

March 22, 2023 Disaster and Fire Safety Commission Meeting

To: Chairperson Bradstreet and Members of the DFSC

From: Commissioner Dean

Subject: State Department of Housing and Community Development letter

Over the past several years, considering the frequency of topics discussed by Disaster and Fire Safety Commission (DFSC) members, development in hazard areas and evacuation routes is a topic of major concern. During this same period of time, cities have been assigned a number of housing units called Regional Housing Needs Allocation (RHNA) goals broken down into household income categories – very-low to above moderate amounts. Berkeley’s current RHNA goals are 8,934 units which are to be achieved within the next 8 years – 2023 – 2031. In order to meet these goals, the State has required that each city in the State produce a Housing Element that would indicate specific sites and areas where development within that city would occur.

The State Department of Housing and Community Development (HCD) sent a letter to Jordon Klein, Berkeley Planning Director dated October 17, 2022 regarding their disapproval of limiting development in the Hillside Overlay District. The letter also dismissed that a March 3, 2022 City “traffic simulation” study done within the Hillside Overlay District regarding strategies for wildfire evacuation was not sufficient evidence to limit ADU/JADU development in the Hillside Overlay District. A copy of the letter is attached.

The City sent a revised version of the required Housing Element to HCD. On February 23, 2023 HCD found the city of Berkeley to be in substantial compliance with State regulations. The approved Housing Element indicates on page 105 that “*The City expects to produce around 75 ADUs or 600 ADUs over the eight-year planning period.*” However, it does not seem to indicate if this is a limit, or if the City would have the authority to refuse a permit to build extra units in such areas as the Hayward Fault Zone, existing designated landslide areas, or on streets that are so narrow that they have been fully recognized by the City as impeding both emergency vehicle access in an emergency or serving as an evacuation route. In City maps regarding evacuation routes most of the streets within Fire Zones 2 and 3 are actually named “evacuation routes. The Safe Passages Program to limit on street parking has been discussed endlessly with few real accomplishments and little enforcement. Also, there continues to be a lack of a requirement to provide parking on-site of new development in many areas.

Further, City maps or other documents are unclear as to specific addresses within the Fault Zone or in designated landslide areas. In addition, the DTSC has sent multiple communications to the Council regarding the vulnerability of areas mostly in West and South Berkeley which have been designated as liquefaction areas which are described in City documents as turning to water when triggered by the major earthquake expected along the Hayward Fault. It is not a question of if that Fault will erupt, it is a question of WHEN it will erupt and is said to be capable of a 6 or 7 eruption and likely to trigger fires when it moves. In addition to concerns about liquefaction, DFSC communications about what will happen to sites on which there is a storage of large amounts of hazardous material such as at the asphalt plant on Virginia in West Berkeley and on the Bayer Campus in South Berkeley have all been ignored. This is also true as to what will happen in Memorial Stadium should there be a major eruption centered in Berkeley at a time when a game or other event is occurring in the Stadium since the State Legislature approved re-building it directly across the Hayward Fault.

The updated Housing Element does indicate that in 2024 there will be a reassessment of hazard mitigation measures. However, in order to carry out the mission of the DFSC, we will need clarification on the extent of development that can happen now since it is proposed that permits be automatically approved without public review. Current levels of development in Berkeley which is more dense than most cities in the East Bay put any people, in all parts of Berkeley, at risk. Increased density has been approved, but we must be very careful and fully informed in how that is being done.