuses, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) Having a healthy housing market that provides an adequate supply of homes that are affordable to Californians at all income levels is critical to the economic prosperity and quality of life in the state.

(b) There exists a severe shortage of affordable housing, especially for persons and families of extremely low, very low, and low income, and there is an immediate need to encourage the development of new housing, not only through the provision of financial assistance but also through reforms to regulation.

(c) Affordable housing is expensive to build in California.

(d) The cost of building affordable housing in California is impacted by local opposition, changes imposed by local design and review, and requirements for on-site parking.

(e) The average construction cost per space, excluding land cost, in a parking structure in the United States is about \$24,000 for aboveground parking and \$34,000 for underground parking. In an affordable housing project with a fixed budget, every \$24,000 spent on a required parking space is \$24,000 less to spend on housing.

(f) The biggest single determinant of vehicle miles traveled and therefore greenhouse gas emissions is ownership of a private vehicle.

(g) A review of developments funded through the Department of Housing and Community Development's Transit-Oriented Development Implementation Program (TOD program) shows that lower income households drive 25 to 30 percent fewer miles when living within one-half mile of transit than those living in non-TOD program areas. When living within one-quarter mile of frequent transit, they drove nearly 50 percent less.

(h) When cities require off-street parking with all new residential construction, they shift what should be the cost of driving, the cost of parking a car, into the cost of housing, which artificially increases the cost of housing.

(i) Increases in public transportation and shared mobility options and the development of more walkable and bikeable neighborhoods reduce the demand for parking.

(j) Consistent with Chapter 488 of the Statutes of 2006 (AB 32) and Chapter 728 of the Statutes of 2008 (SB 375), it is state policy to promote transit-oriented infill development to reduce greenhouse gas emissions.

(k) The high cost of the land and improvements required to provide parking significantly increases the cost of transit-oriented development, making lower cost and affordable housing development financially infeasible and hindering the goals of SB 375.

(l) Eliminating minimum parking requirements will allow the limited funding available for affordable housing to support more housing for more Californians. A given housing subsidy fund can benefit about 6.5 times more households with no parking spaces than households with 2 spaces per unit.

(m) Minimum parking requirements provide large subsidies for parking, which in turn encourage more people to drive cars.

(n) Minimum parking requirements create a barrier to effective use of the density bonus law contained in Section 65915 of the Government Code. The parking required for the extra units adds construction and land costs that may be prohibitive and requires vacant land that may be unavailable, especially in locations near transit.

(o) Increasing the supply of affordable housing near transit helps achieve deeper affordability through reduced transportation costs, in addition to reduced housing costs.

(p) Governmental parking requirements for infill and transit-oriented development reduce the viability of transit by limiting the number of households or workers near transit, increasing walking distances, and degrading the pedestrian environment.

(q) Reducing or eliminating minimum parking requirements for infill and transit-oriented development and allowing builders and the market to decide how much parking is needed can achieve all of the following:

- (1) Ensure sufficient amounts of parking at almost all times.
- (2) Reduce the cost of development and increase the number of transit-accessible and affordable housing units.
- (3) Allow for more effective use of the density bonus law.
- (4) Increase density in areas with the most housing demand, and improve the viability of developing alternate modes of transportation, such as public transit, ridesharing, biking, and walking.
- (5) Reduce greenhouse gas emissions and vehicle miles traveled by removing an incentive to drive.

(r) It is the intent of the Legislature to reduce the cost of development by eliminating excessive minimum parking requirements for transit-oriented



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developments that includes affordable housing, senior housing, and special needs housing.

(s) The Legislature further declares that the need to address infill development and excessive parking requirements is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this act shall apply to all cities, including charter cities.

SEC. 2. Section 65915 of the Government Code is amended to read:

65915. (a) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall provide the applicant with incentives or concessions for the production of housing units and child care facilities as prescribed in this section. All cities, counties, or cities and counties shall adopt an ordinance that specifies how compliance with this section will be implemented. Failure to adopt an ordinance shall not relieve a city, county, or city and county from complying with this section.

(b) (1) A city, county, or city and county shall grant one density bonus, the amount of which shall be as specified in subdivision (f), and incentives or concessions, as described in subdivision (d), when an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:

(A) Ten percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(B) Five percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code.

(C) A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.

(D) Ten percent of the total dwelling units in a common interest development, as defined in Section 4100 of the Civil Code, for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.

(2) For purposes of calculating the amount of the density bonus pursuant to subdivision (f), an applicant who requests a density bonus pursuant to this subdivision shall elect whether the bonus shall be awarded on the basis of subparagraph (A), (B), (C), or (D) of paragraph (1).

(3) For the purposes of this section, "total units" or "total dwelling units" does not include units added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.

(c) (1) An applicant shall agree to, and the city, county, or city and county shall ensure, the continued affordability of all very low and

low-income rental units that qualified the applicant for the award of the density bonus for 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. Rents for the lower income density bonus units shall be set at an affordable rent as defined in Section 50053 of the Health and Safety Code.

(2) An applicant shall agree to, and the city, county, or city and county shall ensure that, the initial occupant of all for-sale units that qualified the applicant for the award of the density bonus are persons and families of very low, low, or moderate income, as required, and that the units are offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code. The local government shall enforce an equity sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:

(A) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation. The local government shall recapture any initial subsidy, as defined in subparagraph (B), and its proportionate share of appreciation, as defined in subparagraph (C), which amount shall be used within five years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.

(B) For purposes of this subdivision, the local government's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any downpayment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

(C) For purposes of this subdivision, the local government's proportionate share of appreciation shall be equal to the ratio of the local government's initial subsidy to the fair market value of the home at the time of initial sale.

(3) (A) An applicant shall be ineligible for a density bonus or any other incentives or concessions under this section if the housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through a public entity's valid exercise of its police power; or occupied by lower or very low income households, unless the proposed housing development replaces those units, and either of the following applies:

(i) The proposed housing development, inclusive of the units replaced pursuant to this paragraph, contains affordable units at the percentages set forth in subdivision (b).

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(ii) Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

(B) For the purposes of this paragraph, "replace" shall mean either of the following:

(i) If any dwelling units described in subparagraph (A) are occupied on the date of application, the proposed housing development shall provide at least the same number of units of equivalent size or type, or both, to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. For unoccupied dwelling units described in subparagraph (A) in a development with occupied units, the proposed housing development shall provide units of equivalent size or type, or both, to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category in the same proportion of affordability as the occupied units. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) If all dwelling units described in subparagraph (A) have been vacated or demolished within the five-year period preceding the application, the proposed housing development shall provide at least the same number of units of equivalent size or type, or both, as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, then one-half of the required units shall be made available at affordable rent or affordable housing cost to, and occupied by, very low income persons and families and one-half of the required units shall be made available for rent at affordable housing costs to, and occupied by, low-income persons and families. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(C) Paragraph (3) of subdivision (c) does not apply to an applicant seeking a density bonus for a proposed housing development if his or her application was submitted to, or processed by, a city, county, or city and county before January 1, 2015.

(d) (1) An applicant for a density bonus pursuant to subdivision (b) may submit to a city, county, or city and county a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the city, county, or city and county. The

city, county, or city and county shall grant the concession or incentive requested by the applicant unless the city, county, or city and county makes a written finding, based upon substantial evidence, of any of the following:

(A) The concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(B) The concession or incentive would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.

(C) The concession or incentive would be contrary to state or federal law.

(2) The applicant shall receive the following number of incentives or concessions:

(A) One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a common interest development.

(B) Two incentives or concessions for projects that include at least 20 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.

(C) Three incentives or concessions for projects that include at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a common interest development.

(3) The applicant may initiate judicial proceedings if the city, county, or city and county refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The city, county, or city and county shall establish procedures for carrying out this section, that shall include legislative body approval of the means of compliance with this section.

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(e) (1) In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. An applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

(2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(f) For the purposes of this chapter, "density bonus" means a density increase over the otherwise maximum allowable residential density as of the date of application by the applicant to the city, county, or city and county. The applicant may elect to accept a lesser percentage of density bonus. The amount of density bonus to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Low-Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
17	30.5

18	32
19	33.5
20	35

(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

(3) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26

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32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

(5) All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

(g) (1) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county in accordance with this subdivision, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows:

Percentage Very Low Income	Percentage Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

(2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks an increase pursuant to both this subdivision and subdivision (b). All density calculations resulting in

fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

(A) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(B) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.

(C) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2, and is or will be served by adequate public facilities and infrastructure.

(D) The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 if the design is not reviewed by the local government prior to the time of transfer.

(E) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of subdivision (c), which shall be recorded on the property at the time of the transfer.

(F) The land is transferred to the local agency or to a housing developer approved by the local agency. The local agency may require the applicant to identify and transfer the land to the developer.

(G) The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.

(H) A proposed source of funding for the very low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application.

(h) (1) When an applicant proposes to construct a housing development that conforms to the requirements of subdivision (b) and includes a child care facility that will be located on the premises of, as part of, or adjacent to, the project, the city, county, or city and county shall grant either of the following:



(A) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility.

(B) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

(2) The city, county, or city and county shall require, as a condition of approving the housing development, that the following occur:

(A) The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to subdivision (c).

(B) Of the children who attend the child care facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to subdivision (b).

(3) Notwithstanding any requirement of this subdivision, a city, county, or city and county shall not be required to provide a density bonus or concession for a child care facility if it finds, based upon substantial evidence, that the community has adequate child care facilities.

(4) "Child care facility," as used in this section, means a child day care facility other than a family day care home, including, but not limited to, infant centers, preschools, extended day care facilities, and schoolage child care centers.

(i) "Housing development," as used in this section, means a development project for five or more residential units. For the purposes of this section, "housing development" also includes a subdivision or common interest development, as defined in Section 4100 of the Civil Code, approved by a city, county, or city and county and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(j) (1) The granting of a concession or incentive shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval. This provision is declaratory of existing law.

(2) Except as provided in subdivisions (d) and (e), the granting of a density bonus shall not be interpreted to require the waiver of a local ordinance or provisions of a local ordinance unrelated to development standards.

(k) For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions.

(2) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable, financially sufficient, and actual cost reductions.

(l) Subdivision (k) does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.

(m) This section does not supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code).

(n) If permitted by local ordinance, nothing in this section shall be construed to prohibit a city, county, or city and county from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

(o) For purposes of this section, the following definitions shall apply:

(1) "Development standard" includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

(2) "Maximum allowable residential density" means the density allowed under the zoning ordinance and land use element of the general plan, or if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

(p) (1) Except as provided in paragraphs (2) and (3), upon the request of the developer, a city, county, or city and county shall not require a

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vehicular parking ratio, inclusive of handicapped and guest parking, of a development meeting the criteria of subdivisions (b) and (c), that exceeds the following ratios:

- (A) Zero to one bedroom: one onsite parking space.
- (B) Two to three bedrooms: two onsite parking spaces.
- (C) Four and more bedrooms: two and one-half parking spaces.

(2) Notwithstanding paragraph (1), if a development includes the maximum percentage of low- or very low income units provided for in paragraphs (1) and (2) of subdivision (f) and is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and there is unobstructed access to the major transit stop from the development, then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of handicapped and guest parking, that exceeds 0.5 spaces per bedroom. For purposes of this subdivision, a development shall have unobstructed access to a major transit stop if a resident is able to access the major transit stop without encountering natural or constructed impediments.

(3) Notwithstanding paragraph (1), if a development consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of handicapped and guest parking, that exceeds the following ratios:

(A) If the development is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and there is unobstructed access to the major transit stop from the development, the ratio shall not exceed 0.5 spaces per unit.

(B) If the development is a for-rent housing development for individuals who are 62 years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code, the ratio shall not exceed 0.5 spaces per unit. The development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(C) If the development is a special needs housing development, as defined in Section 51312 of the Health and Safety Code, the ratio shall not exceed 0.3 spaces per unit. The development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(4) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a development may provide on-site parking through tandem parking or uncovered parking, but not through on-street parking.

(5) This subdivision shall apply to a development that meets the requirements of subdivisions (b) and (c), but only at the request of the

applicant. An applicant may request parking incentives or concessions beyond those provided in this subdivision pursuant to subdivision (d).

(6) This subdivision does not preclude a city, county, or city and county from reducing or eliminating a parking requirement for development projects of any type in any location.

(7) Notwithstanding paragraphs (2) and (3), if a city, county, city and county, or an independent consultant has conducted an areawide or jurisdictionwide parking study in the last seven years, then the city, county, or city and county may impose a higher vehicular parking ratio not to exceed the ratio described in paragraph (1), based upon substantial evidence found in the parking study, that includes, but is not limited to, an analysis of parking availability, differing levels of transit access, walkability access to transit services, the potential for shared parking, the effect of parking requirements on the cost of market-rate and subsidized developments, and the lower rates of car ownership for low- and very low income individuals, including seniors and special needs individuals. The city, county, or city and county shall pay the costs of any new study. The city, county, or city and county shall make findings, based on a parking study completed in conformity with this paragraph, supporting the need for the higher parking ratio.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

**Streamlining Affordable Housing Approvals  
Trailer Bill Technical Modifications (6-10-16)**

**SECTION 1.** Section 65400.1 is added to the Government Code, to read:

65400.1. (a) A development applicant or development proponent pursuant to Section 65913.3 of the Government Code may submit information describing the development, including, but not limited to, land use and zoning designations and requested permit(s) for the development to the Department of Housing and Community Development in a reporting format to be made available. The information submitted shall be compiled along with information pursuant to subparagraph (B) of subsection (2) of subdivision (a) of Section 65400 and Section 65588 of the Government Code as follows:

(1) Upon receipt of a local government determination regarding the development submittal.

(2) Issuance of a building permit for the development.

(b) The Department of Housing and Community Development shall annually review and report on its website the information that has been submitted pursuant to this section.

**SEC. 2.** Section 65913 of the Government Code is amended to read:

65913. (a) The Legislature finds and declares that there exists a severe shortage of affordable housing, especially for persons and families of low and moderate income, and that there is an immediate need to encourage the development of new housing, not only through the provision of financial assistance, but also through changes in law designed to do all of the following:

(1) Expedite the local and State-supported residential development process.

(2) Assure that local governments zone sufficient land at densities high enough for production of affordable housing.

(3) Assure that local governments make a diligent effort through the administration of land use and development controls and the provision of regulatory concessions and incentives to significantly reduce housing development costs and

thereby facilitate the development of affordable housing, including housing for elderly persons and families, as defined by Section 50067 of the Health and Safety Code.

These changes in the law are consistent with the responsibility of local government to adopt the program required by subdivision (c) of Section 65583.

(b) The Legislature further finds and declares that the costs of new housing developments have been increased, in part, by the existing permit processes and by existing land use regulations, and that vitally needed housing developments have been halted or rendered infeasible despite the benefits to the public health, safety, and welfare of those developments and despite the absence of adverse environmental impacts. It is therefore necessary to enact this chapter and to amend existing statutes which govern housing development so as to provide greater encouragement for local and state governments to approve needed and sound housing developments-, and so as to assure that economic contributions by taxpayers and the private sector to support housing are cost-effectively and efficiently deployed to promptly create new housing in locations and at densities that have already been approved by local governments in general plans and zoning codes.

(c) It is the intent of the Legislature that the provisions of Section 65913.3 of the Government Code advance all of the following:

(1) Provisions of Government Code Section 65008.

(2) Implementation of State planning priorities pursuant to Government Code Section 65041.1.

(3) Attainment of Section 65580 of the Government Code.

(4) Significant actions designed to affirmatively increase fair housing choice, furthering the objectives of the Federal Fair Housing Act, 42 U.S.C. 3601, and implementing regulations.

(5) Objectives of the California Global Warming Solutions Act of 2006, commencing with Section 38500 of the Health and Safety Code.

(6) Compliance with non-discretionary inclusionary zoning ordinances adopted by localities.

(7) By right approval for developments that are consistent with objective land-use standards as defined in Section 65913.3(a)(9) and adopted by a locality, including but not limited to housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

(8) Attainment of sufficient housing to accommodate all local government shares of regional housing need referenced in Section 65584 and improve reporting progress pursuant to Section 65400 for the legislature to amend Section 65913.3 or take additional measures to further attain the State's planning priorities.

**SEC. 3.** Section 65913.3 is added to the Government Code, to read:

65913.3. (a) For the purposes of this section, the following terms shall have the following meanings:

(1) "Approved remediation measures" shall mean measures included in a certified environmental impact report to mitigate the impact of residential development in the subject location; or uniformly applied development policies or standards that have been adopted by the local government to mitigate the impact of residential development in that location.

(2) "Affordable housing cost" or "Affordable rent" shall be as defined by Health and Safety Code subdivision (b) of Section 50052.5 or subdivision (b) of Section 50053, respectively.

(3) "Attached housing development" or "development" means a newly-constructed structure containing two or more new dwelling units that is a housing development project, as defined by subdivision (2) of subsection (h) of Section 65589.5 of the Government Code, but does not include a second unit, as defined by subdivision (4) of subsection (i) of Section 65852.2 of the Government Code, or unit from conversion of an existing structure to condominiums.

(4) "Department" means the Department of Housing and Community Development.

(5) "Financial assistance" means any award of public financial assistance that is

conditioned upon the satisfaction of specified award conditions; this term shall include but not be limited to: the award of tax credits through and by the California Tax Credit Allocation Committee, and the award of grants or loans by any state agency or any public agency.

(6) "Land-use authority" means any entity with state-authorized power to regulate land-use permits and entitlements conferred by local governments.

(7) "Land-use restriction" means covenants restricting the use of land, recorded regulatory agreements, or any other form of an equitable servitude.

(8) "Major transit stop" means a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a service interval frequency of 15 minutes or less during the morning and afternoon peak weekday commute periods, and offering weekend service.

(9) "Objective zoning standards" and "objective design review standards" mean standards that involve no personal or subjective judgment by the public official; the standards must be uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and public official prior to submittal. Such standards may be embodied in alternate objective land-use standards adopted by a locality, and may include but are not limited to housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

(10) "Public agency" means a federal, state, or local government agency, or a local or regional housing trust fund which has been funded or chartered by a federal, state, or local government agency.

(11) "Required by law to record" means, but is not limited to, a development applicant or proponent is required to record a land-use restriction based on any of the following:

- (A) As a condition of award of funds or financing from a public agency.
- (B) As a condition of the award of tax credits.
- (C) As may be required by a contract entered into with a public agency.

(12) "Transit priority area" means an area within one-half mile of a major transit



stop that is existing or planned, provided the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program adopted pursuant to Section 450.216 or 450.322 of Title 23 of the Code of Federal Regulations.

(13) "Urban uses" means any residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.

(b) A development that satisfies all of the following criteria shall be a permitted use by right as that term is defined in subdivision (i) of Section 65583.2 of the Government Code:

(1) The development applicant or proponent has submitted to the local government its intent to utilize this authority, and has certified under penalty of perjury that, to the best of the person's knowledge and belief, the development conforms with all other provisions identified herein.

(2) The development is consistent with the following objective planning standards: land use and building intensity designation applicable to the site under the general plan and zoning code, land use and density or other objective zoning standards, and any setback or objective design review standards, all as in effect at the time that the subject development is submitted to the local government pursuant to this section.

(3) The development is located either on a site that is immediately adjacent to parcels that are developed with urban uses or on a site in which at least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses or bounded by a natural body of water. For the purposes of this section, parcels that are only separated by a street or highway shall be considered to be adjoined.

(4) The development must be an attached housing development, for which the development applicant or proponent already has recorded, or is required by law to record, a land-use restriction, which shall require all the following:

(A) A duration of at least 30 years for owner-occupied developments or 55 years for rental developments.

(B) That any public agency and any member or members of the public, including non-profit corporations, may bring and maintain an enforcement action to assure

compliance with this land use restriction. This sub-paragraph (B) shall also be deemed satisfied where a public agency that provides financial assistance to a development has the exclusive right to enforce the subject land use restriction.

(C) For developments within a transit priority area, a restriction on the real property of the development to a level of affordability equal to or greater than either of the following:

(i) At least ten percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(ii) At least five percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code.

(D) For developments not within a transit priority area, a restriction on the real property of the development to a level of affordability equal to or greater than at least twenty (20) percent or more of the residential units restricted to and occupied by individuals whose income is eighty (80) percent or less of gross county area median income.

(5) Unless the development incorporates approved remediation measures in the following locations as applicable to the development, the development is not located on a site that is any of the following:

(A) "Farmland of statewide importance," as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation.

(B) Wetlands, as defined in Section 328.3 of Title 33 of the Code of Federal Regulations.

(C) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178 of the Government Code, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code; however, this limitation shall not apply to any of the following:

(i) Sites excluded from the specified hazard zones by a local agency

pursuant to subdivision (b) of Section 51179 of the Government Code.

(ii) Sites that have adopted sufficient fire hazard mitigation measures as may be determined by their local agency with land-use authority.

(iii) Sites that are within a five (5) mile driving distance of the nearest fire station.

(D) Hazardous waste site that is listed pursuant to Section 65962.5 of the Government Code, or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the Department of Toxic Substances Control has cleared the site for residential use or residential mixed-uses.

(E) Within a delineated earthquake fault zone as determined by the State Geologist in the official maps published thereby as referenced in section 2622 of the Public Resources Code, unless the development complies with applicable fault avoidance setback distances as required by the Alquist Priolo Act and complies with applicable State-mandated and objective local seismic safety building standards.

(F) Within a flood plain as determined by maps promulgated by the Federal Emergency Management Agency, unless the development has been issued a flood plain development permit pursuant to Sections 59 and 60 of Title 44 of the Code of Federal Regulations.

(G) Within a flood way as determined by maps promulgated by the Federal Emergency Management Agency, unless the development receives a no rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations.

(H) Within an area determined by the Department to be inappropriate for affordable housing development by additional objective criteria, including areas severely lacking in access to public transit, accessibility to employment or educational opportunities, and residentially supportive retail and service amenities, all as to be determined through regulations adopted by the Department at its discretion; until the Department adopts such regulations this sub- paragraph (H) shall not be interpreted to prohibit any such site. The Department is authorized, but not mandated, to adopt regulations to implement the terms of this sub- paragraph (H); and such regulations

shall be adopted pursuant to the Administrative Procedures Act set forth in Government Code section 11340 et seq. Division 13 of the Public Resources Code shall not apply to either: the Department's adoption of the regulations authorized by this section, or any financial assistance awarded by any public agency to any development that satisfies subdivision (b) of this section. This section shall be operative regardless as to whether the Department adopts the regulations authorized by this section.

(I) Within a site that has been designated in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, or a site that has been listed in the California Register of Historical Resources pursuant to section 5021 of the Public Resources Code.

(6) Unless the proposed housing development replaces units at a level of affordability equal to or greater than the level of a previous affordability restriction, the development must not be on a site in which any of the following apply:

(A) The site includes a parcel or parcels on which rental dwelling units are, or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income.

(B) The site is subject to any other form of rent or price control through a public entity's valid exercise of its police power; or occupied by lower or very low income households.

(7) The development applicant or proponent shall provide a copy of the declaration required by subsection (b)(1) of this section to all landowners of legal parcels adjacent to the development concurrent with filing the submittal authorized by this section. This sub-paragraph (7) may be satisfied if the aforementioned declaration is mailed to the landowners at the address identified for receipt and payment of taxes through the applicable county assessor, or if mailed to the subject adjacent parcel's postal address.

(8) The development shall not be upon a site that is Prime Farmland, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared

by the Farmland Mapping and Monitoring Program of the Department of Conservation.

(c) If the applicable local government determines that the development is inconsistent with at least one of the objective planning standards delineated in subsection (b)(2), then it must provide the development applicant or proponent written documentation of which standard or standards the development is not consistent with, and a written explanation why the development is not consistent with that standard or standards, all within thirty (30) calendar days of submittal of the development to the local government pursuant to this section. If the documentation described in this subsection fails to identify the objective standard or standards that the development is not consistent with, if it fails to provide an explanation of why it is inconsistent therewith, or if it is not provided to the development applicant or proponent within thirty (30) calendar days of submittal, then for the purposes of this section, the development shall be deemed to satisfy paragraph (2) of subdivision (b) of this section.

(d) Any design review of the development shall not exceed ninety (90) days from the submittal of the development to the local government pursuant to this section, and shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section and the effect thereof.

(e) A development that satisfies subdivision (b) of this section shall not be subject to the requirements of Section 65589.5 of the Government Code in order to be accorded by right status under this section.

(f) This section does not relieve an applicant or public agency from complying with the Subdivision Map Act (Division 2 (commencing with Section 66410)).

(g) The review or approval of a permit, license, certificate, or any other entitlement, by any public agency with land-use authority over any development that satisfies subdivision (b) of this section shall be ministerial.

(h) Any person, as defined in Section 11405.70, seeking to require a City, County, or public agency to ministerially review or approve the matters set forth in subdivision (g) or enforce the by right provisions of subdivision (b) shall have the right to enforce this Section through a writ of mandate issued pursuant to Section 1085 of the Code of Civil Procedure. Owners of legal parcels adjacent to any development that

obtains by right approval under this section may also obtain relief through a writ of mandate issued pursuant to Section 1085 of the Code of Civil Procedure, the petition for which must be filed within thirty days of the earlier of the adjacent land-owners receipt of written notice of the subject approval, or actual notice of the approval.

(i) The development applicant or proponent may submit information describing the development pursuant to Government Code Section 65400.1(a).

(j) The Legislature finds and declares that this section shall be applicable to all cities and counties, including charter cities, because the Legislature finds that the lack of affordable housing is a matter of vital statewide importance.

(k) Any and all individuals displaced by a development that is approved through the ministerial process authorized by this section shall be accorded relocation assistance as provided in the California Real Property Acquisition and Relocation Assistance Act, set forth in Chapter 16, commencing with Government Code Section 7260. The development applicant or proponent shall be responsible for paying for relocation assistance expenses incurred by any local agency as a result of this section.



(l) This section shall apply, notwithstanding anything to the contrary contained in this code or in any other law.

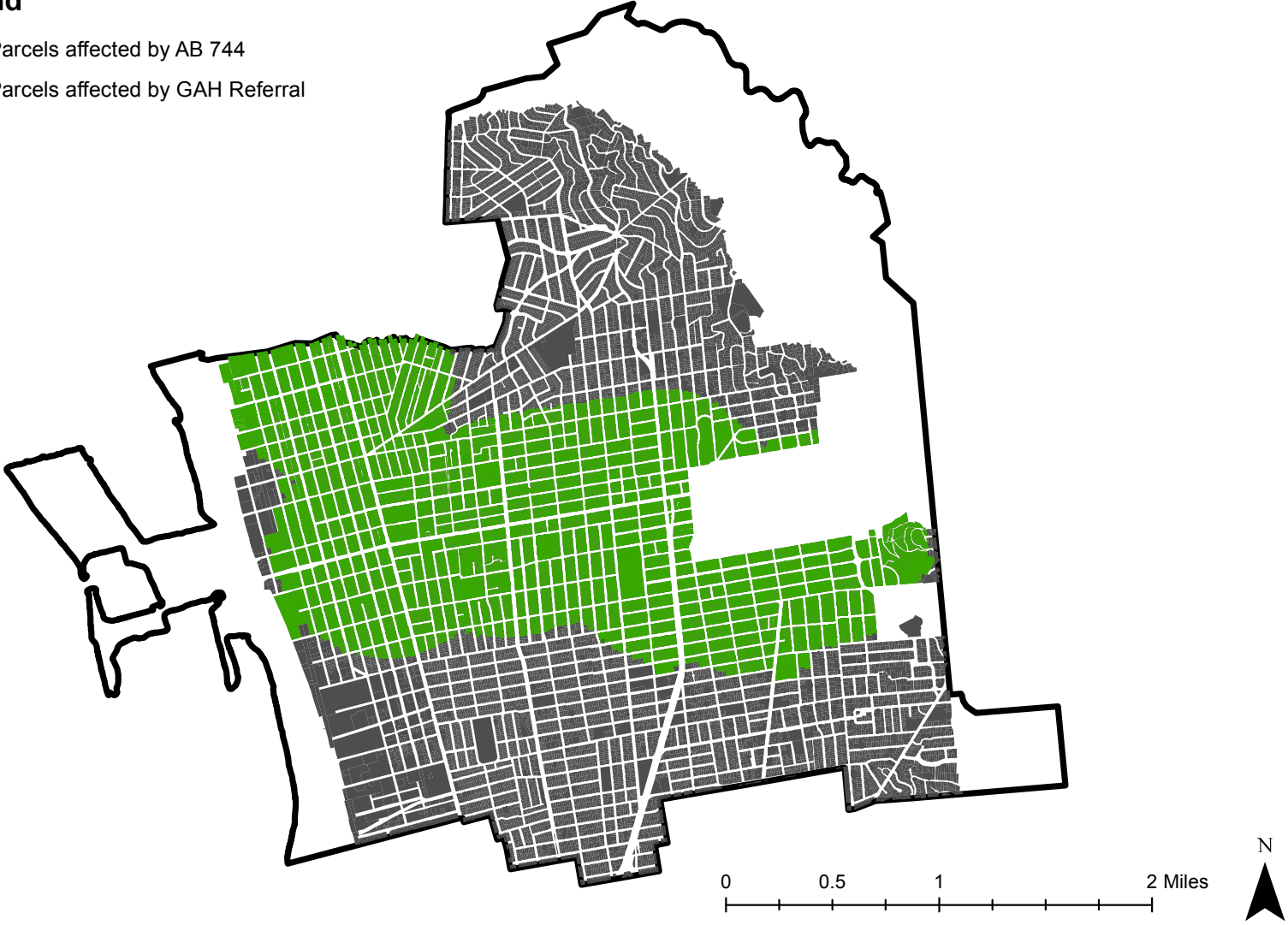
(m) Nothing in this section shall be construed to expand or contract the authority of local government to adopt an objective standard by ordinance or charter amendment requiring housing developments to contain a fixed percentage of housing units affordable to and occupied by persons of specified lower or moderate incomes. Any affordable housing units shall be credited against the affordable units required to be created pursuant to subsection 65913.3(b)(4).

(n) A locality may adopt and publish a list clarifying its existing objective planning standards that a development must be consistent with as referenced in subsection (b)(2) of this Section.

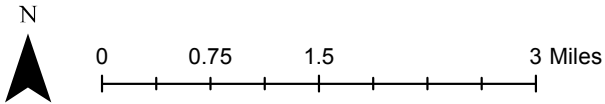
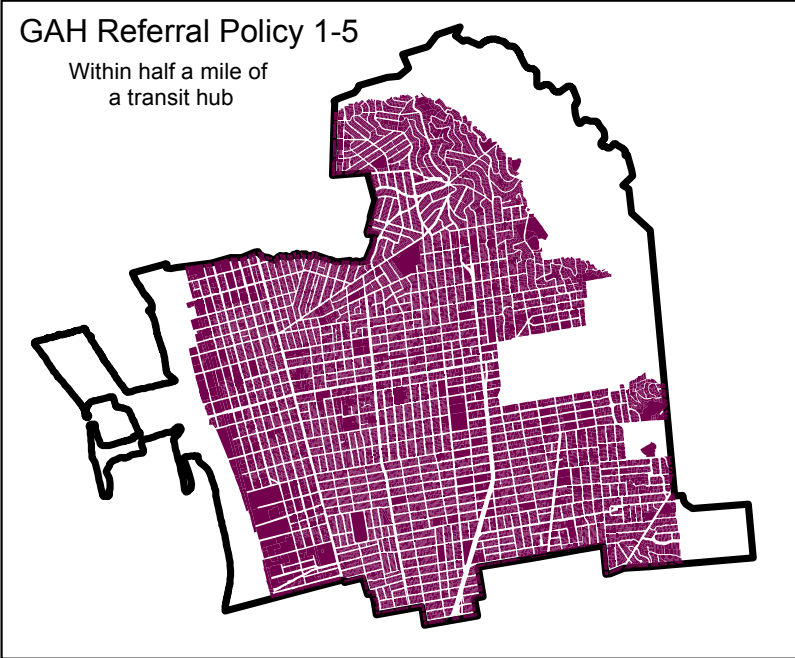
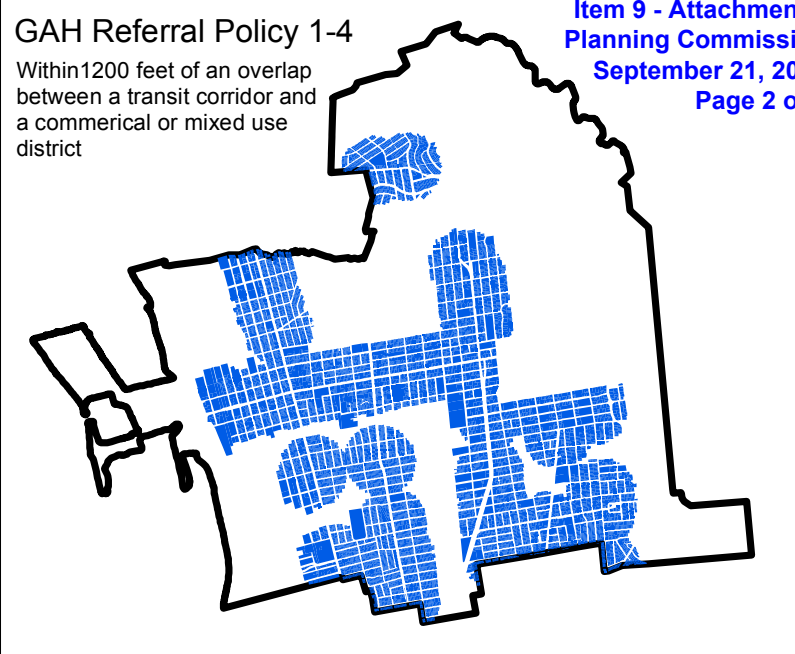
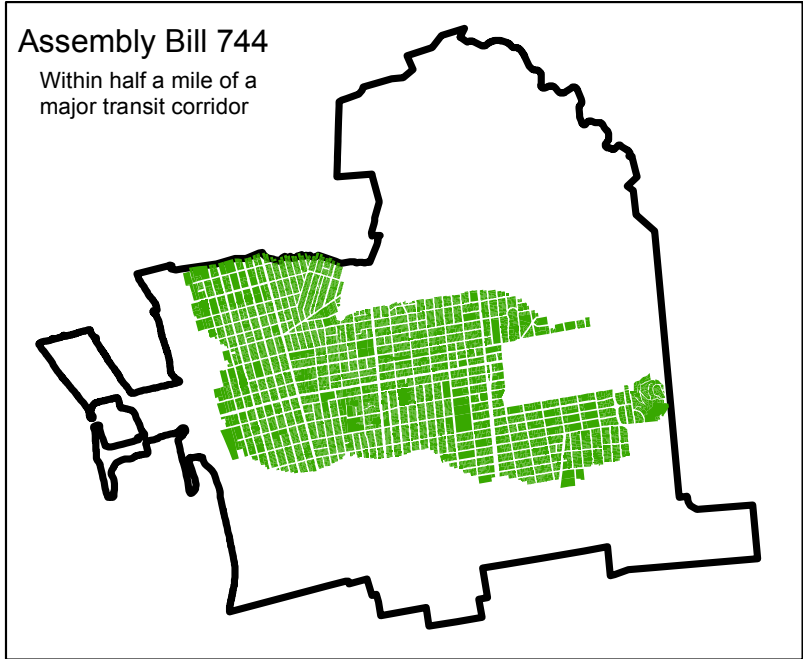
**Comparisson of Areas Identified in Existing and Proposed Parking Policies  
Green Affordable Housing Package (GAH)**

**Legend**

-  Parcels affected by AB 744
-  Parcels affected by GAH Referral



**Areas Identified in Existing  
and Proposed Parking Policies  
Green Affordable Housing Package (GAH)**





**Constraints and Mitigations from the most recent Housing Element**  
 Berkeley, Oakland, and San Francisco  
 Page 1 of 2

	<b>Constraints</b>	<b>Mitigations</b>
Berkeley	<ul style="list-style-type: none"> <li>• Permitting Process (process and timing)</li> <li>• Design Review (timing)</li> <li>• Historic Preservation                             <ul style="list-style-type: none"> <li>○ Delayed permit processing time when the site has both landmark initiation and residential development applications</li> <li>○ Unanticipated environmental review</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Held a “Mayor’s Task Force on the Permit Process,” which resulted in:                             <ul style="list-style-type: none"> <li>○ Early feedback on projects (neighbor meetings, yellow informational signs, pre-application meetings with staff, preliminary reviews at ZAB, interdepartmental roundtable meetings with City to review proposed projects)</li> <li>○ Ability to request for expedited processing for Use Permits</li> <li>○ Improved communication with clear language and consistent information (public outreach between 2005 and 2008 resulted in detailed information and flow charts of zoning and building permit processes, comprehensive permit information on the website, and zoning research letter request procedure)</li> <li>○ Development of Density Bonus guidelines</li> </ul> </li> <li>• Processing of Zoning Permits and Design Review Permits concurrently in order to avoid delay</li> <li>• Modified procedures related to Historic Preservation permit process:                             <ul style="list-style-type: none"> <li>○ Notification to the Landmark Preservation Commission (LPC) of all pending projects</li> <li>○ Required comments from LPC prior to considering demolition permits (for buildings 40+ years old and located within non-residential districts)</li> <li>○ Periodic training of the LPC commissioners</li> <li>○ Hiring LPC staff with significant background in historic resources</li> </ul> </li> </ul>

**Constraints and Mitigations from the most recent Housing Element**  
 Berkeley, Oakland, and San Francisco  
 Page 2 of 2

	<b>Constraints</b>	<b>Mitigations</b>
Oakland	<p><i>Resources:</i></p> <ul style="list-style-type: none"> <li>• Staff shortages due to fiscal constraints</li> <li>• High volume of applications and concurrent special projects and limited staff time</li> <li>• High number of general inquiries (phone, front counter, correspondence)</li> <li>• High number of discretionary approvals</li> </ul> <p><i>Required Notices:</i></p> <ul style="list-style-type: none"> <li>• Minimum timelines for public notice (state law and zoning code)</li> <li>• Additional time and extent of noticing desired by some members of the community</li> </ul> <p><i>Additional Reviews:</i></p> <ul style="list-style-type: none"> <li>• Review by Design Review Committee or Landmarks Preservation Advisory Board</li> <li>• Environmental Review</li> </ul> <p><i>Community Engagement:</i></p> <ul style="list-style-type: none"> <li>• Level of community involvement and interest in a project</li> </ul>	<ul style="list-style-type: none"> <li>• Major Projects process manual</li> <li>• Third party peer review of innovative structural and fire suppression designs</li> <li>• Website assistance with comprehensive permit information</li> <li>• A permitting center to provide one-stop permitting and assistance for applicants</li> <li>• Pre-application meetings to identify issues and potential resolutions to expedite an applicant’s development proposal</li> <li>• Concurrent processing of multiple permit applications, which are required for a single development proposal</li> <li>• Expedited Planning Commission and Design Review Committee consideration for high priority residential projects (including affordable housing projects)</li> <li>• A “rapid check” review of building plans</li> </ul>
San Francisco	<ul style="list-style-type: none"> <li>• Complex Planning Code (many projects might require multiple permits)</li> <li>• Processing time for permits related to resources (staffing levels, staff workloads, and level of review required)</li> </ul>	<ul style="list-style-type: none"> <li>• Adopted “one-stop” path review path in the fairly recent rezoned eastern portion of San Francisco</li> <li>• Established priority criteria to ensure that housing projects that help meeting the City’s identified Housing Element or other General Plan goals are prioritized</li> <li>• An effort to developing an integrated permit tracking system to coordinate and streamline planning and building permitting process</li> </ul>



Planning and Development Department  
Land Use Planning Division

## STAFF REPORT

DATE: October 19, 2016  
TO: Members of the Planning Commission  
FROM: Alene Pearson, Associate Planner  
Alex Amoroso, Principal Planner  
SUBJECT: Green Affordable Housing Package Referral

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### INTRODUCTION

At the September 21, 2016 meeting, the Planning Commission discussed, for the first time, the Green Affordable Housing Package (GAH) Referral (*Attachment 1*). The GAH Referral introduces two policies:

- Policy 1 proposes five actions that attempt to capture funding for affordable housing through parking requirement reductions, and
- Policy 2 aims to reduce barriers to affordable housing production.

Staff recommends focusing on the elements of the GAH Referral that have the greatest chance of success and focus on potential Zoning Ordinance (ZO) changes. Policy 1 appears to hold the greatest promise. This report discusses an approach that will achieve Council's goal of prioritizing affordable housing production over parking. The approach is presented as a number of building blocks for the Commission to consider in the Discussion section below. These building blocks will provide a framework for a future policy that allows an exchange of parking for affordable housing.

Staff suggests deferring a discussion of Policy 2. This policy and its implications appear in numerous referrals and components of the Housing Action Plan, soon to be presented to the Commission.

### BACKGROUND

The GAH Referral, as explained at the September Commission meeting (*Attachment 2: September 2016 Staff Report*), broadly proposes to increase production of affordable housing. In order to come up with a policy that is effective, staff proposes trimming the Referral in the following way:

Defer Discussion of Policy 2: Policy 2 of the GAH asks to reduce barriers to affordable housing production. As introduced in the last staff report, lack of funding and permit processing time were identified (through staff interviews and research) as the primary barriers to affordable housing construction in Berkeley. Both of these issues require larger programmatic changes to the City's funding and permitting processes. Since these issues are being actively addressed in the Housing Action Plan (*source: Special City Council Meeting, May 17, 2016*), staff proposes to skip Policy 2 and focus efforts on refining Policy 1.

Refine Policy 1: Both affordable housing units and parking spaces cost money to build. Policy 1 of the GAH Referral proposes five ways to capture money slated for parking and direct it towards housing construction. Two of these proposals -- requiring developers to provide Transportation Demand Management (TDM) benefits and implementing parking maximums -- are effective methods of parking reduction, but do not easily translate into funds for affordable housing construction. The three remaining proposals are similar in nature --reducing parking for new projects located near transit -- but they differ in geography and in types of projects affected. Staff recommends focusing on these three actions that incentivizes construction of affordable housing.

## **DISCUSSION**

Moving forward to meet the goals of the GAH Referral -- prioritizing affordable housing development over parking -- staff suggests skipping over Policy 2 and focusing on the actions of Policy 1. With a more defined scope, staff can create a strong, targeted policy that will be attractive to developers and can generate new affordable housing units. **Does the Planning Commission agree with this direction?**

Staff is asking the Commission to consider a set of building blocks that will be used to create a framework for the GAH policy. Staff will work with the legal department to confirm that the chosen configuration of building blocks is feasible and not in conflict with Assembly Bill 744 (AB744)<sup>1</sup>.

### BUILDING BLOCK A: Determine Reach of New Policy

The GAH Referral offers two different geographic ranges and AB744 offers a third. This building block confirms that a GAH policy will include new development projects located within half a mile of a transit hub<sup>2</sup>. (*Attachment 3: Map Showing Reach of New Policy*)  
**How expansive should the geography be (larger area or smaller area)?**

### BUILDING BLOCK B: Provide Units On-site in Exchange for a Parking Reduction

This building block offers parking reductions outlined in AB744 to projects that fall within the GAH Referral Policy boundary if projects provide on-site affordable units.

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<sup>1</sup> AB744, introduced at the September 2016 Planning Commission meeting, provides a pathway for parking reduction in exchange for affordable housing. See the September 2016 Staff Report for more information on this legislation.

<sup>2</sup> A transit hub -- in the context of this Referral -- is a stop along a major bus route with 15-minute headways during peak commute periods.

**Should the parking exchange be applicable beyond the AB744 geography and take in the GAH referral area as well?**

BUILDING BLOCK C: Pay a Fee to Receive a Parking Reduction

This building block offers developers the option to reduce parking to the levels stated in AB744. However, instead of providing affordable housing on-site in exchange for parking reduction, developers could pay into a fund that goes towards affordable housing production.

**Should there be an option to pay into a housing fund, or should the parking reductions only apply if units are built on site?**

BUILDING BLOCK D: Pay a Fee to Reduce Parking on all other City Projects

This building block allows developers to reduce parking on projects that fall outside the jurisdiction of AB744 and/or any of the selected building blocks. Parking reduction would be exchanged for a fee paid into a fund that goes towards affordable housing production.

**The GAH suggests that parking reduction for housing exchange should happen citywide, while AB744 is focused to Density Bonus projects. Should the City apply the parking reduction/housing trade-off regulations more broadly?**

**NEXT STEPS**

After the Commission identifies the building blocks that will most effectively achieve the goals of the GAH Referral, staff will begin constructing a framework for future policy and will research the next set of questions that arise. Staff will consult with the City Attorney to verify that the proposed policy is not in conflict with existing legislation. The next iteration of the Referral will probably return to the Commission in December 2016 for additional feedback and direction.

**Attachments**

1. Green Affordable Housing Package Referral
2. Staff Report Green Affordable Housing September 21, 2016
3. Map Showing Reach of New Policy

**References**

Special City Council Meeting, May 17, 2016:

[http://www.cityofberkeley.info/Clerk/City\\_Council/2016/05\\_May/City\\_Council\\_05-17-2016\\_-\\_Meeting\\_Info.aspx](http://www.cityofberkeley.info/Clerk/City_Council/2016/05_May/City_Council_05-17-2016_-_Meeting_Info.aspx)



RECEIVED AT  
COUNCIL MEETING OF:  
OCT 27 2015

Item 10 - Attachment 1  
Planning Commission  
October 19, 2016

Item 9 - Attachment 1  
Planning Commission  
September 21, 2016

OFFICE OF THE CITY CLERK  
CITY OF BERKELEY

ACTION CALENDAR  
October 27, 2015  
(continued from October 6, 2015)

To: Honorable Mayor and Members of the City Council  
From: Councilmember Lori Droste  
Subject: Councilmember Lori Droste's Green Affordable Housing Package - Amendments

**RECOMMENDATION**

Request that the Planning Commission and City Manager investigate the feasibility of reducing barriers for the creation of new affordable housing. City Council requests that commissions and staff address and propose solutions and/or an implementation plan using the following recommendations by October 1, 2016.

**Policy 1: Designate units and funding for affordable housing by prioritizing housing over parking spaces in new developments**

1. Reduce or eliminate minimum residential parking requirements if car-sharing spaces, shared mobility devices, or transit passes or other TDM measures are provided.
2. Consider a cap on residential parking maximums.
3. Reduce or eliminate minimum parking requirements for new housing that serves populations that do not have high rates of car ownerships.
4. Reduce or eliminate minimum parking requirements for transit-intensive housing.
  - Transit-intensive housing is defined as within 1,200 feet of a transit center or within 1,200 feet of an overlap between major transit corridor and a commercial or mixed-use district.
  - Broadly defined, a *transit corridor* generally refers to a geographic area that accommodates travel or potential travel. A transit corridor is best defined as the areas around all of the stations along a transit line that have destinations or residences within reasonable distance for walking, biking, or other transit connections. ■
  - Broadly defined, a *transit hub* refers to a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or a major bus route with frequencies of service intervals of 15 minutes or less during the morning and afternoon peak commute periods. ■
5. Re-evaluate and/or reduce parking space requirements per new residential unit in areas within ½ mile of a transit hub.

*Determine a process whereby the costs saved by parking reductions will be designated for affordable units or the Affordable Housing Trust Fund.*

*Evaluate and account for impacts of parking policies on access and routes for emergency vehicles and evacuations.*

**Policy 2: Remove the structural barriers to creating more housing**

1. Improve and streamline the development review process, particularly for permanently affordable housing projects. ~~and smaller residential housing proposals.~~ Review and compare Berkeley's process to that of neighboring cities.







Planning and Development Department  
Land Use Planning Division

**Item 10 - Attachment 2  
Planning Commission  
October 19, 2016**

**STAFF REPORT**

DATE: September 21, 2016  
TO: Members of the Planning Commission  
FROM: Alene Pearson, Associate Planner  
Alex Amoroso, Principal Planner  
SUBJECT: Council Referral: Green Affordable Housing Package

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**INTRODUCTION**

On October 27, 2015, the Council referred the Planning Commission to investigate ways to reduce barriers to affordable housing production (Attachment 1: Green Affordable Housing Package Referral). The referral includes two policies for the Planning Commission to consider: (1) designating units and funding for affordable housing by prioritizing housing over parking and (2) removing structural and procedural barriers to the creation of more housing.

This staff report includes background information and discussion topics related to both policies. Staff recommends the Planning Commission consider issues presented and direct Staff to conduct further research and/or prepare an initial referral response to City Council.

**BACKGROUND**

This referral ties parking regulations to affordable housing and asks for removal of barriers to affordable housing production. In order to inform the Commission's discussion, the Background section explains the interrelationship between parking and housing, It also discusses legislation – both proposed and existing – that has the potential to affect production of affordable housing.

Relationship between Parking and Affordable Housing

The high cost of off-street parking is well-documented -- the national average is about \$34,000 per space (Shoup, 2016) and in Downtown Berkeley the average is about \$40,000 per space (Nelson/Nygaard, 2011). Developers usually bundle parking costs into the price of new units, which has been shown to increase housing costs by approximately 17% (Gabbe & Pierce, 2016). In addition to elevating housing prices, required on-site parking introduces a tradeoff between parking spaces and housing. This tradeoff exists

for all developers, but is especially challenging to those who are trying to maximize production of below market rate housing.

Loosening Parking Regulations for Affordable Housing Projects

Recognizing how parking requirements can impact the supply of affordable housing, various cities in California have reduced parking minimums for affordable development. Examples are provided in Table 1.

**Table 1**  
**Example Parking Reductions for Affordable Housing Projects**

Jurisdiction	Code Section	Description
Oakland	proposed June 2016	Minimum 0.50 space per unit if the project is within one-half mile of a major transit stop or 0.75 space per unit for projects in all other locations.
Los Angeles	Section 12.22 A 25 (d)	Minimum 1 space per Bonus Density restricted dwelling unit irrespective of the number of habitable rooms. Minimum 0.50 space per dwelling unit for Bonus Density restricted Very Low or Low Income senior citizens dwelling units.
San Diego	Municipal Code 142.05	Minimum parking requirements reduced by .25 space per dwelling unit for Very Low Income dwelling units.
Santa Monica	Section 9.04.10.08.040	Minimum 1.5 space per two bedroom affordable housing dwelling unit (from 2 spaces per unit).

Sources: (Oakland Planning Commission Meeting, 2016 & Southern California Association of Non-Profit Housing, 2004)

The State has also enacted legislation that requires cities to loosen parking regulations for new Density Bonus projects IF they provide a specified amount of affordable housing AND are located within half a mile of a major transit stop<sup>1</sup>. Assembly Bill 744 (AB744), which went into effect January 1, 2016, applies to both 100% affordable developments (consisting solely of rental units) and mixed-income developments (consisting of maximum number of very low- or low-income units). Under AB744, reduced parking standards (which range from 0.3 spaces per unit to 0.5 spaces per bedroom, depending on project details) must be granted to the entire housing development that obtained Density Bonus. (Attachment 2: Assembly Bill 744).

State Budget Trailer Bill 707: Streamlining Affordable Housing Approvals

Recognizing the State’s housing crisis, Governor Jerry Brown proposed a Trailer Bill to the 2016-2017 State Budget that would have streamlined eligible housing projects by mandating a “by-right” local approval process (Attachment 3: State Budget Trailer Bill 707). The Trailer Bill would have removed barriers to housing production. Although the Trailer Bill had some support, it received criticism from housing and environmental groups (who argued that it would have led to a loss of community control on CEQA and the public hearing process) and from labor groups (who unsuccessfully demanded inclusion of prevailing wage language). The Trailer Bill 707 ultimately did not pass.

<sup>1</sup> A major transit stop – as defined by AB 744 -- is an existing rail transit station, a ferry terminal or the intersection of two or more major bus routes with 15-minute headways during peak commuting hours.

### The Neighborhood Preservation Ordinance: Local Control

The Neighborhood Preservation Ordinance (NPO), adopted by the City of Berkeley in 1973, limits the City's ability to approve housing projects "by right." This ordinance was developed in response to a community perception of unchecked demolition and inappropriate replacement construction that occurred between the 1950s and the early 1970s. The NPO established stringent restrictions on demolition of residential buildings and required Use Permit approval with non-detriment findings for all proposed housing. The NPO was intended to protect neighbors and ensure appropriate development. However, it can lead to time delays and increased costs, even for single family home development, thereby impeding housing development.

### **DISCUSSION**

The two policies in this referral aim to increase affordable housing development within the City of Berkeley:

- The first policy asks for a reduction in parking requirements to encourage development of and create a funding source for affordable units. Savings from parking not built would be used to develop additional affordable housing units.
- The second policy asks for identification and removal of structural and procedural barriers to affordable housing production. It is less specific in nature compared to the focus on parking.

### Policy 1: Parking Reform

Policy 1 of this referral suggests designating units and funding for housing by prioritizing housing over parking in new developments.

As presented in Table 1, some jurisdictions have developed local ordinances that reduce parking requirements for affordable housing projects. The City of Berkeley, although it does not have such an ordinance, is required under AB 744 to loosen parking restrictions for Density Bonus projects located within a one half-mile of a major transit stop. The referral asks for a reduction in parking requirements for all new housing projects that are either within one half mile of a transit hub<sup>2</sup> or within 1,200 feet of an overlap between a mixed use/commercial district and a major transit corridor<sup>3</sup>. Staff has provided some maps (Attachment 4: Areas Identified in Parking Policies) that illustrate the reach of various policy proposals. When reviewing the maps, note that AB 744 applies only to Density Bonus projects, whereas the policies proposed in the Referral apply to all new housing developments that fall within the defined geographies.

**Question for Commission to Consider:** Referral was submitted in October 2015. AB744 came into effect in January 2016. Does AB744 accomplish Council's request to designate units for housing by prioritizing housing over parking? Should Berkeley create an ordinance that extends beyond the reach of AB 744's geography?

The referral presents five potential actions for reducing parking requirements:

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<sup>2</sup> A transit hub – in the context of this Referral – is a stop along a major bus route with 15-minute headways during peak commute periods.

<sup>3</sup> A transit corridor – in the context of the Referral – is an area along a major transit line that has destinations or residences within reasonable walking or biking distances.

- Action 1: Reduce/eliminate parking requirement for housing that offers Transportation Demand Management (TDM) measures, car-sharing or shared-mobility programs.
- Action 2: Implement parking maximums.
- Action 3: Reduce/eliminate parking requirements for new housing that serves populations with low car ownership.
- Action 4: Reduce/eliminate parking requirements for transit-intensive housing.
- Action 5: Reduce parking requirements for new residential units near transit hubs.

It also proposes to capture funding for affordable housing from reduced/eliminated parking mentioned in the actions above. In general, the City of Berkeley requires a minimum of 1 parking space per unit. Existing parking ratios allow developers and cities to exchange parking for resident or developer benefits. For example, Table 2 provides parking statistics on some recently approved housing projects. Notice that the 1931-1935 Addison Street project has waived parking in exchange for an in-lieu parking fee.

**Table 2**  
**Parking and Affordable Housing Information on Approved Development Projects**

Address	Zoning District	Total Units	Affordable Units	Parking Spaces	Parking Ratio
1950 Addison St.	C-DMU	108	5	36	.33 <sup>iii</sup>
1974 University Ave.	C-DMU Buffer	98	8	33	.33 <sup>iii</sup>
1931-1935 Addison St.	C-DMU Buffer	69	7	11 <sup>i</sup>	.33 <sup>iii</sup>
2029-2035 Blake St.	C-SA	82	8	63	.77
1500 San Pablo Ave.	C-W & R-1A	170	0 <sup>ii</sup>	150	.88

<sup>i</sup> 34 required, but 25 waived with parking in-lieu fee

<sup>ii</sup> 16 required, but 16 waived with Affordable Housing Mitigation Fee

<sup>iii</sup> projects in the C-DMU have lower parking ratios, but are required to provide residents with TDM benefits.

**Question for Commission to Consider:** In order to capture funding from parking reduction, should base parking ratios stay at their current levels? In Districts where parking ratios are already low, will the community support a parking ratio of zero? Will developers opt-in to such a program?

The Referral asks for a process where parking reduction translates into construction of more affordable units. This can be accomplished by designating funding for housing, such as a fee paid into the Affordable Housing Mitigation Fund, or by asking developers to build units in place of parking spaces.

**Question for the Commission to Consider:** If parking is exchanged for units on a specific project, where will units be built? Parking is usually provided below ground. The probable outcome would be to make more of the approved units affordable, rather than construct more on the site.

Finally, the five specific actions in the Referral propose major parking reform. Although there is a link between parking costs and housing production, parking reform can be addressed independently of affordable housing.

**Question for Commission to Consider:** Should parking be considered in the context of and in exchange for affordable housing?

Policy 2: Removing Barriers to Affordable Housing

In addition to researching legislation that could create barriers to affordable housing, staff consulted with local affordable housing developers to ask what they viewed as the primary structural barriers to affordable housing production in Berkeley. They identified the following issues:

- **Funding Availability.** Affordable housing developers identified a lack of funding as their main impediment to affordable housing projects. Numerous housing-related Council referrals and the Housing Action Plan are intended to address this issue. Staff will be working on these referrals to identify potential funds to capture and direct into the Housing Trust Fund (HTF). The more robust the HTF, the more monies available to future affordable housing projects.
- **Design Review.** Although not required for all projects in all zoning districts, Berkeley's design review process can add time and cost to affordable housing projects. Affordable housing developers identified design review as a barrier, but it exists to ensure high quality buildings that are compatible with neighborhoods. In order to alleviate its impact on projects, Design review is processed concurrently with Zoning Permits, resulting in a more streamlined Zoning Adjustment Board (ZAB) review.
- **Building Permit and Plan Check.** Affordable housing developers are often rushed to get building permits issued in order to secure grant funding. This is because the State's tax credit incentive program requires construction to begin within 60 days of tax credit receipt. Delays in plans processing often occur due to incomplete applications or submittals with details that differ from those reviewed and approved by ZAB or Design Review Committee.

In addition to the responses from local affordable housing developers, the City of Berkeley's 2015-2023 Housing Element identified potential constraints to housing production. These are: (1) Zoning Permit process, (2) Design Review permit process, and (3) Historic Preservation process. To address these identified issues, Berkeley has implemented numerous mitigation measures (Attachment 5: Constraints and Mitigations on Permitting Procedures for Berkeley, Oakland and San Francisco).

After the Housing Element adoption, and as part of the continued effort to improve the City's permitting process, the Land Use Division purchased Accela, a new permit tracking and processing system, also used by the Finance Department. This centralized permit tracking system is expected to expedite the permit process for applicants and staff.

The issue of permit processing time is not unique to Berkeley. As presented in Attachment 5, Oakland and San Francisco have also identified permit processing as a constraint to new housing production in their Housing Elements. Both cities have similar constraints and have implemented and planned mitigations to decrease permitting processing time.

**Question for Commission to Consider:** Other than funding availability, permit processing time (both Zoning and Building Permits) has been identified as an impediment to affordable housing by local developers and in Berkeley's Housing Element. Other than the measures already implemented, are there any recommendations to reduce permit processing time?

### **CONCLUSION AND NEXT STEP**

Staff requests that the Commission review the questions posed in this referral and provide direction on a response to Council and/or additional research to clarify questions.

### **Attachments**

1. Green Affordable Housing Package Referral
2. Assembly Bill 744
3. State Budget Trailer Bill 707
4. Areas Identified in Parking Policies
5. Constraints and Mitigations on Permit Processing Procedures for Berkeley, Oakland, and San Francisco

### **References**

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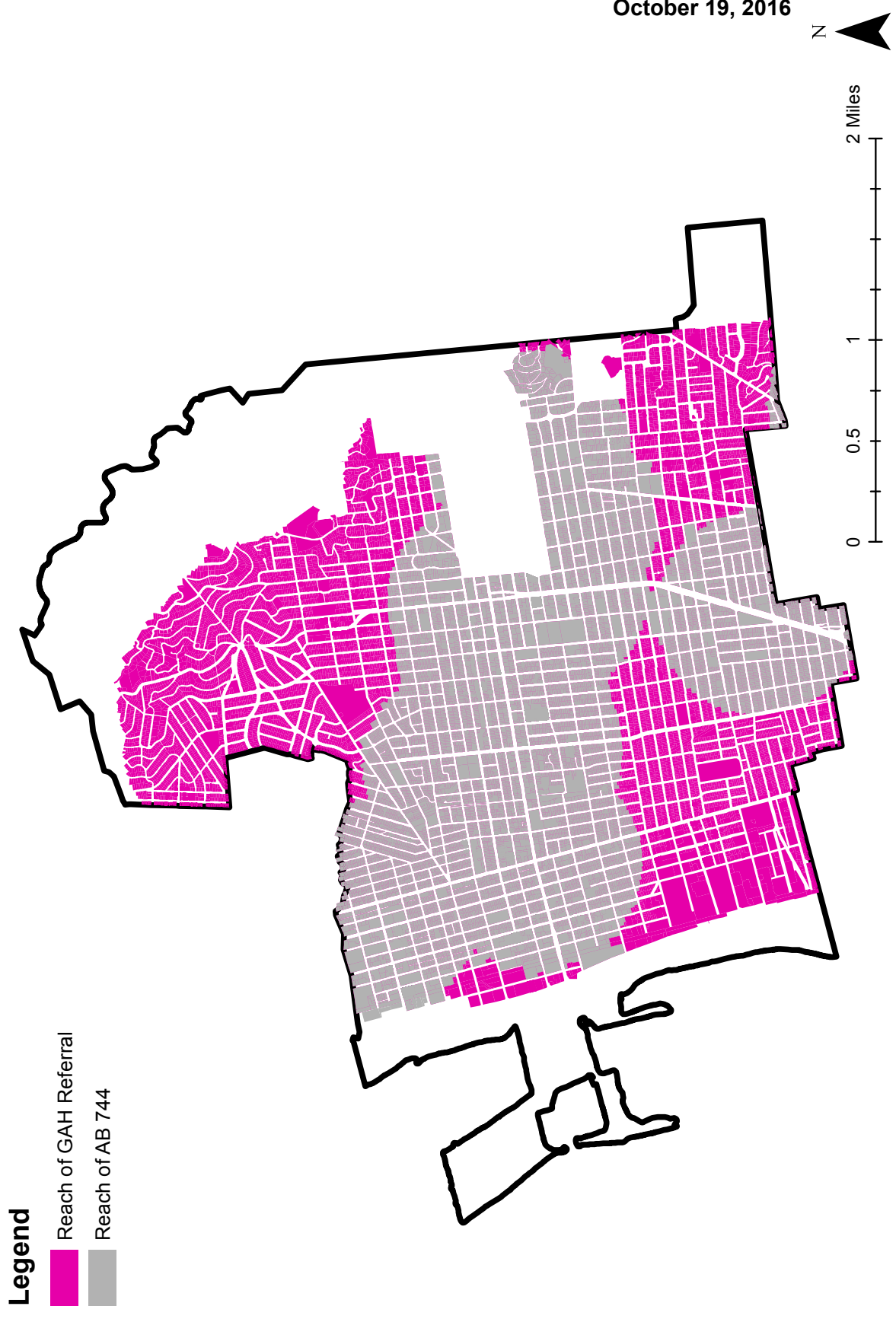
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Southern California Association of Non-Profit Housing (2004): Parking Requirements Guide For Affordable Housing Developers, [http://www.scanph.org/sites/default/files/Parking%20Requirements%20Guide\\_forweb.pdf](http://www.scanph.org/sites/default/files/Parking%20Requirements%20Guide_forweb.pdf)

**Map Showing Reach of New Policy  
Green Affordable Housing Package (GAH)**









Planning and Development Department  
Land Use Planning Division

## STAFF REPORT

DATE: February 15, 2017  
TO: Members of the Planning Commission  
FROM: Alene Pearson, Associate Planner  
SUBJECT: Green Affordable Housing Package (GAHP) Referral

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### INTRODUCTION

On October 27, 2015, the Council referred the Planning Commission to investigate ways to reduce barriers to affordable housing production (*Attachment 1: Green Affordable Housing Package Referral*). This Referral includes two policies for the Planning Commission to consider: (1) designating units and funding for affordable housing by prioritizing housing over parking and (2) removing structural and procedural barriers to the creation of more housing. The Planning Commission discussed the GAHP Referral twice in 2016, providing staff with direction. This staff report summarizes discussion and direction to date and presents next steps for the Planning Commission to consider.

### BACKGROUND

The GAHP Referral includes two policies. Policy 1 ties parking requirements to affordable housing and is further divided into five potential actions:

- Action 1: Reduce/eliminate parking requirement for housing that offers Transportation Demand Management (TDM) measures, car-sharing or shared-mobility programs.
- Action 2: Implement parking maximums.
- Action 3: Reduce/eliminate parking requirements for new housing that serves populations with low car ownership.
- Action 4: Reduce/eliminate parking requirements for transit-intensive housing.
- Action 5: Reduce parking requirements for new residential units near transit hubs.

Policy 2 request analysis, identification and removal of barriers to affordable housing production in Berkeley.

The Planning Commission discussed this Referral at the September 21, 2016 Planning Commission meeting (see *Attachment 2: September 21, 2016 Staff Report on Council Referral: Green Affordable Housing Package*) and covered the following topics:

- 1) The cost of providing off-street parking and potential methods to capture savings from parking requirement reductions into production of affordable housing.
- 2) Legislation that came into effect on January 1, 2016 -- Assembly Bill 744 (AB 744) -- which enables developers to ask for reduced parking requirements for new affordable housing, senior housing and special needs housing built near transit;
- 3) Potential barriers to affordable housing construction in Berkeley, such as funding challenges and lengthy development review process, which includes design review, plan check, entitlements and permitting.

On October 19, 2016, the Planning Commission discussed the GAHP Referral for a second time (see *Attachment 3: October 19, 2016 Staff Report on Green Affordable Housing Package*). At this meeting, the Commission agreed to focus on the actions of Policy 1 that had potential to capture monetary savings from parking requirement reductions and direct it towards housing construction. Since parking requirement reductions related to Actions 1 and 2 (TDM and parking maximums) don't easily translate into funds for affordable housing construction, the Commission deferred discussion of those actions. The Commission discussed Actions 3 through 5, which reduce parking requirements for new projects located near transit. The Commission also deferred discussion of Policy 2 to a later date, learning that Health, Housing and Community Services (HHCS) and the Planning Department (Planning) would be collaborating on a Housing Action Plan that would actively address and reduce existing barriers to affordable housing (see *Attachment 4: November 1, 2016 Housing Action Plan Report to City Council*) in 2017.

## **DISCUSSION**

This Referral links two broad policy issues – parking reform and developing more affordable housing.

### Parking Reform

The parking reform section of the Referral identifies a set of five City-wide actions, some of which will not be undertaken during this process. Referral Actions 1 and 2 listed above, will be addressed at a later date, when city-wide parking reform is addressed.

Actions 3, 4 and 5 focus on actions that can be applied to potential development in order to capture additional housing units. At prior Planning Commission meetings the Commission agreed to focus attention on parking requirement reductions that can be linked to and exchanged for construction of affordable housing units. These actions are the focus of Commission discussion and this report.

### Affordable Housing

Policy 2 (identifying and reducing barriers to affordable housing) will come back to the Planning Commission under two separate agenda items separate from this Referral:

1. The Housing Action Plan, to be developed by HHCS and Planning will include identification, analysis and suggestions for removal of barriers to affordable

housing construction in Berkeley. The Planning Commission will have input on this Plan.

2. The Zoning Ordinance Revisions Project (introduced to the Planning Commission at the February 1, 2017 meeting) will propose changes to the Zoning Ordinance that improve efficiency of the development review process. The Planning Commission will have the opportunity to provide input on Zoning Ordinance amendments throughout this project, which is anticipated to last approximately 18-months.

Proposed Approach:

As noted, prior Commission discussion focused on capturing additional affordable housing units in exchange for parking reductions. AB 744 has become law, and obligates parking reduction for larger developments as part of the State Density Bonus law. AB 744 provides optional parking relief to development projects that include affordable housing, senior housing or special needs housing. Staff has developed a map showing the City overlay of AB 744.

Attachment 5 (*Map Comparing Geographies Affected by AB 744 and GAHP*) illustrates the difference between AB 744's reach and GAHP's coverage. It suggests that expanding the AB 744's reach will incorporate areas of the City that should be obligated to the standards of AB 744 (as suggested by GAHP Actions 3, 4 and 5), but do not fall within its boundaries. These areas include commercial corridors and higher density residential, where development of the sort envisioned by both the State law and the Referral might occur.

**Does the Planning Commission want to move forward with the proposed approach extend the reach of AB 744 (as shown in Attachment 5) in order to provide optional parking relief to development projects that include affordable housing, senior housing and special needs housing? This would occur as an overlay applied to the area in question/recommended.**

**NEXT STEPS**

Staff requests that the Commission provide feedback on potential approach.

**Attachments**

1. Green Affordable Housing Package Referral, October 27, 2015
2. Staff Report to Planning Commission on GAHP, September 21, 2016
3. Staff Report Planning Commission on GAHP, October 19, 2016
4. Staff Report to City Council on Housing Action Plan, November 1, 2016
5. Map Comparing Geographies Affected by AB 744 and GAHP



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OCT 27 2015

OFFICE OF THE CITY CLERK  
CITY OF BERKELEY

Item 9 - Attachment 1  
Planning Commission  
February 15, 2016

Item 9 - Attachment 1  
Planning Commission  
September 21, 2016

ACTION CALENDAR  
October 27, 2015  
(continued from October 6, 2015)

To: Honorable Mayor and Members of the City Council  
From: Councilmember Lori Droste  
Subject: Councilmember Lori Droste's Green Affordable Housing Package - Amendments

**RECOMMENDATION**

Request that the Planning Commission and City Manager investigate the feasibility of reducing barriers for the creation of new affordable housing. City Council requests that commissions and staff address and propose solutions and/or an implementation plan using the following recommendations by October 1, 2016.

**Policy 1: Designate units and funding for affordable housing by prioritizing housing over parking spaces in new developments**

1. Reduce or eliminate minimum residential parking requirements if car-sharing spaces, shared mobility devices, or transit passes or other TDM measures are provided.
2. Consider a cap on residential parking maximums.
3. Reduce or eliminate minimum parking requirements for new housing that serves populations that do not have high rates of car ownerships.
4. Reduce or eliminate minimum parking requirements for transit-intensive housing.
  - Transit-intensive housing is defined as within 1,200 feet of a transit center or within 1,200 feet of an overlap between major transit corridor and a commercial or mixed-use district.
  - Broadly defined, a *transit corridor* generally refers to a geographic area that accommodates travel or potential travel. A transit corridor is best defined as the areas around all of the stations along a transit line that have destinations or residences within reasonable distance for walking, biking, or other transit connections. ■
  - Broadly defined, a *transit hub* refers to a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or a major bus route with frequencies of service intervals of 15 minutes or less during the morning and afternoon peak commute periods. ■
5. Re-evaluate and/or reduce parking space requirements per new residential unit in areas within ½ mile of a transit hub.

*Determine a process whereby the costs saved by parking reductions will be designated for affordable units or the Affordable Housing Trust Fund.*

*Evaluate and account for impacts of parking policies on access and routes for emergency vehicles and evacuations.*

**Policy 2: Remove the structural barriers to creating more housing**

1. Improve and streamline the development review process, particularly for permanently affordable housing projects. ~~and smaller residential housing proposals.~~ Review and compare Berkeley's process to that of neighboring cities.



**Item 9 - Attachment 2  
Planning Commission  
February 15, 2017**

**Item 9  
September 21, 2016**



**Planning and Development Department  
Land Use Planning Division**

**STAFF REPORT**

**DATE:** September 21, 2016  
**TO:** Members of the Planning Commission  
**FROM:** Alene Pearson, Associate Planner  
Alex Amoroso, Principal Planner  
**SUBJECT:** Council Referral: Green Affordable Housing Package

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**INTRODUCTION**

On October 27, 2015, the Council referred the Planning Commission to investigate ways to reduce barriers to affordable housing production (Attachment 1: Green Affordable Housing Package Referral). The referral includes two policies for the Planning Commission to consider: (1) designating units and funding for affordable housing by prioritizing housing over parking and (2) removing structural and procedural barriers to the creation of more housing.

This staff report includes background information and discussion topics related to both policies. Staff recommends the Planning Commission consider issues presented and direct Staff to conduct further research and/or prepare an initial referral response to City Council.

**BACKGROUND**

This referral ties parking regulations to affordable housing and asks for removal of barriers to affordable housing production. In order to inform the Commission's discussion, the Background section explains the interrelationship between parking and housing, It also discusses legislation – both proposed and existing – that has the potential to affect production of affordable housing.

Relationship between Parking and Affordable Housing

The high cost of off-street parking is well-documented -- the national average is about \$34,000 per space (Shoup, 2016) and in Downtown Berkeley the average is about \$40,000 per space (Nelson/Nygaard, 2011). Developers usually bundle parking costs into the price of new units, which has been shown to increase housing costs by approximately 17% (Gabbe & Pierce, 2016). In addition to elevating housing prices, required on-site parking introduces a tradeoff between parking spaces and housing. This tradeoff exists

for all developers, but is especially challenging to those who are trying to maximize production of below market rate housing.

Loosening Parking Regulations for Affordable Housing Projects

Recognizing how parking requirements can impact the supply of affordable housing, various cities in California have reduced parking minimums for affordable development. Examples are provided in Table 1.

**Table 1**  
**Example Parking Reductions for Affordable Housing Projects**

Jurisdiction	Code Section	Description
Oakland	proposed June 2016	Minimum 0.50 space per unit if the project is within one-half mile of a major transit stop or 0.75 space per unit for projects in all other locations.
Los Angeles	Section 12.22 A 25 (d)	Minimum 1 space per Bonus Density restricted dwelling unit irrespective of the number of habitable rooms. Minimum 0.50 space per dwelling unit for Bonus Density restricted Very Low or Low Income senior citizens dwelling units.
San Diego	Municipal Code 142.05	Minimum parking requirements reduced by .25 space per dwelling unit for Very Low Income dwelling units.
Santa Monica	Section 9.04.10.08.040	Minimum 1.5 space per two bedroom affordable housing dwelling unit (from 2 spaces per unit).

Sources: (Oakland Planning Commission Meeting, 2016 & Southern California Association of Non-Profit Housing, 2004)

The State has also enacted legislation that requires cities to loosen parking regulations for new Density Bonus projects IF they provide a specified amount of affordable housing AND are located within half a mile of a major transit stop<sup>1</sup>. Assembly Bill 744 (AB744), which went into effect January 1, 2016, applies to both 100% affordable developments (consisting solely of rental units) and mixed-income developments (consisting of maximum number of very low- or low-income units). Under AB744, reduced parking standards (which range from 0.3 spaces per unit to 0.5 spaces per bedroom, depending on project details) must be granted to the entire housing development that obtained Density Bonus. (Attachment 2: Assembly Bill 744).

State Budget Trailer Bill 707: Streamlining Affordable Housing Approvals

Recognizing the State’s housing crisis, Governor Jerry Brown proposed a Trailer Bill to the 2016-2017 State Budget that would have streamlined eligible housing projects by mandating a “by-right” local approval process (Attachment 3: State Budget Trailer Bill 707). The Trailer Bill would have removed barriers to housing production. Although the Trailer Bill had some support, it received criticism from housing and environmental groups (who argued that it would have led to a loss of community control on CEQA and the public hearing process) and from labor groups (who unsuccessfully demanded inclusion of prevailing wage language). The Trailer Bill 707 ultimately did not pass.

<sup>1</sup> A major transit stop – as defined by AB 744 -- is an existing rail transit station, a ferry terminal or the intersection of two or more major bus routes with 15-minute headways during peak commuting hours.



### The Neighborhood Preservation Ordinance: Local Control

The Neighborhood Preservation Ordinance (NPO), adopted by the City of Berkeley in 1973, limits the City's ability to approve housing projects "by right." This ordinance was developed in response to a community perception of unchecked demolition and inappropriate replacement construction that occurred between the 1950s and the early 1970s. The NPO established stringent restrictions on demolition of residential buildings and required Use Permit approval with non-detriment findings for all proposed housing. The NPO was intended to protect neighbors and ensure appropriate development. However, it can lead to time delays and increased costs, even for single family home development, thereby impeding housing development.

### **DISCUSSION**

The two policies in this referral aim to increase affordable housing development within the City of Berkeley:

- The first policy asks for a reduction in parking requirements to encourage development of and create a funding source for affordable units. Savings from parking not built would be used to develop additional affordable housing units.
- The second policy asks for identification and removal of structural and procedural barriers to affordable housing production. It is less specific in nature compared to the focus on parking.

### Policy 1: Parking Reform

Policy 1 of this referral suggests designating units and funding for housing by prioritizing housing over parking in new developments.

As presented in Table 1, some jurisdictions have developed local ordinances that reduce parking requirements for affordable housing projects. The City of Berkeley, although it does not have such an ordinance, is required under AB 744 to loosen parking restrictions for Density Bonus projects located within a one half-mile of a major transit stop. The referral asks for a reduction in parking requirements for all new housing projects that are either within one half mile of a transit hub<sup>2</sup> or within 1,200 feet of an overlap between a mixed use/commercial district and a major transit corridor<sup>3</sup>. Staff has provided some maps (Attachment 4: Areas Identified in Parking Policies) that illustrate the reach of various policy proposals. When reviewing the maps, note that AB 744 applies only to Density Bonus projects, whereas the policies proposed in the Referral apply to all new housing developments that fall within the defined geographies.

**Question for Commission to Consider:** Referral was submitted in October 2015. AB744 came into effect in January 2016. Does AB744 accomplish Council's request to designate units for housing by prioritizing housing over parking? Should Berkeley create an ordinance that extends beyond the reach of AB 744's geography?

The referral presents five potential actions for reducing parking requirements:

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<sup>2</sup> A transit hub – in the context of this Referral – is a stop along a major bus route with 15-minute headways during peak commute periods.

<sup>3</sup> A transit corridor – in the context of the Referral – is an area along a major transit line that has destinations or residences within reasonable walking or biking distances.

- Action 1: Reduce/eliminate parking requirement for housing that offers Transportation Demand Management (TDM) measures, car-sharing or shared-mobility programs.
- Action 2: Implement parking maximums.
- Action 3: Reduce/eliminate parking requirements for new housing that serves populations with low car ownership.
- Action 4: Reduce/eliminate parking requirements for transit-intensive housing.
- Action 5: Reduce parking requirements for new residential units near transit hubs.

It also proposes to capture funding for affordable housing from reduced/eliminated parking mentioned in the actions above. In general, the City of Berkeley requires a minimum of 1 parking space per unit. Existing parking ratios allow developers and cities to exchange parking for resident or developer benefits. For example, Table 2 provides parking statistics on some recently approved housing projects. Notice that the 1931-1935 Addison Street project has waived parking in exchange for an in-lieu parking fee.

**Table 2  
 Parking and Affordable Housing Information on Approved Development Projects**

Address	Zoning District	Total Units	Affordable Units	Parking Spaces	Parking Ratio
1950 Addison St.	C-DMU	108	5	36	.33 <sup>iii</sup>
1974 University Ave.	C-DMU Buffer	98	8	33	.33 <sup>iii</sup>
1931-1935 Addison St.	C-DMU Buffer	69	7	11 <sup>i</sup>	.33 <sup>iii</sup>
2029-2035 Blake St.	C-SA	82	8	63	.77
1500 San Pablo Ave.	C-W & R-1A	170	0 <sup>ii</sup>	150	.88

<sup>i</sup> 34 required, but 25 waived with parking in-lieu fee

<sup>ii</sup> 16 required, but 16 waived with Affordable Housing Mitigation Fee

<sup>iii</sup> projects in the C-DMU have lower parking ratios, but are required to provide residents with TDM benefits.

**Question for Commission to Consider:** In order to capture funding from parking reduction, should base parking ratios stay at their current levels? In Districts where parking ratios are already low, will the community support a parking ratio of zero? Will developers opt-in to such a program?

The Referral asks for a process where parking reduction translates into construction of more affordable units. This can be accomplished by designating funding for housing, such as a fee paid into the Affordable Housing Mitigation Fund, or by asking developers to build units in place of parking spaces.

**Question for the Commission to Consider:** If parking is exchanged for units on a specific project, where will units be built? Parking is usually provided below ground. The probable outcome would be to make more of the approved units affordable, rather than construct more on the site.

Finally, the five specific actions in the Referral propose major parking reform. Although there is a link between parking costs and housing production, parking reform can be addressed independently of affordable housing.

**Question for Commission to Consider:** Should parking be considered in the context of and in exchange for affordable housing?

Policy 2: Removing Barriers to Affordable Housing

In addition to researching legislation that could create barriers to affordable housing, staff consulted with local affordable housing developers to ask what they viewed as the primary structural barriers to affordable housing production in Berkeley. They identified the following issues:

- **Funding Availability.** Affordable housing developers identified a lack of funding as their main impediment to affordable housing projects. Numerous housing-related Council referrals and the Housing Action Plan are intended to address this issue. Staff will be working on these referrals to identify potential funds to capture and direct into the Housing Trust Fund (HTF). The more robust the HTF, the more monies available to future affordable housing projects.
- **Design Review.** Although not required for all projects in all zoning districts, Berkeley's design review process can add time and cost to affordable housing projects. Affordable housing developers identified design review as a barrier, but it exists to ensure high quality buildings that are compatible with neighborhoods. In order to alleviate its impact on projects, Design review is processed concurrently with Zoning Permits, resulting in a more streamlined Zoning Adjustment Board (ZAB) review.
- **Building Permit and Plan Check.** Affordable housing developers are often rushed to get building permits issued in order to secure grant funding. This is because the State's tax credit incentive program requires construction to begin within 60 days of tax credit receipt. Delays in plans processing often occur due to incomplete applications or submittals with details that differ from those reviewed and approved by ZAB or Design Review Committee.

In addition to the responses from local affordable housing developers, the City of Berkeley's 2015-2023 Housing Element identified potential constraints to housing production. These are: (1) Zoning Permit process, (2) Design Review permit process, and (3) Historic Preservation process. To address these identified issues, Berkeley has implemented numerous mitigation measures (Attachment 5: Constraints and Mitigations on Permitting Procedures for Berkeley, Oakland and San Francisco).

After the Housing Element adoption, and as part of the continued effort to improve the City's permitting process, the Land Use Division purchased Accela, a new permit tracking and processing system, also used by the Finance Department. This centralized permit tracking system is expected to expedite the permit process for applicants and staff.

The issue of permit processing time is not unique to Berkeley. As presented in Attachment 5, Oakland and San Francisco have also identified permit processing as a constraint to new housing production in their Housing Elements. Both cities have similar constraints and have implemented and planned mitigations to decrease permitting processing time.

**Question for Commission to Consider:** Other than funding availability, permit processing time (both Zoning and Building Permits) has been identified as an impediment to affordable housing by local developers and in Berkeley's Housing Element. Other than the measures already implemented, are there any recommendations to reduce permit processing time?

### **CONCLUSION AND NEXT STEP**

Staff requests that the Commission review the questions posed in this referral and provide direction on a response to Council and/or additional research to clarify questions.

### **Attachments**

1. Green Affordable Housing Package Referral
2. Assembly Bill 744
3. State Budget Trailer Bill 707
4. Areas Identified in Parking Policies
5. Constraints and Mitigations on Permit Processing Procedures for Berkeley, Oakland, and San Francisco

### **References**

Donald Shoup (2016): Cutting the Cost of Parking Requirements, Access Magazine, <http://www.accessmagazine.org/articles/spring-2016/cutting-the-cost-of-parking-requirements/>

Nelson/Nygaard (2011): Downtown Berkeley Parking and Transportation Demand Management Report, [http://www.cityofberkeley.info/uploadedFiles/Public\\_Works/Level\\_3\\_-\\_Transportation/BERKELEY%20PTDM%20DRAFT%20FINAL%20-%20NEW.pdf](http://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/BERKELEY%20PTDM%20DRAFT%20FINAL%20-%20NEW.pdf)

C. J. Gabbe & Gregory Pierce (2016): Hidden Costs and Deadweight Losses: Bundled Parking and Residential Rents in the Metropolitan United States, Housing Policy Debate, <http://dx.doi.org/10.1080/10511482.2016.1205647>

Oakland Planning Commission (June 22, 2016): Off-street Parking Staff Report, <http://www2.oaklandnet.com/oakca1/groups/ceda/documents/agenda/oak059234.pdf>

Southern California Association of Non-Profit Housing (2004): Parking Requirements Guide For Affordable Housing Developers, [http://www.scanph.org/sites/default/files/Parking%20Requirements%20Guide\\_forweb.pdf](http://www.scanph.org/sites/default/files/Parking%20Requirements%20Guide_forweb.pdf)

**Item 9 - Attachment 3**  
**Planning Commission**  
**February 15, 2016**

**Item 10**  
**October 19, 2016**



**Planning and Development Department**  
Land Use Planning Division

## **STAFF REPORT**

**DATE:** October 19, 2016  
**TO:** Members of the Planning Commission  
**FROM:** Alene Pearson, Associate Planner  
Alex Amoroso, Principal Planner  
**SUBJECT:** Green Affordable Housing Package Referral

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### **INTRODUCTION**

At the September 21, 2016 meeting, the Planning Commission discussed, for the first time, the Green Affordable Housing Package (GAH) Referral (*Attachment 1*). The GAH Referral introduces two policies:

- Policy 1 proposes five actions that attempt to capture funding for affordable housing through parking requirement reductions, and
- Policy 2 aims to reduce barriers to affordable housing production.

Staff recommends focusing on the elements of the GAH Referral that have the greatest chance of success and focus on potential Zoning Ordinance (ZO) changes. Policy 1 appears to hold the greatest promise. This report discusses an approach that will achieve Council's goal of prioritizing affordable housing production over parking. The approach is presented as a number of building blocks for the Commission to consider in the Discussion section below. These building blocks will provide a framework for a future policy that allows an exchange of parking for affordable housing.

Staff suggests deferring a discussion of Policy 2. This policy and its implications appear in numerous referrals and components of the Housing Action Plan, soon to be presented to the Commission.

### **BACKGROUND**

The GAH Referral, as explained at the September Commission meeting (*Attachment 2: September 2016 Staff Report*), broadly proposes to increase production of affordable housing. In order to come up with a policy that is effective, staff proposes trimming the Referral in the following way:

Defer Discussion of Policy 2: Policy 2 of the GAH asks to reduce barriers to affordable housing production. As introduced in the last staff report, lack of funding and permit processing time were identified (through staff interviews and research) as the primary barriers to affordable housing construction in Berkeley. Both of these issues require larger programmatic changes to the City's funding and permitting processes. Since these issues are being actively addressed in the Housing Action Plan (*source: Special City Council Meeting, May 17, 2016*), staff proposes to skip Policy 2 and focus efforts on refining Policy 1.

Refine Policy 1: Both affordable housing units and parking spaces cost money to build. Policy 1 of the GAH Referral proposes five ways to capture money slated for parking and direct it towards housing construction. Two of these proposals -- requiring developers to provide Transportation Demand Management (TDM) benefits and implementing parking maximums -- are effective methods of parking reduction, but do not easily translate into funds for affordable housing construction. The three remaining proposals are similar in nature --reducing parking for new projects located near transit -- but they differ in geography and in types of projects affected. Staff recommends focusing on these three actions that incentivizes construction of affordable housing.

## **DISCUSSION**

Moving forward to meet the goals of the GAH Referral -- prioritizing affordable housing development over parking -- staff suggests skipping over Policy 2 and focusing on the actions of Policy 1. With a more defined scope, staff can create a strong, targeted policy that will be attractive to developers and can generate new affordable housing units. **Does the Planning Commission agree with this direction?**

Staff is asking the Commission to consider a set of building blocks that will be used to create a framework for the GAH policy. Staff will work with the legal department to confirm that the chosen configuration of building blocks is feasible and not in conflict with Assembly Bill 744 (AB744)<sup>1</sup>.

### BUILDING BLOCK A: Determine Reach of New Policy

The GAH Referral offers two different geographic ranges and AB744 offers a third. This building block confirms that a GAH policy will include new development projects located within half a mile of a transit hub<sup>2</sup>. (*Attachment 3: Map Showing Reach of New Policy*)  
**How expansive should the geography be (larger area or smaller area)?**

### BUILDING BLOCK B: Provide Units On-site in Exchange for a Parking Reduction

This building block offers parking reductions outlined in AB744 to projects that fall within the GAH Referral Policy boundary if projects provide on-site affordable units.

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<sup>1</sup> AB744, introduced at the September 2016 Planning Commission meeting, provides a pathway for parking reduction in exchange for affordable housing. See the September 2016 Staff Report for more information on this legislation.

<sup>2</sup> A transit hub -- in the context of this Referral -- is a stop along a major bus route with 15-minute headways during peak commute periods.

**Should the parking exchange be applicable beyond the AB744 geography and take in the GAH referral area as well?**

BUILDING BLOCK C: Pay a Fee to Receive a Parking Reduction

This building block offers developers the option to reduce parking to the levels stated in AB744. However, instead of providing affordable housing on-site in exchange for parking reduction, developers could pay into a fund that goes towards affordable housing production.

**Should there be an option to pay into a housing fund, or should the parking reductions only apply if units are built on site?**

BUILDING BLOCK D: Pay a Fee to Reduce Parking on all other City Projects

This building block allows developers to reduce parking on projects that fall outside the jurisdiction of AB744 and/or any of the selected building blocks. Parking reduction would be exchanged for a fee paid into a fund that goes towards affordable housing production.

**The GAH suggests that parking reduction for housing exchange should happen citywide, while AB744 is focused to Density Bonus projects. Should the City apply the parking reduction/housing trade-off regulations more broadly?**

**NEXT STEPS**

After the Commission identifies the building blocks that will most effectively achieve the goals of the GAH Referral, staff will begin constructing a framework for future policy and will research the next set of questions that arise. Staff will consult with the City Attorney to verify that the proposed policy is not in conflict with existing legislation. The next iteration of the Referral will probably return to the Commission in December 2016 for additional feedback and direction.

**Attachments**

1. Green Affordable Housing Package Referral
2. Staff Report Green Affordable Housing September 21, 2016
3. Map Showing Reach of New Policy

**References**

Special City Council Meeting, May 17, 2016:

[http://www.cityofberkeley.info/Clerk/City\\_Council/2016/05\\_May/City\\_Council\\_05-17-2016\\_-\\_Meeting\\_Info.aspx](http://www.cityofberkeley.info/Clerk/City_Council/2016/05_May/City_Council_05-17-2016_-_Meeting_Info.aspx)








Office of the City Manager

ACTION CALENDAR  
November 1, 2016

To: Honorable Mayor and Members of the City Council

From:  Dee Williams-Ridley, City Manager

Submitted by: Paul Buddenhagen, Director, Health, Housing & Community Services  
Carol Johnson, Acting Director, Planning and Development Department

Subject: Housing Action Plan

RECOMMENDATION

Direct the City Manager to identify funding for an additional staff position to work on housing policy and a consultant to begin preliminary work on a housing action plan. Tasks will include reviewing Council's 49 housing referrals (see **Attachment 1** for details) and best practices from other cities, identifying those strategies with the greatest potential to impact Berkeley's housing affordability crisis, presenting solutions to Council to prioritize, and developing workplans and budgets for the top priorities.

SUMMARY

The City of Berkeley currently operates a range of anti-displacement policies and affordable housing programs at the vanguard of national municipal housing strategies. Unfortunately, Berkeley is still experiencing the housing affordability crisis affecting the Bay Area and many coastal cities.

On May 17, the Council adopted a set of 30 referrals and possible actions, titled "Housing Action Plan" (Plan), intended to address the current housing crisis. On May 24, the Council prioritized a list of existing referrals that predate the Plan. At least 20 of these referrals deal with housing, sometimes relating, but mostly adding, to the May 17<sup>th</sup> referrals. Staff sorted these into 36 issues. The City currently does not have any dedicated housing policy staff in either the Health, Housing & Community Services Department (HHCS) or the Planning & Development Department, so responding to these 49 referrals individually would require at least several years of work.

Staff reviewed housing plans from several cities and spoke with colleagues in Portland, Seattle, and Oakland to learn more about how they developed their plans and their recent housing plan activities. All involved many months of work, levels of staff support, consultant services, and public participation to develop and to implement that are simply beyond a feasible scale for a city Berkeley's size. Instead, staff recommend bringing on a modest level of additional staffing capacity to identify and implement strategies with the greatest potential for improving housing affordability in Berkeley.

#### FISCAL IMPACTS OF RECOMMENDATION

More analysis is needed to determine the exact classification for additional staff, likely a Community Development Project Coordinator or a Senior Planner. Salary and benefits for these positions are budgeted at \$164,000 to \$175,000 for FY 2017. Consultant expenses could be up to \$200,000 depending on the amount of public input and public meeting participation included in the prioritization process. Together these expenses total \$364,000 to \$375,000. These expenses would not be eligible for federal funds and would likely require General Fund support.

#### CURRENT SITUATION AND ITS EFFECTS

Berkeley, like other Bay Area cities, is faced with an affordable housing crisis. The City's 2014-2022 Regional Housing Need Allocation (RHNA, a state-mandated calculation of the number of units each jurisdiction must plan for in its Housing Element) indicated that in order to meet the anticipated housing need, 33% of new housing produced during the 9-year RHNA period should be affordable to families earning less than 80% of the median income. These lower income households struggle to compete in the rental and homeownership markets.

In September 2016, the median rent for a 2-bedroom unit in Berkeley was \$3,362<sup>1</sup>. For this rent to be affordable, using the standard of 30% of income for rent, a household's income would need to be at least \$134,480 per year, well above the salary for many teachers, public sector employees, and other moderate income professions. A low-income, 4-person household could afford a monthly rent of \$1,879, well below the market rent. Existing affordable housing developments have far more applicants than vacancies, and the Berkeley Housing Authority's Section 8 waitlist has been closed since 2010.

The most vulnerable Berkeley residents are those earning less than 30% of the area's median income, such as those reliant on Supplemental Security Income (SSI) benefits, with monthly payments of typically less than \$900 per month. With the rents noted above, a unit in Berkeley is out of reach for households reliant on SSI. Section 8 vouchers and Shelter Plus Care certificates can help extremely low-income households bridge the gap between their limited earnings and market rents, but those resources are limited, and it has become increasingly difficult to find landlords willing to accept subsidized tenants. Households unable to afford rents are at greater risk of homelessness. Between 2009 and 2015, Berkeley's homeless population increased by 23%.

In terms of ownership, the City's draft 2015 Nexus Study indicated that a low-income family could afford only 6% of condominiums sold in Berkeley in 2014. As long as the median home price in Berkeley hovers around \$1 million, homeownership remains out of reach to a significant subset of Berkeley's population.

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<sup>1</sup> Trulia - [http://www.trulia.com/real\\_estate/Berkeley-California/market-trends/](http://www.trulia.com/real_estate/Berkeley-California/market-trends/)

The need is clear, but production of new affordable housing units lags behind. By the end of 2016, three years into the RHNA period, the City anticipates that between the Below Market Rate and Housing Trust Fund (HTF) programs, the City will have supported the production of 145 affordable units, well short of the RHNA identified need of 974. Production of affordable housing would need to significantly ramp up in order to meet the RHNA goals by 2022, probably requiring a substantial increase in funding from the City for HTF-funded developments. In a previous City Council report, staff estimated that the City would need to generate \$5 to 12 million per year in local funds, in addition to current efforts, to achieve that level of affordable housing production. At this point, the City's HTF depends on about \$500,000 per year in HOME funds, enough to support 2 to 4 units in HTF-funded affordable housing, and mitigation fees that depend on the level of market-rate housing production.

HHCS and Planning are currently working on the Council's top-rated referrals for each department. HHCS' top referral is to review all City-owned land for its potential use as housing. Since the City has not previously maintained a single, unified list with comprehensive information about each City owned parcel, this project includes significant research, data entry, and data checking.

HHCS is also working on its second highest ranked referral, a local preference for affordable housing tenants. This is a complex fair housing issue which will require legal analysis.

HHCS is also currently researching alternatives for a Small Sites Acquisition fund modeled on San Francisco's, which was referred to staff in addition to the items in *Attachment 1*. With limited housing funds and staffing, Small Sites projects would compete with HTF-supported affordable housing, such as the Berkeley Food and Housing Project / BRIDGE Housing proposal for Berkeley Way.

The Planning Department is currently assigned 23 Council referrals, 16 of which are housing-related. Planning staff is concurrently addressing 7 of these items, including the Council's top-rated referral, the Green Affordable Housing Package. The Green Affordable Housing Package, considered by the Planning Commission on September 21, 2016, broadly suggests a set of policies that link parking requirement reductions to affordable housing production. As with many of the policy issues brought before the Planning Commission, this item is expected to be refined over at least 2 to 4 Planning Commission meetings—with additional input from the Housing Advisory Commission and the Transportation Commission—before being set for a public hearing and going to Council for a vote.

In its May 17 Housing Action Plan referral, the Council directed staff to develop a suggested strategy for creating a housing action plan, similar to Oakland, Boston, and Seattle. Staff have read the plans from these cities, as well as others, and had

discussions with staff from Portland, Seattle and Oakland to learn more about their housing plans and the resources they dedicated to creating the plans

In Oakland, the Mayor appointed a large working group (“cabinet”), secured pro bono staffing (approximately 1.0 FTE) from the Enterprise Foundation to facilitate the plan development, and committed time from key staff, including four department directors. Over eight months, this group developed an action plan.<sup>2</sup> Once the plan was complete, the City recognized the need for ongoing staff commitments, and accordingly hired 1.0 FTE to coordinate the identified activities, including the new staff and/or consultant teams which will be needed. The consultant reported an expected eight year implementation timeframe in order to address rent control, the disposition of surplus land, a new infrastructure bond, new funding programs, revisions to the condo conversion ordinance, new soft story requirements, and more, many of which are already in place in Berkeley.

Seattle<sup>3</sup> took a similar approach in appointing a 28-member board of citizens and professionals working in related fields. Some of these professionals donated significant time to develop and draft sections of the 65-recommendation plan developed over a period of nearly a year, and were supported by a professional facilitator who managed the project. Further development of the plan was supported in varying degrees by almost all of the 50-person Office of Housing.

While some of the actions are immediate (for example, Oakland’s rent increase moratorium), both cities recognize and acknowledge the long-term nature of the work, and the funding and staffing commitment that implementation will require.

HHCS has no dedicated housing policy staff; policy work is undertaken by staff in addition to their regular program responsibilities. Policy work must be funded with the City’s General Funds, and cannot be supported with the federal funds associated with operating federal programs. In Planning, there are two policy staff positions for all citywide policy work, and they are also responsible for staffing commissions and managing other staff. As a result, in both departments, new policy initiatives compete with existing programs for staffing. At current staffing levels, the City does not have the capacity to even manage consultants, let alone complete a plan on the scale of Oakland or Seattle.

From the staff’s perspective and initial review, of the initiatives referred by Council, those which seem to have the greatest potential to impact Berkeley’s housing affordability crisis are a transfer of development rights program and a local density bonus program. Restructuring transfer taxes to discourage speculation on residential

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<sup>2</sup> A Roadmap Toward Equity: Housing Solutions for Oakland:  
<https://www.policylink.org/sites/default/files/pl-report-oak-housing-070715.pdf>

<sup>3</sup> Housing Seattle: A Roadmap to an Affordable and Livable City: [http://murray.seattle.gov/wp-content/uploads/2015/07/HALA\\_ActionPlan\\_2015.pdf](http://murray.seattle.gov/wp-content/uploads/2015/07/HALA_ActionPlan_2015.pdf)

properties and an analysis of the entire City budget to consider alternatives for additional housing funds may have potential as well.

In addition to those policies and program changes referred by Council, staff believe there may be more steps the City could take to encourage affordable, non-publicly subsidized housing for the “missing middle,” meaning housing options between single family homes and larger apartment buildings. For example, the City could allow larger single family homes to be split into two or more units and offer streamlined zoning approvals as long as the property owner agrees to deed-restricted affordability requirements.

#### BACKGROUND

##### ***City’s Current Housing Activities***

The City currently has about \$45 million in outstanding Housing Trust Fund loans that have supported housing acquisition, rehabilitation, and construction. Since 2002, City Housing Trust Fund loans have supported the construction of 423 new units and the acquisition or renovation of 613 units, for the creation or preservation of 1,036 affordable units in total. These totals include Harper Crossing (new construction) and William Byron Rumford Sr. Plaza (rehabilitation) which are both currently in construction. As described in previous reports, limited funding for the Housing Trust Fund in recent years has constrained the amount of available City support for development. Measures on the ballot this month may change the course.

As of July 2016, a total of 341 BMR rental units have been created in 29 developments since the City first adopted the Inclusionary Housing Ordinance in 1986.

The City is also using publicly owned property to support affordable housing, with current agreements in place for BRIDGE Housing to develop the Berkeley Way parking lot. Previously the City supported the development of 97 affordable units at Oxford Plaza, formerly the site of a City parking lot.

UC Berkeley’s Displacement Project<sup>4</sup> ranked Berkeley among the Bay Area jurisdictions with the most anti-displacement policies because the City already has 11 of the 14 types of protections it identified. This project reported on the City’s just cause eviction ordinance, rent stabilization or rent control, rent review board and/or mediation, mobile home rent control, SRO preservation, condominium conversion regulations, jobs-housing linkage fee or affordable housing impact/linkage fee, commercial linkage fee/program, a housing trust fund, inclusionary zoning/housing (below market rate housing), and first source hiring ordinances as important anti-displacement strategies. It referenced a local density bonus ordinance, City-supported community land trusts, and foreclosure assistance as anti-displacement measures the City does not have,

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<sup>4</sup> <http://www.urbandisplacement.org/policy-tools-2#>

although the City has funded the Northern California Land Trust and adopted regulatory agreements to assist the Bay Area Community Land Trust.

Staff provided detailed reports on current City housing programs and activities at a December 1, 2015 worksession<sup>5</sup> and a February 16, 2016<sup>6</sup> meeting which are available online. These included a list of the many strategies the City is already using to promote housing affordability and combat displacement:

- The Housing Trust Fund program  
<http://www.ci.berkeley.ca.us/ContentDisplay.aspx?id=6532>;
- Affordable Housing Mitigation Fee on new market-rate rental housing  
<http://www.ci.berkeley.ca.us/ContentDisplay.aspx?id=74682> ;
- Inclusionary Housing requirements for new market-rate ownership housing ([BMC 23C.12](#));
- The Rent Stabilization and Good Cause for Eviction Ordinance  
[http://www.ci.berkeley.ca.us/Rent\\_Stabilization\\_Board/Home/Guide\\_to\\_Rent\\_Control.aspx](http://www.ci.berkeley.ca.us/Rent_Stabilization_Board/Home/Guide_to_Rent_Control.aspx) ;
- Use of City-owned land for affordable housing, such as Oxford Plaza and Berkeley Way  
[http://www.cityofberkeley.info/Clerk/City\\_Council/2014/09\\_Sep/Documents/2014-09-09\\_Item\\_13\\_Exclusive\\_Negotiating.aspx](http://www.cityofberkeley.info/Clerk/City_Council/2014/09_Sep/Documents/2014-09-09_Item_13_Exclusive_Negotiating.aspx) ;
- The Condominium Conversion Ordinance ([BMC 21.28.070](#));
- The Demolition Ordinance ([BMC 23C.08](#));
- The Relocation Ordinance <http://www.ci.berkeley.ca.us/ContentDisplay.aspx?id=4956> ;
- Senior and Disabled Rehabilitation Loan program  
<http://www.ci.berkeley.ca.us/ContentDisplay.aspx?id=10480>;
- Other home repair programs by community agencies funded by the City (Center for Independent Living, Rebuilding Together, Community Energy Services Corporation);
- Shelter Plus Care and Square One rental subsidies for homeless households  
<http://www.ci.berkeley.ca.us/ContentDisplay.aspx?id=5562> ;
- Living Wage requirements for City vendors  
[http://www.ci.berkeley.ca.us/Finance/Home/Vendors\\_Living\\_Wage\\_Ordinance.aspx](http://www.ci.berkeley.ca.us/Finance/Home/Vendors_Living_Wage_Ordinance.aspx) ; and
- The Minimum Wage Ordinance <http://www.ci.berkeley.ca.us/MWO/> .
- Reserving Very Low-Income In Lieu Units for Households Holding Section 8 Vouchers and Shelter + Care Certificates ([BMC Section 22.20.065](#)).

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<sup>5</sup> [http://www.ci.berkeley.ca.us/Clerk/City\\_Council/2015/12\\_Dec/City\\_Council\\_12-01-2015\\_-\\_Special\\_Meeting\\_Annotated\\_Agenda.aspx](http://www.ci.berkeley.ca.us/Clerk/City_Council/2015/12_Dec/City_Council_12-01-2015_-_Special_Meeting_Annotated_Agenda.aspx)

<sup>6</sup> [http://www.ci.berkeley.ca.us/Clerk/City\\_Council/2016/02\\_Feb/City\\_Council\\_02-16-2016\\_-\\_Special\\_Meeting\\_Annotated\\_Agenda.aspx](http://www.ci.berkeley.ca.us/Clerk/City_Council/2016/02_Feb/City_Council_02-16-2016_-_Special_Meeting_Annotated_Agenda.aspx)

The Planning Department has been working on a number of policies that have implications for housing development and rental supply. In July 2016, Council adopted a Zoning Ordinance amendment that allows increased development in the Telegraph Commercial (C-T) District between Dwight Avenue and Bancroft Avenue. Tied to this amendment was a referral requesting community benefit requirements that target labor practices and affordable housing. Staff is currently working to develop regulations around short term rentals with the goal of diversifying lodging options for transients, while preserving existing rental stock, neighborhood character and livability.

### ***Impact of Proposed Business License Tax Measures***

Voter approval of an increase in the business license tax measure in November would mean an increase in revenue to the General Fund, which could be used to support affordable housing development. Having meaningful and predictable funding in the Housing Trust Fund would greatly enhance affordable housing development in Berkeley. The City estimates that the measure placed on the ballot by Council (Measure U1 – Rental Unit Business License Tax) would yield about \$4 million per year, significantly increasing the amount of funds available. At the same time, it is not enough to support the range of programs and initiatives implemented by San Francisco after the passage of its \$300 million bond.

If the City provides \$125,000 to \$250,000 per unit to fill the gap after other funding sources (a typical range for other municipal funders today<sup>7</sup>), \$4 million will be enough to fund 16 to 32 substantial rehabilitation or new construction multifamily housing units per year. Due to the requirements of other funding sources and economies of scale, today affordable housing developments typically need to be 50 units or larger in order to be feasible. As a result, an increase of \$4 million per year may mean the ability to predictably support one project per year.

If the business license tax increase passes, it means that the City will be able to support affordable housing development more consistently and at a level that reflects development cost increases, but it alone will not solve the housing crisis.

### ***Staffing and Capacity***

Ten years ago, the City had an entire department devoted to housing as well as its own small redevelopment agency. Although the Housing Department included programs no longer staffed by the City, such as the Berkeley Housing Authority and Weatherization, it also included more staff to deliver housing and homeless programs, more staff assigned to policy work, and managers and a director primarily assigned to housing. With the dissolution of redevelopment agencies statewide, substantial reductions in the amount of federal HOME funds received by the City (from a peak of \$1.5 million in 2005

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<sup>7</sup> An analysis of funding needed per unit is presented in a February 16, 2016 report: [http://www.cityofberkeley.info/Clerk/City\\_Council/2016/02\\_Feb/Documents/2016-02-16\\_Item\\_03\\_Affordable\\_Housing\\_Programs.aspx](http://www.cityofberkeley.info/Clerk/City_Council/2016/02_Feb/Documents/2016-02-16_Item_03_Affordable_Housing_Programs.aspx)

to \$591,403 this year), and increased operating costs, City staffing for housing activities has been greatly reduced. At the same time, requirements attached to federal funds and the amount of federal scrutiny on compliance have increased, focusing more staff time on compliance. Additionally, local housing development costs have increased greatly, limiting the impact of already reduced housing development dollars.

The Planning Department has 4 FTE focused on long range planning and policy development. Approximately 1 FTE is split between the Adeline Corridor planning process and cannabis regulation. The remaining 3 FTE respond to Council Referrals (75% effort), routinely update the Zoning Ordinance (10% effort), contribute to interdepartmental projects and plans (10% effort), and participate in regional planning efforts (5% effort). Although the Department does not have planners specializing in housing policy, Planning staff have prepared the last two Housing Elements.

In HHCS, in addition to a portion of the Housing and Community Services Manager's time, there are 3.4 FTE assigned to housing activities. Programs administered by this unit include the Housing Trust Fund (HTF) development and monitoring, redevelopment of the Berkeley Way parking lot, Below Market Rate (Affordable Housing Mitigation Fee and Inclusionary Housing Ordinance) development and monitoring, Condo Conversion program operations, monitoring and servicing other real estate loans made by the City in the past, and staffing the Housing Advisory Commission and supporting its subcommittees.

Operating each of these programs includes day to day responsibilities to make sure that projects stay on track. For example, although the Housing Trust Fund may come before the Council once or twice a year, staff work continuously on projects throughout their development lifecycles. HHCS' monitoring responsibilities increase with each new HTF and BMR project. A detailed description of tasks associated with monitoring the units created through the HTF and BMR programs is included as **Attachment 2**.

#### ENVIRONMENTAL SUSTAINABILITY

There are no environmental sustainability effects directly associated with the subject of this report.

#### RATIONALE FOR RECOMMENDATION

The housing affordability crisis is one of the most significant issues facing the City today. While rent control protects long-term tenants, Berkeley is otherwise largely unaffordable for people at many income levels who have historically had a home in Berkeley, from people with extremely low incomes, including people with disabilities, to professional working families. Berkeley's response to the crisis will impact who the community is now and in the future. The City does not presently have the capacity to respond fully. A new housing policy staff person and consultant will be able to conduct a thorough review of the referrals as well as best practices from other communities to



Housing Action Plan

ACTION CALENDAR  
November 1, 2016

identify strategies with the greatest potential, such as those described in the White House's new Housing Development Toolkit.<sup>8</sup>

#### ALTERNATIVE ACTIONS CONSIDERED

Staff could continue to work through specific referrals one at a time. There are already enough referrals to occupy staff for five years. Without an analysis of which ideas will have the greatest impact on housing affordability, this approach is likely to result in piecemeal changes that do not necessarily have the desired results. Alternatively, the City could add even more staffing than this report proposes in order to support public participation in a comprehensive new housing plan. Since Berkeley already has so many of the best practices in place, staff recommend a more modest scope of work, with emphasis on those policies with the greatest potential to address housing affordability.

#### CONTACT PERSON

Amy Davidson, Senior Community Development Project Coordinator, HHCS, (510) 981-5406

#### Attachments:

- 1: Current Housing Referrals Grouped by Topic Area and Estimated Time Frame
- 2: 2016 Affordable Rental Housing Monitoring Update

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<sup>8</sup> White House, Housing Development Toolkit, September 2016.  
[https://www.whitehouse.gov/sites/whitehouse.gov/files/images/Housing\\_Development\\_Toolkit%20f.2.pdf](https://www.whitehouse.gov/sites/whitehouse.gov/files/images/Housing_Development_Toolkit%20f.2.pdf)

**Attachment 1**

**Current Housing Referrals Grouped by Topic Area and Estimated Time Frame**

The following table includes housing issues which have been referred to staff. Items were grouped into thematic categories for discussion purposes: Funding Mechanisms, New Policies, Streamline Permitting Process for Affordable Housing, Acquire Land for Affordable Housing, and Research and Long Range Planning Efforts. Referrals were then sorted by estimated time frame for completion with added staff and consultant capacity.

Category	Referral	Source	RRV Rank
<b>COMPLETED</b>			
Funding Mechanisms	Review/Change Affordable Housing Mitigation Fees <i>Review of AHMF and percent of Incl. Units required</i> <i>Changes to BMC regarding AHMF</i>	Housing Action Plan City Council Referral	36
New Policies	Develop Enforceable Short Term Rental Policy	Housing Action Plan	
New Policies	Expedite Council's review of C-T Ordinance Change	Housing Action Plan	
Streamline Permitting Process for Affordable Housing	Prioritize Pre-Development Funding from the Housing Trust Fund	Housing Action Plan	
<b>SHORT TERM (NEXT 12 MONTHS)</b>			
Acquire Land for Affordable Housing	Small Sites Program design	short term referral Housing Action Plan	
Acquire Land for Affordable Housing	Use City Owned Land for AH <i>Inventory COB Land</i> <i>Use Vacant COB land for AH</i>	City Council Referral Housing Action Plan	2
Funding Mechanisms	Examine City Development Fees	Housing Action Plan	
Funding Mechanisms	Increase Landlord Business Tax	Housing Action Plan	
New Policies	Develop Policy on Relationship between two Main Units on one Parcel	City Council Referral	33
New Policies	Classify Home Occupation Activities Receiving Five or Fewer Visits as Moderate Impact Home Operation	City Council Referral	59
New Policies	Lobby for Changes to the Ellis Act	Housing Action Plan	

Category	Referral	Source	RRV Rank
Research and Long Range Planning Efforts	Review the ADU Amendment a year after its passage	Housing Action Plan	
Research and Long Range Planning Efforts	Develop Manager's Report to communicate progress/findings	Housing Action Plan	
Streamline Permitting Process for Affordable Housing	Designate admin powers to Zoning Officer to expedite permit approval	City Council Referral	16
<b>MEDIUM TERM (ONE TO THREE YEARS)</b>			
Acquire Land for Affordable Housing	Land Acquisition Fund	Housing Action Plan	
Funding Mechanisms	Develop/Fund Programs to Discourage Eviction of Tenants <i>Create an Eviction Defense Fund</i> <i>Increase Tenant Relocation Fees</i>	Housing Action Plan Housing Action Plan	
Funding Mechanisms	Develop Tax and Fee Waivers on Section 8 Housing	Housing Action Plan	
Funding Mechanisms	Refer new HTF revenue sources to the budget process	Housing Action Plan	
Funding Mechanisms	Review/Change Affordable Housing Mitigation Fees <i>Report on the process for hardship determinations</i>	City Council Referral	36
Funding Mechanisms	Explore City Density Bonus Fee Model	Housing Action Plan	
New Policies	Modify inclusionary unit policy <i>Create Incl Units below 50% and above 80% AMI</i> <i>Provide Incl Units at 10%, 20% and 30% AMI</i> <i>Add a workforce housing option</i>	Housing Action Plan Housing Action Plan Housing Action Plan	
New Policies	Encourage Development of Student Housing <i>Develop Ordinances to Encourage Student Housing near Campus</i> <i>Zone for Housing Close to Campus</i>	Housing Action Plan Housing Action Plan	
New Policies	Develop program that gives AH preference to those recently evicted or who live near new development projects	City Council Referral	3
New Policies	Allow Housing in Commercial Ground Floor Units <i>Flexible Uses in Ground Floor Commercial</i> <i>Ground Floor Housing in Commercial</i>	City Council Referral Housing Action Plan	14

Category	Referral	Source	RRV Rank
New Policies	"Affordable by Design" Strategies for Middle Income Housing	Housing Action Plan	
New Policies	Develop policy to encourage AH for Seniors	Housing Action Plan	
New Policies	Reduce Parking Requirements <i>Green Affordable Housing Package Policy #1 Reduce Parking in R-4</i>	City Council Referral City Council Referral	1 22
New Policies	Add New Building Requirements <i>Wheelchair Provisions Green Infrastructure</i>	Housing Action Plan City Council Referral	29 17
Research and Long Range Planning Efforts	Develop an Affordable Housing Funding Plan, identifying new sources of funding	Housing Action Plan	
Streamline Permitting Process for Affordable Housing	Streamline AH Permitting Process <i>Streamline AH Permitting Process for projects with majority of AH Remove Structural Barriers to AH (Green AH Package Policy #2)</i>	City Council Referral City Council Referral	12 1
Streamline Permitting Process for Affordable Housing	Review Occupancy Level as Part of the Zoning Adjustments Approval Process	City Council Referral	78
<b>LONG TERM (MORE THAN 3 YEARS)</b>			
Acquire Land for Affordable Housing	Repurpose West Berkeley Service Center	Housing Action Plan	
Funding Mechanisms	Create a Land Speculation Tax	Housing Action Plan	
New Policies	Develop Transfer of Development Rights (TDR) policy	Housing Action Plan	
New Policies	Impose fees when multifamily properties are destroyed due to fault of property owner (Demolition Ordinance, RHSP, Relocation, fees, fines)	City Council Referral	41
Research and Long Range Planning Efforts	Update Zoning Ordinance <i>Zoning Ordinance Update Review Equity of Zoning Ordinance</i>	City Council Referral Housing Action Plan	5
Research and Long Range Planning Efforts	Develop a San Pablo Avenue Area Plan	City Council Referral	11
Research and Long Range Planning Efforts	Future Development of the 4th Street Area	City Council Referral	63

## **Attachment 2: 2016 Affordable Rental Housing Monitoring Update**

The City of Berkeley monitors compliance of two types of low-income housing. One type of housing is usually owned by nonprofits organizations that have a mission to provide affordable housing (“Affordable Housing”). These projects are buildings with a majority of low-income units, if not 100%. The other type consists of below market-rate units that are located within market rate housing developments (“BMR”). BMR units are required by the City’s Inclusionary Housing Ordinance and are typically owned by for-profit companies. For both types of units, the City monitors compliance to ensure the properties are rented to low-income households. These projects serve households with incomes at or below 120% of the Area Median Income (AMI) (currently 93,600 for 2-person household).

### **Affordable Housing Projects**

In Berkeley, there are approximately 1,450 affordable housing units within 46 projects. These projects are funded by federal, state, and local funds that require the project to serve low-income households. The City has provided Housing Trust Funds to the majority of these projects and requires specific tenant income limits per the Housing Trust Fund guidelines. The income limits for these buildings are at or below 80% of AMI (currently \$60,150 for a 2-person household). The Housing Trust Fund guidelines currently require that 40% of units need to be affordable at or below 60% of area median income, and an additional 20% of units much be affordable at or below 30% of area median income, which is deeper affordability that federal funding sources require.

In addition to requiring income and rent limits, these government funders require owners to follow many other requirements such as property management and financial standards. The City monitors and enforces compliance of the Regulatory Agreement that is executed by the City and the property owner and recorded on the property. The Regulatory Agreement describes the requirements the owner must adhere to. In addition to the Department of Health, Housing & Community Services’ (HHCS) monitoring activities, described in more detail below, the Housing Code Enforcement unit in the Planning Department conducts physical inspections and enforces code violations. City staff work with the owners to resolve any problems that are identified during audits.

### **Inclusionary Below Market-Rate (BMR) Projects**

There are currently 407 BMR units restricted under the City’s Inclusionary Housing Ordinance and Affordable Housing Mitigation Fee Ordinance. Property owners must adhere to the requirements in the Ordinance and in the BMR Operational Manual which provides additional guidance regarding how to comply with the Ordinance. City staff monitors and enforces compliance of the Notice of Limitation that is executed by the City and the property owner and recorded on the property. The Notice of Limitation describes the requirements that the owner must adhere to. City staff works with owners to resolve any problems that are identified during the audits.

**Annual Reporting**

The City has contracted with City Data Services (CDS), an online database company, to monitor compliance of the low-income units. HHCS requires owners of affordable and BMR units to submit a compliance report through CDS annually. Property owners submit a narrative report which describes their compliance with various regulations. They also submit an occupancy report that details who is living in each unit, the tenants' income, and what rent the tenants are paying. In addition, the Housing Trust Fund projects must submit annual financial reports.

**Project Audits**

The City annually reviews the reports that are submitted through CDS for both affordable and BMR properties. In addition, HHCS selects certain projects to audit every year. HHCS' audits include reviewing applicable regulations, visiting the site, conducting inspections, reviewing tenant files, and analyzing financial information. To remain in compliance, owners must follow all of the requirements listed in the signed agreements and any applicable regulations and policies. After the audit, City staff writes a report documenting any areas of noncompliance and give owners a specified time period to resolve issues. HHCS staff then follow up with the owners until the findings are resolved.

**2016 Audit Status**





For the 2016 calendar year, City staff selected 8 BMR and 9 Affordable Housing projects to audit. Housing staff have worked with the property owners and other City staff to resolve issues identified during the audit. As shown in the table below, all 8 BMR projects have been audited and 1 has an outstanding issue that still must resolved. To date, 6 Affordable Housing projects have been audited and 1 project has an outstanding issue. The remaining 3 Affordable Housing projects are scheduled to be audited by December 31, 2016.

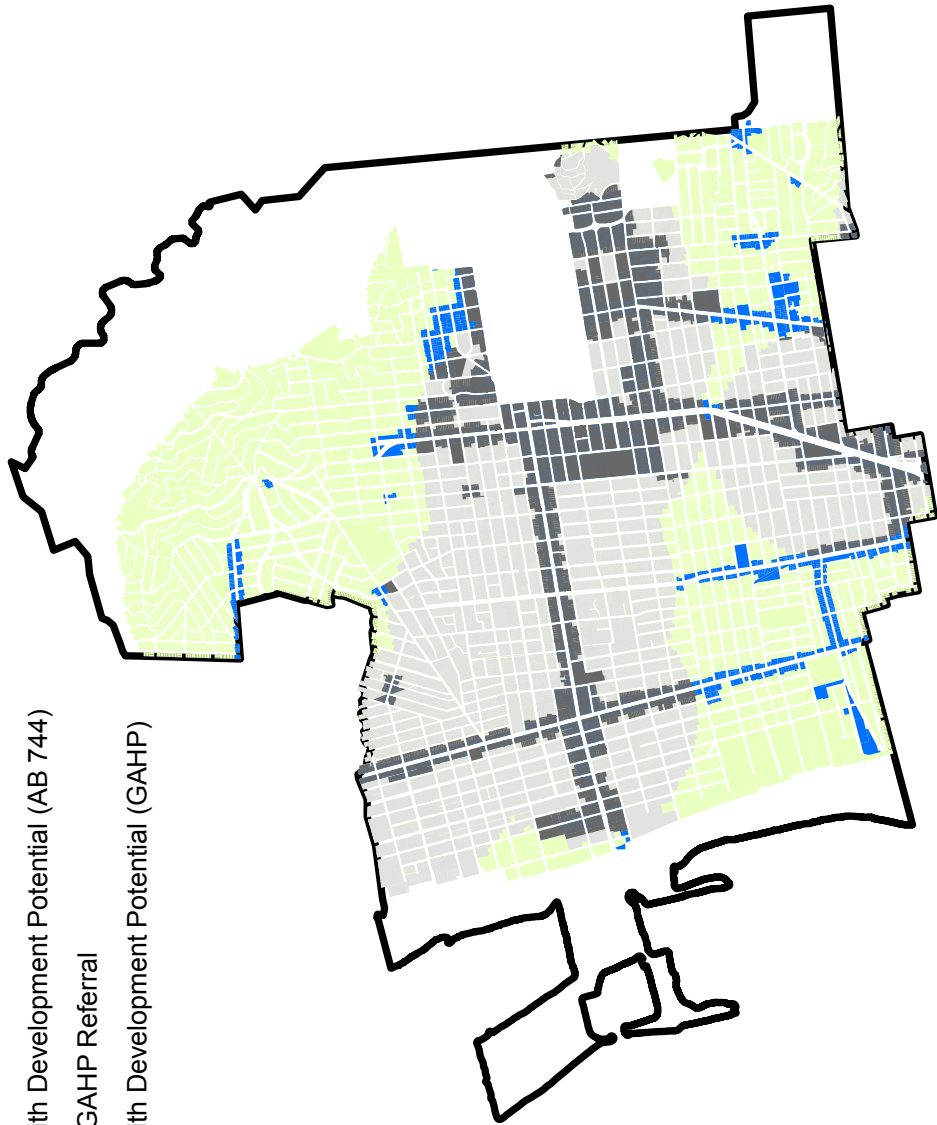
<b>Housing Monitoring Status, As of September 16, 2016</b>				
	<b># of Audits Scheduled for 2016</b>	<b># of Projects Audited</b>	<b># of Projects with Issues Identified</b>	<b># of Projects with Outstanding Issues</b>
<b>BMR Projects</b>	8	8	4	1
<b>Affordable Housing Projects</b>	9	6	5	1

**Item 9 - Attachment 5  
Planning Commission  
February 15, 2015**

**Map Comparing Geographies Affected by AB 744 and GAHP**

**Legend**

-  Reach of AB 744
-  Parcels with Development Potential (AB 744)
-  Reach of GAHP Referral
-  Parcels with Development Potential (GAHP)









- 34 • 2017-10-18 Southside Neighborhood Consortium Re: R-1A
- 35 • 2017-10-18 Charis Takaro Re: R-1A
- 36 • 2017-10-18 Toni Mester Re: Response to WBNFH
- 37 • 2017-10-18 Dan Tasse Re: R-1A
- 38 • 2017-10-18 Phyllis Orrick Re: R-1A
- 39

40 **LATE COMMUNICATIONS** (Received and distributed at the meeting):

- 41 • 2017-10-18 Staff – R-1A Graphic
- 42 • 2017-10-18 Staff – Planning Commission Work Plan Matrix – Item 11
- 43 • 2017-10-18 Chair Gene Poschman – R-1A Proposals
- 44 • 2017-10-18 Cynthia Tate Elliott – Re: R-1A
- 45 • 2017-10-18 Friends of R-1A – Additional Petition Signers

46 **CHAIR REPORT:** No Chair Report. Commissioner Schildt and Commissioner Martinot went to  
47 the Planning Director recruitment meeting.

48 **COMMITTEE REPORT:** None.

49 **7. APPROVAL OF MINUTES:**

50 Motion/Second/Carried (JV/CS) to approve the Planning Commission Meeting Minutes from  
51 October 4, 2017 with revisions to the issues discussed in Item 9. Ayes: Poschman, Mester,  
52 Martinot, Schildt, Kapla, Fong, Vincent, Wrenn. Noes: None. Abstain: None. Absent: Pinto. (8-  
53 0-0-1)

54  
55 **8. FUTURE AGENDA ITEMS AND OTHER PLANNING-RELATED EVENTS:** None.

56 **AGENDA ITEMS**

57 **9. Discussion: Amendments to R-1A Development Standards**

58 Staff presented the following two scenarios for amending the R-1A District development  
59 standards.

- 60 1. One-story scenario:
  - 61 • 1 story, 14 ft. average ht.
  - 62 • 4 ft. (no AUP possible for reduction)
  - 63 • 20 ft. (reduction to 12-foot minimum rear yard allowed with AUP)
- 64 2. Two-story scenario:
  - 65 • 2 stories, 24 ft. average ht. (no AUP for additional height)
  - 66 • 6 ft. (no AUP for reduction)
  - 67 • 20 ft. (reduction to 12-foot minimum rear yard allowed with AUP)

68  
69 The Commission discussed these scenarios and agreed to request for additional issues be  
70 included in the Public Hearing Notice for the November 15 meeting. The Commission

- 71 discussed Chair Poschman's late communication item and determined to include the  
72 following issues in the draft language for the Public Hearing Notice (PHN).  
73 1. Reducing height/stories of detached second units;  
74 2. Rear yard setback;  
75 3. Side yard setbacks;  
76 4. Building separation;  
77 5. Eliminating differences in development standards between the two R-1A areas; and  
78 6. Allowing exceptions to development standards with an AUP.

79  
80 In addition, the Commission discussed affordability issues related to inclusionary  
81 requirements and requested Staff to ask the City Attorney about the possibility. The  
82 Commission also discussed the possibility of including step-back requirements for the 2<sup>nd</sup>  
83 story of the second units, but agreed not to include it in the PHN.

84

85 Motion/Second/Carried (CS/GP) to request from staff a PHN for Nov 15 to have language side  
86 yard setbacks, rear yard setback, height (stories), building separation, no difference between  
87 west and east R-1A, and allow exceptions with AUP. Ayes: Poschman, Mester, Martinot,  
88 Schildt, Kapla, Fong, Vincent, Wrenn. Noes: None. Abstain: None. Absent: Pinto. (8-0-0-1)

89 Public Comment: 28 speakers.

90 **10. Discussion: Consider "Close-out" Referrals**

91 Staff presented the following 4 "close-out" referrals that staff would forward to the Council to  
92 remove from the work plan.

- 93 1. Remediation of Toxic Conditions Referral  
94 2. R-4 Parking Requirement Referral  
95 3. Public Water Fountain or Filling Station Referral  
96 4. Green Affordable Housing Referral

97 The Commission agreed that the Remediation of Toxic Conditions and the Public Water  
98 Fountain or Filling Station referrals could be forwarded to the Council to recommend removal  
99 from the work plan. The Commission requested that the Green Affordable Housing Referral  
100 not be removed from the work plan, and instead discussed when the referrals related to  
101 flexibility for ground floor uses are brought to the Commission. The Commission also  
102 requested that the NAACP be contacted regarding the R-4 Parking Requirement referral  
103 before closing out this referral.

104 Public Comment: 2 speakers.

105 **11. Discussion: Planning Commission Work Plan Discussion.**

Planning Commission Meeting Minutes from 10-18-2017  
Page 4 of 4

106 Staff explained the revised work plan matrix and the Commission briefly discussed the item.  
107 The Commission mentioned that the matrix does not take into account the subcommittee  
108 work. The Commission also requested that the matrix be sent to all the Commissioners.

109 Public Comment: 1 speaker.

110 **The meeting was adjourned at 10:11 pm**

111 **Commissioners in attendance: 8 of 9**

112 **Members in the public in attendance: 36**

113 **Public Speakers: 34**

114 **Length of the meeting: 3 hours and 6 minutes**



Planning and Development Department  
Land Use Planning Division

## STAFF REPORT

DATE: October 18, 2017

TO: Members of the Planning Commission

FROM: Alene Pearson, Associate Planner

SUBJECT: Recommendations for Removing Select City Council Referrals from the Planning Commission Workplan

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### INTRODUCTION

Currently there are 36 City Council referrals assigned for Planning Commission consideration. A September 6, 2017 preliminary “sorting” of referrals (*Attachment 1: Status and Sorting of City Council Referrals*) suggests that several referrals could be removed from the queue.

During the referral sorting process, staff identified a subset of four referrals that could be “closed out” for various reasons. Planning Commission requested that staff return with information on this set of referrals. This report provides background information and next steps for closing-out selected referrals. Each of the original referrals are attached so the Commission can see the original text for reference.

Planning staff has spent substantial time examining the issues raised in these referrals, determining their current status and identifying the best method to achieve stated goals. The conclusion of this report is that while well intentioned, these referrals are not needed to resolve the identified issues. Some of the issues raised in these referrals have been resolved through new State legislation, whereas others issues have been addressed by methods other than Zoning Ordinance amendments. In each case alternative methods of resolution are suggested, explaining how the particular goal of the referral is not lost. It is staff’s recommendation that the following four referrals be removed from the Council referrals list. Specific reasoning and resolution are identified in each case.

### DISCUSSION

Reasons to remove the four referrals are provided below. The reasoning varies based on the specifics of the referral, but in general staff recommends removing these referrals because they are no longer necessary (as will be explained), or they are superseded by other Council actions, referrals or State legislation.

Remediation of Toxic Conditions Referral (see Attachment 2)

This referral focuses on several departmental processes that function independently (i.e. toxics remediation, historic preservation, and Zoning regulations) and attempts to consolidate and coordinate their actions. These processes aim to achieve different outcomes, and are overseen by unrelated State agencies (Department of Toxic Substance Control and Office of Historic Preservation) or are addressed by the Berkeley Municipal Code.

The referral was introduced in response to a particular parcel in West Berkeley that had a paint storage shed located on lot with contaminated (toxic) soil. The property owner wished to remove the building in order to remediate the soil. However, the West Berkeley zoning districts have zoning regulations that require preservation of “protected manufacturing space.” These regulations were intended to preserve the square footage of existing manufacturing sites and production uses; these regulations were not intended to limit cleanup of toxic materials.

The concerns raised by this referral (i.e. soil remediation below the paint shed and preservation of the paint shed’s manufacturing space) were resolved through an interpretation by the Zoning Administrator. The volume of protected space (translated to total square feet) was preserved as part of a Use Permit process. The building was removed and toxic clean-up accomplished after it was evaluated for historic merit and found to not require preservation.

The City’s existing processes and regulations provide sufficient flexibility to resolve these types of issues, while maintaining the goals of adopted plans -- in this instance, the West Berkeley Plan -- and observing historic preservation protections. When special circumstances arise, the Zoning Ordinance allows flexibility and interpretation by the Zoning Officer to address complex issues not explicitly mentioned in the Zoning Ordinance. There is no further effort required to address this referral.

R-4 Parking Requirement Referral (see Attachment 3)

This action is technically not a Council referral, but part of a series of recommendations from the Housing Advisory Commission, based on input from the NAACP. As can be seen in the attachment, comments about R-4 parking requirements (row 4) are extremely fine-grained as compared to the other recommendations. In fact, the R-4 recommendation and related comments suggest that this recommendation is more about availability of developable sites than about parking requirements.

The Green Affordable Housing referral, described later in this memo, shows that parking standards have been modified through State law (AB 744). R-4 development that produces affordable units is eligible to apply for exceptions (e.g. reduced parking, additional height) via the Density Bonus process. For this reason, the City anticipates that parking standards will be reduced for R-4 projects that include affordable housing.

With this in mind, staff believes that the intent of the NAACP recommendation is met and further response to this subject is un-necessary.

Public Water Fountain or Filling Station Referral (see Attachment 4)

This referral would result in an ordinance to obligate developers to include water fountains and/or filling stations in private development projects. However, the 2013 California Building Code (CBC) requires water stations in all building occupancy types (e.g. industrial, commercial, residential and institutional) based on occupancy load (maximum number of people anticipated). Regulations also apply to new construction and to existing buildings where alterations, repairs or improvements exceed 50% of a buildings' square footage. The code also states that water bottle filling stations can be substituted for water fountains to fulfill up to 50% of the above requirements.

It is not clear that the City can obligate private developments to incorporate "publicly available" water filling stations inside private developments. Obligations to maintain exterior water stations on private buildings would not be enforceable in any functional way by the City. The City could petition the State to modify the local requirements of the CBC, under certain circumstances. However, it is the Building Official's determination that the addition of public access water stations would not meet the test required to modify the local CBC, i.e. related to geology, topography or climate conditions.

Other cities have addressed community access to water filling stations by installing public fountains and filling stations maintained by the city. The City of Berkeley may consider such a program in future Public Works projects, or in conjunction with other public agency upgrades such as the BART improvements to the Downtown Berkeley train station.

Green Affordable Housing Referral (see Attachment 5):

The Green Affordable Housing (GAH) referral includes two main policy statements:

- Policy 1: Reduce parking requirements to incentivize development of affordable housing, thereby lowering construction costs and creating additional funds for affordable units.
- Policy 2: Identify and reduce structural and procedural barriers in order to facilitate and encourage affordable housing production.

Each of these goal statements are addressed through State legislation and/or ongoing efforts of the City Council through the referral process or the Housing Action Plan.

**Policy 1** focuses on capturing additional affordable housing units in exchange for parking reductions. The goal of this policy referral is to reduce the costs of parking, so more affordable housing can be provided instead of expenditures to provide onsite parking.

California State Assembly Bill 744 (AB 744) - was signed into law after this referral was introduced. It obligates cities to provide parking reductions for larger developments as part of the State Density Bonus law. More specifically, AB 744 provides optional parking relief to development projects that include affordable housing, senior housing or special needs housing. Staff found that the vast majority of housing sites in Berkeley would be affected by implementation of AB 744 for density bonus projects. A comparative analysis

Removing Select City Council Referrals  
Page 4 of 4

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of AB 744 and GAH showed minimal difference between affected areas (e.g. less than 10 parcels would gain additional benefit from GAH's proposed changes).

If AB 744 had not passed, GAH would have provided welcome parking relief to affordable housing developers. However, since AB 744 was incorporated into State Density Bonus law and since most affordable housing developments -- due to size, character and development pattern -- take advantage of State Density Bonus law, GAH's Policy 1 proposal duplicates existing State law. Therefore, it is un-necessary to modify the City's parking standards.

**Policy 2** has a broad policy focus of identifying and reducing barriers to affordable housing. This larger policy issue falls under the scope of a substantial number of Council referrals that contain more specific directions. The policy in this referral provides guidance and supports the ongoing efforts of the Council, and so can be incorporated into and addressed through those other referrals. The other activities currently under review and assigned include but are not limited to: the Housing Action Plan, the Zucker Systems report recommendations to improve the Planning Department's core operations through a customer service lens, and the Zoning Ordinance Revisions Project. Additionally a number of subsequent referrals address various aspects of expediting and encouraging development of affordable housing.

While this referral identified two essential goals of the City, it has been superseded by new State law and more refined Council referrals, making continued efforts un-necessary.

### **NEXT STEPS**

If the Planning Commission agrees with some or all of the above recommendations to remove these referrals from the Commission workplan, staff will forward a report to the Council recommending their removal.

### **ATTACHMENTS**

- Attachment 1: Status and Sorting of City Council Referrals
- Attachment 2: Remediation of Toxic Conditions Referral
- Attachment 3: R-4 Parking Requirement Referral
- Attachment 4: Public Water Fountain or Filling Station Referral
- Attachment 5: Green Affordable Housing Referral



**Status and Sorting of Council Referrals  
 September 6, 2017 -- Planning Commission Meeting**

	DESCRIPTION	DATE	STATUS	SORT
1	Classify Home Occupation Activities receiving five or fewer visits per year as "Moderate Impact."	12/6/2011	IP	Close Out
2	Amend Zoning Code to facilitate remediation of toxic conditions in manufacturing districts.	5/1/2012	IP	Close Out
3	Adopt NAACP recommendation to remove R-4 requirement of one parking space per 1,000 sq.ft.	9/9/2014	IP	Close Out
4	Expand medical cannabis cultivation beyond the M-District.	11/18/2014	IP	Cannabis
5	Clarify relationship (height, bulk) between Front and Rear units.	7/14/2015	IP	HS
6	Consider requiring Green Stormwater Infrastructure systems on all new large residential and commercial developments.	9/15/2015	IP	
7	"Green Affordable Housing": Consider revisions to parking requirements and project approval processes.	10/27/2015	IP	Close Out
8	Streamline permit process for housing projects which include > 50% affordable units (and other conditions).	1/19/2016	IP	AH
9	Changes to Zoning Ordinance and other practices to improve Land Use Permit process.	1/26/2016	IP	ZORP
10	Develop Community Benefits in association with C-T District development standards.	7/12/2016	IP	CB
11	Amend Zoning Ordinance to allow non-commercial ground floor uses.	1/20/2015	7	HS
12	Create Citywide Green Development standards by extending C-DMU Green Building requirements to all commercial districts.	4/26/2016	9	
13	Initiate an area planning process with community outreach regarding future development on San Pablo Ave.	7/14/2015	13	
14	Consider expanding boundaries of Downtown Arts District and add allowable ground floor uses.	10/18/2016	24	
15	Establish rules to expand and regulate Urban Agriculture uses.	11/29/2016	30	Gardens
16	Define Community Gardens and related accessory structures. Develop permitting process for Community Gardens.	5/10/2016	36	Gardens
17	Require some units in new buildings to have auto-door openers and roll-in showers,	9/15/2015	37	
18	Make recommendations to ensure future development at 4th Street is harmonious with existing retail.	11/18/2014	43	
19	Give Zoning discretion to deny new permits to individuals with outstanding code violations at other Berkeley sites.	9/9/2014	45	
20	Amend Zoning Ordinance to extend operating hours by varying levels in City business districts.	7/12/2016	46	
21	Review square footage limits for certain business types in Elmwood.	10/18/2016	51	
22	Develop Ordinance to require sizable new commercial development projects to include public water fountains or filling stations.	12/16/2014	52	Close Out
23	Research "Tiny Homes" concept, respond regarding changes needed to Zoning, Building Codes and other requirements.	42661	not sorted in 2017	HS
24	Draft an Ordinance to allow "Junior ADUs."	42857	not sorted in 2017	HS
25	Create pilot program for a City Density Bonus in Telegraph Commercial district, to generate in-lieu fees to use to build housing.	5/30/2017	not sorted in 2017	DB
26	Consider new Standard Condition of Approval to mitigate effects from outdoor air pollution on Indoor Air Quality.	7/11/2017	not sorted in 2017	
27	Revise General Plan and Zoning Ordinance to add written standards for 1. Density by parcel; 2. Healthy/safety detriments; 3. Design review; and 4. View/shadow impacts.	42927	not sorted in 2017	DB
28	Include land value recapture analysis in Adeline Corridor Plan.	7/25/2017	not sorted in 2017	CB
29	Create a zoning overlay for Adeline Corridor area, in order to reach Community Benefits Agreements.	42941	not sorted in 2017	CB
30	Create Ordinance to clarify City policy on cannabis regarding existing retail plant nurseries.	7/25/2017	not sorted in 2017	Cannabis
31	Consider Ordinance to license commercial cannabis.	7/25/2017	not sorted in 2017	Cannabis
32	Amend Group Living Accommodations Ordinance to incorporate suggestions from ASUC.	pending Council approval as Referral		
33	Require automatic door-openers in all new residential buildings with four or more units.	pending Council approval as Referral		
34	Consider Ordinance to automatically waive certain permit fees for certain affordable housing projects.	pending Council approval as Referral		
35	Create process to expedite review of projects with >20% affordable units. Give priority and expedited review to 100% affordable projects.	pending Council approval as Referral		
36	Allow delivery-only medical cannabis dispensaries.	pending Council approval as Referral		

Abbreviations:

AH = Affordable Housing    DB = Density Bonus    IP = In Progress  
 CB = Community Benefits    HS = Housing Supply    ZORP = Zoning Ordinance Revision Project



CITY COUNCIL

**Darryl Moore**  
Councilmember District 2

CONSENT CALENDAR  
May 1, 2012

To: Honorable Mayor and Members of the City Council  
From: Councilmember Darryl Moore, District 2  
Councilmember Gordon Wozniak, District 8  
Subject: Amend the Zoning Code to Facilitate Toxic Remediation in Manufacturing Districts

RECOMMENDATION

Refer to the Planning Commission recommendations for amending the zoning code in order to facilitate toxic remediation in manufacturing districts and to develop a streamlined process that would allow for one application process, rather than separate application processes for the City's Planning Department and the Toxics Division.

BACKGROUND

The current process for toxic remediation in manufacturing districts that require the removal of a building, whether or not it is currently in use, is quite involved and convoluted. There may be some amendments that can be made to the zoning code to make the process much more efficient.

Currently, the City of Berkeley Municipal Code Section 23C contains the following language

**23C.08.050 Demolitions of Buildings Used for Commercial, Manufacturing or Community, Institutional or Other Non-residential Uses**

- A. A main building used for non-residential purposes may be demolished subject to issuance of a Use Permit.
- B. A demolition of an accessory building containing less than 300 square feet of floor area is permitted as of right; an accessory building containing 300 square feet or more of floor area may be demolished subject to an AUP.
- C. Any application for a Use Permit or AUP to demolish a non-residential building or structure which is 40 or more years old shall be forwarded to the Landmarks Preservation Commission (LPC) for review prior to consideration of the Use Permit or AUP. The LPC may initiate a landmark or structure-of-merit designation or may choose solely to forward to the Board its comments on the application. The Board shall consider the recommendations of the LPC in considering its action on the application.
- D. A Use Permit or an AUP for demolition of a non-residential building or structure may be approved only if the Board or Zoning Officer finds that the demolition will not be

Amend the Zoning Code to Facilitate Toxic Remediation in Manufacturing Districts

2 of 4

CONSENT CALENDAR  
May 1, 2012

materially detrimental to the commercial needs and public interest of any affected neighborhood or the City, and one of the following findings that the demolition:

1. Is required to allow a proposed new building or other proposed new Use;
2. Will remove a building which is unusable for activities which are compatible with the purposes of the District in which it is located or which is infeasible to modify for such uses;
3. Will remove a structure which represents an unabatable attractive nuisance to the public; or
4. Is required for the furtherance of specific plans or projects sponsored by the City or other local district or authority. In such cases, it shall be demonstrated that it is infeasible to obtain prior or concurrent approval for the new construction or new use which is contemplated by such specific plans or projects and that adhering to such a requirement would threaten the viability of the plan or project. (Ord. 6478-NS § 4 (part), 1999)

This means that prior to any demolition, the project must be granted a Use Permit or an AUP, requiring findings, none of which include toxic remediation under a building.

Additionally, Chapter 23E.80.909 Paragraph D states that

- D. Except as permitted under 23E.80.045, subdivisions A.1 or A.2, in order to approve a Use Permit under Section 23E.80.045 to change the use of or remove more than 25% of the floor area of a building currently or most recently used for manufacturing, wholesale trade or warehousing, the Zoning Officer or Board must find:
1. Any necessary Use Permits that have been approved to provide comparable quality replacement manufacturing, wholesale trade and/or warehousing space in Berkeley at a comparable rent and that such replacement space will be available before the demolition or change of use of the space; or
  2. As a result of lawful business and building activities, there are exceptional physical circumstances (exclusive of the presence of hazardous materials in the building(s), soil or groundwater) found at the building not generally found in industrial buildings in the District which make it financially infeasible to reuse the building for any of the range of manufacturing, wholesale trade or warehouse uses permitted in the District. The analysis of the financial feasibility effects (which shall be verified by the City) of these physical circumstances shall consider those costs necessary to make the building meet current minimum standards for manufacturing, wholesale trade or warehouse buildings; and
  3. Appropriate mitigation has been made for loss of the manufacturing, warehousing or wholesale trade space in excess of 25% of that space through providing such space elsewhere in the City, payment into the West Berkeley Building Acquisition Fund, or by other appropriate means.

This requires findings that allow the removal of a building where there are “exceptional physical circumstances,” but is specifically exclusive of “presence of hazardous materials in the building(s), soil, or groundwater.”

Amend the Zoning Code to Facilitate Toxic Remediation in Manufacturing Districts  
3 of 4

CONSENT CALENDAR  
May 1, 2012

In order to make the cleanup of a site with toxic soil, it is recommended that a provision number 5 be added to Chapter 23C.08.050 Paragraph D stating “It is required to allow the remediation of toxic soil in conformance with DTSC Clean-up Requirements and a City of Berkeley approved toxic clean-up and monitoring program.”

In addition, Chapter 23E.80.090 Findings should be amended to include a new finding number 4 stating that: “As a result of previous building activities there are hazardous materials that are required to be remediated and monitored which could not otherwise be fully characterized, remediated or monitored without demolition of the building(s)”

FISCAL IMPACTS OF RECOMMENDATION  
Unknown

CONTACT PERSON

Councilmember Darryl Moore, District 2  
Councilmember Gordon Wozniak, District 8

981-7120  
981-7180

1 of 4




Office of the City Manager

**44**

**b**

ACTION CALENDAR

July 8, 2014

To: Honorable Mayor and Members of the City Council  
From:  Christine Daniel, City Manager  
Submitted by: Jane Micallef, Director, Health, Housing & Community Services  
Department  
Subject: Support Selected NAACP Housing Recommendations

RECOMMENDATION

Adopt a Resolution to take action on the following recommendations:

1. As vacancies on the Housing Advisory Commission occur, make new appointments that would add diversity to the Commission and better reflect the demographic make-up of the City, including diversity in age, gender, ethnicity, economic class, disability and sexual orientation; and
2. Host a Housing Workshop with a focus on affordable housing at a special joint meeting at Old City Hall, to be aired on public access television with two representatives from each of the following bodies: City Council, Rent Stabilization Board, Housing Advisory Commission, Berkeley Housing Authority, and stakeholders including but not necessarily limited to: NAACP, Latinos Unidos, Asian Pacific Islander Groups, the Center for Independent Living, LGBT groups, and non-profit housing providers.

FISCAL IMPACTS OF RECOMMENDATION

Staff time to prepare for a Housing Workshop.

CURRENT SITUATION AND ITS EFFECTS

At its April 2014 meeting, the Housing Advisory Commission (HAC) discussed and reviewed specific housing recommendations to help address concerns raised in a memorandum sent to the HAC by the Berkeley Branch of the National Association of the Advancement of Colored People (NAACP) in August 2013. The HAC developed the recommendations outlined below and included in the companion HAC report. This report summarizes the City Manager's position on the HAC recommendations.

	<b>HAC Recommendations</b>	<b>City Manager Response</b>
1.	<p>Vigorously advocate for the development of the Berkeley Way parking lot to be supportive housing including supportive services and a homeless shelter. Parking is the lowest priority. If replacement parking harms the feasibility of the Berkeley Way project, then parking should be completely eliminated or the possibility of having the Downtown Berkeley Association pay for parking be explored.</p>	<p>City Council has articulated a vision for the Berkeley Way site: construction of permanent supportive housing, shelter and community space, and maximized parking capacity. Staff have released an RFQ to identify a development team and responses are due June 2, 2014. The development team will fully investigate all potential development options for Berkeley Way, including a full financial analysis and the impact parking has on the feasibility of the project.</p>
2.	<p>Prioritize new affordable housing development at appropriate locations, with a particular emphasis on housing for low-income families. Whenever possible, emphasize the creation of affordable housing for people that are extremely low- and very low-income. As Section 8 Project Based Vouchers become available, encourage the Berkeley Housing Authority to prioritize their use for no-income and low-income households. This priority will help increase economic diversity in the City.</p>	<p>The Housing Element details the city's plan for promoting the development of housing for various income levels. State density bonus law requires the development of restricted income units thus adding new affordable units to the extent developers take advantage of this program. The City's Affordable Housing Mitigation Fee also provides developers of market rate housing the opportunity to create Below Market Rent units affordable to households at or below 50% AMI in lieu of paying a fee. The City is also currently modifying regulations related to Accessory Dwelling Units, which are smaller units typically affordable to low-income residents. The City would welcome the opportunity to coordinate with the Berkeley Housing Authority on Project Based Section 8 and funding through the City's Housing Trust Fund.</p>
3.	<p>Encourage the construction of infill buildings, particularly new affordable units and mixed-use developments on currently underutilized sites such as surface parking lots and vacant lots in the South Berkeley Plan Area.</p>	<p>This plan from the 1990s does not exclusively prioritize the development of new housing. The City recently received a grant which will allow staff to work on revising the plan which may include removing obstacles to the development of housing in this corridor.</p>
4.	<p>Remove the R-4 requirement that new residential buildings must provide one parking space per 1000 square feet of floor space.</p>	<p>A change of this nature would take a zoning amendment process. Since there are very few undeveloped lots in the R-4 zone, a greater barrier would be the lack of land available in the R4 zone for development.</p>
5.	<p>As HAC vacancies occur, make new appointments that would add diversity to the</p>	<p>The City Manager supports this</p>

	HAC Recommendations	City Manager Response
	Commission and better reflect the demographic make-up of the City. Such diversity can include: age, gender, ethnicity, economic class, disability and sexual orientation. The HAC will work to create a list of applicants for referral to Council.	recommendation.
6.	Host a Housing Workshop with a focus on affordable housing at a special joint meeting at Old City Hall, to be aired on public access television with two representatives from each of the following bodies: City Council, Rent Stabilization Board, Housing Advisory Commission, Berkeley Housing Authority, and stakeholders including but not necessarily limited to: NAACP, Latinos Unidos, Asian Pacific Islander Groups, the Center for Independent Living, LGBT groups, and non-profit housing providers. This should be done by September of 2014.	The City Manager supports this recommendation.

**BACKGROUND**

The Berkeley Branch of the National Association of the Advancement of Colored People (NAACP) sent a memorandum to the HAC that summarized concerns discussed at a town hall forum. At its April 2014 meeting, the HAC discussed and reviewed specific housing recommendations to help address concerns raised in the August 2013 NAACP memorandum.

**ENVIRONMENTAL SUSTAINABILITY**

There are no identifiable environmental impacts or opportunities associated with the subject of this report.

**RATIONALE FOR RECOMMENDATION**

Open dialog, specifically on housing in Berkeley, and increased diversity on all city commissions can help support more robust and informed policy making.

**ALTERNATIVE ACTIONS CONSIDERED**

None.

**CONTACT PERSON**

Kristen Lee, Community Services Specialist III, HHCS, 981-5427

**Attachments:**

1: Resolution

Support Selected NAACP Housing Recommendations  
4 of 4

Item 10 - Attachment 3  
Planning Commission  
October 18th, 2017

RESOLUTION NO. ##,###-N.S.

NAACP HOUSING RECOMMENDATIONS

WHEREAS, the Berkeley Branch of the National Association of the Advancement of Colored People (NAACP) sent a memorandum to the Housing Advisory Commission (HAC) that summarized concerns discussed at a town hall forum in July 2013; and

WHEREAS, many residents of Berkeley, including the NAACP, are concerned about the loss of African American, Latinos, and other marginalized members of our community.; and

WHEREAS, the HAC took the NAACP recommendations seriously and requests that the City Council act according to our recommendations; and

WHEREAS, at its April 2014 meeting, the HAC discussed and reviewed specific housing recommendations to help address concerns raised in the August 2013 NAACP memorandum.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that City Council will:

1. As vacancies on the Housing Advisory Commission occur, make new appointments that would add diversity to the Commission and better reflect the demographic make-up of the City, including diversity in age, gender, ethnicity, economic class, disability and sexual orientation; and
2. Host a Housing Workshop with a focus on affordable housing at a special joint meeting at Old City Hall, to be aired on public access television with two representatives from each of the following bodies: City Council, Rent Stabilization Board, Housing Advisory Commission, Berkeley Housing Authority, and stakeholders including but not necessarily limited to: NAACP, Latinos Unidos, Asian Pacific Islander Groups, the Center for Independent Living, LGBT groups, and non-profit housing providers.





Berkeley City Council

CONSENT CALENDAR  
December 16, 2014

To: Honorable Mayor and Members of the City Council

From: Councilmembers Laurie Capitelli

Subject: Referral to Planning Commission and City Manager Regarding the Feasibility of Requiring the Installation of Water Fountains/Filling Stations for New Commercial Development Projects

RECOMMENDATION

Refer to the Planning Commission and the City Manager the development of an ordinance requiring all new commercial development projects and remodels above a specified amount to incorporate a publicly available drinking fountain and/or water bottle filling station or locations on the premises where one may be installed without additional cost to the city for piping water to the location. Report back to council within 6 months.

FINANCIAL IMPLICATIONS

Unknown. Staff and commission time to research and write ordinance.

BACKGROUND

Drinking tap water is the healthiest way to hydrate bodies and is also environmentally sustainable. Tap water is one of the healthiest, most inexpensive, and readily available beverages to consumers. As a City we want to promote positive public health practices and encourage citizens to make smart choices. Encouraging citizens to drink tap water is a good way to shift beverage consumption practices away from sugar sweetened drinks. In an aim to highlight the excellent quality of the City of Berkeley's drinking water and to increase its consumption, providing access to water is essential.

Mandating the incorporation of water fountains/water bottle filling stations and/or set up for stations to be installed at a later date in new commercial development provides a community benefit essential to the residents of Berkeley at minimal costs to the developer.

CONTACT PERSON

Councilmember Laurie Capitelli, District 5      510-981-7150

RECEIVED AT  
COUNCIL MEETING OF:

OCT 27 2015

OFFICE OF THE CITY CLERK  
CITY OF BERKELEY

Item 10 - Attachment 1  
Planning Commission  
October 19, 2016

Item 9 - Attachment 1  
Planning Commission  
September 21, 2016  
ACTION CALENDAR  
October 27, 2015  
(continued from October 6, 2015)

To: Honorable Mayor and Members of the City Council  
From: Councilmember Lori Droste  
Subject: Councilmember Lori Droste's Green Affordable Housing Package - Amendments

**RECOMMENDATION**

Request that the Planning Commission and City Manager investigate the feasibility of reducing barriers for the creation of new affordable housing. City Council requests that commissions and staff address and propose solutions and/or an implementation plan using the following recommendations by October 1, 2016.

**Policy 1: Designate units and funding for affordable housing by prioritizing housing over parking spaces in new developments**

1. Reduce or eliminate minimum residential parking requirements if car-sharing spaces, shared mobility devices, or transit passes or other TDM measures are provided.
2. Consider a cap on residential parking maximums.
3. Reduce or eliminate minimum parking requirements for new housing that serves populations that do not have high rates of car ownerships.
4. Reduce or eliminate minimum parking requirements for transit-intensive housing.
  - Transit-intensive housing is defined as within 1,200 feet of a transit center or within 1,200 feet of an overlap between major transit corridor and a commercial or mixed-use district.
  - Broadly defined, a *transit corridor* generally refers to a geographic area that accommodates travel or potential travel. A transit corridor is best defined as the areas around all of the stations along a transit line that have destinations or residences within reasonable distance for walking, biking, or other transit connections. ■
  - Broadly defined, a *transit hub* refers to a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or a major bus route with frequencies of service intervals of 15 minutes or less during the morning and afternoon peak commute periods. ■
5. Re-evaluate and/or reduce parking space requirements per new residential unit in areas within ½ mile of a transit hub.

*Determine a process whereby the costs saved by parking reductions will be designated for affordable units or the Affordable Housing Trust Fund.*

*Evaluate and account for impacts of parking policies on access and routes for emergency vehicles and evacuations.*

**Policy 2: Remove the structural barriers to creating more housing**

1. Improve and streamline the development review process, particularly for permanently affordable housing projects. ~~and smaller residential housing proposals~~ Review and compare Berkeley's process to that of neighboring cities.

To: Planning Commission

From: Chris Schildt

Date: January 26, 2019

RE: Comments on the 2019 Local Hazard Mitigation Plan

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This memo summarizes my comments on the 2019 Local Hazard Mitigation Plan draft.

Comments related to the planning commission:

- Under Severe Storms, one proposed action is to “use development standards to ensure new development does not increase flood potential.” To what extent is this already incorporated into existing development standards, and to what extent would this require a change in our existing development standards?
- Under Sea Level Rise proposed action is to “mitigate the impacts of sea level rise”, including to “review development standards to ensure new and existing public and private developments and infrastructure are protected from floods due to sea-level rise.” In addition to protecting developments from floods, I would recommend we should take into account where development standards may need to change in the city in order to reduce the potential for floods from sea level rise.

Finally, I’d like to note that there are 27 proposed actions within this plan, yet only seven of them explicitly include considerations to protect the city’s historically underserved populations. I would like to see more outreach to these communities to better understand how our mitigation plan can best protect these communities. It would be important to name who these underserved populations are (e.g. unhoused/homeless people, low-income homeowners, tenants, people who have historically been denied access to capital or services due to de jure or de facto racial discrimination, etc.) and how this history may impact their vulnerability to hazards, and therefore should inform how the city plans to mitigate. For example, in the proposed action on streamlining, it states that it will advance the objective on protecting historically underserved populations. Yet after disasters, there is often an increase in speculative activity from outside investors who will buy properties at far below market value from low-income people who aren’t able to afford to rebuild. Streamlining without proper guardrails could increase this type of speculation and actually harm low-income homeowners, rather than protect them. Likewise, under air quality, developing a list of potential clean air facilities to the community during low air quality events will only protect vulnerable communities such as the homeless if it is coupled with expansion of hours and reduction of fees and other barriers (for example, during the smoke-filled days of November 2018, San Francisco’s museums offered free admission and libraries extended their hours to allow people access to clean air facilities).



Dear UC Berkeley,

We would like to applaud the university's recent efforts to build more housing and urge the university to continue to move forward to build student housing. Approving all the student housing sites from the 2017 Housing Master Plan Task Force is a step forward; however, we remain far behind solving the problem of housing insecurity for students.

The City Council and Planning Commission remain committed to solving the housing crisis for students, as recently evidenced by unanimous support for the More Student Housing Now Resolution in 2018. However, any solution must involve both the university and the city.

Despite recent progress, the university has not kept up with its goals for creating housing as outlined by the 2020 Long Range Development Plan. Furthermore, unforeseen increases in enrollment at the university have only exacerbated student housing insecurity. As a result, UC Berkeley has faced legal challenges from local community groups such as local nonprofit, Save Berkeley's Neighborhoods.

The City Council and Planning Commission acknowledge the difficulty to create new housing and are working to facilitate the creation of more housing for students. Some proposed measures include reducing parking requirements and increasing density bonuses and height limits in the Southside. We all recognize that there is a housing shortage in Berkeley. We would like to offer our support to help the university address housing insecurity for students and we urge you to continue to prioritize this urgent issue.

Sincerely,



**Pearson, Alene**

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**From:** Liam Will <liamwill@berkeley.edu>  
**Sent:** Wednesday, January 16, 2019 12:09 PM  
**To:** Pearson, Alene  
**Subject:** About An Agenda Item Tonight

Dear Members of the Planning Commission,

My name is Liam and I am a student at UC Berkeley. I am writing to reiterate the great need for student housing development in the Southside area. I strongly support the immediate, short-term, and long-term options to increase housing supply as outlined in the staff report. Specifically, the densification of the Southside, expansion of car-free housing, and an updated environmental analysis of potential Zoning Ordinance amendments are crucial to alleviating Berkeley's housing crisis.

Insufficient student housing is a severe problem that must be addressed with urgency, and I urge the Commission to expedite these policies without delay.





**Pearson, Alene**

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**From:** Pablo Chong Herrera <pablo.herrera177@berkeley.edu>  
**Sent:** Wednesday, January 16, 2019 12:50 PM  
**To:** Pearson, Alene  
**Cc:** josh.lewis525@berkeley.edu  
**Subject:** Student Housing at CoB Planning Commission

Dear Planning Commissioners and associated City Officials,

My name is Pablo Chong Herrera and I am a senior at UC Berkeley. I am writing to urge the Commission to sufficiently address the dire housing need of all college students in Berkeley, primarily but not limited to Cal and Berkeley City College. In the long term process of addressing the student housing shortage, the Commission must involve student leaders, including The Homeless Student Union at UC Berkeley, the ASUC Housing Commission and the relevant Executive Officers of the ASUC.

After four years as a student at Cal, I have personally witnessed and anecdotally heard terrifying accounts of student homelessness. The housing shortage unnecessarily increases the already tremendous financial and mental stress that college brings upon students. Associated problems include food insecurity, mental and physical health deterioration, and a growing anger due to slow moving public solutions. The issue of homelessness is not unique to Berkeley students, nor across the Bay Area. However, the City of Berkeley can lead the Bay Area in tackling the issue head on, instead of inaction.

I am writing to reiterate the urgent need for student housing development in the Southside area. I strongly support the immediate, short-term, and long-term options to increase housing supply as outlined in the staff report. Specifically, increasing housing density on Southside, expanding car-free housing, and an updating environmental analysis of potential Zoning Ordinance amendments are crucial to alleviating Berkeley's housing crisis.

Insufficient student housing is a severe problem that must be addressed with urgency, and I urge the Commission to expedite these policies without delay.

Thank you,  
Pablo Chong Herrera

UC Berkeley '19, B.A. Political Science





Dear Members of the Planning Commission,

My name is Alexander Wilfert and I serve as President of the Associated Students of the University of California.

I am writing to you, both as a stakeholder in the interests of our city and a representative of the student population of Berkeley. As a member of the student population, and a public servant, I am acutely aware of the importance of and need for student and affordable housing throughout our city, but particularly in the Southside area.

To date, there has been an apparent insufficiency of action from the City of Berkeley to address the urgent and critical needs of my community of Berkeley students, and the larger population of the City when it comes to housing. The City now has an opportunity to show to its constituents that it will take action to ensure their safety, and that their basic needs have been met.

As outlined in the staff report, the City of Berkeley has been presented both short-term and long-term options to provide both relief and solutions to the housing crisis that our city faces, especially in the Southside area. Specifically, I urge you to deliberate and support densification in the Southside, measures for car-free housing, and an in-depth, effective and updated environmental analysis of Zoning Ordinance amendments.

The immediate implementation of these policies is vital to the alleviation of Berkeley's housing crisis, and will help us make great strides in ensuring that no member of the Berkeley community will lack affordable housing.

Insufficient housing for students is a severe problem that needs to be rectified, and I urge the Commission to expedite and enact these policies without delay.

Thank you,

Alexander Wilfert  
ASUC President



**Pearson, Alene**

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**From:** Pearson, Alene  
**Sent:** Friday, January 18, 2019 9:57 AM  
**To:** Pearson, Alene  
**Subject:** materials requested at Jan 16 PC meeting

Dear Commissioners,  
Below you'll find links to information requested at Wednesday's meeting.  
Best,  
Alene

Berkeley Fire Zone Maps: [https://www.cityofberkeley.info/uploadedFiles/Planning\\_\(new\\_site\\_map\\_walk-through\)/Level 3 - General/Berkeley%20Fire%20Zone%20Map.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_(new_site_map_walk-through)/Level_3_-_General/Berkeley%20Fire%20Zone%20Map.pdf)

Economic Development Dashboards: <https://www.cityofberkeley.info/oed/reports/>

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**Alene Pearson, Principal Planner**  
Land Use Planning Division  
City of Berkeley  
510-981-7489





Planning Commission

2

INFORMATION CALENDAR  
January 29, 2019

To: Honorable Mayor and Members of the City Council  
From: Planning Commission  
Submitted by: Chris Schildt, Chairperson, Planning Commission and Jeff Vincent,  
Chairperson of the Workplan Subcommittee  
Subject: Planning Commission Workplan 2018-2019

**INTRODUCTION**

The City of Berkeley Planning Commission (PC) hereby submits its work plan for Fiscal Year 2018, pursuant to the Berkeley City Council's request.

**CURRENT SITUATION AND ITS EFFECTS**

Unlike other city commissions, the PC's workload is almost exclusively dictated by referrals from the City Council. Each year, the Council goes through an extensive referral ranking process, which shapes the prioritization of work for the PC. Thus, by design, the PC has far less latitude than other city commissions in setting its agenda. As of October 2018, the PC has a workload of more than 40 referrals from the City Council.

The PC's workplan organizes the referrals around three strategic areas of PC interest/outcome, as described below. Across these strategic outcome areas, the PC aims to **demonstrate state-wide leadership in promoting social equity, affordability, and climate resilience issues**. In some cases this requires action to comply with new state laws, and in some cases this may involve going "beyond" state laws to recommend local land use policies that the PC feels will achieve more equitable results than state requirements.

***Strategic Outcome Areas:***

1. **Increase affordable housing.** This includes retaining and expanding the stock of affordable housing available throughout the city. The commission has identified three mechanisms by which we can advance this strategic outcome:
  1. Modify development standards to create more affordable housing;
  2. Revise administrative procedures and levels of discretion to streamline affordable housing;
  3. Develop community benefits and other value capture mechanisms in order to maximize affordability in new development.

2. **Promote healthy, livable communities.** This includes ensuring Berkeley residents live in safe, healthy, and accessible communities with parks, schools, local businesses, and cultural institutions, and promoting healthy mobility options for all residents.
3. **Support community economic development and commercial vitality.** This includes preserving and enhancing Berkeley's thriving neighborhood commercial areas and ensuring a vibrant downtown.

**Resources:** Significant staff time is required to conduct the research, write reports, and draft zoning language. In some cases, consultants are brought on board to assist staff.

**Activities:** For each referral, the PC's action requires staff time for substantive reports on each topic within each referral as well as developing draft zoning language changes. Often the draft zoning language goes through multiple revisions across multiple PC meetings.

**Outputs:** On nearly all referrals, the PC output consists of recommendations to the City Council.

## **BACKGROUND**

City Council has requested that each commission provide a workplan that explains the mission and goals of each appointed body. The mission of the Planning Commission, as outlined in the City Charter, reads:

*"The Commission recommends modifications to the City of Berkeley General Plan and related policy documents. All Zoning Ordinance amendments are developed through this Commission and recommended to the City Council. Other purviews include subdivision map consideration and review and comments on substantial projects from surrounding jurisdictions."*

Members of the PC have discussed their goals and prioritized three strategic outcomes to guide their 2018-2019 work as described above: 1) Increase affordable housing; 2) Promote healthy, livable communities; and 3) Support community economic development and commercial vitality.

At its meeting of November 7, 2018, the Planning Commission voted to adopt this workplan with Commissioner Vincent's edits and send it to City Council. [Vote: 8-0-0-1; Ayes: Martinot, Kapla, Schildt, Vincent, Fong, Pinto, Beach, Lacey. Noes: None. Abstain: None. Absent: Wrenn. Motion/Second: Kapla/Schildt]

The attached Planning Commission Workplan Table 2018-2019 (see *Attachment 1*) shows prioritized referrals, referrals awaiting action from other commission(s), referrals ranked by City Council that are slated for PC action to begin after the current work planning period (ending June 2019) based on resources and capacity, and referrals not



ranked by City Council for 2018-2019 work plan but which will be added to PC work schedule in priority order once ranked by Council.

**ENVIRONMENTAL SUSTAINABILITY**

The PC's workplan aids in advancing the city's goals around sustainability and greenhouse gas reduction.

**POSSIBLE FUTURE ACTION**

The PC's pace in working through City Council referrals is determinant on staff support. Currently, the Long Range Policy Group has two FTE staff planners (with plans to hire a 3<sup>rd</sup> and 4<sup>th</sup> soon) that support the growing workload of the PC. The PC is understaffed relative to its workload, as created by the City Council and relative to other Commissions. The PC's ability to move more quickly through City Council referrals could be greatly improved by increasing staff support to the PC.

The PC also makes additions or changes to the workplan as expedited referrals and other timely requests which arise from the City Council.

***Resources Needed:*** Given the urgency of the housing situation in the City of Berkeley, additional staff support for the PC seems to be a prudent priority for city leaders to address.

**FISCAL IMPACTS OF POSSIBLE FUTURE ACTION**

Increasing staff support to the PC will likely incur expense to the City of Berkeley Planning Department.

**CONTACT PERSON**

Alene Pearson, Commission Secretary, Land Use Planning Division, 510-981-7489

Attachments:

1: PC Workplan Table 2018-2019

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 Planning Commission Workplan Table 2018-2019

ATTACHMENT 1

REFERRALS to Planning Commission by the City Council	RANKING* - RRV & HAP	STRATEGIC OUTCOME AREAS			
A. Referrals Prioritized by PC for 2018-2019 Workplan		1. Increase Affordable Housing	2. Promote Healthy, Livable Communities	3. Support Economic Development and Commercial Vitality	Waiting on other Commission ?
Small Business Package	started			x	
Moderate Impact Home Occupations	started			x	
Comprehensive Cannabis Ordinance	3 started referrals		x	x	
Density Bonus Package	56, 16, and 2 started referrals	x			JSISHL
Student Housing Package	16, 56, and two started referrals	x			JSISHL
Adeline Community Benefits/Land Value Capture	10	x	x		
Streamline Permitting for Affordable Housing	started	x			JSISHL
Zoning Ordinance Revision Project Phase 1 & 2	started		x		
Green Affordable Housing	started	x			
Flexible Ground Floor Uses	25 and one started referral	x			
Housing Linkage Fees	started (short-term)	x			

B. Referrals Awaiting Action by Other Commission(s)		1. Increase Affordable Housing	2. Promote Healthy, Livable Communities	3. Support Economic Development and Commercial Vitality	Waiting on other Commission ?
Reclassify 1050 Paker from MU-LI to C-W	57			x	ZAB approval

Page 5 of 9  
 Planning Commission Workplan Table 2018-2019

ATTACHMENT 1

REFERRALS to Planning Commission by the City Council	RANKING* - RRV & HAP	STRATEGIC OUTCOME AREAS			
Green Stormwater Requirements from CEAC			x		CEAC
Air Pollution Performance Standards from CEAC			x		CEAC
Denial of Permits to Violators			x		HAC

C. Referrals ranked by City Council, work to begin after end of this work planning period (June 2019) TBD, based on resources and capacity		1. Increase Affordable Housing	2. Promote Healthy, Livable Communities	3. Support Economic Development and Commercial Vitality	Waiting on other Commission ?
Toxic Remediation Regulations	started		x		
Green Development Standards from CEAC	started (by CEAC)		x		
Lower discretion for internal remodeling	14		x		
Expand boundaries of Downtown Arts District	17			x	
Junior ADUs	20				
San Pablo Ave Specific Area Plan	23		x		
ADUs in very high fire zones	43		x		
Health Equity and Innovation District	49		x		
Research Tiny Homes, YSA Tiny Homes	63	x			
Commercial Square Footage in C-E	59			x	

REFERRALS to Planning Commission by the City Council	RANKING* - RRV & HAP	STRATEGIC OUTCOME AREAS			
D. Referrals not ranked by City Council for 2018-2019 work plan; will be added to work schedule once ranked based on ranking.		1. Increase Affordable Housing	2. Promote Healthy, Livable Communities	3. Support Economic Development and Commercial Vitality	Waiting on other Commission ?
Demolition Ordinance		x			
ADUs for Homeless		x			
Fee Waivers for Housing Trust Fund Projects		x			
Auto Uses in C-SA				x	
ADA Improvements in ADUs			x		
Inclusionary Requirement for Live/Work		x			
Mini Dorms (student housing)		x			
ADU Mods			x		

\* "started" is a referral on which substantive work began before last Council RRV, thus not subject to re-ranking. If blank, the referral has not yet been ranked by the City Council

NOTE: Many of these referrals touch on all 3 strategic outcome areas.

REFERRALS to Planning Commission by the City Council	RANKING* - RRV & HAP	STRATEGIC OUTCOME AREAS				
		1. Increase Affordable Housing	2. Promote Healthy, Livable Communities	3. Support Economic Development and Commercial Vitality	4. Comply with or Exceed State Law	Waiting on other Commission ?
<b>Referrals Prioritized by PC for 2018-2019 Workplan</b>						
<b>Small Business Package</b>	started	x				
<b>Moderate Impact Home Occupations</b>	started			x		
<b>Comprehensive Cannabis Ordinance</b>	3 started referrals			x	x	
<b>Density Bonus Package</b>						
Develop Community Benefits with C-T development standards (see Student Housing Package)	started					
Create pilot program for in-lieu fees for City Density Bonus (see Student Housing Package)	56	x				
Revise General Plan & Zoning Ord. to add written standards including density standards for parcels	started					
Amend Zoning Ord. to increase max height by 20' and adjust FAR in area bounded by Bancroft, College, and Fulton (see Student Housing Package)	16					
<b>Student Housing Package</b>	16, 56, and two started referrals	x				
<b>Adeline Community Benefits/Land Value Capture</b>	10	x	x			
<b>Streamline Permitting for Affordable Housing</b>	started	x				JSISHL
<b>Zoning Ordinance Revision Project Phase 1 &amp; 2</b>	started		x			
<b>Green Affordable Housing</b>	started	x				
<b>Flexible Ground Floor Uses</b>	25 and one started referral	x				
<b>Housing Linkage Fees</b>	started (short-term)	x				

RESOURCES	ACTIVITIES	OUTPUTS
LUP & OED staff time to write staff reports and Staff time to write staff reports		
Cannabis Commission Staff time to write Zoning	Commission will review language and provide feedback	Commission makes recommendations to Council
Staff time to write staff reports		
Staff time to write staff reports		
Consultant Staff time		
Staff time to write staff reports		
Staff time to write staff reports		
Adeline consultant Staff time		
JSISHL Subcommittee Staff time to write staff	JSISHL will review state housing laws, provide	JSISHL will make recommendations to the Council
Consultant ZORP Subcommittee Staff time to write staff reports and zoning		
Staff time to write staff reports		
Consultant Staff time		

Referrals Awaiting Action by Other Commission(s)		1. Increase Affordable Housing	2. Promote Healthy, Livable Communities	3. Support Economic Development and Commercial Vitality	4. Comply with or Exceed State Law	Waiting on other Commission ?
Reclassify 1050 Paker from MU-LI to C-W	57			x		ZAB approval
Green Stormwater Requirements from CEAC			x			CEAC
Green Development Standards from CEAC			x			CEAC
Air Pollution Performance Standards from CEAC			x			CEAC
Denial of Permits to Violators			x			HAC

Staff time and ZAB		

Referrals ranked by City Council, work to begin after end of this work planning period (June 2019) TBD, based on resources and capacity		1. Increase Affordable Housing	2. Promote Healthy, Livable Communities	3. Support Economic Development and Commercial Vitality	4. Comply with or Exceed State Law	Waiting on other Commission ?

Toxic Remediation Regulations	started		x		x	
Lower discretion for internal remodeling	14		x			
Expand boundaries of Downtown Arts District	17			x		
Junior ADUs	20	x				
San Pablo Ave Specific Area Plan	23		x			
ADUs in very high fire zones	43		x			
Health Equity and Innovation District	49		x			
Research Tiny Homes, YSA Tiny Homes	63	x				
Commercial Square Footage in C-E	59			x		

Staff time to write staff reports		
Staff time to write staff reports		
Staff time to write staff reports		
Staff time to write staff reports		
Funding Staff time Consultant? Subcommittee?		
Staff time to write staff reports		
Staff time to write staff reports		
Staff time to write staff reports		
Staff time to write staff reports		

Referrals not ranked by City Council for 2018-2019 work plan; will be added to work schedule once ranked based on ranking.		1. Increase Affordable Housing	2. Promote Healthy, Livable Communities	3. Support Economic Development and Commercial Vitality	4. Comply with or Exceed State Law	Waiting on other Commission ?
Demolition Ordinance		x				
ADUs for Homeless		x				
Fee Waivers for Housing Trust Fund projects		x				
Auto Uses in C-SA				x		
ADA Improvements in ADUs			x			
Inclusionary Requirement for Live/Work		x				


Mini Dorms (student housing)		x				
ADU Mods			x			


\* "started" is a referral on which substantive work began before last Council RRV, thus not subject to re-ranking. If blank, the referral has not yet been ranked by the City Council