



Office of the Mayor

ACTION CALENDAR

June 3, 2014

TO: Members of the City Council

FROM: Mayor Tom Bates

SUBJECT: Report on Impacts of “Initiative Ordinance Amending Downtown Zoning Provisions and Creating Civic Center Historic District Overlay Zone”

RECOMMENDATION:

Request that the City Manager prepare a report on the impacts of the proposed initiative measure titled “Initiative Ordinance Amending Downtown Zoning Provisions and Creating Civic Center Historic District Overlay Zone.” The range of impacts to be considered should include those listed in Section 9212 of the California Elections Code (also listed below in the “Background” section of this item), plus the impact on city policies regarding the Civic Center Historic District. The report should be submitted to the Council no later than July 29, 2014.

FISCAL IMPLICATIONS OF RECOMMENDATION:

Staff time will be required to prepare the report.

BACKGROUND:

On April 8, 2014, a Notice of Intent to Circulate Petition was submitted to the City with proposed changes in the Zoning Ordinance. The measure’s title prepared by the City Attorney is “Initiative Ordinance Amending Downtown Zoning Provisions and Creating Civic Center Historic District Overlay Zone.” The legal notice was published in the Daily Californian on May 1, 2014. Petition supporters began collecting signatures in early May.

Section 9212 of the California Elections Code authorizes a local legislative body, before deciding whether to adopt an initiative ordinance or to place it on the ballot, to refer the proposed measure to any city agency or agencies for a report on any or all the following:

- (1) *Its fiscal impact.*
- (2) *Its effect on the internal consistency of the city’s general and specific plans, including the housing element, the consistency between planning and zoning, and the limitations on city actions under Section 65008 of the Government Code and Chapters*

4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

(3) *Its effect on the use of land, the impact on the availability and location of housing, and the ability of the city to meet its regional housing needs.*

(4) *Its impact on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks, and open space. The report may also discuss whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of infrastructure maintenance, to current residents and businesses.*

(5) *Its impact on the community's ability to attract and retain business and employment.*

(6) *Its impact on the uses of vacant parcels of land.*

(7) *Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization.*

(8) *Any other matters the legislative body requests to be in the report.*

The proposed measure would alter zoning regulations in the downtown area and Civic Center Historic District. A report on potential significant impacts would provide important information for the Council in deciding how to proceed.

ENVIRONMENTAL SUSTAINABILITY

The proposed initiative would amend the "Green Pathway" option under the Zoning Ordinance in the Downtown Area, which provides for extra green community benefits beyond those established in the existing ordinance. Among the changes would be elimination of the pre-application review of Green Pathway projects by the Landmarks Preservation Commission and "as of right" approvals for buildings 75 feet tall or less under the Green Pathway. It would reduce the maximum height limit from 75 feet to 60 feet except for specified taller buildings, and it would set additional requirements for buildings over 60 feet tall, including LEED Platinum rating.

CONTACT PERSON:

Tom Bates

Mayor

981-7100

ATTACHMENT:

1. Title and Summary

Title and Summary for Initiative Measure

Initiative Ordinance Amending Downtown Zoning Provisions and Creating Civic Center Historic District Overlay Zone

The proposed initiative measure would amend various provisions of the Zoning Ordinance applicable in the Downtown Area.

It would amend the "Green Pathway" provisions of Chapter 23B.34 of the Zoning Ordinance to:

- eliminate mandatory pre-application review of Green Pathway projects by the Landmarks Preservation Commission;
- eliminate any "as of right" approvals for buildings 75 feet or less under the Green Pathway;
- reduce the affordable housing requirement for Green Pathway projects that are 60 feet in height or less (50 feet or less in the C-DMU "buffer" subarea) that contain residential units;
- require all buildings over specified height limits to provide certain benefits;
- increase the percentage of construction workers who must be Berkeley residents from 30% to 50%;
- require all buildings over 60 feet in height (50 feet in the C-DMU "buffer" subarea) to meet various additional requirements, including LEED Platinum rating, public restrooms, an additional streets and open space impact fee and additional affordable units in projects containing residential units.
- These requirements would require modification of applications pending as of November 4, 2014.

It would amend the "C-DMU (Downtown Mixed Use District)" provisions of Chapter 23E.68 of the Zoning Ordinance to:

- modify certain permitted uses;
- allow commercial uses to operate from 6:00 a.m. to 2:00 a.m. seven days per week, but require uses with alcohol sales or service to close by midnight Sunday through Thursday, and allow them to operate past 2:00 a.m. Fridays and Saturdays;
- reduce the maximum height limit from 75 feet to 60 feet (50 feet in the C-DMU "buffer" subarea), except for specified taller buildings;
- eliminate flexibility with respect to setbacks;
- establish an open space in-lieu fee in addition to the existing streets and open space impact fee;
- increase (up to triple) parking requirements in the C-DMU "buffer" subarea, require one bike parking space per unit, limit parking waivers to 70% of parking if an in-lieu fee is paid, require additional handicap, electric vehicle and car sharing spaces;
- require new buildings to attain a LEED Gold rating and increased energy efficiency;
- prohibit any new project from creating runoff;
- require on-site composting and recycling facilities;
- require new projects to contribute 50 cents per square foot to a loan fund for businesses who seek to retain or create jobs in Berkeley.

It would create an overlay district in the Civic Center Historic District designated by the Landmarks Preservation Commission, that would limit heights to 50 feet, limit permissible uses in the commercial parts of the new overlay to libraries, other governmental uses, museums, parks and playgrounds, public schools, public markets, live performance theaters, and non-profit cultural, arts, community service and historical organizations; and would permit those new uses in the residential part of the new district (along Martin Luther King, Jr. Way), subject to underlying parking, setback and other lot development standards.

