



Planning Commission

AGENDA

REGULAR MEETING OF THE PLANNING COMMISSION

Wednesday, June 1, 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/83098891817>. 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: **830 9889 1817**. 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

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, Chair, appointed by Councilmember Hahn, District 5
Kapla, Robb, 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 May 4, 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:** **Discussion: Objective Standards for Middle Housing**
Recommendation: Receive a presentation and provide feedback on proposed residential objective standards in the R-1, R-1A, R-2, R-2A, and MUR Districts in response to City Council referrals for Missing Middle Housing and to End Exclusionary Zoning.
Written Materials: [Attached](#)
Presentation: N/A
10. **Action:** **Planning Commission 2022-2023 Workplan**
Recommendation: Review and recommend to City Council the Planning Commission Work Plan for 2022 – 2023.
Written Materials: N/A
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:

- None.

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 Clerk at the Land Use Planning Division (Attn: Planning Commission Clerk), 1947 Center Street, Second Floor, Berkeley CA 94704, or via e-mail to: zcovello@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 **May 24, 2022.**

Alene Pearson
Planning Commission Secretary



1 **DRAFT MINUTES OF THE REGULAR PLANNING COMMISSION MEETING**
2 **May 4, 2022**

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

4 **Location:** Virtual meeting via Zoom

5 **1. ROLL CALL:**

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

8 **Commissioner with Leave of Absence:** Chip Moore and Robb Kapla.

9 **Staff Present:** Secretary Alene Pearson, Clerk Zoe Covello, Grace Wu, Margot Ernst, and
10 Mike Uberti.
11

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

13 **3. PUBLIC COMMENT PERIOD:** 1

14 **4. PLANNING STAFF REPORT:**

- 15 • Upcoming meetings:
 - 16 ○ June 1 – Planning Commission Meeting – Missing Middle Housing
 - 17 ○ June 2 – City Council Meeting – Special BART Meeting
- 18 • Alene to facilitate the workplan subcommittee meeting
- 19 • Staffing news:
 - 20 ○ The policy group is down 50% in terms of staffing; additional positions have
 - 21 been requested
 - 22 ○ Grace Wu is the acting Principal Planner of the policy group
 - 23 ○ Alene Pearson is the new Deputy Director of the Planning Dept. (and is
 - 24 currently acting Director with Director Jordan Klein out on paternity leave)

25 **Information Items:**

- 26 • April 26 – 2022 City Council Referral Prioritization Process Using Re-Weighted
- 27 Range Voting (RRV)
- 28 • April 19 - City Council Worksession Report on Ashby and North Berkeley BART TOD
- 29 • April 12 - City Council Second Reading of Amendment to Modify the Research and
- 30 Development Definition

31 **Communications:**

- 32
- 33 • BART.

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

- 35 • Supplemental Packet One
- 36 • Supplemental Packet Two

37 **5. CHAIR REPORT:**

- 38 • Chair Mikiten looks forward to the workplan so everyone can get an overview of where
39 the Commission is headed over the course of the next year.

40
41 **6. COMMITTEE REPORT:** Reports by Commission committees or liaisons. In addition to the
42 items below, additional matters may be reported at the meeting.

- 43
44 • None.

45 **7. APPROVAL OF MINUTES:**

46 Motion/Second/Carried (Oatfield/Mikiten) to approve the Planning Commission Meeting
47 Minutes from April 6, 2022, pending an additional review by the Chair.

48
49 Ayes: Ghosh, Hauser, Mikiten, Oatfield, Twu. Noes: None. Abstain: Vincent and Wiblin.
50 Absent: Kapla and Moore. (5-0-2-2)

51

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

- 53 • Chair Mikiten attended an ABAG training a few weeks back; Alene to send around a link
54 to the recording.

55 **AGENDA ITEMS**

56 **9. Discussion: Housing Element Update: Preliminary Site, Goals, Policies, and Programs**

57 Acting Principal Planner Grace Wu and Margot Ernst, Manager of Housing and Community
58 Services, presented information on the preliminary Housing Element Update sites inventory,
59 goals, policies, and programs. The Commission discussed the proposed sites and programs
60 to be incorporated in the Housing Element Update.

61 **Public Comments: 2**

62 Motion/Second/Carried (Vincent/Wiblin) to adjourn the meeting at 8:56pm.

63
64 Ayes: Ghosh, Hauser, Mikiten, Oatfield, Twu, Vincent, and Wiblin. Noes: None. Abstain: None.
65 Absent: Kapla and Moore. (7-0-0-2)

66

67 **Members in the public in attendance: 11**

68 **Public Speakers: 3**

69 **Length of the meeting: 1 hr 54 minutes**



Planning and Development Department

Land Use Planning Division

DATE: June 1, 2022
TO: Members of the Planning Commission
FROM: Grace Wu, Acting Principal Planner
Justin Horner, Associate Planner
SUBJECT: Objective Standards for Middle Housing

INTRODUCTION

Pursuant to City Council referrals, as well as recent changes in housing-related state laws and the requirement to update the City’s Housing Element, the Planning Commission is asked to consider objective residential development standards to encourage the development of “middle housing” in the R-1, R-1A, R-2, R-2A and MU-R zoning districts (“low-density residential districts”). The intent of the proposed objective standards is to encourage duplexes, triplexes/fourplexes, courtyard apartments and other small-scale multi-family housing types that have historically appeared in Berkeley neighborhoods primarily comprised of single-family homes.

Planning Commission is asked to receive a report and provide feedback on the proposed objective development standards. Staff will also be available to discuss the proposed standards at the Housing Element public workshop on June 29, 2022 and will return to present a draft ordinance to the Planning Commission in Spring 2023, once the final Housing Element Update and final Environmental Impact Report (EIR) are adopted.

BACKGROUND

City Council Referrals

The proposed objective standards are presented to respond to the following City Council referrals:

Table 1. City Council Referrals

Housing Accountability Act (2017)	On July 11, 2017, the City Council adopted a referral regarding the State Housing Accountability Act (Government Code Section 65589.5) and requested research into a set of objective zoning standards for new development projects in the following four areas: Density and/or building intensity;
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	Public health and safety standards; Design review standards; and Views, shadows, and other impacts that underlie detriment findings.
<i>Missing Middle Housing (2019)</i>	On April 23, 2019 the City Council directed the City Manager to examine methods to provide for a broader range of housing types in areas of Berkeley with access to parks, schools, employment, transit, and other services. The Council directed the City Manager to explore opportunities to allow “missing middle” housing types in the R-1, R-1A, R-2, and R-2A zoning districts.
<i>Eliminating Exclusionary Zoning (2021)</i>	On February 23, 2021 the City Council adopted a resolution declaring the intent of the Council to allow multi-family housing in residential neighborhoods throughout Berkeley, and to allow for small-scale multi-family development in the R-1, R-1A, R-2, and R-2A zoning districts. As part of this effort, the resolution calls for the city to also: Protect public safety in all neighborhoods; Allow for new housing that reflects the existing mix of multi-family housing types within neighborhoods; Provide strong anti-displacement and tenant protections; Accommodate families in new and rehabilitated multi-family housing developments; Ensure that new development does not demolish any rent-controlled or below market-rate housing; Explore incentives for projects to contribute to the need for affordable housing; and Carry out a robust community process when developing zoning changes.

Objective Standards Framework

To respond to the wide array of policy priorities included in the City Council’s referrals, the project team developed an Objective Standards Framework to organize policy proposals. The Framework creates three areas of focus:

- **Housing Element Update:** This focus area includes policies that ensure compliance with State Housing Element law and implement zoning policies proposed in the 6th Cycle 2023-2031 Housing Element to meet the City’s approximately 9,000-unit Regional Housing Needs Allocation (RHNA) and a 15-30% buffer. At its meeting on May 4, 2022, Planning Commission received a report on the status of the Housing Element Update.

The proposed middle housing standards is a Housing Program featured in the draft Housing Element Update, and the City has received public input on objective standards at City Council worksessions, Housing Element workshops, and outreach events. New objective standards are prepared to allow for new and streamlined residential development consistent with the updated Housing Element.

- **Middle Housing:** This includes the proposed objective development standards included in this report to simplify and streamline the approval of multi-unit housing projects in low density residential districts to satisfy the City Council’s referrals.
- **Higher Density Residential and Commercial Districts:** This includes confirming, modifying or creating objective standards for mixed-use or multi-unit projects in higher density residential and commercial districts. These policies

will provide clarity and predictability for State-streamlined projects (e.g. SB 35, AB 1397) and reduce reliance on the use permit process and non-detriment findings.

Zoning Ordinance Revision Project (ZORP) Subcommittees To advise staff on the development of objective standards, the Planning Commission and the Zoning Adjustments Board appointed members to two Zoning Ordinance Revision Project (ZORP) Subcommittees. The Subcommittees have met concurrently on two occasions.

On December 15, 2021, the Subcommittees met to receive a background presentation on the development of objective standards and to review and approve the Objective Standards Framework and overall project approach. On February 16, 2022, the Subcommittees met to provide feedback on an initial version of the proposed Middle Housing development standards for middle housing presented to Planning Commission in this report.

In their two meetings, the ZORP Subcommittees identified the following as important considerations in the process of determining appropriate objective development standards:

- Encouraging smaller units that are “affordable by design;”
- Permitting more density while discouraging financial speculation; and
- Balancing the environmental trade-offs between protecting rooftop solar access and higher densities.

City Council Housing Element Worksession

As part of the Housing Element Update, staff also received feedback pertinent to middle housing standards at the March 15, 2022 City Council worksession¹. Councilmembers identified the following key considerations:

- Permit higher density equitably throughout the City, including in high resource, high income neighborhoods, and consideration of the Hillside Overlay.
- Create an incentive for adaptive reuse and smaller, more affordable units, including allowing for more than four units in lower density residential districts.
- Consider adopting the same standards for the R-1, R-1A, R-2 and R-2A districts (i.e. merging zoning districts) and treating Residential zones similarly.
- Embrace climate adaption and resilience through local power generation, but solar access should not be a barrier to creating more housing.

Related Concurrent Projects

- **Proposed citywide affordable housing requirements.** In March 2022, Planning Commission provided a recommendation for approval to Council for a

¹ March 15, 2022. *Housing Element Update and Residential Objective Standards*. City Council Worksession. <https://berkeleyca.gov/sites/default/files/city-council-meetings/2022-03-15%20Agenda%20Packet%20-%20Council%20WS.pdf>

comprehensive update to the City's affordable housing requirements², which would apply to all new residential development including Middle Housing projects, establish a per-square-foot in-lieu fee instead of a per-unit basis, and consider a sliding scale reduced fee for projects with less than 12,000 gross residential square feet.

- **Demolition Ordinance Update.** The Demolition Ordinance prohibits demolition of dwelling units where a building has been removed from the rental market under the Ellis Act during the preceding five years or “there have been verified cases of harassment or threatened or actual illegal eviction during the immediately preceding three years.” Applicants are generally required to provide relocation benefits, including moving expenses and differential rent payments. In addition, displaced tenants are provided a right of first refusal to rent new units. The City is currently reviewing the demolition ordinance to ensure compliance with State density bonus, SB 330, and other laws, and will amend the fee and replacement requirements accordingly.
- **Rent Ordinance Amendments.** In March 2022³, the Rent Stabilization Board proposed three amendments to the Rent Ordinance for Council to place on the November ballot, which includes an amendment to allow for rent control protections to attach to new units that were built as a result of demolition under Senate Bill 330.

PROPOSED MIDDLE HOUSING DEVELOPMENT STANDARDS

The intent of these standards is to implement the City Council's direction to eliminate exclusionary zoning and allow for missing middle development in Berkeley's low-density residential zones. The draft proposed standards are designed to increase total achievable floor area on a lot as the number of units increases. The scaling of the FAR is not in direct proportion to the unit count, thereby encouraging a mix of unit sizes and densities. In the R districts, this is accomplished by increasing allowed lot coverage and FAR as the number of units increases. In the MU-R district, this is accomplished by increasing FAR as the number of units increases.

In response to City Council's feedback, the proposed R-1A and R-2 standards are identical and can be merged to simplify zoning administration. Both R-1A and R-2 are currently in the same General Plan land use designation: Low Medium Density Residential.

Table 2 below provides a summary glance at the proposed standards, the general direction of the recommended change and the policy rationale for each

² March 3, 2022. *Public Hearing on Amendments to Citywide Affordable Housing Requirements.* Planning Commission. https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2022-03-02%20PC%20Agenda_linked.pdf

³ March 17, 2022. *Discussion and possible action to recommend various amendments to the Rent Stabilization and Eviction for Good Cause Ordinance to be placed on the November 2022 general election ballot.* Rent Stabilization Board. https://rentboard.berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2022_Mar%2017%20Full%20Agenda%20PACKET%20For%20Web.pdf

recommendation. Each standard is further discussed below and the specific development standard changes can be found in Attachment 1.

Table 2. Summary of Proposed Standards

Standard	Recommendation	Policy Goal
Permits and Levels of Discretion	Projects with 2 or more units can be approved with a ZC	Encourage housing development; Streamline process; Increase predictability of approval process
Minimum and Maximum Densities	Set minimum and maximum densities expressed in units per acre	Encourage appropriate densities; Provide predictability for neighbors; Maintain middle housing scale in low-density residential districts
Maximum Floor Area Ratio (FAR)	Set a maximum FAR that scales up as units increase	Maintain middle housing scale in low-density residential districts; Encourage unit sizes that are “affordable by design”; Comply with SB 478, signed into law by the Governor on September 28, 2021, which prohibits a local agency from imposing a FAR less than 1.0 on a housing project with 3 to 7 units, or less than 1.25 on a housing project with 8 to 10 units.
Minimum Open Space	Set requirement on a per 1,000 sf basis, rather than per unit	Encourage housing development
Maximum Height	Set a maximum height based on meeting objective standards for setbacks	Encourage housing development; Streamline process; Increase predictability of approval process;
Lot Coverage and Setbacks	Increase lot coverage as units increase, and reduce rear setbacks with reduced height	Encourage housing development
Building Separation	Remove building separation requirement	

PERMITS AND LEVELS OF DISCRETION

Current Policy: Table 3 includes the current permit requirements in low-density residential districts for residential projects that include more than one dwelling unit. The proposed standards *do not change* any permit requirements for Single-Family, Group Living Accommodation or Mixed-Use Residential uses in these zones.

Table 3. Current Permit Requirements

	R-1	R-1H	R-1A	R-2	R-2H	R-2A	R-2AH	MU-R
Two-family	NP	NP	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	AUP
Multi-Family	NP	NP	NP	UP(PH)	NP	UP(PH)	UP(PH)	AUP UP(PH)

Proposed Standard: The proposed standards would combine Two-Family and Multi-Family Residential uses into a single Multi-Unit Residential use type. The City would

provide ministerial approval with a Zoning Certificate for Multi-Unit Residential projects that comply with all objective standards; no discretionary permit or public hearing would be required. A Zoning Certificate is a ministerial approval reviewed by the Zoning Officer to verify compliance with the Zoning Ordinance. Table 4 summarizes the recommendation:

Table 4. Proposed Permit Requirements

	R-1	R-1H	R-1A	R-2	R-2H	R-2A	R-2AH	MU-R
Multi-Unit Residential	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC

MINIMUM AND MAXIMUM DENSITIES

Current Policy: The Berkeley Municipal Code does not include any minimum or maximum density standards for low-density residential zones that are expressed in “units per acre”. In the R-1, R-1A, R-2, and R-2A districts, density is limited by requirements for a “minimum lot size per unit” standard and by specific residential land use types (e.g. “Single-Family”, “Two-Family”).

Proposed Standard: Table 5 summarizes the proposed density standards expressed in units per acre, and includes the maximum number of units that may result from each standard on a typical 5,000 square foot lot in each zone. There is no minimum density requirement for lots in the Hills (H) Overlay district. Minimum densities would apply for new development on vacant lot or redevelopment and infill of existing nonvacant lots.

Table 5. Proposed Density Standards

	R-1	R-1H	R-1A	R-2	R-2H	R-2A	R-2AH	MU-R
Minimum Density (DU/acre)	10	No min.	10	10	No min.	20	No min.	20
Maximum Density (DU/acre)	25	20	35	35	20	55	55	55
Resulting units on a 5,000 sf lot								
Minimum Units	1	No min.	1	1	No min.	2	No min.	2
Maximum Units	3	2	4	4	2	6	6	6

The proposed density standards do not include any eligible Accessory Dwelling Units (ADUs) permitted under recently-adopted ADU provisions. In addition, projects with five or more units that include affordable units on-site would be eligible to utilize the State Density Bonus.

MAXIMUM FLOOR AREA RATIO (FAR)

Current Policy: While an effective maximum FAR can be calculated based on existing standards for lot coverage and maximum number of stories, the Berkeley Municipal Code does not include a specific FAR standard in the R-1, R-1H, R-1A, R-2, R-2H, R-

2A, R-2H and R-2AH districts. The BMC does include a maximum 1.5 FAR in the MU-R district.

Proposed Policy: Table 6 summarizes the proposed maximum FAR standards. No FAR limit is applied if a project is subdividing existing habitable space to create additional dwelling units.

The City Council had directed staff to consider scaling the FAR to increase as the number of units increase on a site, and can increase further with an AUP. The recommended FAR standards also reflect guidance from the ZORP Subcommittees to encourage the development of smaller or medium -sized, cost-efficient units that are “affordable by design.” In addition, SB 478 was signed into law by the Governor on September 28, 2021, which prohibits a local agency from imposing a FAR less than 1.0 on a housing project with 3 to 7 units, or less than 1.25 on a housing project with 8 to 10 units.

The ZORP Subcommittees also called for development standards that would incentivize, but not require, the preservation of existing buildings. One consideration is to include a provision of a 10% floor area bonus for a project that preserves an existing street-facing building; however, this assumes that there is merit to preserving all existing street-facing buildings and that “preservation” can be objectively defined.

Table 6. Proposed Maximum FAR Standards

	R-1	R-1H	R-1A	R-2	R-2H	R-2A	R-2AH	MU-R
1 unit and nonresidential	1.2	1.2	1.2	1.2	1.2	1.2	1.2	1.5
2 units	0.5	0.5	0.6	0.6	0.6	1.0	1.0	1.5
3-7 units	1.0	1.0	1.0	1.0	1.0	1.25	1.25	1.5
8 + units	1.25	1.25	1.25	1.25	1.25	1.5	1.5	1.75

Minimum Required Open Space

Current Policy: Table 7 summarizes current minimum open space requirements in low-density residential zones, on a per unit basis.

Table 7. Current Required Open Space

	R-1	R-1H	R-1A	R-2	R-2H	R-2A	R-2AH	MU-R
Per dwelling unit (sf)	400	400	400	400	400	300	300	150

Proposed Policy: The proposed development standard would require 150 sf of open space for every 1,000 sf of floor area on a project site, in each of the low density Residential districts. Note that required open space is no longer based on the number of units, but on a project’s total floor area. The proposed open space standard is designed to permit a larger percentage of total lot area to be dedicated to residential development while also preserving the requirement to provide residents with usable open space.

MAXIMUM AVERAGE HEIGHT

Current Policy: The Berkeley Municipal Code generally limits average building heights for main buildings in most low-density residential districts to 28 feet and three stories, with a possible increase to 35 feet with an AUP. In the Hillside Overlay, the Zoning Officer may approve an AUP to increase the allowed average height (28 feet) and allowed maximum height (35 feet). In the MU-R, the maximum height is 35 feet and 3 stories without the need for an additional AUP. Current policy also limits the height of residential additions to 14 feet, with a possible increase to 35 feet with an AUP.

Proposed Policy: The proposed development standards for maximum building height include the following:

- The maximum average building height in low-density residential districts would be 35 feet, but would be reduced to 22 feet within 15 feet of a rear property line;
- The limit on the maximum number of stories would be removed; maximum height would only be measured in feet;
- Maximum height standards for main buildings and residential additions would be the same.

The proposed development standards largely preserve existing height limits, while providing pathways for slightly taller projects (and more dwelling units) through a nondiscretionary process based on objective standards. The proposed standards also include provisions—lower maximum heights near the rear property line and additional objective development standards for taller projects—that consider potential impacts on neighboring properties.

MAXIMUM LOT COVERAGE

Current Policy: Table 7 summarizes existing maximum lot coverage requirements. Current requirements distinguish between interior and corner lots, and reduce maximum lot coverage for taller projects.

Table 7. Current Maximum Lot Coverage Standards

	R-1	R-1H	R-1A	R-2	R-2H	R-2A	R-2AH	MU-R
Interior & Through-Lots								
1 story	40%	40%	40%	45%	45%	45%	45%	100%
2 stories	40%	40%	40%	40%	40%	40%	40%	100%
3 stories	40%	40%	40%	35%	35%	35%	35%	100%
Corner Lots								
1 story	40%	40%	50%	50%	50%	50%	50%	100%
2 stories	40%	40%	45%	45%	45%	45%	45%	100%
3 stories	40%	40%	45%	40%	40%	40%	40%	100%

Proposed Policy: The proposed development standards, summarized in Table 8:

- Increase maximum lot coverage in most low-density residential districts,
- Use the total number of units in a project as the controlling factor for the standard, instead of the number of stories; and
- Eliminates the distinction between interior/through lots and corner lots. The proposed standards are summarized in Table 8.

Table 8. Proposed Maximum Lot Coverage Standards

	R-1	R-1H	R-1A	R-2	R-2H	R-2A	R-2AH	MU-R
1-2 units & non-residential	40%	40%	50%	50%	50%	50%	50%	100%
3-7 units	50%	50%	55%	55%	55%	55%	55%	100%
8+ units	55%	55%	55%	55%	55%	60%	60%	100%

MINIMUM SETBACKS

Current Policy: The Berkeley Municipal Code currently regulates four types of setbacks:

- **Front and Rear Setbacks:** Front and rear setbacks are 20 feet in the R-1, R-1H, R-1A, R-2 and R-2H zoning districts, and 15 feet in the R-2A and the R-2AH districts.

In the MU-R zoning district, lots adjacent to a non-residential district have no rear setback, unless they abut a street, in which case a 5 ft rear setback is required. A lot in the MU-R adjacent to a residential district must provide a rear setback of either 10 feet or 10% of the lot's width, whichever is less.

- **Interior Side Setbacks:** Interior side setbacks are based on building height. The interior side setback is 4 feet at the first story for all low-density residential districts, except the MU-R. At the second story, the interior setback increases to 6 feet in the R-2, R-2H, R-2A, and R-2H districts. Interior side setbacks can be reduced to 3 feet (or 5 feet) with a ZC.

In the MU-R district, lots adjacent to a residential district must provide an interior side setback of either 10 feet or 10% of the lot's width, whichever is less. There are no other interior side setback requirements in the MU-R.

- **Street Side Setbacks:** Street side setbacks are 4 feet in the R-1, R-1H, and R-1A districts, 10 feet in the R-2 and R-2H districts, and vary by height in the R-2A and R-2AH districts (6 feet at first story, 8 feet at second story and 10 feet at third story).

In the MU-R district, lots adjacent to a non-residential district must provide a 5 foot street side setback. Lots adjacent to a residential district must provide a street side setback of either 10 feet or 10% of the lot's width, whichever is less. There are no other street side setback requirements in the MU-R.

A Zoning Officer may approve an AUP to reduce the minimum setbacks in the H Overlay.

Proposed Policy: The proposed development standards include the following:

- **Front Setbacks:** Front setback standards would remain the same. However, a project could provide a smaller setback that is the average of the front setback(s) of adjacent structure(s), if that is less than the required setback.
- **Rear Setbacks:** The rear setback in all low-density residential districts would be 4 feet, except in the MU-R, which would maintain its existing regulations. This is consistent with the required setbacks required for ADUs. As noted above, a building's maximum height is limited to 22 feet within 15 feet of the rear property line.
- **Interior Side Setbacks:** The interior side setback in all low-density residential districts would be 4 feet, except in the MU-R, which would maintain its existing regulations.
- **Street Side Setbacks:** Street side setbacks in the R-1, R-1H and R-1A would be 4 feet, unless the corner lot abuts a key lot in the rear, in which case the street side setback would be 10 feet to be closer in line with adjacent front yards. There would be no changes to street side setbacks in the MU-R.

BUILDING SEPARATION

Current Policy: Current building separation requirements are summarized in Table 9:

Table 9. Current Building Separation Standards

	R-1	R-1H	R-1A	R-2	R-2H	R-2A	R-2AH	MU-R
1 story (ft)	No min	No min	8	8	8	8	8	No min
2 stories (ft)	No min	No min	12	12	12	12	12	No min
3 stories (ft)	No min	No min	16	16	16	16	16	No min
Reduce with an AUP	--	--	AUP	AUP	AUP	AUP	AUP	--

Proposed Policy: The proposed development standards would eliminate all building separation requirements. Building and fire code requirements fire rating and separation would still apply.

SOLAR ACCESS

ZORP Subcommittee members and members of the public have provided comments expressing concern about how the proposed development standards might impact solar access for neighboring properties, specifically solar access to existing or planned solar energy facilities. In response to this concern, staff has produced solar models to evaluate shadow impacts in a "maximum impact scenario". Attachment 3 includes solar modelling diagrams that illustrate how the proposed development standards consider solar access impacts. As a result of the solar model analysis, the proposed standards allow for a 35-foot maximum average height except in the rear 15 feet of a lot, where the maximum height would be 22 feet.

The Planning Commission is asked to note, when considering policies to address solar access, that State law prohibits a) the adoption of any new subjective development standards for housing development projects; and b) the adoption of new objective standards that would reduce the intensity or density of residential development. Additionally, while State law allows for parties to voluntarily enter into solar easement agreements (where a neighbor may grant an easement to a solar system owner), the City cannot require a solar easement without just compensation.

DISCUSSION

Do the proposed development standards achieve the goals of the City Council referrals, namely encouraging the development of middle housing in low-density residential districts?

Are there provisions of the proposed zoning standards that should be changed or revised?

Are there additional considerations that remain unaddressed by the proposed development standards?

ATTACHMENTS

1. Detailed Development Standards Tables
2. Solar Modeling Diagrams

Table 1. Existing Development Standards

"-" = not applicable; P = Permitted UPPH = Use Permit Public Hearing NP = Not Permitted *Use-Specific Regs Apply		R-1	R-1H	R-1A	R-2	R-2H	R-2A	R-2AH	MU-R
		Single-Family		Ltd Two-Family	Restricted Two-Family		Restricted		Mixed-Use Residential
Single-Family		UPPH	UPPH	UPPH	UPPH	UPPH	UPPH	UPPH	AUP
Two-Family		NP	NP	UPPH	UPPH	NP	UPPH	UPPH	AUP
Multi-Family		NP	NP	NP	UPPH	NP	UPPH	UPPH	AUP/UPPH [10]
Group Living Accommodation		NP	NP	NP	NP	NP	NP	NP	UPPH
Mixed-Use Residential		NP	NP	NP	UPPH*	NP	UPPH*	UPPH*	UPPH
Min Lot Area (SF)	New Lots	5000	5000	5000	5000	5000	5000	5000	No min
	Min Lot Width (ft)	-	-	-	-	-	-	-	40
	Per DU	No min	No min	No min	2500	2500	1650	1650	1,250
	2 Units	-	-	4500	No min	No min	No min	No min	-
Min OS (SF)	Per DU	400	400	400	400	400	300	300	150
	Live/Work	-	-	-	-	-	-	-	40
Max Avg Height, New Bldg or Non-Resi Addition (ft) Hillside max height 35'	Base	28	28	28	28	28	28	28	-
	Increase w/AUP	35	35	35	35	35	35	35	35
	Max Avg Height, Rear Main (ft)			22					
	Max Height, Resi/MU	-	-	-	-	-	-	-	35
	Max Height, Live-Work	-	-	-	-	-	-	-	28
	Live/Work w/UP	-	-	-	-	-	-	-	35
Max Avg Height, Resi addition (ft)	Base	14	14	14	14	14	14	14	-
	w/ AUP	35	35	35	35	35	35	35	-
Max Stories, New Bldg or Non-Resi Addition	Base	3	3	3	3	3	3	3	3
Max Stories, Rear Main		-	-	2	-	-	-	-	-
Max Lot Coverage Interior/Thru (%)	1 story	40	40	40	45	45	45	45	100
	2 stories	40	40	40	40	40	40	40	100
	3 stories	40	40	40	35	35	35	35	100
	Increase w/ AUP	-	-	-	-	-	-	-	100
Max Lot Coverage Corner (%)	1 story	40	40	45	50	50	50	50	100
	2 stories	40	-	45	45	-	45	45	100
	3 stories	40	-	45	40	-	40	40	100
	Increase w/ UP	-	-	-	-	-	-	-	-
Min Setback, Front (ft)	1st-2nd Story	20	20	20	20	20	15	15	-
	3rd Story	20	20	20	20	20	15	15	-
	Adjacent Non-R Dist	-	-	-	-	-	-	-	5
	Adjacent R Dist	-	-	-	-	-	-	-	10
	Reduce w/ AUP	-	No min	-	-	No min	-	No min	No min
Min Setback, Rear (ft)	1st-2nd Story	20	20	20	20	20	15	15	-
	3rd Story	20	20	20	20	20	15	15	-
	Adjacent Non-R Dist	-	-	-	-	-	-	-	0/5 [11]
	Adjacent R Dist	-	-	-	-	-	-	-	10/10% [12]
	Reduce w/ ZC	20%[3]	20%[3]	20%[3]	-	-	-	-	-
	Reduce w/AUP	-	-	12[6]	-	-	-	-	-
Min Setback, Interior Side (ft)	1st-2nd Story	4	4	4	4	4	4	4	-
	3rd Story	4	4	4	6	6	6	6	-
	1st-2nd Story w/ ZC	3/10%[4]	3/10%[4]	3/10%[4]	3/10%[4]	3/10%[4]	3/10%[4]	3/10%[4]	-
	3rd Story w/ ZC	3/10%[4]	3/10%[4]	3/10%[4]	5[4]	5[4]	5[4]	5[4]	-
	Adjacent Non-R Dist	-	-	-	-	-	-	-	0
	Adjacent R Dist	-	-	-	-	-	-	-	10/10% [12]
Min Setback, Street Side (ft)	1st Story	4	4	4	10	10	6	6	-
	2nd Story	4	4	4	10	10	8	8	-
	3rd Story	4	4	4	10	10	10	10	-
	Adjacent Non-R Dist	-	-	-	-	-	-	-	5
	Adjacent R Dist	-	-	-	-	-	-	-	10/10% [12]
Min Setback, Int/Street Rear Bldg (ft)		-	-	6	-	-	-	-	
Min Bldg Separation (ft)	1st story	No min	No min	8[9]	8	8	8	8	No min
	2nd story	No min	No min	12[9]	12	12	12	12	No min
	3rd story	No min	No min	16[9]	16	16	16	16	No min
	Reduce w/UP	-	-	P(AUP)	P(AUP)	P(AUP)	P(AUP)	P(AUP)	-

[1] If min 50% of floor area is Residential, UP to increase GLA density
 [2] If min 50% of floor area is Residential
 [3] On a lot less than 100 ft deep, reduction of rear setback by 20% of lot depth with ZC.
 [4] Whichever is greater. Lot width less than 40 ft, NP for rear main buildings in R-1A
 [5] If MU or Residential W of San Pablo Ave
 [6] To construct a dwelling unit and would not cause detrimental impact on emergency access or privacy, light, air for neighboring properties.

[7] Lots <5,000 SF, reductions are not allowed for property lines abutting a property under different ownership.
 [8] Lot <5,000 SF, max 1 dwelling unit and max gross floor area of 1,000 SF.
 [9] R-1A Separation Standard based on building height, not by story.
 [10] 3 to 4 units requires AUP, 5+ units requires UP(PH)
 [11] Min 5 ft rear setback if rear of lot abuts a street
 [12] 10 ft of 10% of lot width, whichever is less

Table 2. Proposed Development Standards

"-" = not applicable; P = Permitted UPPH = Use Permit Public Hearing NP = Not Permitted *Use-Specific Regs Apply		R-1	R-1H	R-1A	R-2	R-2H	R-2A	R-2AH	MU-R
		Limited Multi-Family		Restricted Multi-Family	Restricted Multi-Family		Multi-Family		Mixed-Use Residential
Single-Family		UPPH	UPPH	UPPH	UPPH	UPPH	UPPH	UPPH	AUP
Multi-Unit Residential		ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC
Group Living Accommodation		NP	NP	NP	NP	NP	NP	NP	UPPH
Mixed-Use Residential		NP	NP	NP	UPPH*	NP	UPPH*	UPPH*	UPPH
Min Density (DUA) - Round to the nearest whole number ¹		10	No min	10	10	No min	20	No min	20
Max Density (DUA) – Round to the nearest whole number		25	20	35	35	20	55	55	55
Min Lot Area (SF)		New Lots		5000	5000	5000	5000	5000	No min
Max FAR	1 unit and non-residential uses	1.2	1.2	1.2	1.2	1.2	1.2	1.2	1.5
	2 units	0.5	0.5	0.6	0.6	0.6	1.0	1.0	1.5
	3-7 units	1.0	1.0	1.0	1.0	1.0	1.25	1.25	1.5
	8+ units	1.25	1.25	1.25	1.25	1.25	1.5	1.5	1.75
Min OS (SF)	Per 1,000 sf floor area	150	150	150	150	150	150	150	150
	Live/Work	-	-	-	-	-	-	-	40
Max Avg Height, New Bldg or Non-Resi Addition (ft) Hillside max height 35'		35	35	35	35	35	35	35	35
	Within 15' of rear property line	22	22	22	22	22	22	22	22
Max Lot Coverage (%)	1-2 units and non-residential uses	40	40	50	50	50	50	50	100
	3-7 units	50	50	55	55	55	55	55	100
	8+ units	55	55	55	55	55	60	60	100
Min Setback, Front (ft)		20 [1]	20 [1]	20 [1]	20 [1]	20 [1]	15 [1]	15 [1]	-
	Adjacent Non-R Dist	-	-	-	-	-	-	-	5 [1]
	Adjacent R Dist	-	-	-	-	-	-	-	10 [1]
	Reduce w/ AUP	-	No min	-	-	No min	-	No min	No min
Min Setback, Rear (ft)		4	4	4	4	4	4	4	-
	Adjacent Non-R Dist	-	-	-	-	-	-	-	0/5 [2]
	Adjacent R Dist	-	-	-	-	-	-	-	10/10% [3]
Min Setback, Interior Side (ft)		4	4	4	4	4	4	4	-
	Adjacent Non-R Dist	-	-	-	-	-	-	-	0
	Adjacent R Dist	-	-	-	-	-	-	-	10/10% [3]
Min Setback, Street Side (ft)		4 [4]	4 [4]	4 [4]	4 [4]	4 [4]	4 [4]	4 [4]	-
	Adjacent Non-R Dist	-	-	-	-	-	-	-	5
	Adjacent R Dist	-	-	-	-	-	-	-	10/10% [3]
Min Bldg Separation (ft)		No min	No min	No min	No min	No min	No min	No min	No min

[1] Or average front setback of adjacent structure(s), whichever is less. On key lots, average of street side and adjacent front yard setback.

[2] Min 5 ft rear setback if rear of lot abuts a street

[3] 10 ft of 10% of lot width, whichever is less

[4] Street side setback requirements for corner lots with a rear lot line abutting a key lot in 23.304.B.1 apply.

¹ Minimum densities would apply for new development on a vacant lot or redevelopment and infill of existing nonvacant lots.

Table 3. Proposed Development Standards (Redlined)

"-" = not applicable; P = Permitted UPPH = Use Permit Public Hearing NP = Not Permitted *Use-Specific Regs Apply		R-1	R-1H	R-1A	R-2	R-2H	R-2A	R-2AH	MU-R
		Single-Family Limited Multi-Family		Ltd Two-Family Restricted Multi-Family	Restricted Two-Family Restricted Multi-Family	Restricted Multi-Family	Mixed-Use Residential		
Single-Family		UPPH	UPPH	UPPH	UPPH	UPPH	UPPH	UPPH	AUP
Two-Family		NP	NP	UPPH	UPPH	NP	UPPH	UPPH	AUP
Multi-Family Unit Residential		NP ZC	NP ZC	NP ZC	UPPH ZC	NP ZC	UPPH ZC	UPPH ZC	AUP/UPPH {10}ZC
Group Living Accommodation		NP	NP	NP	NP	NP	NP	NP	UPPH
Mixed-Use Residential		NP	NP	NP	UPPH*	NP	UPPH*	UPPH*	UPPH
Min Density (DUA) - Round to the nearest whole number		No min 10	No min	No min 10	No min 10	No min	No min 20	No min	No min 20
Max Density (DUA) - Round to the nearest whole number		1 du/lot 25	1 du/lot 20	2 du/lot 35	35	1 du/lot 20	55	55	55
Min Lot Area (SF)	New Lots	5000	5000	5000	5000	5000	5000	5000	No min
	Min Lot Width (ft)	-	-	-	-	-	-	-	40
	Per DU	No min	No min	No min	2500	2500	1650	1650	1,250
	2 Units	-	-	4500	No min	No min	No min	No min	-
Max FAR	1 unit and non-residential uses	1.2	1.2	1.2	1.2	1.2	1.2	1.2	1.5
	2 units	0.5	0.5	0.6	0.6	0.6	1.0	1.0	1.5
	3-7 units	1.0	1.0	1.0	1.0	1.0	1.25	1.25	1.5
	8+ units	1.25	1.25	1.25	1.25	1.25	1.5	1.5	1.75
Min OS (SF)	Per DU	400	400	400	400	400	300	300	150
	Per 1,000 sf floor area	150	150	150	150	150	150	150	150
	Live/Work	-	-	-	-	-	-	-	40
Max Avg Height, New Bldg or Non-Resi Addition (ft) Hillside max height 35'	Base	28	28	28	28	28	28	28	-
	Increase w/AUP	35	35	35	35	35	35	35	35
	Max Avg Height, Rear Main (ft) Within 15' of rear property line	22	22	22	22	22	22	22	22
	Max Height, Resi/MU	-	-	-	-	-	-	-	35
	Max Height, Live-Work	-	-	-	-	-	-	-	28
	Live/Work w/UP	-	-	-	-	-	-	-	35
Max Avg Height, Resi-addition (ft)	Base	14	14	14	14	14	14	14	-
	w/AUP	35	35	35	35	35	35	35	-
Max Stories, New Bldg or Non-Resi Addition	Base	3	3	3	3	3	3	3	3
Max Stories, Rear Main		-	-	2	-	-	-	-	-
Max Lot Coverage Interior/Thru (%)	1-story	40	40	40	45	45	45	45	100
	2-stories	40	40	40	40	40	40	40	100
	3-stories	40	40	40	35	35	35	35	100
	Increase w/AUP	-	-	-	-	-	-	-	100
Max Lot Coverage Corner (%)	1-story 1-2 units and non-residential uses	40	40	45 50	50	50	50	50	100
	2-stories 3-7 units	40 50	40 50	45 55	45 55	45 55	45 55	45 55	100
	3-stories 8+ units	40 55	40 55	45 55	40 55	40 55	40 60	40 60	100
	Increase w/UP	-	-	-	-	-	-	-	-
Min Setback, Front (ft)	1st-2nd Story	20 [13]	20 [13]	20 [13]	20 [13]	20 [13]	15 [13]	15 [13]	-
	3rd Story	20	20	20	20	20	15	15	-
	Adjacent Non-R Dist	-	-	-	-	-	-	-	5 [13]
	Adjacent R Dist	-	-	-	-	-	-	-	10 [13]
	Reduce w/ AUP	-	No min	-	-	No min	-	No min	No min
Min Setback, Rear (ft)	1st-2nd Story	20 4	20 4	20 4	20 4	20 4	15 4	15 4	-
	3rd Story	20	20	20	20	20	15	15	-
	Adjacent Non-R Dist	-	-	-	-	-	-	-	0/5 [11]
	Adjacent R Dist	-	-	-	-	-	-	-	10/10% [12]
	Reduce w/ZC	20%[3]	20%[3]	20%[3]	-	-	-	-	-
	Reduce w/AUP	-	-	12[6]	-	-	-	-	-
Min Setback, Interior Side (ft)	1st-2nd Story	4	4	4	4	4	4	4	-
	3rd Story	4	4	4	6	6	6	6	-
	1st-2nd Story w/ZC	3/10%[4]	3/10%[4]	3/10%[4]	3/10%[4]	3/10%[4]	3/10%[4]	3/10%[4]	-
	3rd Story w/ZC	3/10%[4]	3/10%[4]	3/10%[4]	5[4]	5[4]	5[4]	5[4]	-
	Adjacent Non-R Dist	-	-	-	-	-	-	-	0
	Adjacent R Dist	-	-	-	-	-	-	-	10/10% [12]
Min Setback, Street Side (ft)	1st Story	4 [14]	4 [14]	4 [14]	10 4 [14]	10 4 [14]	6 4 [14]	6 4 [14]	-
	2nd Story	4	4	4	10	10	8	8	-
	3rd Story	4	4	4	10	10	10	10	-
	Adjacent Non-R Dist	-	-	-	-	-	-	-	5

"-" = not applicable; P = Permitted UPPH = Use Permit Public Hearing NP = Not Permitted *Use-Specific Regs Apply		R-1	R-1H	R-1A	R-2	R-2H	R-2A	R-2AH	MU-R
		Single-Family Limited Multi-Family		Ltd Two-Family Restricted Multi-Family	Restricted Two-Family Restricted Multi-Family		Restricted Multi-Family		Mixed-Use Residential
	Adjacent R Dist	-	-	-	-	-	-	-	10/10% [12]
	Min Setback, Int/Street Rear Bldg (ft)	-	-	6	-	-	-	-	-
Min Bldg Separation (ft)	1st story	No min	No min	8 [9] No min	8 No min	8 No min	8 No min	8 No min	No min
	2nd story	No min	No min	12 [9]	12	12	12	12	No min
	3rd story	No min	No min	16 [9]	16	16	16	16	No min
	Reduce w/UP	-	-	P(AUP)	P(AUP)	P(AUP)	P(AUP)	P(AUP)	-

[1] If min 50% of floor area is Residential, UP to increase GLA density

[2] If min 50% of floor area is Residential

[3] On a lot less than 100 ft deep, reduction of rear setback by 20% of lot depth with ZC.

[4] Whichever is greater. Lot width less than 40 ft, NP for rear main buildings in R-1A

[5] If MU or Residential W of San Pablo Ave

[6] To construct a dwelling unit and would not cause detrimental impact on emergency access or privacy, light, air for neighboring properties.

[7] Lots <5,000 SF, reductions are not allowed for property lines abutting a property under different ownership.

[8] Lot <5,000 SF, max 1 dwelling unit and max gross floor area of 1,000 SF.

[9] R-1A Separation Standard based on building height, not by story.

[10] 3 to 4 units requires AUP, 5+ units requires UP(PH)

[11] Min 5 ft rear setback if rear of lot abuts a street

[12] 10 ft or 10% of lot width, whichever is less

[13] Or average front setback of adjacent structure(s), whichever is less. On key lots, average of street side and adjacent front yard setback.

[14] Street side setback requirements for corner lots with a rear lot line abutting a key lot in 23.304.B.1 apply.

City of Berkeley

Middle Housing Prototype Studies: R-1 and R-2A

Project Overview

This project studies proposed changes to objective development standards to allow middle housing on neighboring buildings.

Studying the Most Impactful Scenario

The models set up the most impactful scenario (with the biggest difference in height and the minimum distance between neighboring buildings) to better understand whether additional standards are needed.

Shading Analysis Assumptions

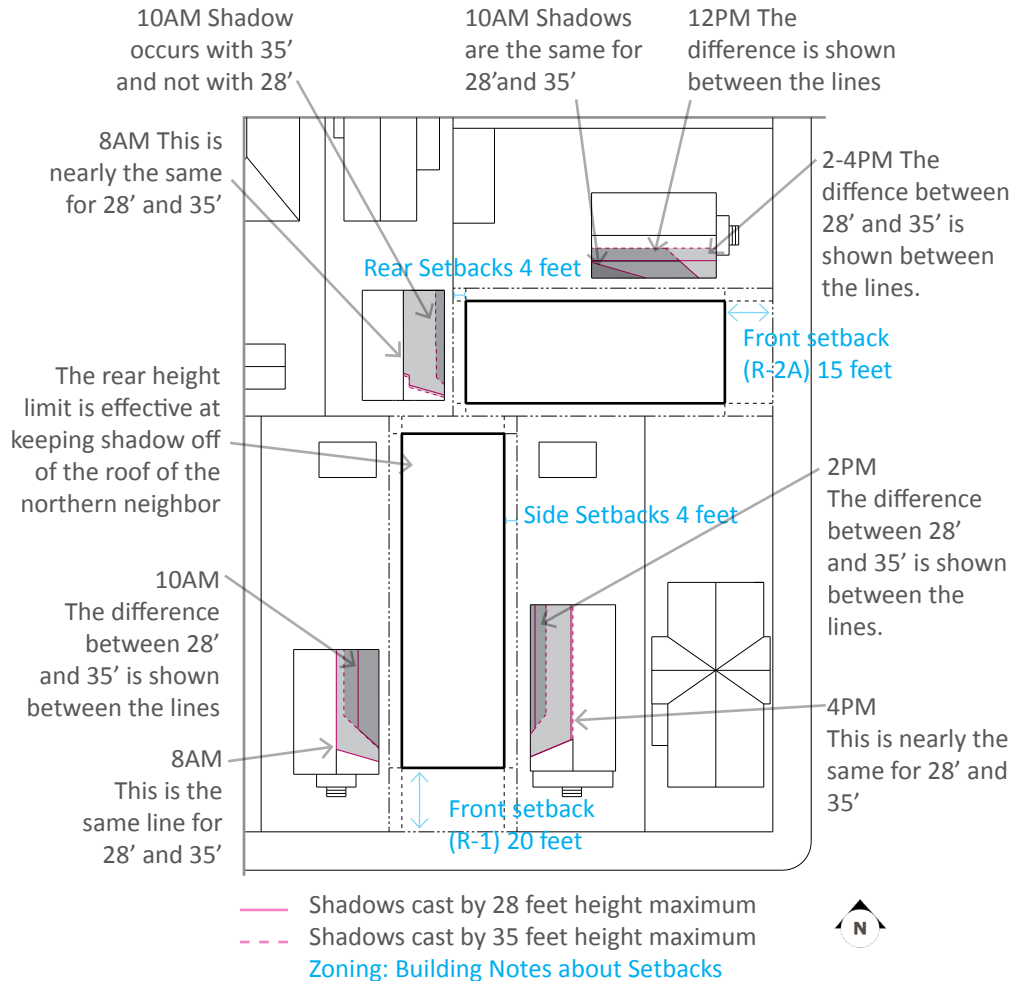
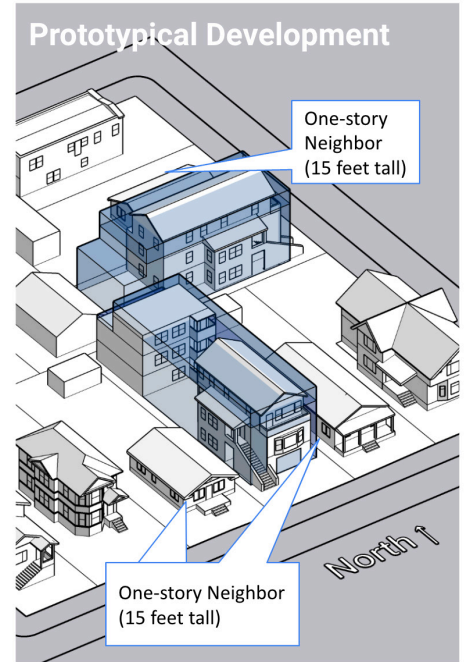
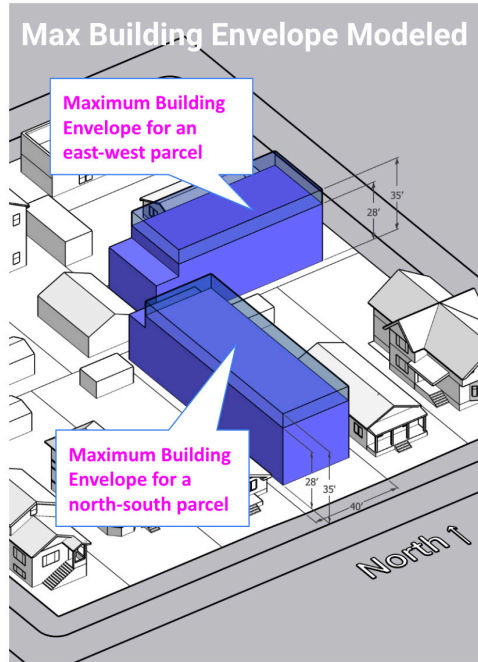
The illustrations show shadows cast between 8am and 4pm during the equinox (Sept. or March 21st) for two parcels with different orientations on a flat site, with clear skies and no existing trees.

Maximum Building Envelope Modeled

- 35 feet average building height with objective standards
- R-1 front setback 20 feet
- R-2A front setback 15 feet
- Side setbacks 4 feet
- Rear setback 4 feet
- Reduced rear height to 22 feet within 15 feet of the rear property line

Shading Calculations

The area of shadow was calculated for both 28 feet and 35 feet building heights using the maximum building envelope allowed. The amount of shadow for the 7-foot difference in height is less than 10% more shade on the neighbor's rooftop averaged over the day.



Communications

From: Pearson, Alene
Sent: Thursday, May 5, 2022 11:52 AM
To: Covello, Zoe
Cc: Wu, Grace
Subject: May 4 Planning Commission Meeting -- Follow Up
Attachments: 2022-05-04_HE_PC_SitesPoliciesPrograms_PPT.pdf

Hello Commissioners.

Thanks for your valuable feedback at last night's Planning Commission meeting. Below are links / attachments to information that was requested.

1. Housing Element Presentation Sides are attached. Please forward additional comments to Grace Wu (gwu@cityofberkeley.info).
2. City of Berkeley Renter Survey: <https://dllxetanpe6.typeform.com/to/htsl3ijw?typeform-source=lnks.gd>
3. Recording of ULI Decision Makers Training:

For those of you who were not able to attend the Friday, March 25th ULI Decision-Maker Training on "How to Get Housing Built", the [recording link](#) and the accompanying [slide deck](#) are now available. Topics include:

- Complex factors that influence the housing market;
- Connections between housing development constraints and housing policies;
- Housing market development trends and associated costs and trade-offs.

The training is tailored to housing development in Alameda County and includes presentations from market-rate and affordable housing and development professionals, including: Libby Seifel (Seifel Consulting); Elizabeth Kuwada (Mercy Housing); and Mark Butler (Integral Communities). This session was provided through technical assistance from the State distributed to ABAG.

Please let me know if you have additional questions.

Alene

Alene Pearson, AICP

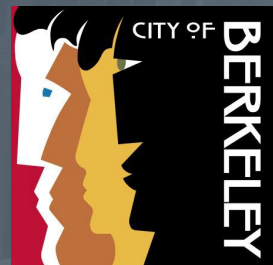
Deputy Director, Planning and Development Department
City of Berkeley
apearson@cityofberkeley.info
510-981-7489

HOUSING ELEMENT UPDATE

Preliminary Sites Inventory & Housing Programs

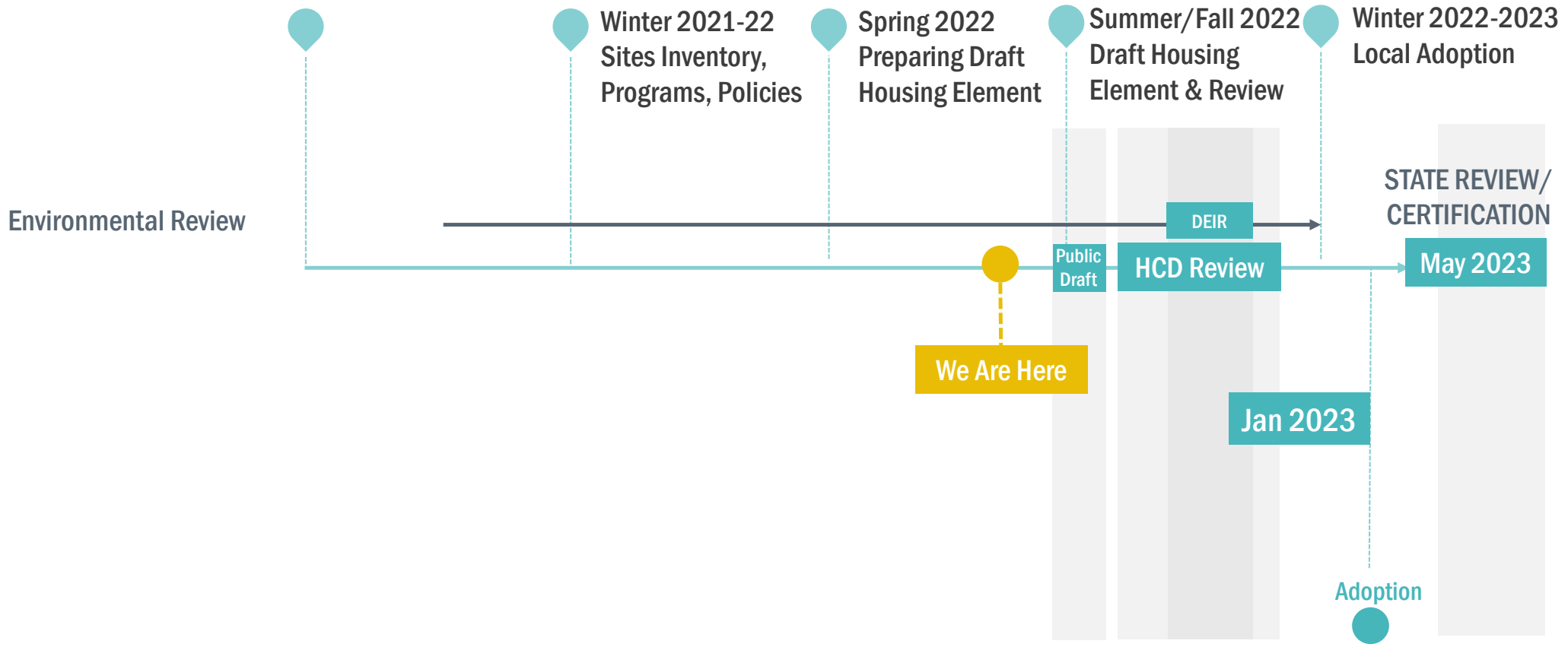
Planning Commission #3

May 4, 2022





The 6th Housing Element Update Process



Housing Element includes...

1

2

Evaluation of Past Performance

How we did in the 5th Cycle Housing Element

3

Housing Sites Inventory

Likely Sites, Pipeline Sites and Opportunity sites, by income level

4

Constraints Analysis

Barriers to housing development

5

Policies & Programs

Address identified housing needs

6

Community Engagement

Residents, businesses, stakeholders, policy-makers

I. PRELIMINARY SITES INVENTORY

1. Meeting the RHNA
2. Criteria and Analysis
3. Sites Inventory Capacity

II. PRELIMINARY GOALS, POLICIES, AND PROGRAMS

1. Outreach & Engagement
2. Goals & Policies
3. Preliminary Housing Programs

III. DISCUSSION

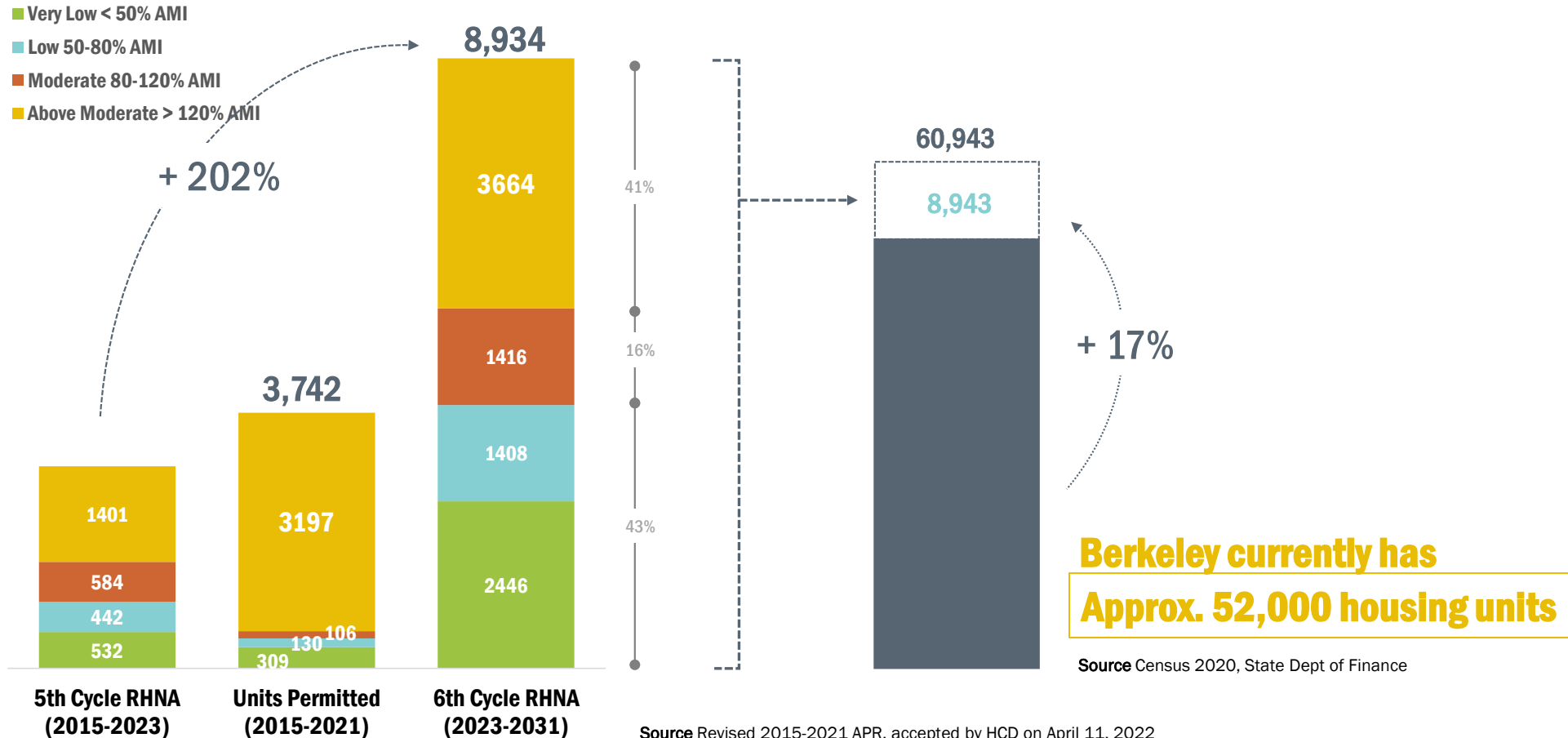
PRELIMINARY SITES INVENTORY

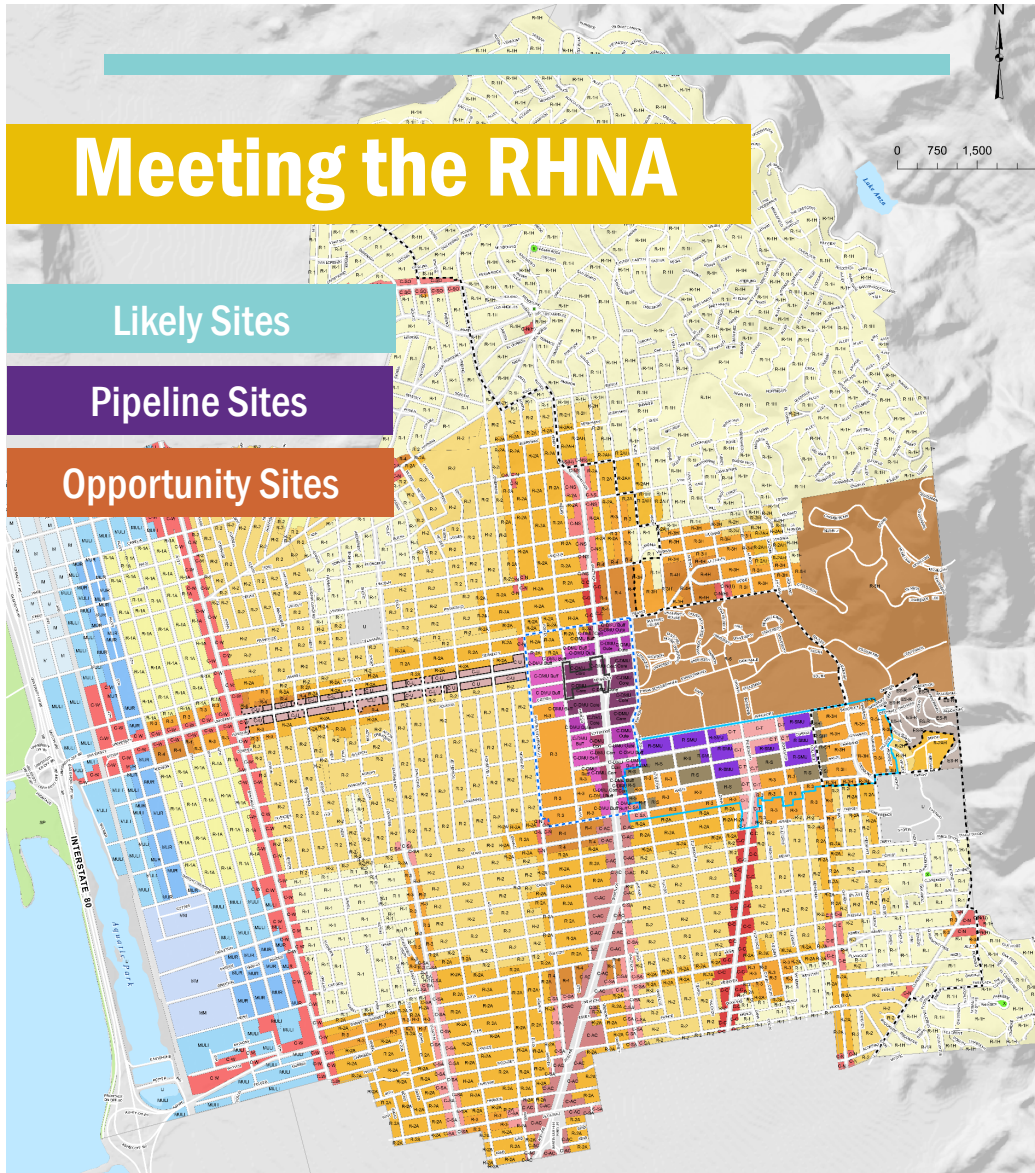
1. Meeting the RHNA
2. HCD Methodology
3. Preliminary Sites Inventory
Capacity

CAPACITY ≠ HOUSING PRODUCTION

Regional Housing Needs Allocation (RHNA)

5th & 6th cycle





Likely Sites

ADU Trends

N Berkeley & Ashby BART

Approved Projects since 2018

Very Low	Low	Mod	Above Mod	Total
622	628	249	3,186	4,685

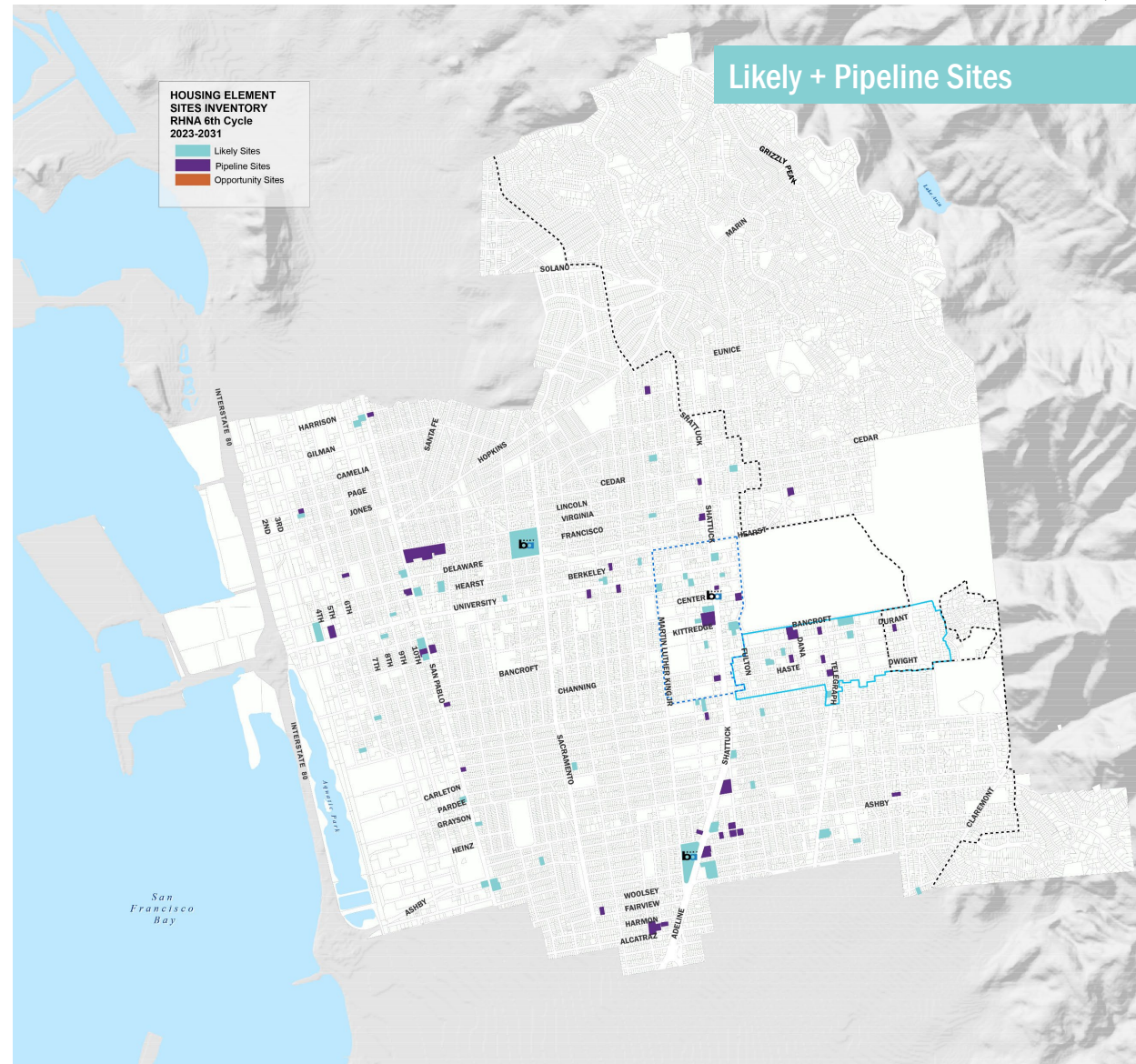
Pipeline Sites

Projects under Review

Anticipated

Very Low	Low	Mod	Above Mod	Total
204	180	68	1,962	2,414

Very Low	Low	Mod	Above Mod	Total
2,446	1,408	1,416	3,664	8,934



Opportunity Sites

Vacant or Underutilized

Improvement to Assessed Land Value ≤ 0.75

Non-residential Building > 30 yrs old

Federal, State, County-owned

Condo or Large Apartment Bldg

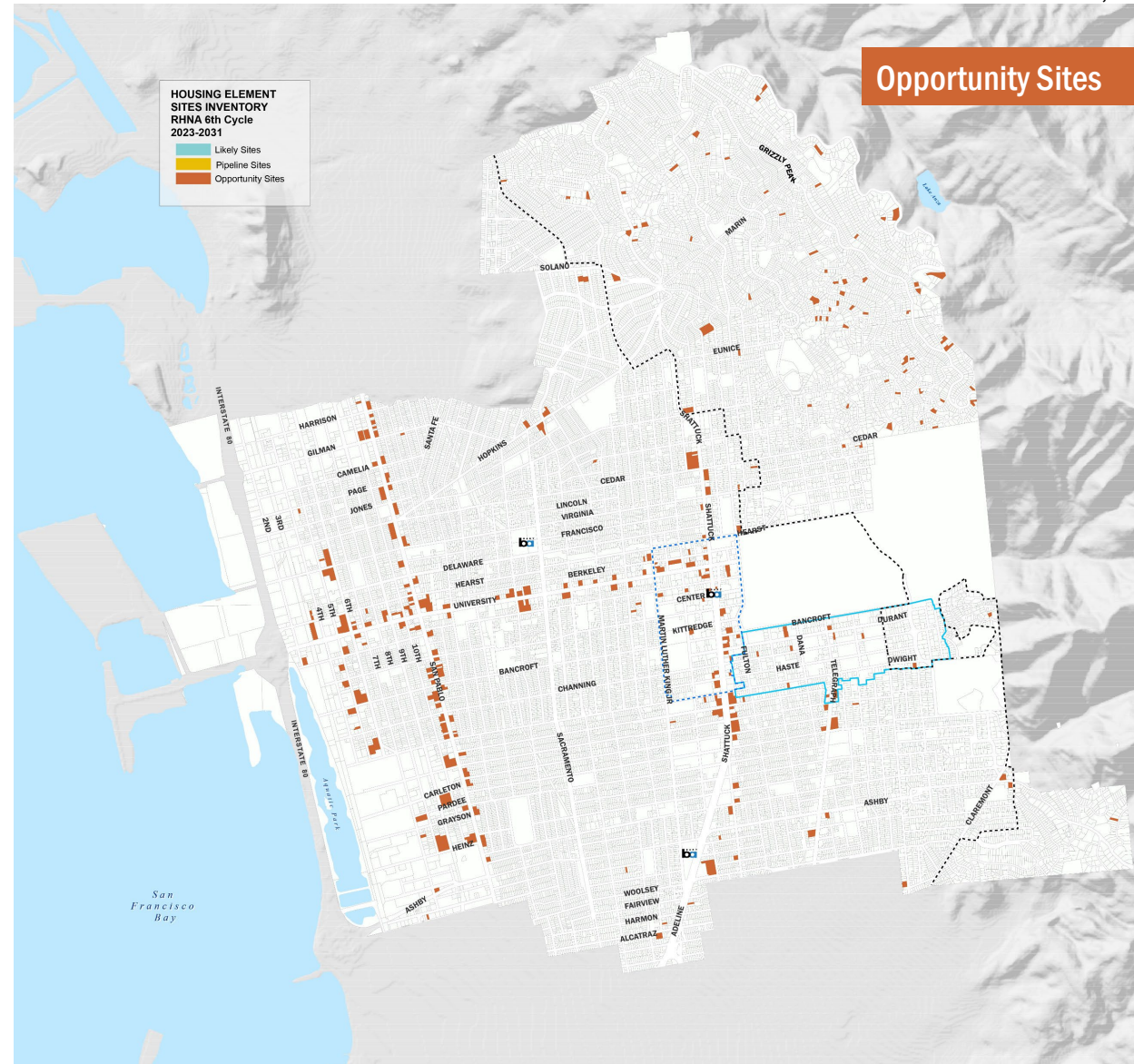
Historically-sensitive

Rent-Controlled Units

Most Supermarkets

Very Low	Low	Mod	Above Mod	Total
1649	1649	2886	2845	9028

Very Low	Low	Mod	Above Mod	Total
2,446	1,408	1,416	3,664	8,934



Likely Sites

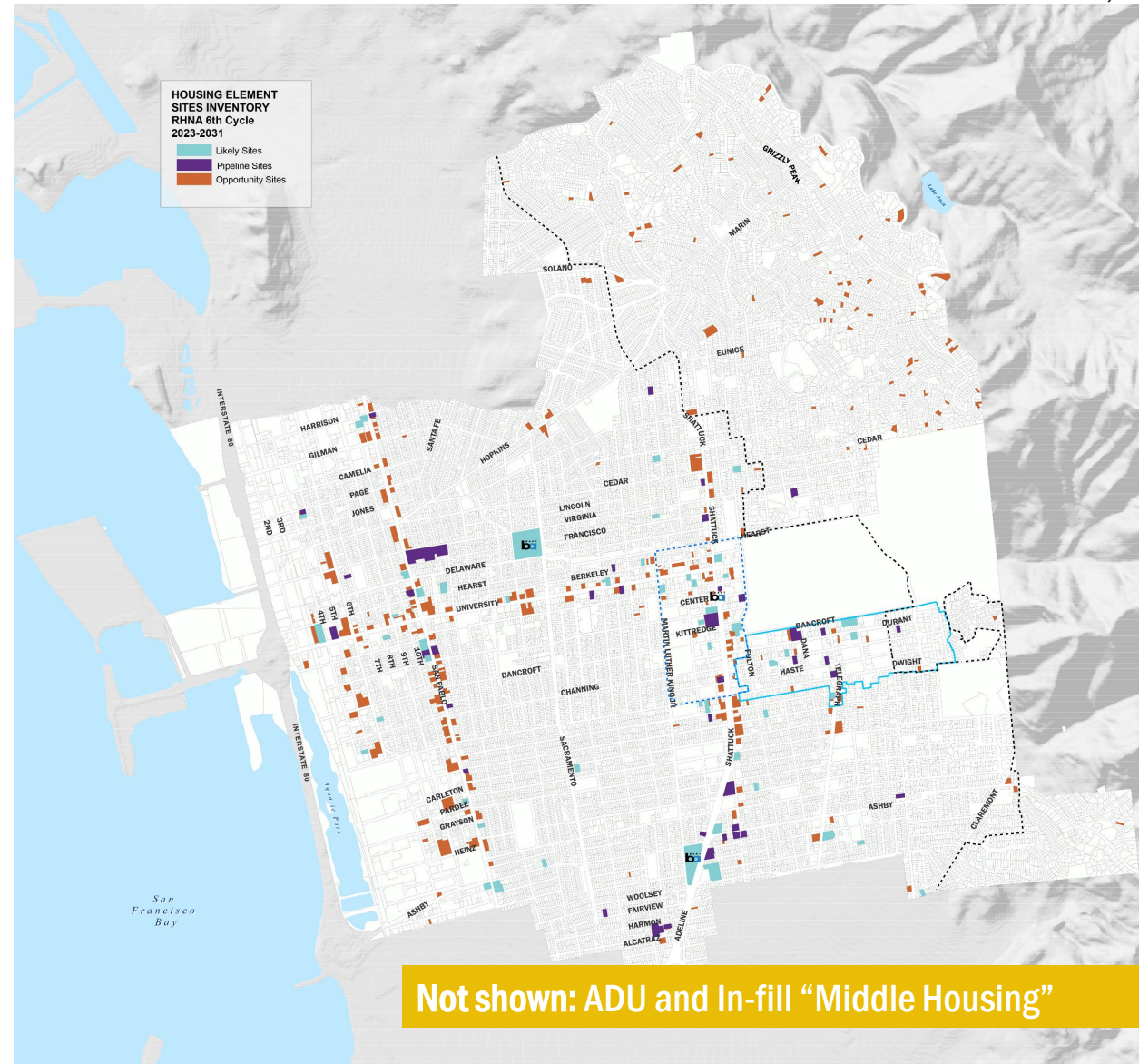
Pipeline Sites

Opportunity Sites

**Affirmatively Furthering
Fair Housing**

*Racial Diversity
Concentration of Poverty
Environmental Equity
Community Benefits*

**Ensure affordable housing is distributed
and balanced in “high opportunity”
neighborhoods.**

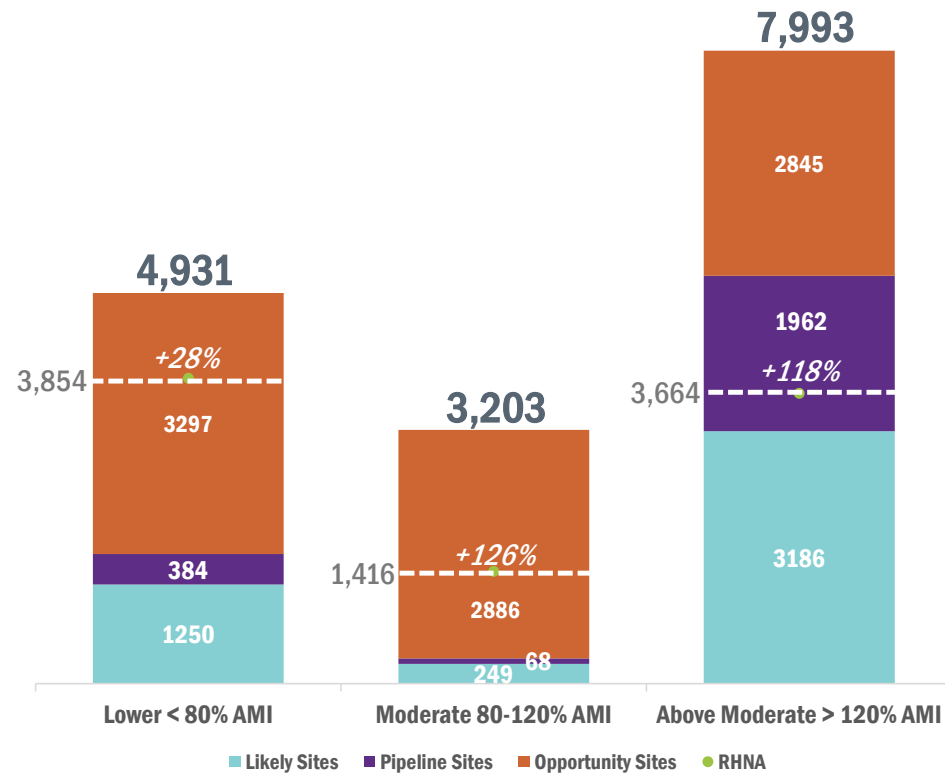


Opportunity Sites: HCD Affordability Methodology

	< 80% AMI Lower Income	80 – 120% AMI Moderate Income	> 120% AMI Above Moderate Income
Size of Site	Between 0.35 to 10 acres	Between 0.1 and 0.35 acres	
Density Assumption	At least 30 du/ac*		Less than 30 du/ac
Site Capacity	At least 50 units	Between 30 to 50 units	Less than 30 units

***30 du/ac is the “default density” - considered suitable to encourage and facilitate the development of affordable housing [GOV 65583.2]**

Meeting the RHNA

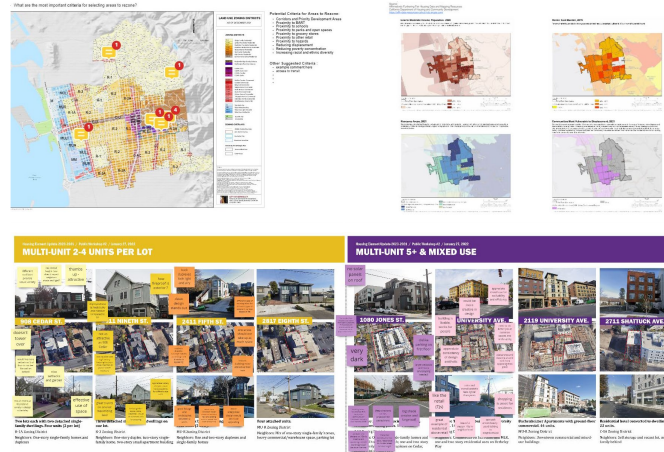


NOT ACTUAL DEVELOPMENT PROPOSALS

PRELIMINARY GOALS, POLICIES, AND PROGRAMS

1. Outreach & Engagement
2. Goals & Policies
3. Housing Programs Highlights

Outreach & Engagement



Presented to 13 Boards/Commissions/Committees

Held 20+ Meetings with 15 Stakeholder Interest Groups

Held two online public workshops, ~60 participants

Tabling @ Downtown Farmers Market & Berkeley Bowl

Received 745 responses from Nov '21 citywide survey

Received 49 responses from Residential Tours survey



Housing Goals

A

B

Housing Preservation

Existing housing should be maintained and improved for resiliency:

- Energy, Water, Seismic
- Reduce GHG emissions

C

Housing Production

Provide adequate housing capacity to meet current and future housing needs.

D

Special Needs Housing & Homelessness Prevention

Expand supply of housing to special needs groups, including extremely low incomes.

E

Affirmatively Furthering Fair Housing

The City should continue to take meaningful actions to affirmatively further fair housing choices in Berkeley.

F

Governmental Constraints

Identify and mitigate barriers to construction and improvement of housing.

Draft Housing Policies

A

Housing Affordability	
H-1	ELI, VLI, Low and Mod Housing.
H-2	Funding Sources
H-3	Permanent Affordability
H-4	Economic Diversity
H-5	Rent Stabilization
H-6	Low-Income Homebuyers
H-7	Berkeley Housing Authority

B

Housing Preservation	
H-8	Maintain Housing
H-9	Rental Housing Conservation
H-10	Code Requirements
H-11	Prevent Deferred Maintenance
H-12	Seismic Reinforcement
H-13	Resource Efficiency & Climate Resiliency

C

Housing Production	
H-14	Publicly-Owned Sites
H-15	Medium-High Density Zoning
H-16	Transit-Oriented Housing
H-17	Accessory Dwelling Units
H-18	Regional Housing Needs
H-19	Monitoring Housing Element Progress
H-20	University of California
H-21	Inter-Jurisdictional & Reg'l Coordination

D

Special Needs & Homelessness Prevention	
H-22	Homelessness & Crisis Prevention
H-23	Homeless Housing
H-24	Family Housing
H-25	Senior Housing
H-26	People w/ Disabilities
H-27	Emergency, Transitional, Supportive Housing

E

Affirmatively Furthering Fair Housing	
H-28	Fair Housing
H-29	Accessible Housing
H-30	Affordable Accessible Housing

F

Governmental Constraints	
H-31	Reduce Gov't Constraints
H-32	Streamline Review Process
H-33	Incentivize Affordable Housing

- Health, Housing, and Community Services (HHCS)
- Rent Stabilization Board (RSB)
- Berkeley Housing Authority (BHA)
- City Manager's Office Neighborhood Service Code Enforcement (NSCE) Unit
- Planning & Development: Building & Safety, Office of Energy & Sustainability, Land Use Planning

Preliminary Housing Programs

HP-1 Affordable Housing Berkeley	HP-9 Lead-Poisoning Prevention	HP-17 Building Emissions Saving Ordinance (BESO)	HP-25 Shelter Plus Care	HP-33 Streamlined Permit Processes & Timelines
HP-2 Housing Choice Vouchers	HP-10 State...	WORK-IN-PROGRESS		HP-34 By-Right Approval on Reused Sites for Affordable Housing
HP-3 Citywide Affordable Housing Requirements	HP-11 Home Modification for Accessibility & Safety			HP-19 Priority Development Areas (PDAs)
HP-4 Affordable Housing Overlay	HP-12...	HCD requires Programs to be: <ul style="list-style-type: none"> ● Specific and Implementable (fundable) ● Contain concrete actions ● Have clear timelines ● Contain metrics to evaluate success 		HP-36: Zoning Code Amendments to Facilitate Housing Development
HP-5 Preservation of At-Risk Housing	HP-13...			HP-37: Permit Processing Procedures
HP-6 Replacement Housing, Demolition Ordinance	HP-14...			
HP-7 Rental Housing Code Compliance	HP-15...			
HP-8 Housing Code	HP-16 Existing Buildings Electrification (BEBE) Strategy	HP-24 1000 Person Plan to End Homelessness	HP-32 Tenant Opportunity to Purchase Act (TOPA)	

Preliminary Housing Programs

HP-1 Affordable Housing Berkeley	HP-9 Lead-Poisoning Prevention	HP-17 Building Emissions Saving Ordinance (BESO)	HP-25 Shelter Plus Care	HP-33 Streamlined Permit Processes & Timelines
HP-2 Housing Choice Vouchers	HP-10 Housing Quality Standards	HP-18 BayREN Residential Energy Incentive Programs	HP-26 Community Agency Contracting	HP-34 By-Right Approval on Reused Sites for Affordable Housing
HP-3 Citywide Affordable Housing Requirements	HP-11 Home Modification for Accessibility & Safety	HP-19 Priority Development Areas (PDAs)	HP-27 Housing for Homeless Persons w/ Disabilities	HP-35 Zoning Code Amendments: Special Needs Housing
HP-4 Affordable Housing Overlay	HP-12 Accessible Housing	HP-20 BART Station Area Planning	HP-28 Fair Housing Outreach & Enforcement	HP-36: Zoning Code Amendments to Facilitate Housing Development
HP-5 Preservation of At-Risk Housing	HP-13 Senior & Disabled Home Improvement Loans	HP-21 Middle Housing	HP-29 Rent Stabilization & Tenant Protections	HP-37: Permit Processing Procedures
HP-6 Replacement Housing, Demolition Ordinance	HP-14 Seismic Safety & Preparedness Programs	HP-22 Accessory Dwelling Units	HP-30 Tenant Survey	
HP-7 Rental Housing Code Compliance	HP-15 Pilot Climate Equity Fund	HP-23 Monitoring RHNA Sites	HP-31 Housing Preference Policies	
HP-8 Housing Code	HP-16 Existing Buildings Electrification (BEBE) Strategy	HP-24 1000 Person Plan to End Homelessness	HP-32 Tenant Opportunity to Purchase Act (TOPA)	

HP-3 Citywide Affordable Housing Requirements



Specific Actions & Timeline

In 2022, amend Berkeley Municipal Code (BMC) Chapter 23.38, updating the citywide Affordable Housing Requirements (AHR) in the Zoning Ordinance.

In 2022, adopt a Resolution addressing regulations for a voucher program and establishing an in-lieu fee pursuant to BMC Section 23.328.020(A)(2).

Lead Department(s) / Agency

Planning/HHCS

Funding Source(s)

General Fund; SB 2 Grant Funding; Enterprise Fund – Community Planning Fee

AFFH

Anti-Displacement and Tenant Protection
New Opportunities in High Resource Areas
Disproportionate Needs

Policies Implemented

H-2, H-3, H-4, H-6, H-18, H-31, H-33

Housing Trust Fund



Specific Actions & Timeline

Fund a minimum of 500 units of nonprofit affordable housing

Fund a minimum of 35% affordable housing at Ashby & North Berkeley BART

Lead Department(s) / Agency

HHCS

Funding Source(s)

Measure O, AHMF, Condo Conversion Mitigation Fee, Commercial Linkage Fee, HOME

AFFH

Anti-Displacement and Tenant Protection
New Opportunities in High Resource Areas
Disproportionate Needs

Policies Implemented

H-2, H-3, H-4, H-6, H-18, H-31, H-33



HP-13 Senior & Disabled Home Improvement Loans

Specific Actions & Timeline Provide two interest-free loans up to \$100,000 annually for a total of 16 loans over eight years.

Lead Department(s) / Agency HHCS

Funding Source(s) CalHome Reuse Account (program income) and CDBG

AFFH Housing Mobility

Policies Implemented H-25, H-26, H-28, H-29

HP-31 Housing Preference Policies



Specific Actions & Timeline

By 2023, the City will adopt a housing preference policy. The City plans to conduct outreach on an ongoing basis, coordinate preferences with the Alameda County Housing Portal for applications, and collect data and monitor annually to assess impact.

Lead Department(s) / Agency

HHCS

Funding Source(s)

General Fund

AFFH

Anti-Displacement and Tenant Protection

Policies Implemented

H-1, H-7, H-28

HP-19 Priority Development Areas



Specific Actions & Timeline

During 2022-2024, develop San Pablo PDA Specific Plan. Conduct analysis, public and stakeholder engagement, and policy options, including zoning and General Plan amendments, with the goal of adopting Specific Plan summer 2025.

By June 2023, complete Telegraph PDA/Southside Plan Area zoning map amendments and up-zoning.

Lead Department(s) / Agency

Planning

Funding Source(s)

General Fund, ABAG/MTC PDA Planning Grant

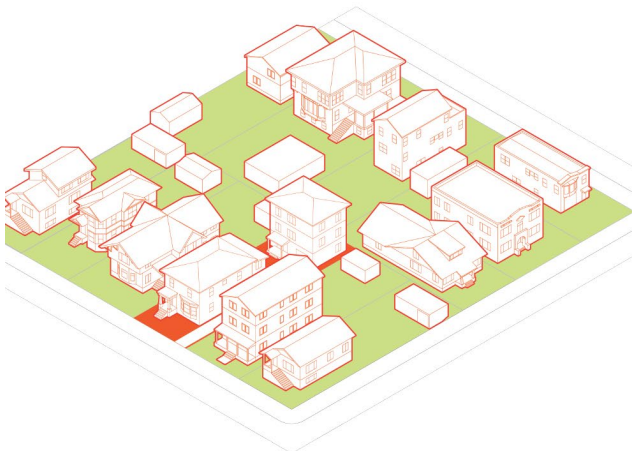
AFFH

New Opportunities in High Resource Areas

Policies Implemented

H-15, H-16, H-18, H-20, H-21, H-31, H-33

HP-21 Middle Housing



Specific Actions & Timeline

By Summer 2022, amend Affordable Housing Fee schedule.
By Summer 2023, amend Zoning code to allow two- to four-unit development on one lot.

Lead Department(s) / Agency

Planning

Funding Source(s)

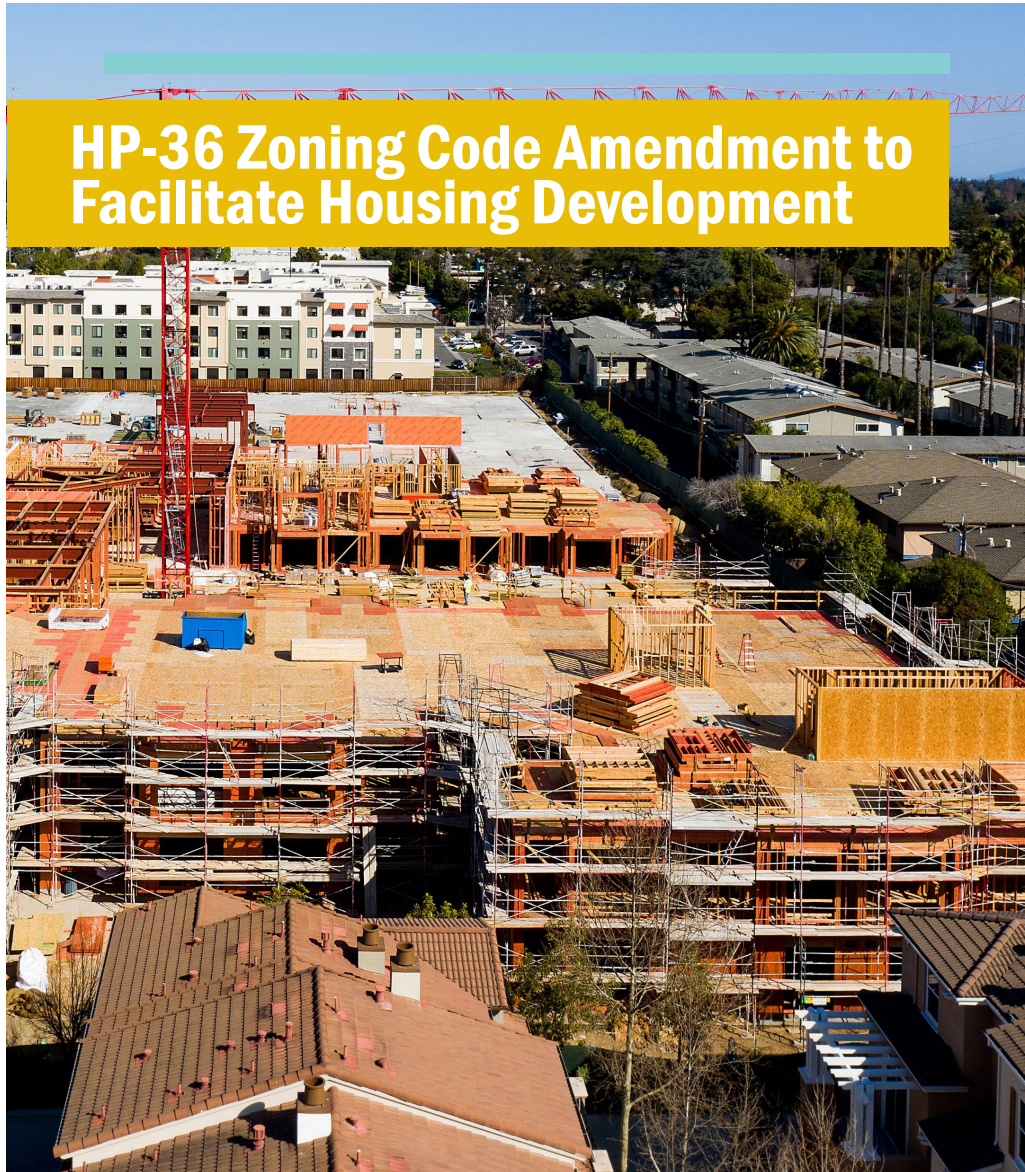
General Fund

AFFH

New Opportunities in High Resource Areas
Anti-Displacement and Tenant Protection
Targeted outreach in lower density Residential districts: R-1, R-1A, R-2, R-2A, and MU-R

Policies Implemented

H-2, H-3, H-4, H-18, H-24, H-31, H-32, H-33



HP-36 Zoning Code Amendment to Facilitate Housing Development

Specific Actions & Timeline

By January 2024, as part of the Multi-Unit Residential Objective Standards project, minimum densities will be applied to all residential and mixed-use developments with five or more units.
By 2026, develop Objective Design Standards for residential and mixed use developments.

Lead Department(s) / Agency

Planning

Funding Source(s)

General Fund

AFFH

Place-Based Strategy for Neighborhood Improvements
New Opportunities in High Resource Areas

Policies Implemented

H-18, H-31, H-32

UPCOMING EVENTS

SAVE THE DATE!

Wednesday, June 29, 6pm
Public Workshop #3

Saturday, May 14, 2-5pm –

Roses in Bloom event at the Berkeley Rose Garden
(1200 Euclid Ave.)

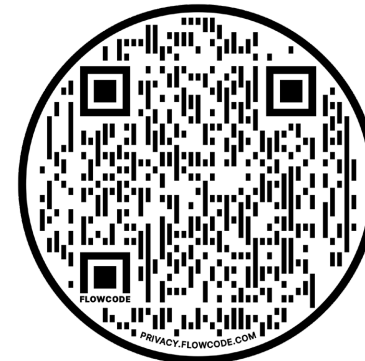
Thursday, May 19, 5-8pm –

Poppin' Thursday All Ages Skate Party at Grove Park
(1730 Oregon St.)

CONTACT US

FOR MORE INFORMATION / SUBSCRIBE TO THE EMAIL LIST

<https://berkeleyca.gov/construction-development/land-use-development/general-plan-and-area-plans/housing-element-update>



By Sunday, May 8th - Renter Survey (4 minutes, \$10 Berkeley Bowl gift card to first 100 respondents!)

Discussion

1. Are there gaps in the preliminary sites inventory?
2. Are there gaps in the proposed housing programs? If so, what are specific implementation steps, metrics, and timelines that can be identified for them?
3. What are specific neighborhoods and actions where certain Housing Programs can focus on?

With the requirements for Affirmatively Furthering Fair Housing (AFFH), the City must identify neighborhoods that the City will direct additional efforts and resources to address disparities in the availability of affordable housing, housing conditions, and neighborhood conditions.

Communications

From: Pearson, Alene
Sent: Thursday, May 5, 2022 12:02 PM
To: Covello, Zoe
Cc: Wu, Grace
Subject: Commissioners interested in attending Housing Element outreach events

Hello Commissioners,
Planning Staff will be “tabling” at the two events listed below to share information on the Housing Element Update. If any Commissioners are interested in attending either of these events, please contact Grace Wu (gwu@cityofberkeley.info) to ensure we don’t reach a quorum.

- **Saturday, May 14, 2-5pm** – Roses in Bloom event at the Berkeley Rose Garden (1200 Euclid Ave.)
- **Thursday, May 19, 5-8pm** – Poppin’ Thursday All Ages Skate Party at Grove Park (1730 Oregon St.)

Thanks!
Alene

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