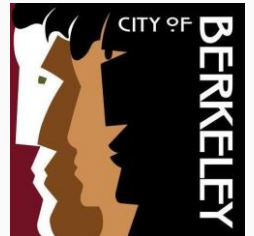


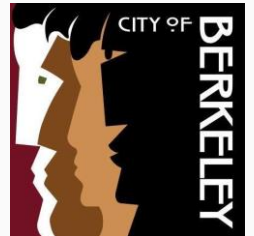
Item 11: State Law & Technical Edits, Take 2

Justin Horner, Associate Planner
Planning Commission, June 7, 2023



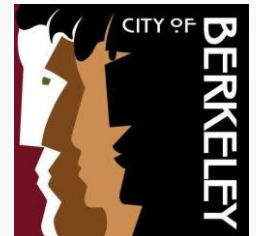
Outline

1. Actions taken at last month's PC meeting
2. New proposed edits, including Supplemental
3. Questions



May 3, 2023 Planning Commission Meeting

- 23.202.020 Allowed Land Uses (Residential Districts)
- 23.202.110 R-4 Multi-Family Residential District
- 23.204.020 Allowed Land Uses (Commercial Districts)
- 23.204.040 Use Specific Regulations (Commercial Districts)
- 23.204.060 C-U University Commercial District
- 23.206.020 Allowed Land Uses and Permit Requirements (Manufacturing Districts)
- 23.206.040 Use Specific Regulations (Manufacturing Districts)
- **23.206.050 Protected Industrial Uses**
- **23.206.080 MU-LI Mixed Use-Light Industrial District**
- 23.302.070 Use-Specific Regulations (Supplemental Use Regulations)
- **23.304.030 Setbacks**
- 23.304.040 Building Separation in Residential Districts
- 23.308.020 Applicability and Nonconformities (Emergency Shelters)
- 23.308.030 Standards for Emergency Shelters
- 23.322.020 Applicability (Parking and Loading)
- 23.322.030 Required Parking
- **23.324.050 Nonconforming Structures and Buildings**
- **23.502.020 Glossary**



23.206.020 Retail, General and Public Markets (Section 6)

Table 23.206-1: Allowed Uses and Manufacturing Districts

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit -- = Permitted with an AUP, see 23.206.020(B) NP = Not Permitted [#] = Floor Area Permit Requirement * Use-Specific Standards Apply	MANUFACTURING DISTRICTS				Use-Specific Standards Applies to uses with an asterisk following the permit requirement (e.g., ZC*)
	M	MM	MU-LI	MU-R	Use-Specific Regulation
Retail Uses					
Retail, General	NP	NP	AUP*[5]	AUP*[3]	23.206.080(-B)(-6); 23.206.090(-B)(-4)

[5] ~~Not permitted over 2,000 sq. ft. Requires a Use Permit for more than 5,000 sq. ft. of floor area.~~

23.206.050 MU-R Protected Uses (Section 10)

~~B. Protected Industrial Uses in the MU-R District.~~

~~1. Protected Industrial Uses Defined.~~ Manufacturing, warehousing, and wholesale trade are protected industrial uses in the MU-R district. Protections apply only to legally established uses.

~~2. Permit Required.~~ Except as allowed by Section 23.206.050.B.4 (Exempt from Permit Requirement), a Use Permit is required to change a protected industrial use to any use that is not a protected industrial use.

~~3. Permit Findings.~~ To approve a Use Permit, when required by Section 23.206.050.B.2 (Permit Required), the review authority must find that:

- ~~a) The change of use will not have a materially detrimental impact on the character of the MU-R district as a light industrial district, with particular reference to the character of the blocks and parts of blocks in the part of the district that is contiguous with the site; and~~
- ~~b) Appropriate mitigation has been made for loss of the manufacturing, wholesale trade, or warehouse space in excess of 25 percent of that space through providing such space elsewhere in Berkeley, payment into the West Berkeley Building Acquisition Fund, or by other appropriate means.~~

~~4. Exempt from Permit Requirement.~~ A protected industrial use may be changed to an art/craft studio or contractor use with the permit required by Section 23.206.020 (Allowed Land Uses and Permit Requirements). Approval of an art/craft studio or contractor use within a protected industrial space does not eliminate any protections for the prior protected use and such protections will remain if the new non-protected use ceases.

23.206.050 MU-R Protected Uses (Section 10)

Table 23.206-8: Protected Non-Industrial Uses

CATEGORY	PROTECTED USES
Category 1	Art/craft studio
Category 2	1) Art galleries, ancillary to art/craft studios and when located in the same building 2) Child care facility 3) Family day care home 4-3) Fine arts performance, instruction and rehearsal studios (dance, music, theater) 5 4) Theaters, stage performance, but excluding motion picture theaters

23.304.030 Setbacks (Section 15)

4. *Accessibility for Persons with Disabilities.* Wheelchair ramps, lifts, and other structures to accommodate persons with disabilities that are less than 30 inches above grade (not including railings) are not subject to minimum setback requirements. Any accessibility feature with a height above grade of 30 inches or more (not including railings) may project into a required setback area with approval of a reasonable accommodation request. See Section 23.406.090 (Reasonable Accommodation). Preferred designs would comply with the following:
- a) One side yard with a pedestrian pathway of at least 3 feet in width that provides access to the rear yard shall be maintained on the lot, and
 - b) The projection may not block access to or encroach into any required off-street parking space or driveway leading to such space unless there is no other feasible location for the accessibility feature.

23.324.050 Nonconforming Structures & Uses (Sections 22, 23, 24 and 25)

Section 22: BMC Section 23.324

Chapter 23.324 Conforming and Nonconforming Uses, Structures, ~~and~~ Buildings, and Lots

Section 23: BMC Section 23.324.010

This chapter establishes regulations for conforming and nonconforming lots, uses, structures, and buildings.

These regulations are intended allow for:

- A. The development and use of lawful nonconforming lots;
- B. Changes to nonconforming uses and the termination of abandoned uses;
- C. Maintenance, repair, and expansion of nonconforming structures and buildings; and
- D. Alterations to nonconforming structures and buildings when needed for public safety.

Section 24: BMC Section 23.324.050

23.324.050 Conforming and Nonconforming Structures and Buildings

Section 25: BMC Section 23.324.050(F)(4)(a)

(a) A conforming or nonconforming residential-only structure or building with four residential units or less, including any accessory structures or buildings, that is involuntarily damaged or destroyed may be replaced or reconstructed with a Zoning Certificate.

23.502.020 Glossary (Section 30) – add before and after

May 2023	Tonight
<p>21. <i>Low Barrier Navigation Center.</i> A Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, healthy services, shelter, and housing. Low barrier includes best practices to reduce barriers to entry, such as allowing partners, pets, storage of personal items, and privacy pursuant to California Government Code Section 65660 and includes services to connect people to permanent housing through a service plan and services staffing and a coordinated entry system pursuant to Section 576.400(d) or Section 578.7(a)(8), as applicable, of Title 24 of the Code of Federal Regulations.</p>	<p>21. <i>Low Barrier Navigation Center.</i> A temporary, low-barrier-to-entry shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, healthy services, shelter, and housing. Low barrier includes best practices to reduce barriers to entry, such as allowing partners, pets, storage of personal items, and privacy pursuant to California Government Code Section 65660 and includes services to connect people to permanent housing through a service plan and services staffing and a coordinated entry system pursuant to Section 576.400(d) or Section 578.7(a)(8), as applicable, of Title 24 of the Code of Federal Regulations.</p>

Questions

