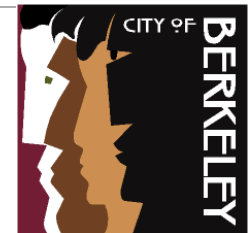


Demolition Ordinance Revisions

PLANNING COMMISSION

OCTOBER 19, 2022



OUTLINE

- ❖ Background / Issue Statement
- ❖ Consultation & Recommendation of 4x4 Committee
- ❖ Existing Ordinance Provisions
- ❖ Outline of the Draft Ordinance
- ❖ Discussion / Public Comment
- ❖ Recommendation

Background / Issue Statement

- ❖ Demolition Ordinance as revised in 2016 to bar most demolitions
- ❖ Mitigation fee was required in 2016 but never set by resolution
- ❖ State law was amended (SB330), effective January 2020
- ❖ Density bonus and housing development projects are required to replace units
- ❖ Affordability is determined based on actual tenant income or area averages
- ❖ Palmer decision previously prohibited setting initial rents of new units
- ❖ Inclusionary housing law now allows setting rents or providing BMR units
- ❖ Berkeley's rent control law does not apply to new units

Consultation and 4x4 Recommendation

- ❖ Staff from Planning, Rent Board and Housing have worked together
- ❖ Planning Commission and Housing Advisory Committee provided feedback
- ❖ 4x4 Committee of Council and Rent Board members considered issues
- ❖ City Attorney and Rent Board attorneys provided review
- ❖ Draft was recommended by the 4x4 Committee with technical edits by staff

Existing Ordinance Provisions

❖ Situations Addressed

- ❖ Demolition
- ❖ Elimination / Combination
- ❖ Conversion to Other Uses

❖ Findings

- ❖ Necessary for new housing, moving to another location
- ❖ Not habitable / repairable
- ❖ For other public purpose / benefit
- ❖ Owner move-in allowed

❖ Requires Replacement or Fee

❖ Protects Tenants During Displacement, Provides First Right of Refusal

❖ Prohibits Demolition if Ellis Act or Unlawful Eviction

Outline of Draft Ordinance

- ❖ Includes residential units of all kinds, including dwellings, live/work and GLA
- ❖ Carries forward Ellis Act and owner move-in restrictions
- ❖ Carries forward relocation assistance and first right of refusal
- ❖ Removes option to pay a mitigation fee
- ❖ Clarifies requirement that units be BMRs according to local inclusionary ord.
- ❖ Adds requirement that sitting tenants be allowed to occupy new units as BMRs or in another unit at the same rent and with limited rent increases if they do not qualify for BMR unit
- ❖ Clarifies other provisions re: unit combination, owner move-in with no new construction

Discussion / Public Comment

- ❖ Illegally created units
 - ❖ New provisions apply to legally created units
 - ❖ Illegal units are usually required to be removed
 - ❖ Occupied units would still have tenant protections
 - ❖ Demolition could be conditioned on legal vacancy
 - ❖ No replacement units would be required
- ❖ Should the ordinance retain protections on single-family units?
 - ❖ Draft applies to combinations, but not to single-family units generally
- ❖ What happens if rental units are replaced with ownership units?
 - ❖ Generally, BMRs are required for ownership as well, with price restrictions
 - ❖ Returning tenants could be provided a rental unit within a condo building