



Planning Commission

# AGENDA

## SPECIAL MEETING OF THE PLANNING COMMISSION

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**Wednesday, November 18, 2020**

**7:00 PM**

**PUBLIC ADVISORY:** THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the Planning Commission (PC) will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID19 virus, there will not be a physical meeting location available.

**To access the meeting remotely:** Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://zoom.us/j/96468865881>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

**To join by phone:** Dial **1 669 900 6833** and enter Meeting ID: **964 6886 5881**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.

Please be mindful that the video conference and teleconference will be recorded. All rules of procedure and decorum that apply for in-person Planning Commission meetings apply for Planning Commission meetings conducted by teleconference or videoconference.

See **"MEETING PROCEDURES"** below.

**All written materials identified on this agenda are available on the Planning Commission webpage:**[https://www.cityofberkeley.info/Clerk/Commissions/Commissions\\_Planning Commission Homepage.aspx](https://www.cityofberkeley.info/Clerk/Commissions/Commissions_Planning_Commission_Homepage.aspx)

### **PRELIMINARY MATTERS**

- 1. Roll Call:** **Wiblin, Brad**, appointed by Councilmember Kesarwani, District 1  
**Martinot, Steve**, appointed by Councilmember Davila, District 2  
**Schildt, Christine**, appointed by Councilmember Bartlett, District 3  
**Lacey, Mary Kay, Vice Chair**, appointed by Councilmember Harrison, District 4  
**Beach, Benjamin**, appointed by Councilmember Hahn, District 5  
**Kapla, Robb, Chair**, appointed by Councilmember Wengraf, District 6  
**Krpata, Shane**, appointed by Councilmember Robinson, District 7

Vincent, Jeff, appointed by Councilmember Droste, District 8  
Wrenn, Rob, 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.
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 **October 21, 2020**.
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.

- |                           |  |
|---------------------------|--|
| <b>9. Action:</b>         | <b>Public Hearing: Bayer Development Agreement Update &amp; SEIR Scoping Meeting</b>   |
| <b>Recommendation:</b>    | Hold a public hearing, take public comment, and provide comment on the scope and the content of the SEIR.                                    |
| <b>Written Materials:</b> | Attached   |
| <b>Presentation:</b>      | N/A  |
|                           |  |
| <b>10. Action:</b>        | <b>Public Hearing: Demolition Ordinance</b>  |
| <b>Recommendation:</b>    | Hold a public hearing, take public comment, and discuss draft Ordinance amendments, provide direction, and a recommendation to City Council. |
| <b>Written Materials:</b> | Attached   |
| <b>Presentation:</b>      | N/A  |

**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.

**Information Items:**

- None

**Communications:**

- October 22 – Memo from the City Manager
- October 21 – Staff, Supplemental Information

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

- Supplemental Packet One – received by noon two days before the meeting
- Supplemental Packet Two – received by 5pm the day before the meeting
- Supplemental Packet Three – received after 5pm the day before the meeting

**ADJOURNMENT**

\*\*\*\* **MEETING PROCEDURES** \*\*\*\*

**Public Testimony Guidelines:**

All persons are welcome to attend the virtual meeting and will be given an opportunity to address the Commission. 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. 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.

**Procedures for Correspondence to the Commissioners:**

All persons are welcome to attend the virtual hearing and will be given an opportunity to address the Commission. Comments may be made verbally at the public hearing and/or in writing before the hearing. The Commission may limit the time granted to each speaker.

Written comments must be directed to the Planning Commission Secretary at the Land Use Planning Division (Attn: Planning Commission Secretary), 1947 Center Street, Second Floor, Berkeley CA 94704, or via e-mail to: [apearson@cityofberkeley.info](mailto:apearson@cityofberkeley.info). All materials will be made available via the Planning Commission agenda page online at this address: <https://www.cityofberkeley.info/PC/>.

Correspondence received by **12 noon, nine days** before this public meeting, will be included as a Communication in the agenda packet. Correspondence received after this deadline will be conveyed to the Commission and the public in the following manner:

- Correspondence received by **12 noon two days** before this public meeting, will be included in a Supplemental Packet, which will be posted to the online agenda as a Late Communication and emailed to Commissioners one day before the public meeting.
- Correspondence received by **5pm one day** before this public meeting, will be included in a second Supplemental Packet, which will be posted to the online agenda as a Late Communication and emailed to the Commissioners by 5pm on the day of the public meeting.
- Correspondence received **after 5pm one day** before this public meeting will be saved as part of the public record.

**Note: It will not be possible to submit written comments at the meeting.**

**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.

**Communication Access:** To request a meeting agenda in large print, Braille, or on audiocassette, or to request a sign language interpreter for the meeting, call (510) 981-7410 (voice), or 981-6903 (TDD). Notice of at least five (5) business days will ensure availability.

**Meeting Access:** 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.

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I hereby certify that the agenda for this regular meeting of the Planning Commission was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on **November 12, 2020.**

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Alene Pearson  
Planning Commission Secretary



Planning Commission

1                   **DRAFT MINUTES OF THE SPECIAL PLANNING COMMISSION MEETING**  
 2   **October 21, 2020**

3 The meeting was called to order at 7:02 p.m.

4 **Location:** Virtual meeting via Zoom

5 **1. ROLL CALL:**

6     **Commissioners Present:** Benjamin Beach, Robb Kapla, Shane Krpata, Steve Martinot,  
 7     Mary Kay Lacey, Christine Schildt, Jeff Vincent, Brad Wiblin, and Rob Wrenn.

8     **Commissioners Absent:** None.

9     **Staff Present:** Secretary Alene Pearson, Katrina Lapira, and Alisa Shen.

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

11 **3. PUBLIC COMMENT PERIOD:** 5

12 **4. PLANNING STAFF REPORT:**

- 13
- 14     • Planning Commission Meeting - November 4 (CANCELLED)
- 15     • City Council Meeting - November 17
- 16         ○ General Plan Amendment – Vehicle Miles Traveled
- 17         ○ Parking Reform Package
- 18     • Note: Please see communications from Commissioner Martinot to revisit motion on the
- 19         Adeline Corridor Plan

20 **Information Items:**

- 21     • None

22 **Communications:**

- 23
- 24     • October 2 – Martinot, Adeline Corridor Plan
- 25     • October 9 – Martinot, Agenda Request

26 **Late Communications:** *See agenda for links.*

- 27
- 28     • Supplemental Packet One
- 29     • Supplemental Packet Two
- 30     • Supplemental Packet Three

31 **5. CHAIR REPORT:**

- 32 • None

33  
34 **6. COMMITTEE REPORT:** Reports by Commission committees or liaisons. In addition to the  
35 items below, additional matters may be reported at the meeting.

- 36  
37 • CAG – Held meetings on October 14 and 20. At the last meeting the CAG members  
38 shared their statements around affordable housing and public/civic space. There were  
39 small group discussions around the concept of right of return, displacement, and open  
40 space. There will be office hours for the public to attend within the next week.  
41

42 **7. APPROVAL OF MINUTES:**

43 Motion/Second/Carried (Vincent/Wiblin) to approve the Planning Commission Meeting  
44 Minutes from October 7, 2020.

45  
46 Ayes: Beach, Kapla, Krpata, Lacey, Martinot, Schildt, Vincent, Wrenn, and Wiblin. Noes: None.  
47 Abstain: None. Absent: None. (9-0-0-0)

48  
49 **FUTURE AGENDA ITEMS AND OTHER PLANNING-RELATED EVENTS:**

- 50 • Planning Commission - November 18  
51 ○ Bayer Development Agreement - EIR Scoping Session  
52 ○ Demolition Ordinance Public Hearing  
53 • Poll to re-notice and agendaize Adeline Corridor Plan for the next Planning Commission  
54 meeting – insufficient votes / failed

55 **AGENDA ITEMS**

56 **9. Discussion:** *Update on Citywide Affordable Housing Requirements*

57 Staff presented on Berkeley's existing affordable housing  
58 requirements, analysis on in-lieu fees vs. on-site units, and other  
59 potential changes to consider. In November, staff will return to the  
60 Commission with policy recommendations.

61 **Public Comments: 3**

62 **10. Discussion:** *Identify Commissioner to Speak on Parking Reform*

63 The Planning Commission selected a commissioner to represent the  
64 body's recommendations on parking reform to the City Council.

65 Rob (Lacey/Beach)

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Motion/Second/Carried (Lacey/Beach) selecting Commissioner Rob Wren to represent the Planning Commission at the November 17 City Council meeting.

Ayes: Beach, Kapla, Krpata, Lacey, Martinot, Schildt, Vincent, Wrenn, and Wiblin. Noes: None. Abstain: None. Absent: None. (9-0-0-0)

72  
73  
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75

**Public Comments: 0**

**Members in the public in attendance: 13**

**Public Speakers: 8 speakers**

**Length of the meeting: 3 hours and 25 minutes**

DRAFT







Planning and Development Department  
Land Use Planning Division

## STAFF REPORT

DATE: November 18, 2020  
TO: Members of the Planning Commission  
FROM: Leslie Mendez, Senior Planner  
SUBJECT: Bayer Development Agreement Update & EIR Scoping Meeting

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### INTRODUCTION

Based on the scale and scope of the proposed Bayer Development Agreement Update project, the City has determined that a Subsequent Environmental Impact Report (EIR), tiered from the previous EIR certified in 1991 for the current development agreement, will be required to comply with the California Environmental Quality Act (CEQA). A Notice of Preparation of a Draft Subsequent EIR to gather input from agencies and the public was released on October 29, 2020, beginning the minimum 30-day review period ending December 3, 2020. The Planning Commission should use this scoping meeting to provide comments on the scope and content of the Subsequent EIR.

### BACKGROUND

In March of 2020, Bayer HealthCare, LLC submitted an application to amend and extend the existing Development Agreement (DA) for the Bayer campus. The Bayer campus is comprised of approximately forty-six acres and houses biopharmaceutical operations with supporting office uses. The campus includes two primary areas:

- The North Properties, 800 Dwight Way, approximately 31.9 acres located north of Carleton Street, which is the site included in the 1992 Development Agreement; and
- The South Properties, 801 Grayson Street, approximately 14.4 acres located south of Carleton Street, operating under Use Permit UP #00-10000008

The City of Berkeley entered into a 30-year DA with Miles, Inc. (now Bayer HealthCare LLC) in February 1992. An EIR, certified in 1991, analyzed the potential impacts of the development proposed as part of the original DA. The existing DA covers only the North Properties; Bayer acquired the South Properties after a major amendment to the DA in 1999, and it is therefore not currently included in the DA project area. The City approved a Use Permit and adopted a Mitigated Negative Declaration for the South Properties on

Bayer Development Agreement Update EIR Scoping Meeting

July 21, 2000. While the North Properties and South Properties are governed by two separate City entitlements, they are operated as one Bayer Campus.

**Existing Conditions and Entitlements**

The Bayer campus currently develops and produces commercial biopharmaceuticals that are distributed globally. The campus has approximately 30 buildings, ranging in height from approximately 14 feet to the 100-foot former Colgate-Palmolive tower. The buildings total approximately 1,087,000 square feet of floor area, including 567,000 square feet on the North Properties and 520,000 square feet on the South Properties. The Bayer campus also has eight surface parking lots with a total of 1,100 parking spaces. The buildings provide space for the following permitted uses:

- 1) Production: pilot plants, processing areas, and fill and finishing areas
- 2) Laboratories: research into production and manufacturing technologies, quality assurance examination and testing of therapeutic pharmaceuticals
- 3) Warehouse: holding space for distribution of products
- 4) Administration: offices, conference rooms, computer rooms, fitness/health facilities, security, training rooms, library, and cafeteria
- 5) Utilities: equipment for water distillation, refrigeration, electrical operations, and steam generation
- 6) Maintenance: workshops and maintenance bays for repair, replacement, and preventative activities

**Existing Public Benefits**

As part of the DA, Bayer committed to a menu of community benefits that have been supported since 1992 totaling, as of January 2020, \$16,708,000 in actual dollars and \$27,460,000 as adjusted for inflation. The public benefits include:

- Biotechnology Education Training Program (*in Kind Support*)
- Employment –Hiring Program
- Affordable Housing
- Child Care Program (*In kind support*)
- Public Infrastructure Improvements
- Transportation Demand Management Program
- Historic Preservation and Public Art
- Environmental Protection
- Community Programs
- Animal Care and Usage (Note: in 2008 Bayer removed all animals off the Berkeley campus. From 1992 to 2008 Bayer supported outside research into alternatives to animal use in pharmaceutical testing.)

A new Community Benefits package will be negotiated between Bayer and City beginning early next year (2021). A proposed community benefits package will be brought to the Planning Commission along with the DA Amendment for review and recommended action for Council in summer 2021. The Community Benefits package is not part of the scoping session.

Bayer Development Agreement Update EIR Scoping Meeting

**PROJECT DESCRIPTION**

The current DA Amendment project proposes to:

1. Extend the terms of the DA for another 30 years from its February 2022 expiration date to 2052;
2. Extend the boundaries of the DA to include the South Properties; and
3. Modify various development standards, operational restrictions, and campus layout.

**Proposed Revisions and Modifications to the Development Standards**

The project, which consists of a conceptual development plan, proposes to rearrange the campus layout through proposed phased demolition of nine existing buildings; construction of approximately twelve new buildings for production, laboratory, and administrative uses; and replacement of surface parking with two new parking structures and new underground parking facilities. Several other buildings providing space for manufacturing, warehouses, and maintenance would be renovated and/or expanded. Maximum permitted building heights would range from 25 feet to 80 feet depending on the use and location of buildings. Building heights would be redistributed over current conditions, however, the project does not propose heights taller than currently permissible, and also includes 15-foot “step backs” buffers, and setbacks from streets, the proposed project is intended to preserve existing view corridors on Dwight Way, Parker Street, and Carleton Street.

Overall, as shown in the Table 1 below, the project proposes to reduce the maximum allowable square footage entitled under the current DA and South Properties Use Permit by 148,000 square feet. Within the 30-year time frame, Bayer envisions retaining approximately 820,000 square feet of existing square footage, demolishing nine buildings totaling approximately 267,000 square feet, and constructing approximately 918,000 square feet of new facilities. Conceptual 30-year buildout is illustrated in Figure 2 in the Notice of Preparation found in Attachment 1 to this report.

**Table 1: Existing, Entitled, and Proposed Buildout by Square Footage**

Existing Built Sq. Ft.	Existing Maximum Permitted Sq. Ft.	Proposed Maximum Permitted Sq. Ft.	Existing Sq. Ft. to be Retained	Proposed Sq. Ft. to be Demolished	Proposed New Construction Sq. Ft.	Proposed Change from (E) Permissible Sq. Ft.
1,087,000	1,886,000	1,738,000	820,000	-276,000	918,000	-148,000

As originally conceived, the North Properties were divided into eight different blocks with defined usage requirements and height maximums for each block. The South Properties are subject to Mixed Manufacturing zoning, with a height limit of 45 feet. The current proposal would reduce the number and configuration of the blocks, as well as revise the development standards by block, as summarized in Table 2 and illustrated in Figures 1 and 2 below.

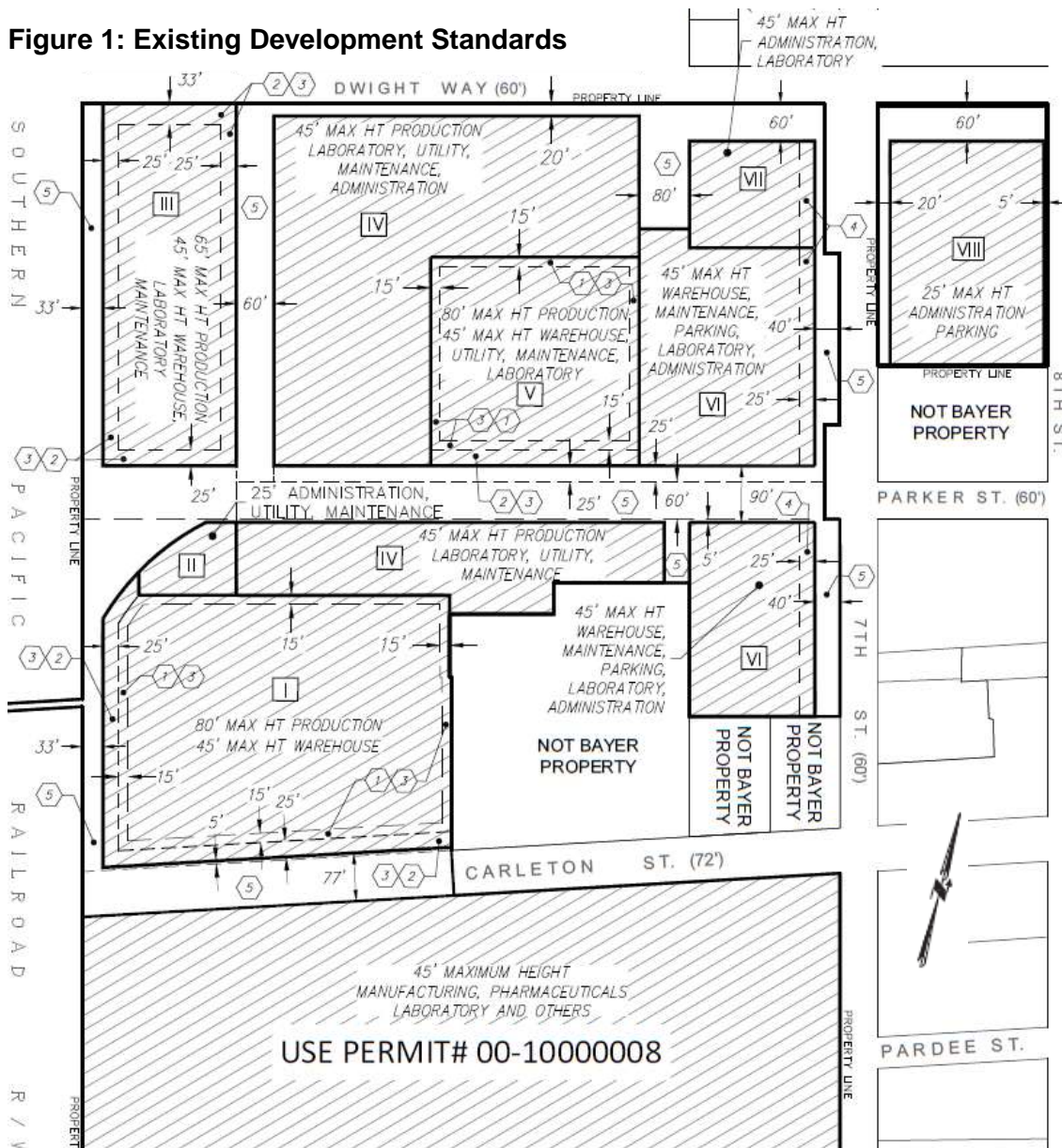
Bayer Development Agreement Update EIR Scoping Meeting

**Table 2: Development Standards**

Development Standard	South Campus / MM Zoning BMC 23E.76.070	Existing DA	Proposed Amendment
Max. Height (in ft.)	<b>45'</b>	<b>80'</b> for Production <b>45'</b> Other Uses	<b>80'</b> for Production <b>65'</b> other Uses
Max. FAR	<b>2</b>	<b>0.27</b> (Block VIII) to <b>2</b> (Block V)	<b>0.27</b> (Block D) to <b>1.37</b> (Block B)
Setbacks: Zero Height Zones	none	<p>There are four main 0 ft. height zones, which generally follow street alignments on the project site:</p> <ul style="list-style-type: none"> <li>• West end of Parker St.</li> <li>• 90' wide corridor on Parker St. from Seventh St. to Fourth St</li> <li>• 60' wide corridor on Fourth St from Parker St. to Dwight Way</li> <li>• 80' wide corridor on Sixth St. from Dwight Way to 200 ft. south</li> </ul>	<p>Approximately 500,000 sq. ft. of zero ft. for combined north and south properties, providing enhanced buffers along Seventh Street and other site boundaries. The main zones include:</p> <ul style="list-style-type: none"> <li>• 33' setback on the western boundary, from Dwight Way to Grayson St.</li> <li>• 60' wide corridor on Fourth St. from Dwight Way to Carleton St.</li> <li>• 80' setback on Seventh St., from Dwight Way to Grayson St.</li> <li>• 60' setback on Dwight Way, from the western boundary to Seventh St.</li> <li>• 90' wide corridor on Parker St, from western boundary to Seventh St.</li> <li>• 90' wide corridor on Carleton St. from western to eastern boundary.</li> <li>• 10' setback on Grayson St. from western boundary to Seventh St.</li> </ul>
Parking: Production / Warehousing	<b>1:1,000</b> sq. ft. (floor area <10K) <b>1:1,500</b> sq. ft. (floor area >10K)	Production: <b>1:1,000</b> sq. ft. Warehouse: <b>1:5,000</b> sq. ft.	No Change
Parking: Other Uses	<b>1:500</b> sq. ft.	Laboratory: <b>1.5:1,000</b> sq. ft. Admin: <b>1:500</b> sq. ft.	Laboratory: <b>1:1,000</b> sq. ft. Admin: No Change

Bayer Development Agreement Update EIR Scoping Meeting

Figure 1: Existing Development Standards

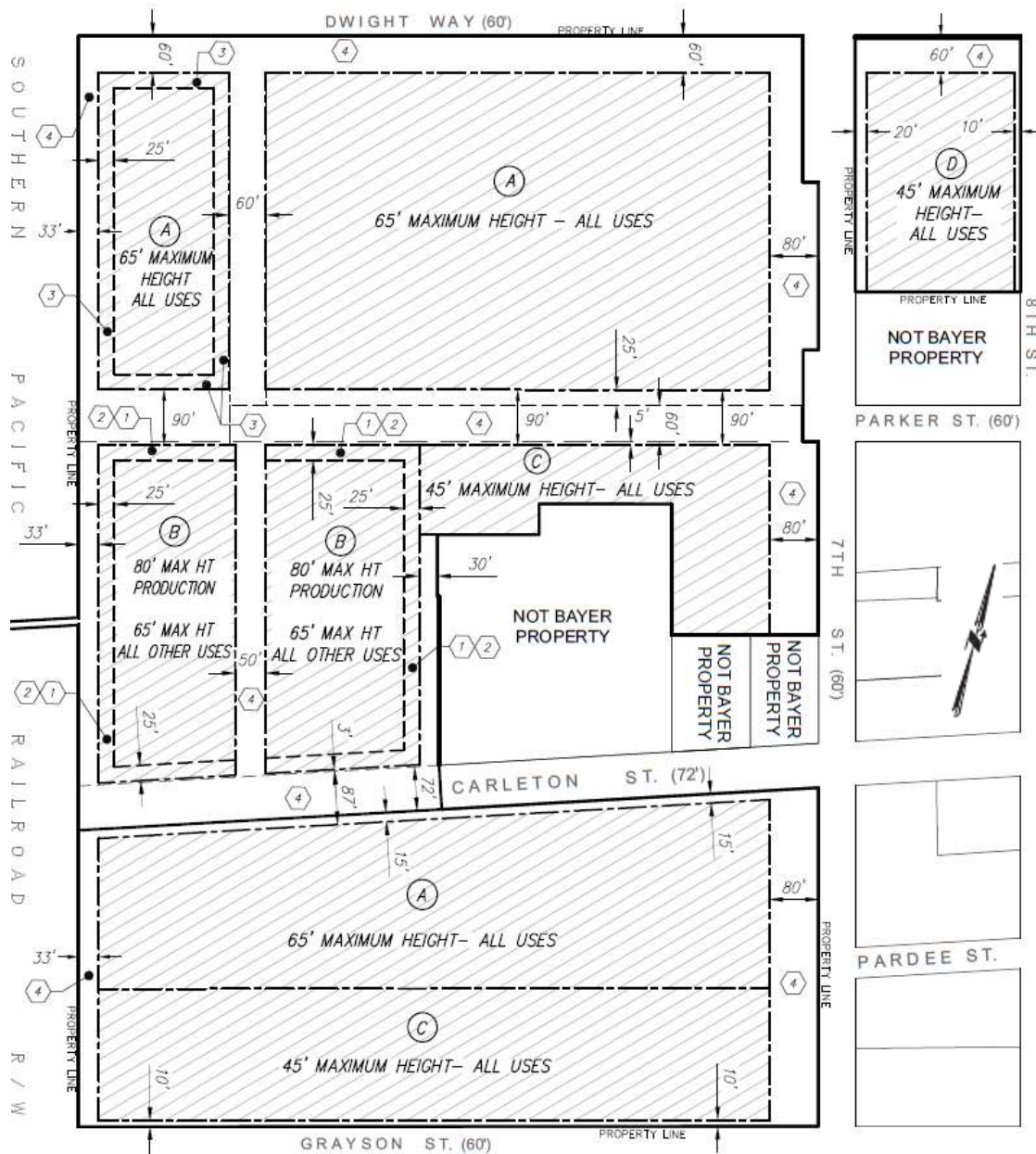


BLOCK	PERMITTED USES**	MAX. PERMITTED BUILDING HEIGHT <sup>2</sup>	MAX. ALLOWABLE FLOOR AREA PER BLOCK <sup>1</sup>
I	PRODUCTION WAREHOUSE	80 FT 45 FT	500,000 SQ.FT
III	ADMINISTRATION, UTILITY, MAINTENANCE	25 FT	30,000 SQ.FT
III	PRODUCTION WAREHOUSE, LABORATORY MAINTENANCE	65 FT 45 FT 45 FT	250,000 SQ.FT
IV	PRODUCTION, LABORATORY, UTILITY, MAINTENANCE, ADMINISTRATION	45 FT 45 FT	225,000 SQ.FT
V	PRODUCTION WAREHOUSE, MAINTENANCE, UTILITY, LABORATORY	80 FT 45 FT 45 FT	250,000 SQ.FT
VI <sup>A</sup>	WAREHOUSE, MAINTENANCE, PARKING, LABORATORY, ADMINISTRATION	45 FT	160,000 SQ.FT
VII <sup>A</sup>	ADMINISTRATION, LABORATORY	45 FT	75,000 SQ.FT
VIII <sup>5</sup>	ADMINISTRATION, PARKING	25 FT	30,000 SQ.FT



Bayer Development Agreement Update EIR Scoping Meeting

Figure 2: Proposed Development Standards



BLOCK	PERMITTED USES	MAXIMUM HEIGHT	MAXIMUM FLOOR AREA SQ.FT.
(A)	ALL(PRODUCTION, ADMIN, ETC.)	65'	1,500,000
(B)	ALL	80' PRODUCTION, 65' OTHERS	495,000
(C)	ALL	45'	400,000
(D)	ADMIN/PARKING	45'	30,000

**Uses and Proposed Revisions to Operational Restrictions**

The DA permits seven specifically defined land uses: Administration, Laboratories, Maintenance, Parking, Production, Utility, and Warehouse. Table 3 below compares the DA permitted land uses with the equivalent Use as permitted in the underlying MM Zoning.

**Table 3: Land Uses**

<b>Existing DA Permitted Use</b>	<b>MM Zoning Use BMC 23E.76.030</b>
<b>Administration:</b> offices, conference rooms, computer rooms, fitness/health facilities, security, training rooms, library, and cafeteria	With, the exception of <b>Cafeterias for Employees only</b> , the uses listed in this category are Ancillary Uses not requiring Land Use approval.
<b>Laboratories:</b> research into production and manufacturing technologies, quality assurance examination and testing of therapeutic pharmaceuticals	<b>Laboratories, Testing and Commercial Biological Research</b> (including Cannabis Testing)
<b>Maintenance:</b> workshops and maintenance bays for repair, replacement, and preventative activities	Ancillary Use; impact equivalent to <b>Repair Service</b> (other than auto repair)
<b>Parking:</b> covered and uncovered parking areas for vehicles	Ancillary Use
<b>Production:</b> pilot plants (development of processes for new drug applications), processing areas, and fill and finishing areas	Primary Production Manufacturing of <b>Pharmaceuticals</b>
<b>Utilities:</b> equipment for water distillation, refrigeration, electrical operations, and steam generation	Ancillary Use; impact equivalent to <b>Public Utility Substation, Buildings and Tanks</b>
<b>Warehouse:</b> holding space for distribution of products	<b>Warehouses</b> (other than Mini-storage)

Primary operations on the Bayer Campus will include the development of cell lines, methods and procedures for the efficient manufacture and testing of high-quality therapeutic pharmaceuticals utilizing the techniques of biotechnology, and the production/manufacture of those products for subsequent sale and distribution world-wide. Research, development, quality assurance and production activities related to other aspects of the Company's business will also be performed on the site. As Bayer intends to continue the biotech development, quality assurance, and production of pharmaceutical therapies; the project is not requesting a change to the permitted uses.

Many of the research and development activities carried out on the site will utilize methods and techniques of biotechnology, including recombinant DNA (rDNA) research. The Existing DA restricted rDNA research, including: (1) exploration of new types of organisms as hosts and vectors for transmission of genes, or expression of genes; (2) research to

Bayer Development Agreement Update EIR Scoping Meeting

develop new rDNA techniques; and (3) investigations to develop new ways to construct rDNA and new ways to insert rDNA into host cells. Due to advancements in technology and knowledge, it is now possible to undertake this research with minimal safety risks, as such Bayer is requesting to lift these restrictions so that these activities may be included as part of the refined project operations.

### **CEQA APPROACH**

The City has preliminarily determined that a Subsequent EIR is the appropriate CEQA document for the Project. A Subsequent EIR is a follow-up or “tiered” document to a previously certified FEIR. As noted above, an EIR prepared for the 1992 DA was certified in 1991. That EIR analyzed the build-out of approximately 1,886,000 square feet over a 30-year time frame. The amendment and extension of the DA would result in a build out of 1,738,000 square feet. While the project has not substantially changed, some of the conditions and CEQA regulations have changed. These changes will be re-analyzed to determine if any new significant environmental impacts may occur. Consistent with the requirements of CEQA Guidelines section 15162, the Subsequent EIR will analyze the environmental impacts of any (1) substantial changes in the proposed project, (2) substantial changes that have occurred with respect to the circumstances under which the project will be undertaken, and (3) new information of substantial importance, which was not known and could not have at the time the previous EIR was certified.

The SEIR will also examine the range of alternatives to the project to determine whether alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, or whether alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment. The SEIR will also analyze the cumulative impacts that could result from changes to the DA.

### **DISCUSSION**

The scoping meeting is design to collect comments from the Planning Commission and the public on the scope and content of the SEIR, possible impacts on the physical environment, ways in which potential adverse effects might be minimized, and alternatives to the proposed project.

### **NEXT STEPS**

After the minimum 30-day review period ends on December 3, 2020, work will begin on the Draft Subsequent EIR. The Draft Subsequent EIR is anticipated to be released for a public review period not less than 45 days in the late winter or early spring of 2021. In addition to verbal comments provided at this hearing, written responses to the Notice of Preparation may be directed to Leslie Mendez, Senior Planner, Planning and Development Department, 1947 Center Street, 2nd Floor, Berkeley, CA 94704; or LMendez@cityofberkeley.info. Responses to the Notice of Preparation must be received on or before December 3, 2020.

### **Attachments:**

1. Notice of Preparation





Planning and Development Department  
Land Use Planning Division

## NOTICE OF PREPARATION (NOP) OF A SUBSEQUENT ENVIRONMENTAL IMPACT REPORT AND SCOPING MEETINGS FOR THE PROPOSED BAYER HEALTHCARE LLC DEVELOPMENT AGREEMENT AMENDMENT

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The City of Berkeley is preparing a Subsequent Environmental Impact Report (SEIR) for proposed amendment to Bayer HealthCare LLC's Development Agreement ("proposed project"), as identified below, and is requesting comments on the scope and content of the SEIR, possible impacts on the physical environment, ways in which potential adverse effects might be minimized, and alternatives to the proposed project. The SEIR and associated Initial Study will address the potential physical and environmental effects of the proposed project for each of the environmental topics outlined in the California Environmental Quality Act (CEQA), as set forth in Section 15162 of the CEQA Guidelines.

The City of Berkeley is the Lead Agency for the proposed project. This notice is being sent to the California State Clearinghouse, Alameda County Clerk, potential responsible agencies, and other interested parties. Responsible agencies are those public agencies, besides the City of Berkeley, that also have a role in approving or carrying out the project. When the SEIR is published, a Notice of Availability of a SEIR will be sent to Responsible Agencies, other public agencies, and interested parties and individuals who have indicated that they would like to review the SEIR.

Responses to this NOP and any questions or comments should be directed in writing to: *Leslie Mendez, Senior Planner, Planning and Development Department, 1947 Center Street, 2nd Floor, Berkeley, CA 94704*; or [LMendez@cityofberkeley.info](mailto:LMendez@cityofberkeley.info). Comments on the NOP must be received **by December 3, 2020** (postmarked on or before December 3<sup>rd</sup> if sent via U.S. Postal Service, time stamped on or before December 3<sup>rd</sup> if sent electronically).

**EIR PUBLIC SCOPING MEETINGS:** The City will hold two scoping meetings.

The City of Berkeley **Zoning Adjustments Board (ZAB)** will take comments on the scope of the SEIR at a public hearing on **November 12, 2020**. The ZAB meeting will be virtual and begins at **7:00 PM**. Interested parties should visit the ZAB Meeting Agenda, linked on the ZAB webpage to confirm the meeting, time, date, and instructions to join the meeting: <https://www.cityofberkeley.info/zoningadjustmentsboard/>.

The City of Berkeley **Planning Commission (PC)** will take comments on the scope of the SEIR at a public hearing on **November 18, 2020**. The PC meeting will be virtual and begins at **7:00 PM**. Interested parties should visit the PC Meeting Agenda, linked on the PC webpage to confirm the meeting time, date, and instructions to join the meeting:

<https://www.cityofberkeley.info/PC/>.

**PROJECT TITLE: Bayer HealthCare LLC Development Agreement Amendment Project**

**PROJECT LOCATION:** The project location is the Bayer campus in West Berkeley, which has a primary street address of 800 Dwight Way and includes approximately 46 acres generally bounded by the Union Pacific Railroad to the west, Dwight Way to the north, Seventh Street to the east, and Grayson Street to the south. In addition, the project location includes a surface parking lot between Dwight Way, Seventh Street, Parker Street, and Eighth Street. The site is divided into the North Properties (31.9 acres north of Carleton Street) and the South Properties (14.4 acres south of Carleton Street). Three contiguous parcels near the corner of Carleton Street and Seventh Street are not owned by Bayer and are outside of the project location. Figure 1 shows the project location.

**PROJECT SPONSOR:** Bayer HealthCare LLC

**EXISTING CONDITIONS:** The Bayer campus currently develops and produces commercial biopharmaceuticals that are distributed globally. The campus has approximately 30 buildings, ranging in height from approximately 14 feet to the 100-foot former Colgate-Palmolive tower. The buildings total approximately 1,087,000 square feet of floor area, including 567,000 square feet on the North Properties and 520,000 square feet on the South Properties. The Bayer campus also has eight surface parking lots with a total of 1,100 parking spaces. The buildings provide space for the following permitted uses:

- 1) Production: pilot plants, processing areas, and fill and finishing areas
- 2) Laboratories: research into production and manufacturing technologies, quality assurance examination and testing of therapeutic pharmaceuticals
- 3) Warehouse: holding space for distribution of products
- 4) Administration: offices, conference rooms, computer rooms, fitness/health facilities, security, training rooms, library, and cafeteria
- 5) Utilities: equipment for water distillation, refrigeration, electrical operations, and steam generation
- 6) Maintenance: workshops and maintenance bays for repair, replacement, and preventative activities

Four former facilities located on the project site are included on the Cortese List under Government Code section 65962.5 due to their inclusion on the State Water Resources Control Board's list of Leaking Underground Storage Tank Sites on the Board's Geo Tracker database. These facilities are located at 800 Dwight Way, 801 Grayson Street, 2560 Seventh Street, and 2700 Seventh Street. All tanks have been removed and have merited closure status by regulatory agencies except for one; a closure report has been submitted to the San Francisco Regional Water Quality Control Board for the remaining tank, and review is pending.

**PROJECT DESCRIPTION and BACKGROUND:** Bayer's existing 30-year Development Agreement (DA) with the City of Berkeley, covering the North Properties, was approved in 1992 and is set to expire in 2022. An EIR analyzed the potential impacts of the development proposed as part of the original DA; the EIR was certified in 1991. The

current DA covers only the North Properties. Because Bayer acquired the South Properties after the 1999 major amendment to the 1992 DA, the South Properties are not included in the original DA's project area. The City approved a Use Permit (UP#00-1000008) for the South Properties and adopted a Mitigated Negative Declaration on July 21, 2000.

The proposed project would amend the existing DA to cover both the North and South Properties, while extending its duration an additional 30 years until February 2052. Overall, as illustrated in the table below, the project proposes to reduce the maximum allowable square footage entitled under the current DA and South Properties Use Permit by 148,000 square feet. Within the 30-year time frame, Bayer envisions retaining approximately 820,000 square feet of existing square footage, demolishing nine buildings totaling approximately 267,000 square feet, and constructing approximately 918,000 square feet of new facilities. Conceptual 30-year buildout is illustrated in Figure 2.

Existing Built Sq. Ft.	Existing Maximum Permitted Sq. Ft.	Proposed Maximum Permitted Sq. Ft.	Existing Sq. Ft. to be Retained	Proposed Sq. Ft. to be Demolished	Proposed Sq. Ft. to be Constructed	Proposed Change from (E) Permissible Sq. Ft.
1,087,000	1,886,000	1,738,000	820,000	-276,000	918,000	-148,000

The project, which consists of a conceptual development plan, proposes to rearrange the campus layout through proposed phased demolition of nine existing buildings; construction of approximately twelve new buildings for production, laboratory, and administrative uses; and replacement of surface parking with two new parking structures and new underground parking facilities. Several other buildings providing space for manufacturing, warehouses, and maintenance would be renovated and/or expanded. Maximum permitted building heights would range from 25 feet to 80 feet depending on the use and location of buildings. Building heights would be redistributed over current conditions, however, the project does not propose heights taller than currently permissible, and also includes 15-foot "step backs" buffers, and setbacks from streets, the proposed project is intended to preserve existing view corridors on Dwight Way, Parker Street, and Carleton Street.

The proposed project would continue to authorize the biotech development, quality assurance, and production of pharmaceutical therapies, which includes the use of risk group 1 and 2 biological agents, as defined by the National Institutes of Health (NIH). Group 1 agents are bacterial, fungal, viral, rickettsia, and chlamydial agents that are found in the environment and do not cause disease in healthy humans. Group 2 includes moderate-risk agents that occur in the community and are associated with human disease of varying severity. In addition, the proposed project would allow the use of non-mammalian cells. Bayer would adhere to biosafety measures according to guidelines adopted by the NIH and the Centers for Disease Control and Prevention (CDC). While the existing DA does not assume the use of gamma irradiation devices, the proposed project envisions the installation of up to two fully-protected gamma irradiation devices

that comply with all applicable safety regulations.

To provide adequate water service to new development on the Bayer campus, the proposed project may require an enlargement of underground pipes that carry water supplied by the East Bay Municipal Utilities District (EBMUD). The proposed DA also anticipates that Bayer would install two new emergency generators along Grayson Street and a new boiler in the North Properties, though with the retirement of other equipment, the total number of generators and boilers is not expected to exceed the equipment inventory that currently exists on the site.

In summary, the proposed project would:

1. Extend the terms of the DA for another 30 years from its February 2022 expiration date to 2052;
2. Extend the boundaries of the DA to include the South Properties; and
3. Modify various development standards, operational restrictions, and campus layout.

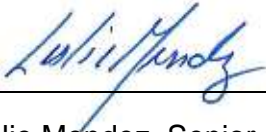
For more information about the project, please visit the City's website: [https://www.cityofberkeley.info/Planning\\_and\\_Development/Zoning\\_Adjustment\\_Board/Bayer\\_Development\\_Agreement.aspx](https://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/Bayer_Development_Agreement.aspx)

**ENVIRONMENTAL ISSUES ADDRESSED IN THE SEIR:** The SEIR will evaluate whether the proposed Project would result in one or more significant environmental effects. Based on the initial analysis and past CEQA analysis conducted for Bayer Campus, the following issues will be analyzed in depth in the SEIR:

- Air Quality;
- Cultural Resources;
- Greenhouse Gas Emissions;
- Hazards and Hazardous Materials;
- Noise;
- Transportation; and
- Utilities and Service Systems.

All other CEQA environmental topics are anticipated to have less than significant impacts and will be analyzed in an Initial Study which will be an appendix to the SEIR. Consistent with the requirements of CEQA Guidelines Section 15162, the Subsequent EIR will analyze the environmental impacts of (1) substantial changes in the proposed project, (2) substantial changes that have occurred with respect to the circumstances under which the project will be undertaken, and (3) new information of substantial importance, which was not known and could not have been known at the time the previous EIR was certified.

The SEIR will also examine the range of alternatives to the project to determine whether alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, or whether alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment. The SEIR will also analyze the cumulative impacts that could result from changes to the DA.



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Leslie Mendez, Senior Planner

Date of Distribution: October 29, 2020

Attachment:

Figure 1: Location

Figure 2: Conceptual Development Plan Building Uses at Year-30



Figure 1: Project Location



Figure 2: Conceptual Development Plan Build Out by Use at Year-30 (2052)









**PUBLIC HEARING NOTICE  
and  
NOTICE OF PREPARATION  
of a Subsequent Environmental Impact Report (SEIR)  
Bayer Healthcare LLC  
Development Agreement Amendment**

As the Lead Agency overseeing this project's environmental review, the City of Berkeley is soliciting comments on the scope and content of the SEIR for the proposed project described below.

Bayer's existing 30-year Development Agreement (DA) with the City of Berkeley, covering the North Properties, was approved in 1992 and is set to expire in 2022. An EIR analyzed the potential impacts of the development proposed as part of the original DA; the EIR was certified in 1991. The current DA covers only the North Properties. Because Bayer acquired the South Properties after the 1999 major amendment to the 1992 DA, the South Properties are not included in the original DA's project area. The City approved a Use Permit (UP#00-10000008) for the South Properties and adopted a Mitigated Negative Declaration on July 21, 2000.

The project proposes to:

1. Extend the terms of the DA for another 30 years from its February 2022 expiration date to 2052;
2. Extend the boundaries of the DA to include the South Properties; and
3. Modify various development standards, operational restrictions, and campus layout.

**NOTICE OF PREPARATION:** The City released the Notice of Preparation (NOP) for the SEIR and the scoping meetings for the proposed Bayer Development Agreement Amendment on October 29, 2020. The NOP can be found on the Project webpage: [https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_ZAB/2020-10-29\\_NOP\\_Bayer%20DA.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2020-10-29_NOP_Bayer%20DA.pdf)

**SCOPING MEETING:** A Scoping Meeting will be held by the Planning Commission on **November 18, 2020, at 7:00 PM. The hearing will be conducted via Zoom** – see the Agenda for details, which will be posted here no later than 5:00 PM on Friday, November 13, 2020: ([https://www.cityofberkeley.info/Clerk/Commissions/Commissions\\_Planning\\_Commission\\_Homepage.aspx](https://www.cityofberkeley.info/Clerk/Commissions/Commissions_Planning_Commission_Homepage.aspx)).

**PROJECT LOCATION:** The project location is the Bayer campus in West Berkeley, which has a primary street address of 800 Dwight Way and includes approximately 46 acres generally bounded by the Union Pacific Railroad to the west, Dwight Way to the north, Seventh Street to the east, and Grayson Street to the south. In addition, the

project location includes a surface parking lot between Dwight Way, Seventh Street, Parker Street, and Eighth Street.



**SCOPING COMMENTS:** Members of the public and public agencies are invited to provide comments in writing as to the scope and content of the SEIR starting on or before October 29, 2020. Responses to this NOP and any questions or comments should be directed in writing to: *Leslie Mendez, Senior Planner, Planning and Development Department, 1947 Center Street, 2nd Floor, Berkeley, CA 94704*; or [LMendez@cityofberkeley.info](mailto:LMendez@cityofberkeley.info). Comments on the NOP must be received **on or before December 3, 2020**. In addition, comments may be provided at the SEIR Scoping Meetings.

**PUBLIC ADVISORY:** This scoping meeting will be conducted exclusively through videoconference and teleconference. Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.



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

## STAFF REPORT

DATE: November 18, 2020

TO: Members of the Planning Commission

FROM: Steve Buckley, Land Use Manager  
Alene Pearson, Principal Planner

SUBJECT: Zoning Ordinance Amendments to Berkeley Municipal Code Chapter 23C.08 [Demolition and Dwelling Unit Controls]

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### BACKGROUND

Berkeley Municipal Code (BMC) Chapter 23C.08 [Demolition and Dwelling Unit Controls] is often referred to as the “Demolition Ordinance.” Although this ordinance does regulate demolitions, Chapter 23C.08 also establishes rental unit protections and regulates elimination of units that occurs through modifications to existing housing stock (e.g. removing kitchens, combining units).

Over the past decade, State legislation and court cases have influenced the City’s ability to require inclusionary housing or in lieu fees for new housing projects. These laws have also affected the City’s ability to administer Chapter 23C.08. Some of this history is provided below:

The Neighborhood Preservation Ordinance (1973): In response to unchecked demolition of single family homes and construction of “ticky-tacky” apartment buildings in the 1950s through the early 1970s, Berkeley residents voted into law restrictions on housing demolition. The Neighborhood Preservation Ordinance (NPO) only allows demolition of housing when replacement housing is included in new projects.

Rent Control (1980): Berkeley voters passed the Rent Stabilization and Eviction for Good Cause Ordinance in 1980, which instituted rent control. This ordinance established baseline rents and guidelines for rent increases necessary to cover operating expenses, property maintenance, and landlord profit. This ordinance provided vacancy control rent stabilization -- meaning that rent levels stayed the same even after tenants moved out. Note that the applicability of the ordinance was modified by the Costa Hawkins Rental Housing Act (see below) in 1995.

Demolition Ordinance

Rental Removal Ordinance (1984): To prevent demolition of rent stabilized housing, the Rental Removal Ordinance was enacted in Berkeley in 1984. This ordinance prohibited demolitions of rental units if an applicant was able to make a fair return on their property without demolishing.

Costa Hawkins: The Costa Hawkins Rental Housing Act (Costa Hawkins), passed in 1995, allows local governments to enact and use rent control, except on (a) housing that was first occupied after February 1, 1995, and (b) certain classes of housing units, such as condominiums, townhouses, and single-family homes. Costa Hawkins allows landlords to increase rent to market rates when a tenant vacates a unit. This is called vacancy decontrol.

Ellis Act and Measure Y: The Ellis Act is a state law which gives landlords the right to evict tenants if they need to "go out of business." For an Ellis eviction, the landlord must remove all of the units in the building from the rental market. When a landlord invokes the Ellis Act, the apartments cannot be re-rented, except at the same rent the evicted tenant was paying, for five years following evictions. While there are restrictions on ever re-renting the units, there are no restrictions on conversion to ownership units (e.g., tenancies in common or condos).

In response to an increased number of owner-move-in evictions, Berkeley voters adopted Measure Y as an amendment to the Rent Stabilization and Eviction for Good Cause Ordinance in 2000. Measure Y allowed property owners to evict tenants if the owner or a qualifying relative intended to move in<sup>1</sup>. Property owners who evicted low income tenants were required to pay relocation assistance and required to reset the cost of the rental to the previous rent-control rate when/if the unit were to come back onto the market. Furthermore, evicted tenants would have the opportunity move back into the unit if it came back onto the market.

Palmer Decision: The 2009 Palmer Decision (*Palmer/Sixth Street Properties vs City of Los Angeles*) invalidated ordinances that imposed inclusionary affordable housing requirements on residential projects due to conflict with Costa Hawkins' vacancy decontrol provisions (e.g. limiting a landlord's ability to establish the initial rental rate of a unit).

Berkeley's Ordinance: In March 2016, the City Council adopted an ordinance which modified BMC Chapter 23C.08 to account for the loss of rent-stabilized housing that can occur with building demolition. That ordinance established the City's authority to set and collect a fee for each rent-stabilized unit that would be demolished. It also allowed for projects to provide one-for-one replacement units in lieu of fee payment as long as the units were restricted in perpetuity as below market rate. Unfortunately, a fee was never established by resolution, so no fees were ever collected.

The "Palmer Fix": In 2017, the California legislature passed Assembly Bill (AB) 1505 in response to the Palmer Decision. AB 1505 authorizes cities to adopt

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<sup>1</sup> An owner could evict a tenant so that the owner, or his/her spouse, child, or parent could move in; however, the owner-relative must live in the unit for 36 continuous months. Additionally, with few exceptions, property owners could not evict seniors or disabled tenants who have occupied their rental units for five years or more in buildings with four or more units.

Demolition Ordinance

inclusionary housing ordinances that require development to include a certain percentage of affordable residential rental units. AB 1505 also requires cities provide an alternate means of compliance, such as in-lieu fees, land dedication, off-site construction, or acquisition and rehabilitation of existing units.

Senate Bill 330: Senate Bill (SB) 330, passed in 2019, requires that cities only approve housing projects that include demolition of residential units if the project replaces existing units. Furthermore, if the project involves demolition of rent-controlled or below market rate units, the project will only be approved if the following criteria are met:

1. The project will replace all existing or demolished protected units (which would also count towards meeting inclusionary housing requirements).
2. The project will include at least as many residential dwelling units as the greatest number of residential dwelling units that existed on the project site within the last five years.
3. Existing residents, if any, are allowed to occupy their units until six months before the start of construction.
4. The developer agrees to provide relocation benefits and a right of first refusal for units available in the new housing development at an affordable rent for the household.

The City’s Rent Stabilization Board (RSB) provides an annual summary of rental housing stock which includes the total number of units registered in the City and the number of new tenancies. The table below summarizes this information at three points over the last twenty years:

	1999			2009			2019		
	all units	new tenancies	percent turnover	all units	new tenancies	percent turnover	all units	new tenancies	percent turnover
studio	3,840	1,145	29.8%	3,740	1,081	28.9%	4,145	956	23.1%
1 BR	8,145	1,927	23.7%	7,945	1,887	23.8%	8,044	1,520	18.9%
2 BR	5,659	1,245	22.0%	5,721	1,406	24.6%	6,045	1,101	18.2%
3 BR	831	172	20.7%	887	254	28.6%	1,047	198	18.9%
TOTAL	18,475	4,489	24.3%	18,293	4,628	25.3%	19,281	3,775	19.6%

In 2013, the RSB published a report that summarized the benefits of Berkeley’s rent stabilization program<sup>2</sup>. At that time, affordability was provided to approximately 3,300 pre-1999 tenants whose apartments have never qualified for a vacancy decontrol increase. Approximately 2,200 of those tenants were low income, and 1,200 were elderly or disabled. Since 2013, the number of pre-1999 tenants has declined to 1,903 (as of October 1, 2020) as tenants have aged and/or moved out. Additional support of

<sup>2</sup> Rent Stabilization and the Berkeley Housing Market 15 Years after Vacancy Decontrol (January 28, 2013) [https://www.cityofberkeley.info/uploadedFiles/Rent\\_Stabilization\\_Board/Level\\_3\\_-\\_General/Summary%20of%20Economic%20Studies%20Part%20I.pdf](https://www.cityofberkeley.info/uploadedFiles/Rent_Stabilization_Board/Level_3_-_General/Summary%20of%20Economic%20Studies%20Part%20I.pdf)

Demolition Ordinance

housing affordability is provided through deed restricted, below market rate inclusionary and density bonus units, subsidized housing developments and monthly rental assistance (Housing Vouchers and Shelter + Care). The demolition and dwelling unit controls regulated in BMC Chapter 23C.08 are integral to the preservation of affordable housing in the City of Berkeley – especially as the number of pre-1999 tenants declines.

## PROPOSED AMENDMENTS

The goal of updating BMC Chapter 23C.08 is to protect existing housing stock and ensure that Berkeley's Zoning Ordinance leverages and complies with State regulations. As illustrated above, State law and case law have and will continue to evolve over time. The proposed amendments, explained below, will reference State law where possible, as opposed to restating State law, so that the City can maintain compliance over time and the ordinance will be more straightforward to understand and enforce.

Draft Zoning Ordinance amendments can be found in Attachment 1. Amendments strike current regulations that are no longer enforceable due to the information presented above. More specifically, the proposed amendments do the following:

1. Reference State Law

New code directly references Government Code sections in order to comply with new regulations and avoid conflicts as State legislation evolves.

2. Ensure Compliance with the BMC

Amendments explicitly require compliance with other BMC chapters in order to preserve and protect affordable housing in Berkeley. Issuance of Demolition Permits must be contingent upon the following:

- Chapter 22.20 [Mitigation and Fees - Conditions for Approval of Development Projects]
- Chapter 23C.12 [Inclusionary Housing Requirements]
- Section 23E.20.080 [Low Income Inclusionary Live / Work Units]
- Chapter 13.76 [Rent Stabilization]

***Rationale: Proposed amendments will cross-reference other sections of the BMC. These references are necessary to clearly list regulations required for administering demolition and unit controls. The ordinances listed above are currently under review and will update related topics such as fee structures and inclusionary housing requirements. The overall goal of these dual efforts is to protect and preserve affordable housing in the City.***

3. Clarify Use Permit Conditions that Pertain to Tenants

Applicant responsibilities to tenants in terms of noticing, relocation assistance and right of first refusal for new replacement units are provided in Section 23C.08.010.E [Demolition or Elimination of Residential Units] and refer to BMC Chapters 13.76 [Rent Stabilization and Eviction dor Good Cause Program] and BMC 13.84 [Relocation Services and Payments for Residential Tenant Households] and applicable Government Code Sections.

Demolition Ordinance

4. Extend the definition of “dwelling unit”

Government Code Section 66300 applies to “dwelling units.” The proposed amendment clarifies the definition of “dwelling unit” to reflect definitions within the California Building Code, including shared and independent living, sleeping, eating, cooking and sanitation facilities. This includes, but is not limited to, Group Living Accommodations (GLAs), Live/Work Units, and Residential Hotel Rooms.

***Rationale: Dwelling Unit under the existing ordinance is narrowly defined and inconsistent with State law and other sections of the BMC. Using a broadly established definition of “dwelling unit” will provide internal and external consistency and will also accommodate the City’s unique household characteristics and diversity of housing models and living situations.***

5. Clarify Permit Thresholds for Demolition of Non-residential Buildings

New code would clearly outlines permits required for demolition of non-residential buildings, when zoning district-specific regulations do not apply (e.g. protected uses in the MU-LI district). The table below summarizes the proposed regulations:

Non-residential Building Type	Size Threshold	Demolition Permit Required
Main Building	<5,000 ft <sup>2</sup>	ZC
	>=5,000 ft <sup>2</sup>	AUP
Accessory Building	<300 ft <sup>2</sup>	AUP
	>=300 ft <sup>2</sup>	UP(PH)

***Rationale: Existing code did not clearly state general thresholds and permits requirement for the demolition of non-residential buildings. The new code provides greater clarity and consistency, although some zoning districts have additional requirements for compliance.***

**NEXT STEPS**

Staff recommends that the Planning Commission hold a Public Hearing, take public comment, discuss draft Ordinance amendments, provide direction, and forward a recommendation to City Council, with any changes identified through a vote of the Planning Commission.

**ATTACHMENTS**

1. Ordinance
2. Public Hearing Notice





1 **Clean Copy**

2  
3 **BMC Chapter 23C.08**  
4 **Demolition and Dwelling Unit Controls**

5 Sections:

6 [23C.08.010](#) Demolition or Elimination of Residential Units

7 [23C.08.020](#) Demolition of Accessory Buildings and Buildings Used for  
8 Commercial, Manufacturing, Community, Institutional or Other  
9 Non-Residential Uses

10 [23C.08.030](#) Building Relocations

11 [23C.08.040](#) Imminent Hazards

12 **23C.08.010 Demolition or Elimination of Residential Units**

13 A. No residential unit may be eliminated or demolished except as authorized by the  
14 provisions of the chapter and State law, including but not limited to Government Code  
15 section 66300 *et seq.* For purposes of this Chapter, “residential unit” includes any  
16 Dwelling Unit, bedroom or sleeping quarters in a Group Living Accommodation,  
17 Live/Work Unit, or Residential Hotel Room.

18 B. A Use Permit for the demolition of one or more residential units in connection with a  
19 housing development project shall be issued only if the project complies with the  
20 requirements of Government Code section 66300(d), as applicable. In addition, the  
21 Board may in its discretion choose from one of the following requirements:

22 1. That the replacement units comply with Chapter 22.20 and/or Chapter  
23 23C.12 and/or Section 23E.20.080; and/or

24 2. That the demolition and replacement units comply with the requirements  
25 of the Rent Stabilization Ordinance, Chapter 13.76 *et seq.*

26 C. A Use Permit for the demolition of one or more residential units that is not subject  
27 to Section 23C.08.010.B shall issue if the Board makes the findings required by Section  
28 23B.32.040.A, and:

- 29 1. The building containing the unit(s) is hazardous or unusable and is  
30 infeasible to repair as determined by the Chief Building Official and Zoning  
31 Officer;
- 32 2. The demolition will result in no net loss in protected units, as defined in  
33 Government Code section 66300(d)(2)(E)(ii);
- 34 3. The demolition would not be materially detrimental to the public interest of  
35 the affected neighborhood and the City, taking into the account the housing  
36 needs of the neighborhood, the City, and the region; or
- 37 4. Denial of the demolition permit would conflict with state law applicable to  
38 the City of Berkeley, as a charter city, including but not limited to the Ellis Act  
39 (Government Code section 7060 *et seq.*).
- 40 D A Use Permit issued pursuant to this Section must comply with Chapter 3.24,  
41 except where enforcement of that Chapter would conflict with state law.
- 42 E. A Use Permit issued pursuant to this Section shall require the applicant to comply  
43 with the following conditions:
- 44 1. The applicant shall provide all tenants with notice of the application to  
45 demolish the building no later than the date it is submitted to the City, including  
46 notice of their rights under Chapter [13.76](#). Any existing residents must be allowed  
47 to occupy their units until six months before the start of construction activities.
- 48 2. The applicant shall provide assistance with moving and relocation  
49 assistance equivalent to the requirements set forth in Chapter [13.84](#) or  
50 Government Code section 66300(d)(2)(D)(i), whichever requires greater  
51 relocation assistance to displaced households; provided, however, that any  
52 project that is carried out or funded by the state or federal government shall be  
53 subject to applicable provisions of the California Relocation Act (Government  
54 Code section 7260 *et seq.*) and/or the Uniform Relocation Assistance and Real  
55 Property Acquisition Policies Act of 1970, as amended (42 U.S.C. sections 4601-  
56 4655).
- 57 3. Any tenant of a protected unit that is demolished shall have the right of  
58 first refusal to rent any new protected units designated to replace the units that  
59 were demolished, consistent with the requirements of Government Code section  
60 66300(d)(2)(D)(ii), if applicable, and subject to any applicable eligibility  
61 requirements for affordable units.

62 **23C.08.020 Demolition of Accessory Buildings and Buildings Used for**  
63 **Commercial, Manufacturing, Community, Institutional, or Other Non-Residential**  
64 **Uses**

65 A. Notwithstanding any other provision of Title 23, a Main Building used for non-  
66 residential purposes containing less than 5,000 square feet of floor area may be  
67 demolished subject to issuance of an AUP; a Main Building containing 5,000 square  
68 feet or more of floor area may be demolished subject to issuance of Use Permit.

69 B. A demolition of an Accessory Building other than an Accessory Dwelling Unit  
70 containing less than 300 square feet of floor area is permitted subject to the issuance of  
71 a Zoning Certificate; an Accessory Building other than an Accessory Dwelling Unit  
72 containing 300 square feet or more of floor area may be demolished subject to the  
73 issuance of an AUP.

74 C. Any application for a Use Permit or AUP to demolish a non-residential building or  
75 structure which is 40 or more years old shall be forwarded to the Landmarks  
76 Preservation Commission (LPC) for review prior to consideration of the Use Permit or  
77 AUP. The LPC may initiate a landmark or structure-of-merit designation or may choose  
78 solely to forward to the Board or Zoning Officer its comments on the application. The  
79 Board or Zoning Officer shall consider the recommendations of the LPC in considering  
80 its action on the application.

81 D. A Use Permit or an AUP for demolition of an Accessory Building other than an  
82 Accessory Dwelling Unit or for the demolition of a non-residential building or structure  
83 shall issue if the Board or Zoning Officer if the application complies with the  
84 requirements of Chapter 3.24, and one of the following findings is made:

85 1. The demolition is required to allow the construction of a new building or other  
86 new Use approved by the Board or Zoning Officer;

87 2. The demolition will remove a building that is unusable for activities  
88 compatible with the purposes of the District in which it is located or that is  
89 infeasible to modify for such uses;

90 3. The demolition will remove a structure which represents an unabatable  
91 nuisance; or

92 4. The demolition is required for the furtherance of specific plans or projects  
93 sponsored by the City or other local district or authority. In such cases, it shall be  
94 demonstrated that it is infeasible to obtain prior or concurrent approval for the

95 new construction or new use which is contemplated by such specific plans or  
96 projects and that adhering to such a requirement would threaten the viability of  
97 the plan or project.

98 **23C.08.030 Building Relocations**

99 A. The relocation of a building from a lot is considered a demolition for purposes of  
100 this Ordinance.

101 B. The relocation of a building to a lot is considered new construction and shall be  
102 subject to all requirements applicable to new construction.

103 C. When a building is relocated to a different lot within the City, the lot from which the  
104 building is being removed shall be known as the source lot and the lot on which the  
105 building is to be sited shall be known as the receiving lot.

106 D. The removal of a building from the source lot shall require be approved if it meets  
107 the requirements for issuance of demolition permit under this Chapter.

108 E. The relocation of a building onto the receiving lot shall be approved if it meets the  
109 requirements for construction of a new structure on the receiving lot.

110 **23C.08.040 Imminent Hazards**

111 Notwithstanding anything to the contrary, if a building or structure is unsafe, presents a  
112 public hazard and is not securable and/or is in imminent danger of collapse so as to  
113 endanger persons or property, as determined the City's Building Official, it may be  
114 demolished without a Use Permit. The Building Official's determination in this matter  
115 shall be governed by the standards and criteria set forth in the most recent edition of the  
116 [California Building Code](#) that is in effect in the City.

117

118

***Red-Lined Version***

119

120

121

122

**BMC Chapter 23C.08  
Demolition and Dwelling Unit Controls**

123 Sections:

124

23C.08.010 Demolition or Elimination of ~~Dwelling Residential~~ Units

125

~~—General Requirement~~

126

~~23C.08.020—Elimination of Dwelling Units through Demolition~~

127

~~23C.08.030—Elimination of Dwelling Units and Accessory Dwelling Units  
through Conversion and Change of Use~~

128

129

~~23C.08.035—Private Right of Action~~

130

~~23C.08.040—Elimination of Residential Hotel Rooms~~

131

~~23C.08.050—23C.08.020~~ Demolitions of Accessory Buildings and Buildings

132

Used for Commercial, Manufacturing, ~~or~~ Community, Institutional

133

or Other ~~Non-residential~~ Residential Uses

134

~~23C.08.060—23C.08.030~~ Building Relocations

135

~~23C.08.070—23C.08.040~~ Limitations/Imminent Hazards

136

**23C.08.010 Demolition or Elimination of Dwelling Residential Units—~~General~~**

137

**Requirement**

138

~~A. A.~~ A. No ~~Dwelling Unit or units~~ residential unit may be eliminated or demolished

139

except as authorized by the provisions of the chapter and State law, including but not

140

limited to Government Code section 66300 et seq. For purposes of this Chapter,

141

“residential unit” includes any Dwelling Unit, bedroom or sleeping quarters in a Group

142

Living Accommodation, Live/Work Unit, or Residential Hotel Room.

143

~~B. The Board may approve a Use Permit for the elimination or demolition of dwelling~~

144

~~units only if, in addition to any other findings required by this Ordinance, it finds that the~~

145

~~elimination of the dwelling units would not be materially detrimental to the housing~~

146 ~~needs and public interest of the affected neighborhood and the City.~~ A Use Permit for  
147 the demolition of one or more residential units in connection with a housing  
148 development project shall be issued only if the project complies with the requirements of  
149 Government Code section 66300(d), as applicable. In addition, the Board may in its  
150 discretion choose from one of the following requirements:

151 1. That the replacement units comply with Chapter 22.20 and/or Chapter  
152 23C.12 and/or Section 23E.20.080; and/or

153 2. That the demolition and replacement units comply with the requirements  
154 of the Rent Stabilization Ordinance, Chapter 13.76 et seq.

155 C. A Use Permit for the demolition of one or more residential units that is not subject  
156 to Section 23C.08.010.B shall issue if the Board makes the findings required by Section  
157 23B.32.040.A, and:

158 ~~C.—Demolition of buildings containing a single dwelling unit and buildings constructed~~  
159 ~~after June 1980 shall not be subject to the findings set forth in Section 23C.08.020.A but~~  
160 ~~shall be subject to subdivisions B, C, and D of Section 23C.08.020. (Ord. 7458-NS § 1,~~  
161 ~~2016)~~

### 162 ~~23C.08.020 Elimination of Dwelling Units through Demolition~~

163 ~~A.—The Board may approve a Use Permit to demolish a building constructed prior to~~  
164 ~~June 1980 on a property containing two or more dwelling units if it makes the findings~~  
165 ~~required by the foregoing section, and either:~~

166 ~~1. The building containing the unit(s) is hazardous or unusable and is~~  
167 ~~infeasible to repair as determined by the Chief Building Official and Zoning~~  
168 ~~Officer; or~~

169  
170 ~~2. The building containing the unit(s) will be moved to a different location~~  
171 ~~within the City of Berkeley with no net loss of units and no change in the~~  
172 ~~affordability levels of the units. The demolition will result in no net loss in protected~~  
173 ~~units, as defined in Government Code section 66300(d)(2)(E)(ii);~~

174 ~~3. The demolition would not be materially detrimental to the public interest of~~  
175 ~~the affected neighborhood and the City, taking into the account the housing~~  
176 ~~needs of the neighborhood, the City, and the region; or~~

177 4. Denial of the demolition permit would conflict with state law applicable to  
178 the City of Berkeley, as a charter city, including but not limited to the Ellis Act  
179 (Government Code section 7060 et seq.); or

180 ~~3. The demolition is necessary to permit construction of special housing needs~~  
181 ~~facilities such as, but not limited to, childcare centers and affordable housing~~  
182 ~~developments that serve the greater good of the entire community; or~~

183 ~~4. The demolition is necessary to permit construction approved pursuant to this~~  
184 ~~Chapter of at least the same number of dwelling units. No such demolition shall~~  
185 ~~occur prior to the issuance of a building permit for the replacement units.~~

186 D A Use Permit issued pursuant to this Section must comply with Chapter 3.24,  
187 except where enforcement of that Chapter would conflict with state law.

188 ~~—When a project is approved under this paragraph, the project applicant shall be~~  
189 ~~required to pay a fee for each unit demolished to mitigate the impact of the loss of~~  
190 ~~affordable housing in the City of Berkeley. The amount of the fee shall be set by~~  
191 ~~resolution of the City Council.~~

192 ~~—In the case of a unit with a tenant at the time of demolition, the provisions of Section~~  
193 ~~23C.08.020.C apply and the impact fee is due when that tenant vacates the unit.~~

194 ~~—In lieu of paying the impact fee, the project applicant may provide a designated unit in~~  
195 ~~the new project at a below market rate to a qualifying household in perpetuity. The~~  
196 ~~affordability level of the below market rent and the income level of the qualifying~~  
197 ~~household shall be set by resolution of the City Council. The project applicant shall~~  
198 ~~enter a regulatory agreement with the City of Berkeley to provide for the provision of any~~  
199 ~~such in lieu units.~~

200 ~~B. Notwithstanding Subdivision (A), demolition will not be allowed if the~~  
201 ~~building was removed from the rental market under the Ellis Act during the~~  
202 ~~preceding five (5) years or there have been verified cases of harassment or~~  
203 ~~threatened or actual illegal eviction during the immediately preceding three years.~~

204 ~~—Where allegations of harassment or threatened or actual illegal eviction are in~~  
205 ~~dispute, either party may request a hearing before a Rent Board Hearing Examiner, who~~  
206 ~~will provide an assessment of the evidence and all available documentation to the~~  
207 ~~Zoning Adjustments Board, which shall determine whether harassment or threatened or~~  
208 ~~actual illegal eviction occurred.~~

209 ~~GE.~~ If the units in a building to be demolished under subdivision (A) are occupied, the  
210 following requirements shall apply. A - Use Permit issued pursuant to this Section shall  
211 require the applicant to comply with the following conditions:

212 ~~1. Except as set forth in paragraph (2) below:~~ 1. \_\_\_\_\_

213 ~~a.~~ The applicant shall provide all ~~sitting~~ tenants with notice of the application to  
214 demolish the building no later than the date it is submitted to the City, including  
215 notice of their rights under Chapter 13.76. Any existing residents must be allowed  
216 to occupy their units until six months before the start of construction activities.

217  
218 ~~2. b.~~ The applicant shall provide assistance with moving ~~expenses and~~  
219 ~~relocation assistance~~ equivalent to ~~those the requirements~~ set forth in Chapter  
220 13.84 or Government Code section 66300(d)(2)(D)(i), whichever requires  
221 greater relocation assistance to displaced households; provided, however, that  
222 any project that is carried out or funded by the state or federal government shall  
223 be subject to applicable provisions of the California Relocation Act (Government  
224 Code section 7260 et seq.) and/or the Uniform Relocation Assistance and Real  
225 Property Acquisition Policies Act of 1970, as amended (42 U.S.C. sections 4601-  
226 4655).

227 ~~c.~~ The applicant shall subsidize the rent differential for a comparable replacement unit,  
228 in the same neighborhood if feasible, until new units are ready for occupancy. Funding  
229 for the rent differential shall be guaranteed in a manner approved by the City.

230 ~~2.~~ An applicant under this Chapter who proposes to construct a 100% affordable  
231 housing project shall provide relocation benefits that conform to the Uniform Relocation  
232 Assistance and Real Property Acquisition Policies Act of 1970, as amended and the  
233 California Relocation Act (Government Code sections 7260 et seq.).

234  
235 ~~3.~~ Except as set forth in paragraph (4) below, sitting tenants who are  
236 displaced as a result of demolition shall be provided the right of refusal to move  
237 into the new building; ~~Any~~ and tenants of a protected units that are ~~is~~ demolished  
238 shall have the right of first refusal to rent any new ~~below market rate~~ protected  
239 units designated to replace the units that were demolished, ~~at the rent that would~~  
240 ~~have applied if they had remained in place, as long as their tenancy continues.~~  
241 Income restrictions shall not apply to displaced tenants, consistent with the



242 requirements of Government Code section 66300(d)(2)(D)(ii), if applicable, and  
243 subject to any applicable eligibility requirements for affordable units.

244  
245 ~~4.—In cases where an applicant under this Chapter has constructed a 100% affordable~~  
246 ~~housing project, sitting tenants who are displaced as a result of demolition and who~~  
247 ~~desire to return to the newly constructed building will be granted a right of first refusal~~  
248 ~~subject to their ability to meet income qualifications and other applicable eligibility~~  
249 ~~requirements when the new units are ready for occupancy.~~

250 ~~5.—The provisions of this section shall not apply to tenants who move in after the~~  
251 ~~application for demolition is submitted to the City provided that the owner informs each~~  
252 ~~prospective tenant about the proposed demolition and that demolition constitutes good~~  
253 ~~cause for eviction.~~

254 ~~D.—Notwithstanding anything in Title 23 to the contrary, but subject to any applicable~~  
255 ~~requirements of the Landmarks Preservation Ordinance (BMC Chapter 3.24), accessory~~  
256 ~~buildings of any size, including, but not limited to, garages, carports and sheds, but not~~  
257 ~~including any structure containing a lawfully established dwelling unit, which serves and~~  
258 ~~is located on the same lot as a lawful residential use, may be demolished by right. (Ord.~~  
259 ~~7458 NS § 2, 2016)~~

260 ~~**23C.08.030 Elimination of Dwelling Units and Accessory Dwelling Units through**~~  
261 ~~**Conversion and Change of Use**~~

262 ~~A.—The Board may approve a Use Permit for the elimination of a dwelling unit through~~  
263 ~~combination with another dwelling unit for purposes of occupancy by a single household~~  
264 ~~if it finds that:~~

265 ~~1.—The existing number of dwelling units exceeds the number permitted by the~~  
266 ~~maximum residential density applicable to the District where the subject building is~~  
267 ~~located; and~~

268 ~~2.—One of the affected dwelling units has been occupied by the applicant's household~~  
269 ~~as its principal place of residence for no less than two years prior to the date of the~~  
270 ~~application and none of the affected units is currently occupied by a tenant, or all~~  
271 ~~dwelling units that would be affected by the elimination are being sold by an estate and~~  
272 ~~the decedent occupied the units as their principal residence for no less than two years~~  
273 ~~prior to the date of their death.~~

274 ~~B.—Notwithstanding Subdivision (A), demolition will not be allowed if the building was~~  
275 ~~removed from the rental market under the Ellis Act during the preceding five (5) years or~~  
276 ~~there have been verified cases of harassment or threatened or actual illegal eviction~~  
277 ~~during the immediately preceding three years. Where allegations of harassment or~~  
278 ~~threatened or actual illegal eviction are in dispute, either party may request a hearing~~  
279 ~~before a Rent Board Hearing Examiner, who will provide an assessment of the evidence~~  
280 ~~and all available documentation to the Zoning Officer or Zoning Adjustments Board,~~  
281 ~~which shall determine whether harassment or threatened or actual illegal eviction~~  
282 ~~occurred.~~

283 ~~C.—In the event a unit eliminated pursuant to subdivision (A) is not occupied by the~~  
284 ~~applicant's household for at least two consecutive years from the date of elimination, the~~  
285 ~~affected unit must be restored to separate status. This requirement shall be~~  
286 ~~implemented by a condition of approval and a notice of limitation on the property,~~  
287 ~~acceptable to the City, which provides that if the owner's household does not occupy~~  
288 ~~the unit for at least two years from the date of elimination the affected units must either~~  
289 ~~be restored as separate dwelling units and the vacant unit(s) offered for rent within six~~  
290 ~~months or the owner must pay a fee of \$75,000 in 2013 dollars, adjusted in May of each~~  
291 ~~year according to the Consumer Price Index for the San Francisco Bay Area, which~~  
292 ~~shall be deposited into the City's Housing Trust Fund. The City may exempt an~~  
293 ~~applicant from the two year residency requirement in the event of an unforeseeable life~~  
294 ~~change that requires relocation.~~

295 ~~D.—In cases where elimination of a dwelling unit reduces the number of units in a~~  
296 ~~building to four (4), the applicant shall record a notice of limitation against the subject~~  
297 ~~property that the limitation on eviction of tenants under Section 13.76.130.A.9.i(iii) shall~~  
298 ~~continue to apply until such time as the building is demolished or sufficient units are~~  
299 ~~added or restored such that the building contains at least five (5) units.~~

300 ~~E.—Alternatively, the Zoning Officer may issue an AUP for a conversion which~~  
301 ~~eliminates a dwelling unit if they find that the conversion of the building will restore or~~  
302 ~~brings the building closer to the original number of dwelling units that was present at the~~  
303 ~~time it was first constructed, provided the conversion meets the requirements of A.2., B.,~~  
304 ~~C. and D. of this section.~~

305 ~~F.—The Board may approve a Use Permit for a change of use to a community care or a~~  
306 ~~child care facility which eliminates a dwelling unit if it finds that such use is in~~  
307 ~~conformance with the regulations of the District in which it is located.~~

308 ~~G.—The Board may approve a Use Permit for the elimination of a dwelling unit through~~  
309 ~~combination with another dwelling unit for the purpose of providing private bathrooms,~~  
310 ~~kitchenettes, accessibility upgrades, and/or seismic safety upgrades to Single-~~  
311 ~~Residential Occupancy (SRO) Rooms in residential developments undergoing a~~  
312 ~~publicly-funded rehabilitation.~~

313 ~~H.—Notwithstanding the general Use Permit requirement under 23C.08.010, a~~  
314 ~~lawfully established accessory dwelling unit that is not a controlled rental unit~~  
315 ~~may be eliminated subject to the issuance of a Zoning Certificate when the re-~~  
316 ~~conversion restores the original single family use of the main building or lot,~~  
317 ~~provided that no tenant is evicted. (Ord. 7458 NS § 3, 2016)~~

### 318 **~~23C.08.035 Private Right of Action~~**

319 ~~Any affected tenant may bring a private action for injunctive and/or compensatory relief~~  
320 ~~against any applicant and/or owner to prevent or remedy a violation of Sections~~  
321 ~~23C.08.020 or 23C.08.030. In any such action a prevailing plaintiff may recover~~  
322 ~~reasonable attorney's fees. (Ord. 7458 NS § 4, 2016)~~

### 323 **~~23C.08.040 Elimination of Residential Hotel Rooms~~**

324 ~~A.—The Board may approve a Use Permit to remove a Residential Hotel Room if it~~  
325 ~~finds that, prior to the removal of any Residential Hotel Rooms, the Residential Hotel~~  
326 ~~owner will provide or cause to be provided standard housing of at least comparable size~~  
327 ~~and quality, at comparable rents and total monthly or weekly charges to each affected~~  
328 ~~tenant; and~~

329 ~~1.—The Residential Hotel Rooms being removed are replaced by a~~  
330 ~~common use facility, including, but not limited to, a shared kitchen, lounge~~  
331 ~~or recreation room, that will be available to and primarily of benefit to the~~  
332 ~~existing residents of the Residential Hotel and that a majority of existing~~  
333 ~~residents give their consent to the removal of the rooms;~~

334 ~~2.—Prior to the date on which the Residential Hotel Rooms are removed,~~  
335 ~~one-for-one replacement of each room to be removed is made, with a~~  
336 ~~comparable room, in one of the methods set forth in this section; or~~

337 ~~3.—Residential Hotel Rooms being removed because of building alterations~~  
338 ~~related to seismic upgrade to the building or to improve access to meet the~~  
339 ~~requirements of the American Disabilities Act (ADA).~~

340 ~~B.— For purposes of this section, replacement rooms must be substantially comparable~~  
341 ~~in size, location, quality and amenities, and available at comparable rents and total~~  
342 ~~monthly or weekly charges to those being removed. The replacement rooms must also~~  
343 ~~be subject to rent and eviction controls substantially equivalent to those provided by the~~  
344 ~~Rent Stabilization Ordinance or those that applied to the original rooms which are being~~  
345 ~~replaced. Comparable rooms may be provided by:~~

346 ~~1.— Offering the existing tenants of the affected rooms the right of first-~~  
347 ~~refusal to occupy the replacement rooms;~~

348 ~~2.— Making available comparable rooms, which are not already classified~~  
349 ~~as Residential Hotel Rooms to replace each of the rooms to be removed; or~~

350 ~~3.— Paying to the City’s Housing Trust Fund an amount sufficient to provide~~  
351 ~~replacement rooms. The amount to be paid to the City shall be the~~  
352 ~~difference between the replacement cost, including land cost, for the rooms~~  
353 ~~and the amount which the City can obtain by getting a mortgage on the~~  
354 ~~anticipated rents from the newly constructed rooms. The calculations shall~~  
355 ~~assume that rents in the newly constructed rooms shall not exceed the~~  
356 ~~greater of either a level comparable to the weekly or monthly charges for~~  
357 ~~the replaced rooms or the level which would be charged if no current tenant~~  
358 ~~paid more than 30% of such tenant’s gross income for rent.~~

359 ~~C.— In a Residential Hotel owned and operated by a non-profit organization,~~  
360 ~~recognized as tax-exempt by either the Franchise Tax Board and/or the~~  
361 ~~Internal Revenue Service, Residential Hotel Rooms may be changed to~~  
362 ~~non-residential hotel room uses providing that the average number of~~  
363 ~~Residential Hotel Rooms per day in each calendar year is at least 95% of~~  
364 ~~Residential Hotel Rooms established for that particular Residential Hotel.~~  
365 ~~(Ord. 6478-NS § 4 (part), 1999)~~

366 **23C.08.050-020 Demolitions of Accessory Buildings and Buildings Used for**  
367 **Commercial, Manufacturing, ~~or~~ Community, Institutional, ~~or~~ Other Non-**  
368 **Residential Uses**

369 A. Notwithstanding any other provision of Title 23, Aa Mmain Bbuilding used for non-  
370 residential purposes containing less than 5,000 square feet of floor area may be  
371 demolished subject to issuance of an AUPUse

372 Permit; a Mmain Bbuilding containing 5,000 square feet or more of floor area may be  
373 demolished subject to issuance of Use Permit.-

374 B. A demolition of an ~~accessory~~Accessory Bbuilding other than an Accessory  
375 Dwelling Unit containing less than 300 square feet of floor area is permitted ~~as of right~~  
376 subject to the issuance of a Zoning Certificate; an ~~A~~Accessory Bbuilding other than an  
377 Accessory Dwelling Unit containing 300 square feet or more of floor area may be  
378 demolished subject to the issuance of an AUP.

379 C. Any application for a Use Permit or AUP to demolish a non-residential building or  
380 structure which is 40 or more years old shall be forwarded to the Landmarks  
381 Preservation Commission (LPC) for review prior to consideration of the Use Permit or  
382 AUP. The LPC may initiate a landmark or structure-of-merit designation or may choose  
383 solely to forward to the Board or Zoning Officer its comments on the application. The  
384 Board or Zoning Officer shall consider the recommendations of the LPC in considering  
385 its action on the application.

386 D. A Use Permit or an AUP for demolition of an Accessory Building other than an  
387 Accessory Dwelling Unit or for the demolition of a non-residential building or structure  
388 ~~may be approved only shall issue~~ if the Board or Zoning Officer ~~finds that the demolition~~  
389 ~~will not be materially detrimental to the commercial needs and public interest of any~~  
390 ~~affected neighborhood or the City, and one of the following findings that the demolition if~~  
391 the application complies with the requirements of Chapter 3.24, and one of the following  
392 findings is made:

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

406 **23C.08.~~060~~030 Building Relocations**

407 A. The relocation of a building from a lot is considered a demolition for purposes of  
408 this Ordinance.

409 B. The relocation of a building to a lot is considered new construction and shall be  
410 subject to all requirements applicable to new construction.

411 C. When a building is relocated to a different lot within the City, the lot from which the  
412 building is being removed shall be known as the source lot and the lot on which the  
413 building is to be sited shall be known as the receiving lot. ~~In such cases all notification~~  
414 ~~requirements apply to both the source and receiving lots.~~

415 D. The removal of a building from the source lot shall require be approved if it meets  
416 the requirements for issuance of demolition permit under this Chapter.

417 E. The relocation of a building onto the receiving lot shall be approved if it meets the  
418 requirements for construction of a new structure on the receiving lot.

419 ~~The Board may approve a Use Permit for relocation to a lot if it finds that the building at~~  
420 ~~proposed to be relocated is not in conflict with the architectural character, or the building~~  
421 ~~scale of the neighborhood or area in which such building is to be located, and the~~  
422 ~~receiving lot provides adequate separation of buildings, privacy, yards and Usable Open~~  
423 ~~Space. (Ord. 6478-NS § 4 (part), 1999)~~

424 **23C.08.~~070~~040 Limitations~~Imminent Hazards~~**

425 ~~A.~~—Notwithstanding anything to the contrary, if a building or structure is unsafe,  
426 presents a public hazard and is not securable and/or is in imminent danger of collapse  
427 so as to endanger persons or property, as determined the City's Building Official, it may  
428 be demolished without a Use Permit. The Building Official's determination in this matter  
429 shall be governed by the standards and criteria set forth in the most recent edition of the  
430 California Building Code that is in effect in the City.

431 ~~B.~~—~~This chapter shall be applied only to the extent permitted by state law as to~~  
432 ~~buildings which have been entirely withdrawn from the rental market pursuant to the~~  
433 ~~state statute known as the Ellis Act. (Ord. 6478-NS § 4 (part), 1999)~~





# PLANNING COMMISSION

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## NOTICE OF PUBLIC HEARING

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### NOVEMBER 18, 2020

#### **Amendment to Berkeley Municipal Code Chapter 23C.08 Demolition and Dwelling Unit Controls**

The Planning Commission of the City of Berkeley will hold a Public Hearing on the above matter, pursuant to Zoning Ordinance Section 23A.20.30, on **Wednesday, November 18, 2020**, beginning at 7:00 PM. **The hearing will be conducted via Zoom** – see the Agenda for details, which can be found here: <https://www.cityofberkeley.info/PC/>

**PUBLIC ADVISORY:** This meeting will be conducted exclusively through videoconference and teleconference. Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

**AMENDMENT DESCRIPTION:** Amend Berkeley Municipal Code (BMC) Chapter 23C.08 to ensure Berkeley's regulations pertaining to Demolitions and Dwelling Unit Controls are enforceable, comply with State regulations, correctly provide cross-references to other chapters of the BMC, and are written clearly and concisely.

**LOCATION:** Citywide.

**ENVIRONMENTAL REVIEW STATUS:** The proposed Zoning Ordinance amendment is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3), in that the proposed amendment does not have the potential for causing a significant effect on the environment and is not subject to CEQA review.

#### **PUBLIC COMMENT**

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All persons are welcome to attend the virtual hearing and will be given an opportunity to address the Commission. Comments may be made verbally at the public hearing and/or in writing before the hearing. The Commission may limit the time granted to each speaker.

Written comments must be directed to the Planning Commission Secretary at the Land Use Planning Division (Attn: Planning Commission Secretary), 1947 Center Street, Second Floor, Berkeley CA 94704, or via e-mail to: [apearson@cityofberkeley.info](mailto:apearson@cityofberkeley.info). All materials will be made available via the Planning Commission agenda page online at this address: <https://www.cityofberkeley.info/PC/>

Correspondence received by 12 noon, eight days before this public hearing, will be included as a Communication in the agenda packet.

Correspondence received after this deadline will be conveyed to the Commission and the public in the following manner:

- Correspondence received by 12 noon two days before this public hearing, will be included in a Supplemental Packet, which will be posted to the online agenda as a Late Communication one day before the public hearing.
- Correspondence received by 5pm one day before this public hearing, will be included in a second Supplemental Packet, which will be posted to the online agenda as a Late Communication by 5pm on the day of the public hearing.
- Correspondence received after 5pm one day before this public hearing will be saved as part of the public record.

Note: It will not be possible to submit written comments at the meeting.

### **COMMUNICATION ACCESS**

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To request a meeting agenda in large print, Braille, or on audiocassette, or to request a sign language interpreter for the meeting, call (510) 981-7410 (voice) or 981-6903 (TDD). Notice of at least five (5) business days will ensure availability.

### **FURTHER INFORMATION**

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Questions should be directed to Alene Pearson, at 510-981-7489, or [apearson@cityofberkeley.info](mailto:apearson@cityofberkeley.info)

Current and past agendas are available on the City of Berkeley website at: <https://www.cityofberkeley.info/PC/>





Office of the City Manager

October 22, 2020

To: Berkeley Boards and Commissions  
From: *Dee* Dee Williams-Ridley, City Manager  
Subject: Commission Meetings During COVID-19 Emergency

This memo serves to provide a summary and update of the status of meetings of Berkeley Boards and Commissions during the COVID-19 emergency declaration.

On March 10, 2020, the City Council ratified the proclamation of the Director of Emergency Services for a state of local emergency related to the COVID-19 pandemic. The emergency proclamation has been renewed twice by the Council and remains in effect.

On March 17, 2020, the City Council adopted Resolution No. 69,331-N.S. which placed limitations of the meetings of City legislative bodies, including all boards and commissions. The resolution allows for commissions to meet to conduct time-sensitive, legally mandated business with the authorization of the City Manager. Since that time, several commissions have obtained this approval and held meetings; many other commissions have not met at all since March.

The City Manager has periodically reviewed the status of commission meetings with the City Council Agenda & Rules Committee. Recently, at the October 12, 2020, Agenda & Rules Committee meeting, the City Manager presented a proposal to allow all commissions to meet under limited circumstances. The Committee voted to endorse the City Manager's recommendation.

Effective October 12, 2020, all City boards and commissions may meet once to develop and finalize their work plan for 2021 and to complete any Council referrals directly related to the COVID-19 pandemic response. A second meeting may be held to complete this work with specific authorization by the City Manager. It is recommended that the meeting(s) occur by the end of February 2021.

Commissions that have been granted permission to meet under Resolution No. 69,331-N.S. may continue to meet pursuant to their existing authorization, and may also meet to develop their 2021 work plan.

Commissions that have not requested meetings pursuant to the Resolution No. 69,331-N.S. may meet pursuant to the limitations listed above.

October 22, 2020

Re: Commission Meetings During COVID-19 Emergency

To assist commissions with the development of their work plan and to provide the City Council with a consistent framework to review the work plans, the City Manager has developed the following items to consider in developing the work plan that is submitted to the City Council agenda.

Prompts for Commissions to use in work plan:

- What commission items for 2021 have a direct nexus with the COVID-19 response or are the result of a City Council referral pertaining to COVID-19?
- What commission items for 2021 are required for statutory reasons?
- What commission items for 2021 are required for budgetary or fund allocation reasons?
- What commission items for 2021 support council-adopted or voter-adopted mission critical projects or programs?
- What are the anticipated staff demands (above and beyond baseline) for analysis, data, etc., to support commission work in 2021 (baseline duties = posting agendas, creating packets, attend meetings, minutes, etc.)?

The limitations on commission meetings are due to the need to direct staff resources and the resources of city legislative bodies to the pandemic response. Many of the staff assigned as commission secretaries are engaged in work with the City Emergency Operations Center or have been assigned new specific duties related to the impacts of the pandemic.

Meeting frequency for boards and commissions will continue to be evaluated on a regular basis by the City Manager in consultation with Department Heads and the City Council. More frequent meetings by commissions will be permitted as the conditions under COVID-19 dictate.

Thank you for your service on our boards and commissions. The City values the work of our commissions and we appreciate your partnership and understanding as we address this pandemic as a resilient and vibrant community.

Attachments:

1. Resolution 69,331-N.S.
2. List of Commissions with Meeting Data

cc: Mayor and City Councilmembers  
Senior Leadership Team

RESOLUTION NO. 69,331-N.S.

RATIFYING THE RECOMMENDATIONS ISSUED BY THE DIRECTOR OF EMERGENCY SERVICES AND THE PUBLIC HEALTH OFFICER REGARDING MEETINGS OF BERKELEY LEGISLATIVE BODIES IN RESPONSE TO THE COVID-19 (NOVEL CORONAVIRUS) PANDEMIC

WHEREAS, on March 3, 2020, pursuant to Berkeley Municipal Code section 2.88.040, the City Manager, serving as the Director of Emergency Services, proclaimed the existence of a local emergency; and

WHEREAS, the proclamation was warranted by virtue of the extreme peril to the safety of persons and property in the City caused by pandemic in the form of the global spread of a severe acute respiratory illness caused by a novel (new) coronavirus ("COVID-19"), including confirmed cases in California and the San Francisco Bay Area, and presumed cases in Alameda County prompting the County to declare a local health emergency; and

WHEREAS, the proclamation of the Director of Emergency Services was ratified by the City Council on March 10, 2020; and

WHEREAS, the continued spread of COVID-19 and increase in community transmission cases in surrounding counties warrant further measures be taken by the City to protect the community; and

WHEREAS, the Public Health Officer has issued guidelines for limiting mass gatherings; and

WHEREAS, certain limitations on the meetings of legislative bodies in the City of Berkeley is warranted; and

WHEREAS, the continued essential functions of the City and certain legislative bodies must continue for time-sensitive, legally mandated actions; and

WHEREAS, the Director of Emergency Services presented recommendations to the Agenda & Rules Committee on March 12, 2020 regarding the meetings of legislative bodies; and

WHEREAS, the Agenda & Rules Committee recommended that said recommendations be forwarded to the City Council for acknowledgement and ratification.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the following recommendations issued by the Director of Emergency Services and the Public Health Officer regarding limitations and practices for legislative bodies of the City of Berkeley are hereby acknowledged and ratified:

Section 1. Boards and Commissions

Commissions listed below may continue to meet only if they have time-sensitive, legally mandated business to complete, as determined by the Director of Emergency Services. The City may consider teleconferencing for these commissions, if feasible.

Design Review Committee  
Fair Campaign Practices Commission  
Housing Advisory Commission (limited to quasi-judicial activities)  
Joint Subcommittee on the Implementation of State Housing Laws  
Landmarks Preservation Commission  
Open Government Commission  
Personnel Board  
Planning Commission  
Police Review Commission  
Zoning Adjustments Board

Commissions in Category B shall not meet for a period of 60 days. This will be re-evaluated at the Agenda & Rules Committee meeting on April 13, 2020. A Commission in Category B may convene a meeting if it has time-sensitive, legally-mandated business to complete, as determined by the Director of Emergency Services.

Category B

Animal Care Commission  
Cannabis Commission  
Civic Arts Commission  
Children, Youth, and Recreation Commission  
Commission on Aging  
Commission on Disability  
Commission on Labor  
Commission on the Status of Women  
Community Environmental Advisory Commission  
Community Health Commission  
Disaster and Fire Safety Commission  
Elmwood Business Improvement District Advisory Board  
Energy Commission  
Homeless Commission  
Homeless Services Panel of Experts  
Housing Advisory Commission  
Human Welfare and Community Action Commission  
Measure O Bond Oversight Committee  
Mental Health Commission  
Parks and Waterfront Commission  
Peace and Justice Commission  
Public Works Commission  
Solano Avenue Business Improvement District Advisory Board  
Sugar-Sweetened Beverage Product Panel of Experts

Transportation Commission  
Youth Commission  
Zero Waste Commission  
Loan Administration Board

Section 2. City Council Policy Committees

The Agenda & Rules Committee and the Budget & Finance Committee may continue to meet to fulfill their legislative and advisory responsibilities. All other Policy Committees (Facilities, Infrastructure, Transportation, Environment & Sustainability, Public Safety, Land Use, Housing & Economic Development, and Health, Life Enrichment Equity & Community) are suspended indefinitely. The 120-day deadline to consider an item will be tolled during the suspension of business.

Section 3. City Council

For City Council meetings, the City will continue to advise and implement social distancing by limiting the capacity of the Council Chambers, providing an overflow room, attempting to limit the duration of the meeting, only conducting essential business, and limiting or suspending ceremonial items. The City will adhere to and implement the provisions of the Governor's Executive Order #N-25-20 related to the Brown Act and the utilization of technology to facilitate participation.

The foregoing Resolution was adopted by the Berkeley City Council on March 17, 2020 by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, and Arreguin.

Noes: None.

Absent: None.



\_\_\_\_\_  
Jesse Arreguin, Mayor

Attest:

  
\_\_\_\_\_  
Mark Numalville, City Clerk

Communications  
 Planning Commission  
 November 18, 2020

<b>Boards and Commissions</b>	<b>Meetings Held Under COVID Emergency (through 10/11)</b>	<b>Scheduled Meetings in October</b>	<b>Regular Mtg. Date</b>	<b>Secretary</b>	<b>Department</b>
Zoning Adjustments Board	10	1	2nd & 4th Thur.	Shannon Allen	PLD
Police Review Commission	9	1	2nd & 4th Wed.	Katherine Lee	CM
Fair Campaign Practices Commission	8	1	3rd Thur.	Sam Harvey	CA
Design Review Committee	5	1	3rd Thur.	Anne Burns	PLD
Landmarks Preservation Commission	5	1	1st Thur.	Fatema Crane	PLD
Open Government Commission	5	1	3rd Thur.	Sam Harvey	CA
Homeless Services Panel of Experts	4	1	1st Wed	Brittany Carnegie	HHCS
Disaster and Fire Safety Commission	3	1	4th Wed.	Keith May	FES
Parks and Waterfront Commission	3	1	2nd Wed.	Roger Miller	PRW
Planning Commission	3		1st Wed.	Alene Pearson	PLD
Public Works Commission	3	1	1st Thur.	Joe Enke	PW
Civic Arts Commission	2		4th Wed.	Jennifer Lovvorn	OED
Solano Avenue BID Advisory Board	2		Contact Secretary	Eleanor Hollander	OED
Elmwood BID Advisory Board	1		Contact Secretary	Kieron Slaughter	OED
Joint Subcom. on Implementation of State Housing Laws	1		4th Wed.	Alene Pearson	PLD
Mental Health Commission	1		4th Thur.	Jamie Works-Wright	HHCS
Personnel Board	1		1st Mon.	La Tanya Bellow	HR
Transportation Commission	1	1	3rd Thur.	Farid Javandel	PW
Animal Care Commission	0		3rd Wed.	Amelia Funghi	CM
Cannabis Commission	0		1st Thur.		PLD
Children, Youth, and Recreation Commission	0		4th Monday	Stephanie Chu	PRW
Commission on Aging	0		3rd Wed.	Richard Castrillon	HHCS
Commission on Disability	0		1st Wed.	Dominika Bednarska	PW
Commission on Labor	0		3rd Wed., alternate mon	Nathan Dahl	HHCS
Commission on the Status of Women	0		4th Wed.	Shallon Allen	CM
Community Environmental Advisory Commission	0		2nd Thur.	Viviana Garcia	PLD
Community Health Commission	0		4th Thur.	Roberto Terrones	HHCS
Energy Commission	0		4th Wed.	Billi Romain	PLD
Homeless Commission	0		2nd Wed.	Brittany Carnegie	HHCS
Housing Advisory Commission	0		1st Thur.	Mike Uberti	HHCS
Human Welfare & Community Action Commission	0		3rd Wed.	Mary-Claire Katz	HHCS
Loan Administration Board	0		Contact Secretary	Kieron Slaughter	OED
Measure O Bond Oversight Committee	0		3rd Monday	Amy Davidson	HHCS
Peace and Justice Commission	0		1st Mon.	Nina Goldman	CM
Sugar-Sweetened Beverage Product Panel of Experts	0		3rd Thur.	Dechen Tsering	HHCS
Youth Commission	0		2nd Mon.	Ginsi Bryant	PRW
Zero Waste Commission	0		4th Mon.	Heidi Obermeit	PW

**Commissions FAQs  
Supplemental to City Manager Memo on Meeting Under COVID-19**

1. Is this meeting a requirement or am I supposed to ask the Commission chair/vice chair if they want to meet/poll the commissioners to see if they are available and want to meet? Our only regularly scheduled Commission meeting for the remainder of the year falls on the week of Thanksgiving, so I am not sure if all Commissioners will want to meet if they have already made other plans around the holidays.

*The requirement for commissions to submit an annual work plan to the City Council is still in effect. The expectation is that the commissions will take action on their work plans at these specifically authorized meetings, and that the work plans will be submitted to the Council agenda process per the existing requirement.*

*If conditions improve, there will be more frequent commission meetings and it will help guide the commission's work to adopt a work plan. It is recommended that the commission complete the work plan by the end of February. The commission may meet on its regularly scheduled date or schedule a special meeting.*

2. Does the meeting need to be scheduled on the previously approved meeting schedule (i.e. the 4th Monday of the month in November?) or can they choose another day/date if not enough of them are available on that date? The Commission is usually on recess in December. Could they meet in early Dec if that is their preference?

*The commission may meet on its regularly scheduled date or schedule a special meeting. You may meet in December if that is the will of the commission.*

3. I was told this meeting is supposed to be focused on the Commission's work plan. Is this correct? The Commission usually approves their work plan in April for the upcoming fiscal year. So are they supposed to be working on their work plan for 2021 earlier than usual? Or are they revising their current FY 2020 work plan?

*The commission may meet to discuss their work plan or any COVID-19 referrals received from the City Council. You can use this time to develop your next FY work plan. There may also be significant amendments to the previous year's work plan given the pandemic.*

*For the purposes of meeting management (and managing expectations), secretaries may want to explicitly share these goals with their chair when reviewing the agenda, and again with the full commission at the outset of the meeting so that everyone is focused on achieving the same goal.*

4. How are Commissioners supposed to approach a work plan if they don't know yet how many meetings will be scheduled in 2021? Should we assume that the regular meeting schedule will resume January, 2021?

*The frequency of meetings will be determined by the conditions the city is experiencing under the pandemic and the emergency proclamation. Commissions may develop a full work plan with the proviso that work may be limited due to fewer meetings. Prioritization of work for the coming year will be a valuable exercise.*

**Commissions FAQs  
Supplemental to City Manager Memo on Meeting Under COVID-19**

6. Does the meeting agenda need to be posted physically on the bulletin board in front of Old City Hall like usual? Are there other special posting requirements for virtual meetings – i.e. I assume we will post the Zoom meeting invite on the Community Calendar?

*There are no changes to the requirements for posting the agendas. The only new practice is to add the Zoom link to the Community Calendar item. There are some wording changes to be made to the agenda template to reflect that it is a virtual meeting. The new wording can be borrowed from the agendas for commissions have held Zoom meetings. As there is no physical meeting location for virtual meetings, the requirement that the agenda be posted at the meeting location does not apply.*

7. Between now and January, all commissions should meet at least once (and possible twice, if it is approved by Dee) to discuss their 2021 work plan and any **COVID-19** items that have been assigned to them by City Council during the past several months. How can we confirm what has been assigned to each commission in the past several months?

*Secretaries can search the Minutes and/or Annotated Agendas. The City Clerk Department is working on a list for secretaries to cross-reference with their own tracking.*

*If the commission has COVID related items that were referred by Council, It is understandable that the commission may not be able to draft their responses to Council in 1-2 meetings. One option is for the commission to designate one or two commissioners to finalize and submit the report/communication to Council. Under this option, the full commission take action to send the response to Council.*

8. The meeting should be held virtually on Zoom. Is there a training available from the Clerk's Office, for Commission Secretaries who haven't yet conducted a virtual commission meeting?

*Several departments and other commission secretaries are currently managing meetings on Zoom. Consult with experienced staff in your department about the Zoom license that your department manages and which staff can offer guidance on managing a Zoom meeting or webinar. The City Clerk Department can offer some limited training if needed.*

9. What plans should be made for the 2021 year regarding meetings? Should staff be setting a schedule for meetings?

*There is no established schedule for 2021. After these 1 or 2 meetings, the situation will be re-evaluated.*

10. In one case, we have student commissioners who have graduated and not been replaced. How should we proceed with those vacancies, given the direction?

*There is no change in how vacancies are handled. The appointing Councilmember is informed when they have a new vacancy.*



**Commissions FAQs  
Supplemental to City Manager Memo on Meeting Under COVID-19**

11. Should Commission Secretaries be expected to resume some of their regular commission duties? Some commission secretaries have been assigned temporary work through the EOC or to conduct work to cover vacant positions, and this additional workload will impact what they can/cannot do.

*For the 1 or 2 meetings, the commission secretaries would have regular pre-meeting, in-meeting, and post-meeting duties.*

Council Referrals to Boards and Commissions

Below is a sample search for finding Council referrals. You may adjust the date parameters or the commission name to narrow or widen your search.

Records Online – <https://www.cityofberkeley.info/recordsonline/paFiles/cqFiles/index.html>

Search

**Search Type**

Public – Minutes Query (Full Text) ▼

Search for minutes by entering a search term and any other fields, then click Search.

**Search Term**

Refer AND Commission

**From Date**                      **To Date**

1/1/2020

**Doc Source**

City Council ▼

**Search**   **Reset**

Number	Demand	Recommendations	Meeting Date	Project Type	Lead City Department	Referral Member	Sponsor	Referral by	Referral Commission
DMND0003 890	Healthy Checkout Ordinance DMND0003890	3. Refer to the Sugar Sweetened Beverage Product Panel of Experts to consider recommending funding allocations, and to work with City staff to develop protocols for, implementation, education, and enforcement.	2020-09-22	Commission Referral	HEALTH, HSG & COMMUNITY SVC			Commission	Sugar-Sweetened Beverage Product Panel of Experts
DMND0003 885	100% Sustainable Trips by 2040 DMND0003885	Adopt the attached Resolution, setting a goal of achieving 50% increase in trips taken by sustainable modes by 2030 and 100% by 2040, and refer to the Community Environmental Advisory Commission, the Energy Commission, and the Transportation Commission to develop relevant proposals and recommendations for accomplishing that goal.	2020-09-15	Commission Referral	PLANNING & DEVELOPMENT			Commission	Community Environmental Advisory Commission
DMND0003 886	100% Sustainable Trips by 2040 DMND0003886	Adopt the attached Resolution, setting a goal of achieving 50% increase in trips taken by sustainable modes by 2030 and 100% by 2040, and refer to the Community Environmental Advisory Commission, the Energy Commission, and the Transportation Commission to develop relevant proposals and recommendations for accomplishing that goal.	2020-09-15	Commission Referral	Public Works			Commission	Transportation Commission
DMND0003 856	Referral: Update the definition of "Research and Development" DMND0003856	Refer to the Planning Commission to update the definition of "Research and Development."	2020-03-10	Commission Referral	PLANNING & DEVELOPMENT		Jesse Arreguin, Susan Wengraf	Councilmembers	
DMND0003 854	Referral: Street Lighting Near Campus DMND0003854	Refer to the Public Works Commission to include the following in the Street Lighting Subcommittee Work Plan, for the purposes of seeking input from key stakeholders and bringing together work that happens through parallel processes. The Subcommittee should: 1. Invite input from representatives from the UC Berkeley administration, UC Berkeley undergraduate and graduate students, UCPD and BPD, the Department of Public Works, and other relevant groups. 2. Develop a streamlined and accessible process for requesting street lights that includes neighborhood and campus input, while recognizing the overriding public safety concern posed by substandard lighting. 3. Develop a plan for expeditiously installing new streetlights near campus that prioritizes high-crime areas, high-injury pedestrian corridors, and student-priority areas as determined by student input.	2020-02-25	Commission Referral	Public Works	Rigel Robinson	Rigel Robinson, Lori Droste, Kate Harrison, Susan Wengraf	Councilmembers	

DMND0003 837	Considering Multi-year Bidding Processes for Street PavingDMND0003837	<p>1. Restate the recommendation approved at the December 11, 2018 Council meeting to create a two-year bidding process for street paving to realize savings by (a) reducing by 50% City staff time devoted to bidding and contracting processes over each two year period and (b) benefitting from reduced pricing which may be available for larger contracts that offer greater economies of scale and reduce contractors' bidding and contracting costs.</p> <p>2. Short-term referral to the City Manager to explore the possibility, feasibility, costs, and benefits of bidding in increments of up to 5 years to encompass entire 5-year paving plans, or other ideas to more rationally and cost-effectively align the paving plan with budget cycles and reduce costs associated with frequent bid cycles for relatively small contracts.</p>	2019-12-03	Commission Referral	Public Works	Jesse Arreguin	Jesse Arreguin, Sophie Hahn, Kate Harrison, Cheryl Davila	Councilmembers	Public Works Commission
DMND0003 828	Referral: Measures to Address Traffic Enforcement and Bicycle SafetyDMND0003828	<p>1. Refer to the Transportation Commission to consider a Resolution deprioritizing enforcement against the Idaho Stop convention for persons operating a bicycle, in an empty intersection after the operator has yielded to any other road users with the right of way, by limiting the use of any City funds or resources in assisting in the enforcement or issuance of citations for bicyclist violations of California Vehicle Code Section 22450(a), and to develop a process for evaluating the before and after effects on safety.</p>	2019-11-12	Commission Referral	Public Works	Rigel Robinson	Rigel Robinson	Councilmembers	Transportation Commission
DMND0003 821	Referral to the Civic Arts Commission to develop a grant program available for arts and cultural organizations to support retaining and improving creative spaces for artists DMND0003821	<p>Referral to the Civic Arts Commission to prioritize within their current Work Plan creating a process for awarding competitive grants to Berkeley-based arts and cultural organizations that will help support their ability to stay in Berkeley.</p>	2019-10-29	Commission Referral	Office of Economic Development	Rashi Kesarwani	Rashi Kesarwani, Lori Droste, Susan Wengraf, Sophie Hahn	Councilmembers	Civic Arts Commission
DMND0003 822	Amending Chapter 19.34 of the Berkeley Municipal Code to Expand Automatic Gas Shut-Off Valve Requirements in Multifamily, Condominium and Commercial Buildings Undergoing Renovations and to All Existing Buildings Prior to Execution of a Contract for Sale or Close of EscrowDMND0003822	<p>Refer to the Disaster and Fire Safety Commission to consider an ordinance amending Berkeley Municipal Code (BMC) 19.34.040 to expand requirements for automatic natural gas shut-off valves or excess flow valves in multifamily, condominium and commercial buildings undergoing renovations and in all existing buildings prior to execution of a contract for sale or close of escrow. Ask the Commission to consider other triggers as appropriate.</p>	2019-10-29	Commission Referral	FIRE & EMERGENCY SERVICES	Kate Harrison	Kate Harrison, Susan Wengraf, Sophie Hahn, Ben Bartlett	Councilmembers	Disaster and Fire Safety Commission

DMND0003 823	Oversized Vehicle Restrictions on Bicycle Boulevards DMND0003823	Refer to the Transportation Commission a draft ordinance amending Berkeley Municipal Code Chapter (BMC) 14.56.050 to prohibit commercial trucks exceeding five tons gross vehicle weight from utilizing streets comprising the bicycle boulevards network. Request that the commission work with business associations, the size limitations, the streets subject to the restrictions, and the clarifications added by Councilmember Wengraf related to emergency vehicles.	2019-10-29	Commission Referral	Public Works	Kate Harrison	Kate Harrison, Rigel Robinson, Ben Bartlett	Councilmembers	Transportation Commission
DMND0003 808	Pollinators and Habitat (Commission Referral)DMND0003808	Adopt three referrals that will deepen Berkeley's commitment to protecting pollinator plants and establishing habitats that will protect pollinators and our environment: 2. Refer to Public Works Commission and Parks and Waterfront Commission consideration of how to incorporate pollinators and habitat into the Adopt-A-Spot initiative referred on April 2, 2019. (COMMISSION REFERRAL) Parts 1 and 3 referred to City Manager	2019-09-24	Commission Referral	Parks, Recreation & Waterfront	Kate Harrison	Kate Harrison, Susan Wengraf, Ben Bartlett	Councilmembers	
DMND0003 809	Naming Berkeley Paths for Women Founders of the Berkeley Path Wanderers Association DMND0003809	Pursuant to Berkeley's Policy for Naming and Renaming Public Facilities, refer to the City Manager and Public Works Commission to consider and return to the City Council a recommendation regarding the naming and renaming of four Berkeley Paths, as identified on the map at Attachment 1, in honor of the four women founders of the Berkeley Path Wanderers: (a) Rename a path off of Keith Avenue near Shasta Road, currently named Eleanor Path, to "Eleanor Hall Gibson Path," after founder Eleanor Hall Gibson, who passed away in 2016; (b) Name the following paths, subject to a 2/3 vote of the City Council as provided at Section 2(B) of the Policy, as follows: (i) The extension connector of Walnut Street through the UC complex between Hearst and Berkeley Way to be named "Ruth Armstrong Path" in honor of Ruth Armstrong (Moskovitz); (ii) The path parallel to the top of Solano Avenue running along Los Angeles Avenue up the tunnel slope towards the Marin Circle, to be named "Jacque Ensign Way" in honor of Jacque Ensign; and (iii) The path [TBD] to be named "Pat DeVito Path" in honor of Pat DeVito.	2019-09-24	Commission Referral	Public Works	Sophie Hahn	Sophie Hahn, Jesse Arreguin, Susan Wengraf, Cheryl Davila	Councilmembers	Public Works Commission
DMND0003 810	Referral: Telegraph Crosswalk Art Installations DMND0003810	Refer to the Civic Arts Commission to develop and return to Council with a plan to: 1. Create a public contest to design new crosswalk art on Telegraph at the intersections of Bancroft, Durant, Channing, Haste, and Dwight Streets. 2. Build the winning design on the intersections.	2019-09-24	Commission Referral	Office of Economic Development	Rigel Robinson	Rigel Robinson	Councilmembers	Civic Arts Commission

DMND0003 795	Pavement of Derby Street and Ward Street between Telegraph Ave and Shattuck Ave DMND0003795	That the Council refers consideration of the paving of Derby St. and Ward St. between Shattuck Ave and Telegraph Ave to the Public Works Commission in order to repair these deteriorating streets that serve as a part of a major commuter corridor which both individual drivers and buses use in their daily commute.	2019-09-10	Commission Referral	Public Works			Commission	Public Works Commission
DMND0003 799	Decriminalizing Entheogenic Plants DMND0003799	Refer to the Community Health Commission to consider the possibility of de-prioritizing enforcement of laws relating to entheogenic plants and fungi by persons over 21 years of age. Consider potential health and community benefits and concerns, as well as possible policy variations with regard to possession, use, growing/production, and sales; quantities involved; use while driving; use during pregnancy and other possible "special circumstances considerations."	2019-09-10	Commission Referral	Health, Housing and Community Services	Rigel Robinson	Rigel Robinson, Cheryl Davila	Council member	
DMND0003 802	Open Doors Initiative: City Worker and First Time Affordable Homebuyer Program DMND0003802	That the City Council refer the City Manager and Housing Advisory Committee to explore mechanisms to support homeownership by City of Berkeley employees and further refer to City Manager to prepare a report detailing available first-time homeownership and low-income homeowner programs that might be available for implementation in the City of Berkeley. Analysis to include the new Self-Help Housing Program and the provisions of AB 101.	2019-09-10	Commission Referral	Health, Housing and Community Services			Commission	Housing Advisory Commission
DMND0003 754	Housing for a Diverse, Equitable and Creative Berkeley: Proposing a Framework for Berkeley's Affordable Housing DMND0003754	Refer to the Housing Advisory Commission, the Measure O Bond Oversight Committee, and the Homeless Services Panel of Experts to consider the proposed Housing for a Diverse, Equitable and Creative Berkeley framework (the "Framework") and return comments for consideration at a Special Meeting of the City Council in September, to inform a final version the City Council will adopt to govern Berkeley's affordable housing policies, programs and projects through 2030.	2019-07-16	Commission Referral	Health, Housing and Community Services		Jesse Arreguin, Sophie Hahn, Kate Harrison, Rigel Robinson	Councilmembers	
DMND0003 778	Housing for a Diverse, Equitable and Creative Berkeley: Proposing a Framework for Berkeley's Affordable Housing DMND0003778	Refer to the Housing Advisory Commission, the Measure O Bond Oversight Committee, and the Homeless Services Panel of Experts to consider the proposed Housing for a Diverse, Equitable and Creative Berkeley framework (the "Framework") and return comments for consideration at a Special Meeting of the City Council in the early fall, to inform a final version the City Council will adopt to guide Berkeley's affordable housing policies, programs and projects through 2030. The item is further amended to add a "Draft" notation, remove the phrase "rather than for profit-maximizing companies" from Section II, and remove reference to the 50% goal.	2019-07-16	Commission Referral	Health, Housing and Community Services	Jesse Arreguin	Jesse Arreguin, Sophie Hahn, Kate Harrison, Rigel Robinson	Councilmembers	Housing Advisory Commission

DMND0003 779	Housing for a Diverse, Equitable and Creative Berkeley: Proposing a Framework for Berkeley's Affordable Housing DMND0003779	Refer to the Housing Advisory Commission, the Measure O Bond Oversight Committee, and the Homeless Services Panel of Experts to consider the proposed Housing for a Diverse, Equitable and Creative Berkeley framework (the "Framework") and return comments for consideration at a Special Meeting of the City Council in the early fall, to inform a final version the City Council will adopt to guide Berkeley's affordable housing policies, programs and projects through 2030. The item is further amended to add a "Draft" notation, remove the phrase "rather than for profit-maximizing companies" from Section II, and remove reference to the 50% goal.	2019-07-16	Commission Referral	Health, Housing and Community Services	Jesse Arreguin	Jesse Arreguin, Sophie Hahn, Kate Harrison, Rigel Robinson	Councilmembers	Measure O Bond Oversight Committee
DMND0003 780	Housing for a Diverse, Equitable and Creative Berkeley: Proposing a Framework for Berkeley's Affordable Housing DMND0003780	Refer to the Housing Advisory Commission, the Measure O Bond Oversight Committee, and the Homeless Services Panel of Experts to consider the proposed Housing for a Diverse, Equitable and Creative Berkeley framework (the "Framework") and return comments for consideration at a Special Meeting of the City Council in the early fall, to inform a final version the City Council will adopt to guide Berkeley's affordable housing policies, programs and projects through 2030. The item is further amended to add a "Draft" notation, remove the phrase "rather than for profit-maximizing companies" from Section II, and remove reference to the 50% goal.	2019-07-16	Commission Referral	Health, Housing and Community Services	Jesse Arreguin	Jesse Arreguin, Sophie Hahn, Kate Harrison, Rigel Robinson	Councilmembers	Homeless Services Panel of Experts
DMND0003 756	Local Construction Workforce Development Policy DMND0003756	Policy Recommendation: That the City Council refer to the Commission on Labor to address the shortage of qualified local construction workers; worker retention, and elevated labor costs through the creation of a construction workforce development policy. This local workforce development policy will encourage housing and nonresidential development applicants to require contractors to utilize apprentices from state-approved, joint labor-management training programs, and to offer employees employer-paid health insurance plans. The policy will help stabilize regional construction markets; and enhance productivity of the construction workforce Berkeley needs to meet its General Plan's build-out goals.	2019-07-09	Commission Referral	Health, Housing and Community Services	Ben Bartlett	Ben Bartlett, Jesse Arreguin, Kate Harrison, Cheryl Davila	Councilmembers	
DMND0003 781	Local Construction Workforce Development Policy DMND0003781	Policy Recommendation: That the City Council refer to the Commission on Labor to address the shortage of qualified local construction workers; worker retention, and elevated labor costs through the creation of a construction workforce development policy. This local workforce development policy will encourage housing and nonresidential development applicants to require contractors to utilize apprentices from state-approved, joint labor-management training programs, and to offer employees employer-paid health insurance plans. The policy will help stabilize regional construction markets; and enhance productivity of the construction workforce Berkeley needs to meet its General Plan's build-out goals.	2019-07-09	Commission Referral	Health, Housing and Community Services	Ben Bartlett	Ben Bartlett, Jesse Arreguin, Kate Harrison, Cheryl Davila	Councilmembers	Labor Commission

DMND0003 751	Budget Referral: Remediation of Lawn Bowling, North Green and Santa Fe Right-of-Way, FY2020-2021DMND0003751	Refer to the November 2019 AAO consideration of at least \$150,000 and up to remediate the Lawn Bowlers, North Green and Santa Fe Right-of-Way in advance of Request for Proposal (RFP) for these areas that potentially could provide much needed affordable alternative housing. Refer to the Homeless Services Panel of Experts to consider Measure P funds for remediation purposes for these properties.	2019-06-25	Commission Referral	HEALTH, HSG & COMMUNITY SVC		Cheryl Davila	Councilmembers	Homeless Services Panel of Experts
DMND0003 782	Budget Referral: Remediation of Lawn Bowling, North Green and Santa Fe Right-of-Way, FY2020-2021 DMND0003782	Refer to the November 2019 AAO consideration of at least \$150,000 and up to remediate the Lawn Bowlers, North Green and Santa Fe Right-of-Way in advance of Request for Proposal (RFP) for these areas that potentially could provide much needed affordable alternative housing. Refer to the Homeless Services Panel of Experts to consider Measure P funds for remediation purposes for these properties.	2019-06-25	Commission Referral	Health, Housing and Community Services	Cheryl Davila	Cheryl Davila	Councilmembers	Homeless Services Panel of Experts
DMND0003 734	Referral: Report on Public Realm Pedestrianization Opportunities [Transportation Commission]DMND0003734	Refer to the Transportation Commission to generate a report on potential public realm pedestrianization opportunities in Berkeley.	2019-04-30	Commission Referral	Public Works	Rigel Robinson	Rigel Robinson, Sophie Hahn	Councilmembers	
DMND0003 783	Refer to the Planning Commission and Housing Advisory Commission to Research and Recommend Policies to Prevent Displacement and Gentrification of Berkeley Residents of Color and African AmericansDMND0003783	Refer to the Planning Commission and Housing Advisory Commission to research and recommend policies to prevent displacement and gentrification of Berkeley residents of color. Recommended policies should include real solutions. The Commission should do the following: - Develop a policy to address the erosion of People of Color (POC), including the African American sector of our Berkeley society. - Develop rules and regulations to halt the loss of People of Color including the African American communities. - Develop a "right to return" for Berkeleyans, including the African American communities who have been displaced by these economic and social developments, and those who continue to be employed in our City, even after having to relocate beyond our boundaries. - Solicit expert and lived experience testimonies regarding displacement and gentrification. - Recommend alternatives to prevent displacement and gentrification of our valued Berkeley residents of color and African Americans. Recommendation includes a request for public workshops.	2019-04-30	Commission Referral	Health, Housing and Community Services	Cheryl Davila	Cheryl Davila, Ben Bartlett, Kate Harrison	Councilmembers	Housing Advisory Commission
DMND0003 784	Report on Public Realm Pedestrianization OpportunitiesDMND0003784	Refer to the Transportation Commission to generate a report on potential public realm pedestrianization opportunities in Berkeley.	2019-04-30	Commission Referral	Public Works	Rigel Robinson	Rigel Robinson, Sophie Hahn, Ben Bartlett	Councilmembers	Transportation Commission

DMND0003773	Refer to the City Manager and the Housing Advisory Commission to Consider Reforming the Affordable Housing Mitigation Fee DMND0003773	Refer to the City Manager, the Planning Commission, and the Housing Advisory Commission to consider possible reforms to the Affordable Housing Mitigation Fee, including adopting a per-square-foot fee structure, potentially on a geographic basis.	2019-04-23	Commission Referral	Health, Housing and Community Services	Rigel Robinson	Rigel Robinson, Sophie Hahn, Jesse Arreguin, Lori Droste	Councilmembers	Housing Advisory Commission
DMND0003774	Adopt a Spot Initiative for Volunteer Stewardship of Public Spaces DMND0003774	Refer to the Public Works Commission and Parks and Waterfront Commission to develop an Adopt A Spot initiative; specifically outlining potential environmental benefits, program costs, staffing. Rationale: -Adopt a Spot programs enable a network of volunteer residents to assist in city maintenance and clean up efforts which have great impact using minimal City staff/funding. -Vision 2050 will include stormwater and watershed management goals, both of which this program would support.	2019-04-23	Commission Referral	Public Works	Lori Droste	Lori Droste, Rashi Kesarwani, Ben Bartlett	Councilmembers	Public Works Commission
DMND0003775	Adopt a Spot Initiative for Volunteer Stewardship of Public Spaces DMND0003775	Refer to the Public Works Commission and Parks and Waterfront Commission to develop an Adopt A Spot initiative; specifically outlining potential environmental benefits, program costs, staffing. Rationale: -Adopt a Spot programs enable a network of volunteer residents to assist in city maintenance and clean up efforts which have great impact using minimal City staff/funding. -Vision 2050 will include stormwater and watershed management goals, both of which this program would support.	2019-04-23	Commission Referral	Parks Recreation & Waterfront	Lori Droste	Lori Droste, Rashi Kesarwani, Ben Bartlett	Councilmembers	Parks and Waterfront Commission
DMND0003776	Referral to the Energy Commission to Hold a Series of Public Outreach and Educational Meetings Regarding Electrification DMND0003776	Refer to Berkeley's Energy Commission to hold two separate special public outreach and educational meetings regarding electrification in new buildings by July 31, 2019: 1. A meeting regarding multi-family, mid/high-rise buildings, including those with ground floor commercial; 2. A meeting regarding commercial buildings (without housing), including manufacturing.	2019-04-02	Commission Referral	Planning Department	Kate Harrison	Kate Harrison, Cheryl Davila, Rigel Robinson, Sophie Hahn	Councilmembers	Energy Commission



DMND0003 777	Refer on a Short Term Basis to the Planning Commission Close a Loophole for Avoiding the Mitigation Fee through Property Line Manipulation and to Consider Modifying the In Lieu Fee Structure for Owner Occupied Units; Refer to the Housing Advisor Commission to Assess the Rate of a Fixed Per-Unit Fee for Owner-Occupied DevelopmentsDMND0003777	<p>1. Refer to the Planning Commission an amendment to BMC Section 23C.12.020 (Inclusionary Housing Requirements – Applicability of Regulations) and BMC Section 22.20.065 (Affordable Housing Mitigation Fee) to close a loophole allowing prospective project applicants to avoid inclusionary affordable housing requirements for projects by modifying property lines so that no lot is large enough to construct five or more units; the Commission should return to Council with a report by April 30, 2019.</p> <p>2. Refer to the Planning Commission to consider modifying the structure of in-lieu fees for owner-occupied developments to a flat per-unit fee, as with rental developments, or a per square foot fee; the Commission should return to Council with a report.</p> <p>3. Refer to the Housing Advisory Commission to assess the appropriateness of the fee level as suggested in the proposed amendments to BMC 23C.12.</p> <p>4. The Planning Commission is to consider the following language from the item submitted at the meeting: It is possible that the new fee structure will be adopted prior to the Housing Advisory Commission approving the level of the fee. In this instance, those projects that opt to pay the in-lieu fee and are permitted after the new fee structure is adopted but before the new fee level is adopted shall be given the choice of paying the current fee level, or the one that is adopted.</p>	2019-02-19	Commission Referral	Health, Housing and Community Services	Kate Harrison	Kate Harrison, Rigel Robinson, Sophie Hahn	Councilmembers	Housing Advisory Commission
DMND0003 763	Refer the Transportation Commission to consider incentives for the public to use sustainable modes of transportation similar to Bologna, ItalyDMND0003763	Refer to the Transportation Commission to create incentives for members of the public to cycle, walk and take public transport as opposed to driving.	2018-11-27	Commission Referral	Public Works	Kriss Worthington	Sophie Hahn, Kate Harrison, Kriss Worthington	Councilmembers	Transportation Commission
DMND0003 785	Referral to the Transportation Commission: Explore Possibilities for Initiating Equitable Exchange with Transportation Network Companies (TNCs)DMND0003785	Request that the Transportation Commission initiate research into an effective means of equitable exchange with TNCs. In order to compensate the City of Berkeley for traffic congestion, air pollution, and infrastructure damage, the Council recommends that TNCs participate in the payment of taxes and the exchange of data. Recommendation revised to add the proposed ballot measure item in Supplemental Reports Packet #2.	2018-11-27	Commission Referral	Public Works	Kriss Worthington	Kriss Worthington, Jesse Arreguin, Sophie Hahn, Cheryl Davila	Councilmembers	Transportation Commission
DMND0003 765	Refer Adoption of BMC Chapter 9.26 Live Animal Sales–Disclosure Requirements to the Animal Care Commission DMND0003765	Refer adoption of an Ordinance adding Chapter 9.26 Live Animal Sales – Disclosure Requirements to the Animal Care Commission.	2018-11-13	Commission Referral	City Manager	Kate Harrison	Kate Harrison	Councilmembers	Animal Care Commission

DMND0003 766	Referral to the Civic Arts Commission to create interactive family-friendly art attractions DMND0003766	Refer to the Civic Arts Commission to create interactive family-friendly art attractions in the City of Berkeley.	2018-10-30	Commission Referral	Office of Economic Development	Kriss Worthington	Kriss Worthington, Ben Bartlett	Councilmembers	Civic Arts Commission
DMND0003 767	Refer the Police Review Commission to extend time period to impose discipline on Berkeley Police Department officers pursuant to Police Review Commission findings DMND0003767	Recommend that the Council refer to the Police Review Commission to extend the time limit for Police Review Commission investigations and notification of discipline from the current limit to one calendar year.	2018-10-02	Commission Referral	PRC	Kriss Worthington	Kriss Worthington, Cheryl Davila, Kate Harrison, Jesse Arreguin	Councilmembers	Police Review Commission
DMND0003 768	Refer the Police Review Commission to create training requirements for Police Review Commissioners DMND0003768	Request that the Police Review Commission establishes mandatory training requirements for Police Review Commissioners, with input from the Police Review Commission Officer and Chief of Police. Recommendation amended to request that the commission consult with the City Manager regarding the training.	2018-10-02	Commission Referral	PRC	Kriss Worthington	Kriss Worthington, Cheryl Davila, Kate Harrison, Jesse Arreguin	Councilmembers	Police Review Commission
DMND0003 769	Small Sites Loan Program Recommendations DMND0003769	4. Request that the Council and Housing Advisory Commission receive copies of small sites loan applications along with staff's corresponding analysis and decision. 6. Refer further consideration of a long-term small sites program to the City Manager and the Housing Advisory Commission. 7. Refer the small sites program to the November budget update and next biannual budget planning cycle in 2019.	2018-10-02	Commission Referral	Health, Housing and Community Services	Laura Schroeder	Laura Schroeder	Councilmembers	Housing Advisory Commission
DMND0003 770	Traffic Circle Vegetation Maintenance Policy DMND0003770	Refer to Parks and Waterfront Commission and the Transportation Commission to establish a city/community task force to: a) Evaluate the City's current traffic circle vegetation policy and b) Conduct a community led process to update that policy to ensure pedestrian/bicycle/vehicle safety and preserve community efforts to beautify traffic circles.	2018-09-25	Commission Referral	Parks Recreation & Waterfront	Lori Droste	Lori Droste, Ben Bartlett, Cheryl Davila, Jesse Arreguin	Councilmembers	Parks and Waterfront Commission
DMND0003 771	Traffic Circle Vegetation Maintenance Policy DMND0003771	Refer to Parks and Waterfront Commission and the Transportation Commission to establish a city/community task force to: a) Evaluate the City's current traffic circle vegetation policy and b) Conduct a community led process to update that policy to ensure pedestrian/bicycle/vehicle safety and preserve community efforts to beautify traffic circles.	2018-09-25	Commission Referral	Public Works	Lori Droste	Lori Droste, Ben Bartlett, Cheryl Davila, Jesse Arreguin	Councilmembers	Transportation Commission

DMND0003772	Refer to the Commission on Disability to examine the impacts that the parking citation system may have on persons with low income and disabilities DMND0003772	Refer to the Commission on Disability to examine the impacts that the parking citation system may have on people with low income and disabilities.	2018-09-25	Commission Referral	Public Works	Ben Bartlett	Ben Bartlett, Cheryl Davila	Councilmembers	Disability Commission
DMND0003759	Accessory Dwelling Unit Ordinance Updates DMND0003759	Action: M/S/Carried (Hahn/Wengraf) to adopt the item as written in Supplemental Reports Packet #1 and including the following changes. <ul style="list-style-type: none"> <li>Remove the language regarding view protections.</li> <li>Add new #9 on hillside heights measurements where no previous structure exists.</li> <li>Add "and any other solutions" to #5 regarding parking.</li> <li>Include the referral from Item 15 with this referral.</li> </ul>	2018-09-13	Commission Referral	FIRE & EMERGENCY SERVICES	Sophie Hahn	Sophie Hahn, Susan Wengraf, Kate Harrison	Councilmembers	
DMND0003815	Fossil Fuel Free Berkeley DMND0003815	Refer to the Energy Commission and Transportation Commission consideration of the proposed resolution or similar action to further implement the Climate Action Plan and establish the goal of becoming a Fossil Fuel Free Berkeley, and further consider: <ul style="list-style-type: none"> <li>Establishing a date by which we are committed to being a Fossil Fuel Free City.</li> <li>Opposing further transportation of oil, gas, and coal.</li> <li>Fully implementing Berkeley Deep Green Building, raising the citywide LEED certification requirement above the current LEED Silver, and applying the same requirements to newly constructed city facilities, and major renovations.</li> <li>Requiring all future City government procurements of vehicles to minimize emissions, and establishing a goal and plan for transitioning the city's vehicle fleet to all electric vehicles</li> <li>Establishing a goal and plan for transitioning to 100% renewable energy for municipal operations and a community wide goal of 100% reductions by 2030.</li> <li>Formally opposing the recent expansion of offshore drilling by the Trump Administration.</li> <li>Calling for region-wide solutions to carbon emissions, including rapid adoption of renewable energy sources, affordable densification of cities and low-emissions public transportation infrastructure.</li> </ul>	2018-06-12	Commission Referral	PLANNING & DEVELOPMENT	Cheryl Davila	Cheryl Davila, Jesse Arreguin, Kate Harrison	Councilmembers	Energy Commission

DMND0003 Fossil Fuel Free 816 BerkeleyDMND0003816	<p>Refer to the Energy Commission and Transportation Commission consideration of the proposed resolution or similar action to further implement the Climate Action Plan and establish the goal of becoming a Fossil Fuel Free Berkeley, and further consider:</p> <ul style="list-style-type: none"> <li>• Establishing a date by which we are committed to being a Fossil Fuel Free City.</li> <li>• Opposing further transportation of oil, gas, and coal.</li> <li>• Fully implementing Berkeley Deep Green Building, raising the citywide LEED certification requirement above the current LEED Silver, and applying the same requirements to newly constructed city facilities, and major renovations.</li> <li>• Requiring all future City government procurements of vehicles to minimize emissions, and establishing a goal and plan for transitioning the city's vehicle fleet to all electric vehicles</li> <li>• Establishing a goal and plan for transitioning to 100% renewable energy for municipal operations and a community wide goal of 100% reductions by 2030.</li> <li>• Formally opposing the recent expansion of offshore drilling by the Trump Administration.</li> <li>• Calling for region-wide solutions to carbon emissions, including rapid adoption of renewable energy sources, affordable densification of cities and low-emissions public transportation infrastructure.</li> </ul>	2018-06-12 Commission Referral	Public Works	Cheryl Davila	Cheryl Davila, Jesse Arreguin, Kate Harrison	Councilmembers	Transportation Commission
DMND0003 Declaration of Climate 817 EmergencyDMND0003817	<p>Refer to the Energy Commission to study and report back to Council on a path for Berkeley to become a "Carbon Sink" as quickly as possible, and to propose a deadline for Berkeley to achieve this goal.</p>	2018-06-12 Commission Referral	PLANNING & DEVELOPMENT	Cheryl Davila	Cheryl Davila, Kate Harrison	Councilmembers	Energy Commission
DMND0003 Removing Plastic Microfibers 814 From The Water Supply: A Referral to the Community Environmental Advisory CommissionDMND0003814	<p>Refer to the Community Environmental Advisory Commission to assess the City's capacity to participate in an outreach program informing residents of the harmful nature of microfibers. Revised to add that the Council will send a letter to EBMUD requesting a report on EBMUD's water sourcing measures in drought years; and that the letter will be submitted to Council as an information item.</p>	2018-04-24 Commission Referral	PLANNING & DEVELOPMENT	Kate Harrison	Kate Harrison, Sophie Hahn, Cheryl Davila	Councilmembers	Community Environmental Advisory Commission

**Lapira, Katrina**

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**From:** Pearson, Alene  
**Sent:** Thursday, October 29, 2020 10:13 AM  
**To:** Pearson, Alene  
**Cc:** Lapira, Katrina  
**Subject:** 10/21 PC Meeting Follow Up

Dear Commissioners,

I promised to follow up on a few things after our last meeting. See below:

1. A PDF of Rick's presentation is now linked to the online agenda from the 10/21 meeting. Here's a direct link to the presentation:  
[https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Commissions/2020-10-21\\_PC\\_Item%209\\_AHR%20Changes.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/2020-10-21_PC_Item%209_AHR%20Changes.pdf)
2. The City Council Agenda and Rules Committee is meeting on 11/2 to set the agenda for the 11/17 City Council Meeting. A copy of the parking reform staff report will be included in that agenda packet. I expect that will be posted shortly on this page:  
[https://www.cityofberkeley.info/Clerk/City\\_Council/Policy\\_Committee\\_Agenda\\_Rules.aspx](https://www.cityofberkeley.info/Clerk/City_Council/Policy_Committee_Agenda_Rules.aspx)
3. At the 10/21 PC meeting, you elected Rob Wrenn to speak on behalf of PC at the 11/17 City Council meeting. There was some discussion about other commissioners attending the CC meeting to speak as residents on this topic. To ensure you don't reach a quorum, please let me know if you plan to attend. I will keep track of your numbers and let you know when/if you are approaching a quorum.
4. I mentioned at our last meeting that the City is recruiting for a Senior Planner. I'm providing a link to the announcement if you'd like to share with your professional networks:  
<https://agency.governmentjobs.com/berkeley/default.cfm>
5. Finally, I want to remind you that the November 4<sup>th</sup> Planning Commission is canceled. Our next meeting will be on 11/18.

Let me know if I missed anything.

Thanks and be well,

Alene

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**Alene Pearson**

Principal Planner, Land Use Planning Division  
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