



Office of the City Manager

PUBLIC HEARING
January 20, 2026

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Jordan Klein, Director, Planning and Development Department

Subject: Amendments to Title 23 (Zoning) to permit by-right approval of qualifying housing projects on sites identified in previous Housing Elements, and revisions related to Design Review

RECOMMENDATION

Conduct a public hearing, and upon conclusion, adopt a first reading of an ordinance amending Title 23 (Zoning) to permit by-right approval of qualifying housing projects on sites identified in previous Housing Elements, and revisions related to Design Review for such projects and for residential projects in the Multi-Use Residential (MU-R) zoning district.

SUMMARY

The amendments in the proposed ordinance (**Attachment 1**) include:

- Implement Program 32 of the Housing Element, and bring the Zoning Ordinance into compliance with State law, by permitting by-right approval of qualifying housing projects on sites identified in previous Housing Elements; and
- Revise Design Review requirements for such projects, and for residential projects in the Multi-Use Residential (MU-R) zoning district. These revisions would preserve staff-level design review, include an advisory visit to the Design Review Committee (DRC), and would remove a right of appeal for these projects based on Design Review-related decisions.

FISCAL IMPACTS OF RECOMMENDATION

The proposed Ordinance amendments, which would allow by-right approvals for projects in certain locations and would also partially streamline the Design Review process for some projects, may result in marginal savings of staff time and related costs. Such savings would be offset by reduced fee revenues.

CURRENT SITUATION AND ITS EFFECTS

By-Right Approval of Projects on Previous Housing Element Sites

Pursuant to Government Code Section 65583.2(c), a non-vacant site that has been identified as a housing opportunity site in a prior Housing Element, or a vacant site that has been included in two or more consecutive Housing Element planning periods, must allow residential uses by right (i.e., with a Zoning Certificate) for housing developments in which at least 20% of the units are affordable to lower income households. The City Council committed to amending Title 23 to conform with this requirement in Program 32 (By-Right Approval on Reused Sites for Affordable Housing) of the City's *2023-2031 Housing Element Update*.¹

There are currently 14 sites on which projects that include at least 20% affordable housing would be approved by right under the proposed amendments. They are listed below and included in the map in **Attachment 2**.

1. 2108 Allston Way (C-DMU)
2. 2104 Dwight Ave. (C-AC)
3. 1049 Gilman Street (C-W)
4. 1111 University Ave. (C-U)
5. 1819 San Pablo Ave. (C-W)
6. 2040 San Pablo Ave. (C-W)
7. 2197 San Pablo Ave. (C-W)
8. 2400 San Pablo Ave. (C-W)
9. 2424 San Pablo Ave. (C-W)
10. 2546 San Pablo Ave. (C-W)
11. 1451 Shattuck Ave. (C-NS)
12. 2450 Shattuck Ave. (C-DMU)
13. 2627 Shattuck Ave. (C-AC)
14. 2821 Shattuck Ave. (C-SA)

As future Housing Elements are adopted, the list of eligible parcels could change. Any developed parcels would no longer qualify, and any new parcels which meet the requirements of the proposed ordinance would be added in future Housing Element cycles.

Government Code Section 65583.2(i) provides jurisdictions the option of applying Design Review to Program 32 projects. Pursuant to state law, Design Review for projects that qualify under Government Code Section 65583.2(i) would not be considered a project for the purposes of CEQA.

¹ [2023-2031 Housing Element Update](https://berkeleyca.gov/sites/default/files/documents/Berkeley_2023-2031%20Housing%20Element_02-17-2023v2_0.pdf), pp. 150-151.
https://berkeleyca.gov/sites/default/files/documents/Berkeley_2023-2031%20Housing%20Element_02-17-2023v2_0.pdf

Design Review Requirements and Program 32 Sites

BMC Section 23.406.070 subjects all projects in Non-Residential zoning districts to Design Review. All of the sites that currently meet the Program 32 requirements are in Commercial (that is, Non-Residential) zoning districts, and are therefore subject to Design Review. The California Government Code provides jurisdictions with the option of subjecting eligible projects on Project 32 sites to existing design review requirements.

Existing Design Review requirements include a right to appeal decisions of the DRC, as well as staff-level design review determinations, to the ZAB and to the City Council. Therefore, projects on Program 32 sites that would otherwise be approvable with a Zoning Certificate may be subject to procedural delays based on appeals of design review decisions.

Design Review Requirements and Middle Housing in the MU-R Zoning District

BMC Section 23.406.070 subjects all projects in Non-Residential zoning districts to Design Review. The Mixed Use-Residential (MU-R) zoning district is classified as a Manufacturing District and therefore a Non-Residential District, and projects proposed on MU-R sites are subject to Design Review. In July 2025, the City Council adopted the Middle Housing zoning standards, which granted ministerial approval for residential uses in the MU-R zoning district that comply with objective development standards. Notably, the Middle Housing zoning standards did not include a pathway for appeals of code compliant projects.

Before the Middle Housing zoning changes, residential projects in the MU-R required a Use Permit, which included a required hearing before the DRC. However, projects with fewer than five units in the MU-R district were approvable with an Administrative Use Permit (AUP), which did not require a hearing before the DRC, but were subject to staff-level design review. Existing Design Review requirements include a right to appeal decisions of the DRC, as well as staff-level design review determinations, to the ZAB and to the City Council. Therefore, Middle Housing projects in the MU-R zoning district that would otherwise be approvable with a Zoning Certificate may be subject to procedural delays based on appeals of design review decisions.

BACKGROUND

Planning Commission Meeting: December 3, 2025

At its meeting on December 3, 2025, the Planning Commission conducted a public hearing on Zoning Ordinance changes to implement Program 32 of the Housing Element and to consider changes to Design Review requirements for Program 32 projects and residential projects in the MU-R zoning district.

The Planning Commission expressed support for the intent of both Program 32 and the Middle Housing zoning changes to streamline approvals of new housing. The Planning Commission acknowledged the benefits of Design Review in improving project design

but did not want to subject Program 32 and residential projects in the MU-R to potential delays and additional costs related to possible design-review related appeals. While design review appeals are permitted under the BMC, they are rare; staff recall fewer than five such appeals over a 20-year period. However, as nearly all residential projects in previous decades have required Use Permits and Public Hearings, appellants may have been more likely to utilize the Use Permit appeal pathway than the one offered by Design Review. With ministerially approved projects, the design review appeal pathway would be the only appeal pathway available to those with concerns or opposition to proposed projects. Therefore, there may be more instances of design review-based appeals moving forward.

After discussion, the Planning Commission recommended:

- Retain staff-level design review for projects that meet Program 32 requirements and for residential projects in the MU-R zoning district.
- For Program 32 projects and for residential projects in the MU-R zoning district of five units or more, require a single visit to the DRC for non-binding input on design related issues. Such input would not be considered a “decision,” for the purposes of appeal rights.

As noted above, before the Middle Housing zoning changes, projects of fewer than five units in the MU-R were not required to be heard before the DRC. The Planning Commission therefore exempted these projects from the requirement to visit the DRC, as that would constitute an additional procedural step that was not required prior to the Middle Housing zoning changes.

- Exempt staff-level Design Review conducted under this section from appeal.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The proposed Ordinance would require by-right approval (i.e., no discretionary review process) of certain qualifying housing development projects on specific sites. An action that does not include agency discretion does not meet the definition of a project (California Public Resources Code §21065) under CEQA. Therefore, projects approved pursuant to the proposed Ordinance would not be subject to CEQA. Additionally, development on these sites was analyzed as part of the Final EIR for the *2023-2031 Housing Element Update*.

The proposed Ordinance includes a provision applying design review to qualifying projects. Pursuant to Government Code Section 65583.2(i), such design review would not constitute a project under CEQA.

RATIONALE FOR RECOMMENDATION

The proposed Ordinance amendments to codify Program 32 were included in the 2023-2031 Housing Element Update and are required under State law.

The proposed Ordinance amendments related to Design Review would preserve the existing benefits of staff-level and DRC consultation on design-related issues, without resulting in process-related delays, or providing an appeal pathway for projects that are otherwise approvable ministerially.

ALTERNATIVE ACTIONS CONSIDERED

Staff recommended that the Planning Commission consider exempting Project 32 projects from Design Review entirely, as permitted under State law.

CONTACT PERSON

Justin Horner, Principal Planner, Planning and Development, 510-981-7476

Attachments:

- 1: Ordinance
- 2: Map of Program 32 sites
- 3: Planning Commission Staff Report and Adopted Planning Commission Resolution, December 3, 2025.
- 4: Public Hearing Notice

ORDINANCE NO. -N.S.

AMENDMENTS TO TITLE 23 (ZONING) TO PERMIT BY-RIGHT APPROVAL OF QUALIFYING HOUSING PROJECTS ON SITES IDENTIFIED IN PREVIOUS HOUSING ELEMENTS

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That the lines “Multi-Unit Residential” and “Mixed-Use Residential” in Table 23.204-1 in BMC Section 23.204.020 be amended to read as follows:

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit NP = Not Permitted -- = Permitted with AUP, see 23.204.020(B) [#] = Table Note Permit Requirement * Use-Specific Regulations Apply	COMMERCIAL DISTRICTS											USE-SPECIFIC REGULATIONS
	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
Residential Uses												
Multi- Unit Residential	UP(H) <u>]</u>	UP(PH)*	UP(PH) <u>]</u>	UP(PH)*	UP(PH) <u>]</u>	UP(PH) <u>]</u>	UP(PH)*	UP(PH) <u>]</u>	UP(PH) <u>]</u>	UP(PH)*	UP(PH) <u>]</u>	23.204.060.B.3; 23.302.070.H 23.302.070(M)
Mixed-Use Residential	UP(PH)*	UP(PH)*	UP(PH) <u>]</u>	UP(PH)*	UP(PH) <u>]</u>	UP(PH) <u>]</u>	UP(PH)*	UP(PH) <u>]</u>	UP(PH) <u>]</u>	UP(PH)*	UP(PH) <u>]</u>	23.204.060.B.3; 23.302.070.H 23.302.070(M)

Section 2. That BMC Section 23.302.070(M) be added to read as follows:

M. Housing Element Opportunity Sites. Pursuant to Government Code Section 65583.2(c), a non-vacant site that has been identified as a housing opportunity site in a prior housing element and a vacant site that has been included in two (2) or more consecutive housing element planning periods shall be allowed residential use by right (with approval of a building permit) for housing developments in which at least twenty percent (20%) of the units are affordable to lower income households. Pursuant to Government Code Section 65583.2(i), the development shall comply with all objective development standards and a proposed subdivision of the property shall be subject to all laws, including, but not limited to, city ordinances implementing the Subdivision Map Act. If applicable, such projects shall be subject to [staff-level](#) design review pursuant to BMC Section 23.406.070(C)(2)(D).

Section 3. That the line “Multi-Unit Residential” in Table 23.206-1 in BMC Section 23.206.020 be amended to read:

	M	MM	MU-LI	MU-R	M-RD	Use-Specific Standards
Multi-Unit Residential	NP	NP	NP	ZC*	NP	23.206.090(B)(8) 23.406.070(C)(2)(d)

Section 4: That BMC Section 23.406.070(C)(2) be amended to read as follows:

2. Projects Not Requiring a Use Permit.

(a) For a project that does not require a Use Permit, Department staff conducts Design Review before the Zoning Officer takes action on the required permit or approval.

(b) The Zoning Officer will consider the Design Review recommendations when acting on the required permit or approval. The Zoning Officer may require modifications to the project design as a condition of approval.

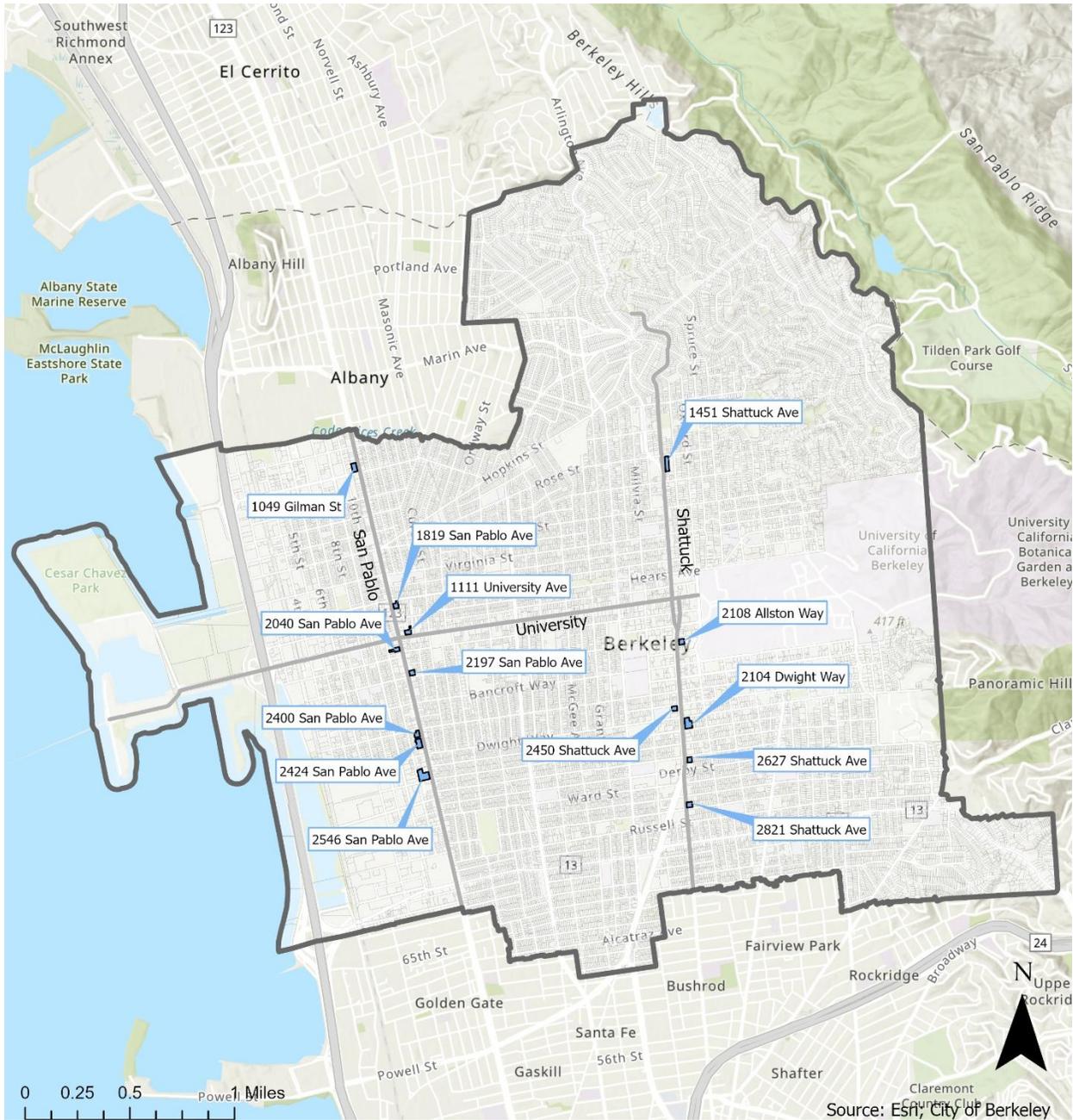
(c) The Department will verify conformance with Design Review recommendations and design-related conditions of approval when issuing a building permit, sign permit, or Zoning Certificate for the project. Final Design Review is not required.

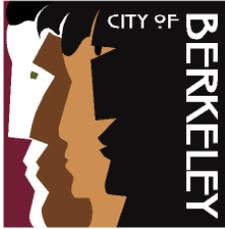
(d) Multi-Unit Residential in the MU-R, and Housing Element Opportunity Site Projects (BMC Section 23.302.070(M)):

1. For projects including 5 or more units, staff shall schedule a single consultation meeting of the Design Review Committee for non-binding input on design-related issues; and
2. Staff-level design review conducted under this section shall not be subject to the Appeal provisions of 23.406.070(O).

Section 5: Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

Parcels currently subject to proposed Zoning Ordinance amendment





Planning and Development Department
Land Use Planning Division

STAFF REPORT

DATE: December 3, 2025

To: Members of the Planning Commission

From: Justin Horner, Principal Planner

Subject: Amendments to Title 23 (Zoning) to permit by-right approval of qualifying housing projects on sites identified in previous Housing Elements, and revisions related to Design Review for such projects and for Middle Housing projects in the Multi-Use Residential (MU-R) zoning district.

RECOMMENDATION:

Conduct a public hearing, receive public comment, and upon conclusion, make a recommendation to the City Council on proposed amendments (**Attachment 1**) to the Zoning Ordinance to:

- Implement Program 32 of the Housing Element, and bring the Zoning Ordinance into compliance with State law, by permitting by-right approval of qualifying housing projects on sites identified in previous Housing Elements; and
- Revise Design Review requirements for such projects, and for Middle Housing projects in the Multi-Use Residential (MU-R) zoning district.

BACKGROUND

By-Right Approval of Projects on Previous Housing Element Sites

Pursuant to Government Code Section 65583.2(c), a non-vacant site that has been identified as a housing opportunity site in a prior Housing Element, or a vacant site that has been included in two or more consecutive Housing Element planning periods, must allow residential uses by right (i.e. with a Zoning Certificate) for housing developments in which at least 20% of the units are affordable to lower income households. The City Council committed to amending Title 23 to conform with this requirement in Program 32 (By-Right Approval on Reused Sites for Affordable Housing) of the City's *2023-2031 Housing Element Update*.¹

¹ [2023-2031 Housing Element Update](https://berkeleyca.gov/sites/default/files/documents/Berkeley_2023-2031%20Housing%20Element_02-17-2023v2_0.pdf), pp. 150-151.

https://berkeleyca.gov/sites/default/files/documents/Berkeley_2023-2031%20Housing%20Element_02-17-2023v2_0.pdf

There are currently 14 sites on which projects that include at least 20% affordable housing would be approved by right under the proposed amendments. They are listed below and included in the map in **Attachment 2**.

1. 2108 Allston Way (C-DMU)
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- 10.2546 San Pablo Ave. (C-W)
- 11.1451 Shattuck Ave. (C-NS)
- 12.2450 Shattuck Ave. (C-DMU)
- 13.2627 Shattuck Ave. (C-AC)
- 14.2821 Shattuck Ave. (C-SA)

The proposed ordinance would remain part of the Zoning Ordinance. As future Housing Elements are adopted, the list of eligible parcels could change. Any developed parcels would no longer qualify, and any new parcels which meet the requirements of the proposed ordinance would be added in future Housing Element cycles.

Middle Housing in the Multi-Use Residential (MU-R) Zoning District

In July 2025 the City Council adopted changes to the Zoning Ordinance to allow ministerial approval of most residential projects in Berkeley's historically low-density residential zoning districts. Under these Middle Housing zoning changes, residential projects that comply with objective development standards are approvable with a Zoning Certificate and are not subject to appeal or any discretionary hearings. These changes applied to Single-Family Residential and Multi-Family Residential uses in the MU-R zoning district.

Design Review (BMC Section 23.406.070)

The Zoning Ordinance includes Design Review requirements. BMC Section 23.406.070(A) includes the purpose of Design Review:

A. *Purpose.* Design Review is a discretionary process to ensure that exterior changes to buildings comply with the City of Berkeley Design Guidelines and other applicable City design standards and guidelines. The purpose of Design Review is to:

1. Encourage excellence in building and site design;

2. Ensure that development is compatible with its urban context; and
3. Provide a pleasing urban environment for persons living, working, or visiting the city.

Pursuant to BMC Section 23.406.070(B), Design Review is required for:

- Projects in all Non-Residential Districts.
- Mixed use and community and institutional projects in the R-3 district within the Southside Plan area; and
- Commercial, mixed-use, and community and institutional projects in the R-4, R-SMU, and R-S districts.

All of the sites that meet the requirements of Government Code Section 65583.2(c), and all of the sites located in the MU-R district, are in Non-Residential Districts and are therefore subject to Design Review. Government Code Section 65583.2(i) provides jurisdictions the option of applying Design Review to such projects. Pursuant to state law, Design Review for projects that qualify under Government Code Section 65583.2(i) would not be considered a project for the purposes of CEQA.

Projects that meet the requirements of Government Code Section 65583.2(c), as well as Multi-Unit Residential uses in the MU-R zoning district, would be approvable with a Zoning Certificate. Therefore, the Design Review pathway for these projects would be BMC Section 23.406.070(C)(2) – *Projects Not Requiring a Use Permit*. Under this section, staff-level Design Review is conducted before the Zoning Officer acts on the approval. Pursuant to BMC Section 23.404.040(D), a Notice of Design Review must be posted at least 14 days before the staff-level Design Review decision.

Pursuant to BMC Section 23.410.020, staff-level Design Review decisions are appealable to the Zoning Adjustments Board (ZAB) if the appeal is received within 14 days of posting of a Notice of Design Review. Action taken by the ZAB on the Design Review is appealable to the City Council within 14 days of the mailing of a Notice of Decision.

While Design Review appeals are permitted under the BMC, they have hitherto been very rare. Staff has recalled fewer than five such appeals over a 20-year period. However, as nearly all residential projects in previous decades have required Use Permits and Public Hearings, appellants may have been more likely to utilize the Use Permit appeal pathway than the one offered by Design Review. With ministerially-approved projects, the Design Review appeal pathway would be the only appeal pathway available to proponents with concerns or opposition to proposed projects. Therefore, there may be more instances of Design Review-based appeals moving forward.

Planning Commission Meeting: November 5, 2025

At its meeting on November 5th, 2025, the Planning Commission conducted a public hearing on Zoning Ordinance changes to implement Program 32 of the Housing Element and to decide whether such projects would be subject to Design Review. Staff proposed Zoning Ordinance amendments that included subjecting such projects to Design Review, but the staff report included a discussion of exempting such projects entirely from Design Review.

After discussion, the Planning Commission directed staff to return to the Planning Commission with revisions to the BMC which would capture the following:

- Retain staff-level Design Review for projects that meet Government Code requirements;
- Require a single visit to the Design Review Committee (DRC) for non-binding input on design related issues. Such input would not be considered a “decision,” for the purposes of appeal rights; and
- Exempt such staff-level Design Review from appeal.

DISCUSSION

Attachment 1 includes Zoning Ordinance amendments that:

- Implement Program 32 of the Housing Element, and bring the Zoning Ordinance into compliance with State law, by permitting by-right approval of qualifying housing projects on sites identified in previous Housing Elements; and
- Revise Design Review requirements for such projects, and for Middle Housing projects in the Multi-Use Residential (MU-R) zoning district, per Planning Commission’s direction from its November 5, 2025 meeting.

Projects in the MU-R Zoning District. At the time of its November meeting, the Planning Commission was scheduled to hear an item at its December meeting related to Design Review for middle housing projects in the MU-R zoning district. The middle housing zoning changes apply to projects in the Residential Multi-Unit 1 (R-1), Residential Multi-Unit 2 (R-2), Residential Multi-Unit 2A (R-2A), and MU-R zoning districts. As explained above, Design Review only applies to projects in non-residential zoning districts, and there was no City Council action to expand Design Review, or require any design standards, for residential projects in residential zones as part of the middle housing zoning changes. As also noted above, Design Review provides an appeal pathway for residential projects. Given City Council’s clear direction in the middle housing zoning changes to provide ministerial approval, without appeal or discretionary hearing, for qualifying housing projects, staff had initially planned to bring forward amendments to completely exempt Multi-Unit Residential projects in the MU-R district from Design Review.

However, given the Planning Commission's discussion at its meeting of November 5th, 2025, staff instead prepared zoning ordinance amendments to treat residential projects in the MU-R similarly to the projects subject to the requirements of Government Code Section 65583.2(c).

Before the middle housing zoning changes, residential projects in the MU-R required a Use Permit, which included a required hearing before the DRC. However, projects with fewer than five units in the MU-R district could be approved through an Administrative Use Permit (AUP), which did not require a hearing before the DRC and was subject to staff-level Design Review. As the purpose of the proposed amendments is to streamline the Design Review process for the MU-R district, the amendments propose exempting smaller residential projects from the new provision that requires a visit to the DRC. Without this exemption, these projects would face an additional step—an advisory visit to the DRC—that was not previously required.

ENVIRONMENTAL REVIEW

The proposed ordinance would require by-right approval (i.e. no discretionary review process), of certain qualifying housing development projects on specific sites. An action that does not include agency discretion does not meet the definition of a project (California Public Resources Code §21065) under CEQA. Therefore, projects approved pursuant to the proposed ordinance would not be subject to CEQA.

The proposed ordinance includes a provision applying design review to qualifying projects. Pursuant to Government Code Section 65583.2(i), such design review would not constitute a project under CEQA.

NEXT STEPS

Staff recommend that the Planning Commission conduct a public hearing, receive public comment, discuss the proposed ordinance amendments, and forward a recommendation to the City Council to adopt the amendments, including any modifications identified through Commission discussion and action.

CONTACT PERSON

Justin Horner, Principal Planner, Planning and Development, 510-981-7476

Attachments:

1. Resolution;
Att. A: Ordinance Amendments
- 2: Map of Eligible Sites under Government Code Section 65583.2(c).
- 3: Public Hearing Notice.

ATTACHMENT 1

PLANNING COMMISSION
RESOLUTION NO. 2024-10

A RESOLUTION OF THE CITY OF BERKELEY PLANNING COMMISSION RECOMMENDING THE CITY COUNCIL ADOPT PROPOSED AMENDMENTS TO TITLE 23 (ZONING) TO PERMIT BY-RIGHT APPROVAL OF QUALIFYING HOUSING PROJECTS ON SITES IDENTIFIED IN PREVIOUS HOUSING ELEMENTS, AND REVISIONS RELATED TO DESIGN REVIEW FOR SUCH PROJECTS AND FOR MIDDLE HOUSING PROJECTS IN THE MULTI-USE RESIDENTIAL (MU-R) ZONING DISTRICT.

WHEREAS, pursuant to Government Code, Title 7, Division 1, Chapter 3, Article 10.6. Housing Elements Section 65583.2(c), a non-vacant site that has been identified as a housing opportunity site in a prior Housing Element and a vacant site that has been included in two or more consecutive Housing Element planning periods shall be allowed residential use by right for housing developments in which **at least 20 percent of the units are affordable to lower income households; and**

WHEREAS, on January 18, 2023, the City Council adopted the 2023-2031 Housing Element Update, which included Program 32 (By-Right Approval on Reused Sites for Affordable Housing), committing the City Council to amend Title 23 to codify the requirements of Government Code, Title 7, Division 1, Chapter 3, Article 10.6. Housing Elements Section 65583.2(c); and

WHEREAS, on December 3, 2025, the Planning Commission held a public hearing and considered all public comments received, the presentation by City staff, the staff report, and all other pertinent documents regarding the proposed request; and

WHEREAS, a public hearing notice was published in the Berkeley Voice and posted in three public places pursuant to California Government Code Section 65090 on October 17, 2025, for the public hearing held on November 5, 2025.

WHEREAS, all documents constituting the record of this proceeding are and shall be retained by the City of Berkeley Planning and Development Department, Land Use Planning Division, at 1947 Center Street, Berkeley, California.

WHEREAS, The proposed ordinance would require by-right approval (i.e. no discretionary review process), of certain qualifying housing development projects on specific sites. A by-right approval does not meet the definition of a project (California Public Resources Code §21065) under CEQA. Therefore, projects approved pursuant to the proposed ordinance would not be subject to CEQA.

NOW, THEREFORE, IT BE RESOLVED that the Planning Commission does hereby recommend to the City Council of the City of Berkeley to: adopt the proposed Title 23 amendments included in Attachment A.

Pursuant to Berkeley Municipal Code Section 23.412.060, the Planning Commission makes the following findings to support its recommendation for the zoning ordinance amendments:

- (1) **The proposed amendment is consistent with the General Plan and any applicable specific plan or area plan.** The proposed amendments were included in the *2023-2031 Housing Element Update* to the General Plan.
- (2) **The proposed amendment is consistent with state law.** The proposed amendments would codify the requirements of Government Code, Title 7, Division 1, Chapter 3, Article 10.6. Housing Elements Section 65583.2(c).
- (3) **The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare.** The proposed amendments serve the public interest by facilitating additional housing capacity and bringing Title 23 into legal conformance.
- (4) **The proposed amendment is internally consistent with other applicable provisions of the Zoning Ordinance.** The proposed amendments create no inconsistencies with other provisions of the Zoning Ordinance; and

BE IT FURTHERED RESOLVED, the amendments do not change the designation of any parcel to reduce the intensity of use allowed under the existing General Plan or zoning pursuant to Gov. Code section 66300(b)(1).

I HEREBY CERTIFY the foregoing resolution was passed and adopted by the Planning Commission of the City of Berkeley, at a regular meeting thereof, held on the 5th day of November 2025, by the following vote:

AYES: Commissioners Merker, Vincent, Kahn, Two, Hauser and Wang

NOES: Commissioner Oatfield

ABSENT: Commissioner Owens and Chairperson Marthinsen

ABSTAIN: None

A handwritten signature in black ink, appearing to read "Justin Horner", is centered on the page. The signature is fluid and cursive, with a long horizontal stroke at the end.

JUSTIN HORNER, SECRETARY TO THE PLANNING COMMISSION

**NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL
AMENDMENTS TO TITLE 23 (ZONING) TO PERMIT BY-RIGHT
APPROVAL OF QUALIFYING HOUSING PROJECTS ON SITES
IDENTIFIED IN PREVIOUS HOUSING ELEMENTS, AND REVISIONS
RELATED TO DESIGN REVIEW FOR SUCH PROJECTS AND FOR
RESIDENTIAL PROJECTS IN THE MULTI-USE RESIDENTIAL (MU-R)
ZONING DISTRICT.**

The public may participate in this hearing by remote video or in-person.

Notice is hereby given by the City Council of the City of Berkeley that on **TUESDAY, January 20, 2026 at 6:00 P.M.** a public hearing will be conducted to consider the Planning and Development Department proposal to amend BMC Titles 21 (Subdivisions) and 23 (Zoning) Section 23.204.020 to implement Senate Bill 684 (small-lot subdivisions).

The hearing will be held on January 20, 2026 at 6:00 p.m. in the School District Board Room, located at 1231 Addison Street, Berkeley CA 94702.

For further information, please contact Justin Horner, Principal Planner at (510) 981-7472 or jhorner@berkeleyca.gov.

A copy of the agenda material for this hearing will be available on the City's website at <https://berkeleyca.gov> as of January 8, 2026. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology, as well as any health and safety requirements for in-person attendance.**

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or e-mailed to council@berkeleyca.gov in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at (510) 981-6900 or clerk@berkeleyca.gov for further information.

Published: January 9, 2026 – The Berkeley Voice

Public Hearing required by BMC 23.412.050 and Govt Code 65853; notice provided according to Govt Code 65090 and BMC 23.404.040.

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on January 8, 2026.

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Mark Numainville, City Clerk