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ACTION CALENDAR

July 25, 2017

To: Honorable Mayor and Members of the City Council

From: Councilmember Lori Droste

Subject: Friendly Amendments to “Expedited Review for Affordable Housing Projects”

Note: **original draft language by Councilmembers Hahn, Davila, and Bartlett is italicized*
***revised language by Councilmembers Hahn, Davila, Bartlett and Harrison is in plain text*
****[new proposed friendly amendments by Councilmember Droste is tracked and underlined.](#)*
*****[DROSTE AMENDED AMENDMENTS IN ALL CAPS.](#)*

RECOMMENDATION

1. Refer to the City Manager the creation of an expedited review process for housing projects in which Affordable Housing units make up more than 20% of the proposed onsite units ([qualifying projects described in the background section](#)); and
2. Direct the City Manager to immediately confer priority status and offer [expedited a special “fast track” review and refer to the Planning Commission to recommend to the Council within 90 days zoning ordinance amendments that would allow ministerial approval of zoning-compliant affordable housing](#) projects with 80% or more affordable housing; [and](#)
3. [Request that the City Manager returns to Council with an update and recommendations from the Green Affordable Housing package streamlining provision \(Council’s top priority in 2016\).](#)

FINANCIAL IMPLICATIONS

Staff time [and the potential costs associated with the consultants needed to expedite plan review.](#)

BACKGROUND

[If Council approves these streamlining recommendations, it will be easier, faster, and cheaper to create affordable housing in Berkeley. At least one year of delays will be eliminated from the project review process. According to the nonpartisan Legislative Analyst's Office, "researchers have linked additional review time to higher housing costs. A study of jurisdictions in the Bay Area found that each layer of independent review was associated with a 4% increase in a jurisdiction's home prices \(California's High Housing Costs: Causes and Consequences, 2015\)."](#)

Cities throughout the Bay Area, including Berkeley, suffer from a lack of affordable housing development. Over the past two decades, rents have skyrocketed, and many low- and middle-income families have been forced out of Berkeley, due to lack of affordability. Alleviating this crisis is one of Berkeley's top priorities, and all possible steps must be taken to support increases in Berkeley's affordable housing stock.

[This proposal reflects Berkeley City Council's ongoing desire for streamlining \(expediting\) the affordable housing development review process. In October 2015, Berkeley City Council unanimously passed the Green Affordable Housing package, which contained a streamlining provision. The Planning Commission and staff have been consistently working on this referral for over a year as it was the top priority of 2016. In addition, Councilmember Worthington also introduced and successfully passed a proposal in January 2016 to streamline affordable housing projects. Berkeley City Council and community members have acknowledged that we don't want to delay the construction of affordable housing. We need affordable housing now, not three years from now!](#)

In 2016, the Berkeley City Council determined that development projects could provide a number of units equal to 20% of the project's proposed market rate units at specified levels of affordability, in lieu of paying the City's Affordable Housing Mitigation Fee (see Attachment 1, BMC 22.20). [In June 2017, Council specified that 20% of the project's total units should be in-lieu affordable units.](#) Expedited review of projects offering more than 20% affordable housing built on site (from 21-100% of units) will help not-for-profit affordable housing developers move projects forward in an expeditious manner and reward for-profit developers who go above and beyond the city's baseline inclusionary Affordable Housing requirement.

All projects with greater than 20% affordable housing shall be subject to the expedited review process, receiving priority review and meeting explicit accelerated timelines. Among projects qualifying for expedited review, those offering the greatest absolute number of affordable housing units (cumulative units at [extremely low](#), very low ([0-50% AMI](#)), low ([50-80% AMI](#)), and/or moderate income ([80-120% AMI](#)) levels), and/or projects with restricted timelines to seek public or private affordable housing funds, will receive the highest priority.

Area Median Income Limits for Household Sizes (Source: HUD, June 2017)

| <u>Household Size</u> | <u>0–50% AMI</u> | <u>50%–80% AMI</u> | <u>80%–120% AMI</u> |
|-----------------------|---------------------|--------------------------|---------------------------|
| <u>1</u> | <u>\$0-\$36,550</u> | <u>\$36,551–\$56,330</u> | <u>\$56,331–\$81,850</u> |
| <u>2</u> | <u>\$0–\$41,750</u> | <u>\$41,751–\$64,350</u> | <u>\$64,350–\$93,500</u> |
| <u>3</u> | <u>\$0–\$46,950</u> | <u>\$46,951–\$72,400</u> | <u>\$72,401–\$105,200</u> |
| <u>4</u> | <u>\$0–\$52,150</u> | <u>\$52,151–\$80,400</u> | <u>\$80,401–\$116,900</u> |

Like most cities across California, Berkeley struggles to create enough below market rate units. In particular, the City has not produced its fair share of the goals set by the Association of Bay Area Government’s Regional Housing Needs Allocation for very low, low, and moderate income units. We need to make it easier to create those units.

The types of projects that are eligible for a expedited approval process include:

1. AFFORDABLE HOUSING PROJECTS: Zoning compliant projects with 80% or more onsite below market rate units.
2. HOUSING PROJECTS THAT PROVIDE EXTRA AFFORDABLE UNITS: Zoning compliant projects that **exceed** the city’s established standards for on-site below market rate affordable housing (BMR in-lieu unit) percentages.
3. HOUSING PROJECTS THAT INCLUDE **BOTH** LOW-INCOME AND MIDDLE INCOME UNITS. Zoning compliant projects that **exceed** the city’s established percentages (currently 20%) for on-site affordable housing by including **WORKFORCE HOUSING** units for middle income earners (80% AMI-130% AMI). **IN BERKELEY, TEACHERS, JANITORS, LIBRARIANS, CITY STAFF, FIREFIGHTERS AND POLICE OFFICERS AND THEIR FAMILIES COULD BE ELIGIBLE FOR THESE UNITS.** For these types of projects, at least half of the onsite in lieu units must be designated for middle income earners while the remaining percentage is reserved for low or very low income earners (0-80% AMI).

The recommended streamlined approval process for projects that include extra affordable housing above and beyond current requirements are as follows:

- A special “fast track” approval process which consists of ministerial approval and in-house staff design review for affordable housing projects offering 80% or more affordable housing units (#1)
- A expedited approval process for projects that provide affordable units above and beyond current City requirements (#2 & #3). **AS LONG AS THE PROJECT FULLY CONFORMS WITH ALL PROVISIONS OF THE ZONING CODE–IN THE BASE PROJECT BEFORE THE STATE DENSITY BONUS–THE PROJECT CANNOT BE SUBJECTED TO AREA REDUCTION (MASSING ADJUSTMENTS ARE PERMITTED).**

This expedited approval process recommendations are as follows:

- [Prioritization in the staff review queue.](#)
- [Once complete, staff should submit a report with the CEQA determination to Design Review COMMITTEE and the Zoning Adjustments Board as soon as possible \(ideally within one month\).](#)
- [The Design Review COMMITTEE reviews AND APPROVES project during one hearing WITH and submits comments/CONDITIONS.](#)
- [After Design Review COMMITTEE reviews project, it moves directly to the Zoning Adjustments Board \(ZAB\) for immediate scheduling and one hearing.](#)
- [THE ZONING ADJUSTMENT BOARD REVIEWS AND APPROVES PROJECT DURING ONE HEARING WITH COMMENTS/CONDITIONS.](#)
- [If a project is appealed after the ZAB hearing, within 30 days after the expiration of the appeal period, the matter shall be presented to the City Council as a public hearing action item for possible decision that night. The Council may not remand back to the ZAB but may continue the public hearing as necessary to remedy any outstanding issues.](#)
- [Once the project is submitted to the building department, it will receive priority status. The first round of plan check comments will be submitted as quickly as staff can provide them \(ideally within a month\).](#)
- [Responses to the resubmittal will be provided as soon as possible and additional new comments should be minimized unless they pertain to health and safety.](#)

In the past, the City of Berkeley has developed expedited entitlement processes for development projects that are in line with key priorities. Specifically, the Downtown Plan includes “Green Pathway” provisions, with a streamlined permit process for buildings that exceed certain requirements in the C-DMU Area (see Attachment 12: Green Pathway Ordinance, BMC Chapter 23B.34).

Creating an expedited process for projects with significant affordable housing will help spur additional development of much-needed Affordable Housing, ease the permitting process for developments whose projects are closely aligned with the City’s top development priority, and incentivize the *inclusion of Affordable Housing above and beyond the legally mandated amount*. An expedited review process will also support not-for-profit developers in meeting timelines to obtain scarce and impactful *affordable housing* funds.

In the interim, while the City Manager develops a formal process for expedited review of all projects with more than 20% Affordable units on site, all projects with 80% or more Affordable Housing shall receive top priority status and accelerated processing and review [while the Planning Commission will provide zoning ordinance amendment recommendations within 90 days that would allow ministerial approval of zoning-compliant affordable housing projects.](#)

ENVIRONMENTAL SUSTAINABILITY

This recommendation is consistent with Berkeley’s environmental sustainability goals.

CONTACT PERSON

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