



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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LINKS:

1. September 21, 2021. *Housing Element Update Work Session 1*. Report from City Manager to Berkeley City Council.
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