



Kate Harrison  
Councilmember, District 4

## **REVISED AGENDA MATERIAL for Supplemental Packet 2**

**Meeting Date:** December 11, 2018

**Item Number:** 26

**Item Description:** Referral to the City Manager and Planning Commission to Update the Housing Pipeline Report to Address Timeline between Planning Entitlements and Submission of Building Permit Applications and Consider Reasons for Delay

**Submitted by:** Councilmember Harrison

Included the Planning Commission in the referral and clarified that litigation may lead to project delays.



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Councilmember District 4

ACTION CALENDAR  
December 11, 2018

To: Honorable Mayor and Members of the City Council  
From: Councilmember Harrison  
Subject: Referral to the City Manager [and Planning Commission](#) to Update the Housing Pipeline Report to Address Timeline between Planning Entitlements and Submission of Building Permit Applications and Consider Reasons for Delay

RECOMMENDATION

Referral to the City Manager to include in the Housing Pipeline Report an analysis of the time between planning entitlements and building permit requests for all projects of five units or greater over the past five years. On an ongoing basis, refer to the City Manager and [Planning](#) Commission to propose changes to current Planning approval process to address the causes of delays between entitlements and building permits for construction or substantial rehabilitation of five or more dwelling units.

BACKGROUND

Berkeley's ability to provide housing and amenities is dependent on city development proceeding in a timely and prompt manner. Once entitlements are approved by the Planning Department and, if appealed, the Zoning Adjustments Board and City Council, the onus to move forward with applying for building permits becomes the responsibility of the project developer. Buildings over 75 feet in the Downtown area are required to submit their building permit application within one year of being granted a planning entitlement, with an automatic one year extension subsequent extensions being given at the discretion of staff (see BMC 23E.68.070.B.3). No similar requirement exists for other projects. Some projects that have been granted planning permission in the past few years have not submitted applications for building permits in an expeditious time frame. There are at least five projects with 279 net housing units for which the duration between entitlement and requested building permit exceeded two years<sup>1</sup>; the time period between entitlement and building permit in one project was nine years.

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<sup>1</sup> Not including one in the Downtown which falls under separate provisions.

<b>Projects with housing units for which the duration between entitlement and requested building permit exceeded two years</b>				
<b>Address</b>	<b>Entitlement Date</b>	<b>Building Permit Requested</b>	<b>Gap Between Entitlement and Building Permit</b>	<b>Total Units</b>
2902 Adeline	10/27/2016	None	N/A	48
3051 Adeline	4/28/2016	None	N/A	11
2748 San Pablo	9/10/2007	11/1/2016	9.15	23
2526 Durant	2008	5/30/2014	5.41-6.41	42
2598 Shattuck	4/22/2010	6/27/2014	4.18	32
2600 Shattuck	4/22/2010	6/27/2014	4.18	123
				<b>Combined Total: 279</b>

There are many reasonable hardships that building projects face, leading to delays in the building permit application process. This includes increases to costs, for example the unusual increase in construction costs in recent years. In addition, land speculation by developers, with repeated sale of entitlements, can hinder housing construction in Berkeley. This is particularly true in the Downtown where only five buildings over 75 feet can be constructed, making those planning permits especially valuable. Finally, internal City process may lead to delays. [In addition, litigation can lead to project delays.](#)

It is incumbent on the City to examine the status of these projects so it can address barriers and expedite construction. For cases of delays without reasonable mitigating circumstances, the City should have means to encourage developers to promptly proceed with construction.

We refer to the City Manager to draft a proposal to address this issue. The proposal from Planning should consider a one-year deadline from final planning permission for developers of projects of five or more units to submit building permit applications, with an automatic one-year extension is common practice in the Downtown Plan. Beyond an initial extension, all subsequent extensions would require an explanation of the valid mitigating circumstances through an information item to the City Council, as occurs with projects executed under the Downtown Plan.

In addition, as the Planning Department updates its Housing Pipeline Report, it should include an analysis of the delays between the entitlement and submission of building permit requests for all projects of five units or greater over the past five years.

#### FINANCIAL IMPLICATIONS

Staff time.

#### ENVIRONMENTAL SUSTAINABILITY

Consistent with the City's climate and environmental goals.

#### ATTACHMENTS

1. BMC 23E.68.070

#### CONTACT PERSON

Councilmember Kate Harrison, Council District 4, 510-981-7140

Berkeley Municipal Code 23E.68.070.B.3

3. Application process for buildings over 75 feet in height:
  - a. Applications for any of the five buildings over 75 feet in height may be submitted on July 1, 2012. If no applications that satisfy the submittal requirements as determined by the Zoning Officer are submitted on that date, then the next deadline to submit applications will be no later than six months from that date, with application opportunity dates at six month intervals until the first application has been submitted. Once the first application has been submitted, then the application opportunity date will occur once yearly on the anniversary of the date of the first submittal.
  - b. A project shall secure a position as one of the five allowed buildings over 75 feet in height following final Use Permit approval. Such Use Permits shall include a condition of approval that establishes a schedule for: submittal of a building permit application, timely response to plan check comments, payment of building permit fees such that a building permit can be issued, and commencement of construction. The process for allowing extension of the timeline requirements, if any, shall be specified in the condition.
  - c. Failure of a permittee to strictly comply with the schedule established by the Use Permit shall be grounds for revocation of the Use Permit pursuant to Chapter [23B.60](#).