



Planning Commission

AGENDA

REGULAR MEETING OF THE PLANNING COMMISSION

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Wednesday, February 9, 2022

7:00 PM

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE. Pursuant to Government Code Section 54953(e) and the state declared emergency, this meeting of the Planning Commission will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be available.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us06web.zoom.us/j/81673037126>. 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: **816 7303 7126**. 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
Vincent, Jeff, appointed by Councilmember Taplin, District 2
Moore III, John E. "Chip", appointed by Councilmember Bartlett, District 3
Oatfield, Christina, appointed by Councilmember Harrison, District 4
Mikiten, Elisa, appointed by Councilmember Hahn, District 5

Kapla, Robb, Chair, appointed by Councilmember Wengraf, District 6
Twu, Alfred, appointed by Councilmember Robinson, District 7
Hauser, Savlan, Vice Chair, appointed by Councilmember Droste, District 8
Ghosh, Barnali, 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 including Future Agenda Items:** 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 **January 19, 2022**.
8. **Other Planning-Related Events:**

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

9. **Action:** **Planning Commission Elections**
Recommendation: *Elect the Chair and Vice Chair of the Planning Commission.*
Written Materials: N/A
Presentation: N/A
10. **Discussion:** **Housing Element Update and Draft Environmental Impact Report (EIR) Scoping Session**
Recommendation: *Receive project update and comments from members of the public, organizations and interested agencies on issues the EIR should address*
Written Materials: Attached
Presentation: 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:

ADUs:

- February 8 – City Council: Item 2 Second Reading of Ordinance No. 7,797-N.S. the local Accessory Dwelling Unit (ADU) Ordinance
 - [Ordinance No. 7,797-N.S.](#)
- January 25 – City Council: Item B Response to City Council Action on October 26, 2021 Regarding Short Term Referral for Amendments to the ADU Ordinance for Public Safety
 - [Annotated Agenda](#)
 - [Supplemental Material \(Supp 1\)](#)
 - [Supplemental Material \(Supp 2\)](#)
 - [Presentation](#)
- January 18 – City Council: Item 23 Response to City Council Action on October 26, 2021 Regarding Short Term Referral for Amendments to the ADU Ordinance
 - [Annotated Agenda](#)
 - [Supplemental Material \(Supp 1\)](#)
 - [Presentation](#)

Civic Arts Commission Referral:

- January 25 – Civic Arts Commission: Item 11 *Affordable housing for artists in Berkeley* Report and other Artist Live, Work, and Live-work opportunities to the Housing Element Update

Housing Advisory Commission Housing Preference Policy:

- February 3 – Housing Advisory Commission: Item 3 Housing Preference Policy Report

Communications:

- General

Late Communications: (Received after the packet deadline):

- Supplemental Packet One – received by noon two days before the meeting
- Supplemental Packet Two
- Supplemental Packet Three

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**. 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 after the above deadline and before the meeting will be included in a second and/or third Supplemental Packet, as needed, 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.

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.

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 **February 4, 2022**.

Alene Pearson
Planning Commission Secretary



Planning Commission

1 **DRAFT MINUTES OF THE REGULAR PLANNING COMMISSION MEETING**
2 **January 19, 2021**

3 The meeting was called to order at 7:03 p.m.

4 **Location:** Virtual meeting via Zoom

5 **1. ROLL CALL:**

6 **Commissioners Present:** Barnali Ghosh, Savlan Hauser, Robb Kapla, Elisa Mikiten, Chip
7 Moore, Christina Oatfield, Alfred Twu, Jeff Vincent, and Brad Wiblin.

8 **Commissioners Absent:** None.

9 **Staff Present:** Secretary Alene Pearson, Katrina Lapira, Zoe Covello, and Loyal Nawfal.

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

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

12 **4. PLANNING STAFF REPORT:**

- 13 • City Council
- 14 o December 9 - Housing Element Work Session #2
- 15 o January 18 – ADU Ordinance - Adopted
- 16 o January 25 – Public Safety Ordinance (ADUs)
- 17 o January 27 – Housing Element Public Workshop #2
- 18 o January 31 – Objective Standards Walking Tours & Survey closes
- 19 • Planning Commission
- 20 o February 9
- 21 ▪ Elections for Chair and Vice Chair
- 22 ▪ Public Hearing: Citywide Affordable Housing Requirements
- 23 ▪ Public Hearing: Technical Edits and Corrections to the New ZO
- 24 o February 15 – ZORP Subcommittee to Review Objective Standards
- 25

26 **Information Items:**

- 27 • None.
- 28

29 **Communications:**

- 30 • BART Communications

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

- 32 • Supplemental Packet One
- 33 • Supplemental Packet Two
- 34 • Supplemental Packet Three

35 **5. CHAIR REPORT:**

- 36 • None.

37
38 **6. COMMITTEE REPORT:** Reports by Commission committees or liaisons. In addition to the
39 items below, additional matters may be reported at the meeting.

- 40
41 • Zoning Ordinance Revision Project (ZORP)
 - 42 ○ December 15, 2021 – Staff provided a presentation on residential objective
 - 43 standards.

44 **7. APPROVAL OF MINUTES:**

45 Motion/Second/Carried (Mikiten/Kapla) to approve the Planning Commission Meeting Minutes
46 from December 1, 2021.

47
48 Ayes: Hauser, Kapla, Mikiten, Moore, Oatfield, Twu, and Vincent. Noes: None. Abstain: Ghosh
49 and Wiblin. Absent: None. (7-0-2-0)

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51 **8. OTHER PLANNING RELATED EVENTS:**

- 52 • None.

53 **AGENDA ITEMS**

54 **9. Public Hearing: Tentative Tract Map Application #8626: 2023-2025 Kala Bagai Way**

55 Staff provided some background information on the Tentative Tract Map process for review,
56 the related, entitled development project, and the Tentative Tract Map application at 2023-
57 2025 Kala Bagai Way. After staff's presentation, the Planning Commission held a public
58 hearing, received public comment, and made a recommendation to City Council.

59 Motion/Second/Carried (Mikiten/Wiblin) to close public hearing on the Tentative Tract Map
60 Application #8626: 2023-2025 Kala Bagai Way at 7:43pm.

61
62 Ayes: Ghosh, Hauser, Kapla, Mikiten, Moore, Oatfield, Twu, Vincent, and Wiblin. Noes: None.
63 Abstain: None. Absent: None. (9-0-0-0)

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65 Motion/Second/Carried (Oatfield/Twu) to recommend that Item 9: Tentative Tract Map #8626:
66 2023-2025 Kala Bagai Way be continued to the next Planning Commission meeting.

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Ayes: Moore, Oatfield, and Twu. Noes: Ghosh, Hauser, Kapla, Mikiten, Vincent, and Wiblin.
Abstain: None. Absent: None. (3-6-0-0)

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Motion/Second/Carried (Mikiten/Wiblin) to recommend that the City Council approve Tentative Tract Map #8626: 2023-2025 Kala Bai Way subject to the conditions and findings in Attachment 1 of the staff report.

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Ayes: Ghosh, Hauser, Kapla, Mikiten, Moore, Vincent, and Wiblin. Noes: None. Abstain: Oatfield and Twu. Absent: None. (7-0-2-0)

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79 **Public Comments: 1**

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81 **10. 2022 Nominations for February Election**

82 Planning Commission accepted nominations for Chair and Vice Chair.

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Motion/Second/Carried

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- (Ghosh/Wiblin) to nominate Commissioner Mikiten for Chair
- (Wiblin/Kapla) to nominate Commissioner Hauser for Vice Chair

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Ayes: Ghosh, Hauser, Kapla, Mikiten, Moore, Vincent, and Wiblin. Noes: None. Abstain: Oatfield and Twu. Absent: None. (9-0-0-0)

91 **Public Comments: 0**

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Motion/Second/Carried (Vincent/Kapla) to adjourn the Planning Commission meeting at 8:10pm.

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Ayes: Ghosh, Hauser, Kapla, Mikiten, Moore, Vincent, and Wiblin. Noes: None. Abstain: Oatfield and Twu. Absent: None. (9-0-0-0)

99 **Members in the public in attendance: 4**

100 **Public Speakers: 1**

101 **Length of the meeting: 1 hr 7 minutes**



Planning and Development Department
Land Use Planning Division

DATE: February 9, 2022

TO: Members of the Planning Commission

FROM: Alene Pearson, Principal Planner

SUBJECT: Housing Element Update and Environmental Impact Report (EIR) Scoping Session

INTRODUCTION

The City of Berkeley is currently updating its Housing Element, which will serve as the City's housing plan for the next eight years (2023-2031). An Environment Impact Report (EIR) is required to evaluate the potential physical environmental impacts that could result from actions required to implement the policies and programs proposed in the Housing Element Update. A Notice of Preparation (NOP) has been issued and a 30-day comment period is underway (see Attachment 1). In this scoping session, the Commission will receive a status report on the Housing Element Update and NOP, consider public testimony, and provide comments on the scope and content of the EIR.

BACKGROUND

The City of Berkeley is preparing the 2023-2031 Housing Element Update to comply with the legal mandate that requires each local government to identify adequate sites for housing to meet the existing and projected needs for households with varying income-levels in the community. The Housing Element Update will establish goals, policies, and actions to address the existing and projected housing needs in Berkeley according to State law and guidance from the Department of Housing and Community Development (HCD). It is intended to provide the City with a comprehensive strategy for promoting the production of safe, decent and affordable housing, and affirmatively furthering fair housing (AFFH).

Berkeley's Final RHNA

Each jurisdiction in California receives a target number of housing units to plan for during each eight-year housing element cycle, called the Regional Housing Needs Allocation (RHNA), based on local economic and demographic trends. On December 16, 2021, the Executive Board of the Association of Bay Area Governments (ABAG) conducted a public hearing and adopted the Final RHNA Plan for the 2023-2031

Housing Element Update and Draft Environmental Impact Report (EIR) Scoping Session

housing cycle. Berkeley’s RHNA is 8,934 residential units. For comparison with Berkeley’s RHNA from the previous cycle (2015-2023), see Table 1.

Table 1: Berkeley’s RHNA

Income Level	2015-2023 RHNA Units	2023-2031 RHNA Units
Very Low (< 50% AMI)	532	2,446
Low (50-80% AMI)	442	1,408
Moderate (80-120% AMI)	584	1,416
Above Moderate (>120% AMI)	1,401	3,664
Total	2,959	8,934

Housing Element Site Inventory Analysis

An essential component of the Housing Element is to identify sufficient sites that can accommodate the 2023-2031 RHNA. Sites are considered suitable for residential development if they are zoned appropriately and available for residential use during the planning period. HCD provides a framework for determining if the current zoning regulations, physical conditions of parcels, and existing land uses on parcels provide adequate sites to accommodate Berkeley’s RHNA.

The staff report that accompanied the City Council Worksession on December 9, 2021 provided a detailed overview of the steps necessary to identify sufficient sites (see Attachment 2). In summary, jurisdictions must complete the following five steps:

1. Identify Likely Housing Sites and Production
2. Screen for Vacant and Underutilized Parcels
3. Screen for Suitability of Parcels
4. Evaluate and Analyze Sites
5. Calculate Potential Buildout of Sites

The final site inventory will include a detailed data table, according to a template provided by HCD, that lists potential sites that have been identified to meet Berkeley’s RHNA. The site inventory table provides characteristics of each potential site (including existing use, zoning, address), calculates allowable buildout by income category, documents the viability of each parcel to build housing (with photos and descriptions), and shows the results of the AFFH analysis.

Note, the inventory does not require development of any particular site and is not indented to imply that a site will be developed at a certain density, only that it could be based on the HCD framework. The intent is to demonstrate that the City has adequately planned and zoned for appropriate development that could be attractive to private, non-profit and public housing developers at appropriate densities to meet the projected demand for housing in a variety of income categories.

Housing Element Update and Draft Environmental Impact Report (EIR) Scoping Session

Preliminary Site Inventory Analysis

The process summarized above is iterative, and not necessarily linear. The project team has completed the first round of steps 1 and 2 and has conducted a preliminary analysis of potential buildout (step 5) in order to understand the capacity of sites under current zoning and to identify the outside limits of the project to be analyzed in the EIR. Although this may seem premature, the CEQA timeline and HCD's review periods require the start of environmental review at this stage in order to meet the Housing Element's statutory deadline of January 31, 2023.

The first two steps in the site inventory process require identification of adequate sites to accommodate the RHNA. Attachment 3 provides a preliminary assessment of sites, presented in three categories, described below:

- Sites Likely to Develop
- Sites in the Pipeline
- Opportunity Sites or Potential Additional Sites

Sites that are likely to develop include projects that received their land use entitlement after 2018 but have not yet been built. For these projects, the affordability breakdown in the table reflects actual project plans, including density bonus units. HCD also allows jurisdictions to include future ADUs in the category of "sites likely to develop" based on past development trends. Furthermore, HCD's methodology provides assumed levels of affordability for ADUs. Lastly, development at the BART sites is included as "sites likely to develop" based on current planning efforts -- because project specifics are not known at this time, a conservative total estimate of 1,200 units is being used with 35% affordability split evenly between Very Low and Low Income affordability levels. *The preliminary assessment of sites likely to develop accounts for over 5,100 units.*

Sites in the pipeline include projects that are under review or are actively engaging with the City in anticipation of submitting an application for review. Affordability levels for sites in the pipeline reflect proposed project plans to the extent they are known. *The preliminary assessment of sites in the pipeline accounts for over 2,400 units.*

Opportunity sites or potential additional sites do not have specific projects associated with them. This category includes parcels that are assessed based on HCD criteria as potential opportunity sites for future housing development. HCD's criteria includes the following:

- Land is vacant as identified in the existing land use data.
- Parcel has an improvement-to-land assessed value ratio of 0.75 or less.
- Buildings on the parcel are greater than 40 years old for residential buildings and 30 years old for non-residential buildings.
- Parcel does not have historic buildings and rent controlled units.
- Parcel does not have condos or large apartment buildings.
- Parcel is not State- or county-owned.

Housing Element Update and Draft Environmental Impact Report (EIR) Scoping Session

Buildout Potential and Income Limits of Opportunity Sites

Berkeley's zoning districts do not have maximum density standards expressed in "dwelling units per acre", so the preliminary number of potential units for opportunity sites was calculated using 70% of the upper limit of a density range that reflects recent projects that have been built within the district. The project team is following HCD guidance to develop accurate density estimates and buildout potential and is still in the process of researching and refining these numbers.

Because opportunity sites are not associated with actual development proposals, HCD provides guidance on assigning assumed income categories to the units that could be developed on these (or similar) parcels. The HCD methodology is based on allowable density, with increased density serving as a proxy for more affordability. Parcels that are zoned to allow 30 dwelling units per acre or more are categorized in the "lower income" category (Very Low- or Low-Income households) and parcels with zoning that allows less than 30 units per acre in the Moderate- and Above Moderate-Income categories.

The HCD guidance for this stage of the analysis is an admittedly blunt approach to considering the issue of housing affordability. Berkeley has other tools at its disposal for addressing the affordability of new development, preservation of existing units, and other aspects of housing policy, which will also be described in the Housing Element. The focus in the EIR, however, is on the physical development activity necessary for meeting the overall RHNA; additional analysis will be provided in subsequent discussions about the other policies and programs that will be included in the Housing Element Update.

Potential Rezoning and EIR

Based on the units already accounted for in "Sites Likely to Develop" and "Sites in the Pipeline", HCD certification will require that the Housing Element identify opportunity sites to accommodate approximately 2,000 units. *Preliminary analysis of opportunity sites identified over 8,000 units, suggesting that current zoning is adequate to meet HCD's RHNA requirements for a compliant Housing Element.*

Although Berkeley's current zoning seems to be sufficient to meet RHNA, recent development activity suggests current zoning alone does not deliver the level of deed-restricted affordable housing and economic diversity that the City aims to achieve. In particular, density bonus and inclusionary units have fallen short of providing the overall 20% Very Low and Low Income units expressed in the City's inclusionary housing ordinance.

Furthermore, City Council has provided direction through referrals and resolutions (see Attachment 4) regarding where and how to encourage additional housing, with a focus on affordable housing that supports a diversity of income levels and household types. In order to allow these actions to occur, the Housing Element EIR needs to study potential environmental impacts that could result from up-zoning and new programs. The project description for the EIR will broadly cover requested actions from Council in order to

Housing Element Update and Draft Environmental Impact Report (EIR) Scoping Session

provide flexibility as the Housing Element Update proceeds and opportunity sites are identified.

DISCUSSION

Public Review Period and Scoping Meeting

The Planning Department has hired Rincon Consultants to prepare the CEQA analysis, including the NOP, which informs public agencies and the community early in the process of the broad strokes of the process. The NOP was released on January 17, 2022, beginning a 30-day review period, which will close on February 16, 2022.

This scoping meeting informs the community and public agencies about the Housing Element and EIR, and solicits comments from the Planning Commission and the public regarding the EIR scope, issues of concern, potential alternatives, and mitigation measures. These comments, along with the comments collected through the entire review period, will be considered in the preparation of the EIR. The result of the EIR analysis will inform future Planning Commission discussion and the recommendations submitted to the City Council for adoption.

CEQA and Zoning -- Next Steps

Following the close of the NOP comment period, the Draft EIR will be prepared and circulated for the required 45-day public comment period. Although the Housing Element Update would not approve any physical development (e.g., construction of housing or infrastructure), the EIR will assume that such actions are reasonably foreseeable future outcomes of the Housing Element Update. As such the EIR will evaluate the potential physical environmental impacts that could result from future actions for implementing the policies and programs, and resulting development, at a programmatic level.

The Draft EIR will also examine a reasonable range of alternatives to the proposed project, including the CEQA-mandated No Project Alternative and other potential alternatives that may be capable of reducing or avoiding potential environmental effects while meeting most of the basic objectives of the project. In addition, the EIR will address cumulative impacts, growth inducing impacts, and other issues required by CEQA.

Housing Element Update and Draft Environmental Impact Report (EIR) Scoping Session

The estimated timeline for the public portions of the CEQA review are as follows:

Description	Timing	Public Review Process
Development and Release of Public Draft of Notice of Preparation (NOP)	December 2021 - January 2022	2/9/22 -- Planning Commission review
30-day NOP Comment Period	January 17 – February 16, 2022	Scoping Meeting at 2/9/22 Planning Commission
Draft EIR released for 45-day review and comment period	July 15 – August 29, 2022	Planning Commission hearing
Discussion of Housing Element EIR changes	September – November 2022	Subcommittee and Planning Commission review
Final EIR and Final Housing Element adopted	November 2022 – January 2023	Planning Commission recommendation; City Council action

STAFF RECOMMENDATION

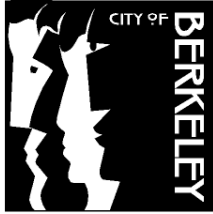
The Planning Commission should review the NOP, provide comments on the scope and content of the EIR, and receive comments from members of the public, organizations and interested agencies on issues the EIR should address. Written comments can be directed in writing to Grace Wu, Senior Planner either by mail or electronically:

Land Use Planning Division
 1947 Center Street, 2nd Floor GWu@cityofberkeley.info
 Berkeley, CA 94704

Comments must be received on or before 5pm on Monday, February 21, 2022.

ATTACHMENTS

1. Notice of Preparation
2. Staff Report from December 9, 2021 Housing Element Update Work Session
3. Preliminary Site Capacity Analysis
4. Housing Element Related Referrals and Resolutions



Planning and Development Department
Land Use Planning Division

NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE PROPOSED CITY OF BERKELEY HOUSING ELEMENT UPDATE

Notice is hereby given that the City of Berkeley is preparing a Draft Environmental Impact Report (EIR) for the City's Housing Element Update ("the project") and is requesting comments on the scope and content of the Draft EIR. The EIR is being prepared by the City of Berkeley, which is the Lead Agency for the project, in accordance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and local CEQA guidelines.

In accordance with CEQA Guidelines section 15082, this Notice of Preparation (NOP) is being sent to the California State Clearinghouse, Alameda County Clerk, responsible agencies, trustee agencies, adjacent cities, and members of the public including individuals and organizations in order to solicit comments on the scope and content of the analysis in the EIR.

WRITTEN COMMENTS: Responses to this NOP and any questions or comments should be directed in writing to: *Grace Wu, Senior Planner, Land Use Planning Division, 1947 Center Street, 2nd Floor, Berkeley, CA 94704*; or GWu@cityofberkeley.info. Comments on the NOP must be received **on or before 5pm on Monday, February 21, 2022**. In addition, comments may be provided at the EIR Scoping Meeting (see details below). Comments should focus on significant environmental issues, reasonable alternatives, and mitigation measures.

EIR PUBLIC SCOPING MEETING: The City of Berkeley will conduct a public scoping session on **Wednesday, February 9, 2022** as part of a scheduled Planning Commission meeting to receive comments on the scope and contents of the EIR. The meeting will start at **7:00 PM** and be held via video and teleconference. Interested parties should check the Planning Commission website for information on how to join the meeting and to confirm the meeting date, time, and agenda: https://www.cityofberkeley.info/Clerk/Commissions/Commissions_Planning_Commission_on_Homepage.aspx The agenda will be posted by 5pm on Friday, February 4, 2022.

PROJECT TITLE: City of Berkeley 2023-2031 Housing Element Update

PROJECT LOCATION: The project, which is an update to the Housing Element of the General Plan, is applicable to the entire City of Berkeley (citywide). The City of Berkeley is located in the East Bay of the San Francisco Bay Area in northern Alameda County. Berkeley is bordered by the cities of Oakland and Emeryville to the south and the city of Albany and the unincorporated community of Kensington to the north, the Berkeley Hills

(Contra Costa County) to the east, and the San Francisco Bay to the west. The city encompasses approximately 17.2 square miles (approximately 7.2 of which is underwater in the San Francisco Bay) with a population of approximately 122,580 residents and 51,500 housing units. The city contains a combination of residential, commercial, and industrial development.

Interstate 580/880, San Pablo Avenue (SR-123), Sacramento Street, Martin Luther King Jr. Way, and Shattuck Avenue provide the major north-south routes through the city, as does Bay Area Rapid Transit (BART). Major east-west routes include Marin Avenue, University Avenue, and Ashby Avenue.

The regional setting and existing city limits are depicted on Figure 1.

PROJECT SPONSOR: City of Berkeley

PROPOSED PROJECT DESCRIPTION and BACKGROUND: The proposed project consists of a comprehensive update to the Housing Element and related edits to the City's General Plan Land Use Element and Berkeley Municipal Code.

The Housing Element is one of the seven state-mandated elements of the local General Plan and is required to be updated every eight years. The City of Berkeley is preparing the 2023-2031 Housing Element Update to comply with the legal mandate that requires each local government to identify adequate sites for housing to meet the existing and projected housing needs for varying income-levels in the community. It is intended to provide the city with a comprehensive strategy for promoting the production of safe, decent and affordable housing, and affirmatively furthering fair housing during the housing cycle. The Housing Element Update establishes goals, policies, and actions to address the existing and projected housing needs in Berkeley.

The goals, policies, and actions in the Housing Element are required to meet Berkeley's Regional Housing Needs Assessment (RHNA) allocation. Berkeley's latest RHNA allocation calls for 8,934 new housing units, including 3,854 new units for residents in the low- and very low-income categories. The City must demonstrate to the State Department of Housing and Community Development (HCD) that the City's Housing Element has adequate land capacity and implementing policies to accommodate its RHNA allocation. In addition, HCD recommends that cities identify a "buffer" of 15% to 30% above RHNA for lower- and moderate-income categories. Thus, overall, the City's zoning and other land use regulations must accommodate between approximately 9,750 and 10,500 new units.

To identify the housing sites to be included in the Housing Element, the City will identify suitable and available housing sites and their capacity, screen for vacant and underutilized parcels, evaluate and analyze sites, and calculate potential buildout.

In conjunction with the Housing Element Update, the City anticipates amendments to the General Plan including revising the Land Use Element to maintain consistency with the updated Housing Element. The Land Use Element revisions are to ensure consistency among all General Plan Elements upon implementation of the updated Housing Element.

More information about the proposed project can be found on the City's website:
<https://www.cityofberkeley.info/housingelement/>

PROBABLE ENVIRONMENTAL EFFECTS: Approval of the proposed Housing Element Update would not approve any physical development (e.g., construction of housing or infrastructure). However, the EIR will assume that such actions are reasonably foreseeable future outcomes of the Housing Element Update. As such, the EIR will evaluate the potential physical environmental impacts that could result from future actions for implementing the policies proposed under the Housing Element Update at a programmatic level, in accordance with CEQA Guidelines Section 15168.

The topical areas that will be addressed in the EIR are: Aesthetics, Air Quality, Biological Resources, Cultural Resources, Energy, Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Noise, Land Use and Planning, Population and Housing, Public Services and Recreation, Transportation, Tribal Cultural Resources, Utilities and Service Systems, and Wildfire.

The Draft EIR will also examine a reasonable range of alternatives to the proposed project, including the CEQA-mandated No Project Alternative and other potential alternatives that may be capable of reducing or avoiding potential environmental effects while meeting most of the basic objectives of the project. In addition, the EIR will address cumulative impacts, growth inducing impacts, and other issues required by CEQA.

Grace Wu

Grace Wu, Senior Planner


Date of Distribution: January 21, 2022

Attachments: Figure 1: City of Berkeley Location Map

Figure 1 City of Berkeley Location Map



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 City of Berkeley

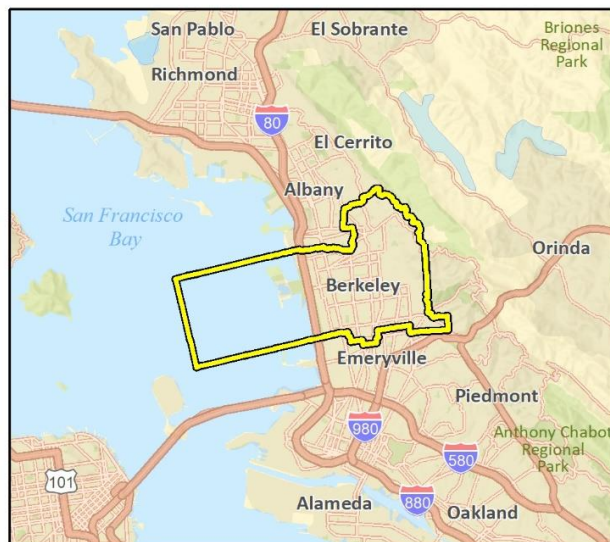


Fig. 1 Regional Location



Office of the City Manager

WORKSESSION
December 9, 2021

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Steven Buckley, Land Use Planning Manager, on behalf of Jordan Klein,
Director, Planning and Development Department
Subject: Housing Element Update Work Session

SUMMARY

The City of Berkeley's Housing Element Update for the Statewide "6th Cycle" is underway. This report follows up on the September 21, 2021 Council worksession on the Housing Element and provides an update on progress to date. The purpose of this report and worksession is to:

1. Provide updates to the project timeline based on State law.
2. Present the preliminary findings of the housing needs assessment.
3. Describe the sites inventory methodology.
4. Introduce the multi-unit residential objective standards scope of work.
5. Share the results of the initial public outreach and engagement efforts.
6. Receive direction from the City Council on priority housing programs, site selection criteria, and suitable locations for increased residential density.

CURRENT SITATUTION AND ITS EFFECTS

Project Timeline

Assembly Bill 215, signed by Governor Newsom on September 28, 2021, effectively shortens the Housing Element Update timeline by 74 days. The new law requires that cities make the draft Housing Element publicly available for a minimum of 30 days, and take a minimum of 10 business days to consider and incorporate public comments, prior to sending a revised draft to the California Housing and Community Development Department (HCD) for review. Previously, the public review period could run currently with Planning Commission, City Council, and CEQA meetings on the Housing Element, but AB 215 requires a separate public comment period prior to HCD's first review of the draft. The law also increased HCD's review period for the draft Housing Element from 60 to 90 days. However, the statutory deadline of January 31, 2023 remains unchanged.

This results in significant impacts to the proposed draft Housing Element timeline and likely necessitates that the City of Berkeley utilize the allotted grace period in order to be able to thoroughly complete the housing plan and provide adequate review and responses. Table 1 details the proposed project timeline in light of AB 215.

Table 1: Housing Element Update Project Timeline

Analysis & Assessment	June 2021 – December 2021
Sites & Opportunities	August 2021 – February 2022
Goals & Policies	November 2021 – May 2022
Draft Housing Element & Review	June 2021 – November 2022
Environmental Review	December 2021 – December 2022
Minimum 30-day review & 14-day response	May 2022 – July 2022
90-day review by HCD	July 2022 – October 2022
Response to HCD and Finalize Draft	October 2022 – December 2022
Local Adoption of Final Draft	January 2023 – March 2023
Final Review and Certification by HCD	March 2023 – May 31, 2023

All cities have the option of a 120-day grace period, which includes a 60-day final review and certification by HCD. Therefore, the City effectively has a 60-day grace period and must adopt a Housing Element no later than March 31, 2023.

Preliminary Housing Needs Assessment

The Housing Element illustrates the trends and characteristics of Berkeley’s population, housing stock, and demographics to provide context for the City’s housing needs. The housing needs assessment includes the unmet needs of existing residents and the future housing demand resulting from anticipated changes in population and demographics. Key preliminary findings provided by the Association of Bay Area Governments (ABAG)¹ are:

1. Steady Population Growth. The California Department of Finance estimates that the City’s population in 2020 was 122,580. According to Association of Bay Area Governments (ABAG) Plan Bay Area 2040 projections, Berkeley’s population is anticipated to reach approximately 136,000 by 2030 (11%) and approximately 141,000 by 2040. Since 2000, the City’s population has increased approximately 9% each decade, comparable to the State overall (average 8.4%) and slightly less than neighboring jurisdictions such as Oakland (11%) and San Francisco (11.5%).
2. Younger and Older Population. According to the Census American Community Survey (ACS) (2015-2019), residents ages 15 to 24 comprise the largest age

¹ ABAG Housing Needs Packet, April 2021

group in Berkeley (27%), followed by people ages 25 to 34 (18%). The median age in Berkeley is 31 years old and the high proportion of younger residents is due to the presence of UC Berkeley within the City. Between 2010 and 2019, the proportion of population aged 25 to 34 increased by 25%, suggesting that students may be choosing to stay in Berkeley after their degree is complete. Berkeley also experienced a significant 40% increase in population aged 65 to 84 between 2010 and 2019, which suggests an increasing need for housing appropriate for seniors in the community. The largest decrease was in the 45 to 54 age group (-9%).

3. Changing Racial and Ethnic Composition. The City is slightly less diverse when compared to Alameda County as a whole, which has greater proportions of Black or African-American, Asian and Pacific Islander, and Latinx populations. Conversely, the proportion of White residents is greater in Berkeley (53%) compared to the County (31%). According to the ACS, the most significant change to Berkeley's ethnic diversity is a 2% decrease in the overall proportion of the Black/African-American population, which is a continuation of a trend in the City and in the region as a whole since 2000. Over this time period, the proportion of Asian and Pacific Islander residents has increased steadily from 19% to approximately 21% of the Berkeley population and the Latinx residents also increased slightly by 0.6% to approximately 11% of the overall population.
4. Rising Household Income. According to the ACS, the median household income in Berkeley increased by 68% between 2010 and 2019, which is comparable with Alameda County as a whole. For 2021, HCD determined the Area Median Income (AMI) for Alameda County is \$125,600 for a family of four. According to the US Department of Housing and Urban Development (HUD) and Comprehensive Housing Affordability Strategy (CHAS), which used 2013-2017 ACS data, half of Berkeley's households earn below the median income which is comparable to Alameda County as a whole. However, a greater proportion of Berkeley households fall within the Very Low-Income category, earning less than 50% AMI (32% compared to 27% in Alameda County as a whole).
5. Rent Burdened. According to the ACS, a majority of Berkeley residents are renters (57%) and more than half of those are rent-burdened, i.e. they spend more than 30% of their income on housing. In 2019, only 3.5% of Berkeley's rental housing stock was vacant, where a typical rental vacancy rate in California was 5.5%.

Sites Inventory Methodology

The City is required by the Regional Housing Needs Allocation (RHNA) to identify and zone sufficient sites to accommodate 8,934 residential units to meet the anticipated population growth between 2023 to 2031. In addition, HCD recommends that cities identify a "buffer" of 15% to 30% above RHNA for lower- and moderate-income categories to account for No Net Loss (AB 166). AB 166 requires cities to demonstrate

capacity is available for affordable units in the case that development on a specific site results in fewer units (total number and by income category) than assumed in the Housing Element. Thus, the overall sites inventory must accommodate between approximately 9,750 and 10,500 units. The following is a summary of the overall methodology for Berkeley's sites inventory analysis².

1. Identify Likely Housing Sites and Production. The initial efforts will identify known projects, sites, and ADU trends that can be credited towards the 6th Cycle.
 - a. *Pipeline Projects and Sites of Interest*. These parcels are those where applications have already been submitted or there is demonstrated interest in building housing. Pipeline projects for the 6th Cycle can include any residential project that is not expected to receive a Certificate of Occupancy until after July 1, 2022.
 - b. *Reused 5th Cycle Housing Element sites*. Generally, available sites can be reused from the 5th cycle Housing Element. These sites should be included in the preliminary sites inventory and evaluated for continued feasibility. New legislation (AB 1397) requires that projects with 20% of on-site units designated for lower income households (80% AMI or less) on these sites are subject to by-right approval unless the sites are rezoned for a higher density prior to the January 31, 2023 statutory deadline.
 - c. *Calculate ADU Trend*. ADUs can count toward the RHNA if the projected number of ADU units aligns with an established local trend. The project team will identify a trend using the annual average of ADU permit approvals between 2018 and 2021 (the time period when the most recent ADU bills were adopted). HCD recommends this methodology.
2. Screening for Vacant and Underutilized Parcels. Using existing land use and County Assessor data, the project team will conduct an analysis to identify vacant and underutilized parcels that could be included in the sites inventory. This process involves screening the most achievable parcels based on their existing characteristics. The following characteristics will form the starting point for the analysis, based on state and regional guidance:
 - a. Land is vacant as identified in the existing land use data.
 - b. Parcel does not have condos or large apartment buildings.
 - c. Parcels are not State- or county-owned.
 - d. Parcels have an improvement-to-land assessed value ratio of 0.75 or less.

² More detailed guidance for Housing Element site inventories and analysis is available here: ABAG Site Inventory Memo. https://abag.ca.gov/sites/default/files/documents/2021-08/sites_inventory_memo_final06102020.pdf

- e. Buildings on the parcel are “older”. As a starting point, the team will use a threshold of 40 years old for residential buildings and 30 years old for non-residential buildings.
- f. Parcels are underutilized (built at less than maximum capacity). As a starting point, the team will use parcels that are identified as built at 35% or less of their assumed maximum density or intensity (physical indicators such as height and coverage).
- g. Parcel sizes are between 0.5 and 10 acres (for lower income categories) or less than 0.5 acre for moderate and above-moderate income categories. Note that parcels may be consolidated to achieve the 0.5 acre minimum threshold.

Parcels identified in this screening will be reviewed to ensure an adequate assemblage for consideration, and will be combined and cross referenced with the parcels identified in Step 1 to create a comprehensive list of potential Housing Element sites.

3. Screening of Parcels. Using the UrbanFootprint scenario analysis tool³, the project team will evaluate the suitability of each parcel for new housing and inclusion in the Housing Element sites inventory. The screening will identify locations where housing should be located (such as near transit, schools, and parks) and locations to avoid if possible (such as areas subject to wildfires). The screening tool will also help with the evaluation of sites in the Affirmatively Furthering Fair Housing (AFFH) requirement⁴. Criteria used in this analysis includes racial diversity, concentrations of poverty, and vulnerability to displacement. These criteria are divided into four categories and each parcel will be given a “score” to evaluate its appropriateness as a Housing Element parcel based on HCD-provided methodology. The categories and specific criteria are:
 - a. *Socioeconomic criteria*, including racial diversity of census tracts, concentrations of low-income households, areas with high social vulnerabilities⁵, and a combination of low incomes and high pollution vulnerability as measured by the CalEnviroScreen 4.0 tool⁶.
 - b. *Access criteria*, including the proximity to transit, parks, and retail/amenities.

³ More information on the UrbanFootprint scenario analysis tool: <https://urbanfootprint.com/platform/scenario-planning/>

⁴ More detailed information on the AFFH process and requirements: <https://www.hcd.ca.gov/community-development/affh/index.shtml>

⁵ Social vulnerabilities are measured by the Social Vulnerability Index, an index prepared by CDC and Agency for Toxic Substances and Disease Registry (ATSDR)

⁶ CalEnviroScreen 4.0 Report and Mapping tool: <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40>

- c. *Presence of environmental conditions*, including parcels near freeways, located in a floodplain or areas subject to sea level rise and fire hazards.
 - d. *Housing characteristics of the area*, including cost burdened households, the potential for displacement, and a concentration of overcrowded households.
4. Evaluate and Analyze Sites. The project team will study each potential parcel in the sites inventory using aerial photos or field visits, using professional judgment to identify the accuracy of the screening and assess the viability of the parcel for development. Sites that are not appropriate for housing will be removed, while others that are suitable for housing but were not included in the initial quantitative analysis will be added, such as parcels less than 0.5 acres that are able to be consolidated.
 5. Calculate Buildout Potential. Using existing zoning, calculate the potential buildout of each parcel to a maximum of 70% of maximum capacity. This number can be modified for individual zoning districts by demonstrating a pattern of achieving higher densities through built or approved projects. Each parcel will also be categorized by its “income category” with parcels that allow 30 dwelling units per acre or more categorized in the “lower income” category (Very Low or Low Income households) and parcels less than 30 units per acre in the Moderate and Above Moderate Income categories.

The project team will review and revise the above steps until all of the appropriate Housing Element sites are identified under the current zoning. If the City cannot meet its RHNA and buffer under current zoning, City Council will be asked to consider locations where additional new housing can be built. This can occur by:

1. Up-zoning areas that already allow residential uses to increase the number of housing units that can be built on those parcels.
2. Allowing residential uses in commercial or industrial areas where residential uses are currently prohibited.

AB 1397 requires that sites rezoned after January 31, 2023 to accommodate lower income RHNA are subject to by-right approval without discretionary review if projects include 20% affordable units for lower income households. The rezone must also include a minimum density of 20 dwelling units per acre (du/ac) and a maximum density of at least 30 du/ac, and be large enough to accommodate at least 16 units.

The final sites inventory will include a detailed data table (template provided by HCD) of all sites with the characteristics of each (including existing use, zoning, address), calculating the buildout by income category, documenting the viability of each parcel to build housing (with photos and descriptions) and conducting the AFFH analysis.

Multi-Unit Residential Objective Standards

On September 28, 2021, City Council approved a contract amendment that supports development of objective standards for residential and mixed-use projects. This project originated in response to numerous City Council referrals, as well as recent state housing legislation that requires by-right and ministerial processes for certain eligible residential projects. The objective standards effort is linked directly with the Housing Element scope and timeline to ensure that there is sufficient capacity to accommodate approximately 9,000 units and a buffer.

The objective standards project will be undertaken in a two-part process. The focus of this effort (Part 1) will be on establishing objective densities (dwelling units per acre) and building massing standards for housing projects with two or more units. Development regulations relating to the project placement on a lot and allowable building envelope correlate directly with construction efficiency and the total square footage of housing that can be built. Objective standards for building form and densities will be crafted to ensure consistency with State housing laws and assumptions for the sites inventory and assessment of unit capacities. Part 1 is underway and tracks directly with the Housing Element and environmental review timeline.

The focus of Part 2 will be on objective standards for design, which includes architectural details such as roofline articulation, the orientation of entries, window patterns, and façade treatment. Objective design details will not have a meaningful effect on the number of units that can be built but provides further assurances and predictability for a building's aesthetic character and harmony within a neighborhood context. Part 2 would begin after the Housing Element is complete; its full scope has not been finalized.

Initial Public Outreach Feedback

At the time of the writing of this report, the Housing Element team had made presentations to nine Berkeley boards and commissions⁷, conducted nine stakeholder interviews, held a public workshop with over 70 participants, and released a citywide online survey.

1. Public Workshop. The first public workshop occurred over Zoom on October 27, 2021. The goal for the workshop was to introduce Berkeley community members to the Housing Element goals and processes, to get input on successes and challenges in Berkeley's housing development and programs, and to begin

⁷ Planning Commission (9/1/2021); Homeless Services Panel of Experts (9/1/2021); Commission on Disability (9/1/2021); Landmarks Preservation Commission (9/2/2021); Zoning Adjustments Board (9/9/2021); Commission on Aging (9/15/2021); Energy Commission (9/22/2021); Children, Youth, and Recreation Commission (9/27/2021), and Housing Advisory Commission (9/30/2021).

identifying potential residential types and sites that are appropriate for development.

An invitation and log-in information for the public workshop were sent to more than 200 subscribers of the Housing Element email list and flyers for the event were posted at 15 sites throughout Berkeley during the month of October, including public libraries, senior and community centers, grocery stores, local retailers, and on utility poles near public parks.

During the public workshop, several key themes were identified:

- a. *High quality of life.* As a city, Berkeley has many assets that make it an attractive place to live, including unique neighborhoods, easy access to Downtown, walkability, public transportation, and access to nature and parks.
 - b. *Diverse housing stock.* The city has a diverse housing stock with different architectural styles, neighborhood types and unit sizes (i.e., ADUs, single-family, duplex, triplex, mixed-use, apartments).
 - c. *Public Safety.* Access is a concern in neighborhoods with narrow roadways and high wildfire risks. Additional development in the hills should be located near major thoroughfares for vehicular, emergency vehicles and transit access.
 - d. *Affordable Housing.* Displacement and gentrification trends and the high cost of housing for ownership and rental units indicates a need for more low and moderate-income units.
 - e. *Inclusionary Housing.* The current inclusionary requirements and mitigation fees should be revised to support the building of more affordable housing. However, there is also concern that a higher inclusionary requirement will increase housing costs.
 - f. *Geographic Equity.* The increased housing needed to meet RHNA should not be focused solely in a few neighborhoods, but be distributed equitably throughout the city.
 - g. *Onerous Entitlement Process.* Residential permit approvals are frequently slowed by neighborhood opposition which can make the process long, cumbersome, expensive and easy to obstruct.
 - h. *Opportunity Sites.* Housing, particularly affordable and senior housing, should be in transit-rich locations. There should be more diversity in lower density zones to achieve “missing middle” housing. Permit residential and mixed-use projects to build above existing single-story retail buildings.
2. Stakeholder Interviews. Stakeholder interviews are used to identify housing needs and constraints, identify opportunity sites, and inform engagement

strategies. To date, the outreach team has interviewed nine stakeholders, including representatives from Berkeley's faith-based institutions and community organizations, affordable and market-rate housing developers, real estate and property management professionals, housing advocates, business owners, and advocacy organizations representing what HCD terms "special needs," meaning a target population. The interview effort is ongoing and has raised the following issues thus far:

- a. *Affordable Housing*. The current requirements for inclusionary housing and funding resources are insufficient to meeting the demands for affordable housing in Berkeley. There is also a need to provide subsidies for those who live in market-rate housing, particularly those with special needs including the disabled and transitional homeless.
- b. *Neighborhood Character*. The architectural character for lower density neighborhoods should be preserved and not interrupted, though consideration should be given to blocks where there are existing taller or denser buildings constructed prior to the Neighborhood Preservation Ordinance in the 1970s.
- c. *Gentrification*. High housing costs and a large student population are driving increased rents throughout the city.
- d. *Height Limits*. The current height constraints in many zoning districts do not take into consideration construction efficiency and the increased costs due to changes in construction type.
- e. *Streamlined Approvals*. The housing entitlement process is frequently prolonged and unpredictable due to discretionary procedures, contentious neighborhood opposition, and resistance to higher density, regardless of zoning compliance.
- f. *Opportunity Sites*. Higher densities should be developed around BART stations and near transit stops, as well as near or above existing community resources, such as child care facilities, senior centers and retail corridors. Residential should be allowed in more ground floor locations, given a decline in retail activity and increase in ground floor vacancies.

The interviews were conducted virtually, in groups of one to three, with one hour allotted for each session.

3. Online Survey. The Housing Element Online Survey was made available from October 28 through November 14, 2021 and includes the same three questions discussed at the October 27th public workshop: Housing successes, housing issues, and locations for new housing. Respondents need not have attended the workshop in order to respond to the survey. As of early November, the survey has received 460 responses.

BACKGROUND

Berkeley’s 6th cycle RHNA is 8,934 residential units⁸. The City is not required to build housing, but it is required to identify and zone sufficient sites to accommodate the anticipated growth over the next eight-year period. If actual housing production is less than the RHNA, eligible affordable housing projects are subject to a streamlined approvals process (SB 35).

Table 2: Berkeley RHNA Allocation, 5th & 6th Cycles

Income Level	5th Cycle RHNA Units	Units Permitted 2015-2020⁹	6th Cycle DRAFT RHNA Units
Very Low (< 50% AMI)	532	232	2,446
Low (50 – 80% AMI)	442	41	1,408
Moderate (80 – 120% AMI)	584	91	1,416
Above Moderate (> 120% AMI)	1,401	2,579	3,664
Total	2,959	2,943	8,934

Housing Elements are subject to regulatory oversight by HCD. If the City does not meet the January 31, 2023 statutory deadline for adopting new zoning, eligible affordable projects on rezoned sites from the 5th Cycle would be approved ministerially. If the City does not adopt its 6th Cycle Housing Element prior to March 31, 2023, it faces a number of penalties and consequences. In addition to significant fines of up to \$100,000 per month, the City can be sued by individuals, developers, third parties, or the State. A court may limit local land use decision-making authority until the City brings its Housing Element into compliance. Failure to comply would also impact Berkeley’s eligibility and competitiveness for federal, state, and regional affordable housing and infrastructure funding sources.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The Housing Element Update is expected to result in greater infill housing development potential near transit and in employment-rich areas. Prioritizing density and affordable housing in these areas will incentivize community members to use alternative modes of transportation and reduce vehicle miles traveled (VMT), which are critical for reducing

⁸ May 20, 2021. Final Regional Housing Needs Allocation (RHNA) Methodology and Draft Allocations. ABAG. https://abag.ca.gov/sites/default/files/documents/2021-05/ABAG_2023-2031_Draft_RHNA_Plan.pdf

⁹ Based on revised 2015-2020 APR unit counts, accepted by HCD on July 14, 2021

greenhouse gas emissions, and will bring the City closer to meeting its Climate Action Plan and Climate Emergency goals.

POSSIBLE FUTURE ACTION

The Housing Element team will make another presentation to the City Council at a worksession in 2022, to inform the Council of the Housing Element Update's progress, share findings from community and stakeholder input, and receive project direction and recommendations from the Council on the immediate tasks ahead.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

The total budget allocated for the Housing Element Update is \$540,000. Berkeley has secured \$325,000 in Local Early Action Planning (LEAP) grant funds, \$83,506 in non-competitive Regional Early Action Planning (REAP) grant funds, \$75,000 in competitive REAP grant funds, and \$56,494 in Community Planning Fees.

CONTACT PERSON

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Alene Pearson, Principal Planner, Land Use Planning Division, (510) 981-7489

LINKS:

1. September 21, 2021. *Housing Element Update Work Session 1*. Report from City Manager to Berkeley City Council.
[https://www.cityofberkeley.info/Clerk/City_Council/2021/09_Sep/City_Council_09-21-2021_-_Special_\(WS\)_Meeting_Agenda.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/09_Sep/City_Council_09-21-2021_-_Special_(WS)_Meeting_Agenda.aspx)
2. April 28, 2021. *Housing Element Update and Annual Progress Report*, Off-Agenda Memo from City Manager to Berkeley City Council.
https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_General/Housing%20Element%20Update%20042821.pdf
3. March 25, 2021, *Initiation of Public Process and Zoning Concepts for 2023-2031 Housing Element Update*. Report to Berkeley City Council, Councilmember Droste et al.
https://www.cityofberkeley.info/uploadedFiles/Clerk/City_Council/2021/03_Mar/Documents/Initiation%20of%20Public%20Process%20and%20Zoning%20Concepts%20-%20Mayor%203-25-21.pdf
4. March 25, 2021, *Initiation of Participatory Planning for Berkeley's Regional Housing Needs Allocation (RHNA)*. Supplemental report to Berkeley City Council, Councilmember Hahn et al.
[https://www.cityofberkeley.info/Clerk/City_Council/2021/03_Mar/Documents/2021-03-25_\(Special\)_Supp_2_Reports_Item_2_Supp_Hahn_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/03_Mar/Documents/2021-03-25_(Special)_Supp_2_Reports_Item_2_Supp_Hahn_pdf.aspx)

PRELIMINARY SITE CAPACITY ANALYSIS

	Very Low >50% AMI	Low 50-80% AMI	Moderate 80-120% AMI	Above Moderate >120% AMI	Total
RHNA	2,446	1,408	1,416	3,664	8,934
ADU Trend	240	240	240	80	800
BART Properties	210	210		780	1,200
Entitled projects (after 2018)	176	182	15	2,755	3,128
Remaining RHNA	1,820	776	1,161	49	3,806
Buffer (15% of remaining RHNA)	273	116	174		
Requirement	2,093	892	1,335	49	4,370
Applications under review or expected	137	45	68	1,666	2,426
Application submitted in 2021	94	25	68	1,304	1,624
Application Submitted before 2021	43	20	-	362	515
Anticipated	-	-	-	-	287
Potential Additional Sites	1,526	1,526	2,351	3,171	8,574
High Priority (>=0.5 acre)	1,063	1,063	248	656	3,029
Medium (0.35-0.49 acre)	464	464	463	463	1,853
Low priority (<0.35 acre)			1,640	2,052	3,692
Surplus/deficit	(430)	679	1,084	4,788	6,630
Surplus/deficit of combined very low and low income	249				

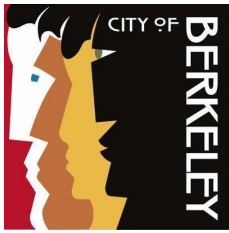
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FOR DISCUSSION PURPOSES

Table of City Council Referrals

Date	Description
7/12/16	Allow increased development potential in the Telegraph Commercial (C-T) District between Dwight Avenue and Bancroft Avenue and refer to the City Manager development of community benefit requirements with a focus on labor practices and affordable housing. http://records.cityofberkeley.info/Agenda/Documents/DownloadFile/7_12_2016%3b%20CLK%20-%20Report%20(Public)%3b%20DISTRICT%207%3b%20%3b%20REGULAR%3b%20ALLOW%20INCREAS.pdf?documentType=1&meetingId=192&itemId=2338&publishId=6522&isSection=False&isAttachment=
4/4/17	Create a citywide Use Permit process to allow non-commercial use on the ground floor in appropriate locations, where commercial might otherwise be required. Consider a pilot project in the C-T District. https://www.cityofberkeley.info/Clerk/City_Council/2017/04_Apr/Documents/2017-04-04_Item_21_Referral_to_the_Planning_Commission_to_Allow_Non-commercial_Use.aspx
5/30/17	Develop a pilot Density Bonus program for the C-T District to generate in-lieu fees that could be used to build housing for homeless and extremely low-income residents. http://www.cityofberkeley.info/Clerk/City_Council/2017/05_May/Documents/05-30_Annotated.aspx
10/31/17	Facilitate student housing by increasing the height and Floor Area Ratio (FAR) in the portions of the R-SMU, R-S and R-3 District which are located within the Southside area west of College Avenue. https://www.cityofberkeley.info/Clerk/City_Council/2017/10_Oct/Documents/2017-10-31_Item_27_City_Manager_and_Planning_Commission_-_Rev.aspx
1/23/2018	More Student Housing Now Resolution https://www.cityofberkeley.info/Clerk/City_Council/2018/01_Jan/Documents/2018-01-23_Item_30_Adopt_a_More_Student_Housing.aspx
5/1/18	Convert commercial space into residential use within all districts in the Southside located west of College Avenue. https://www.cityofberkeley.info/Clerk/City_Council/2018/05_May/Documents/2018-05-01_Item_25_Referral_to_the_Planning.aspx
11/27/18	Move forward with parts of More Student Housing Now resolution and implementation of SB 1227. https://www.cityofberkeley.info/Clerk/City_Council/2018/11_Nov/Documents/Item_26_Supp_Worthington.aspx

4/23/19	Analyze and report back on possible Zoning Ordinance changes to foster alternative housing types under a “Missing Middle Initiative” https://www.cityofberkeley.info/Clerk/City_Council/2019/04_Apr/Documents/04-23_Annotated_Agenda.aspx
3/25/21	Initiate public process and zoning concepts (including ending exclusionary zoning) in the 2023-2031 Housing Element Update https://www.cityofberkeley.info/uploadedFiles/Clerk/City_Council/2021/03_Mar/Documents/Initiation%20of%20Public%20Process%20and%20Zoning%20Concepts%20-%20Mayor%203-25-21.pdf
3/25/21	Initiate participatory planning for Berkeley’s RHNA and Housing Element Update https://www.cityofberkeley.info/Clerk/City_Council/2021/03_Mar/Documents/2021-03-25_(Special)_Supp_2_Reports_Item_2_Supp_Hahn_pdf.aspx
11/9/21	Consider an Affordable Housing Overlay as part of the Housing Element Update to allow increased height and density for 100% affordable projects. https://www.cityofberkeley.info/Clerk/City_Council/2022/01_Jan/Documents/2022-01-25_Item_11_Referring_the_Civic_Arts_Commission.aspx
2/25/22	Promote artist housing, including the use of groundfloor retail space, as part of the Housing Element Update https://www.cityofberkeley.info/Clerk/City_Council/2022/01_Jan/Documents/2022-01-25_Item_11_Referring_the_Civic_Arts_Commission.aspx



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CONSENT CALENDAR
January 25, 2022

To: Honorable Members of the City Council

From: Councilmember Hahn (Author), Councilmember Taplin (Co-Sponsor), Councilmember Harrison (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)

Subject: Referring the Civic Arts Commission's *affordable housing for artists in Berkeley* Report and other Artist Live, Work and Live-Work opportunities to the Housing Element Update

RECOMMENDATION

1. Refer the Civic Arts Commission's report entitled *affordable housing for artists in Berkeley* to the City Manager, Planning Commission, and Housing Advisory Commission to review, consider, and incorporate recommendations, to the greatest extent possible, into the Housing Element update and related planning and zoning processes.
2. Refer to the City Manager, Planning Commission, and Housing Advisory Commission consideration of the feasibility and impacts of allowing ground floor affordable live, work, and live-work space for artists in certain commercial, manufacturing, and mixed-use buildings/areas, both new-build and existing, and exploration of other opportunities for living, work and live-work space for artists.

SUMMARY/CURRENT SITUATION:

Affordable living and work-space for artists is a pressing issue for our community, with artists increasingly priced out and unable to live and work in Berkeley. Affordable housing for artists has been identified in numerous planning documents as a key need. Most recently, the Civic Arts Commission generated a report entitled *affordable housing for artists in Berkeley* that reported data about the unique housing and space needs of artists, based on a survey and focus groups with diverse artists and cultural workers. (See Attachment 1: *affordable housing for artists in Berkeley*). The report was presented at the [December 8, 2021 Civic Arts Commission meeting](#), and generated important discussion around housing and work-space affordability for artists.

Berkeley is currently engaged in an in-depth process to update the City's Housing Element. The results of the update will shape the development of housing in Berkeley for much of the next decade. A key component of the Housing Element is to identify sites that can accommodate future housing needs across income levels and other demographic factors. The Housing Element also involves the development of a variety of approaches to meet community housing and affordability needs such as zoning updates and new affordable housing requirements and programs.

With the [Housing Element update process already in progress](#), it is important for the recently completed *affordable housing for artists in berkeley* report to be referred and the report's findings and recommendations to be incorporated into the Housing Element Update, as feasible.

In addition to the findings and recommendations of the *affordable housing for artists* report, an informal group of artists has been discussing the possibility of allowing ground-floor commercial space to be substituted for affordable artist work- or live-work space in new-buildings, or in existing buildings via conversions in some locations or building types. Because there are many elements to consider, including impacts to the retail environment, feasibility and costs, quality of work- and living-space for artists, relationship to affordable housing and community benefit requirements in new-build, locations and buildings types where artist ground floor live-, work- and live-work space may be feasible, and more, this idea is referred more generally to the City Manager, Planning Commission, and Housing Advisory Commission (HAC).

Exploration of other potential means to create, convert and/or reserve affordable living, work, and live-work space for artists is also referred, allowing the City Manager, Planning Commission, and HAC to broaden their analysis and consultation to consider all opportunities to create affordable living and work-spaces for artists.

To the extent feasible opportunities for affordable artist living and live-work space may be identified from the *affordable housing for artists in berkeley* report or through additional exploration, concepts should be incorporated into the Housing Element Update.

BACKGROUND:

The City's 2018-2027 Arts and Culture Plan Update identifies affordable artist housing as the first of five strategic goals:

Goal 1 Increase Access to Affordable Housing and Affordable Spaces for Artists and Arts Organizations

Support the long-term sustainability of the arts and culture sector by expanding the availability of affordable housing and spaces for both artists and arts organizations.

The Plan Update also includes the following introductory remarks:

“Berkeley is home to a vibrant and diverse community that strongly values its rich cultural fabric. Characterized by its collective nature, the city is famous for its distinguished university, beautiful natural setting, and its remarkable history as a home for progressive movements. Arts and culture permeate civic life in Berkeley through numerous acclaimed theaters, performing arts spaces, as well as the city’s many artists. Over 150 arts and culture nonprofits operate in Berkeley and together they contribute to a dynamic, continually evolving arts and culture community that interacts closely with other sectors of the city’s economy. The nonprofits that make up the arts community are particularly diverse in terms of their size and their creative disciplines.

Along with the cultural richness the arts infuse into the community, the arts sector is also a significant economic driver, generating an estimated \$165 million in total economic activity. In 2017, Berkeley Mayor Jesse Arreguin stated that “in addition to fostering civic pride, a flourishing arts scene [brings] new visitors to our city and more revenue to local businesses.” Currently, as the San Francisco Bay Area is experiencing substantial economic growth, rising real estate and living costs have created an especially challenging environment for the arts community in Berkeley. Some artists and arts organizations are leaving the city because they can no longer afford to live and work here.”

Most recently, the Civic Arts Commission generated a report entitled *affordable housing for artists in berkeley* that reported data about the unique housing and space needs of artists, based on a survey and focus groups with diverse artists and cultural workers. (See Attachment 1: *affordable housing for artists in berkeley*). The report was presented at the [December 8, 2021 Civic Arts Commission meeting](#), and generated important discussion around housing and work-space affordability for artists.

Discussions of affordability in the arts ecosystem are often anecdotal, with few studies to provide comprehensive data to inform potential solutions. To provide more comprehensive information, the Civic Arts Commission requested and received a report with findings based on a survey and focus groups. The study consulted a diverse group of Berkeley artists and cultural workers and provides systematic data around the unique housing and space needs of artists. The report explicitly seeks to position Berkeley’s arts community for inclusion in

the City's affordable housing efforts and to help improve the safety of local arts spaces while avoiding further displacement.

The study was initially conceptualized in 2019 in response to concerns around housing and art space affordability among artists and arts organizations in Berkeley, and was motivated by two events.

First, the 2018 Arts and Culture Plan Update for the City of Berkeley identified -- as a primary goal -- the need to increase access to affordable housing and spaces for artists, cultural workers, and arts organizations. The cultural plan specified a number of action steps towards this goal, including undertaking a data-informed assessment of current art space affordability challenges and displacement risks in Berkeley, as well as the development of strategies to protect and create affordable spaces for Berkeley artists, cultural workers, and arts organizations based on the assessment's findings.

Second, in November 2018, the voters of Berkeley approved two bond measures totaling \$135 million to fund affordable housing in Berkeley. Berkeley City Council subsequently began the development of an affordable housing framework (Housing for a Diverse, Equitable and Creative Berkeley) to guide Berkeley's affordable housing policies, programs, and projects through 2030. This framework explored a wide array of affordable housing for artists and other creative workers. In July 2019, the Council referred this policy document to various Commissions for further development. However, the pandemic caused this work to be temporarily put on hold.

The survey and subsequent report on its findings was completed and released by the Civic Arts Commission in November 2021. It made several key findings and recommendations that relate to zoning and planning decisions which may potentially be made as part of the ongoing Housing Element Update.

Some key findings of the report include recommendations that the City of Berkeley:

1. Create policies that prioritize artists for new affordable housing

Artists are an important part of the fabric of Berkeley as a city. As such, they should be part of ongoing conversations about Berkeley's housing plan. The survey results demonstrate that artists -- as a group -- have low income, a high rent burden, and have traditionally been left out of ongoing affordable housing. In order to mitigate further displacement and allow artists to continue to work and thrive in Berkeley, the City could consider creating a priority category for artists who meet income qualification to access affordable housing."

2. Designate some of Berkeley's upcoming affordable housing funding from Measure O for units specific to artists

"On July 24, 2019, Berkeley's Civic Arts Commission approved an amendment recommendation for Measure O that called for "significantly increas[ing] the supply of affordable housing and live/work housing for artists, artisans, and cultural workers" through adding to the zoning ordinance, incentivizing developers to build market-rate housing that includes affordable live/work units for creative workers, and incorporate live/work spaces for artists and cultural workers into large-scale affordable housing projects."

3. Consult artists when designing new policies for live/work spaces

Across the Bay Area, responses to the Ghostship fire emphasized increased attention to artist DIY live/work spaces. These spaces were often the only options for artists to access live/work spaces that met their needs. Yet, artists have always worked to transform neighborhoods through their work and creative use of space. As Berkeley works to address affordability issues for all of its residents, consulting and involving artists in the planning process can help bring about a much-needed, new, and fresh perspective on issues such as rezoning, repurposing ground floor spaces, and requiring community benefit proposals for new development.

4. Develop artist-specific resources and technical assistance to bring artists into the existing affordable housing pipeline

Due to the nature of their work, artists often have a unique income structure that makes applying for affordable housing more difficult. In addition, the survey shows that artists have needs for certain types of spaces that might be difficult to identify. Funding technical assistance to support artists to translate their needs and apply for the existing affordable housing pipeline could be an important step in helping artists leave inadequate living situations.

Because the report and findings include important information about the housing and space needs of artists, the *affordable housing for artists in berkeley* study is being referred to the Housing Element Update and to the Planning Commission and HAC for immediate consideration.

In addition to the findings and recommendations of the *affordable housing for artists* report, an informal task force of artists has been discussing the possibility of allowing ground-floor commercial space to be substituted for affordable artist work- or live-work space in new-buildings, or in existing buildings via conversions, in some locations or building types.

Because there are many elements to consider, including impacts to the retail environment, feasibility and costs, quality of work- and living-space for artists, relationship to affordable housing and community benefit requirements in new-build, locations and buildings types where artist ground floor live-, work- and live-work space may be feasible, and more, this idea is referred more generally to the City Manager, Planning Commission, and Housing Advisory Commission (HAC).

The presence of artists living and working around the clock has been documented as an important factor in creating more livable, animated urban areas. At the same time, retail vacancies have risen steadily in recent years as more purchasing has migrated online. The COVID-19 pandemic has accelerated this trend and led to even greater amounts of empty space, even in Berkeley's most popular commercial areas. Removing barriers to use or re-use of vacant retail/commercial spaces may be a means to provide affordable live/work spaces for artists while also activating storefronts.

To explore the possibilities of using retail/commercial space to house working artists, an informal task force including members of the Civic Arts Commission, affordable housing advocates, artists, and developers was convened. The goal of the group's work was to increase active uses of often-vacant ground floor space and provide a new low-impact supply of affordable live/work spaces for artists.

Some of the ideas generated by this informal group include:

1. Allowing affordable live/work housing for artists in lieu of ground floor retail or commercial use in specific locations (for example, away from main commercial nodes, or on side-streets) or corridors, including the San Pablo and University Avenue corridors and/or in other appropriate locations.
2. Developing a clear set of allowable uses and criteria for tenant eligibility including the responsibility to maintain a lively street presence.

In addition to consulting with the arts community, including members of the informal task force, the City Manager, Planning Commission and HAC should consult with business and commercial property owners to fully understand the opportunities and challenges of allowing live-work in lieu of retail, and to identify the circumstances, requirements,

locations and other factors that could make affordable live-work ground floor uses work both for artists, and for the health and vitality of commercial districts.

ALTERNATIVES CONSIDERED

By referring the *affordable housing for artists in berkeley* report and its findings and other affordable living and work-space considerations to be developed simultaneous with and/or as part of the Housing Element, we can ensure that artists' unique housing, work-space and affordability needs are considered during the Update process, and incorporated as feasible in the Housing Element and other zoning and planning processes.

FISCAL & STAFF IMPACTS

Staff and the Commissions are already engaged in in-depth discussion of housing needs, zoning changes, and programs to meet housing and affordability needs communitywide. Adding more explicit consideration of the specific needs of artists, drawing from studies already completed and with input from the Arts Commission and arts community, will add important information to existing discussions. Additional formal study or consulting help is not envisioned.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

This referral asks only for concepts to be studied and incorporated into a planning process already underway, and does not entail environmental or climate impacts.

CONTACT PERSON

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Attachments

1. *affordable housing for artists in berkeley*

affordable housing for artists in Berkeley **a baseline survey**

Anh Thang Dao-Shah, ph.d.& Asif Majid, ph.d
creative equity research partners
December 2021

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executive summary

This project aims to respond to concerns around housing and art space affordability among artists and arts organizations in Berkeley by answering two key questions:

- 1) What are the trends around local affordability issues that can be addressed through targeted resources and policy solutions?
- 2) What pre-existing housing disparities impact what artists seek in possible affordable housing solutions?

As in other parts of the Bay Area, narratives of concern around affordability in the arts ecosystem in the past decade are often anecdotal. The sector lacks comprehensive data that could inform system change solutions. To that end, this report is based on a survey and focus groups with a diverse group of artists and cultural workers in Berkeley to provide systematic data around the unique housing and space needs of artists. It seeks to better position Berkeley's arts community to participate in the City's current affordable housing efforts and help improve the safety of local arts spaces, without causing further artist displacement.

key findings

Artists are highly educated, yet have low income

Berkeley's artists and artists/cultural workers who responded to the survey are highly educated (88% have a Bachelor's degree or higher). Yet, 60% of that same group has lower, very low, or extremely low income.

Artists and cultural workers have multiple forms of employment

Only 32% of all respondents reported that they are employed full time. Others indicated that they cobble together different types of part-time and short-term contract work, as well as self-employment, in order to make ends meet.

Artists are rent burdened

Artists and artists/cultural workers disproportionately rent their living space (71%). Of those who rent, 77% are rent burdened or severely rent burdened, based on the California's Department of Housing and Community Development definitions.

Artists have a unique need for flexible live/work spaces

Responding artists and artists/cultural workers indicated, at a rate of 82%, that they do their creative work in their living space. Of those respondents, over half (56%) practice artistic disciplines that require extra ventilation.

recommendations

- **create policies that prioritize artists for new affordable housing**
- **designate some of Berkeley's upcoming affordable housing funding from measure O for units specific to artists**
- **consult artists when designing new policies for live/work spaces**
- **develop artist-specific resources and technical assistance to bring artists into the existing affordable housing pipeline**
- **pilot a guaranteed basic income program for qualifying artists**

introduction

why this project?

This project was initially conceptualized in 2019 in response to concerns around housing and art space affordability among artists and arts organizations in Berkeley. It was motivated by two events.

First, the [2018 Arts and Culture Plan Update for the City of Berkeley](#) identified -- as a primary goal -- the need to increase access to affordable housing and spaces for artists, cultural workers, and arts organizations. The cultural plan specified a number of action steps towards this goal, including undertaking a data-informed assessment of current art space affordability challenges and displacement risks in Berkeley, as well as the development of strategies to protect and create affordable spaces for Berkeley artists, cultural workers, and arts organizations based on the assessment's findings.

Second, in November 2018, the voters of Berkeley approved two bond measures totaling \$135 million to fund affordable housing in Berkeley. Berkeley City Council subsequently began the development of an affordable housing framework ([Housing for a Diverse, Equitable and Creative Berkeley](#)) to guide Berkeley's affordable housing policies, programs, and projects through 2030. This framework explored wide array of affordable housing for artists and other creative workers. In July 2019, the Council referred this policy document to various Commissions for further development. However, the pandemic caused this work to be temporarily put on hold.

As elsewhere in the Bay Area, concerns around the arts ecosystem's affordability over the past decade are mostly anecdotal, arising when a major artist or arts organization imminently faces the loss of their living and work space. These stories, while important, inadequately inform systems change solutions aimed at addressing structural concerns.

To that end, this project's goal is to develop an assessment that provides systematic data around the unique housing and space needs of artists and cultural workers. This will better position the arts community to participate in Berkeley's ongoing affordable housing efforts and help improve art space safety in Berkeley without causing further displacement of artists. Two key questions guided this project from the beginning:

- 1) What are the trends around local affordability issues that can be addressed through targeted resources and policy solutions?**
- 2) What pre-existing disparities could impact possible affordable housing solutions for artists?**

This second question is key to ensure the solutions we suggest do not unintentionally impact some groups more than others.

In April 2020, the COVID-19 pandemic brought a pause to the assessment project and

raised new affordability questions, as the arts community dealt with the consequences of regular lockdowns. While some local, state, and federal measures -- such as the eviction moratorium and extension of unemployment benefits to independent contractors -- helped prevent widespread displacement during the pandemic's height, the new normal brought new concerns as artists and cultural organizations continue to struggle with canceled events, lower venue capacity, and overall uncertainty.

These questions brought new urgency to the project, as well as the need to methodologically pivot and narrow the project's focus. Instead of focusing on both housing needs of artists and space needs of arts organizations as originally envisioned, this project focused on understanding the affordable housing and workspace needs of individual artists and cultural workers to ensure timely recommendations that would allow for participation in ongoing affordable housing efforts. This shift also allowed for the inclusion of additional questions that sought to understand both the short-term impact of the pandemic and the ongoing challenges that would inform long-term strategies to address affordability issues in Berkeley.

methodology and data limitations

In order to collect data directly from artists and cultural workers during the ongoing pandemic, an online survey was issued in September 2021 through the Berkeley Civic Arts Program. The survey was open for four weeks and was accompanied by a robust outreach strategy, including outreach and reminder emails through the Civic Arts Program's and City of Berkeley's mailing lists and social media channels, the direct networks of a number of arts organizations represented by members of an ad-hoc advisory group, and posting on other community-serving digital platforms like Nextdoor. A list of all survey questions is found in Appendix B.

In addition to quantitative data, this project relies on the insights of artists, cultural leaders, and the City's affordable housing experts to provide context to the affordability crisis and housing needs. Research staff conducted three focus group meetings with 21 community stakeholders, who formed an ad-hoc community advisory group.

Members of the advisory group were selected to provide different perspectives on the historic and current landscape of arts and culture in Berkeley with a specific focus on housing needs for artists and cultural workers. With research staff, the advisory group helped design survey questions, reviewed preliminary findings, and brainstormed potential solutions. A list of the advisory group participants is provided in Appendix A.

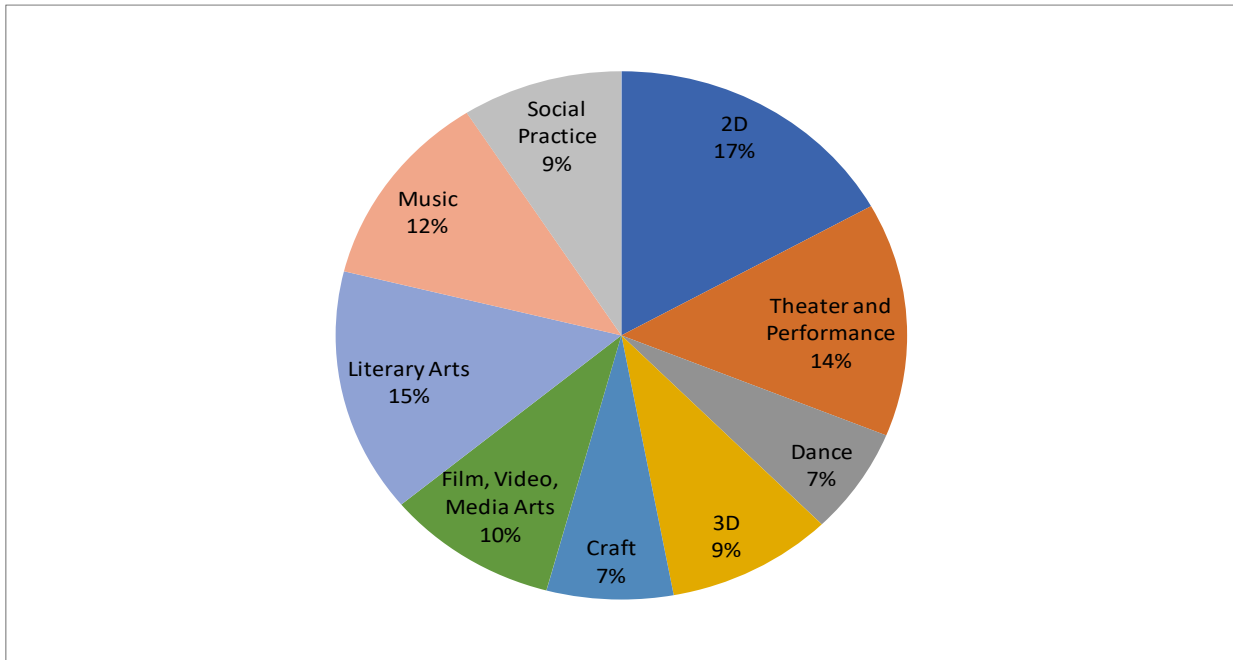
Any survey of artists must contend with the fact that there is no baseline dataset regarding the number of artists in a given community, due to the various ways artists can be defined. The most common way to define a professional group is to use IRS data that classifies someone's profession based on the income they earn from their main profession. Artists' main sources of income, however, often do not come from artwork; income sources are diverse and cross-sectoral. The same can be said for cultural workers. Plus, an artist's level of engagement with an art practice is not limited to paid opportunities. Income is thus an inadequate defining criterion. Through this survey's

grassroots and community-centered approach, this project provides a snapshot of the needs of the arts and culture sector and should be understood as baseline data that should be supplemented with ongoing and long-term data collection and analysis.

survey results

who responded?

A total of 163 artists and cultural workers responded to the survey. This constitutes 0.14% of Berkeley's population, based on data from the 2020 census. For comparison, in a similar study in 2015 in San Francisco, which involved a six-week survey and multiple in-person outreach events, 560 artists and cultural workers responded to the survey. That constituted 0.07% of San Francisco's population, based on 2010 census data. In other words, the Berkeley survey had double the response rate.



Of the Berkeley survey respondents, **48% identified as artists, 15% identified as cultural workers, and 37% identified as both artists and cultural workers.** In total, 32% of respondents do not currently reside in Berkeley, while 39% have lived in Berkeley for more than 10 years.

31% of respondents identified as LGBTQIA+

62% of respondents identified as female

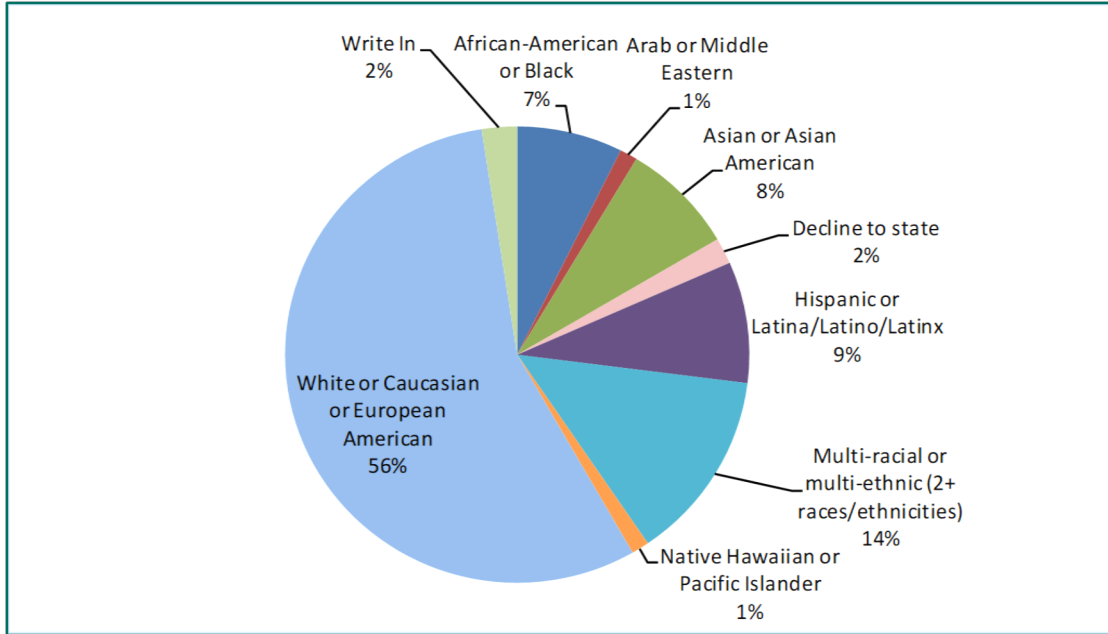


Figure 2: Race and ethnicity of survey respondents

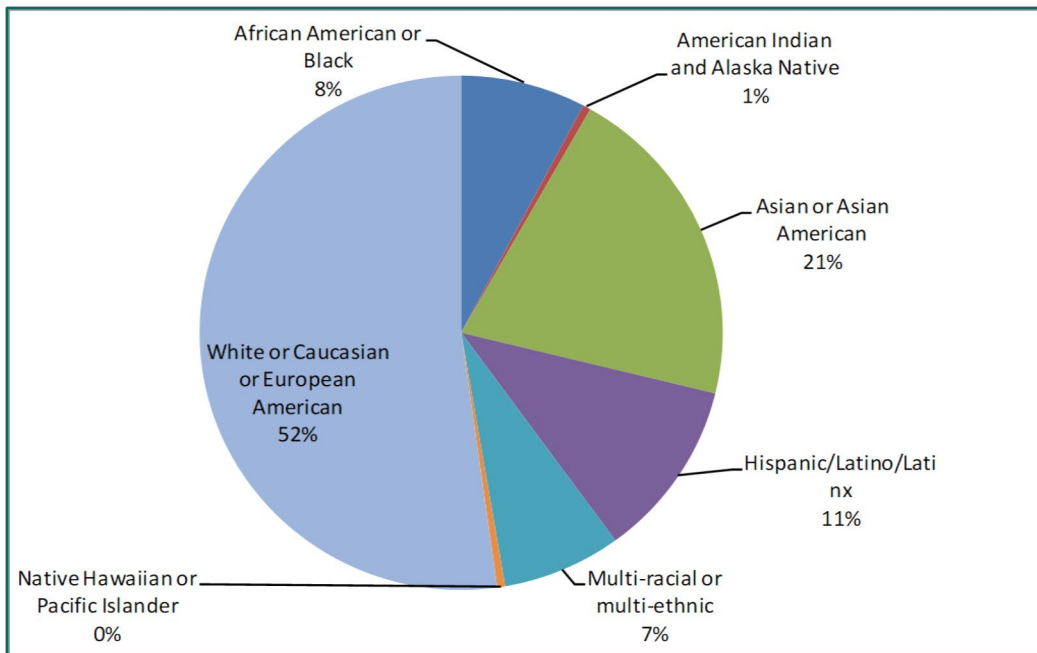


Figure 3: Race and ethnicity of City of Berkeley residents

key findings

Artist respondents are highly educated, yet have low income

Of those respondents who identified as artists or as both artists and cultural workers, 88% reported having a Bachelor’s degree or higher. Of that same group, 60% reported an annual household income of \$69,000 or less. According to the [California Department of Housing and Community Development, in Alameda County for a single individual in 2019](#) (when this project and survey were first developed), annual household income of \$26,050 or below constitutes extremely low income, between \$26,051-\$43,400 is defined as very low income, and between \$43,401-\$69,000 is defined as lower income. Per these categories, 60% of those who identified as artists or both artists and cultural workers have lower, very low, or extremely low income. [In 2021, the upper threshold for the lower income category has risen to \\$76,750](#), meaning that artists are now even further behind financially than they were two years ago.

While low income is prevalent across the group, this rate is significantly higher among BIPOC respondents. Of respondents who identified as non-White, 72%, reported having lower, very low, or extremely low income, compared to 55% among those who identified as White or Caucasian. Due to the small number of participants, we are unable to make comparison between different groups who identify as non-White.

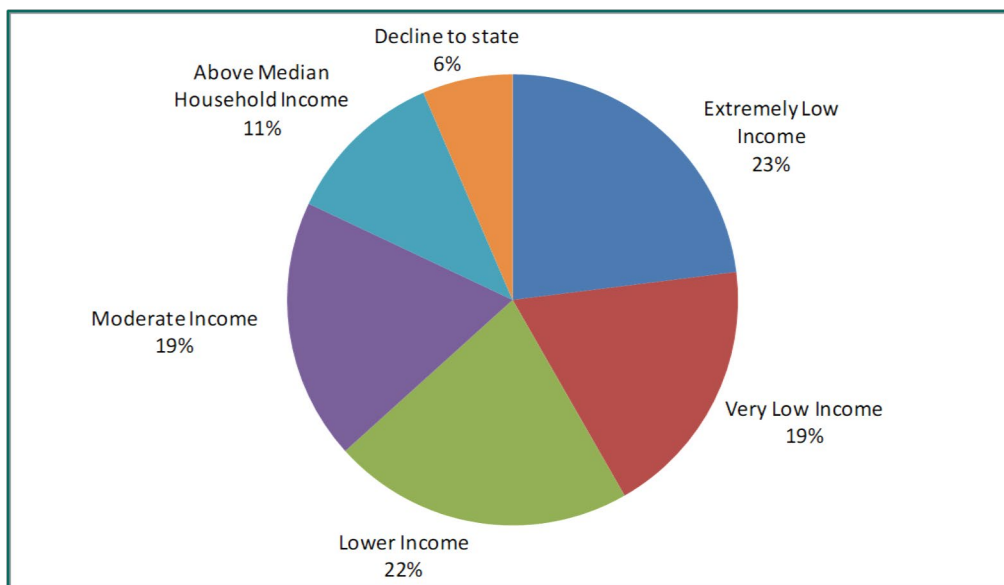


Figure 4a: Income categories for all artist respondents

<i>Income Category</i>	<i>Income Range</i>	<i>Percentage of Artist Respondents</i>
Extremely Low	≤ \$26,050	21%
Very Low	\$26,051-\$43,400	16%
Low	\$43,401-\$69,000	23%

Median	\$69,001-\$78,200	17%
Moderate	\$78,201-\$93,850	18%
Decline to State	n/a	5%

Figure 4b: Income ranges for artist respondents

Artists and cultural workers have multiple forms of employment

Only 32% of all respondents reported that they are employed full-time. Others indicate that they engage in a patchwork of different types of part-time and short-term contract work, as well as self-employment, in order to make ends meet. Examples of employment that respondents are undertaking include: being a self-employed artist for one’s own or another’s art practice, being employed part time/doing regular work for pay as either a cultural worker or otherwise, doing contract work as a cultural worker or something other than a cultural worker, and undertaking unreported work for cash.

Artist respondents report being rent burdened, but are not immediately concerned with losing their housing

Among respondents who identify as artists and as both artists and cultural workers, 71% of respondents rent. Of those who rent, 77% are rent burdened or severely rent burdened. According to the [US Department of Housing and Urban Development](#), a household or individual that spends more than 30% of their monthly household income on rent is rent burdened. Severely rent burdened households or individuals spend more than 50% of their monthly household income on rent.

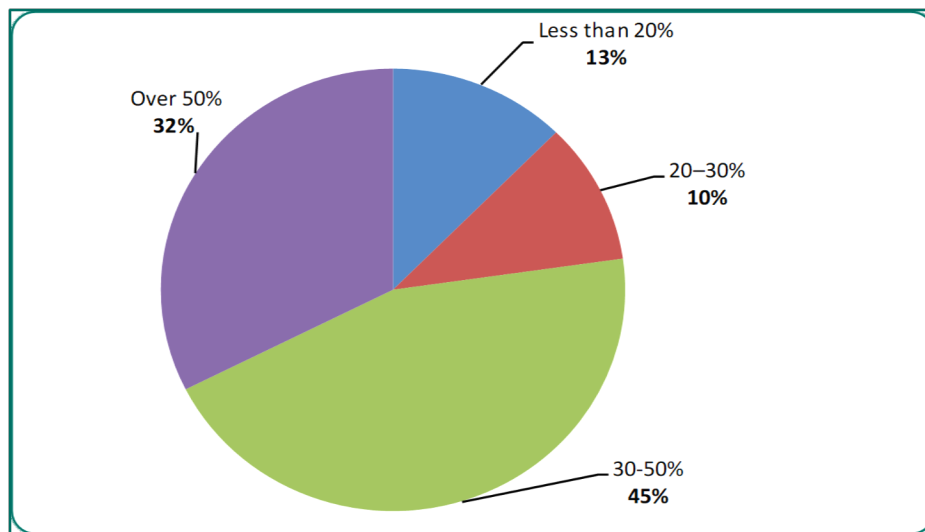


Figure 5: Respondents’ percentage of monthly household income spent on rent

While studies have shown that rent burden and extremely low income decrease the health and overall wellbeing of all those impacted, for artists this burden can

fundamentally change the way they engage with their artistic practice. Qualitative comments provided by the respondents highlighted having to scale back on their practice in order to earn the income they need to pay rent. This means they are unable to focus on developing their creative practice. As one respondent, a musician, explained:

The cost of living in the Bay Area fundamentally changes how I am able to grow in my craft. Since we are all hustling to pay rent at this level, rehearsals must be paid, limited and without a "post gig hang" - something I find central to collaborating with others. This limits how much performing I can do with others, which limits how much I can grow, experiment and contribute in my craft.

Over the long term, the lack of opportunities for artists to devote time and energy to their practice can lead to the abandonment of artistic practice altogether. Despite respondents' high rent burden and low income, those identifying as artists and as artists/cultural workers do not indicate concerns around losing their housing in the near future.

Only 9% of respondents reported that they were evicted due to no-fault causes in the last 2 years. No-fault eviction is defined as evictions that take place when leases are not renewed without the tenant having violated any regulations as long as a notice to move out is sent to the tenant within the required time period. Landlords might choose to evict tenants who are paying rent on time and complying with regulations due to owner move in or the need to retrofit a building. In the last decade, as the affordability crisis has intensified throughout the Bay Area, no-fault eviction has often been used to let go of long-term tenants who are protected from rent increases to bring in new tenants who are charged at market rate. In the survey issued to San Francisco artists, about 30% of respondents reported that their leases were not going to be renewed due to no fault of their own.

Only 6% of respondents had to rely on the eviction moratorium during the pandemic. In total, only 9% of respondents are uncertain or very uncertain that they will be able to retain housing after the moratorium ends (20% were neither certain nor uncertain). Though seemingly at odds with other findings, this sentiment could be attributed to three factors.

First, Berkeley has strong renter protection policies. Qualitative survey responses show that many respondents who rent are aware of and rely on rent control, which helps keep their rent affordable. This is especially true with respondents who have resided in Berkeley for more than five years. Not concerned with immediate loss of housing does not mean that existing housing needs are met, however. As one respondent explained:

The only reason I am able to remain in the Bay Area is because I have been in the same unit for a decade and we have rent control - the other apartments in my building go for over twice what we're paying. [...] If I ever wanted to leave this apartment (and I do), I would have to leave the area entirely, because I can't afford anything else.

The gap between existing housing and respondents' needs is especially acute for those working in artistic disciplines that have specific space requirements like extra ventilation.

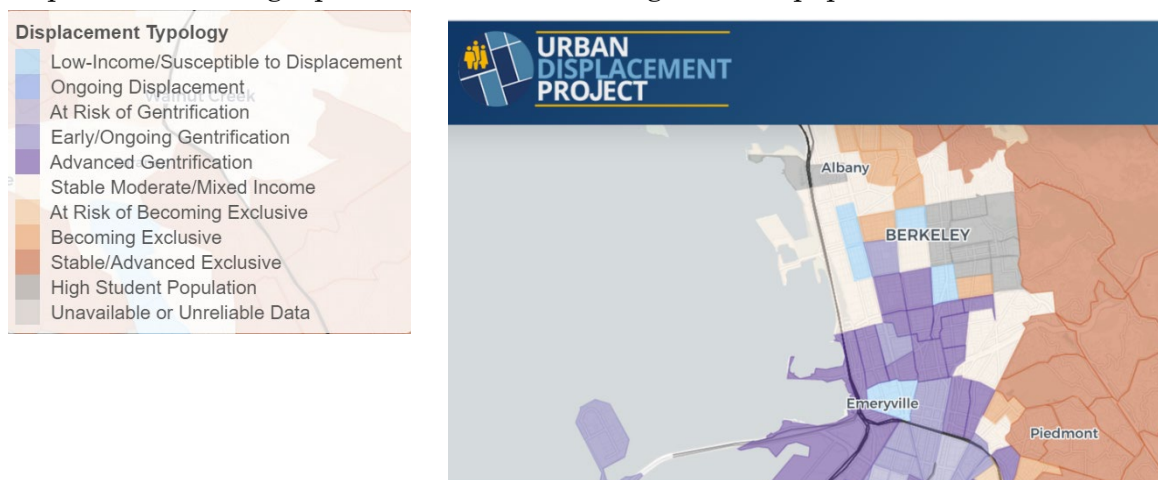
Second, the fact that the majority of respondents engage in multiple forms of employment means that they have multiple sources of income beyond their artistic practices to rely on for rental needs. However, as discussed above, in the long-term, the high burden of rent and reliance on other means of employment to make ends meet will impact artists' abilities to sustain their art. As one artist wrote:

My housing is over 2/3 of my income, leaving little to nothing for anything over basic living expenses.

Lastly, the timing of the survey suggests that those who are currently still residing in Berkeley are the ones who managed to weather the wave of displacement that took place in the last decade through the two factors described above and we have not captured the concerns of those who already had to leave as displacement was taking place. According to the [Urban Displacement Project](#), by 2018, almost all of Berkeley, except the immediate area surrounding University of California, Berkeley was experiencing ongoing and advanced gentrification, with a few areas already becoming exclusive and three areas in North Berkeley marked as low income and susceptible to displacement. South Berkeley area between Ashby Avenue and Emeryville border was in an advance gentrification stage with displacement having taken place between 2000 and 2018.

For comparison, the study in San Francisco took place in 2015, in the middle of the biggest wave of gentrification in the broader Bay Area. In that study, more than 1/3 of respondents expressed immediate concerns about loss of housing due to rent increase, end of lease term or fear of no-fault eviction.

Notably, South Berkeley also had high percentage of BIPOC population (between 50% and 70%). This data confirms that, like in the rest of the Bay Area, BIPOC communities are more susceptible to early displacement and the survey respondents' demographic reflects these changes in the population.



Artists have a unique need for flexible, live/work space

Of responding artists and artists/cultural workers, 82% reported that they make their art where they live, with 56% of this group requiring extra ventilation for their art.

This finding reflects the way that affordability challenges can fundamentally change an artist's practice. For artists needing extra ventilation, this could mean a choice between maintaining their own health and practicing their art, particularly if there is no adequate separation between where artists sleep, cook, and eat and where artworks are being stored, produced, or left to dry. The need for flexible and affordable live/work space has pushed artists to make choices to live in dangerous conditions that can have fatal consequences. As one artist respondent explained:

It's really hard to find space to train that is affordable. I need at least 20' ceilings, ideally 30'. There were many affordable live/work warehouse conversions with this kind of ceiling height pre-Ghostship but many of these affordable spaces were affordable due to slumlord and very DIY situations, which often meant common housing needs like sealed roofs, consistent mail/package delivery, heating, bedroom windows/egress, were not guaranteed. The tragedy at Ghostship has led cities around the Bay Area to tighten up their policies around DIY spaces to prevent similar situations. However, without intentional creation of spaces that meet the needs of practicing artists, such policies do not solve the root cause problem that have caused artists to seek out those spaces in the first place.

recommendations

Create policies that prioritize artists for new affordable housing

Artists are an important part of the fabric of Berkeley as a city. As such, they should be part of ongoing conversations about Berkeley's housing plan. The survey results demonstrate that artists -- as a group -- have low income, a high rent burden, and have traditionally been left out of ongoing affordable housing. In order to mitigate further displacement and allow artists to continue to work and thrive in Berkeley, the City could consider creating a priority category for artists who meet income qualification to access affordable housing. Such a priority category would require working with the arts community to create an inclusive definition of what it means to be an artist. It should also take into consideration and center artists from Black, Indigenous, and People of Color (BIPOC) communities, as well as LGBTQ+ communities who have already been displaced. In doing so, artists will have an opportunity to return to Berkeley and enrich the city's social and artistic fabric.

Designate some of Berkeley's upcoming affordable housing funding from measure o for units specific to artists

On July 24, 2019, Berkeley's Civic Arts Commission approved an amendment recommendation for Measure O that called for "significantly increas[ing] the supply of affordable housing and live/work housing for artists, artisans, and cultural workers" through adding to the zoning ordinance, incentivizing developers to build market-rate housing that includes affordable live/work units for creative workers, and incorporate live/work spaces for artists and cultural workers into large-scale affordable housing projects. Other proposals included the development of a community land trust and transforming underused retail spaces and City-owned buildings into artist live/work spaces. These recommendations should be revisited and implemented, as they align with the range of qualitative responses that came through the survey. Respondents also suggesting the development of: 1) co-ops; 2) a separate affordable housing lottery specifically for those artists and cultural workers from BIPOC and other underserved communities; and 3) relationships between the City and land trusts to purchase buildings that serve as artist housing. These suggestions point to the importance of re-evaluating how zoning and other policies further disenfranchise artists and cultural workers.

Consult artists when designing new policies for live/work spaces

Across the Bay Area, responses to the Ghostship fire emphasized increased attention to artist DIY live/work spaces. These spaces were often the only options for artists to access live/work spaces that met their needs. Yet, artists have always worked to transform neighborhoods through their work and creative use of space. As Berkeley works to address affordability issues for all of its residents, consulting and involving

artists in the planning process can help bring about a much-needed, new, and fresh perspective on issues such as rezoning, repurposing ground floor spaces, and requiring community benefit proposals for new development.

Develop artist-specific resources and technical assistance to bring artists into the existing affordable housing pipeline

Due to the nature of their work, artists often have a unique income structure that makes applying for affordable housing more difficult. In addition, the survey shows that artists have needs for certain types of spaces that might be difficult to identify. Funding technical assistance to support artists to translate their needs and apply for the existing affordable housing pipeline could be an important step in helping artists leave inadequate living situations. The advisory group also recommended creating a one-stop shop that features affordable housing for artists (perhaps akin to a specialized version of [San Francisco's DAHLIA housing portal](#)), which would create a platform where artists could share information about available housing and get connected to resources like financial technical assistance. A space geared towards artists' housing needs might be especially beneficial for artists who are looking for affinity housing along the lines of race and sexual identity, which allows them to stay more connected with their own communities.

Pilot a guaranteed basic income program for qualifying artists

Acknowledging the disproportionate impact of the pandemic on a community that was already struggling due to ongoing affordability challenges, multiple cities such as [San Francisco](#) and [Minneapolis](#) have launched pilot programs providing artists from marginalized communities who meet income requirements with a monthly stipend that would help cover their basic needs. Stipends are unrestricted, so they can be spent on rent and food while artists continue their artistic practice. Due to the existing racial wealth gap, which was reflected in the survey results, such a pilot should prioritize BIPOC artists. These types of programs are gaining national attention because the arts and culture are often cited as key strategies for economic recovery. Practicing artists are essential for such recovery. The advisory group agreed that a basic income program would address two key findings in this report -- respondents' extremely low income and high rent burden -- both of which have already forced artists to significantly modify or abandon their art practices.

further research

While the survey and focus groups discussed in this report have provided a much-needed snapshot into the space needs of artists in Berkeley, limited data does not allow us to paint a comprehensive picture. The following research and data collection is recommended, in order to complement this report.

Work with arts organizations to understand the income levels and housing needs of cultural workers

Only 15% of the respondents to the survey identified exclusively as cultural workers, meaning that there was not a statistically significant sample from which to draw conclusions about the needs of cultural workers. Further research, specifically on the housing needs and income levels of cultural workers, is needed.

Conduct a disparity study

Currently, Berkeley does not have comprehensive race and ethnicity data for seekers of affordable housing. Therefore, it is impossible to determine whether or not the artists who responded to this survey are demographically representative of the population that qualifies for affordable housing. A disparity study will ensure that changes in policy will not disproportionately impact certain groups.

Continue to collect data on artists

The lack of baseline data on artists -- even as simple as the total number of artists and disciplines practiced in a given community -- prevents us from understanding the extent of the issues that artists face. More long-term data collection and analysis of artists in Berkeley will allow the city to identify trends, as well as possible challenges that can be mitigated by timely policy changes.

appendices

a: community advisory group members

Kim Anno, Berkeley Civic Arts Commission
Delores Nochi Cooper, Berkeley Juneteenth Festival
Bruce Coughran, Indra's Net Theater
Hadley Dynak, Berkeley Cultural Trust
Misty Garrett, City of Berkeley
Ashlee George, Capoeira Arts Foundation and BrasArte
Mayumi Hamanaka, Kala Art Institute
Archana Horsting, Kala Art Institute
Mildred Howard, Independent Artist
Beatriz Leyva-Cutler, BAHIA
Amanda Montez, City of Berkeley
Mirah Moriarty & Rodrigo Esteva, Dance Monks
PC Muñoz, Freight & Salvage and BCT E&I Committee
Natalia Neira, La Pena Cultural Center and BCT E&I Committee
Daniel Nevers, Berkeley Art Center
Nancy Ng, Luna Dance Institute
Kathryn Reasoner, Vital Arts
Leigh Rondon, Shotgun Theater
Irene Sazer, Independent Artist (Civic Arts Grantee)
Sean Vaughn Scott, Black Repertory Group Theater
Rebecca Selin, Gamelan Sekar Jaya
Terry Taplin, Berkeley City Council and former Berkeley Civic Arts Commissioner
Rory Terrell, Local Artists Berkeley
Tyese Wortham, CAST
Chingchi Yu, Independent Artist (Civic Arts Grantee)

b: survey questions

Messaging

Are you an artist or cultural worker struggling to find affordable housing for you and your family?

Artists and cultural workers in Berkeley and throughout the Bay Area are facing an affordability crisis that prevents them from focusing on their creative work. Through the recently completed cultural planning process, the City of Berkeley identified as a primary goal the need to protect and increase access to affordable housing for artists and cultural workers.

Currently, there is little to no data on the affordable housing concerns of Berkeley artists and cultural workers. Your responses to this survey will help the City of Berkeley create programs and policies tailored to the housing needs that are specific to Berkeley's arts sector, including affordable housing and live-work spaces.

Thank you for helping keep Berkeley affordable for artists and cultural workers.

Survey Questions

1. Are you an artist or cultural worker?
 - a. Artist [proceed to question 2]
 - b. Cultural Worker (staff member at an arts culture organization) [Proceed to Question 4]
 - c. Both

2. If you are an artist, how would you describe your artistic practice/artwork?
Select all that apply:
 - a. 2D (Painting, Printmaking, Drawing, Photography, etc.)
 - b. 3D (Sculpture, Installation)
 - c. Theater/Performance
 - d. Dance
 - e. Craft
 - f. Film, Video, and/or Media Arts
 - g. Literary (Creative Writing, Poetry, etc.)
 - h. Music
 - i. Social Practice
 - j. Write in_____

3. Do you work with a medium that requires extra space and/or ventilation? This may include metal welding, spray paint, etc.
 - a. Yes
 - b. No

4. If you are a cultural worker, do you work at a Berkeley-based arts and culture nonprofit organization?
 - a. Yes
 - b. No

5. What is your primary language?
 - a. English
 - b. Spanish
 - c. Chinese (Mandarin and Cantonese)
 - d. Tagalog
 - e. Vietnamese
 - f. Persian
 - g. Portuguese
 - h. Punjabi
 - i. Swahili
 - j. Write In: _____
 - k. Decline to State

6. What is your race/ethnicity?
 - a. African-American or Black
 - b. American Indian or Alaska Native or Indigenous or First Nations
 - c. Arab or Middle Eastern
 - d. Asian or Asian American
 - e. Hispanic or Latina/Latino/Latinx
 - f. Native Hawaiian or Pacific Islander
 - g. White or Caucasian or European American
 - h. Multi-racial or multi- ethnic (2+ races/ethnicities)
 - i. Write In _____
 - j. Decline to State

7. What best describes your gender identity?
 - a. Female (cisgender)
 - b. Female (transgender)
 - c. Male (cisgender)
 - d. Male (transgender)
 - e. Gender-fluid/Genderqueer/Gender-expansive/Non-binary
 - f. Write In _____
 - g. Decline to State

8. How do you describe your sexual orientation or sexual identity?
 - a. LGBTQ+
 - b. Heterosexual/straight
 - c. Write in _____
 - d. Decline to State

9. Do you identify as a person with a disability?

- a. Yes
 - b. No
10. Please select the highest degree or level of school you have COMPLETED. If currently enrolled, mark the previous grade or highest degree already received.
- a. Less than high school
 - b. High school diploma/GED
 - c. Associate's degree
 - d. Bachelor's degree
 - e. Master's degree
 - f. Doctorate degree
11. How many people live in your household, including yourself?
- a. One [Proceed to Question 14]
 - b. Two
 - c. Three
 - d. Four
 - e. Five
 - f. More than five: Write In _____
12. Do you have any children under the age of 18?
- a. Yes
 - b. No [Proceed to Question 14]
13. If yes, how many children currently live with you?
- a. One
 - b. Two
 - c. Three
 - d. More than three
 - e. Write in: _____
14. What is your total household income?
- a. Less than \$26,050
 - b. \$26,051-\$43,400
 - c. \$43,401-\$69,000
 - d. \$69,001-\$98,549
 - e. More than \$98,550
 - f. Decline to state
15. If you are an artist, do you make 50% or more of your income from your artistic practice?
- a. Yes
 - b. No
 - c. I don't know
 - d. I am not an artist

16. What is your current employment status? Check all that apply:
 - a. Self employed artist for your own art practice
 - b. Self-employed, but not for your own art practice
 - c. Employed full time as a cultural worker
 - d. Employed full time as something other than a cultural worker
 - e. Employed part time/doing regular work for pay as a cultural worker
 - f. Employed part time/doing regular work for pay as something other than a cultural worker
 - g. Contract work as a cultural worker (for example: I receive a 1099 from a nonprofit arts organization organization)
 - h. Contract work as something other than a cultural worker (for example: I receive a 1099 from a separate non-arts organization or business)
 - i. Unreported work for cash
 - j. Not employed

17. How easy is it to predict your total income from month to month?
 - a. Very easy
 - b. Moderately easy
 - c. Neither easy nor difficult
 - d. Moderately difficult
 - e. Very difficult

18. How certain are you that your total income will return to pre-pandemic levels, over the next 6 months?
 - a. Very certain
 - b. Moderately certain
 - c. Neither certain or uncertain
 - d. Moderately uncertain
 - e. Very uncertain

19. What percentage of your average monthly income do you spend on housing costs?
 - a. Less than 20%
 - b. 20%-30%
 - c. 30%-40%
 - d. 40%-50%
 - e. More than 50%
 - f. I don't know

20. What is the zip code where you work?

21. What is the zip code where you live?

22. How long have you lived in Berkeley?
 - a. I do not live in Berkeley
 - b. Less than a year

- c. 1 - 3 years
 - d. 3 - 5 years
 - e. 5 - 10 years
 - f. More than 10 years
 - g. How long? _____
23. How long do you expect to remain in Berkeley?
- a. I do not live in Berkeley
 - b. Less than a year
 - c. 1 - 3 years
 - d. 3 - 5 years
 - e. 5 - 10 years
 - f. More than 10 years
 - g. How long? _____
24. Do you own or lease your living space?
- a. Lease [proceed to question 25]
 - b. Own [proceed to question 28]
25. What is your lease term?
- a. Month to month
 - b. 1 year
 - c. 2-3 years
 - d. More than 3 years
26. How many square feet is your space?
27. How much do you pay in rent per month?
28. Have you been displaced due to a “no-fault” or “no-cause” eviction in the past 2 years? (A “no-fault” or “no-cause” eviction is an eviction that is no fault of the tenant, but is allowed under the law.)
- a. Yes
 - b. No
 - c. I don't know
29. If you were displaced, did you have to move away from Berkeley?
- a. Yes
 - b. No
30. If you were not displaced, did you have to rely on the eviction moratorium that Berkeley has implemented over the past 12 months?
- a. Yes
 - b. No
 - c. I didn't know that evictions had been halted over the past 12 months.

31. How certain are you that you will be able to retain your housing when the eviction moratorium ends?
- Very certain
 - Moderately certain
 - Neither certain or uncertain
 - Moderately uncertain
 - Very uncertain
32. Do you use your living space for housing and your creative practice?
- Yes [proceed to question 37]
 - No [proceed to question 32]
33. If you have a work space that is separate from your living space, do you own or lease your work space?
- Lease [proceed to question 34]
 - Own [proceed to question 36]
34. What is the lease term for your work space?
- Month to month
 - 1 year
 - 2-3 years
 - More than 3 years
35. How much do you pay in rent per month for your work space?
Write in _____
36. How many square feet is your work space?
Write In _____
37. Have you been displaced from your work space due to a “no-fault” or "no-cause" eviction in the past 2 years? (A “no-fault” or “no-cause” eviction is an eviction that is no fault of the tenant, but is allowed under the law.)
- Yes
 - No
 - I don't know
38. If you were displaced, did you have to move your work space away from Berkeley?
- Yes
 - No
39. Do you share your work space?
- Yes
 - No

40. What are some challenges you've faced in the past when trying to access or find affordable housing?

41. Please share any ideas you have on how to ensure equitable participation of BIPOC artists and cultural producers from other historically underserved communities, as well as recommendations for local organizations that should be consulted.

42. Do you have anything else to share with us?

-----END OF SURVEY-----



February 3, 2022

To: Housing Advisory Commission
From: Anna Cash, Partnership for Bay's Future Fellow, HHCS
Subject: Housing Preference Policy

SUMMARY

A Housing Preference Policy (HPP) will establish priorities ("Preferences") for leasing new affordable housing units. Potential Preferences include assisting people with ties to Berkeley, households with children, and community members at risk of or experiencing homelessness. The HPP is intended to apply to units created by the City's Below Market Rate (BMR) and Housing Trust Fund (HTF) programs.

As part of a Partnership for the Bay's Future (PBF) Challenge Grant, the City of Berkeley worked with community partners East Bay Community Law Center (EBCLC) and Healthy Black Families (HBF) to engage in a community-driven process to inform the Housing Preference Policy.

This policy would not automatically apply to existing affordable units due to regulatory agreements that regulate specific properties. The policy's applicability to HTF units may vary dependent on the use of state and/or federal funding sources that carry specific residency requirements. Fair Housing law requires a Disparate Impact Analysis for preferences. This analysis assesses how racial groups and protected classes will be impacted by a preference policy and determines what percentage of units can receive preferences without creating disparate impacts by race/class. Other funding agencies (county, state, federal) that contribute funding to the City's nonprofit affordable housing need to approve this analysis before permitting use of a preference policy. Staff's intent is for the policy to be applied to the maximum percentage of units permitted by Disparate Impact Analysis. Research from other cities shows that this analysis will limit the number of affordable housing units the policy can apply to; it will not be able to be applied to 100% of units. This analysis also has implications for the timeline of applying preferences to HTF units.

This memo focuses on policy options and the outreach and research conducted to develop these policy options. Staff is preparing a subsequent memo for a future meeting that will explore implementation considerations, including adoption, Disparate Impact Analysis, timeline, alignment with existing programs/policies, program implementation, and staffing.

BACKGROUND

Over the past several years, multiple community-based organizations in Berkeley have called for a preference policy to help address gentrification and displacement in Berkeley, particularly from the African American community in South Berkeley. In 2016, Council made a referral to develop Neighborhood Preference in Affordable Housing to reduce the impact of displacement. The Adeline Corridor Specific Plan prioritized the development of a local preference policy for affordable housing, specifically mentioning preference policy on potential future affordable units at the Ashby BART station. In 2019, the City Council made a referral to create policies to develop a “right to return” for Berkeley’s displaced residents, “especially People of Color, including the African American communities who have been displaced.” In 2020, with the support of the Mayor and two councilmembers, the City began a Partnership for the Bay’s Future Challenge Grant with a primary focus to develop a preference policy rooted in community engagement and research. Also in 2020, the City and BART Joint Vision & Priorities included a preference policy for future housing at Ashby and North Berkeley BART stations.

Research and Best Practices

Research from Other Cities

HHCS worked with a UC Berkeley graduate student in 2019 to research active preference policy frameworks and implementation in other cities. This includes case studies on preference policies in Santa Monica, Cambridge, San Francisco, Portland, and Oakland. The research also includes information on common preferences, legal considerations, staffing levels based on program design, documents used for eligibility, and ideas for implementation, particularly emphasizing the importance of data collection to measure policy effectiveness. This report is available on the City’s website:

https://www.cityofberkeley.info/uploadedFiles/Housing/Level_3_-_General/Preference%20Policy%20DCRP%20Report.pdf

As part of the 2020-2022 Challenge Grant, the PBF Fellow conducted additional interviews with City staff and other stakeholders in San Francisco, Santa Monica, Portland, Austin, and Minneapolis. These interviews complemented the existing research, focusing on community engagement in the policy design process, outreach for effective policy implementation, policy goals, policy design, and legal considerations. This analysis is incorporated into the policy options outlined in this memo, as well as considerations for implementation.

Challenge Grant Cohort

The PBF Fellow is engaging with other cities in the Partnership for the Bay’s Future Challenge Grant cohort who are developing preference policies, in order to share research and best practices. These include:

- East Palo Alto (adopted April 7, 2020): Local Preference Policy for living in East Palo Alto (with a durational requirement of three months that applies to inclusionary/BMR housing units only), working in East Palo Alto, and for involuntary displacement (natural disaster, code enforcement, domestic violence, and rent increases above 10%).

- Redwood City (adopted September 27, 2021): Live/Work Preference policy for households that live, formerly lived, work, or have been offered work in the City.
- San Jose (under development, referral in September 2020): Neighborhood Tenant Preference for renters who live in certain areas of the city that are undergoing or at-risk of displacement. The City is working on securing HCD approval for its preferences and working with allies to move forward State legislation to clarify the use of State funding on projects in jurisdictions with preference policies.

Demographic Analysis

Staff analyzed a live-work preference prioritizing those who live and/or work in Berkeley. Analysis of demographics in Berkeley and the surrounding county demonstrated that this type of preference would provide an advantage to white applicants, given the demographic change that has already taken place due to the displacement crisis. Berkeley has a much higher share of white households than the surrounding county, where low-income people of color have been displaced from Berkeley. In Berkeley, 50% of households who make <60% area median income (the typical threshold for affordable units) are white compared to 34% of households at this income level in Alameda County.

Community Engagement

The City's PBF Fellow worked with the PBF grant partners, the East Bay Community Law Center and Healthy Black Families, to solicit community input through outreach and engagement strategies, including:

- Community surveys: A targeted displacement-focused survey led by Healthy Black Families (HBF), and a city-wide survey hosted on Berkeley Considers;
- Outreach led by Healthy Black Families;
- A "Community Leaders Group" comprised of representatives from local community-based organizations and community groups.

Community Surveys

Two surveys were conducted in order to solicit broader community input on priorities for the Housing Preference Policy. HBF conducted a "Right to Stay, Right to Return" survey on displacement and wellbeing issues, which included questions on the Housing Preference Policy. This survey received 93 responses. Outreach for the HBF survey targeted the Black, displaced, and unhoused communities. The City conducted a city-wide survey hosted on Berkeley Considers, which focused specifically on designing the Housing Preference Policy. The Berkeley Considers survey received 549 responses. Full demographic analysis and breakdown of responses of each survey is included in Attachment 2.

In the Healthy Black Families survey, in response to the question "What experiences or criteria do you think should be used to prioritize affordable housing applications in Berkeley?", the most common overarching categories were: displaced residents, in particular Black applicants and applicants of color; financial need; race (Black, or people of color); families with children; and family history/ties to Berkeley. In the Berkeley

Considers survey, the top five most common responses for Preferences were: unhoused Berkeley residents, housed Berkeley residents, those displaced by government action, those with ties to redlined areas, and those displaced by no-fault evictions.

A majority of Berkeley Considers (BC) responses aligned with responses to the HBF survey. For example, both survey responses prioritize homelessness (63% of BC respondents ranked this as a top priority), displacement due to government action (40% of BC respondents ranked as a top priority), and those with ties to redlined areas (38% of BC respondents ranked this as a top priority). The Community Leaders Group's recommendations also build on the survey responses that call to establish a priority for families with children; 25% of Healthy Black Families survey respondents wrote in such a preference, and some Berkeley Considers respondents also wrote in such a preference.

Healthy Black Families Outreach

HBF facilitated or co-facilitated with East Bay Community Law Center four Community Leaders Group convenings to gather information, feedback, and input into the policy development. HBF also provided outreach for the Berkeley Considers survey, and developed and implemented the "Right to Stay, Right to Return" Survey to support policy development. HBF held two focus groups to gather input into the "Right to Stay, Right to Return" Survey and held trainings with Sisters Together Empowering Peers (STEP) Leaders on conducting surveys and encouraging participation. In partnership with the Berkeley Black Ecumenical Ministers Association (BBEMA), HBF held a housing preference and housing equity Town Hall entitled "Housing Is A Human Right" to inform, advocate, and survey Berkeley's Black, displaced, and unhoused community members with particular focus on the faith community. Finally, HBF coordinated with the PBF Fellow to provide completed surveys and questionnaires, which the PBF Fellow and EBCLC compiled and analyzed.

Community Leaders Group

The Community Leaders Group is comprised of representatives from local community groups and community-based organizations including Healthy Black Families (HBF), African American Holistic Resource Center, Berkeley Black Ecumenical Ministerial Alliance, Friends of Adeline, and the Berkeley High Black Student Union. HBF convened and facilitated the group. The Community Leaders Group met on six occasions to design an outreach plan and survey, interpret survey results, put forward community recommendations for the policy, and to discuss the proposed policy options.

Staff appreciates the work of the Community Leaders Group and HBF to facilitate these recommendations that reflect the community's needs. The policy options outlined in this memo reflect a majority of their recommendations. A detailed overview of their recommendations and how they were incorporated into the policy options is included as Attachment 1, and a summary is included in below.

Community Leaders Group recommendations for Preferences:

- Displaced by eminent domain during construction of Ashby and North Berkeley BART
- Displaced due to foreclosure¹
- Families with children
- Homeless/at-risk of homelessness²
- Ties to redlined areas
- Black/African American
- Displaced by sale of public housing stock

POLICY DECISIONS

Community Recommendations Not Advanced by Staff for HPP

Staff acknowledge and appreciate the work of the Community Leaders Group to craft comprehensive recommendations to address Berkeley's history of housing and racial injustices, particularly to the African American community. Staff made extensive efforts to accommodate all recommendations, and to put forward policy options for the Housing Advisory Commission's consideration that are responsive to and inclusive of the Community Leaders Group's work and knowledge. Community recommendations that are not incorporated in the outlined policy options include:

A. A preference for Black or African American applicants:

- a. Race-specific preferences are not permissible under California's Proposition 209, which amended the California constitution to prohibit governmental institutions from considering race, sex, or ethnicity, in the areas of public employment, public contracting, and public education. Publicly funded affordable housing is a form of public contracting.
- b. Race-specific preferences are generally impermissible under the Equal Protection clause of the 14th amendment of the United States Constitution, which guarantees that no person or class of people can be denied the same protections under the law that are enjoyed by others.
- c. Staff, the City Attorney's Office, and EBCLC explored potential avenues to accommodate this recommendation in depth and did not identify an option that would be legally viable for the City. Nevertheless, the policy does aim to address racial equity via a preference for residential ties to Berkeley's redlined areas, where African American households were predominantly concentrated due to exclusionary policies and a preference for those

¹ "Subprime mortgages rose from only 8 percent of originations in 2003 to 20 percent in 2005 and 2006, while the interest-only and payment-option share shot up from just 2 percent in 2003 to 20 percent in 2005." (Joint Center for Housing Studies of Harvard University, "The State of the Nation's Housing 2008"). 2005 represents a milestone in the increase in predatory lending.

² See Attachment 4, "Homelessness Definitions" for details. Imminent Risk of Homelessness includes facing immediate eviction, facing imminent release from an institution, residing in substandard housing subject to a current official vacation notice.

displaced by foreclosure, which disproportionately impacted African American households.

- B. A preference for those affected by the City selling its public housing stock (displaced by government action).
 - a. In 2012, 75 units of Berkeley's low-income public housing were sold and converted to Project-Based Voucher units. There were 22 temporary relocations, and one tenant elected not to move back. BHA records indicate that there are no households that were permanently displaced under the Relocation Plan that was adhered to during this transition. For this reason, this preference would not be an effective mean of addressing displacement compared to the other Preferences.

Policy Options for HPP

The Preference policy options below combine community input, research/best practices from other cities, and legal considerations identified by staff.

Staff are requesting the HAC's input on preferences to recommend to Council. Staff will use these recommendations to prepare implementation considerations to inform the HAC's final recommendations. This includes adoption strategy, a plan for Disparate Impact Analysis, timeline, alignment with existing programs/policies, program implementation, and staffing.

Preference	Proposed Preference Details	Rationale & Potential Benefits	Policy or Implementation Considerations
Displacement due to eminent domain for BART construction	Descendant of someone whose home was taken via eminent domain to develop Ashby or North Berkeley BART station	Those who lost their homes due to eminent domain for BART construction forewent intergenerational wealth-building opportunities, the legacy of which may still be felt today. Such a preference would acknowledge this harm and provide an opportunity to return to the community with stable housing.	Portland’s urban renewal/eminent domain preference is treated as its own category; a lottery is first conducted among those who qualify for this preference, and then successive lotteries are conducted within each other point group. This approach may also make sense for Berkeley, from practicality and policy perspectives.
Displaced by foreclosure	1 point: Applicants displaced due to foreclosure in Berkeley since 2005.	Supports displaced residents to return to Berkeley and acknowledges lack of support during the foreclosure crisis. This is a racial equity focus as the foreclosure crisis disproportionately impacted communities of color.	Staff is working with HCD to determine if this preference would require Disparate Impact Analysis.
Families with children	1 point: household with at least one child aged 18 or under.	Research and community knowledge indicate that children are most impacted by displacement and will benefit greatly from increased housing stability. Community input indicates that this preference is a priority in order to increase community cohesion, since families are being displaced from their social networks and school districts, often to lower-resource places.	None foreseen – this information is already collected in application process.

Preference	Proposed Preference Details	Rationale & Potential Benefits	Policy or Implementation Considerations
Homeless/At-Risk of Homelessness	<p>1 point: At Imminent Risk of Homelessness in Berkeley/with former address in Berkeley</p> <p><u>OR</u> 1 point: Literally Homeless in North Alameda County</p>	<p>Helps housing insecure Berkeley residents become stably housed in their community. This is a racial equity focus given the disproportionate African American share of Berkeley's homeless population.</p>	<p>-Typically, homeless-designated units include subsidies for services. A homeless preference may lead to housing chronically homeless residents without adequate support. Affordable developers indicated typically homeless units on average require \$5-6k additional subsidy per unit that has not been identified.</p> <p>-Need to consider how homeless people can demonstrate local ties without being overly burdensome. Narrowing this preference to applicants from the Coordinated Entry System's "North County area" may help prioritize those with local ties, and also advance racial equity goals; since 2006, 65% of homeless service users in Berkeley identify as Black/African American. At the same time, stricter filtering for local ties could also filter out eligible applicants who have a difficult time supplying documentation.</p> <p>-Staff is working with HCD to determine if this preference would require Disparate Impact Analysis.</p>

Preference	Proposed Preference Details	Rationale & Potential Benefits	Policy or Implementation Considerations
Ties to redlined areas	1 point: Applicant has current/former address in Berkeley's redlined areas <u>AND/OR</u> 1 point: Applicant's parent/grandparent has current/former address in redlined areas.	Supports displaced residents to return to Berkeley, supports those in neighborhoods facing gentrification-related displacement pressures to become stably housed, and acknowledges historic racialized injustices that have contributed to the displacement crisis.	-Tech needs: data interface for property managers to easily check addresses. -Disparate Impact Analysis (DIA) required on geography-based preferences. DIA may limit the total nonprofit affordable units that preferences can be applied to.

CONTACT PERSON

Anna Cash, Partnership for the Bay's Future Fellow, Health, Housing and Community Services, (510) 981-5400

Attachments:

- 1: Community Recommendations
- 2: Preference Policy Survey Results
- 3: Research Overview of Preference Policies in Other Jurisdictions
- 4: Homelessness Definitions
- 5: Displacement in Berkeley Background

Attachment 1. Community Recommendations

The City partnered on four community outreach strategies to inform policy options:

- A “Community Leaders Group” comprised of representatives from local community-based organizations (CBOs) and community groups representing Healthy Black Families, African American Holistic Resource Center, Berkeley Black Ecumenical Ministerial Alliance, Friends of Adeline, and Berkeley High Black Student Union.
- A targeted displacement-focused survey led by CBO Healthy Black Families with 93 responses.
- A City-wide survey hosted on Berkeley Considers with 549 responses.
- Outreach led by Healthy Black Families.

The Community Leaders Group put forward a set of recommendations for the preference policy over the course of six meetings hosted by the City’s Partnership for Bay’s Future (PBF) partnership, with community outreach led by Healthy Black Families (HBF) and East Bay Community Law Center.

The Community Leaders Group recommendations are based on the group’s review of the broader community input provided by means of the two surveys. The group expressed that the HBF survey results should be prioritized when crafting policy recommendations given that that survey was more targeted to Black and low-income respondents, who have disproportionately faced displacement pressures in Berkeley.

The majority of the Healthy Black Families survey responses prioritize a racial equity lens and ties to the community as a means of supporting displaced residents in returning to Berkeley. A majority of Berkeley Considers (BC) responses generally aligned with responses to the HBF survey. For example, both survey responses prioritize homelessness (63% of BC respondents ranked this as a top priority), displacement due to government action (40% of BC respondents ranked as a top priority), and those with ties to redlined areas (38% of BC respondents ranked this as a top priority). The group’s recommendations also build on the survey responses that call to establish a priority for families with children; 25% of Healthy Black Families survey respondents wrote in such a preference, and some Berkeley Considers respondents also wrote in such a preference.

Healthy Black Families Outreach

HBF either facilitated or co-facilitated with East Bay Community Law Center four Community Leaders Group convenings to gather information, feedback, and input into the policy development. HBF also provided outreach for survey implementation for the Berkeley Considers survey, and developed and implemented the ‘Right to Stay Right to Return Survey’ to include more information from the existing Black community, displaced, and unhoused community members to support policy development. Beyond the work on the surveys, HBF held two focus groups to gather input into the Right to Stay Right to Return Survey, held trainings with Sisters Together Empowering Peers (STEP) Leaders on survey implementation and advocacy, and in partnership with the

Berkeley Black Ecumenical Ministers Association (BBEMA) held a housing preference and housing equity Town Hall entitled “Housing Is A Human Right” to inform, advocate and survey Berkeley Black residents, displaced and unhoused community members with particular focus on the faith community. Finally, HBF coordinated with the PBF Fellow to provide completed surveys and questionnaires.

Community Leaders Group Recommendations for Policy

Over the course of two meetings focused on concrete policy recommendations, staff collected the following notes from meetings with the Community Leaders Group:

Community Leaders Group Recommendations for Preferences

- Displaced by eminent domain during construction of Ashby and North Berkeley BART
- Displaced due to foreclosure
- Families with children
- Homeless/at-risk of homelessness
- Ties to redlined areas
- Black/African American
- Displaced by sale of public housing stock

Other Policy Provisions

1. **Include a clause that this policy will apply to any future homeownership** assistance programs. Increased homeownership is a priority for the Black community, who has been discriminated against in homeownership opportunities. Over half of Berkeley’s white households own a home, but only 31% of Black households in Berkeley are homeowners (American Community Survey, 2019). As in many places, in the San Francisco-Oakland-Berkeley metro area, the gap in White-Black homeownership has widened since 2000, increasing from a difference of 22.9% in 2000, to 25.2% in 2019 (Reid, 2021). The Community Leaders Group cites the Portland policy as an example of homeownership programs with Preferences applied.
2. **Enforcement.** Clear parameters for enforcement need to be included in the policy.
3. **Outreach.** Intent around the City’s affirmative duty to outreach to those this policy seeks to help needs to be included in the policy itself.
4. **Historical background.** The findings section of this policy needs to address the long Berkeley history of discrimination against people of African descent.

Public Process

1. **Commissions.** Bring to Housing Advisory Commission (HAC) via special meeting, but also to other commissions such as Peace and Justice Commission, Homeless Commission, Open Government Commission. Send letters to all commissions.
2. More **engagement with Indigenous and Japanese American communities** is needed to better determine how to craft the policy to reflect their displacement and present needs.
3. **Timeliness.** This policy needs to be applied to the pipeline for affordable housing at a time when Berkeley is making the largest investments in affordable housing projects in the city's history, centered around BART stations, including in the historically African American Adeline Corridor, which has lost many of its African American families to displacement.

Broader Recommendations

1. **Depth of affordability.** These Preferences will not be meaningful if they are not applied to housing that is actually affordable, for example to families making \$1000/month, so extremely low income (ELI) in area median income (AMI) terms. The median household income for Black households in Berkeley is \$39,441 (American Community Survey, 2019). The ELI income limit for a household of 4 is \$39,150 so Black households' median income falls in the ELI housing range. From the beginning of 2014 through the end of 2018, zero ELI housing units were permitted. If these Preferences are only applied to housing the Black community cannot afford, they will not be a meaningful right to return.
2. **Homeownership funding.** True stability involves pathways to homeownership for Black families, and closing the homeownership gap. While writing into the policy that these Preferences will apply to future affordable homeownership is important, there will be no outcomes without an affordable homeownership program that is funded. Relatedly, Black homeowners need support in maintaining their homes; rehabilitation funding, and Small Sites Program funds, should have racial equity-focused criteria.
3. **Housing reparations.** More broadly, it is past due for Black people to receive reparations in this country for harm done and opportunities foreclosed. Other cities, such as Evanston, Illinois, are taking bold action to provide residents with housing reparations; under their proposal, residents who are, or who descended from, a Black person who lived in Evanston before 1969 who suffered from discriminatory housing practices by government and banks, can get \$25,000 to use towards home improvements or mortgage assistance. There are examples of reparations in this country throughout history to draw from in taking this critical step.
4. **Revisit inclusionary housing policies so that more housing gets built onsite.** Too often, developers pay an in-lieu fee instead of building affordable housing units onsite. This pattern means that displacement trends are going unchecked in the meantime.

Attachment 2. Preference Policy Survey Results

Two surveys were conducted as part of the outreach process to inform the Housing Preference Policy: a City survey on Berkeley Considers, and a community survey designed and implemented by Healthy Black Families. Healthy Black Families also supported on targeted outreach to the Black community of the Berkeley Considers survey. It is possible there is overlap in the respondents to the two surveys.

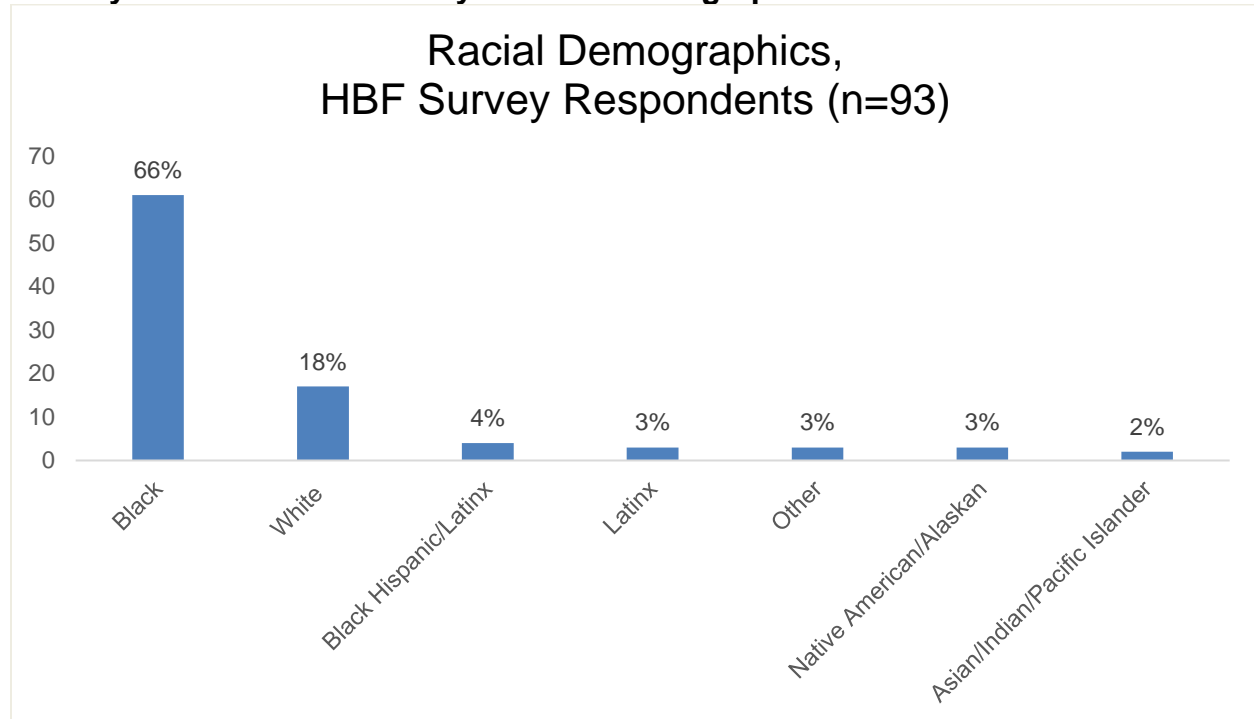
Healthy Black Families Survey

There were 93 responses to the Berkeley Considers survey.

Healthy Black Families Survey - Demographics

- Race: 70% of respondents self-identified as Black, Black African, or Black Hispanic/Latinx; 18% identified as white, 3% as Latinx, 3% as other, 3% as Native American/Alaskan, and 2% as Asian/Indian/Pacific Islander.
- Housing tenure: 65% identified as renters, 25% as homeowners, 4% as living with family, 4% as other, and 2% as homeless.

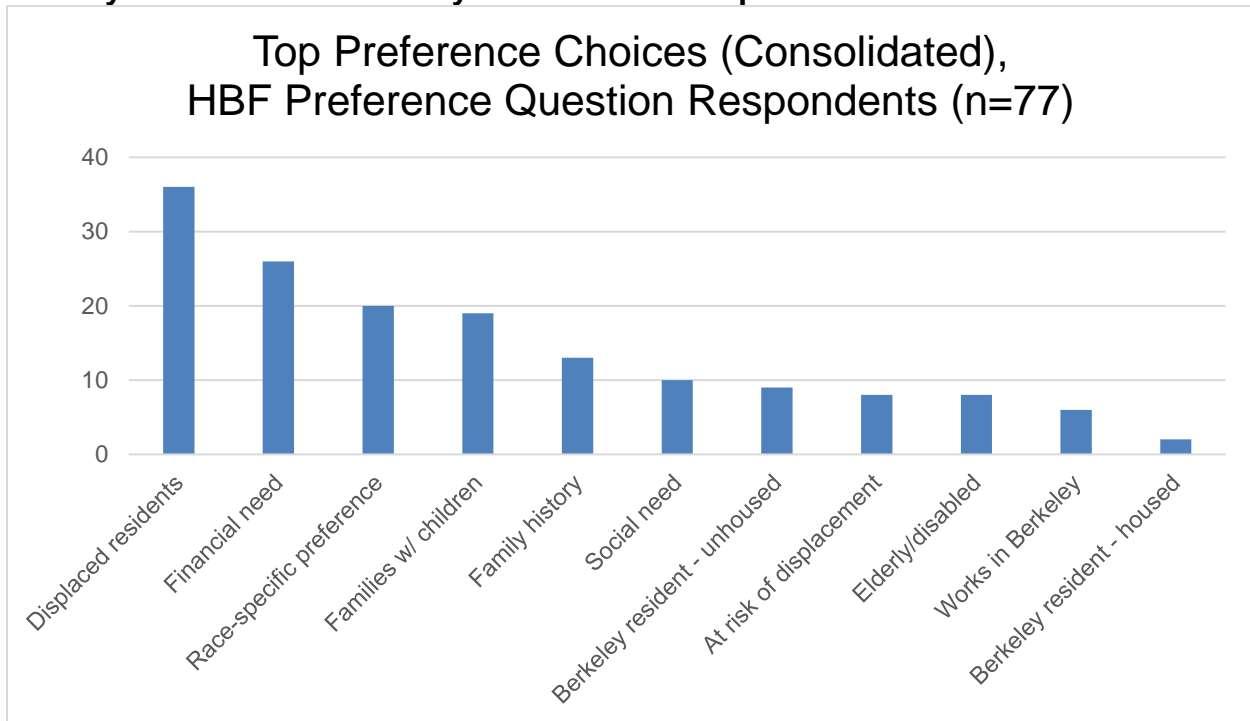
Healthy Black Families Survey – Racial Demographics



Healthy Black Families Survey - Responses

- In the Healthy Black Families survey, respondents wrote in their suggestions for Preferences, and these were consolidated into themes at the analysis stage. There was not a limit on how many Preferences each respondent could indicate.
- Preferences - Overall Respondents: 77 respondents responded to the question, “What experiences or criteria do you think should be used to prioritize affordable housing applications in Berkeley?” The most common overarching categories were displaced residents - displaced residents (24), displaced Black residents (10), displaced people of color (POC) residents (2) - followed by financial need (26), race - Black (11), POC (9) - and then other categories: families with children (19), family history/ties to Berkeley (13), social need (things like facing domestic violence) (10), unhoused Berkeley residents (9), at risk of displacement (8), elderly/disabled (8), works in Berkeley (6), housed Berkeley residents (2).

Healthy Black Families Survey – Preference Responses



Berkeley Considers Survey

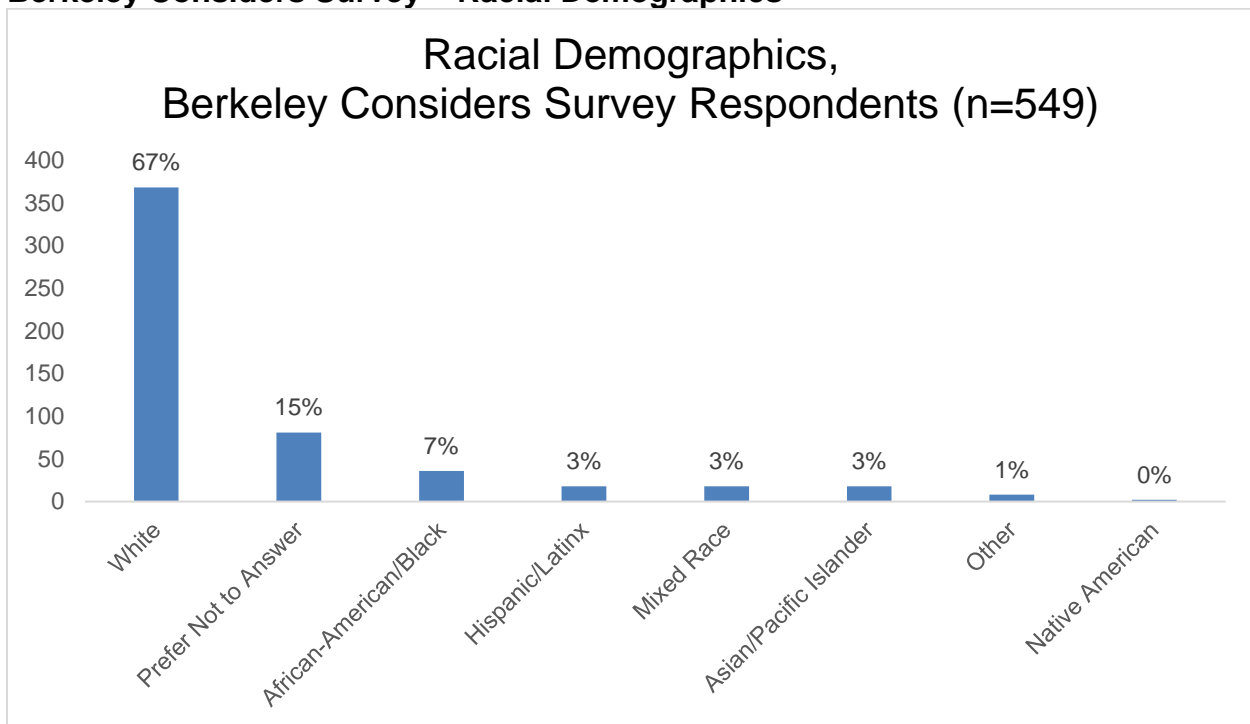
There were 549 responses to the Berkeley Considers survey.

Berkeley Considers Survey - Demographics

- Race: 67% of respondents self-identified as white, 7% as African American/Black, 3% as Hispanic/Latinx, 3% as mixed race, 3% as Asian/Pacific-Islander, 1% other, and 15% preferred not to answer the race question.

- Housing tenure: 59% of respondents identified as homeowners, 31% as renters, 1% as unhoused, 4% living with family and friends and 5% other.
- Income: 41% of respondents reported an annual household income of above \$100,000, 9% make \$80,000 to \$100,000, 7% make \$65,000 to \$80,000, 12% make \$40,000 to \$65,000, 10% make \$20,000 to \$40,000, 7% make Less than \$20,000, and 13% did not answer.

Berkeley Considers Survey – Racial Demographics



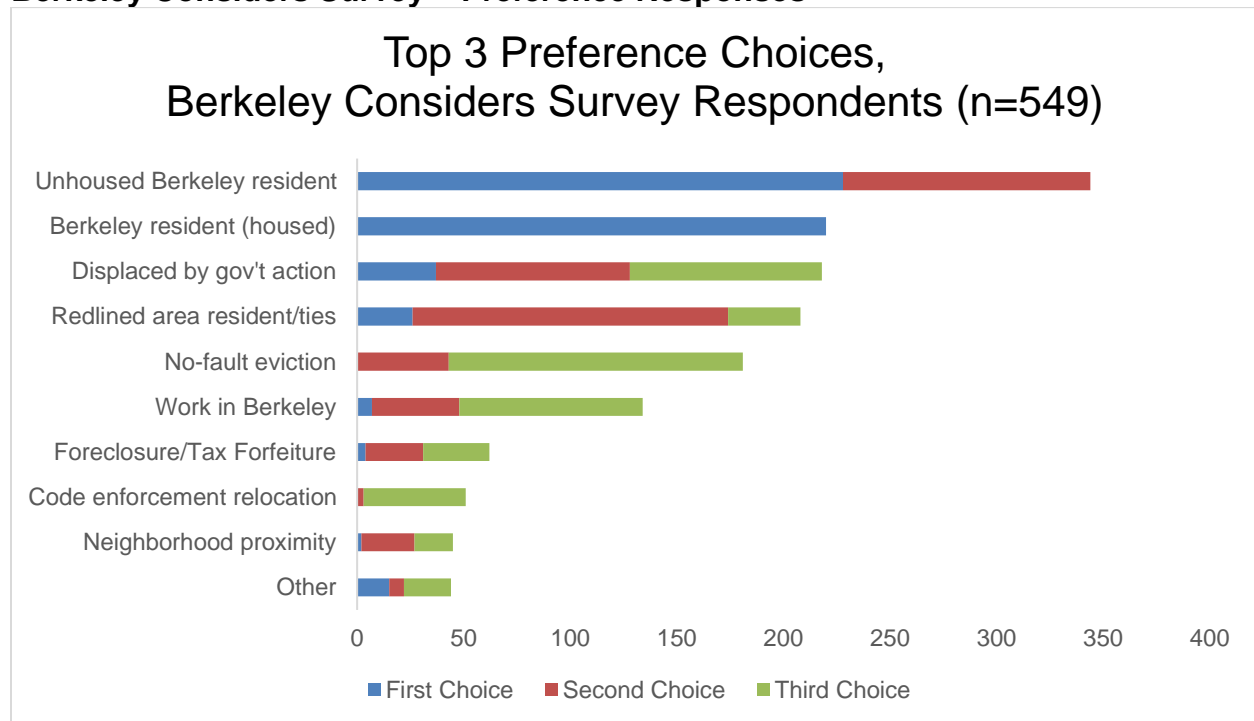
Berkeley Considers Survey - Responses

- Respondents were able to indicate their top three choices amongst a selection of potential Preferences. The numbers below reflect total selections across those who ranked Preferences first, second, or third choice.
- Preferences - Overall Respondents: In order of most common responses, the top Preferences were: unhoused Berkeley residents (344), housed Berkeley residents (220), those displaced by government action (218), those with ties to redlined areas (208), those displaced by no-fault evictions (181), those who work in Berkeley (134), those who lost their home to foreclosure/tax forfeiture (62), those displaced due to code enforcement (51), those living in proximity to a new affordable housing (45), other (44).
- Preferences - Low-Income Respondents: Isolating the responses of low-income survey respondents (those who would be income-eligible for new affordable housing), the top three responses were the same as for the overall respondents: unhoused Berkeley residents, housed Berkeley residents, and those displaced by government action. Responses were: unhoused Berkeley residents (144), housed Berkeley residents (88), those displaced by government action (86),

those displaced by no-fault eviction (80), those with ties to redlined areas (74), those who work in Berkeley (46) those displaced by foreclosure/tax forfeiture (27), those displaced by code enforcement (23), those living in proximity to the new affordable housing (20).

- Preferences - African American Respondents: Looking at the responses of African Americans, the group that has suffered most disproportionately from displacement pressures in Berkeley, “ties with redlined areas” rises to the #2 selection. Responses were: unhoused Berkeley residents (29), those with ties to redlined areas (21), housed Berkeley residents (15), those displaced by government action (12), those who work in Berkeley (8), those displaced by no-fault eviction (7), those displaced by foreclosure/tax forfeiture (4), those living in proximity to the new affordable housing (4), those displaced by code enforcement (3).

Berkeley Considers Survey – Preference Responses



Attachment 3. Research Overview of Preference Policies in Other Jurisdictions

Several US cities have developed preference policies to prioritize applications for affordable housing projects based on different criteria. Some of these policies prioritize those who live or work in the city, or near the specific affordable housing development, while others focus on displacement from the city (through adverse governmental action, no-fault evictions, natural disasters), and others focus on ties to neighborhoods with histories of discrimination. These policies can be applied to inclusionary Below-Market Rate (inclusionary) units and/ or non-profit developer affordable units depending on the context.³

Portland

Portland's Preference Policy was created as part of the North/Northeast (N/NE) Neighborhood Housing Plan in 2015, and applies to 40% of units in all city-funded projects in this historically African American neighborhood, including homeownership units. The policy gives preference to residents that have been harmed by Portland city action through urban renewal practices within the Interstate Corridor Urban Renewal Area (ICURA). The Preferences include: current or former residents of N/NE Portland, those with generational ties to N/NE Portland, those who have had property in N/NE Portland seized by the City. Applicants use interactive maps to locate where their address falls in the ICURA maps.⁴ As of December 2019, five years into the Policy, 33 households became homebuyers as part of the program; 28 of these households were African American and two were Latinx. Of renter households who accessed affordable housing through the Preference Policy, survey respondents have lived in the neighborhood an average of 32 years, with 65% of respondents having lived in the neighborhood their entire life.⁵

Austin

In 2018, Austin City Council adopted Right to Stay and Right to Return policies for families affected by gentrification in certain Austin neighborhoods.⁶ Preference points included: having generational ties to a neighborhood or having been displaced from it (not only by rising rent and property taxes, but also by natural disasters and eminent domain), having a disability, and family size fitting available units. Eligible neighborhoods were determined by a University of Texas study, and include parts of St. Johns, Bouldin Creek, E. Cesar Chavez and Rundberg, plus a large section of East Austin. Residents will have to prove they or an immediate family member lived in these areas as far back as 2000.⁷ This program is not codified in an ordinance and the Preferences are being implemented through development agreements on specific developments.

³ See "Draft Adeline Corridor Specific Plan", page 93, for more information on how preference policies operate in other cities:

https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Land_Use_Division/AdelineCorridor_DraftPlan_1.pdf.

⁴ See <https://www.portland.gov/phb/nnehousing/preference-policy>.

⁵ See https://www.portland.gov/sites/default/files/2020/nne_neighborhoodhousingstrategy2015-20_0.pdf.

⁶ <https://nextcity.org/daily/entry/austin-residents-have-right-to-return-in-new-development-for-the-first-time>

⁷ <https://www.kut.org/austin/2019-11-08/people-with-ties-to-a-gentrifying-neighborhood-to-get-a-better-shot-at-affordable-housing>

East Palo Alto

The City of East Palo Alto adopted a Local Preference Policy in 2020 for living in East Palo Alto (with a durational requirement of three months that applies to inclusionary housing units only), working in East Palo Alto, and for involuntary displacement (natural disaster, code enforcement, domestic violence, and rent increases above 10%).⁸

San Jose

In September 2020, San Jose City Council directed staff to establish a Neighborhood Tenant Preference for renters seeking affordable housing who live in certain areas of the city that are undergoing or at-risk of displacement. Staff has been working since 2017 on this effort. The City is currently working on gaining HCD approval for its Preferences and working with allies to move forward state legislation to clarify the use of state funding on projects in jurisdictions with preference policies.

Redwood City

Redwood City adopted a Live/Work Preference policy as part of an amendment to its Affordable Housing Ordinance in 2021.⁹ This policy allows income-eligible households that live, formerly lived, work, or have been offered work in the City to receive a preference when affordable housing becomes available. The policy is supported by a Live/Work Policy Analysis.¹⁰

San Francisco

San Francisco Preferences were adopted in multiple ordinances in 2008, 2013, 2015, 2016, and 2019. The Preferences apply to 40% of units in inclusionary and nonprofit affordable housing. Preference categories include a Certificate of Preference (for former San Francisco residents displaced in the 1960s and 1970s, during the SF Redevelopment Agency's federally-funded urban renewal program); a Displaced Tenant Housing Preference Program (DTHP) (for tenants evicted by Ellis Act or owner move-in; and for tenants whose apartment was extensively damaged by fire); a Neighborhood Resident Housing Preference (NRHP) for San Francisco residents who currently live in the same Supervisor district as, or half-mile from, the property being applied to; and a live-work preference for those who already live in San Francisco, or work at least 75% of your working hours in San Francisco.¹¹ There are also some project-specific Preferences.¹²

⁸ See

http://eastpaloalto.igmp2.com/Citizens/Detail_LegiFile.aspx?Frame=&MeetingID=1070&MediaPosition=&ID=1174&CssClass=

⁹ See <http://www.redwoodcity.org/AffordableHousingOrdinance>.

¹⁰ See

<https://meetings.redwoodcity.org/AgendaOnline/Documents/ViewDocument/ATTACHMENT%20D%20%E2%80%93%20LIVE-WORK%20POLICY%20ANALYSIS%20BY%20SEIFEL%20CONSULTING.pdf?meetingId=2250&documentType=Agenda&itemId=5223&publishId=9209&isSection=false>

¹¹ See <https://sfmohcd.org/sites/default/files/Preferences%20Manual%20-%20203.31.2017.pdf> and <https://sfmohcd.org/lottery-preference-programs>.

¹² In one project, where HUD did not approve of use of the neighborhood proximity preference, San Francisco implemented an "anti-displacement housing preference," where residents of neighborhoods at

Oakland

Oakland has had different versions of preference policies over time, but the current version is codified in 2016 legislation. Preferences apply to nonprofit affordable housing and include categories for current and former residents displaced by City of Oakland/Oakland Redevelopment Agency's projects, Oakland's code enforcement, or a no-fault eviction; residents who currently live in the same Council District as, or one mile from, the property; and applicants who currently live or work in Oakland.¹³

Santa Monica

The City of Santa Monica has had Preferences in effect for inclusionary and nonprofit programs since the programs began in 1998. Preferences include: current or former residents displaced by no-fault evictions, natural disasters, reduction in housing voucher assistance, or government action; and applicants who currently live or work in Santa Monica. The preference for displaced people ranks above the live/work preference in a tiered system. Santa Monica is currently piloting an additional preference for those displaced by specific urban renewal projects.¹⁴

Cambridge

The City of Cambridge has a preference policy that has been part of its inclusionary housing program since that program began in 1998. Preference categories include: current Cambridge resident (4 points), household with at least one child under 18 (1 point), household with at least one child under 6 (1 point), household with any of the following emergency needs (1 point): no-fault eviction, homeless, overcrowded housing, 50% or greater rent burden, outstanding code violations, and applicants who work in Cambridge (considered after all residents are considered, also given points for having children or an emergency need).¹⁵

Seattle

Seattle City Council authorized the creation of an opt-in preference policy in 2019 that affordable housing developers can choose to use for buildings in high displacement risk neighborhoods.¹⁶ The preference policy is not to apply to more than 50% of units in a development, and recommended preference categories include: for communities affected by historic and/or current displacement pressures, applicant is a current resident; for projects in neighborhoods currently facing high risk of displacement, applicant, family member, or ancestor (i.e. great-grandparent) is a former resident; for projects in neighborhoods that have historically been affected by high displacement, applicant has community ties or utilizes community services in the neighborhood. For

risk of or undergoing displacement would receive a preference point. See <https://www.kqed.org/news/11582750/part-of-s-f-housing-complex-reserved-for-seniors-at-risk-of-displacement>.

¹³ See <https://oakland.legistar.com/LegislationDetail.aspx?ID=2685178&GUID=BC70BA9D-D54C-405F-AD33-A194C31A6346>.

¹⁴ See <https://www.santamonica.gov/programs/below-market-housing-for-historically-displaced-households>.

¹⁵ See <https://www.cambridgema.gov/CDD/housing/forapplicants/rentalapplicantpool>.

¹⁶ See <https://www.seattle.gov/housing/programs-and-initiatives/community-preference> for highlighted census tracts.

homeownership, if more than one eligible and qualified household has expressed interest in a specific home, community preference could be used to determine who is offered the opportunity.¹⁷

New York

New York's preference policy was implemented in the 1980s and applies to all City-funded affordable housing developments, applying to 50% of units. The policy establishes preference for residents living near the specific affordable housing development.

¹⁷ See

<https://www.seattle.gov/Documents/Departments/Housing/Programs%20and%20Initiatives/Community%20Preference/Community%20Preference%20Guideline.pdf>.

Attachment 4: Homelessness Definitions

HUD Homelessness Definitions¹⁸

Literal Homelessness (HUD Category 1)

Individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

1. Has a primary nighttime residence that is a public or private place not meant for human habitation; or
2. Is living in a publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state and local government programs); or
3. Is exiting an institution where (s)he has resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.

At Imminent Risk of Homelessness (HUD Category 2)

An individual or family who will imminently lose their primary nighttime residence, provided that:

1. Residence will be lost within 14 days of the date of application for homeless assistance;
2. No subsequent residence has been identified; and
3. The individual or family lacks the resources or support networks needed to obtain other permanent housing.

Imminent Risk of Homelessness criteria to qualify for the Preference will include:

1. Face immediate eviction and have been unable to identify a subsequent residence.
2. Face imminent release from an institution (i.e. jail, hospital foster care system) where other housing placement resources are not available
3. Reside in substandard housing subject to a current official vacation notice.¹⁹

A 3rd Party Verification Letter, which is already in use at the County and City, will be used to verify homelessness/risk of homelessness status.

¹⁸ See <https://www.hudexchange.info/homelessness-assistance/coc-esg-virtual-binders/coc-esg-homeless-eligibility/four-categories/>.

¹⁹ See CA HCD definition of At-Risk of Homelessness: [https://www.hcd.ca.gov/grants-funding/already-have-funding/program-specific-compliance-requirements/docs/third_party_homeless_verification.doc#:~:text=%EF%82%A8%20Income%20verification%20\(SSI%20statement,receipt%20with%20proof%20of%20income](https://www.hcd.ca.gov/grants-funding/already-have-funding/program-specific-compliance-requirements/docs/third_party_homeless_verification.doc#:~:text=%EF%82%A8%20Income%20verification%20(SSI%20statement,receipt%20with%20proof%20of%20income). This has been adapted for local context.

Attachment 5: Background on Displacement in Berkeley

Displacement pressures continue to impact the community, and a preference policy is one means of addressing these pressures. A preference policy is unique in that it supports displaced residents to return to Berkeley, and acknowledges historic injustices that have contributed to the displacement crisis. The policy would help housing insecure Berkeley residents become stably housed in their community, prioritizing those at-risk or currently homeless; would address past harms including redlining and lack of support during the foreclosure crisis; and would prioritize families with children as research indicates that children are most impacted by displacement, and community knowledge asserts that prioritizing families will support community cohesion and access to opportunity.

Redlining and its Legacy

Redlining was a practice in which the federal agency Home Owners' Loan Corporation (HOLC) rated neighborhoods to guide investment. City agencies supplied information to inform these maps. These ratings were based in large part on racial demographics, equating the presence of African American and Asian populations with investment risk. The Policy gives priority to those with residential ties to redlined areas, in recognition of the racist injustice done against the families in these areas, and of the long-term impacts of redlining on foreclosure patterns and gentrification dynamics. Redlining, along with exclusionary zoning, led to patterns of disinvestment whose impacts are still being felt today. Redlining made it hard for residents to get loans for homeownership or maintenance in communities that were predominantly home to people of color.

Redlining and exclusionary zoning have led to patterns of disinvestment that continue to enable gentrification. These policies have limited Black homeownership; over half of Berkeley's white households own a home, but only 31% of Black households in Berkeley are homeowners (American Community Survey, 2019). 83% of today's gentrifying areas in the East Bay were rated as "hazardous" (red) or "definitely declining" (yellow) by HOLC during redlining (Urban Displacement Project, 2017). South Berkeley, a historically Black neighborhood that falls in Berkeley's redlined area, is an example of a formerly redlined area now suffering from gentrification and displacement pressures. The neighborhood was once majority Black and is less than 20% Black residents today. The existing segregation of communities caused by government redlining, as well as by local exclusionary zoning policies, enabled the racialized component of the foreclosure crisis, as redlining created large areas of concentrated communities of color into which subprime loans could be efficiently and effectively channeled (Hwang et al, 2014). The City of Berkeley did not maintain a foreclosure assistance program.

Impacts of Displacement

This policy gives priority to families with children, as displacement is especially harmful for children. Frequent moves are linked to outcomes including behavioral and emotional issues, increased teenage pregnancy rates; accelerated initiation of illicit drug use, and reduced continuity of healthcare (Jelleyman and Spencer, 2008). Even when children

do not switch schools, moving can be disruptive for academic performance (Cohen and Wardrip, 2011). When low-income families have to leave their homes, they are likely to move to lower-income neighborhoods (Ding, Hwang and Divringi, 2015). This can have long-term impacts, as living in a high poverty, under-resourced neighborhood has been shown to lower children's test scores and their earnings in adulthood (Chetty and Hendren, 2016). Community input indicates that this preference is a priority in order to increase community cohesion, since families are being displaced from their social networks and school districts, often to lower-resource places.

The policy also gives priority to applicants for affordable housing who are homeless or at risk of homelessness with local ties. Of low-income renters in Berkeley (those making under \$75,000), 49% are severely rent-burdened, meaning they spend more than half their income on rent (American Community Survey, 2019). The number of people experiencing homelessness in Berkeley has steadily grown at an average rate of 10% every two years between 2006 and 2019 ("Referral Response: 1000 Person Plan to Address Homelessness," 2019). The most common response to the question of why homeless people chose to sleep in Berkeley was that they grew up in Berkeley ("City Manager's Office Letter to Neighbors on Homeless Response," 2021). Black people are disproportionately represented in Berkeley's homeless population; since 2006, 65% of homeless service users in Berkeley are African American, when African American people comprise less than 8% of the overall population ("Referral Response: 1000 Person Plan to Address Homelessness," 2019). This policy is one of several efforts focused on addressing homelessness, both in helping homeless people get housed, as well as prioritizing preventing homelessness.

Displacement is a racial equity issue. Black people have been disproportionately displaced from Berkeley. Between 2000 to 2018, while Berkeley's African American household population decreased, Berkeley's white, Latinx and Asian household populations all grew slightly (2018 and 2010 American Community Survey and 2000 Decennial Census). Between 1990 to 2018, Berkeley lost 49% of its Black population, while Oakland and San Francisco lost 40% and 43% of their Black populations respectively (CalMatters, 2020). As families of color have been pushed out by displacement pressures, the share of low-income households of color living in high-poverty, segregated areas in the region increased between 2000 and 2015; 53% of low-income African American households in the Bay Area lived in high-poverty, segregated neighborhoods in 2015, up from 38% in 2000 (Urban Displacement Project and CHPC, 2019).

From: Pearson, Alene
Sent: Thursday, January 20, 2022 9:30 PM
Subject: RE: Planning Staff Report Materials from 1/19 meeting -- updated schedule

Dear Commissioners,
Please see the updated PC schedule below. The Notice of Preparation (NOP) for the Housing Element Update EIR will post this week and we will have the Scoping Session at the February 9 meeting. The public hearing on Updates to the Citywide Affordable Housing Requirements will be heard on March 2.
Sorry for the mix-up.
Alene

From: Pearson, Alene
Sent: Thursday, January 20, 2022 9:00 AM
Subject: Planning Staff Report Materials from 1/19 meeting

Dear Commissioners,
Below you'll find the information I presented in the Planning Staff Report last night.
I've also provided background information on the Citywide Affordable Housing Regulations item (to be heard on Feb 9, 2022) below.

PC received an update on the project at their on May 5, 2021 meeting. A link to that agenda (with links to report and a PDF of the presentation) can be found here:

[https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2021-05-05%20PC%20Agenda_linked\(1\).pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2021-05-05%20PC%20Agenda_linked(1).pdf)

A week later, the project team presented to City Council at a worksession. You can access those agenda materials and a video of that presentation here:

Report: https://www.cityofberkeley.info/Clerk/City_Council/2021/05_May/Documents/2021-05-18_WS_Item_02_Updating_Citywide_Affordable_pdf.aspx

Presentation: http://berkeley.granicus.com/MediaPlayer.php?publish_id=81b0aa7c-b8bc-11eb-8549-0050569183fa

Let me know if you have questions.
Alene

+++++

PLANNING STAFF REPORT

STAFFING UPDATES

MEETING RECAP/UPDATES

December 9: City Council Worksession #2 on the Housing Element

December 15: ZORP Subcommittee Meeting #1 – *added this after report-out*

January 18: Local ADU Ordinance adopted by City Council

January 25: Public Safety Ordinance will be heard by City Council

January 27: Housing Element Public Workshop #2

- Must register in advance: <https://bit.ly/BerkeleyHousing>

January 31: Objective Standards Walking Tours & Survey closes

- <https://cityofberkeley.box.com/v/DowntownTour>
- <https://cityofberkeley.box.com/v/WestBerkeleyTour>

February 9: Planning Commission Meeting

- Elections for Chair and Vice Chair
- Scoping Session for Housing Element EIR
- Public Hearing on Technical Edits and Corrections to the New ZO

February 15: ZORP Subcommittee to Review Objective Standards

- Expect materials one week in advance

March 2:

- Public Hearing on Citywide Affordable Housing Requirements

LINKS

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

Housing Element Webpage: <https://www.cityofberkeley.info/housingelement/>

Objective Standards Webpage: [cityofberkeley.info/objectivestandards/](https://www.cityofberkeley.info/objectivestandards/)

ZORP Webpage:

[https://www.cityofberkeley.info/Planning_and_Development/Land_Use_Division/Zoning_Ordinance_Revision_Project_\(ZORP\).aspx](https://www.cityofberkeley.info/Planning_and_Development/Land_Use_Division/Zoning_Ordinance_Revision_Project_(ZORP).aspx)

Alene Pearson, AICP, Principal Planner

Land Use Planning Division

Planning and Development Department

City of Berkeley

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510-981-7489

Have you recently received client services from the Planning & Development Department? Please complete [our customer satisfaction survey](#), open now through September 30, 2021.

Received

JAN 26 2022

14 JAN 2022

ALENE PEARSON
PLANNING DEPT. Land Use Planning
CITY OF BERKELEY

IT WAS VERY DISAPPOINTING TO RECEIVE A NOTICE OF PUBLIC HEARING SCHEDULED FOR JAN. 19, 2022, THAT WAS MISSING ANY INFORMATION THAT WOULD LEAD TO HELPFUL COMMENTS FROM THE CITIZENS.

THE PROBLEM WAS THAT THE MAP SHOWN ON THE PROJECT DESCRIPTION WAS INADEQUATE. ONLY THREE STREETS WERE MARKED ON THE MAP:

ADDISON STREET
KALA BAGAI WAY
TERMINAL PLACE

AND OF THESE THREE, ONLY ONE WOULD NORMALLY BE FOUND ON A MAP THAT THE CITIZENRY WOULD HAVE IN THEIR HOMES; ADDISON STREET, WHICH RUNS FROM THE BAYFRONT AT AQUATIC PARK ALL THE WAY UP TO THE UNIVERSITY WOULD BE THE ONLY CLUE THAT THE PUBLIC WOULD HAVE ABOUT THE LOCATION OF THE PROJECT IN QUESTION.

ADD TO THIS THAT THE MEETING WOULD BE TELEVISED ONLY, AND THAT CORRESPONDENCE AND PUBLIC COMMENT IS CURTAILED IN ONE WAY OR THE OTHER, AND THAT COMPUTER FACILITY IS ALSO ALMOST NECESSARY; VERY CONSTRAINING!

THE ONE SATISFACTORY ELEMENT THAT AFFECTED ME, WAS THAT A MEETING AGENDA WAS MAILED TO ME IN LARGE PRINT WHEN I REQUESTED IT. FOR THAT I THANK KATRINA, THE CLERK WHO SENT IT TO ME BY MAIL.

BARBARA ROBBEN
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15 JAN 2022 PM 5 L



Received

JAN 26 2022

Land Use Planning

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