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SUPPLEMENTAL AGENDA MATERIAL for Supplemental Packet 2

Meeting Date: April 14, 2026

Item Number: 20

Item Description: **Amendments to BMC Title 3.24 (Landmarks Preservation Commission) to Revise Procedures for Designating Landmarks, Historic Districts and Structures of Merit and Incorporate Technical Edits**

Submitted by: **Councilmember Humbert;
Councilmember Kesarwani**

In order to prevent indefinite landmarking exceptions created by way of perpetual SB 330 development pre-applications, this supplemental proposes the addition of two subsections to BMC Chapter 3.24.120 Section C. Exception, of the proposed Landmarks Preservation Ordinance amendments (all other proposed language would remain the same):

1. This 5-year exception period is established at the time of the Preliminary Development application submittal pursuant to SB 330 (the Housing Crisis Act of 2019) and may only be applied once for any property. Any subsequent Preliminary Development application submitted pursuant to SB 330 shall be subject to limitations on landmarking in SB 330.
2. Following the submittal of a formal zoning application, any landmarking designation request shall not be processed for as long as the application is active or as long as the resulting permits and entitlements are valid, whichever is longer, pursuant to SB330.



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ACTION CALENDAR
April 14, 2026

To: Members of the Berkeley City Council
From: Councilmember Mark Humbert (Author);
Councilmember Rashi Kesarwani (Co-Author)
Subject: Item 20. Amendments to BMC Title 3.24 (Landmarks Preservation Commission) to Revise Procedures for Designating Landmarks, Historic Districts and Structures of Merit and Incorporate Technical Edits

RECOMMENDATION

As proposed, the Landmarks Preservation Ordinance amendments in Item 20 would create the possibility of indefinitely chaining together 5-year exceptions to landmark initiation procedures through the submittal and re-submittal of SB 330 pre-development applications. Although such an approach would be highly unusual and expected to be rare, the proposed additions to Section C. Exceptions would serve to foreclose this possibility, while ensuring that active development applications and entitled projects would continue to benefit from the protections provided by SB 330.

This supplemental proposes to add two subsections to BMC Chapter 3.24.120 Section C. Exception, as shown below. The proposed amendments to the language of C. Exception itself would remain unchanged.

C. ~~Further, a~~ Exception. Any such designation shall not be processed for five (5) years following the receipt of a Preliminary Development application under SB330 (the Housing Crisis Act of 2019) by the City of Berkeley, unless initiated by the property owner ~~of record~~.

1. This 5-year exception period is established at the time of the Preliminary Development application submittal pursuant to SB 330 (the Housing Crisis Act of 2019) and may only be applied once for any property. Any subsequent Preliminary Development application submitted pursuant to SB 330 shall be subject to limitations on landmarking in SB 330.
2. Following the submittal of a formal zoning application, any landmarking designation request shall not be processed for as long as the application is active or as long as the resulting permits and entitlements are valid, whichever is longer, pursuant to SB330.

FINANCIAL IMPLICATIONS

Financial implications would be negligible since the situation this supplemental is intended to prevent (a property owner chaining together SB 330 predevelopment applications over many years with no actual development project) would be anticipated to be extremely rare.

It is possible that these changes, by foreclosing one option for perpetually preventing landmark initiation could create a slight increase in the number of landmark initiations. However, given all the other remaining provisions of the item, an overall decrease in landmark initiations for the purpose of obstructing development projects would still be expected, reducing staff time and associated costs.

BACKGROUND

Following publication of the proposed amendments to the Landmarks Preservation Ordinance, preservation organizations and advocates brought to the attention of the author and co-author the potential for a property owner to use a series of SB 330 pre-applications to indefinitely prevent processing of a landmark initiation, even absent any true redevelopment project.

The purpose of the original item was to reduce obstacles to new housing by preventing landmark initiations for the purpose of obstructing proposed housing projects. Since the potential approach flagged by preservation advocates represented a situation where there would, in fact, be no real development project proceeding, making this change was seen as salutary for the purpose of preventing abuse of the SB 330 pre-application process and supportive of the pursuit of true housing development projects.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None (relative to original item).

CONTACT PERSON

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