



Rashi Kesarwani
Councilmember, District 1

CONSENT CALENDAR

April 14, 2026

TO: Honorable Mayor and Members of the City Council

FROM: Councilmember Rashi Kesarwani (Author), Councilmember Igor Tregub, and Mayor Adena Ishii (Co-Sponsors)

SUBJECT: Referral to Establish a Citywide Local Density Bonus Program to Facilitate Lower-Cost Ownership Homes (Condominiums)

RECOMMENDATION

Refer to the City Manager to develop a citywide local density bonus modelled after the state density bonus that would incentivize new condominium development by allowing condo projects to take advantage of the same densities, bonuses, waivers, and concessions available under state density bonus law. Under the local density bonus, however, condo projects would be able to pay the current in-lieu affordable housing fee to the City's Housing Trust Fund for all units, rather than create on-site for-sale below-market-rate condo units—a requirement under state density bonus law that renders larger-scale condo development infeasible. Further, the local density bonus shall consider concession rules that uphold the City's workforce standards.

The fiscal and policy goals of this proposed local density bonus are to help stalled rental residential projects in our downtown reach feasibility as condo projects, which will provide affordable housing in-lieu fee revenue, property tax revenue, serve as an economic force multiplier for our downtown, and provide much-needed ownership opportunities for young families seeking a starter home and aging residents seeking to downsize. Further, the local density bonus should apply citywide or downtown or on San Pablo Avenue, considering the area(s) that is most feasible, and provide language for at least two options for applicability:

- 1) Projects that have vested prior to Jan. 1, 2025 only; and
- 2) All projects regardless of vesting date—and to consider a sunset date, or a progress report to help determine an appropriate sunset date.

The reason for providing these two options is so that Council may consider economic conditions and the number of stalled projects at the time that the ordinance is under consideration.

And further, to consider removing the exemption on the first 5,000 square feet for the affordable housing in-lieu fee.

Further, request information from staff on whether it is financially feasible and operationally possible to provide Affordable Housing Trust funding to provide for below-market-rate condos on site.

POLICY COMMITTEE RECOMMENDATION

On March 2, 2026 the Land Use Policy Committee took the following action:

Action: 15 speakers. M/S/C (Bartlett/Lunaparra) to send the item to the City Council with a qualified positive recommendation and with the recommendation revised to read as follows:

Refer to the City Manager to develop a citywide local density bonus modelled after the state density bonus that would incentivize new condominium development by allowing condo projects to take advantage of the same densities, bonuses, waivers, and concessions available under state density bonus law. Under the local density bonus, however, condo projects would be able to pay the current in-lieu affordable housing fee to the City's Housing Trust Fund for all units, rather than create on-site for-sale below-market-rate condo units—a requirement under state density bonus law that renders larger-scale condo development infeasible. The fiscal and policy goals of this proposed citywide local density bonus are to help stalled rental residential projects in our downtown reach feasibility as condo projects, which will provide affordable housing in-lieu fee revenue, property tax revenue, serve as an economic force multiplier for our downtown, and provide much-needed ownership opportunities for young families seeking a starter home and aging residents seeking to downsize. Further, the local density bonus should apply citywide or downtown and provide language for at least two options for applicability:

1. Projects that have vested prior to January 1, 2025 only; and
2. All projects regardless of vesting date – and to consider a sunset date, or a progress report to help determine an appropriate sunset date. The reason for providing these two options is so that Council may consider economic conditions and the number of stalled projects at the time that the ordinance is under consideration.

And further, to consider removing the exemption on the first 5,000 square feet for the affordable housing in-lieu fee. Further, information from staff on whether it is financially feasible and operationally possible to provide Affordable Housing Trust funding to provide for below-market rate condos on site.

Vote: All Ayes.

CURRENT SITUATION AND ITS EFFECTS

At Least Nine Recent Rental Residential Development Projects Are Stalled in Berkeley’s Downtown, Sometimes Creating Blight. Currently, there are at least nine rental residential development projects that have received a zoning permit, the initial step that allows a project to apply for a building permit, as shown in Exhibit 1. However, only five of these nine projects have received a building permit and none have broken ground due to unfavorable economic conditions. According to a May 2024 residential feasibility analysis for the City of Berkeley, most development prototypes cannot support the current cost of development in today’s market.¹ The report states, “This is being driven by increased construction and financing costs that are outpacing projected rental revenue relative to the required rate of return developers must provide to finance a project.”

Exhibit 1: Nine Recent Proposed Rental Residential Development Projects in Downtown Have Received a Zoning Permit, But Have Not Broken Ground

Address	Date Zoning Permit Was Received	Number of Proposed Units
2128 Oxford	Oct. 4, 2024	456
2190 Shattuck	April 28, 2023	325
2274 Shattuck	April 22, 2025	277
2015 Blake	Sept. 25, 2023	219
2100 Milvia	July 1, 2025	205
2065 Kittredge ¹	Feb. 22, 2023	189
2037 Durant	June 19, 2024	74
2138 Kittredge	Oct. 20, 2025	66
2210 Harold Way	Dec. 10, 2020	38
Total Number of Proposed Units Stalled		1,849

Source: City of Berkeley, <https://berkeley.buildingeye.com/building>

¹Note: Harold Way Development at 2065 Kittredge has broken ground but is currently stalled.

For the nine proposed projects listed above that received a zoning permit, five projects went on to receive a building permit (2210 Harold Way, 2065 Kittredge, 2190 Shattuck, 2128 Oxford, and 2138 Kittredge) but have not broken ground for various reasons. We note that another three projects not listed above (2113 Kittredge, 1998 Shattuck, and 2450 Shattuck) submitted a pre-application but never received a zoning permit. Some of these stalled projects are creating blighted conditions in our downtown:

¹ Ernst, Margot, “Residential Feasibility Analysis and In-Lieu Fee Recommendations,” City of Berkeley Worksession, May 21, 2024, <https://berkeleyca.gov/sites/default/files/documents/2025-02-25%20Item%2014%20Inclusionary%20Housing%20Ordinance.pdf>

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- The 2128 Oxford Street stalled project has caused a once vibrant block of small businesses to remain shuttered, with boarded up storefronts and fencing for an extended period;
- 2065 Kittredge project is the site of an unsightly pit of dirt; and
- 2274 Shattuck is the site of the shuttered United Artists Theatres.

Over Last Five Years, No Largescale Condo Projects Utilizing the State Density Bonus Have Been Built in Berkeley. While many multiunit rental housing developments have recently been added to Berkeley's housing stock, that has not been the case with multiunit ownership developments. Nor have many rental units been converted to condominiums over the same period. In large part that can be attributed to affordable housing requirements compelling developers to either include below-market-rate housing on site, which costs would need to be offset by the construction of additional market rate units, or pay an in-lieu fee that until very recently was costly.² The City's condominium conversion fees are also high which likely impacts the numbers of units converted to ownership opportunities.³ Exhibit 2 shows the numbers of condominiums constructed and/or converted from rental units in Berkeley over the last five years.

Exhibit 2: Number of Condominium Units Constructed and Converted over the Last Five Years in Berkeley

Year	Project Addresses (New Construction Only)	Number of New Construction Units	Number of Converted Rental Units	Total Number of Condo Units
2020	1811 Sixty-Third St (3 units)	7	14	21
	1444 Fifth St (4 units)			
2021	1923 Ninth St (3 units)	6	3	9
	1516 Carleton St (3 units)			
2022	1157 Hearst Ave (4 units)	4	5	9
2023	1519 Fairview St (1 units)	4	10	14
	776 Page St (3 units)			
2024	2421 Ninth St (2 units)	4	2	6
	2323 Eighth St (2 units)			
2025	2403 San Pablo Ave (36 units)*	42	0	42
	805 Jones St (6 units)			
TOTAL		67	34	101

² Berkeley's Inclusionary Housing Ordinance In-Lieu Fee was amended February 2025: [https://berkeleyca.gov/sites/default/files/documents/2025-02-25%20Item%2014%20Inclusionary%20Housing%20Ordinance.pdf#:~:text=SUMMARY%20The%20proposed%20updates%20to%20Berkeley's%20Inclusionary,development%20\(2%E2%80%9319%20units\)%2C%20which%20face%20market%20constraints](https://berkeleyca.gov/sites/default/files/documents/2025-02-25%20Item%2014%20Inclusionary%20Housing%20Ordinance.pdf#:~:text=SUMMARY%20The%20proposed%20updates%20to%20Berkeley's%20Inclusionary,development%20(2%E2%80%9319%20units)%2C%20which%20face%20market%20constraints).

³ City of Berkeley Planning and Development Residential Condominium Conversion Packet: https://berkeleyca.gov/sites/default/files/documents/Condo%20Packet%2007-01-2022_Posted%20Online.pdf

Source: Berkeley Planning Department

*Indicates a private development for the purpose of a group living/ownership situation.

Note: There are two developments (2025 Kala Bagai Way, constructing 48 units, and 3000 San Pablo Avenue constructing 78 units) that have put a condo map on their projects but are being advertised as rental units; they are using a density bonus for those developments though will not be providing ownership units.

A Local Density Bonus Would Alter the Financial Feasibility of Larger-Scale Condominium Development, Allowing Stalled Rental Projects to Move Forward as Condominium Projects. Establishing a local density bonus for stalled rental residential projects that received a zoning permit since Jan. 1, 2024 could enable these projects to move forward as condo projects. A local density bonus can provide the benefits of the state density bonus (in terms of densities, bonuses, concessions, and waivers) that helps projects reach economic feasibility, while also providing the option to pay the in-lieu affordable housing fee for *all* condo units on site. These funds can then be used to fund 100 percent below-market-rate affordable housing elsewhere in Berkeley, such as at the Ashby East Parking Lot that is now owned by the City. The requirement under the state density bonus to provide below-market-rate units on site for condo developments currently renders these types of projects infeasible, as the for-sale price for below-market-rate condos is too low to be absorbed by the project's market-rate units. Costs for purchasing a condo unit can be considerable as they include mortgage loan payments, homeowner's insurance payments, property taxes and assessments, homeowner's association fees, utilities allowances, insurance premiums, etc., making ownership units much more costly to subsidize than rental units.⁴ A local density bonus exclusively for condo projects could allow some of the stalled rental projects to convert to condo developments, providing the City with affordable housing in-lieu fee revenue that it cannot otherwise realize for stalled rental projects under current economic conditions.

Creating a Local Density Bonus to Jumpstart Stalled Residential Development Provides Fiscal Benefits to City and Economic Development in Downtown. By developing a citywide local density bonus, the City of Berkeley can help to ensure that some of the stalled rental projects can move forward as condo projects, providing significant fiscal benefits to the City. The City would realize affordable housing in-lieu fee revenue to fund 100 percent affordable housing as well as property tax revenue to support baseline City services. Further, new condominiums will bring new residents to our downtown who will patronize downtown small businesses, restaurants, and arts venues—acting as an economic force multiplier.

Condo Development in Downtown Offers Starter Homeownership Opportunities for Young Families and Downsizing Opportunities for Empty Nesters That's

⁴ Meyers|Nave 2024 California Developers' Toolkit: Density Bonus Law, Housing Laws, & Strategies for Success, p. 4: <https://www.meyersnave.com/wp-content/uploads/2024.10-California-Developers-Toolkit-Density-Bonus-Law.pdf>

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Walkable to Amenities and Public Transit. The City's median home price of \$1.3 to \$1.5 million remains out of reach for all but the wealthiest families. This is an issue of public concern because our community must be able to provide long-term viable home options for the families of middle-class workers who serve our community, including police officers, firefighters, teachers, and health care workers. For aging empty nesters living in larger homes in the hills, there are virtually no opportunities to remain in the community and downsize to a smaller home that is walkable to amenities like grocery stores and public transit. A local density bonus for stalled rental projects seeking to convert to condo projects addresses the need to create smaller and more affordable ownership units for those seeking more affordable homeownership opportunities than a single-family home.

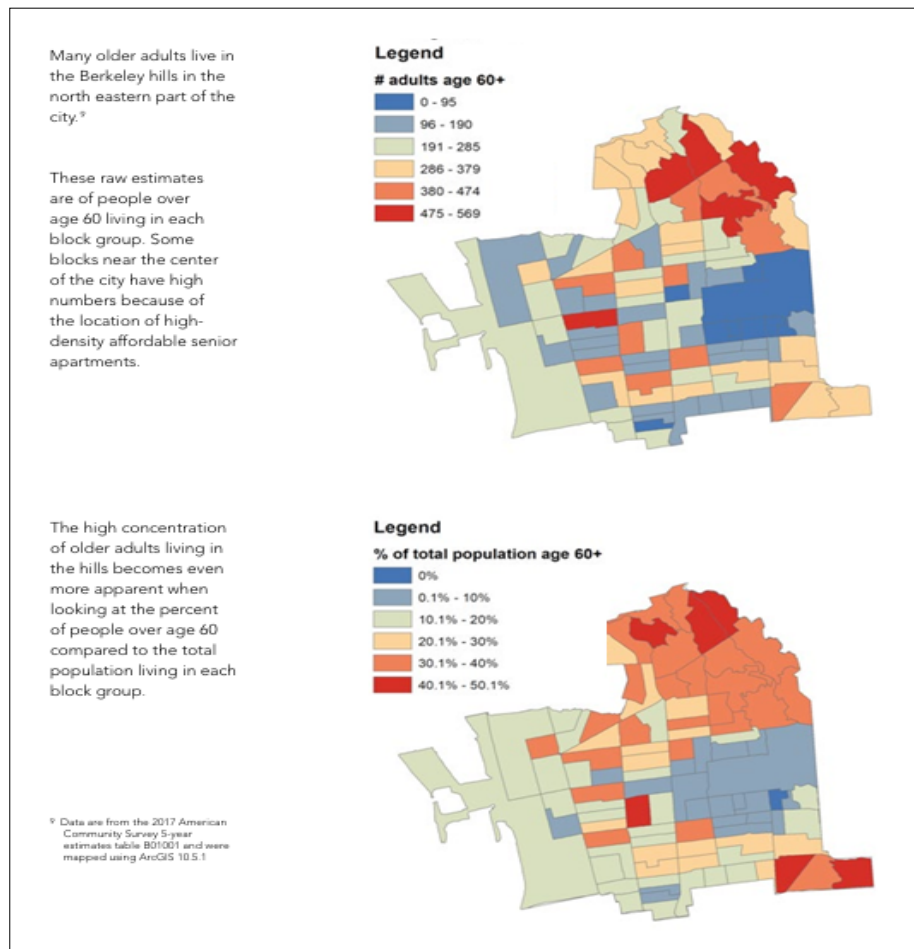
BACKGROUND

The State Density Bonus Is a Powerful Tool to Help Residential Development Reach Feasibility. The state density bonus law allows developers to build more housing units than normally permitted by local zoning standards in exchange for including affordable deed-restricted units on site. Depending on the number of below-market-rate units and the affordability level, developers can increase the project's density. For example, providing 20 percent of units at a very low-income level allows a developer to utilize a 50 percent density bonus. The goal of the state density bonus law is to incentivize the creation of affordable housing by helping a project reach economic feasibility. For each project that utilize a density bonus, local jurisdictions are required to provide up to four concessions to achieve an "identifiable and actual cost reduction" per State Government Code Section 65915(k) as well as an unlimited number of waivers as long as the developer can prove that the project cannot be built without them.

Berkeley Has a Significant Aging Population of Homeowners. Slightly over a quarter of all Berkeley residents are 55 and older.⁵ A high concentration of these older residents live in the Berkeley Hills, as shown in Exhibit 2 below. For aging residents wishing to remain in the community and downsize to a home they can own that is walkable to amenities and public transit, there are few options. Some new senior housing has been developed in recent years, such as Jordan Court for low-income seniors (corner of Oxford and Cedar), The Ivy at Berkeley assisted living and memory care home (corner of Dwight and Milvia), and Elegance Berkeley assisted living (corner of San Pablo Avenue and Addison). However, given the City's significant aging population, more ownership opportunities are needed for seniors seeking to downsize and relocate to a walkable neighborhood as they age.

⁵ State of Public Health in Berkeley Summary Report, Information Report presented at the June 24, 2025 City Council meeting: <https://berkeleyca.gov/sites/default/files/documents/2025-06-24%20Item%2030%20State%20of%20Public%20Health%20in%20Berkeley%20Summary%20Report.pdf>

Exhibit 2: Aging Berkeley Residents Are Concentrated In Berkeley Hills



Source: Age-Friendly Berkeley Action Plan, 2018, : <https://berkeleyca.gov/sites/default/files/2022-01/Age-Friendly-Berkeley-Action-Plan.pdf>

Condo Affordable Housing In-Lieu Fee Has Been Lowered To Be Equal to Rental Affordable Housing Fee, With Potential to Encourage New Condo Development. Historically, the affordable housing in-lieu fee for condo developments has been much higher than the fee imposed on rental projects; it was calculated as 62.5 percent of the difference between the market price for each unit and the below-market-rate price for each inclusionary unit.⁶ In January 2023, the Berkeley City Council modified the affordable housing in-lieu fee to be applied on a square-foot basis, and to be applied equally to rental and ownership units.⁷ Effective July 1, 2025, the current in lieu fee is \$62.83 per square foot, with all projects receiving a discount on the first 5,000 square feet.⁸

⁶ Klein, Jordan and Warhuus, Lisa. "Citywide Affordable Housing Requirements," Jan. 17, 2023, <https://berkeleyca.gov/sites/default/files/documents/2023-01-17%20Item%2021%20Citywide%20Affordable%20Housing%20Requirements.pdf>

⁷ Klein, Jordan and Warhuus, Lisa. "Citywide Affordable Housing Requirements," Jan. 17, 2023, <https://berkeleyca.gov/sites/default/files/documents/2023-01-17%20Item%2021%20Citywide%20Affordable%20Housing%20Requirements.pdf>

⁸ Affordable Housing Requirements for Developers, City of Berkeley, <https://berkeleyca.gov/construction-development/permits-design-parameters/design-2180-Milvia-Street-Berkeley-CA-94704> • Tel: (510) 981-7110 • Fax: (510) 981-7111
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Oakland, San Francisco, and Hayward Have Implemented a Local Density Bonus To Further Policy Goals. Neighboring jurisdictions have adopted their own local density programs going beyond state requirements to further their own specific policy goals. In Oakland, the Zoning Incentive Program allows additional density beyond what is allowed by the Downtown Oakland Specific Plan Base Zoning in exchange for a variety of community benefits, on-site affordable housing and with the option of paying in-lieu fees.⁹ San Francisco's local density program, HOME-SF,¹⁰ allows more height than the state's density bonus in exchange for 20 to 30 percent of the units being affordable to low and moderate-income families, with 40 percent of the total units being two-bedrooms or larger, in an effort to provide more family-friendly housing. The City of Hayward allows an additional density bonus, incentives, and concessions for housing targeted to special populations, such as large families (3+ bedrooms), projects including universal design features for people with disabilities, seniors, college students, and foster youth to name several examples.¹¹ While this item is somewhat novel in allowing condominium projects to pay an in-lieu fee into our Housing Trust Fund only and not build affordable units on site, these other examples illustrate the flexibility that a local density bonus can provide to address local concerns.

FISCAL IMPACT

The fiscal impacts of this referral would be staff time to draft municipal code updates and implement the referral. The overall fiscal benefits to the City could be notable if we are able to incentivize stalled rental projects to move forward as condo developments.

ENVIRONMENTAL SUSTAINABILITY

Implementing a local density bonus for condo development will help create more infill housing in closer proximity to public transit. Studies show that infill development is an effective strategy for reducing greenhouse gas emissions by reducing vehicle miles travelled when compared to homes created in outlying undeveloped areas.

CONTACT PERSON

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parameters/affordable-housing#:~:text=Effective%20July%201%2C%202025%2C%20the%20rental%20or,from%20the%20Residential%20Unit%20Floor%20Area%20calculation

⁹ Hausrath Economics Group Memorandum: Comparative Analysis of Housing Outcomes: Downtown Oakland Specific Plan Zoning Incentive Program and California Density Bonus Law, March 10, 2023: <https://www.oaklandca.gov/files/assets/city/v/1/public-meetings/zoning-update-committee/2023/b-comparing-zip-and-sdb-housing-outcomes.pdf>

¹⁰ San Francisco Planning Department: HOME-SF: <https://sfplanning.org/home-sf>

¹¹ City of Hayward, Hayward Density Bonus User Guide, June 2025: <https://www.hayward-ca.gov/sites/default/files/documents/City-of-Hayward-Density-Bonus-User-Guide-2506.pdf>

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