

City Attorney's Impartial Analysis

This measure would amend the West Berkeley Plan ("Plan") and the Zoning Ordinance to allow more flexibility in development of large parcels in West Berkeley that are under the same ownership, if they are approved through the Master Use Permit ("MUP") process.

Currently, only sites of at least four acres under the same ownership are eligible for MUPs. This measure would make sites under 4 acres under the same ownership that also comprise a full city block eligible, and would limit MUPs to parcels that were eligible on August 1, 2011.

Only 6 MUPs could be approved during the next 10 years; after that there would be no limitation.

Material amendments:

Increased residential density in Mixed Use – Residential ("MU-R") areas within MUP sites. Currently, the density in MU-R areas is one unit for every 1,250 square feet of land area. The amendments would remove that limitation for MU-R areas that are part of a MUP site.

Additional development flexibility. Development standards for MUP sites would be revised to allow alteration of nine lot development standards if certain findings are made. The main development standards that could be altered are:

- Height could be increased in areas of MUP sites zoned for manufacturing from 45 feet to 75 feet. Height limits in areas of MUP sites zoned for commercial uses would be unchanged (maximum of 50 feet for a mixed use building except as allowed by state density bonus law). Heights limits in areas of MUP sites in the MU-R district would be increased to a maximum of 45 feet except as allowed by state density bonus law, with additional limitations on height at the property line for areas adjacent to MU-R areas that are not part of the MUP site.
- MUPs would be limited to a site – wide average height of 50'.
- Required parking could be reduced by up to 50%.
- The floor area ratio of an MUP site would be increased from 2.0 to a maximum of 3.0, except in MU-R portions where the maximum would be 1.5.
- Certain uses allowed in Mixed Use – Light Industrial ("MU-LI") zones but not in MU-R zones could be placed anywhere within a MUP site, subject to findings and limitations. Four types of uses would be excluded from MU-R areas: construction products manufacturing; pharmaceutical manufacturing; testing and commercial

biological research laboratories; and commercial excavation. No Research and Development allowed in a MU-LI district could be located in a MU-R district without specific findings of compatibility.

Community benefits. No MUP could be approved until the City Council has adopted requirements for community benefits that would have to be provided by any MUP, but which could not otherwise be required.

Aquatic Park protections. No MUP would be approved adjacent to Aquatic Park until the City Council has adopted specific protection measures for Aquatic Park.

The Council could amend this measure but could not increase the aggregate amount of development allowed.

s/ZACH COWAN
Berkeley City Attorney