



**REVISED PROCLAMATION  
CALLING A SPECIAL MEETING OF THE  
BERKELEY CITY COUNCIL  
(REVISED TO REMOVE A TELECONFERENCE LOCATION)**

In accordance with the authority in me vested, I do hereby call the Berkeley City Council in special session as follows:

**Tuesday, July 23, 2024  
3:30 PM**

**SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702**

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – TERRY TAPLIN  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – IGOR TREGUB

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – CECILIA LUNAPARRA  
DISTRICT 8 – MARK HUMBERT

*This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. If you are feeling sick, please do not attend the meeting in person.*

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*To submit a written communication for the City Council’s consideration and inclusion in the public record, email [council@berkeleyca.gov](mailto:council@berkeleyca.gov).*

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953 and applicable Executive Orders as issued by the Governor that are currently in effect. Any member of the public may attend this meeting. Questions regarding public participation may be addressed to the City Clerk Department (510) 981-6900. The City Council may take action related to any subject listed on the Agenda.*

*Pursuant to the City Council Rules of Procedure and State Law, the presiding officer may remove, or cause the removal of, an individual for disrupting the meeting. Prior to removing an individual, the presiding officer shall warn the individual that their behavior is disrupting the meeting and that their failure to cease their behavior may result in their removal. The presiding officer may then remove the individual if they do not promptly cease their disruptive behavior. “Disrupting” means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, a failure to comply with reasonable and lawful regulations adopted by a legislative body, or engaging in behavior that constitutes use of force or a true threat of force.*

## Preliminary Matters

### Roll Call:

## Action Calendar – Public Hearings

*Staff shall introduce the public hearing item and present their comments. For certain hearings, this is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that persons wishing to speak line up at the podium, or use the "raise hand" function in Zoom, to be recognized and to determine the number of persons interested in speaking at that time.*

*Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.*

*When applicable, each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Councilmembers shall also submit a report of such contacts in writing prior to the commencement of the hearing. Written reports shall be available for public review in the office of the City Clerk.*

### 1. **Zoning Ordinance and General Plan Amendments Relating to Middle Housing From: City Manager**

**Recommendation:** Conduct a public hearing, and upon conclusion:

1. Adopt the first reading of an Ordinance amending Berkeley Municipal Code Title 23 (Zoning Ordinance) and the Zoning Map, for the purposes of encouraging development of "middle housing" in areas currently zoned R-1, R-1A, R-2, R-2A and MU-R ("low-density residential districts"); and
2. Adopt a Resolution amending the General Plan Designations and Land Use diagram for the same purpose.

**Financial Implications:** See report

Contact: Jordan Klein, Planning and Development, (510) 981-7400

## Adjournment

I hereby request that the City Clerk of the City of Berkeley cause personal notice to be given to each member of the Berkeley City Council on the time and place of said meeting, forthwith.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the City of Berkeley to be affixed on July 18, 2024.



Jesse Arreguin, Mayor

Public Notice – this Proclamation serves as the official agenda for this meeting.

ATTEST:



Date: July 18, 2024  
Mark Numainville, City Clerk

**NOTICE CONCERNING YOUR LEGAL RIGHTS:** *If you object to a decision by the City Council to approve or deny an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6 and Government Code Section 65009(c)(1)(E), no lawsuit challenging a City decision to deny or approve a Zoning Adjustments Board decision may be filed and served on the City more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a Zoning Adjustments Board decision, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

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Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of City Hall located at 2180 Milvia Street as well as posted on the City's website at <https://berkeleyca.gov/>.

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City Clerk Department - 2180 Milvia Street, First Floor

Tel: 510-981-6900, TDD: 510-981-6903, Fax: 510-981-6901

Email: [clerk@berkeleyca.gov](mailto:clerk@berkeleyca.gov)

Libraries: Main – 2090 Kittredge Street,

Claremont Branch – 2940 Benvenue, West Branch – 1125 University,

North Branch – 1170 The Alameda, Tarea Hall Pittman South Branch – 1901 Russell

#### COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location.

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at (510) 981-6418 (V) or (510) 981-6347 (TDD) at least three business days before the meeting date.

Please refrain from wearing scented products to this meeting.



Captioning services are provided at the meeting, on B-TV, and on the Internet. In addition, assisted listening devices for the hearing impaired are available from the City Clerk prior to the meeting, and are to be returned before the end of the meeting.

## **Communications**

*Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record. Copies of individual communications are available for viewing at the City Clerk Department and through [Records Online](#).*

### **Item #1: Zoning Ordinance and General Plan Amendments Relating to Middle Housing**

1. JT Rueppel



Office of the City Manager

PUBLIC HEARING

July 23, 2024

To: Honorable Mayor and Members of the City Council  
 From: LaTanya Bellow, Interim City Manager  
 Submitted by: Jordan Klein, Director, Planning and Development  
 Subject: Zoning Ordinance and General Plan Amendments Relating to Middle Housing

RECOMMENDATION

Conduct a public hearing, and upon conclusion:

1. Adopt the first reading of an Ordinance amending Berkeley Municipal Code Title 23 (Zoning Ordinance) and the Zoning Map, for the purposes of encouraging development of “middle housing” in areas currently zoned R-1, R-1A, R-2, R-2A and MU-R (“low-density residential districts”); and
2. Adopt a Resolution amending the General Plan Designations and Land Use diagram for the same purpose.

SUMMARY

The proposed ordinance includes zoning changes to encourage the development of Multi-Family Residential Uses in the R-1, R-1A, R-2, R-2A and MU-R zoning districts. The proposed changes include:

- Permit Single-Family Residential and Multi-Family Residential uses with a Zoning Certificate (ZC).
- Consolidate the R-1A and R-2 zoning districts.
- Revise development standards related to building height, lot coverage and setbacks, to permit larger residential buildings.
- Establish a new minimum density standard.
- Revise requirements related to Residential Additions and additional bedrooms.
- Permit demolition of single-family homes with a ZC if they are part of a project that includes a net increase in units.

The report also includes discussion of Alternative Actions Considered.

FISCAL IMPACTS OF RECOMMENDATION

The proposed zoning changes are intended to increase the development potential of properties in low-density residential districts. This could result in higher property tax

revenues. These changes also allow for larger development projects compared to the current zoning regulations, so on average, the City can expect to collect more development fees on a per-project basis. These fees may include those for affordable housing (BMC 23.328), childcare if the projects involve non-residential uses (BMC 22.20), and public art (BMC 6.13). Additionally, the Berkeley Unified School District Facilities Fee could be expected to generate increased revenues.<sup>1</sup> However, the proposed zoning changes also include revisions that would streamline project approvals, which could reduce staff review times and accompanying fees.

**CURRENT SITUATION AND ITS EFFECTS**

In January 2023, the City Council adopted the 2023-2031 Housing Element Update. The Housing Element Update includes Program 29—Middle Housing, in which the City Council committed to amend the zoning code to allow multi-unit development on single lots in lower density districts.

*Planning Commission Recommendation*

At its meeting on February 7, 2024, the Planning Commission recommended that the City Council adopt an Ordinance amending Title 23 to facilitate the production of middle housing in low-density residential districts. The proposed ordinance includes changes that require conforming General Plan Amendments, which require adoption via resolution. The staff report for the February 7, 2024 meeting (**Attachment 5**) included staff recommendations that differed from the Planning Commission’s ultimate recommendation; see the Alternative Actions Considered section for further detail.

The proposed zoning changes recommended by the Planning Commission are summarized in Table 1, along with the rationale and a summary of any notable Alternative Actions Considered by the Planning Commission. An annotated version of the proposed ordinance, which indicates the rationale for each change in the ordinance itself, is included as **Attachment 2**. The following is a detailed description of the proposed changes:

**TABLE 1 SUMMARY OF PROPOSED MIDDLE HOUSING ZONING AMENDMENTS**

Ord. Sect.	BMC Section & Title	Description of Changes	Rationale	Alternative Action Considered
<b>Title 23, Division 1 – General Provisions</b>				
1	23.108.020 Zoning Districts	<ul style="list-style-type: none"> <li>R-1A district removed.</li> <li>R-1, R-2, and R-2A renamed.</li> </ul>	Conforming edits.	

<sup>1</sup> April 2023. Berkeley Unified School District (BUSD) School Facility Fees. <https://www.berkeleyschools.net/wp-content/uploads/2023/04/BUSD-School-Facility-Fee-Notice-7.28.22-002.pdf>

Title 23, Division 2 – Zoning Districts				
2	23.202.020 Allowed Land Uses Table	<ul style="list-style-type: none"> <li>• R-1A district removed;</li> <li>• Two-Family land use type removed.</li> <li>• Multi-Family Residential land use type revised.</li> <li>• Single Family and Multi Family Residential permitted with a ZC in the R-1, R-2, and R-2A zoning district.</li> <li>• Supportive housing and low barrier navigation centers permitted with a ZC in the R-1 zoning district.</li> </ul>	<p>Permitting middle housing by-right.</p> <p>Compliance with State law (Gov. Code § 65651)</p>	Permit Multi-Family Residential with a ZC, while Single-family homes would still require a UP(PH).
3	23.202.030 Additional Permit Requirements	<ul style="list-style-type: none"> <li>• All Residential Additions permitted with a ZC in R-1, R-2 and R-2A zoning districts.</li> </ul>	Promoting middle housing.	Only allow Residential Additions with a ZC if they include new units.
4	23.202.030 Additional Permit Requirements	<ul style="list-style-type: none"> <li>• R-1A district removed.</li> <li>• All requirements for additional bedrooms removed.</li> </ul>	<p>Conforming edit.</p> <p>Promoting middle housing.</p>	Only allow additional bedrooms with a ZC if they are part of new units.
5, 6	23.202.050 R-1 Title and District Purpose	<ul style="list-style-type: none"> <li>• R-1 renamed.</li> <li>• District purpose revised.</li> </ul>	Clarifying that R-1 is not a single-family only district.	
7	23.202.050 R-1 Development Standards	<ul style="list-style-type: none"> <li>• Development standards revised:                             <ul style="list-style-type: none"> <li>○ Height.</li> <li>○ Setbacks.</li> <li>○ Lot Coverage.</li> <li>○ Minimum density.</li> <li>○ Open space.</li> </ul> </li> </ul>	Promoting middle housing.	Include Maximum FAR, Maximum Density, and Lot Coverage that vary by number of units.
8	23.202.060 R-1A District	<ul style="list-style-type: none"> <li>• R-1A district removed.</li> </ul>	Merging of R-1A and R-2 zoning districts.	
9, 10	23.202.070 ES-R District	<ul style="list-style-type: none"> <li>• Renumbering.</li> </ul>	Renumbering.	
11, 12	23.202.080	<ul style="list-style-type: none"> <li>• R-2 district renamed.</li> </ul>	Conforming edit.	

	R-2 Title and District Purpose	<ul style="list-style-type: none"> <li>District purpose revised.</li> </ul>		
13	23.202.080 R-2 Development Standards	<ul style="list-style-type: none"> <li>Development standards revised.                             <ul style="list-style-type: none"> <li>Height.</li> <li>Setbacks.</li> <li>Lot Coverage.</li> <li>Minimum density.</li> <li>Open space.</li> </ul> </li> </ul>	Promoting middle housing.	Include Maximum FAR, Maximum Density, and Lot Coverage that vary by number of units.
14, 15	23.202.090 R-2A Title and District Purpose	<ul style="list-style-type: none"> <li>R-2A district renamed.</li> <li>District purpose revised.</li> </ul>	Conforming edit.	
16	23.202.090 R-2A Development Standards	<ul style="list-style-type: none"> <li>Development standards revised.                             <ul style="list-style-type: none"> <li>Height.</li> <li>Setbacks.</li> <li>Lot Coverage.</li> <li>Minimum density.</li> <li>Open space.</li> </ul> </li> </ul>	Promoting middle housing.	Include Maximum FAR, Maximum Density, and Lot Coverage that vary by number of units.
17-34	Various	<ul style="list-style-type: none"> <li>Renumbering.</li> </ul>	Renumbering.	
35	23.204.020 Allowed Land Uses in the Commercial Districts	<ul style="list-style-type: none"> <li>Revising residential use type titles.</li> </ul>	Conforming edits.	
36	23.206.020 Allowed Land Use in Manufacturing Districts	<ul style="list-style-type: none"> <li>Two-Family land use type removed.</li> <li>Multi-Family Residential land use type revised.</li> <li>100% residential projects permitted with a ZC in the MU-R district.</li> </ul>	Permitting middle housing by-right in the MU-R.	Permit Multi-Family Residential with a ZC, while Single-family homes would still require an AUP.
37, 38, 39	23.206.030 MU-R Additional Permit Requirements	<ul style="list-style-type: none"> <li>Allow Major Additions with a ZC.</li> <li>Provisions conditioning residential uses in the MU-R district removed.</li> </ul>	Permitting middle housing by-right in the MU-R.	
40	23.206.090 MU-R Development Standards	<ul style="list-style-type: none"> <li>Development standards revised.                             <ul style="list-style-type: none"> <li>Height.</li> <li>Setbacks.</li> <li>Lot Coverage.</li> </ul> </li> </ul>	Promoting middle housing.	Include Maximum FAR and Maximum Density.

		<ul style="list-style-type: none"> <li>○ Minimum density.</li> <li>○ Open space.</li> </ul>		
41	23.210.020 Hillside Overlay Zone	<ul style="list-style-type: none"> <li>• Prohibition of multiple dwellings on a parcel in the R-2H removed.</li> </ul>	Promoting middle housing.	
42	23.210.020 Hillside Overlay Zone Development Standards	<ul style="list-style-type: none"> <li>• R-1A district removed;</li> <li>• 3 stories maximum removed (maximum height unchanged).</li> <li>• Maximum height for Additions same as for New Buildings.</li> </ul>	<p>Conforming edit.</p> <p>Promoting middle housing.</p>	<p>Take no action on Middle Housing provisions for the Hillside Overlay.</p> <p>Establish Lower Maximum Density controls in the Hillside Overlay.</p> <p>Establish Maximum height of 28 feet in the Hillside Overlay.</p>
<b>Title 23, Division 3 – Citywide Provisions</b>				
43	23.304.030 Setbacks	<ul style="list-style-type: none"> <li>• R-1A district removed.</li> </ul>	Conforming edit.	
44	23.304.030 Allowed Setback Reductions	<ul style="list-style-type: none"> <li>• R-1A district removed.</li> <li>• Revised minimum setback with reduction to 4 feet in the R-2 and R-2A zoning districts.</li> </ul>	Conforming edits.	
45	23.304.040 Permits Required for Building Separation	<ul style="list-style-type: none"> <li>• R-1A district removed.</li> </ul>	Conforming edit.	
46-47	23.322.100 On-site Loading Spaces	<ul style="list-style-type: none"> <li>• R-1A district removed.</li> </ul>	Conforming edit	
48	23.326.030 Eliminating Dwelling Units through Demolition	<ul style="list-style-type: none"> <li>• Demolition of single-family dwellings permitted with a ZC, if</li> </ul>	Promoting middle housing.	Demolition permitted with an AUP, if part of middle housing project

		project results in increased density.		and not tenant-occupied.
<b>Title 23, Division 5 – Glossary</b>				
49	23.502.020 Defined Terms	<ul style="list-style-type: none"> <li>Revised definition of Multi-family Dwelling from three or more units to two or more units.</li> <li>Define Multi-Family Residential land use type.</li> </ul>	Promote middle housing.  Conforming edit.	
50		<ul style="list-style-type: none"> <li>Remove definition of rear main building.</li> </ul>	Conforming edit.	
51		<ul style="list-style-type: none"> <li>Add Single-Family Residential land use type.</li> </ul>	Conforming edit.	
52		<ul style="list-style-type: none"> <li>Remove definition of Two-Family Dwelling.</li> </ul>	Conforming edit.	
<b>Zoning Map</b>				
Exhb. A	Zoning Map	<ul style="list-style-type: none"> <li>Replace all R-1A zone labels with R-2.</li> </ul>	Conforming edit.	

*Consolidation of R-1A and R-2 and Renaming of R-1, R-2, and R-2A Zoning Districts*

Planning Commission and City Council each noted to staff that there are negligible regulatory differences between the R-1A and R-2 zoning districts, and questioned whether a continued distinction is warranted. Consistent with this feedback, the proposed ordinance would merge the R-1A and R-2 zoning districts. Parcels that are currently zoned R-1A would be zoned R-2 (**Attachment 1, Exhibit A**). Within the proposed ordinance itself, this change would require the removal of the R-1A section of the zoning ordinance, as well as the deletion of occasional references to the R-1A zoning district throughout the code.

The proposed ordinance includes a revised naming scheme of the R-1, R-2 and R-2A zoning districts. As the R-1 zoning district is no longer a single-family residential district, and as all three districts would permit Multi-Family Residential uses with a Zoning Certificate, the three zoning districts are proposed to be renamed as follows:

- R-1 ~~Single-Family~~ Residential Multi-Unit 1
- R-2 ~~Restricted Two-family~~ Residential Multi-Unit 2
- R-2A ~~Restricted Multiple-Family~~ Residential Multi-Unit 2A

Planning Commission also considered further consolidation of zoning districts, as detailed in the Alternative Actions Considered section.

*Permits and Levels of Discretion*

*Current Policy:* Table 2 includes the current permit requirements in low-density residential districts for residential projects that include dwelling units.

**TABLE 2 CURRENT PERMIT REQUIREMENTS**

	R-1/R-1H	R-1A	R-2	R-2H	R-2A/ R-2AH	MU-R
<b>Single-Family</b>	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	AUP
<b>Two-family</b>	NP	UP(PH)	UP(PH)	NP	UP(PH)	AUP
<b>Multi-Family</b>	NP	NP	UP(PH)	NP	UP(PH)	AUP or UP(PH)

**AUP:** Administrative Use Permit  
**UP(PH):** Use Permit with a Public Hearing  
**NP:** Not Permitted

*Proposed Standard:* The proposed standards would combine Two-Family and Multi-Family Residential uses into a single Multi-Family Residential use type, which would apply to all projects with two or more units. Single-Family or Multi-Family Residential projects that comply with all objective standards would be permitted with a ZC; no discretionary permit or public hearing would be required. The proposed standards would not change any permit requirements for Group Living Accommodation or Mixed-Use Residential uses in these zones. Table 3 summarizes the recommendation:

**TABLE 3 PROPOSED PERMIT REQUIREMENTS**

	R-1(H)	R-2(H)	R-2A(H)	MU-R
<b>Single-Family</b>	ZC	ZC	ZC	ZC
<b>Multi-Family Residential</b>	ZC	ZC	ZC	ZC

Planning Commission also considered preserving the UP(PH) requirement for Single-Family Dwellings, as detailed in the Alternative Actions Considered section.

#### *Residential Additions and Additional Bedrooms*

The proposed ordinance includes changes to the regulation of Residential Additions in the R-1, R-2, and R-2A zoning districts. Currently, BMC Section 23.202.030 requires an AUP for a Residential Addition that exceeds a certain size, and the Residential Addition is subject to height limits that are more restrictive than those for new Main Buildings. The proposed ordinance would permit Residential Additions that comply with the development standards for Main Buildings with a Zoning Certificate. The proposed ordinance would also revise the maximum height for Residential Additions. Currently, the maximum height for Residential Additions in the R-1, R-2 and R-2A zoning districts is 14 feet. The proposed ordinance would include the same height limits for Residential Additions as exist for Main Buildings (28-foot average height and 35-foot maximum height. See Maximum Building Height, below).

Planning Commission also considered applying these revised standards only to Residential Additions that include new units, as detailed in the Alternative Actions Considered section.

The proposed ordinance would also remove additional requirements for bedrooms that are added to existing dwellings or lots developed with existing residential uses. Currently, BMC Section 23.202.030 requires an Administrative Use Permit (AUP) when adding a fifth bedroom to a lot, and a UP(PH) for adding any bedroom beyond the fifth to a lot. As the proposed ordinance would permit altogether new Multi-Family Residential buildings ministerially, requiring a discretionary review process for an additional bedroom would discourage the conversion or adaptive reuse of existing buildings.

Planning Commission also considered applying these new provisions for added bedrooms only when they are part of a project that includes new units, as detailed in the Alternative Actions Considered section.

#### *Development Standard Revisions*

The following sections summarize changes to the development standards in the proposed R-1, R-2, R-2A and MU-R zoning districts. The proposed development standards reflect the overall goals of City Council's referrals and Program 29-Middle Housing of the Housing Element to a) permit more development on a lot; and b) be based on objective standards that cannot be modified with additional permits or discretionary processes. Existing and proposed development standards are summarized in tables in **Attachment 4**.

*Density Standard*

*Current Policy:* The Berkeley Municipal Code does not include any minimum density standards for low-density residential zones that are expressed in “units per acre”. In the R-1, R-1A, R-2, and R-2A districts, density is limited by requirements for a “minimum lot size per unit” standard and by specific residential land use types (e.g. “Single-Family,” “Two-Family”).

*Proposed Standard:* Table 4 summarizes the proposed density standards expressed in units per acre, and includes the number of units that may result from that standard on a typical 5,000 square foot lot in each zone. There is no minimum density requirement for lots in the Hillside (H) Overlay district. Minimum densities would apply for new development on a vacant lot or redevelopment and infill of existing nonvacant lots.

**TABLE 4 PROPOSED DENSITY STANDARDS**

	<b>R-1</b>	<b>R-2</b>	<b>R-2A</b>	<b>MU-R</b>
Minimum Density (DU/acre)	10	10	20	20
<b>Resulting units on a 5,000 sf lot</b>				
Minimum Units	1	1	2	2

The proposed density standards do not include any eligible Accessory Dwelling Units (ADUs).

Planning Commission also considered establishing Maximum Density Standards, as detailed in the Alternative Actions Considered section.

*Building Height*

*Current Policy:* The Berkeley Municipal Code generally limits average building heights for Main Buildings in most low-density residential districts to 28 feet and three stories, with a possible increase to 35 feet with an AUP. In the Hillside Overlay, the Zoning Officer may approve an AUP to increase the allowed average height (28 feet) and allowed maximum height (35 feet). In the MU-R, the maximum height is 35 feet and 3 stories without the need for an additional AUP. Current policy also limits the height of Residential Additions to 14 feet, with a possible increase to 35 feet with an AUP.

*Proposed Policy:* The proposed development standards for maximum building height include:

- The maximum *average* building height in low-density residential districts would be 28 feet.

- The maximum height in low-density residential districts would be 35 feet, but would be reduced to 22 feet within 15 feet of a rear property line.
- The limit on the maximum number of stories would be removed; maximum height would only be measured in feet.
- Height standards for Main Buildings and Residential Additions would be the same.

The proposed development standards largely preserve existing height limits, while providing pathways for slightly taller projects (and more dwelling units) through a nondiscretionary process based on objective standards. The proposed standards also include lower maximum heights near the rear property line, in consideration of potential impacts on neighboring properties and solar access.<sup>2</sup>

Planning Commission also considered establishing a lower maximum height standard within the Hillside Overlay, as detailed in the Alternative Actions Considered section.

*Minimum Required Open Space*

*Current Policy:* Table 5 summarizes current minimum open space requirements in low-density residential zones, on a per unit basis, as well as the proposed standard.

**TABLE 5 MINIMUM REQUIRED OPEN SPACE STANDARDS**

<b>CURRENT</b>	<b>R-1(H)</b>	<b>R-1A</b>	<b>R-2(H)</b>	<b>R-2A(H)</b>	<b>MU-R</b>
Per dwelling unit (sf)	400			300	150
<b>PROPOSED</b>	<b>R-1(H)</b>	<b>R-2(H)</b>	<b>R-2A</b>	<b>R-2AH</b>	<b>MU-R</b>
Per 1,000 sf of floor area (sf)	150				

*Proposed Policy:* The proposed development standard would require 150 square feet of open space for every 1,000 square feet of floor area on a project site. Required open space would no longer be based on the number of units, but on a project’s total floor area. The proposed open space standard is designed to permit a larger percentage of total lot area to be dedicated to residential development while also preserving the requirement to provide residents with usable open space.

<sup>2</sup> Details of the solar access study conducted by staff in the preparation of these zoning changes can be found in the staff report for the September 20, 2022 City Council Worksession (pg. 13-14). <https://berkeleyca.gov/sites/default/files/documents/2022-09-20%20WS%20Item%2001%20Residential%20Objective%20Standards.pdf>

*Maximum Lot Coverage*

*Current Policy:* Table 6 summarizes existing maximum lot coverage requirements. Current requirements distinguish between interior and corner lots, and reduce maximum lot coverage for taller projects.

**TABLE 6 CURRENT MAXIMUM LOT COVERAGE STANDARDS**

	R-1	R-1H	R-1A	R-2	R-2H	R-2A	R-2AH	MU-R
<b>Interior &amp; Through-Lots</b>								
1 story	40%		40%	45%			100%	
2 stories				40%				
3 stories				35%				
<b>Corner Lots</b>								
1 story	40%		50%	50%			100%	
2 stories			45%	45%				
3 stories			45%	40%				

*Proposed Policy:* The proposed development standard would be 60% maximum lot coverage on all parcels in the R-1, R-1H, R-2, R-2H, R-2A and R-2AH zoning districts. Distinctions in lot coverage between interior/through lots and corner lots would be eliminated, as well as distinctions in lot coverage based on the number of stories. The Planning Commission recommended this lot coverage standard to increase developable area to facilitate the development of more units, and applied the standard across all zoning districts to eliminate any disparities in development intensity across zoning districts.

Planning Commission also considered establishing maximum lot coverage controls that vary based on the number of units included in a proposed project, as detailed in the Alternative Actions Considered section.

*Minimum Setbacks*

*Current Policy:* The Berkeley Municipal Code currently regulates four types of setbacks:

- **Front and Rear Setbacks:** Front and rear setbacks are 20 feet in the R-1, R-1H, R-1A, R-2 and R-2H zoning districts, and 15 feet in the R-2A and the R-2AH districts.

In the MU-R zoning district, lots adjacent to a non-residential district have no rear setback, unless they abut a street, in which case a 5-foot rear setback is required. A lot in the MU-R adjacent to a residential district must provide a rear setback of either 10 feet or 10% of the lot’s width, whichever is less.

- Interior Side Setbacks: Interior side setbacks are based on building height. The interior side setback is 4 feet at the first story for all low-density residential districts, except the MU-R. At the second story, the interior setback increases to 6 feet in the R-2, R-2H, R-2A, and R-2H districts. Interior side setbacks can be reduced to 3 feet (or 5 feet) with a ZC.

In the MU-R district, lots adjacent to a residential district must provide an interior side setback of either 10 feet or 10% of the lot's width, whichever is less. There are no other interior side setback requirements in the MU-R.

- Street Side Setbacks: Street side setbacks are 4 feet in the R-1, R-1H, and R-1A districts, 10 feet in the R-2 and R-2H districts, and vary by height in the R-2A and R-2AH districts (6 feet at first story, 8 feet at second story and 10 feet at third story).

In the MU-R district, lots adjacent to a non-residential district must provide a 5-foot street side setback. Lots adjacent to a residential district must provide a street side setback of either 10 feet or 10% of the lot's width, whichever is less. There are no other street side setback requirements in the MU-R.

The Zoning Officer may approve an AUP to reduce the minimum setbacks in the H Overlay.

*Proposed Policy*: The proposed development standards include the following:

- Front Setbacks: Front setback standards would be reduced by 5 feet in the R-1 and R-2 zoning districts (from 20 feet to 15 feet) and the R-2A zoning district (from 15 feet to 10 feet), but would remain the same in the R-1H, R-2H, R-2A, R-2AH and MU-R zoning districts. Also, a project could provide a smaller setback that is the average of the front setback(s) of adjacent structure(s), if that is less than the required setback.
- Rear Setbacks: The rear setback in the R-1, R-2 and R-2A zoning districts would be 4 feet. The rear setbacks would remain 20 feet in the R-1H and R-2H zoning districts, and 15 feet in the R-2AH zoning district. The MU-R would maintain its existing regulations. The 4-foot rear setback is consistent with the setbacks required for ADUs. As noted above, a building's maximum height would be limited to 22 feet within 15 feet of the rear property line under the proposed ordinance.
- Interior Side Setbacks: The interior side setback in the R-1, R-2 and R-2A zoning districts would be 4 feet, but would be 5 feet in the R-1H, R-2H and R-2AH zoning districts. The MU-R would maintain its existing regulations. This increase reflects State Board of Forestry Zone Zero requirements, which call for an ember-resistant zone within five feet of a structure in a Very High Fire Hazard Severity Zone. The proposed standards would also remove existing interior setbacks that increase at upper stories. These existing standards not only reduce

available square footage for residential uses, but also result in buildings that are designed with a layered “wedding cake” appearance.

- Street Side Setbacks: Street side setbacks would be 4 feet in all low-density residential districts. There would be no changes to street side setbacks in the MU-R.

*Building Separation*

*Current Policy*: Current building separation requirements (that is, the required separation between each building on a single lot) are summarized in Table 7

**TABLE 7 CURRENT BUILDING SEPARATION STANDARDS**

	R-1(H)	R-1A	R-2(H)	R-2A(H)	MU-R
1 story	No min	8 ft.			No min
2 stories		12 ft.			
3 stories		16 ft.			
Reduce with an AUP	--	Yes			--

*Proposed Policy*: The proposed development standards would create a 5-foot building separation requirement, regardless of the height of the proposed project, and an 8-foot building separation requirement for parcels in the H overlay. This requirement would be consistent with the separation requirements for ADUs, and would also remove a development standard that has resulted in buildings designed with a layered “wedding cake” appearance.

*Demolition of Single-Family Structures*

*Current Policy*: Recent updates to BMC Chapter 23.326 *Demolition and Dwelling Unit Control*, the second reading of which was adopted on July 9, provide for the demolition of single-family structures without sitting tenants via an AUP as long as the proposed project would result in a net increase in the number of dwelling units.

*Proposed Policy*: Pursuant to the adopted Housing Element, which commits the City Council to consider permitting the demolition of single-family homes with a Zoning Certificate, with provisions to protect existing tenants, in cases where the proposed project would include a net increase in the number of dwelling units, the proposed ordinance includes this provision.

Planning Commission also considered permitting demolition with an AUP, as detailed in the Alternative Actions Considered section.

*City Council Referrals*

The proposed zoning amendments are prepared in response to several City Council referrals to create objective development standards and promote denser development in low-density residential zones, as shown in Table 8:

**TABLE 8 CITY COUNCIL REFERRALS**

<p>Housing Accountability Act (7/11/2017)</p>	<p>Requested research into a set of objective zoning standards for new development projects in the following four areas:</p> <ul style="list-style-type: none"> <li>• Density and/or building intensity</li> <li>• Public health and safety standards</li> <li>• Design review standards</li> <li>• Views, shadows, and other impacts that underlie detriment findings</li> </ul>
<p>Missing Middle Housing (4/23/2019)</p>	<p>Examine methods to provide for a broader range of housing types in areas of Berkeley with access to parks, schools, employment, transit, and other services. The Council directed the City Manager to explore opportunities to allow “missing middle” housing types in the R-1, R-1A, R-2, and R-2A zoning districts.</p>
<p>Eliminating Exclusionary Zoning (2/23/2021)</p>	<p>Allow multi-family housing in residential neighborhoods throughout Berkeley, and to allow for small-scale multi-family development in the R-1, R-1A, R-2, and R-2A zoning districts. As part of this effort, the resolution calls for the city to also:</p> <ul style="list-style-type: none"> <li>• Protect public safety in all neighborhoods</li> <li>• Allow for new housing that reflects the existing mix of multi-family housing types within neighborhoods</li> <li>• Provide strong anti-displacement and tenant protections</li> <li>• Accommodate families in new and rehabilitated multi-family housing developments</li> <li>• Ensure that new development does not demolish any rent-controlled or below market-rate housing</li> <li>• Explore incentives for projects to contribute to the need for affordable housing</li> <li>• Carry out a robust community process when developing zoning changes.</li> </ul>
<p>Objective Standards for Density, Design, and Shadows (11/9/2021)</p>	<p>Consider and codify objective zoning standards with the goal of encouraging the creation of additional residential development and affordable homes. Further purposes include:</p> <ul style="list-style-type: none"> <li>• Address State laws that seek to reduce time involved in permitting processes</li> <li>• Increase certainty for applicants</li> <li>• Reduce administrative costs and burden associated with discretionary review.</li> </ul>

*Community Engagement to Date*

Planning and Development staff conducted significant community engagement, regarding middle housing standards, both as a program within the adopted Housing Element and as a set of policy proposals in their own right. The outreach and engagement plan for the adopted Housing Element included 20 stakeholder interviews,

a community-wide survey, 20 small format meetings, three work sessions with the City Council, tabling at community events, three public workshops, and 10 City boards and commission meetings (see Table 9).

While not all of these outreach efforts or events were specifically focused on Middle Housing, redevelopment within existing residential areas was a consistent theme in all of staff’s outreach. Consultation with residents and neighborhood groups was a key part of the development of specific standards to encourage multi-unit development, within a framework based on City Council’s direction in the Missing Middle Housing and Eliminating Exclusionary Zoning referrals.

The proposed zoning amendments include many elements that were directly informed by community engagement. For example, early in the process, staff heard consistent feedback that permitting larger buildings in existing residential areas may result in shadows that could have an adverse impact on solar power generation and could limit solar access to private open space. As a result of this feedback, staff engaged a consultant to conduct solar studies to ascertain the solar access effects off taller buildings. Based on these studies, staff is recommending a 35-foot average maximum height limit to help minimize impacts to solar access for most neighboring properties in existing residential areas.

Another common concern was the potentially adverse impact of more building mass in existing residential areas. Residents understood the need to provide more housing but did not want development standards to simply result in larger single-family homes. Staff’s recommendation reflected this feedback in two ways. First, the development standards include lower maximum heights in the rear 15 feet of a building lot, to limit overall building bulk and to preserve air and light in mid-block open space. Second, staff’s recommendation included scaling floor area ratio and lot coverage so that the development of larger buildings was more directly related to the provision of more housing units.

**TABLE 9 COMMUNITY, COMMISSION AND COUNCIL MEETINGS**

September 21, 2021	City Council Worksession #1 <i>Housing Element Update</i>
November 24, 2021- January 31, 2022	Community Walking Tours <i>West Berkeley Middle Housing Examples</i>
December 7, 2021	Public Workshop #1 <i>Housing Element &amp; Residential Objective Standards</i>
December 9, 2021	City Council Worksession #2 <i>Housing Element Update</i>
December 15, 2021	Planning Commission and Zoning Adjustments Board Subcommittee

	<i>Residential Objective Standards</i>
January 27, 2022	Public Workshop #2 <i>Housing Element &amp; Residential Objective Standards</i>
February 16, 2022	Planning Commission and Zoning Adjustments Board Subcommittee <i>Residential Objective Standards</i>
March 15, 2022	City Council Worksession #3 <i>Housing Element Update and Residential Objective Standards</i>
June 1, 2022	Planning Commission <i>Objective Standards for Middle Housing</i>
June 29, 2022	Public Workshop #3 <i>Housing Element &amp; Residential Objective Standards</i>
September 20, 2022	City Council Worksession <i>Residential Objective Standards: Middle Housing and Southside</i>
August 2023	City Councilmember Briefings <i>Middle Housing</i>
November 1, 2023	Planning Commission <i>Middle Housing Discussion</i>
February 2, 2024	Planning Commission <i>Public Hearing: Middle Housing Zoning Changes</i>

The proposed zoning amendments are designed to satisfy the requirements of Program 29—Middle Housing in the adopted Housing Element.

*Implications for Historic and Cultural Resources*

As the Environmental Impact Report for the Housing Element disclosed, “development accommodated by the proposed Housing Element Update [including middle housing and by-right demolition] could adversely affect known and previously unidentified historic period resource.” Currently, the requirement to obtain a Use Permit to demolish a structure requires properties more than 40 years old to be subject to an Historic Resource Evaluation (HRE), which helps establish whether a property is an historic or cultural resource. If demolition were permitted with a ZC, an HRE would not be required. As a result, some properties that have not yet had their historic or cultural resources status evaluated could be subject to demolition without preservation review.

The Housing Element EIR includes the following mitigation measure to address this potential impact:

**CUL-1 Historic Context Statement, Cultural Resources Survey and Designations.** During the period of this Housing Element, the City should conduct a citywide historic context statement and a cultural resource survey to identify historic resources, with priority given to sites in the EIR Site Inventory, to determine if there are designed built environment features which are over 40 years of age proposed to be altered or demolished. Designation of historic or cultural resources should be conducted by the Landmarks Preservation Commission pursuant to 3.24.260 of the Berkeley Municipal Code.

The development of a citywide historic context statement has been proposed but has not yet been initiated. To reduce the time and cost related to such a study, an historic context statement could also be focused geographically on areas of the city that are either a) particularly rich in potential historic resources, and/or b) are anticipated to experience redevelopment as a result of the proposed ordinance.

#### *Technical Edits*

The proposed ordinance includes the following technical edits:

- *Renumbering of BMC Sections.* For ease of review, sections of the proposed ordinance that are exclusively renumbering of existing sections are highlighted in gray in **Attachment 2**.
- *Low-Barrier Navigation Center and Supportive Housing.* Government Code Section 65651 requires supportive housing and low barrier navigation centers to be a use by-right in any zone that permits multifamily uses. As the proposed ordinance would permit Multi-Family Residential uses in the R-1 zoning district, the Residential Allowed Use table would be amended to permit supportive housing and low barrier navigation centers with a ZC in the R-1 zoning district to comply with state law.

#### *General Plan Amendments*

The proposed zoning changes require conforming General Plan amendments. **Attachment 3** is a resolution that includes the text of these amendments. The amendments are summarized below:

- *Removal of R-1A Zoning District.* The proposed zoning changes include consolidating parcels currently zoned as R-1A and R-2 into a single R-2 zoning district. The proposed General Plan amendments include removal of references to the R-1A zoning district.

- *Land Use Classification Descriptions:* Currently, there are three different land use classifications that characterize the R-1, R-1A, R-2, and R-2A zoning districts:
  1. Low Density Residential for the R-1 and Environmental Safety Residential (ES-R) zoning districts.
  2. Low Medium Density Residential for the R-1A and R-2 zoning districts.
  3. Medium Density Residential for the R-2A and R-3 zoning districts.

Staff proposes reducing the number of land use classifications that apply to these districts to two. This is consistent with the Planning Commission's recommendation to consolidate the R-1A and R-2 zoning districts and to adopt development standards that are largely consistent across these low-density residential zoning districts. Specifically, staff recommends:

1. Renaming the Low Residential classification to Lower Density Residential.
2. Assigning the Medium Density Residential classification to the R-2, R-2A and R-3 zoning districts.
3. Including technical edits that reflect the Planning Commission's recommendation with respect to the names of zoning districts and the proposed development standards.

The proposed General Plan amendments also include minor changes to the Mixed-Use Residential land use classification to accurately state the zoning district's Floor Area Ratio and height regulations.

- *General Plan Map Amendments:* Consistent with the recommended General Plan text changes, the General Plan Map would be amended to a) rename the Low Density Residential classification; and b) expand the Medium Density Residential classification to include the R-2 and R-2A zoning districts.

## BACKGROUND

### *City Council and Planning Commission Review*

The City Council has held four Worksessions to discuss middle housing and residential objective standards. During these sessions, City Council considered issues such as how best to encourage a diversity of housing types, differentiation of standards in the Very High Fire Hazard Severity Zones, affirmatively furthering fair housing, and solar access.

Beginning in late 2021, the full Planning Commission and its Housing Element Subcommittee discussed middle housing on five occasions, and conducted a public hearing on February 7, 2024 to recommend the proposed ordinance. The following list summarizes notable discussion points from each of those meetings, and feedback that the Commission provided to staff to inform the development of the ordinance:

*December 15, 2021 and February 16, 2022: Planning Commission and Zoning Adjustments Board Subcommittees*

- Encourage smaller units that are “affordable by design.”
- Permit more density while discouraging financial speculation.
- Balance the environmental trade-offs between protecting rooftop solar access and higher densities.

*June 1, 2022: Planning Commission Discussion: Objective Standards for Middle Housing<sup>3</sup>*

- Encourage smaller unit sizes and consider eliminating minimum lot size requirements.
- Reduce the minimum dimensions for required open space.

*November 1, 2023: Planning Commission Discussion: Middle Housing<sup>4</sup>*

- Prepare zoning ordinance amendments to encourage middle housing:
  - Include parcels located in the Hillside Overlay zone.
  - Remove the Floor Area Ratio (FAR) Maximum standard, as building bulk is sufficiently regulated through height and setback standards.
  - Remove the Maximum Residential Density standard, as regulating building size is the goal of the development standards, not limiting the number of units.
  - Increase Maximum Lot Coverage on all parcels to 60%, regardless of the number of units included in a proposed project.
- Prepare zoning amendments to permit demolition of single-family dwellings with a zoning certificate if associated with a middle housing project.

*Relevant State Laws*

*Senate Bill 9 (SB 9)* requires jurisdictions to ministerially approve two residential units on a parcel within a single-unit residential zone if the development meets specific objective criteria. The bill also requires ministerial review of projects proposing to subdivide one lot into two lots, each with a minimum area of 1,200 square feet, within a

<sup>3</sup> Agenda: [https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2022-06-01%20PC%20Agenda%20Packet\\_Final.pdf](https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2022-06-01%20PC%20Agenda%20Packet_Final.pdf)

<sup>4</sup> Agenda: [https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2023-11-01\\_PC\\_Agenda\\_Packet\\_Paginated.pdf](https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2023-11-01_PC_Agenda_Packet_Paginated.pdf)

single-unit residential zone. It permits up to two units on each parcel (four total dwelling units on what was formerly a single-unit lot) and the new units can be achieved through new construction or conversions/ additions to existing structures. SB 9 applies to all single-family residential parcels not within historic districts, ecologically sensitive zones and other protected areas. In Berkeley, SB 9 applies to the R-1 and R-1H zoning districts.

The proposed ordinance includes provisions which permit Multi-Family Residential uses in the R-1 zoning district. Consequently, the R-1 zoning district would no longer be a single-family residential zone under State law, and SB 9 would no longer apply to parcels in that district.

*Senate Bill 35 (SB 35)* allows qualified multifamily infill projects to go through a ministerial housing approval process. Eligible projects must provide a minimum share of affordable units, follow certain labor provisions, and be consistent with objective standards. Qualifying projects are not subject to discretionary processes, such as CEQA environmental review and public hearings. Eligible projects with 150 units or fewer (such as middle housing projects) must be approved within 90 days and projects with more than 150 units must be approved within 180 days.

The proposed ordinance includes the codification of objective development standards for residential projects in the low-density residential zones. Middle housing projects located in low-density residential districts could be eligible for SB 35's streamlining provisions.

*Senate Bill 478 (SB 478)* prohibits a local agency from imposing an FAR less than 1.0 on a housing project with three to seven units, or less than 1.25 on a housing project with eight to 10 units.

*State Density Bonus Law* grants certain allowances for projects that include a stipulated amount of affordable housing. Such projects are permitted to include more units and to waive certain development standards, including maximum height, lot coverage, and open space requirements. Projects that utilize State Density Bonus are typically larger than the projects that are encouraged by the proposed zoning changes,<sup>5</sup> but a project could not be prevented from using the State Density Bonus under the proposed zoning changes.

## ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

### *Housing Element Update EIR*

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<sup>5</sup> The smallest project that has utilized State Density Bonus in the past two years in Berkeley included 11 units.

Development projections for this project and all reasonably foreseeable growth resulting from development contemplated by the City's updated Housing Element were analyzed in the Environmental Impact Report (EIR) for the 2023-2031 Housing Element Update ("Housing Element Update EIR"), which was certified by the City Council on January 18, 2023.<sup>6</sup>

The Housing Element EIR identified one significant and unavoidable environmental impact related to Cultural Resources (impacts to historic-period resources), one significant and unavoidable impact related to Noise (temporary construction noise) and four significant and unavoidable impacts related to Wildfire (emergency evacuation and response, wildfire risk and pollutant exposure, terrain and slope impacts, and infrastructure). All other environmental effects of the proposed Project can be reduced to less than significant levels through implementation of Standard Condition(s) of Approval and/or recommended mitigation measures. The adoption of the Housing Element EIR included a statement of overriding consideration that provides reasons the Housing Element could be adopted even though those impacts could occur.

#### RATIONALE FOR RECOMMENDATION

The proposed ordinance includes the Planning Commission's recommended zoning ordinance amendments to encourage the development of middle housing in low density residential districts, consistent with Housing Element Program 29—Middle Housing and City Council referrals. The Alternative Actions Considered section, below, includes discussion of some policy alternatives that the City Council may also consider.

#### ALTERNATIVE ACTIONS CONSIDERED

In the course of developing its recommendation, the Planning Commission considered a number of other ordinance amendments recommended by staff.

#### *Permit Requirements, Maximum Floor Area Ratio and Lot Coverage*

During the middle housing policy development process, staff received feedback from both the City Council and the Planning Commission that the middle housing standards should promote the creation of more housing units, and should not simply allow larger unit sizes at low densities. The key trade-off within middle housing is that larger development projects are permitted, with the understanding that these projects contribute to addressing the city's housing shortage by providing more housing units. In response, staff proposed development standards that would scale based on the number of units included in a proposed project; that is, if a project includes more units, it can be larger.

While the proposed ordinance includes development standards that would permit Multi-Family Residential uses that include more units, they would also streamline the

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<sup>6</sup> Housing Element Update 2023-2031 Final EIR.

[https://berkeleyca.gov/sites/default/files/documents/ATT%20%20FEIR\\_RTC.pdf](https://berkeleyca.gov/sites/default/files/documents/ATT%20%20FEIR_RTC.pdf)

approval of larger Single-Family Residential uses. By treating all housing types similarly, the proposed ordinance does less to incentivize projects that include more units as compared to single-family dwellings. The Planning Commission generally did not support development standards that scaled up with the number of units, preferring instead a set of standards that incentivized all types of new housing while maximizing flexibility in the project design process.

Staff had recommended three specific provisions that were designed specifically to incentivize Multi-Family Residential uses that were not recommended by the Planning commission, and are therefore not included in the proposed Ordinance:

1. **Permit Approvals:** Consistent with Program 29-Middle Housing in the adopted Housing Element Update, staff had proposed permitting Multi-Family Residential uses with a Zoning Certificate, while still requiring a Use Permit for a Single-Family Residential use. The lower permit threshold for Multi-Family Residential would provide an incentive for a project sponsor to consider a Multi-Family Residential project.
2. **Maximum Floor Area Ratio (FAR):** While an effective maximum FAR can be calculated based on existing standards for lot coverage and maximum height, the Berkeley Municipal Code does not include a specific FAR standard in the R-1, R-1H, R-1A, R-2, R-2H, R-2A, and R-2AH districts. The City Council had provided feedback to staff to consider scaling an FAR standard to increase as the number of units increase on a site, and previous Zoning Adjustments Board and Planning Commission subcommittees have supported standards that encourage the development of smaller or medium-sized, cost-efficient units.

The proposed ordinance does not include Maximum FAR. The Planning Commission felt that building size was sufficiently regulated by height, setback and lot coverage standards, and that an additional development standard would complicate the project design process and was unnecessary.

Table 10 includes the Maximum FAR standards staff recommended to the Planning Commission:

**TABLE 10 PROPOSED MAXIMUM FAR STANDARDS**

	R-1(H)	R-2(H)	R-2A(H)	MU-R
1 unit and nonresidential	1.2	1.2	1.2	1.5
2 units	0.5	0.6	0.6	1.5
3-7 units	1.2	1.2	1.5	1.5
8 + units	1.5	1.25	1.75	1.75

- 3. **Maximum Lot Coverage:** Similar to the rationale for scaling FAR by project size, staff had originally proposed scaling Maximum Lot Coverage by unit count. Staff received feedback that the middle housing standards should be designed to encourage projects that included more units, not to simply allow larger single-family dwellings. Staff’s recommendation also preserved some of the distinctions between the R-1, R-2, and R-2A districts that permitted less lot coverage in traditionally lower-density zones.

The proposed ordinance includes a single Maximum Lot Coverage standard of 60% in the R-1(H), R-2(H) and R-2A(H) zones. The Planning Commission identified that the existing lot coverage standards were the most limiting development standard with respect to the promotion of middle housing projects, and so proposed a single, more expansive standard. The Planning Commission also noted that a single standard for all R-districts was more geographically equitable.

Table 11 shows the Maximum Lot Coverage Standards staff recommended to the Planning Commission:

**TABLE 11 PROPOSED MAXIMUM LOT COVERAGE STANDARDS**

	R-1	R-2	R-2A	MU-R
1-2 units & non-residential	40%	50%	50%	100%
3-7 units	50%	55%	55%	100%
8+ units	55%	55%	60%	100%

Without provisions to scale allowed density based on the number of units proposed, Middle Housing zoning amendments could incentivize larger single-family homes rather than Multi-Family Residential Uses. For example, under the proposed ordinance, a single-family home with 60% lot coverage would be permitted with a ZC in the R-1 zoning district. Currently, a Use Permit is required, and the maximum lot coverage is 40%.

*Maximum Density*

Staff recommended both Minimum and Maximum Density standards to the Planning Commission. The recommendation was based on feedback that while the standards should encourage the development of more housing, middle housing projects should reflect the existing mix of multi-family housing types within neighborhoods. A Maximum Density standard would provide that, as well as a degree of predictability for existing residents as to what proposed projects may include.

The proposed ordinance does not include a Maximum Density Standard. The Planning Commission felt that the height, setback and lot coverage standards were sufficient to regulate project size, and that allowable project size would naturally limit densities to reasonable levels without the need to explicitly prohibit more than a certain number of units.

Table 12 shows the Minimum Density Standard recommended by Planning Commission alongside the Maximum Density Standard staff recommended to the Planning Commission, as well as the number of units that would result from the standards on a typical 5,000 square foot lot.

**TABLE 12 DENSITY STANDARDS**

	R-1	R-1H	R-1A	R-2	R-2H	R-2A	R-2AH	MU-R
Minimum Density (DU/acre)	10	No min.	10	10	No min.	20	No min.	20
Maximum Density (DU/acre)	25	20	35	35	20	55	55	55
<b>Resulting units on a 5,000 sf lot</b>								
Minimum Units	1	No min.	1	1	No min.	2	No min.	2
Maximum Units	3	2	4	4	2	6	6	6

*Hillside Overlay*

The City is currently undertaking a study of emergency evacuations of the Very High Fire Hazard Severity Zones and is also updating its Safety Element. Staff recommended to the Planning Commission that the middle housing zoning standards should not be applied to parcels in the Hillside Overlay zone until this study is completed. This would allow the policymakers to use the study to inform any zoning change that would result in density increases in the Very High Fire Hazard Severity Zones. Opportunities to increase density in most of the Hillside Overlay (areas zoned R-1H) would still be available, pursuant to SB 9, to encourage middle housing.

The proposed ordinance includes parcels in the Hillside Overlay. The Planning Commission noted that it is important to ensure geographical equity in the accommodation of new housing units. The Planning Commission also recognized that recommendations could arise from the evacuation study and the preparation of the

Safety Element and suggested that any needed changes to the standards could be introduced at a later date.

At its September 20, 2022 worksession, the City Council reviewed a proposed height standard that would reduce the Maximum Building Height within the Hillside Overlay to 28 feet (as opposed to 35 feet outside of the Hillside Overlay). The City Council also reviewed lower minimum and maximum density standards in the Hillside Overlay, as shown in Table 12 above. These standards were proposed to address concerns for both wildfire mitigation (e.g., less fire fuel in the form of building materials), structural fireground operations (e.g., ground ladder placement for access to windows and roof), and view preservation.

#### *Residential Additions and Added Bedrooms*

The proposed ordinance includes permitting Residential Additions with a ZC if they comply with the development standards for a Main Building, and revises the maximum height for Residential Additions to match those for Main Buildings. The proposed ordinance also includes a revision which removes additional requirements for bedrooms that are added to existing dwellings or lots developed with existing residential uses.

Staff recommended that these changes only apply in cases where a Residential Addition, or any additional bedrooms, are associated with the provision of new units. Staff thought it was inconsistent to allow new units with a ZC if they were included in a new development project, but to maintain a discretionary process for new units that happen to be part of an existing building. This approach was also consistent with feedback that the middle housing standards were to promote the development of Multi-Family Residential uses, not just the expansion of existing or proposed Single-Family Uses, as well as promote the adaptive reuse of existing buildings.

The proposed ordinance expanded these changes to apply to any Residential Addition and any new bedroom, even if the new Residential Addition or new bedroom did not result in a new unit, but only expanded an existing unit. The Planning Commission felt that the development standards should be more flexible to accommodate what it felt were shifting trends in household configurations and sizes, including cohousing and multi-generational households.

#### *Administrative Use Permit for Demolition*

The proposed ordinance includes a provision that permits demolition of a single-family home with a Zoning Certificate as long as the demolition is part of a project that results in a net increase in units. Program 29—Middle Housing in the adopted Housing Element included a requirement that the City Council consider this specific policy.

At its meeting of June 25, 2024, the City Council held a public hearing on proposed changes to BMC Chapter 23.326 (Demolition and Dwelling Unit Controls), which

included permitting demolition of a single-family home with an AUP, as long as the demolition would be part of a project that included a net increase in units and the single-family home was not occupied by tenants.

At its meeting of February 7, 2024, the Planning Commission held a public hearing on the proposed middle housing ordinance. Accordingly, the proposed ordinance now includes permitting the demolition of single-family homes with a ZC.

### *Parking Maximums*

BMC Section 23.322.070—Off-Street Parking Maximums for Residential Development limits the amount of off-street parking that can be provided for new residential projects of two or more units within 0.25 miles of a major transit stop or transit corridor to one space for every two units. The parking maximum can be exceeded with an AUP.

Since 2021, when residential parking requirements were modified to incorporate parking maximums, many smaller, middle housing-scale projects have requested AUPs to exceed the parking maximum, usually to a ratio of one space per unit. Project sponsors, as well as the middle housing architects interviewed as part of community outreach, note that the maximum parking standard discourages middle housing production as builders are concerned about selling or renting units, particularly those that are marketed to first-time homebuyers and families with children. The ZAB has been sympathetic to these concerns for middle housing-scale projects and has regularly issued AUPs to permit more parking.

Staff had asked the Planning Commission to consider possible revisions to parking maximums. Feedback from community outreach included the following suggestions:

- Eliminating parking maximums for projects of 9 units or less; or
- Adjusting the parking maximum to one space per unit for middle housing projects, with an added requirement that the spaces have chargers for electric vehicles.

While the Planning Commission acknowledged that parking maximums may make the marketing of middle housing projects more difficult, it indicated that existing policies related to greenhouse gas reduction and promoting alternatives to private vehicle travel continue to justify this policy and declined to recommend revisions to parking maximums.

### *Consolidation of Residential Zoning Districts*

The proposed ordinance includes the elimination of the R-1A zoning district, merging it with the R-2 zoning district, as the two districts would be regulated similarly under the proposed ordinance.

Staff's recommendation to Planning Commission at its February 7, 2024 meeting included a number of development standards which the Commission did not ultimately include in its recommendation, specifically for Maximum FAR, Maximum Density and Maximum Lot Coverage. While these standards included distinctions across the zoning districts, their removal left only two development standards that differed across the districts: the Minimum Density Standard (10 du/acre in the R-1 and R-2; 20 du/acre in the R-2A and MU-R), and the minimum front setback standard (15 feet in the R-1/R-2, 10 feet in the R-2A, and between 5 feet and 10 feet in the MU-R). Accordingly, the Planning Commission discussed, but did not propose, that additional consolidations may be warranted.

Staff notes that although the development standards may be similar across the districts, there are distinctions in allowed land uses that can justify maintaining distinct zones. Mixed-Use Residential projects, for example, would still not be permitted in the R-1, and the MU-R district would continue to permit a wider range of residential and non-residential uses than the R-prefix districts.

CONTACT PERSON

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

Attachments:

- 1: Ordinance
  - Exhibit A: Parcels Rezoned from R-1A and R-2
- 2: Proposed Ordinance, Annotated
- 3: Resolution: General Plan Amendments
- 4: Development Standards Tables
- 5: Planning Commission Report: February 7, 2024
- 6: Public Hearing Notice

ORDINANCE NO. -N.S.

BERKELEY MUNICIPAL CODE TITLE 23 AMENDMENTS; MIDDLE HOUSING ZONING AMENDMENTS

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

Section 1. That Table 23.108-1 Zoning Districts within BMC Chapter 23.108.020 is amended to read as follows:

**TABLE 23.108-1: ZONING DISTRICTS**

DISTRICT SYMBOL	NAME OF DISTRICT
<b>Residential Districts</b>	
R-1	<del>Single-Family</del> Residential <u>Multi-Unit 1</u>
<del>R-1A</del>	<del>Limited Two-family Residential</del>
ES-R	Environmental Safety Residential
R-2	<del>Restricted Two-family</del> Residential <u>Multi-Unit 2</u>
R-2A	<del>Restricted Multiple-family</del> Residential <u>Multi-Unit 2A</u>
R-3	Multiple-family Residential
R-4	Multi-family Residential
R-5	High Density Residential
R-S	Residential Southside
R-SMU	Residential Southside Mixed Use
R-BMU	Residential BART Mixed Use
<b>Commercial Districts</b>	
C-C	Corridor Commercial
C-U	University Avenue Commercial
C-N	Neighborhood Commercial
C-E	Elmwood Commercial
C-NS	North Shattuck Commercial
C-SA	South Area Commercial
C-T	Telegraph Avenue Commercial

<b>DISTRICT SYMBOL</b>	<b>NAME OF DISTRICT</b>
C-SO	Solano Avenue Commercial
C-DMU	Downtown Mixed-Use
C-W	West Berkeley Commercial
C-AC	Adeline Corridor Commercial
<b>Manufacturing Districts</b>	
M	Manufacturing
MM	Mixed Manufacturing
MU-LI	Mixed Use-Light Industrial
MU-R	Mixed Use-Residential
<b>Special Districts</b>	
S	Specific Plan
U	Unclassified

Section 2. That Table 23.202-1 Allowed Land Uses in Residential Districts within BMC Section 23.202.020 is amended to read as follows:

**TABLE 23.202-1: ALLOWED LAND USES IN RESIDENTIAL DISTRICTS**

ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply **Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	RESIDENTIAL DISTRICTS											USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)	
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU**		
<b>Residential Uses</b>													
Accessory Dwelling Unit	See 23.306— Accessory Dwelling Units		NP	See 23.306—Accessory Dwelling Units									
<b>Dwellings</b>													
Single-Family <u>Residential</u>	UP(PH) ZC	UP(PH)	UP(PH)	UP(PH) ZC	UP(PH) ZC	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	23.302.070(H)
Two-Family	NP	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	23.302.070(H)
Multi-Family <u>Residential</u>	NP ZC	NP	NP	UP(PH) ZC	UP(PH) ZC	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.302.070(H)
Group Living Accommodation	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.302.070(H)
Senior Congregate Housing	NP	NP	NP	NP	See 23.302.070.H– Use-Specific Regulations								
Mixed-Use Residential	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.302.070(H)
<b>Public and Quasi-Public Uses</b>													
Child Care Center	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.302.070(H)
Club/Lodge	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.302.070(H)
Columbaria	AUP*	AUP*	NP	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	NP	23.302.070.C– Use-Specific Regulations
Community Care Facility	See 23.202.040.A– Use-Specific Regulations												
Community Center	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	

ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply **Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	RESIDENTIAL DISTRICTS											USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU **	
Emergency Shelter, 15 beds or fewer	NP	NP	NP	NP	NP	NP	ZC	ZC	ZC	ZC	ZC	23.308-Emergency Shelters
Emergency Shelter, more than 15 beds	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.308-Emergency Shelters
Hospital	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	NP	
Library	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Low Barrier Navigation Center	NP ZC	NP	NP	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Nursing Home	NP	NP	NP	-	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	
Park/Playground	ZC	ZC	UP	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Public Safety and Emergency Service	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Public Utility Substation/Tank	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Religious Assembly	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
School	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Supportive Housing	NP ZC*	NP	NP	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	23.302.070.I-Supportive Housing
<b>Commercial Uses</b>												
Alcoholic Beverage Service	NP	NP	NP	NP	NP	NP	NP	NP	NP	ZC	UP(PH)	23.310—Alcoholic Beverage Sales and Service
Food Products Store	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH) *	UP(PH)	23.202.140.B.3– R-SMU Residential Southside Mixed Use District
Food Service Establishment, Under 3,000 sq. ft.	NP	NP	NP	NP	NP	NP	NP	NP	NP	ZC*	ZC*	23.302.070.(E) – Use=Specific Regulations
Food Service Establishment, 3,000 sq. ft. or larger	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP*	AUP*	23.302.070.(E) – Use=Specific Regulations

ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply **Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	RESIDENTIAL DISTRICTS											USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU **	
Group Instruction	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	23.202.150(C) – R-BMU Residential BART Mixed Use District
Health and Fitness Facility	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	23.202.150 (C) – R-BMU Residential BART Mixed Use District
Hotel, Tourist	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	
Laundromat and Cleaner	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	
Office	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	23.202.150.C – R-BMU Residential BART Mixed Use District
Parking Lot/Structure	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	23.302.070.G– Unenclosed Accessory Structures in Residential Districts  23.322.100– On-site Loading Spaces
Personal and Household Service, General	NP	NP	NP	NP	NP	NP	NP	NP	NP	ZC*	ZC*	23.202.140.B.2– R-SMU Residential Southside Mixed Use District
Retail, General	NP	NP	NP	NP	NP	NP	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	23.202.040.B– Use-Specific Regulations
Veterinary Clinic	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	
Video Tape/Disk Rental	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	NP	
<b>Incidental Uses</b>												
Live Entertainment Unamplified	NP	NP	NP	NP	NP	NP	NP	NP	NP	ZC	NP	
Live Entertainment Amplified	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP	NP	
<b>Industrial and Heavy Commercial Uses</b>												
Commercial Excavation	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)

ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply **Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	RESIDENTIAL DISTRICTS											USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)	
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU **		
<b>Other Uses</b>													
Accessory Uses	See 23.302.020.A– General Use Regulations												
Art/Craft Studio	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	ZC	
ATM: Exterior and Attached to Bank or Interior or Exterior and Not With Bank	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP	
Home Occupations	See 23.302.040– Home Occupations												
Live/Work	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH) )*	23.312—Live/Work
Public Market, Open Air	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP	
Public Market, Enclosed	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP	
Short-Term Rental	ZC*	ZC*	NP	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	23.314—Short-Term Rentals
Temporary Uses	See 23.302.030– Temporary Uses and Structures												
Urban Agriculture, Low-Impact	ZC*	ZC*	NP	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	23.318—Urban Agriculture
Urban Agriculture, High-Impact	AUP*	AUP*	NP	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	23.318—Urban Agriculture
Wireless Telecommunication Facility	See 23.332—Wireless Communication Facilities												

Section 3. That BMC Section 23.202.030(A) is amended to read as follows:

A. **Residential Additions.** See Section 23.502.020.A– Defined Terms (“A” Terms) for residential addition definitions.

1. **Permits Required.**

(a) In the ES-R district, residential additions require permits as follows:

i. Residential additions up to 10 percent of lot area or 200 square feet, whichever is less: Zoning Certificate.

ii. Major residential additions more than 10 percent of lot area or 200 square feet, whichever is less: Use Permit.

(b) In the R-1, R-2, R-2A districts, any residential addition requires a Zoning Certificate;

(~~b~~c) In the R-3, R-S, R-SMU and C-T districts within the Southside Plan boundaries, any residential addition requires a Zoning Certificate.

(~~e~~d) In all other Residential Districts the R-3 district outside the Southside Plan boundaries, and in the R-4, R-5 and R-BMU districts, residential additions require permits as follows:

i. Residential additions (up to 15 percent of lot area or 600 square feet, whichever is less): Zoning Certificate.

ii. Major residential additions (all other residential additions): AUP.

Section 4. That BMC Section 23.202.030(B)(1) is amended to read as follows:

1. In the ~~R-1, R-1A, R-2, R-2A,~~ and R-3 districts outside the Southside Plan boundaries, adding a bedroom to a lot requires permits as follows:

(b) Adding a first, second, third, or fourth bedroom to a lot: no permit required.

(c) Adding a fifth bedroom to a lot: AUP.

(d) Adding a bedroom to a lot beyond the fifth: Use Permit.

Section 5. That BMC Section 23.202.050(A) is amended to read as follows:

A. **District Purpose.** The purpose of the ~~Single-Family~~ Residential Multi-Unit 1 (R-1) district is to:

1. Implement the General Plan by encouraging the development of residential areas consistent with a pattern of housing types ranging from single-family to

~~small apartment structures Recognize and protect the existing pattern of development in the low-density, single-family residential areas of the city consistent with the General Plan;~~

2. Make housing available for persons who desire detached and multi-unit housing ~~with and a relatively large amount of~~ usable open space;
3. Provide objective standards to protect adjacent properties from unreasonable obstruction of light and air; and
4. Permit community facilities such as religious assembly uses, schools, parks, and libraries which serve the local population and are not detrimental to the immediate neighborhood.

Section 6. That the title of BMC Section 23.202.050 is amended to read as follows:

23.202.050 – R-1 ~~Single-Family~~ Residential Multi-Unit 1 District

Section 7. That Table 23.202-2 R-1 Development Standards within BMC Chapter 23.202.050 is amended to read as follows:

**Table 23.202-2 R-1 Development Standards**

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Area for New Lots, Minimum	5,000 sq. ft.	23.304.020 – Lot Requirements
Usable Open Space per <u>1,000 sq. ft. Gross Residential Floor Area Dwelling Unit</u> , Minimum	<u>150 400</u> sq. ft.	23.304.090 – Usable Open Space
Floor Area Ratio, Maximum	No maximum	
Main Building Height, <del>Average</del>		23.304.050 – Building Height
New Buildings <del>or and Non-Residential Additions, Average</del>	28 ft. <del>and 3 stories</del> <u>[1]</u>	
<u>New Buildings and Additions, Maximum</u>	<u>35 ft.</u>	
<u>Within 15 ft. of Rear Property Line</u>	<u>22 ft.</u>	
<del>Residential Additions</del>	<del>14 ft.</del>	
<u>Residential Density (DU/acre)</u>		<u>23.106.100 – Residential Density</u>
<u>Minimum</u>	<u>10</u>	
<u>Within Hillside Overlay Zone</u>	<u>No minimum</u>	
Lot Line Setbacks, Minimum		23.304.030 – Setbacks

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Front	<del>15</del> 20 ft. [1]	
<u>Within Hillside Overlay Zone</u>	<u>20 ft.</u>	
Rear	<del>4</del> 20 ft.	
<u>Within Hillside Overlay Zone</u>	<u>20 ft.</u>	
Interior Side	4 ft.	
<u>Within Hillside Overlay Zone</u>	<u>5 ft.</u>	
Street Side	4 ft.	
Building Separation, <del>Minimum</del>	No minimum <u>5 ft.</u>	
<u>Within Hillside Overlay Zone</u>	<u>8 ft.</u>	
Lot Coverage, Maximum	<del>40%</del> 60%	23.304.120 – Lot Coverage
Notes:		
[1] <del>Height greater than 14 ft. up to 28 ft. allowed with an AUP. Height greater than 28 ft up to 35 ft. allowed with an additional AUP. Or average of front lot line setback of adjacent structure(s), whichever is less.</del>		

Section 8. That BMC Chapter 23.202.060 is repealed as follows:

~~23.202.060 R-1A Limited Two-Family Residential District~~ Reserved

A. ~~**District Purpose.** The purpose of the Limited Two-Family Residential (R-1A) district is to:~~

- ~~1. Recognize and protect the existing pattern of low-medium-density residential areas characterized by reasonable open and spacious type of development consistent with the General Plan;~~
- ~~2. Protect adjacent properties from unreasonable obstruction of light and air;~~
- ~~3. Allow flexibility in the use of property for residential purposes by permitting two dwelling units on one lot under limited conditions; and~~
- ~~4. Appropriately regulate the rear and side setback areas for the construction of a dwelling unit in areas west of San Pablo Avenue.~~

B. ~~**Allowed Land Uses.** See Table 23.202-1: Allowed Land Uses in Residential Districts~~

C. ~~**Additional Permit Requirements.** See Subsection A (Residential Additions) and Subsection B (Adding Bedrooms) of Section 23.202.030-Additional Permit Requirements.~~

**D. Development Standards.**

**1. Basic Standards.** See Table 23.202-3: R-1A Development Standards.

**2. Supplemental Standards.** Supplemental development standards that apply in the R-1A district are noted in Table 23.202-3: R-1A Development Standards.

**TABLE 23.202-3: R-1A DEVELOPMENT STANDARDS**

<b>BASIC STANDARDS</b>		<b>SUPPLEMENTAL STANDARDS</b>
Lot Area, Minimum		23.304.020—Lot Requirements
New Lots	5,000 sq. ft.	
For Two Dwelling Units	4,500 sq. ft. [1]	
Usable Open Space Per Dwelling Unit, Minimum	400 sq. ft. [2]	23.304.090—Usable Open Space
Floor Area Ratio, Maximum	No maximum	
Main Building Height, Average		23.304.050—Building Height
New Buildings and Non-Residential Additions	28 ft. and 3 stories [3]	
Rear Main Buildings	22 ft. and 2 stories	
Residential Additions	14 ft. [4]	
Lot Line Setbacks, Minimum		23.304.030—Setbacks
Front	20 ft.	
Rear	20 ft.	
Interior Side	4 ft.	
Street Side	4 ft.	
Interior and Street Side for Rear Main Building	6 ft.	
Building Separation, Minimum		23.304.040—Building Separation in Residential Districts
1-story	8 ft.	
2-stories	12 ft.	
3-stories	16 ft.	
Lot Coverage, Maximum		23.304.120—Lot Coverage
Interior and Through Lot	40%	
Corner Lot	45%	

BASIC STANDARDS	SUPPLEMENTAL STANDARDS
<p>Notes:</p> <p>[1] <del>Maximum two units per lot.</del></p> <p>[2] <del>Open space is not required for accessory dwelling unit.</del></p> <p>[3] <del>Maximum 35 ft. with an AUP.</del></p> <p>[4] <del>Height greater than 14 ft. up to 28 ft. allowed with an AUP. Height greater than 28 ft up to 35 ft allowed with an additional AUP.</del></p>	

Section 9. That BMC Chapter 23.202.070(H)(1) and (2) are amended to read as follows:

H. *Development Standards.*

1. *Basic Standards.* See Table 23.202-~~43~~: ES-R Development Standards.
2. *Supplemental Standards.* Supplemental development standards that apply in the ES-R district are noted in Table 23.202-~~43~~: ES-R Development Standards.

Section 10. That the title of Table 23.202-4 ES-R Development Standards within 23.202.070 is amended to read as follows:

**Table 23.202-~~34~~. ES-R DEVELOPMENT STANDARDS**

Section 11. That the title of BMC Section 23.202.080 is amended to read as follows:

**23.202.080- R-2 ~~Restricted Two-Family~~ Residential Multi-Unit 2 District**

Section 12. That BMC Section 23.202.080(A) is amended to read as follows:

- A. **District Purpose.** The purpose of the ~~Restricted Two-Family~~ Residential Multi-Unit 2 (R-2) district is to:
1. Implement the General Plan by encouraging the development of ~~low-medium-density~~ residential areas ~~characterized by a reasonably open and spacious type of development with a pattern with a range~~ of housing types ~~ranging from single-family to duplexes and small apartment structures~~;
  2. Make available housing for persons who desire a range of housing choice with ~~a relatively large amount of~~ useable open space; and
  3. Provide objective standards to protect adjacent properties from unreasonable obstruction of light and air.

Section 13. That BMC Section 23.202.080(D) is amended to read as follows:

**D. Development Standards.**

1. **Basic Standards.** See Table 23.202-~~54~~: R-2 ~~Development Lot and Height Development Standards, Table 23.202-5: R-2 Setback and Building Separation Standards, and Table 23.202-6: R-2 Lot Coverage Standards~~ for development standards in the R-2 district.
2. **Supplemental Standards.** Supplemental development standards that apply in the R-2 district are noted in Table 23.202-~~54~~: R-2 ~~Lot and Height Development Standards, Table 23.202-5: R-2 Setback and Building Separation Standards, and Table 23.202-6: R-2 Lot Coverage Standards.~~

**TABLE 23.202-~~54~~: R-2 LOT AND HEIGHT DEVELOPMENT STANDARDS**

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Area, Minimum		23.304.020 – Lot Requirements
New Lots	5,000 sq. ft.	
<del>Per Dwelling Unit</del>	<del>2,500 sq. ft. [1]</del>	
Usable Open Space Per <del>1,000 sq. ft. Gross Residential Floor Area Dwelling Unit</del> , Minimum		23.304.090 – Usable Open Space
Floor Area Ratio, Maximum		<del>23.106.050 - Floor Area Ratio</del>
Main Building Height, <del>Average</del>		23.304.050 – Building Height
New Buildings and <del>Non-Residential Additions, Average</del>	28 ft. <del>and 3 stories [2]</del>	
<del>New Buildings and Additions, Maximum</del>	<del>35 ft.</del>	
<del>Within 15 feet of Rear Property Line</del>	<del>22 ft.</del>	
<del>Residential Additions</del>	<del>14 ft. [3]</del>	
<del>Residential Density (DU/acre)</del>		<del>23.106.100 – Residential Density</del>
<del>Minimum</del>	<del>10</del>	
<del>Within Hillside Overlay Zone</del>	<del>No minimum</del>	
<del>Lot Line Setbacks, Minimum</del>		

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
<u>Front</u>	<u>15 ft. [1] 20 ft.</u>	<u>23.304.030 – Setbacks</u>
<u>Within Hillside Overlay Zone</u>	<u>20 ft.</u>	
<u>Rear</u>	<u>4 ft.</u>	
<u>Within Hillside Overlay Zone</u>	<u>20 ft.</u>	
<u>Interior Side</u>	<u>4 ft.</u>	
<u>Within Hillside Overlay Zone</u>	<u>5 ft.</u>	
<u>Street Side</u>	<u>4 ft.</u>	
<u>Building Separation, Minimum</u>	<u>5 ft.</u>	
<u>Within Hillside Overlay Zone</u>	<u>8 ft.</u>	
<u>Lot Coverage, Maximum</u>	<u>60%</u>	<u>23.304.120 – Lot Coverage</u>
<p>Notes:</p> <p>[1] <u>Addition height greater than 14 ft. up to 28 ft. allowed with an AUP, . Addition height greater than 28 ft up to 35 ft. allowed with an additional AUP. Or average front lot line setback of adjacent structure(s), whichever is less.</u></p>		

**TABLE 23.202-5: R-2 SETBACK AND BUILDING SEPARATION STANDARDS**

	STANDARDS BY BUILDING STORY			SUPPLEMENTAL STANDARDS
	1 <sup>ST</sup>	2 <sup>ND</sup>	3 <sup>RD</sup>	
<u>Lot Line Setbacks, Minimum</u>				<u>23.304.030– Setbacks</u>
<u>Front</u>	<u>20 ft.</u>	<u>20 ft.</u>	<u>20 ft.</u>	
<u>Rear</u>	<u>20 ft.</u>	<u>20 ft.</u>	<u>20 ft.</u>	
<u>Interior</u>	<u>4 ft.</u>	<u>4 ft.</u>	<u>6 ft.</u>	
<u>Street Side</u>	<u>10 ft.</u>	<u>10 ft.</u>	<u>10 ft.</u>	
<u>Building Separation, Minimum</u>	<u>8 ft.</u>	<u>12 ft.</u>	<u>16 ft.</u>	<u>23.304.040– Building Separation in Residential Districts</u>

**TABLE 23.202-6: R-2 LOT COVERAGE STANDARDS**

	STANDARD BASED ON BUILDING HEIGHT			SUPPLEMENTAL STANDARDS
	1 STORY	2 STORIES	3 STORIES	
Lot Coverage, Maximum				23.304.120—Lot Coverage
Interior and Through Lot	45%	40%	35%	
Corner Lot	50%	45%	40%	

Section 14. That the title BMC Section 23.202.090 is amended to read as follows:

**23.202.090- R-2A ~~Restricted Multiple-Family~~ Residential Multi-Unit 2A District**

Section 15. That BMC Section 23.202.090(A) is amended to read as follows:

A. **District Purpose.** The purpose of the ~~Restricted Multiple-Family~~ Residential Multi-Unit 2A (R-2A) district is to:

1. Implement the General Plan by encouraging the development of ~~medium-density~~ residential areas characterized by a range of housing types small multiple-family and garden-type apartment structures with a maximum of open space consistent with this type of development;
2. Make available housing for persons who desire apartment-type accommodations with ~~a maximum of useable~~ open space; and
3. Provide objective standards to protect adjacent properties from unreasonable obstruction of light and air; and
4. ~~Permit only land use intensity which is compatible with existing low-density residential structures and is not detrimental to the immediate neighborhood.~~

Section 16. That BMC Section 23.202.090(D) is amended to read as follows:

D. **Development Standards.**

1. **Basic Standards.** See Table 23.202-~~58~~: R-2A ~~Lot and Height Development Standards, Table 23.202-8: R-2A Setback and Building Separation Standards, and Table 23.202-9: R-2A Lot Coverage Standards.~~
2. **Supplemental Standards.** Supplemental development standards that apply in the R-2A district are noted in Table 23.202-~~58~~: R-2A ~~Lot and Height~~

Development Standards, Table 23.202-8: R-2A Setback and Building Separation Standards, and Table 23.202-9: R-2A Lot Coverage Standards.

**TABLE 23.202-58: R-2A LOT AND HEIGHT DEVELOPMENT STANDARDS**

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Area, Minimum		
New Lots	5,000 sq. ft.	23.304.010 - <u>Lot Requirements</u>
<u>Per Dwelling Unit</u>	<u>1,650 sq. ft. [1]</u>	
Usable Open Space Per <u>1,000 sq. ft. Gross Residential Floor Area Dwelling Unit</u> , Minimum	<u>150 300 sq. ft.</u>	23.304.090 - <u>Usable Open Space</u>
<u>Floor Area Ratio, Maximum</u>	<u>No maximum</u>	<u>23.106.050 - Floor Area Ratio</u>
Main Building Height, <u>Average</u>		23.304.050 – Building Height
New Buildings and <u>Non-Residential Additions, Average</u>	<u>28 ft. and 3 stories [2]</u>	
New Buildings and <u>Non-Residential Additions, Maximum</u>	<u>35 ft.</u>	
<u>Within 15 ft. of Rear Property Line</u>	<u>22 ft.</u>	
<u>Residential Additions</u>	<u>14 ft. [1]</u>	
<u>Residential Density (DU/acre)</u>		<u>23.106.100 – Residential Density</u>
<u>Minimum</u>	<u>20</u>	
<u>Within Hillside Overlay District</u>	<u>No minimum</u>	
<u>Lot Line Setbacks, Minimum</u>		<u>23.304.030 – Setbacks</u>
<u>Front</u>	<u>10 ft. [1]</u>	
<u>Within Hillside Overlay Zone</u>	<u>15 ft.</u>	
<u>Rear</u>	<u>4 ft.</u>	
<u>Within Hillside Overlay Zone</u>	<u>15 ft.</u>	
<u>Interior Side</u>	<u>4 ft.</u>	
<u>Within Hillside Overlay Zone</u>	<u>5 ft.</u>	
<u>Street Side</u>	<u>4 ft.</u>	
<u>Building Separation, Minimum</u>		
<u>Within Hillside Overlay Zone</u>	<u>8 ft.</u>	

<u>Lot Coverage, Maximum</u>	<u>60%</u>	<u>23.304.120 – Lot Coverage</u>
<p>Notes:  <del>[1] Maximum 35 ft. with an AUP. Addition height greater than 14 ft. up to 28 ft. allowed with an AUP. Addition height greater than 28 ft up to 35 ft. allowed with an additional AUP. Or average front setback of adjacent structure(s), whichever is less.</del></p>		

**TABLE 23.202-8: R-2A SETBACK AND BUILDING SEPARATION STANDARDS**

	STANDARDS BY BUILDING STORY			SUPPLEMENTAL STANDARDS
	1 <sup>ST</sup>	2 <sup>ND</sup>	3 <sup>RD</sup>	
<u>Lot Line Setbacks, Minimum</u>				<u>23.304.030– Setbacks</u>
Front	15 ft.	15 ft.	15 ft.	
Rear	15 ft.	15 ft.	15 ft.	
Interior	4 ft.	4 ft.	6 ft.	
Street Side	6 ft.	8 ft.	10 ft.	
<u>Building Separation, Minimum</u>	8 ft.	12 ft.	16 ft.	<u>23.304.040– Building Separation in Residential Districts</u>

**TABLE 23.202-9: R-2A LOT COVERAGE STANDARDS**

	STANDARD BASED ON BUILDING HEIGHT			SUPPLEMENTAL STANDARDS
	1 STORY	2 STORIES	3 STORIES	
<u>Lot Coverage, Maximum</u>				<u>23.304.120</u>
Interior and Through Lots	45%	40%	35%	
Corner Lots	50%	45%	40%	

Section 17. That BMC Section 23.202.100(E)(2) is amended to read as follows:

- Supplemental Standards.** Supplemental development standards that apply in the R-3 district are noted in Table 23.202-~~611~~: R-3 Development

Standards.

Section 18. That the title of Table 23.202-11: R-3 Development Standards within BMC Section 23.202.100 is amended to read as follows:

**TABLE 23.202-~~611~~: R-3 DEVELOPMENT STANDARDS**

Section 19. That the BMC Sections 23.202.110(E)(1) and (2) are amended to read as follows:

**E. Development Standards.**

1. **Basic Standards.** See Table 23.202-~~712~~: R-4 Lot and Height Standards, Table 23.202-~~813~~: R-4 Setback and Building Separation Standards, and Table 23.202-~~914~~: R-4 Lot Coverage Standards.
2. **Supplemental Standards.** Supplemental development standards that apply in the R-4 district are noted in Table 23.202-~~712~~: R-4 Lot and Height Standards, Table 23.202-~~813~~: R-4 Setback and Building Separation Standards, and Table 23.202-~~914~~: R-4 Lot Coverage Standards.

Section 20. That the title of Table 23.202-12: R-4 Lot and Height Standards within BMC Section 23.202.110 is amended to read as follows:

**TABLE 23.202-~~712~~: R-4 LOT AND HEIGHT STANDARDS**

Section 21. That the title of Table 23.202-13: R-4 Setback and Building Separation Standards within BMC Section 23.202.110 is amended to read as follows:

**TABLE 23.202-~~813~~: R-4 SETBACK AND BUILDING SEPARATION STANDARDS**

Section 22. That the title of Table 23.202-14: R-4 Lot Coverage Standards within BMC Section 23.202.110 is amended to read as follows:

**TABLE 23.202-~~914~~: R-4 LOT COVERAGE STANDARDS**

Section 23. That BMC Section 23.202.120(D)(1) and (2) be amended to read as follows:

**D. Development Standards.**

1. **Basic Standards.** See Table 23.202-~~105~~: R-5 Lot and Height Standards, Table 23.202-~~116~~: R-5 Setback and Building Separation Standards, and Table 23.202-~~127~~: R-5 Lot Coverage Standards.
2. **Supplemental Standards.** Supplemental development standards that apply

in the R-5 district are noted in Table 23.202-~~105~~: R-5 Lot and Height Standards, Table 23.202-~~116~~: R-5 Setback and Building Separation Standards, and Table 23.202-~~127~~: R-5 Lot Coverage Standards.

Section 24. That the title of Table 23.202-15: R-5 Lot and Height Standards within BMC Section 23.202.120 is amended to read as follows:

**TABLE 23.202-~~105~~: R-5 LOT AND HEIGHT STANDARDS**

Section 25. That the title of Table 23.202-16: R-5 Setback and Building Separation Standards within BMC Section 23.202.120 is amended to read as follows:

**TABLE 23.202-~~116~~: R-5 SETBACK AND BUILDING SEPARATION STANDARDS**

Section 26. That the title of Table 23.202-17: R-5 Lot Coverage Standards within BMC Section 23.202.120 is amended to read as follows:

**TABLE 23.202-~~127~~: R-5 LOT COVERAGE STANDARDS**

Section 27. That BMC Section 23.202.130(E)(1) and (2) are amended to read as follows:

**E. Development Standards.**

1. **Basic Standards.** See Table 23.202-~~138~~: R-S Development Standards.
2. **Supplemental Standards.** Supplemental development standards that apply in the R-S district are noted in Table 23.202-~~138~~: R-S Development Standards.

Section 28. That the title of Table 23.202-18: R-S Development Standards within BMC Section 23.202.130 is amended to read as follows:

**TABLE 23.202-~~138~~: R-S DEVELOPMENT STANDARDS**

Section 29. That BMC Section 23.202.140(E)(1) is amended to read as follows:

1. **Basic Standards.** See Table 23.202-~~149~~: R-SMU Development Standards.

Section 30. That the title of Table 23.202-19: R-SMU Development Standards within BMC Section 23.202.140 is amended to read as follows:

**TABLE 23.202-149: R-SMU DEVELOPMENT STANDARDS**

Section 31. That BMC Section 23.202.150(D) is amended to read as follows:

- D. **Ground-floor Uses.** See Table 23.202-1520: Permitted Street-Facing Ground Floor Uses.

Section 32. That the title of Table 23.202-20: Permitted Street-Facing Ground Floor Uses within BMC Section 23.202.150 is amended to read as follows:

**TABLE 23.202-1520: PERMITTED STREET-FACING GROUND FLOOR USES**

Section 33. That BMC Section 23.202.150(F)(1) and (2) are amended to read as follows:

1. **Basic Standards.** See Table 23.202-1624.
2. **Supplemental Standards.** Supplemental standards that apply in the R- BMU district are noted in Table 23.202-1624.

Section 34. That the title of Table 23.202-21 within BMC Section 23.202.150 is amended to read:

**TABLE 23.202-1624: R-BMU DEVELOPMENT STANDARDS**

Section 35: That the lines “Single-Family,” “Two Family” and “Multi-Family” in Table 23.204-1: Allowed Land Uses in the Commercial Districts within BMC Section 23.204.020 be amended to read.

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		
<b>Residential Uses</b>													
<b>Dwellings</b>													
Single-Family <u>Residential</u>	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060.B.3; 23.302.070(H)
<u>Two-Family</u>	<u>UP(PH)</u>	<u>UP(PH)</u>	<u>UP(PH)</u>	<u>UP(PH)</u>	<u>UP(PH)</u>	<u>UP(PH)</u>	<u>UP(PH)</u>	<u>UP(PH)</u>	<u>UP(PH)</u>	<u>UP(PH)</u>	<u>UP(PH)</u>	<u>UP(PH)</u>	<u>23.204.060.</u>

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	
	(PH)	(P H)*	(P H)	(H)	(PH)	(PH)	(PH)	(PH)	(PH)	(PH)	(PH)	B.3; 23.302.070(H)
Multi-Family Residential	UP(PH)	UP(P H)*	UP(P H)	UP(P H)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060.B.3; 23.302.070(H)

Section 36 That the lines “Single Family,” “Two Family,” “Multi-Family” and “Mixed Use Residential” in Table 23.206-1: Allowed Land Uses in Manufacturing Districts within BMC Section 23.206.020 are amended to read as follows:

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit -- = Permitted with an AUP, see 23.206.020(B) NP = Not Permitted [#] = Floor Area Permit Requirement * Use-Specific Standards Apply	MANUFACTURING DISTRICTS				Use-Specific Standards Applies to uses with an asterisk following the permit requirement (e.g., ZC*)
	M	MM	MU-LI	MU-R	
<b>Residential Uses</b>					
<b>Dwellings</b>					
Single-Family Residential	NP	NP	NP	AUP* ZC	23.206.090.B.8
Two-Family	NP	NP	NP	AUP*	23.206.090.B.8
Multi-Family Residential	NP	NP	NP	ZC UP(PH)	23.206.090.B.7&8
Mixed-Use Residential	NP	NP	NP	UP(PH) * -	23.206.090.B.7 8&9

Section 37 That BMC Section 23.206.030(C)(1)(a) is amended to read:

- (a) Major residential additions in the MU-R district require a Zoning Certificate and AUP.

Section 38. That 23.206.030(C)(2) and (C)(3) are amended to read:

- ~~2. Findings. To deny an AUP for a major residential addition in the MU-R district, the review authority must find that:~~

- ~~(a) The proposed addition would unreasonably interfere with existing or reasonably foreseeable adjacent land uses in the M or MM district; or~~
- ~~(b) Existing or reasonably foreseeable adjacent land uses in the M and/or MM district would have a material adverse effect on the use of the proposed addition.~~

**32. Recorded Acknowledgement.** For a residential addition in the MU-R district, the residential property owner shall record an acknowledgement on the title that existing or reasonably foreseeable adjacent land uses in the M and/or MM District may create noise, dust, odors, light/glare, and other impacts that shall not be considered a nuisance if they are developed and conducted pursuant to the standards of the district.

Section 39. That BMC Section 23.206.090(B)(7) to (9) are amended to read as follows:

~~**7. Multi-Family Dwellings.** Table 23.206-13 shows permits required for multi-family dwellings in the MU-R district.~~

**TABLE 23.206-13: MU-R MULTI-FAMILY DWELLING PERMIT REQUIREMENTS**

NUMBER OF UNITS	PERMIT REQUIRED
3 or 4	AUP
5 or more	UP(PH)

~~**8. Residential Uses.**~~

- ~~(c) A Use Permit is required to establish a dwelling unit, group living accommodation, or live/work unit MU-R that is within 150 feet of:
 
  - ~~i. An M or MM district; or~~
  - ~~ii. A construction product manufacturing or primary product manufacturing use.~~~~
- ~~(d) To deny a Use Permit required by Paragraph (a) above, the ZAB must find that:
 
  - ~~i. The proposed residential use would unreasonably interfere with existing or reasonably foreseeable adjacent land uses in the M or MM district; or~~
  - ~~ii. Existing or reasonably foreseeable adjacent land uses in the M or MM district would have a material adverse effect on the proposed residential use.~~~~
- ~~(e) As a condition of approval for a Use Permit required by Paragraph (a) above, the residential property owner shall record an acknowledgement that existing or reasonably foreseeable adjacent land uses in the M or MM district may~~

~~create noise, dust, odors, light/glare, and other impacts that will not be considered a nuisance if they are developed and conducted pursuant to the standards of the district.~~

**9. 7. Residential Mixed-Use.** To approve ~~a an AUP or~~ Use Permit to establish or expand of a residential mixed-use building in the MU-R district, the review authority must find that the specific combination of proposed residential and non-residential uses will not be hazardous or detrimental to persons living and/or working on the site or within the project vicinity.

Section 40. That Table 23.206-14- MU-R Development Standards within Section 23.206.090 is amended to read as follows:

**TABLE 23.206-14: MU-R DEVELOPMENT STANDARDS**

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Area, Minimum		23.304.020 – Lot Requirements
New Lot	No minimum	
Per <del>Dwelling Unit or</del> Live/Work Unit	1,250 sq. ft. <del>[4]</del>	
Lot Width, Minimum	40 ft.	
Usable Open Space, Minimum		23.304.090 – Usable Open Space
Per <del>Dwelling Unit Gross 1,000 sq. ft. of residential floor area</del>	150 sq. ft.	
Per Live/Work Unit	40 sq. ft.	
Floor Area Ratio, Maximum, <del>Non-Residential</del>	1.50 <del>[12]</del>	23.106.050 - Floor Area Ratio
<del>Floor Area Ratio, Maximum, Residential</del>	<del>No maximum</del>	
<del>Residential Density (DU/acre)</del>		23.106.100 – Residential Density
<del>Minimum</del>	<del>20</del>	
Main Building Height, Maximum		23.304.050 - Building Height
Live/work	28 ft. and 3 stories <del>[23]</del>	
Residential or mixed-use <del>[34]</del>	35 ft. <del>and 3 stories</del>	
<del>Within 15 ft. of rear property line</del>	<del>22 ft.</del>	
All other uses	35 ft. and 2 stories <del>[45]</del>	
Lot Line Setbacks, Minimum		23.304.030 –

Front	5 ft.	Setbacks
Rear	No minimum <del>[56]</del>	
Interior Side	No minimum	
Street Side	5 ft.	
Building Separation, Minimum	<del>No minimum</del> <u>5 ft.</u>	
Lot Coverage, Maximum	<del>100%</del> <u>No maximum</u>	

Notes:

~~[1] One additional dwelling unit allowed for remaining lot area between 750 and 1,250 square feet.~~

~~[12] Maximum 1.5 for buildings with 50 percent or more residential or live/work floor area~~

~~[23] Maximum 35 ft. with a Use Permit.~~

~~[34] Mixed use is defined here as a building with 50 percent or more of gross floor area used for residential (including live/work) purposes.~~

~~[45] Maximum 3 stories for arts/craft studios and light manufacturing (with no other non-residential uses) on a block without dwelling units.~~

~~[56] Minimum 5 ft. if rear of lot abuts a street.~~

~~[7] Setbacks required when abutting or confronting a Residential District. See 23.304.030.C.2.~~

Section 41. That BMC Section 23.210.020(B)(2) is amended to read as follows:

~~**2. Multiple Dwellings in R-2.** When the H overlay zone is combined with the R-2 district, multiple dwellings on a single property are not permitted.~~

Section 42. That Table 23.210-1: H Overlay Zone Maximum Allowed Height within Section 23.210.020 is amended to read as follows:

**TABLE 23.210-1: H OVERLAY ZONE MAXIMUM ALLOWED HEIGHT**

UNDERLYING BASE DISTRICT	ALLOWED HEIGHT		MAXIMUM STORIES
	AVERAGE	MAXIMUM	
New Buildings			
R-1, <del>R-1A</del> , R-2, R-2A	28 ft.	35 ft.	<del>3 stories</del> <u>No maximum</u>
R-3, R-4, R-5, R-S, C-N,	<del>35 ft.</del>	35 ft.	3 stories

C-NS			
Residential Additions	As required by the base district or the highest existing portion of the roof, whichever is lower	<del>20</del> <u>35</u> ft.	N/A

Section 43. That BMC Section 23.304.030(B)(1) is amended to read as follows:

1. **Corner Lots with a Rear Lot Line Abutting a Key Lot.** For corner lots in the R-1, ~~R-1A~~, R-2 and R-2A districts with a rear lot line abutting a key lot, the minimum street side setback is either:
  - (a) One-half the front setback required or existing on the key lot, whichever is less; or
  - (b) Four feet if the corner lot maintains 50 feet or more rear setback.

Section 44: That Table 23.304-1 Allowed Setback Reductions in Residential District within BMC Section 23.304.030 is amended to read:

**TABLE 23.304-1: ALLOWED SETBACK REDUCTIONS IN RESIDENTIAL DISTRICTS**

DISTRICT WHERE ALLOWED	WHEN ALLOWED	MINIMUM SETBACK WITH REDUCTION	REQUIRED PERMIT	REQUIRED ADDITIONAL FINDINGS [1]
<b>Front Setback Reductions</b>				
ES-R	On any lot	No minimum.	UP(PH) [2]	The reduced setback is: 1) necessary to allow economic use of property due to the size, shape of the lot or the topography of the site; and 2) consistent with the ES-R district purpose.
<b>Rear Setback Reductions</b>				

DISTRICT WHERE ALLOWED	WHEN ALLOWED	MINIMUM SETBACK WITH REDUCTION	REQUIRED PERMIT	REQUIRED ADDITIONAL FINDINGS [1]
ES-R [3]	On any lot	No minimum	UP(PH) [2]	The reduced setback is: 1) necessary to allow economic use of property due to the size, shape of the lot or the topography of the site; and 2) consistent with the ES-R district purpose.
R-1, <del>R-4A</del>	On a lot less than 100 ft. deep	20% of lot depth	ZC	None
<del>R-1A</del>	<del>To construct a dwelling unit</del>	<del>12 ft.</del>	<del>AUP</del>	<del>The unit would not cause a detrimental impact on emergency access; or on light, air or privacy for neighboring properties.</del>
R-2, R-2A, R-3, R-4, R-5 [4],	On a lot with two or more main buildings with dwelling units	No minimum	AUP	No additional findings
<b>Side Setback Reductions</b>				
ES-R [3]	Any lot	No minimum	UP(PH) [2]	The reduced setback is: 1) necessary to allow economic use of property due to the size, shape of the lot or the topography of the site; and 2) consistent with the ES-R district purpose.
R-1, <del>R-4A</del>	Lot width less than 40 ft. [5]	10% of lot width or 3 ft., whichever is greater	ZC	None

DISTRICT WHERE ALLOWED	WHEN ALLOWED	MINIMUM SETBACK WITH REDUCTION	REQUIRED PERMIT	REQUIRED ADDITIONAL FINDINGS [1]
R-2, R-2A	Lot width less than 40 ft.	First and second stories: 10% of lot width or 3 ft., whichever is greater; Third story: <del>5</del> 4 ft.	ZC	None

Notes:

[1] Findings are in addition to any AUP or Use Permit findings required in 23.406-Specific Permit Requirements.

[2] Fire Department must review and approve reduced setbacks in respect to fire safety.

[3] For lots less than 5,000 square feet, reductions are not allowed for property lines abutting a property under different ownership.

[4] Parcels located within the R-3 district within the Southside Plan boundaries are exempt from this section.

~~[5] Not permitted for rear main buildings in the R-1A district.~~

Section 45. That the line “R-1A” in Table 23.304-4: Permits Required for Building Separation in Residential Districts within BMC Section 23.304.040 is amended to read as follows:

DISTRICT WHERE ALLOWED	WHEN ALLOWED	PERMIT REQUIRED	FINDINGS [1]
<del>R-1A</del>	<del>On a lot with two or more main buildings with a dwelling unit</del>	<del>AUP</del>	<del>The unit would not cause a detrimental impact on emergency access; or on light, air or privacy for neighboring properties.</del>

Section 46. That the line “R-1, R-1A, R-2” in Table 23.322-12: Land Uses Requiring Off-Street Loading Spaces within BMC Section 23.322.100 is amended to read as follows:

District	Land Use [1]
R-1, <del>R-1A</del> , R-2	Schools 10,000 sq. ft. or more

Section 47. That BMC Section 23.322.100(C)(1) is amended to read as follows:

1. General. The following requirements apply to required on-site loading spaces in all districts except for the R-1, ~~R-1A~~, R-2, R-2A districts.

(a) *Dimensions.* A required loading space must be at least 12 feet wide and 25 feet long with a minimum vertical clearance of 14 feet.

(b) *Location.* A required loading spaces must be located on the same lot as the structure or use the space is designed to serve.

(c) *Parking Spaces.* A required parking space may not be used to satisfy the requirements for an off-street loading space.

(d) *Access and Paving.* A required loading space must have adequate means of access from a street or alley. Both the space and access driveway must be paved with a durable, dustless material that is usable under all weather conditions.

Section 48. That BMC Section 23.326.030(B)(2) is amended to read as follows:

2. A Single-Family Dwelling without sitting tenants may be demolished with ~~an AUP~~ a Zoning Certificate, if the demolition is part of a development project that would result in a net increase in residential density.

Section 49. That BMC Section 23.502.020(M)(17) and (18) are amended to read as follows:

17. **Multi-Family Dwelling.** A building, group of buildings, or portion of a building used or designed as ~~three~~ two or more dwelling units.

18. Multi-Family Residential. A residential use that includes two or more units on a single lot.

~~49.~~ 19. Municipal Animal Shelter. A City-owned facility providing services for humane animal care with programs and services focused on maximizing opportunities for animal adoption. Supporting facilities may include medical care (including spay/neuter), kennels, exercise areas and adoption centers.

Section 50. That BMC Section 23.502.020(R) is amended to read as follows:

R. "R" Terms.

~~1. Rear Main Building. A main building situated behind another main building existing or proposed on a parcel located in the R-1A district.~~

21. *Receiving Lot.* See Lot, Receiving.

32. *Recycled Materials Processing.* A facility that receives and processes recyclable materials. Processing means preparation of material for efficient shipment, or to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning, and remanufacturing.

43. *Recycling Redemption Center.* A facility, use, or structure for the collection of recyclable goods, including beverage containers and newspapers.

54. *Related Equipment.* All equipment necessary for or related to the provision of personal wireless services. Such equipment may include, but is not limited to, cable, conduit and connectors, equipment pads, equipment shelters, cabinets, buildings and access ladders.

65. *Religious Assembly.* A building or space primarily used for an assembly of persons to conduct worship or other religious ceremonies, including, but not limited to, churches, synagogues, temples, mosques or shrines.

76. *Repair Service, Non-Vehicle.* An establishment that provides repair and maintenance services for household appliance, home electronics, office equipment, furniture and other similar items. Excludes vehicle repair.

87. *Research and Development.* An establishment engaged in the following activities: 1) industrial, biological or scientific research; and/or 2) product or process design, development, prototyping, or testing. This may include labs, offices, warehousing, and light manufacturing functions as part of the overall Research and Development use.

98. *Resident.* A person whose primary residence is in Berkeley.

409. *Residential Care Facility.* See Community Care Facility.

4410. *Residential Hotel.* See Hotel, Residential.

4211. *Residential Addition.* See Addition, Residential.

4312. *Residential Districts.* The districts listed under the Residential Districts heading in Table 23.108-1: Zoning Districts.

4413. *Residential Hotel Room.* A room which is:

- (a) Used, designed, or intended to be used for sleeping for a period of 14 consecutive days or more;
- (b) Not a complete dwelling unit, as defined in this chapter; and
- (c) Not a Tourist Hotel Room, as defined in this chapter.

**4514. Residential Use.** Any legal use of a property as a place of residence, including but not limited to dwelling units, group living accommodations, and residential hotels.

**4615. Retail, General.** A retail establishment engaged in the sales of personal, consumer, or household items to the customers who will use such items. This use includes antique stores, art galleries, arts and crafts supply stores, bicycle shops, building materials and garden supplies stores, clothing stores, computer stores, cosmetic/personal care items, department stores, drug paraphernalia stores, drug stores, fabric, textile and sewing supply shops, flower and plant stores, food product stores, furniture stores, garden supply stores, nurseries, gift/novelty shops, household hardware and housewares stores, household electronics/electrical stores, jewelry/watch shops, linen shops includes bedding, musical instruments and materials stores, office supply stores, paint stores, photography equipment supply stores, secondhand stores, sporting goods stores, stationery, cards and paper goods stores toy stores and variety stores. This use excludes video rental stores, service of vehicle parts, and firearm/munition sales.

**4716. Retaining Wall.** A wall designed to contain and resist the lateral displacement of soil and of which such soil is at a higher elevation on one side of the wall.

**4817. Review Authority.** The City official or body responsible for approving or denying a permit application or other form of requested approval under the Zoning Ordinance.

**4918. Rooming House.** A building used for residential purposes, other than a hotel, where lodging for 5 or more persons, who are not living as a single household, is provided for compensation, whether direct or indirect. In determining the number of persons lodging in a rooming house, all residents shall be counted, including those acting as manager, landlord, landlady or building superintendent. See also Boarding House.

Section 51. That BMC Section 23.502.020(S)(17) through 23.502.020(S)(32) is amended to read as follows:

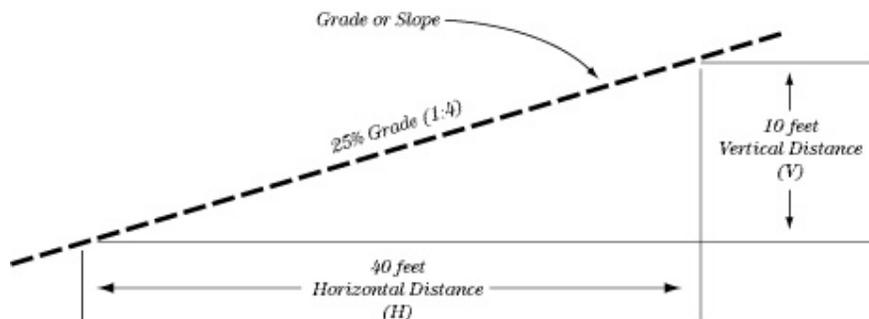
**17. Single-Family Residential.** A residential use that includes only one single-family dwelling on a single lot.

**18.17. Single Residential Occupancy (SRO) Room.** A room for residential or sleeping purposes in a residential hotel which is designed for occupancy of one person only.

**19. 18. Skateboard Ramp.** A ramp, platform, course or facility used for skateboard riding and made of wood or other solid material.

**20. 19. Slope.** The steepness of a site, measured as the ratio of the vertical distance to the horizontal distance between the highest and lowest points of the site. See Figure 23.502-5: Grade or Slope.

**FIGURE 23.502-5: GRADE OR SLOPE**



**21.20. Small Vehicle Sales and Service.** An establishment which sells or leases long-term new, used, or pre-owned motorized vehicles other than passenger automobiles and trucks which are characterized by fewer than four wheels or a minimal frame. Types of vehicles sold or leased by this use include motorcycles, scooters, three-wheel motorcycles, electric carts, electric scooters, and such vehicles designed or refurbished for alternative fuels/power sources (alternative to conventional gasoline).

**22. 21. Smoke Shop.** An establishment engaged primarily in the sale of tobacco and/or tobacco-related products.

**23. 22. Solar Energy Device/Equipment.** Any solar collector or other solar energy device or any structural design feature of a building of which the primary purpose is to provide for the collection, storage or distribution of solar energy for space heating or cooling, water heating or the generation of electricity.

**24.23. Sorority House.** A building used for group living accommodations by an organization recognized by the UC Berkeley, or other institution of higher learning.

**25.24. Source Lot.** See Lot, Source.

**26.25. Story.** See Section 23.106.060 (Story)

**27.26. Street.** A public or private thoroughfare which provides principal means of access to abutting lots, including but not limited to, avenue, place, way, manor,

drive, circle, lane, court, boulevard, highway, road and any other thoroughfare except an alley or a path as defined in this chapter.

**28.27 Street Line.** The boundary between a lot and an adjacent street.

**29. 28 Structural Alteration.** Any physical change to or removal of the supporting members of a building, foundation or bearing walls, columns, beams or girders or creation or enlargement of a window or door, change of a roofline or roof shape, including creating, enlarging or extending a dormer.

**30. 29 Structural Alteration, Public Safety.** Any structural alteration or physical change to a building that provides greater safety to the public or occupants by strengthening the building against seismic activity, which does not result in new floor area except that created by necessary structural improvements or physical changes as required under Municipal Code Chapter 19.38 and 19.39.

**31. 30 Structure.** Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. A building is a structure for the purposes of this chapter.

- (a) **Accessory Structure.** A detached structure, other than an accessory building, in which non-habitable uses or activities other than the principal use of the property are conducted. Residential accessory structures include, but are not limited to, enclosed structures such as garages, carports, garden or tool sheds, and non-enclosed structures such as, but not limited to, fences, gazebos, ground-mounted satellite dishes, skateboard ramps and wheelchair ramps. Non-residential accessory structures include, but are not limited to, storage buildings, garages, sheds and other outbuildings.
- (b) **Subterranean Structure.** A roofed structure constructed underground, with no building stories aboveground, of which the roof does not exceed 3 feet above the pre-existing grade. Such structures are either separated from a building or connected to a building only by a passageway or hallway with no openings to finished grade except for a doorway.
- (c) **Temporary Structure.** A tent, tent-house, trailer, mobile office, mobile home or other movable structure or other temporary structure whose construction does not require a building permit.

**32. 31 Studio.** See Art/Craft Studio.

**33. 32 Supportive Housing.** As defined in Health and Safety Code 50675.14(b)(2), housing with no limit on length of stay that is occupied by the target population as defined in Health and Safety Code 50675.14(b)(3) and is linked to on- or off-site services that assist the supportive housing residents in retaining the housing, improving their health status, and maximizing their ability to live and, when possible, work in the community.

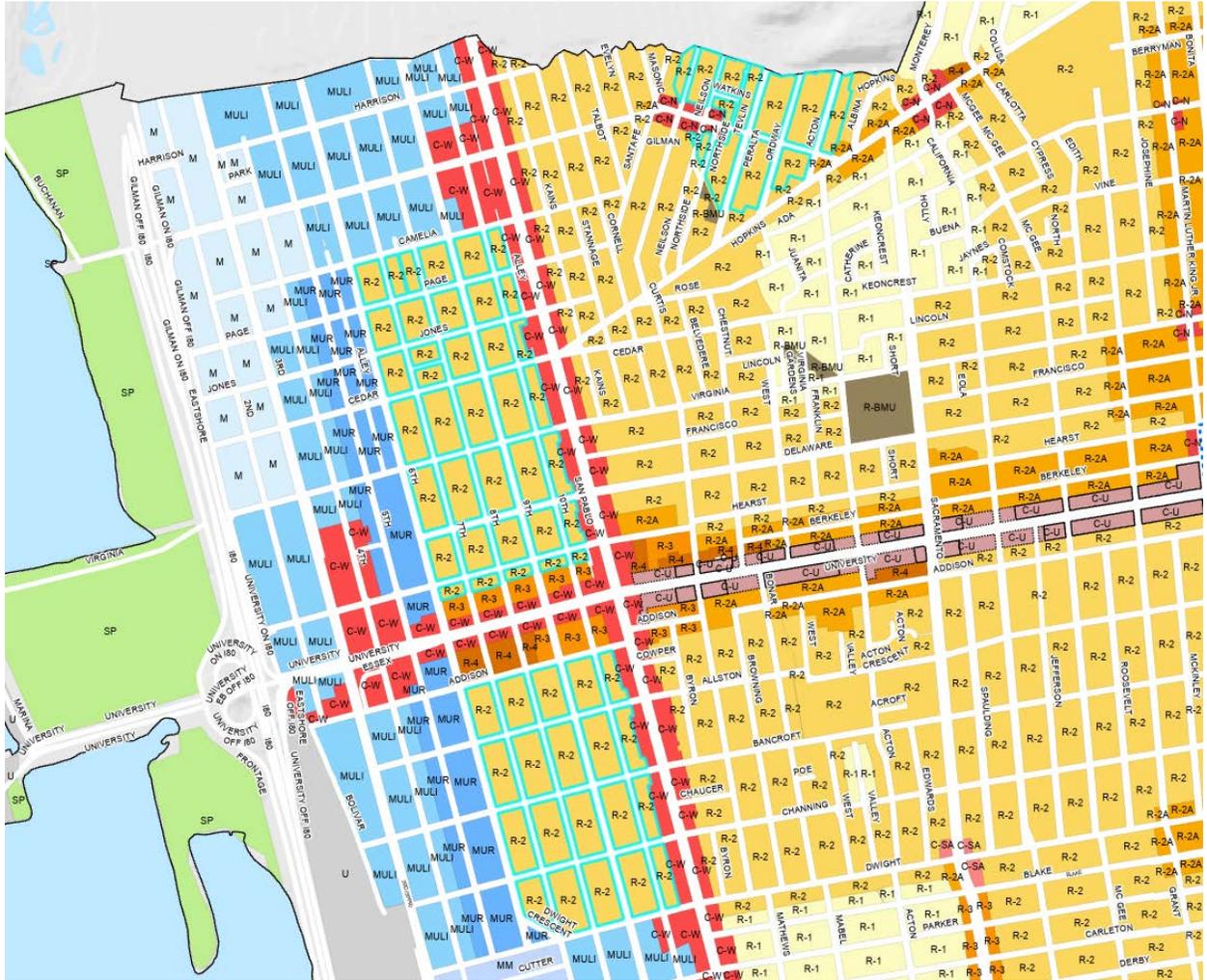
Section 52. That BMC Section 23.502.020(T)(10) is removed as follows:

~~10. **Two-Family Dwelling.** A building or use of a lot designed for, or occupied exclusively by, two households.~~

Section 53. 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.

### Exhibit A Proposed Zoning Map Changes

The zoning map below reflects the elimination of the R-1A zoning district and the redesignation of R-1A parcels as R-2 parcels. All affected parcels are outlined in light blue.



ORDINANCE NO. -N.S.

MIDDLE HOUSING ZONING AMENDMENTS

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

Section 1. That Table 23.108-1 Zoning Districts within BMC Chapter 23.108.020 is amended to read as follows:

**TABLE 23.108-1: ZONING DISTRICTS**

DISTRICT SYMBOL	NAME OF DISTRICT
<b>Residential Districts</b>	
R-1	<del>Single-Family Residential</del> <u>Multi-Unit 1</u>
<del>R-1A</del>	<del>Limited-Two-family Residential</del>
ES-R	Environmental Safety Residential
R-2	<del>Restricted-Two-family Residential</del> <u>Multi-Unit 2</u>
R-2A	<del>Restricted-Multiple-family Residential</del> <u>Multi-Unit 2A</u>
R-3	Multiple-family Residential
R-4	Multi-family Residential
R-5	High Density Residential
R-S	Residential Southside
R-SMU	Residential Southside Mixed Use
R-BMU	Residential BART Mixed Use
<b>Commercial Districts</b>	
C-C	Corridor Commercial
C-U	University Avenue Commercial
C-N	Neighborhood Commercial
C-E	Elmwood Commercial
C-NS	North Shattuck Commercial
C-SA	South Area Commercial
C-T	Telegraph Avenue Commercial

Text highlighted in gray is just renumbering or other minor technical edit.

DISTRICT SYMBOL	NAME OF DISTRICT
C-SO	Solano Avenue Commercial
C-DMU	Downtown Mixed-Use
C-W	West Berkeley Commercial
C-AC	Adeline Corridor Commercial
<b>Manufacturing Districts</b>	
M	Manufacturing
MM	Mixed Manufacturing
MU-LI	Mixed Use-Light Industrial
MU-R	Mixed Use-Residential
<b>Special Districts</b>	
S	Specific Plan
U	Unclassified

Text highlighted in gray is just renumbering or other minor technical edit.

**Section 2.** That Table 23.202-1 Allowed Land Uses in Residential Districts within BMC Section 23.202.020 is amended to read as follows:

Commented [HJ1]: Revising permit requirements.

**TABLE 23.202-1: ALLOWED LAND USES IN RESIDENTIAL DISTRICTS**

ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply **Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	RESIDENTIAL DISTRICTS											USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU**	
<b>Residential Uses</b>												
Accessory Dwelling Unit	See 23.306— Accessory Dwelling Units		NP	See 23.306—Accessory Dwelling Units								
<b>Dwellings</b>												
Single-Family Residential	UP(PH) ZC	UP(PH)	UP(PH)	UP(PH) ZC	UP(PH) ZC	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	23.302.070(H)
Two-Family	NP	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	23.302.070(H)
Multi-Family Residential	NP ZC	NP	NP	UP(PH) ZC	UP(PH) ZC	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.302.070(H)
Group Living Accommodation	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.302.070(H)
Senior Congregate Housing	NP	NP	NP	NP	See 23.302.070.H– Use-Specific Regulations							
Mixed-Use Residential	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.302.070(H)
<b>Public and Quasi-Public Uses</b>												
Child Care Center	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.302.070(H)
Club/Lodge	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.302.070(H)
Columbaria	AUP*	AUP*	NP	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	NP	23.302.070.C– Use-Specific Regulations
Community Care Facility	See 23.202.040.A– Use-Specific Regulations											
Community Center	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.302.070(H)

Text highlighted in gray is just renumbering or other minor technical edit.

ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply **Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	RESIDENTIAL DISTRICTS											USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU**	
Emergency Shelter, 15 beds or fewer	NP	NP	NP	NP	NP	NP	ZC	ZC	ZC	ZC	ZC	23.308-Emergency Shelters
Emergency Shelter, more than 15 beds	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.308-Emergency Shelters
Hospital	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	NP	
Library	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Low Barrier Navigation Center	<del>NP</del> ZC	NP	NP	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Nursing Home	NP	NP	NP	-	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	
Park/Playground	ZC	ZC	UP	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Public Safety and Emergency Service	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Public Utility Substation/Tank	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Religious Assembly	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
School	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Supportive Housing	<del>NP</del> ZC*	NP	NP	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	23.302.070.I-Supportive Housing
<b>Commercial Uses</b>												
Alcoholic Beverage Service	NP	NP	NP	NP	NP	NP	NP	NP	NP	ZC	UP(PH)	23.310—Alcoholic Beverage Sales and Service
Food Products Store	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)*	UP(PH)	23.202.140.B.3– R-SMU Residential Southside Mixed Use District
Food Service Establishment, Under 3,000 sq. ft.	NP	NP	NP	NP	NP	NP	NP	NP	NP	ZC*	ZC*	23.302.070.(E) – Use=Specific Regulations
Food Service Establishment, 3,000 sq. ft. or larger	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP*	AUP*	23.302.070.(E) – Use=Specific Regulations

Commented [HJ2]: Low Barrier Navigation Center technical edit, per State law.

Commented [HJ3]: Supportive Housing technical edit, per State law

Text highlighted in gray is just renumbering or other minor technical edit.

ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply **Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	RESIDENTIAL DISTRICTS											USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU**	
Group Instruction	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	23.202.150(C) – R-BMU Residential BART Mixed Use District
Health and Fitness Facility	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	23.202.150 (C) – R-BMU Residential BART Mixed Use District
Hotel, Tourist	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	
Laundromat and Cleaner	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	
Office	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	23.202.150.C – R-BMU Residential BART Mixed Use District
Parking Lot/Structure	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	23.302.070.G– Unenclosed Accessory Structures in Residential Districts  23.322.100– On-site Loading Spaces
Personal and Household Service, General	NP	NP	NP	NP	NP	NP	NP	NP	NP	ZC*	ZC*	23.202.140.B.2– R-SMU Residential Southside Mixed Use District
Retail, General	NP	NP	NP	NP	NP	NP	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	23.202.040.B– Use-Specific Regulations
Veterinary Clinic	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	
Video Tape/Disk Rental	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	NP	
<b>Incidental Uses</b>												
Live Entertainment Unamplified	NP	NP	NP	NP	NP	NP	NP	NP	NP	ZC	NP	
Live Entertainment Amplified	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP	NP	
<b>Industrial and Heavy Commercial Uses</b>												
Commercial Excavation	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	

Text highlighted in gray is just renumbering or other minor technical edit.

ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply **Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	RESIDENTIAL DISTRICTS											USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)	
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU**		
<b>Other Uses</b>													
Accessory Uses	See 23.302.020.A– General Use Regulations												
Art/Craft Studio	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	ZC	
ATM: Exterior and Attached to Bank or Interior or Exterior and Not With Bank	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP	
Home Occupations	See 23.302.040– Home Occupations												
Live/Work	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH) )*	23.312—Live/Work	
Public Market, Open Air	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP	
Public Market, Enclosed	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP	
Short-Term Rental	ZC*	ZC*	NP	ZC*	ZC*	ZC*	23.314—Short-Term Rentals						
Temporary Uses	See 23.302.030– Temporary Uses and Structures												
Urban Agriculture, Low-Impact	ZC*	ZC*	NP	ZC*	ZC*	ZC*	23.318—Urban Agriculture						
Urban Agriculture, High-Impact	AUP*	AUP*	NP	AUP*	AUP*	AUP*	23.318—Urban Agriculture						
Wireless Telecommunication Facility	See 23.332—Wireless Communication Facilities												

Text highlighted in gray is just renumbering or other minor technical edit.

**Section 3.** That BMC Section 23.202.030(A) is amended to read as follows:

Commented [HJ4]: Removing additional permit requirements for Additions in the R-1, R-2 and R-2A

A. **Residential Additions.** See Section 23.502.020.A– Defined Terms (“A” Terms) for residential addition definitions.

1. **Permits Required.**

(a) In the ES-R district, residential additions require permits as follows:

- i. Residential additions up to 10 percent of lot area or 200 square feet, whichever is less: Zoning Certificate.
- ii. Major residential additions more than 10 percent of lot area or 200 square feet, whichever is less: Use Permit.

(b) In the R-1, R-2, R-2A districts, any residential addition requires a Zoning Certificate;

(bc) In the R-3, R-S, R-SMU and C-T districts within the Southside Plan boundaries, any residential addition requires a Zoning Certificate.

(ed) In all other Residential Districts the R-3 district outside the Southside Plan boundaries, and in the R-4, R-5 and R-BMU districts, residential additions require permits as follows:

- i. Residential additions (up to 15 percent of lot area or 600 square feet, whichever is less): Zoning Certificate.
- ii. Major residential additions (all other residential additions): AUP.

**Section 4.** That BMC Section 23.202.030(B)(1) is amended to read as follows:

Commented [HJ5]: Removing permit requirements for additional bedrooms in the R-1, R-2 and R-2A.

1. In the ~~R-1, R-1A, R-2, R-2A,~~ and R-3 districts outside the Southside Plan boundaries, adding a bedroom to a lot requires permits as follows:

- (b) Adding a first, second, third, or fourth bedroom to a lot: no permit required.
- (c) Adding a fifth bedroom to a lot: AUP.
- (d) Adding a bedroom to a lot beyond the fifth: Use Permit.

**Section 5.** That BMC Section 23.202.050(A) is amended to read as follows:

Commented [HJ6]: Revising name of R-1 district; amending District purpose statement

A. **District Purpose.** The purpose of the ~~Single-Family~~ Residential Multi-Unit 1 (R-1) district is to:

- 1. Implement the General Plan by encouraging the development of residential areas consistent with a pattern of housing types ranging from single-family to

**Text highlighted in gray is just renumbering or other minor technical edit.**

~~small apartment structures. Recognize and protect the existing pattern of development in the low-density, single-family residential areas of the city consistent with the General Plan;~~

2. Make housing available for persons who desire detached **and multi-unit** housing **with and a relatively large amount of** usable open space;
3. **Provide objective standards to** protect adjacent properties from unreasonable obstruction of light and air; and
4. Permit community facilities such as religious assembly uses, schools, parks, and libraries which serve the local population and are not detrimental to the immediate neighborhood.

**Section 6.** That the title of BMC Section 23.202.050 is amended to read as follows:

Commented [HJ7]: Conforming edit (R-1 name change)

23.202.050 – R-1 **Single-Family Residential Multi-Unit 1** District

**Section 7.** That Table 23.202-2 R-1 Development Standards within BMC Chapter 23.202.050 is amended to read as follows:

Commented [HJ8]: Revision of Development Standards

**Table 23.202-2 R-1 Development Standards**

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Area for New Lots, Minimum	5,000 sq. ft.	23.304.020 – Lot Requirements
Usable Open Space per <b>1,000 sq. ft. Gross Residential Floor Area Dwelling Unit</b> , Minimum	<b>150,400</b> sq. ft.	23.304.090 – Usable Open Space
Floor Area Ratio, Maximum	No maximum	
<b>Main Building Height, Average</b>		23.304.050 – Building Height
New Buildings <b>or and Non-Residential Additions, Average</b>	<b>28 ft. and 3 stories [1]</b>	
<b>New Buildings and Additions, Maximum</b>	<b>35 ft.</b>	
<b>Within 15 ft. of Rear Property Line</b>	<b>22 ft.</b>	
<b>Residential Additions</b>	<b>14 ft.</b>	
<b>Residential Density (DU/acre)</b>		23.106.100 – Residential Density
<b>Minimum</b>	<b>10</b>	
<b>Within Hillside Overlay Zone</b>	<b>No minimum</b>	
Lot Line Setbacks, Minimum		23.304.030 – Setbacks

Commented [HJ9]: All Main Buildings and Additions have same development standards, per PC motion

Text highlighted in gray is just renumbering or other minor technical edit.

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Front	<del>15 ft. [1] 20 ft.</del>	
<u>Within Hillside Overlay Zone</u>	<u>20 ft.</u>	
Rear	<del>4 20 ft.</del>	
<u>Within Hillside Overlay Zone</u>	<u>20 ft.</u>	
Interior Side	4 ft.	
<u>Within Hillside Overlay Zone</u>	<u>5 ft.</u>	
Street Side	4 ft.	
Building Separation, <del>Minimum</del>	<del>No minimum</del> <u>5 ft.</u>	
<u>Within Hillside Overlay Zone</u>	<u>8 ft.</u>	
Lot Coverage, Maximum	<del>40% 60%</del>	23.304.120 – Lot Coverage
Notes: [1] <del>Height greater than 14 ft. up to 28 ft. allowed with an AUP. Height greater than 28 ft up to 35 ft. allowed with an additional AUP. Or average of front lot line setback of adjacent structure(s), whichever is less.</del>		

Commented [HJ10]: Lot coverage at 60%, per PC motion

**Section 8.** That BMC Chapter 23.202.060 is repealed as follows:

Commented [HJ11]: Repeal of R-1A zoning district.

**23.202.060 R-1A Limited Two-Family Residential District Reserved**

**A. District Purpose.** ~~The purpose of the Limited Two-Family Residential (R-1A) district is to:~~

- ~~1. Recognize and protect the existing pattern of low-medium-density residential areas characterized by reasonable open and spacious type of development consistent with the General Plan;~~
- ~~2. Protect adjacent properties from unreasonable obstruction of light and air;~~
- ~~3. Allow flexibility in the use of property for residential purposes by permitting two dwelling units on one lot under limited conditions; and~~
- ~~4. Appropriately regulate the rear and side setback areas for the construction of a dwelling unit in areas west of San Pablo Avenue.~~

**B. Allowed Land Uses.** See Table 23.202-1: Allowed Land Uses in Residential Districts

**C. Additional Permit Requirements.** See Subsection A (Residential Additions) and Subsection B (Adding Bedrooms) of Section 23.202.030-Additional Permit Requirements.

Text highlighted in gray is just renumbering or other minor technical edit.

**D. Development Standards.**

- 1. **Basic Standards.** See Table 23.202-3: R-1A Development Standards.
- 2. **Supplemental Standards.** Supplemental development standards that apply in the R-1A district are noted in Table 23.202-3: R-1A Development Standards.

**TABLE 23.202-3: R-1A DEVELOPMENT STANDARDS**

<b>BASIC STANDARDS</b>		<b>SUPPLEMENTAL STANDARDS</b>
Lot Area, Minimum		23.304.020—Lot Requirements
New Lots	5,000-sq. ft.	
For Two Dwelling Units	4,500-sq. ft. [1]	
Usable Open Space Per Dwelling Unit, Minimum	400-sq. ft. [2]	23.304.090—Usable Open Space
Floor Area Ratio, Maximum	No maximum	
Main Building Height, Average		23.304.050—Building Height
New Buildings and Non-Residential Additions	28 ft. and 3 stories [3]	
Rear Main Buildings	22 ft. and 2 stories	
Residential Additions	14 ft. [4]	
Lot Line Setbacks, Minimum		23.304.030—Setbacks
Front	20 ft.	
Rear	20 ft.	
Interior Side	4 ft.	
Street Side	4 ft.	
Interior and Street Side for Rear Main Building	6 ft.	
Building Separation, Minimum		23.304.040—Building Separation in Residential Districts
1-story	8 ft.	
2-stories	12 ft.	
3-stories	16 ft.	
Lot Coverage, Maximum		23.304.120—Lot Coverage
Interior and Through Lot	40%	
Corner Lot	45%	

Text highlighted in gray is just renumbering or other minor technical edit.

BASIC STANDARDS	SUPPLEMENTAL STANDARDS
<p>Notes:</p> <p>[1] <del>Maximum two units per lot.</del></p> <p>[2] <del>Open space is not required for accessory dwelling unit.</del></p> <p>[3] <del>Maximum 35 ft. with an AUP.</del></p> <p>[4] <del>Height greater than 14 ft. up to 28 ft. allowed with an AUP. Height greater than 28 ft up to 35 ft allowed with an additional AUP.</del></p>	

Section 9. That BMC Chapter 23.202.070(H)(1) and (2) are amended to read as follows:

Commented [HJ12]: Renumbering

H. *Development Standards.*

1. *Basic Standards.* See Table 23.202-43: ES-R Development Standards.
2. *Supplemental Standards.* Supplemental development standards that apply in the ES-R district are noted in Table 23.202-43: ES-R Development Standards.

Section 10. That the title of Table 23.202-4 ES-R Development Standards within 23.202.070 is amended to read as follows:

Commented [HJ13]: Renumbering

**Table 23.202-34. ES-R DEVELOPMENT STANDARDS**

Section 11. That the title of BMC Section 23.202.080 is amended to read as follows:

Commented [HJ14]: Revising name of R-2 district

**23.202.080- R-2 ~~Restricted Two-Family Residential~~ Multi-Unit 2 District**

Section 12. That BMC Section 23.202.080(A) is amended to read as follows:

Commented [HJ15]: Revising R-2 District purpose statement

A. **District Purpose.** The purpose of the ~~Restricted Two-Family Residential~~ Multi-Unit 2 (R-2) district is to:

1. Implement the General Plan by encouraging the development of ~~low-medium-density~~ residential areas ~~characterized by a reasonably open and spacious type of development with a pattern with a range~~ of housing types ~~ranging from single-family to duplexes and small apartment structures~~;
2. Make available housing for persons who desire a range of housing choice with ~~a relatively large amount of useable~~ open space; and
3. Provide objective standards to protect adjacent properties from unreasonable obstruction of light and air.

Text highlighted in gray is just renumbering or other minor technical edit.

Section 13. That BMC Section 23.202.080(D) is amended to read as follows:

Commented [HJ16]: Revising development standards

**D. Development Standards.**

1. **Basic Standards.** See Table 23.202-54: R-2 Development Lot and Height Development Standards, Table 23.202-5: R-2 Setback and Building Separation Standards, and Table 23.202-6: R-2 Lot Coverage Standards for development standards in the R-2 district.
2. **Supplemental Standards.** Supplemental development standards that apply in the R-2 district are noted in Table 23.202-54: R-2 Lot and Height Development Standards, Table 23.202-5: R-2 Setback and Building Separation Standards, and Table 23.202-6: R-2 Lot Coverage Standards.

**TABLE 23.202-54: R-2 LOT AND HEIGHT DEVELOPMENT STANDARDS**

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Area, Minimum		23.304.020 – Lot Requirements
New Lots	5,000 sq. ft.	
<u>Per Dwelling Unit</u>	<u>2,500 sq. ft. [1]</u>	
Usable Open Space Per <u>1,000 sq. ft. Gross Residential Floor Area Dwelling Unit</u> , Minimum		23.304.090 – Usable Open Space
Floor Area Ratio, Maximum	No maximum	<u>23.106.050 - Floor Area Ratio</u>
<u>Main Building Height, Average</u>		23.304.050 – Building Height
New Buildings and <u>Non-Residential Additions, Average</u>	<u>28 ft. and 3 stories [2]</u>	
<u>New Buildings and Additions, Maximum</u>	<u>35 ft.</u>	
<u>Within 15 feet of Rear Property Line</u>	<u>22 ft.</u>	
<u>Residential Additions</u>	<u>14 ft. [3]</u>	
<u>Residential Density (DU/acre)</u>		<u>23.106.100 – Residential Density</u>
<u>Minimum</u>	<u>10</u>	
<u>Within Hillside Overlay Zone</u>	<u>No minimum</u>	
<u>Lot Line Setbacks, Minimum</u>		

Commented [HJ17]: All Main Buildings and Residential and Nonresidential Additions have same development standards, per PC motion

Text highlighted in gray is just renumbering or other minor technical edit.

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
<u>Front</u>	<u>15 ft. [1] 20 ft.</u>	<u>23.304.030 – Setbacks</u>
<u>Within Hillside Overlay Zone</u>	<u>20 ft.</u>	
<u>Rear</u>	<u>4 ft.</u>	
<u>Within Hillside Overlay Zone</u>	<u>20 ft.</u>	
<u>Interior Side</u>	<u>4 ft.</u>	
<u>Within Hillside Overlay Zone</u>	<u>5 ft.</u>	
<u>Street Side</u>	<u>4 ft.</u>	
<u>Building Separation, Minimum</u>	<u>5 ft.</u>	
<u>Within Hillside Overlay Zone</u>	<u>8 ft.</u>	
<u>Lot Coverage, Maximum</u>	<u>60%</u>	<u>23.304.120 – Lot Coverage</u>
Notes: [1] <u>Addition height greater than 14 ft. up to 28 ft. allowed with an AUP., Addition height greater than 28 ft up to 35 ft. allowed with an additional AUP. Or average front lot line setback of adjacent structure(s), whichever is less.</u>		

**TABLE 23.202-5: R-2 SETBACK AND BUILDING SEPARATION STANDARDS**

	STANDARDS BY BUILDING STORY			SUPPLEMENTAL STANDARDS
	1 <sup>ST</sup>	2 <sup>ND</sup>	3 <sup>RD</sup>	
<u>Lot-Line Setbacks, Minimum</u>				<u>23.304.030– Setbacks</u>
<u>Front</u>	<u>20 ft.</u>	<u>20 ft.</u>	<u>20 ft.</u>	
<u>Rear</u>	<u>20 ft.</u>	<u>20 ft.</u>	<u>20 ft.</u>	
<u>Interior</u>	<u>4 ft.</u>	<u>4 ft.</u>	<u>6 ft.</u>	
<u>Street Side</u>	<u>10 ft.</u>	<u>10 ft.</u>	<u>10 ft.</u>	
<u>Building Separation, Minimum</u>	<u>8 ft.</u>	<u>12 ft.</u>	<u>16 ft.</u>	<u>23.304.040– Building Separation in Residential Districts</u>

Commented [HJ18]: Table removed. Simplified standard included in main development standards table above.

Text highlighted in gray is just renumbering or other minor technical edit.

**TABLE 23.202-6: R-2 LOT COVERAGE STANDARDS**

	STANDARD BASED ON BUILDING HEIGHT			SUPPLEMENTAL STANDARDS
	1 STORY	2 STORIES	3 STORIES	
Lot Coverage, Maximum				23.304.120—Lot Coverage
Interior and Through Lot	45%	40%	35%	
Corner Lot	50%	45%	40%	

Commented [HJ19]: Table removed. Simplified standard included in main development standards table above.

Section 14. That the title BMC Section 23.202.090 is amended to read as follows:

Commented [HJ20]: Revising name of R-2A district

**23.202.090- R-2A Restricted Multiple-Family Residential Multi-Unit 2A District**

Section 15. That BMC Section 23.202.090(A) is amended to read as follows:

Commented [HJ21]: Revising R-2A district purpose statement.

A. **District Purpose.** The purpose of the ~~Restricted Multiple-Family Residential Multi-Unit 2A~~ (R-2A) district is to:

1. Implement the General Plan by encouraging the development of ~~medium-density residential areas characterized by a range of housing types small multiple-family and garden-type apartment structures with a maximum of open space consistent with this type of development;~~
2. Make available housing for persons who desire apartment-type accommodations with ~~a maximum of useable~~ open space; ~~and~~
3. ~~Provide objective standards to~~ protect adjacent properties from unreasonable obstruction of light and air; and
4. ~~Permit only land use intensity which is compatible with existing low-density residential structures and is not detrimental to the immediate neighborhood.~~

Section 16. That BMC Section 23.202.090(D) is amended to read as follows:

Commented [HJ22]: Revising R-2A development standards

D. **Development Standards.**

1. **Basic Standards.** See Table 23.202-~~58~~: R-2A ~~Lot and Height Development Standards, Table 23.202-8: R-2A Setback and Building Separation Standards, and Table 23.202-9: R-2A Lot Coverage Standards.~~
2. **Supplemental Standards.** Supplemental development standards that apply in the R-2A district are noted in Table 23.202-~~58~~: R-2A ~~Lot and Height~~

Text highlighted in gray is just renumbering or other minor technical edit.

Development Standards, Table 23.202-8: R-2A Setback and Building Separation Standards, and Table 23.202-9: R-2A Lot Coverage Standards.

**TABLE 23.202-58: R-2A LOT AND HEIGHT DEVELOPMENT STANDARDS**

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Area, Minimum		
New Lots	5,000 sq. ft.	23.304.010 - <u>Lot Requirements</u>
<u>Per Dwelling Unit</u>	<u>1,650 sq. ft. [1]</u>	
Usable Open Space Per <u>1,000 sq. ft. Gross Residential Floor Area Dwelling Unit</u> , Minimum	<u>150 300</u> sq. ft.	23.304.090 – <u>Usable Open Space</u>
<u>Floor Area Ratio, Maximum</u>	<u>No maximum</u>	<u>23.106.050 - Floor Area Ratio</u>
<u>Main Building Height, Average</u>		
New Buildings and <del>Non-Residential</del> Additions, <u>Average</u>	<u>28 ft. and 3 stories [2]</u>	23.304.050 – Building Height
New Buildings and <del>Non-Residential</del> Additions, <u>Maximum</u>	<u>35 ft.</u>	
<u>Within 15 ft. of Rear Property Line</u>	<u>22 ft.</u>	
<u>Residential Additions</u>	<u>14 ft. [1]</u>	
<u>Residential Density (DU/acre)</u>		
<u>Minimum</u>	<u>20</u>	<u>23.106.100 – Residential Density</u>
<u>Within Hillside Overlay District</u>	<u>No minimum</u>	
<u>Lot Line Setbacks, Minimum</u>		
<u>Front</u>	<u>10 ft. [1]</u>	<u>23.304.030 – Setbacks</u>
<u>Within Hillside Overlay Zone</u>	<u>15 ft.</u>	
<u>Rear</u>	<u>4 ft.</u>	
<u>Within Hillside Overlay Zone</u>	<u>15 ft.</u>	
<u>Interior Side</u>	<u>4 ft.</u>	
<u>Within Hillside Overlay Zone</u>	<u>5 ft.</u>	
<u>Street Side</u>	<u>4 ft.</u>	
<u>Building Separation, Minimum</u>		
<u>Within Hillside Overlay Zone</u>	<u>8 ft.</u>	

Commented [HJ23]: All Main Buildings and Residential and Nonresidential Additions have same development standards, per PC motion

Text highlighted in gray is just renumbering or other minor technical edit.

<u>Lot Coverage, Maximum</u>	<u>60%</u>	<u>23.304.120 – Lot Coverage</u>
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Notes:  
 [1] Maximum 35 ft. with an AUP. Addition height greater than 14 ft. up to 28 ft. allowed with an AUP. Addition height greater than 28 ft up to 35 ft. allowed with an additional AUP. Or average front setback of adjacent structure(s), whichever is less.

**TABLE 23.202-8: R-2A SETBACK AND BUILDING SEPARATION STANDARDS**

	STANDARDS BY BUILDING STORY			SUPPLEMENTAL STANDARDS
	1 <sup>ST</sup>	2 <sup>ND</sup>	3 <sup>RD</sup>	
<u>Lot-Line Setbacks, Minimum</u>				
Front	15 ft.	15 ft.	15 ft.	23.304.030– Setbacks
Rear	15 ft.	15 ft.	15 ft.	
Interior	4 ft.	4 ft.	6 ft.	
Street Side	6 ft.	8 ft.	10 ft.	
Building Separation, Minimum	8 ft.	12 ft.	16 ft.	23.304.040– Building Separation in Residential Districts

Commented [HJ24]: Table removed. Simplified standard included in main development standards table above.

**TABLE 23.202-9: R-2A LOT COVERAGE STANDARDS**

	STANDARD BASED ON BUILDING HEIGHT			SUPPLEMENTAL STANDARDS
	1 STORY	2 STORIES	3 STORIES	
<u>Lot Coverage, Maximum</u>				
Interior and Through Lots	45%	40%	35%	23.304.120
Corner Lots	50%	45%	40%	

Commented [HJ25]: Table removed. Simplified standard included in main development standards table above.

Section 17. That BMC Section 23.202.100(E)(2) is amended to read as follows:

Commented [HJ26]: Renumbering

- Supplemental Standards.** Supplemental development standards that apply in the R-3 district are noted in Table 23.202-614: R-3 Development

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Standards.

Section 18. That the title of Table 23.202-11: R-3 Development Standards within BMC Section 23.202.100 is amended to read as follows:

Commented [HJ27]: Renumbering

**TABLE 23.202-614: R-3 DEVELOPMENT STANDARDS**

Section 19. That the BMC Sections 23.202.110(E)(1) and (2) are amended to read as follows:

Commented [HJ28]: Renumbering

**E. Development Standards.**

1. **Basic Standards.** See Table 23.202-712: R-4 Lot and Height Standards, Table 23.202-813: R-4 Setback and Building Separation Standards, and Table 23.202-914: R-4 Lot Coverage Standards.
2. **Supplemental Standards.** Supplemental development standards that apply in the R-4 district are noted in Table 23.202-712: R-4 Lot and Height Standards, Table 23.202-813: R-4 Setback and Building Separation Standards, and Table 23.202-914: R-4 Lot Coverage Standards.

Section 20. That the title of Table 23.202-12: R-4 Lot and Height Standards within BMC Section 23.202.110 is amended to read as follows:

Commented [HJ29]: Renumbering

**TABLE 23.202-712: R-4 LOT AND HEIGHT STANDARDS**

Section 21. That the title of Table 23.202-13: R-4 Setback and Building Separation Standards within BMC Section 23.202.110 is amended to read as follows:

Commented [HJ30]: Renumbering

**TABLE 23.202-813: R-4 SETBACK AND BUILDING SEPARATION STANDARDS**

Section 22. That the title of Table 23.202-14: R-4 Lot Coverage Standards within BMC Section 23.202.110 is amended to read as follows:

Commented [HJ31]: Renumbering

**TABLE 23.202-914: R-4 LOT COVERAGE STANDARDS**

Section 23. That BMC Section 23.202.120(D)(1) and (2) be amended to read as follows:

Commented [HJ32]: Renumbering

**D. Development Standards.**

1. **Basic Standards.** See Table 23.202-105: R-5 Lot and Height Standards, Table 23.202-116: R-5 Setback and Building Separation Standards, and Table 23.202-127: R-5 Lot Coverage Standards.
2. **Supplemental Standards.** Supplemental development standards that apply

Text highlighted in gray is just renumbering or other minor technical edit.

in the R-5 district are noted in Table 23.202-105: R-5 Lot and Height Standards, Table 23.202-116: R-5 Setback and Building Separation Standards, and Table 23.202-127: R-5 Lot Coverage Standards.

Section 24. That the title of Table 23.202-15: R-5 Lot and Height Standards within BMC Section 23.202.120 is amended to read as follows:

Commented [HJ33]: Renumbering

**TABLE 23.202-105: R-5 LOT AND HEIGHT STANDARDS**

Section 25. That the title of Table 23.202-16: R-5 Setback and Building Separation Standards within BMC Section 23.202.120 is amended to read as follows:

Commented [HJ34]: Renumbering

**TABLE 23.202-116: R-5 SETBACK AND BUILDING SEPARATION STANDARDS**

Section 26. That the title of Table 23.202-17: R-5 Lot Coverage Standards within BMC Section 23.202.120 is amended to read as follows:

Commented [HJ35]: Renumbering

**TABLE 23.202-127: R-5 LOT COVERAGE STANDARDS**

Section 27. That BMC Section 23.202.130(E)(1) and (2) are amended to read as follows:

Commented [HJ36]: Renumbering

**E. Development Standards.**

1. **Basic Standards.** See Table 23.202-138: R-S Development Standards.
2. **Supplemental Standards.** Supplemental development standards that apply in the R-S district are noted in Table 23.202-138: R-S Development Standards.

Section 28. That the title of Table 23.202-18: R-S Development Standards within BMC Section 23.202.130 is amended to read as follows:

Commented [HJ37]: Renumbering

**TABLE 23.202-138: R-S DEVELOPMENT STANDARDS**

Section 29. That BMC Section 23.202.140(E)(1) is amended to read as follows:

Commented [HJ38]: Renumbering

1. **Basic Standards.** See Table 23.202-149: R-SMU Development Standards.

Section 30. That the title of Table 23.202-19: R-SMU Development Standards within BMC Section 23.202.140 is amended to read as follows:

Commented [HJ39]: Renumbering

Text highlighted in gray is just renumbering or other minor technical edit.

**TABLE 23.202-149: R-SMU DEVELOPMENT STANDARDS**

Section 31. That BMC Section 23.202.150(D) is amended to read as follows:

Commented [HJ40]: Renumbering

**D. Ground-floor Uses.** See Table 23.202-1520: Permitted Street-Facing Ground Floor Uses.

Section 32. That the title of Table 23.202-20: Permitted Street-Facing Ground Floor Uses within BMC Section 23.202.150 is amended to read as follows:

Commented [HJ41]: Renumbering

**TABLE 23.202-1520: PERMITTED STREET-FACING GROUND FLOOR USES**

Section 33. That BMC Section 23.202.150(F)(1) and (2) are amended to read as follows:

Commented [HJ42]: Renumbering

1. **Basic Standards.** See Table 23.202-1624.
2. **Supplemental Standards.** Supplemental standards that apply in the R- BMU district are noted in Table 23.202-1624.

Section 34. That the title of Table 23.202-21 within BMC Section 23.202.150 is amended to read:

Commented [HJ43]: Renumbering

**TABLE 23.202-1624: R-BMU DEVELOPMENT STANDARDS**

Section 35. That the lines “Single-Family,” “Two Family” and “Multi-Family” in Table 23.204-1: Allowed Land Uses in the Commercial Districts within BMC Section 23.204.020 be amended to read.

Commented [HJ44]: Revision to Commercial Allowed Use Table to conform use types with new definitions (two unit projects now captured in Multi-Unit Residential definition)

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		
<b>Residential Uses</b>													
Dwellings													
Single-Family	UP(	UP	UP	UP(P	UP(	UP(	UP(	UP(	UP(	UP(	UP(	UP(	23.204.060.

Text highlighted in gray is just renumbering or other minor technical edit.

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	
<u>Residential</u>	PH)	(P H)*	(P H)	H)	PH)	PH)	PH)	PH)	PH)	PH)	PH)	B.3; 23.302.070(H)
<u>Two-Family</u>	UP(PH)	UP(P H)*	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	23.204.060.B.3; 23.302.070(H)
<u>Multi-Family Residential</u>	UP(PH)	UP(P H)*	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	23.204.060.B.3; 23.302.070(H)

Section 36 That the lines “Single Family,” “Two Family,” “Multi-Family” and “Mixed Use Residential” in Table 23.206-1: Allowed Land Uses in Manufacturing Districts within BMC Section 23.206.020 are amended to read as follows:

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit -- = Permitted with an AUP, see 23.206.020(B) NP = Not Permitted [#] = Floor Area Permit Requirement * Use-Specific Standards Apply	MANUFACTURING DISTRICTS				Use-Specific Standards Applies to uses with an asterisk following the permit requirement (e.g., ZC*)
	M	MM	MU-LI	MU-R	
<b>Residential Uses</b>					
<u>Dwellings</u>					
<u>Single-Family Residential</u>	NP	NP	NP	AUP* ZC	23.206.090.B.8
<u>Two-Family</u>	NP	NP	NP	AUP*	23.206.090.B.8
<u>Multi-Family Residential</u>	NP	NP	NP	ZC UP(PH)	23.206.090.B.7&8
<u>Mixed-Use Residential</u>	NP	NP	NP	UP(PH) * -	23.206.090.B.7 8&9

Section 37. That BMC Section 23.206.030(C)(1)(a) is amended to read:

- (a) Major residential additions in the MU-R district require a Zoning Certificate an AUP.

Commented [HJ45]: Matching requirements for Residential Additions with requirements for Residential Main Buildings, per PC motion

Text highlighted in gray is just renumbering or other minor technical edit.

Section 38. That 23.206.030(C)(2) and (C)(3) are amended to read:

Commented [HJ46]: Conforming edit, per Section 36, above (no AUP requirements means no required Findings)

**2. Findings.** To deny an AUP for a major residential addition in the MU-R district, the review authority must find that:

- (a) ~~The proposed addition would unreasonably interfere with existing or reasonably foreseeable adjacent land uses in the M or MM district; or~~
- (b) ~~Existing or reasonably foreseeable adjacent land uses in the M and/or MM district would have a material adverse effect on the use of the proposed addition.~~

**3. Recorded Acknowledgement.** For a residential addition in the MU-R district, the residential property owner shall record an acknowledgement on the title that existing or reasonably foreseeable adjacent land uses in the M and/or MM District may create noise, dust, odors, light/glare, and other impacts that shall not be considered a nuisance if they are developed and conducted pursuant to the standards of the district.

Section 39. That BMC Section 23.206.090(B)(7) to (9) are amended to read as follows:

**7. Multi-Family Dwellings.** ~~Table 23.206-13 shows permits required for multi-family dwellings in the MU-R district.~~

**TABLE 23.206-13: MU-R MULTI-FAMILY DWELLING PERMIT REQUIREMENTS**

NUMBER OF UNITS	PERMIT REQUIRED
3 or 4	AUP
5 or more	UP(PH)

**8. Residential Uses.**

- (c) ~~A Use Permit is required to establish a dwelling unit, group living accommodation, or live/work unit MU-R that is within 150 feet of:
 
  - i. ~~An M or MM district; or~~
  - ii. ~~A construction product manufacturing or primary product manufacturing use.~~~~
- (d) ~~To deny a Use Permit required by Paragraph (a) above, the ZAB must find that:
 
  - i. ~~The proposed residential use would unreasonably interfere with existing or reasonably foreseeable adjacent land uses in the M or MM district; or~~
  - ii. ~~Existing or reasonably foreseeable adjacent land uses in the M or MM district would have a material adverse effect on the proposed residential use.~~~~

Text highlighted in gray is just renumbering or other minor technical edit.

(e) ~~As a condition of approval for a Use Permit required by Paragraph (a) above, the residential property owner shall record an acknowledgement that existing or reasonably foreseeable adjacent land uses in the M or MM district may create noise, dust, odors, light/glare, and other impacts that will not be considered a nuisance if they are developed and conducted pursuant to the standards of the district.~~

**9.7. Residential Mixed-Use.** To approve ~~a an AUP or~~ Use Permit to establish or expand of a residential mixed-use building in the MU-R district, the review authority must find that the specific combination of proposed residential and non-residential uses will not be hazardous or detrimental to persons living and/or working on the site or within the project vicinity.

**Section 40.** That Table 23.206-14- MU-R Development Standards within Section 23.206.090 is amended to read as follows:

Commented [HJ47]: Revising development standards

**TABLE 23.206-14: MU-R DEVELOPMENT STANDARDS**

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Area, Minimum		23.304.020 – Lot Requirements
New Lot	No minimum	
Per <del>Dwelling Unit or</del> Live/Work Unit	1,250 sq. ft. [1]	
Lot Width, Minimum	40 ft.	
Usable Open Space, Minimum		23.304.090 – Usable Open Space
Per <del>Dwelling Unit Gross 1,000 sq. ft. of residential floor area</del>	150 sq. ft.	
Per Live/Work Unit	40 sq. ft.	
Floor Area Ratio, Maximum, <del>Non-Residential</del>	1.50 [12]	23.106.050 - Floor Area Ratio
<del>Floor Area Ratio, Maximum, Residential</del>	No maximum	
<del>Residential Density (DU/acre)</del>		23.106.100 – Residential Density
<del>Minimum</del>	<del>20</del>	
Main Building Height, Maximum		23.304.050 - Building Height
Live/work	28 ft. and 3 stories [23]	
Residential or mixed-use [34]	35 ft. <del>and 3 stories</del>	
<del>Within 15 ft. of rear property line</del>	<del>22 ft.</del>	

Text highlighted in gray is just renumbering or other minor technical edit.

All other uses	35 ft. and 2 stories <del>[45]</del>	
Lot Line Setbacks, Minimum		23.304.030 – Setbacks
Front	5 ft.	
Rear	No minimum <del>[56]</del>	
Interior Side	No minimum	
Street Side	5 ft.	
Building Separation, Minimum	<del>No minimum</del> <u>5 ft.</u>	
Lot Coverage, Maximum	<del>100%</del> <u>No maximum</u>	
Notes: <del>[1] One additional dwelling unit allowed for remaining lot area between 750 and 1,250 square feet.</del> [12] Maximum 1.5 for buildings with 50 percent or more residential or live/work floor area [23] Maximum 35 ft. with a Use Permit. [34] Mixed use is defined here as a building with 50 percent or more of gross floor area used for residential (including live/work) purposes. [45] Maximum 3 stories for arts/craft studios and light manufacturing (with no other non-residential uses) on a block without dwelling units. [56] Minimum 5 ft. if rear of lot abuts a street. <del>[7] Setbacks required when abutting or confronting a Residential District. See 23.304.030.C.2.</del>		

**Section 41.** That BMC Section 23.210.020(B)(2) is amended to read as follows:

~~2. Multiple Dwellings in R-2. When the H overlay zone is combined with the R-2 district, multiple dwellings on a single property are not permitted.~~

Commented [HJ48]: Removing prohibition on multiple dwellings in the R-2

**Section 42.** That Table 23.210-1: H Overlay Zone Maximum Allowed Height within Section 23.210.020 is amended to read as follows:

**TABLE 23.210-1: H OVERLAY ZONE MAXIMUM ALLOWED HEIGHT**

UNDERLYING BASE DISTRICT	ALLOWED HEIGHT		MAXIMUM STORIES
	AVERAGE	MAXIMUM	
New Buildings			

Commented [HJ49]: Removing stories from height restriction + making height limit for Additions same as Main Buildings + conforming edit (removing reference to R-1A)

Text highlighted in gray is just renumbering or other minor technical edit.

R-1, <del>R-1A</del> , R-2, R-2A	28 ft.	35 ft.	<del>3-stories</del> <del>No maximum</del>
R-3, R-4, R-5, R-S, C-N, C-NS	<del>35 ft.</del>	35 ft.	3 stories
Residential Additions	As required by the base district or the highest existing portion of the roof, whichever is lower	<del>20</del> 35 ft.	N/A

Commented [HJ50]: Same as new buildings, per PC motion

Section 43: That BMC Section 23.304.030(B)(1) is amended to read as follows:

Commented [HJ51]: Conforming edit (remove reference to R-1A)

1. **Corner Lots with a Rear Lot Line Abutting a Key Lot.** For corner lots in the R-1, ~~R-1A~~, R-2 and R-2A districts with a rear lot line abutting a key lot, the minimum street side setback is either:
  - (a) One-half the front setback required or existing on the key lot, whichever is less; or
  - (b) Four feet if the corner lot maintains 50 feet or more rear setback.

Section 44: That Table 23.304-1 Allowed Setback Reductions in Residential District within BMC Section 23.304.030 is amended to read:

Commented [HJ52]: Conforming edit (remove reference to R-1A)

**TABLE 23.304-1: ALLOWED SETBACK REDUCTIONS IN RESIDENTIAL DISTRICTS**

DISTRICT WHERE ALLOWED	WHEN ALLOWED	MINIMUM SETBACK WITH REDUCTION	REQUIRED PERMIT	REQUIRED ADDITIONAL FINDINGS [1]
<b>Front Setback Reductions</b>				
ES-R	On any lot	No minimum.	UP(PH) [2]	The reduced setback is: 1) necessary to allow economic use of property due to the size, shape of the lot or the topography of the site; and 2) consistent with the ES-R district purpose.
<b>Rear Setback Reductions</b>				

Text highlighted in gray is just renumbering or other minor technical edit.

DISTRICT WHERE ALLOWED	WHEN ALLOWED	MINIMUM SETBACK WITH REDUCTION	REQUIRED PERMIT	REQUIRED ADDITIONAL FINDINGS [1]
ES-R [3]	On any lot	No minimum	UP(PH) [2]	The reduced setback is: 1) necessary to allow economic use of property due to the size, shape of the lot or the topography of the site; and 2) consistent with the ES-R district purpose.
R-1, R-1A	On a lot less than 100 ft. deep	20% of lot depth	ZC	None
R-1A	<del>To construct a dwelling unit</del>	<del>12 ft.</del>	<del>AUP</del>	<del>The unit would not cause a detrimental impact on emergency access; or on light, air or privacy for neighboring properties.</del>
R-2, R-2A, R-3, R-4, R-5 [4],	On a lot with two or more main buildings with dwelling units	No minimum	AUP	No additional findings
<b>Side Setback Reductions</b>				
ES-R [3]	Any lot	No minimum	UP(PH) [2]	The reduced setback is: 1) necessary to allow economic use of property due to the size, shape of the lot or the topography of the site; and 2) consistent with the ES-R district purpose.
R-1, R-1A	Lot width less than 40 ft. [5]	10% of lot width or 3 ft., whichever is greater	ZC	None

Text highlighted in gray is just renumbering or other minor technical edit.

DISTRICT WHERE ALLOWED	WHEN ALLOWED	MINIMUM SETBACK WITH REDUCTION	REQUIRED PERMIT	REQUIRED ADDITIONAL FINDINGS [1]
R-2, R-2A	Lot width less than 40 ft.	First and second stories: 10% of lot width or 3 ft., whichever is greater; Third story: 5 4 ft.	ZC	None
<p>Notes:</p> <p>[1] Findings are in addition to any AUP or Use Permit findings required in 23.406-Specific Permit Requirements.</p> <p>[2] Fire Department must review and approve reduced setbacks in respect to fire safety.</p> <p>[3] For lots less than 5,000 square feet, reductions are not allowed for property lines abutting a property under different ownership.</p> <p>[4] Parcels located within the R-3 district within the Southside Plan boundaries are exempt from this section.</p> <p>[5] Not permitted for rear main buildings in the R-1A district.</p>				

Section 45. That the line "R-1A" in Table 23.304-4: Permits Required for Building Separation in Residential Districts within BMC Section 23.304.040 is amended to read as follows:

Commented [HJ53]: Conforming edit (remove reference to R-1A)

DISTRICT WHERE ALLOWED	WHEN ALLOWED	PERMIT REQUIRED	FINDINGS [1]
R-1A	On a lot with two or more main buildings with a dwelling unit	AUP	The unit would not cause a detrimental impact on emergency access; or on light, air or privacy for neighboring properties.

Section 46. That the line "R-1, R-1A, R-2" in Table 23.322-12: Land Uses Requiring Off-Street Loading Spaces within BMC Section 23.322.100 is amended to read as follows:

Commented [HJ54]: Conforming edit (remove reference to R-1A)

Text highlighted in gray is just renumbering or other minor technical edit.

District	Land Use [1]
R-1, <del>R-1A</del> , R-2	Schools 10,000 sq. ft. or more

**Section 47.** That BMC Section 23.322.100(C)(1) is amended to read as follows:

Commented [HJ55]: Conforming edit (remove reference to R-1A)

1. General. The following requirements apply to required on-site loading spaces in all districts except for the R-1, ~~R-1A~~, R-2, R-2A districts.

(a) *Dimensions.* A required loading space must be at least 12 feet wide and 25 feet long with a minimum vertical clearance of 14 feet.

(b) *Location.* A required loading spaces must be located on the same lot as the structure or use the space is designed to serve.

(c) *Parking Spaces.* A required parking space may not be used to satisfy the requirements for an off-street loading space.

(d) *Access and Paving.* A required loading space must have adequate means of access from a street or alley. Both the space and access driveway must be paved with a durable, dustless material that is usable under all weather conditions.

**Section 48.** That BMC Section 23.326.030(B)(2) is added to read as follows:

Commented [HJ56]: Demo of SFH with ZC if for middle housing project.

2. A Single-Family Dwelling without sitting tenants may be demolished with ~~an AUP~~ a Zoning Certificate, if the demolition is part of a development project that would result in a net increase in residential density.

**Section 49.** That BMC Section 23.502.020(M)(17) and (18) are amended to read as follows:

Commented [HJ57]: New definition for Multi-Family Residential use type

17. **Multi-Family Dwelling.** A building, group of buildings, or portion of a building used or designed as ~~three~~ two or more dwelling units.

18. **Multi-Family Residential.** A residential use that includes two or more units on a single lot.

19. **Municipal Animal Shelter.** A City-owned facility providing services for humane animal care with programs and services focused on maximizing opportunities for animal adoption. Supporting facilities may include medical care (including spay/neuter), kennels, exercise areas and adoption centers.

**Section 50.** That BMC Section 23.502.020(R) is amended to read as follows:

Commented [HJ58]: Conforming edit (removal of definition that only applies to R-1A (now removed)) + renumbering

R. "R" Terms.

Text highlighted in gray is just renumbering or other minor technical edit.

~~1. Rear Main Building. A main building situated behind another main building existing or proposed on a parcel located in the R-1A district.~~

~~21. Receiving Lot.~~ See Lot, Receiving.

~~32. Recycled Materials Processing.~~ A facility that receives and processes recyclable materials. Processing means preparation of material for efficient shipment, or to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning, and remanufacturing.

~~43. Recycling Redemption Center.~~ A facility, use, or structure for the collection of recyclable goods, including beverage containers and newspapers.

~~54. Related Equipment.~~ All equipment necessary for or related to the provision of personal wireless services. Such equipment may include, but is not limited to, cable, conduit and connectors, equipment pads, equipment shelters, cabinets, buildings and access ladders.

~~65. Religious Assembly.~~ A building or space primarily used for an assembly of persons to conduct worship or other religious ceremonies, including, but not limited to, churches, synagogues, temples, mosques or shrines.

~~76. Repair Service, Non-Vehicle.~~ An establishment that provides repair and maintenance services for household appliance, home electronics, office equipment, furniture and other similar items. Excludes vehicle repair.

~~87. Research and Development.~~ An establishment engaged in the following activities: 1) industrial, biological or scientific research; and/or 2) product or process design, development, prototyping, or testing. This may include labs, offices, warehousing, and light manufacturing functions as part of the overall Research and Development use.

~~98. Resident.~~ A person whose primary residence is in Berkeley.

~~109. Residential Care Facility.~~ See Community Care Facility.

~~110. Residential Hotel.~~ See Hotel, Residential.

~~121. Residential Addition.~~ See Addition, Residential.

~~132. Residential Districts.~~ The districts listed under the Residential Districts heading in Table 23.108-1: Zoning Districts.

~~1413. Residential Hotel Room.~~ A room which is:

Text highlighted in gray is just renumbering or other minor technical edit.

(a) Used, designed, or intended to be used for sleeping for a period of 14 consecutive days or more;

(b) Not a complete dwelling unit, as defined in this chapter; and

(c) Not a Tourist Hotel Room, as defined in this chapter.

**4514. Residential Use.** Any legal use of a property as a place of residence, including but not limited to dwelling units, group living accommodations, and residential hotels.

**4615. Retail, General.** A retail establishment engaged in the sales of personal, consumer, or household items to the customers who will use such items. This use includes antique stores, art galleries, arts and crafts supply stores, bicycle shops, building materials and garden supplies stores, clothing stores, computer stores, cosmetic/personal care items, department stores, drug paraphernalia stores, drug stores, fabric, textile and sewing supply shops, flower and plant stores, food product stores, furniture stores, garden supply stores, nurseries, gift/novelty shops, household hardware and housewares stores, household electronics/electrical stores, jewelry/watch shops, linen shops includes bedding, musical instruments and materials stores, office supply stores, paint stores, photography equipment supply stores, secondhand stores, sporting goods stores, stationery, cards and paper goods stores toy stores and variety stores. This use excludes video rental stores, service of vehicle parts, and firearm/munition sales.

**4716. Retaining Wall.** A wall designed to contain and resist the lateral displacement of soil and of which such soil is at a higher elevation on one side of the wall.

**4817. Review Authority.** The City official or body responsible for approving or denying a permit application or other form of requested approval under the Zoning Ordinance.

**4918. Rooming House.** A building used for residential purposes, other than a hotel, where lodging for 5 or more persons, who are not living as a single household, is provided for compensation, whether direct or indirect. In determining the number of persons lodging in a rooming house, all residents shall be counted, including those acting as manager, landlord, landlady or building superintendent. See also Boarding House.

**Section 51.** That BMC Section 23.502.020(S)(17) through 23.502.020(S)(32) is amended to read as follows:

**17. Single-Family Residential.** A residential use that includes only one single-family dwelling on a single lot.

Commented [HJ59]: New definition for Single-Family Residential use type + renumbering

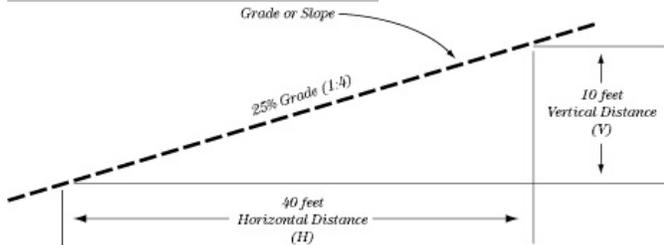
Text highlighted in gray is just renumbering or other minor technical edit.

**18.17. Single Residential Occupancy (SRO) Room.** A room for residential or sleeping purposes in a residential hotel which is designed for occupancy of one person only.

**19.18. Skateboard Ramp.** A ramp, platform, course or facility used for skateboard riding and made of wood or other solid material.

**20.19. Slope.** The steepness of a site, measured as the ratio of the vertical distance to the horizontal distance between the highest and lowest points of the site. See Figure 23.502-5: Grade or Slope.

**FIGURE 23.502-5: GRADE OR SLOPE**



**21.20. Small Vehicle Sales and Service.** An establishment which sells or leases long-term new, used, or pre-owned motorized vehicles other than passenger automobiles and trucks which are characterized by fewer than four wheels or a minimal frame. Types of vehicles sold or leased by this use include motorcycles, scooters, three-wheel motorcycles, electric carts, electric scooters, and such vehicles designed or refurbished for alternative fuels/power sources (alternative to conventional gasoline).

**22.21. Smoke Shop.** An establishment engaged primarily in the sale of tobacco and/or tobacco-related products.

**23.22. Solar Energy Device/Equipment.** Any solar collector or other solar energy device or any structural design feature of a building of which the primary purpose is to provide for the collection, storage or distribution of solar energy for space heating or cooling, water heating or the generation of electricity.

**24.23. Sorority House.** A building used for group living accommodations by an organization recognized by the UC Berkeley, or other institution of higher learning.

**25.24. Source Lot.** See Lot, Source.

**26.25. Story.** See Section 23.106.060 (Story)

**27.26. Street.** A public or private thoroughfare which provides principal means of access to abutting lots, including but not limited to, avenue, place, way, manor,

Text highlighted in gray is just renumbering or other minor technical edit.

drive, circle, lane, court, boulevard, highway, road and any other thoroughfare except an alley or a path as defined in this chapter.

**28.27 Street Line.** The boundary between a lot and an adjacent street.

**29. 28 Structural Alteration.** Any physical change to or removal of the supporting members of a building, foundation or bearing walls, columns, beams or girders or creation or enlargement of a window or door, change of a roofline or roof shape, including creating, enlarging or extending a dormer.

**30. 29 Structural Alteration, Public Safety.** Any structural alteration or physical change to a building that provides greater safety to the public or occupants by strengthening the building against seismic activity, which does not result in new floor area except that created by necessary structural improvements or physical changes as required under Municipal Code Chapter 19.38 and 19.39.

**31. 30 Structure.** Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. A building is a structure for the purposes of this chapter.

- (a) **Accessory Structure.** A detached structure, other than an accessory building, in which non-habitable uses or activities other than the principal use of the property are conducted. Residential accessory structures include, but are not limited to, enclosed structures such as garages, carports, garden or tool sheds, and non-enclosed structures such as, but not limited to, fences, gazebos, ground-mounted satellite dishes, skateboard ramps and wheelchair ramps. Non-residential accessory structures include, but are not limited to, storage buildings, garages, sheds and other outbuildings.
- (b) **Subterranean Structure.** A roofed structure constructed underground, with no building stories aboveground, of which the roof does not exceed 3 feet above the pre-existing grade. Such structures are either separated from a building or connected to a building only by a passageway or hallway with no openings to finished grade except for a doorway.
- (c) **Temporary Structure.** A tent, tent-house, trailer, mobile office, mobile home or other movable structure or other temporary structure whose construction does not require a building permit.

**32. 31 Studio.** See Art/Craft Studio.

**33. 32 Supportive Housing.** As defined in Health and Safety Code 50675.14(b)(2), housing with no limit on length of stay that is occupied by the target population as defined in Health and Safety Code 50675.14(b)(3) and is linked to on- or off-site services that assist the supportive housing residents in retaining the housing, improving their health status, and maximizing their ability to live and, when possible, work in the community.

Text highlighted in gray is just renumbering or other minor technical edit.

Section 52. That BMC Section 23.502.020(T)(10) is removed as follows:

Commented [HJ60]: Removal of obsolete definition.

~~10. **Two-Family Dwelling.** A building or use of a lot designed for, or occupied exclusively by, two households.~~

Section 53. 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.

Text highlighted in gray is just renumbering or other minor technical edit.



RESOLUTION NO. ##,###-N.S

A RESOLUTION APPROVING AND ADOPTING GENERAL PLAN AMENDMENTS, INCLUDING AMENDMENTS TO THE LAND USE DIAGRAM TO RE-DESIGNATE CERTAIN PARCELS, AND AMENDMENTS TO THE LOW DENSITY RESIDENTIAL, LOW MEDIUM DENSITY RESIDENTIAL, MEDIUM DENSITY RESIDENTIAL, AND MIXED-USE RESIDENTIAL LAND USE DESIGNATIONS TO BE CONSISTENT WITH ASSOCIATED ZONING TEXT AMENDMENTS TO PROMOTE MIDDLE HOUSING

WHEREAS, the adopted Housing Element includes “Program 29 – Middle Housing” to pursue zoning map and development standard amendments to allow multi-unit development on one lot in the lower density districts: R-1, R-1A, R-2, R-2A and MU-R; and

WHEREAS, on February 7, 2024, the Planning Commission held a duly noticed public hearing and took public testimony, which was preceded by the distribution of notices in accordance with State and local noticing requirements; and, after conducting and closing the public hearing, recommended that the City Council adopt zoning ordinance amendments to allow multi-unit development on one lot in the lower density districts;

WHEREAS, on April 3, 2024, the Planning Commission held a duly noticed public hearing and took public testimony, which was preceded by the distribution of notices in accordance with State and local noticing requirements; and, after conducting and closing the public hearing, recommended that the City Council (1) Adopt a Resolution to (a) amend the General Plan Land Use Diagram to re-designate certain parcels Medium Density Residential, and (b) amend the General Plan Low Density Residential, Low Medium Density Residential, Medium Density Residential, and Mixed-Use Residential Designations to be consistent with associated zoning text amendments that increase residential development potential; and

WHEREAS, on July 23, 2024 the City Council held a duly noticed public hearing to consider the General Plan and zoning ordinance amendments, and make conforming changes to other BMC sections; and

WHEREAS, the proposed amendments are consistent with the adopted Housing Element and serve the public interest by facilitating additional housing capacity and production to better meet student-oriented housing demand in the Southside Plan Area; and

WHEREAS, the amendments would not be detrimental to the public health, safety and welfare of the City because they would facilitate development that would be completed in compliance with current building and fire codes and regulations; and would be subject to the City’s standard conditions of approval regarding noise and air quality, waste diversion, toxics and stormwater requirements, as well as applicable mitigation measures included in the Housing Element Update EIR; and

WHEREAS, 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); and

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.

NOW THEREFORE, BE IT RESOLVED, that the amendments are consistent with Program 29 of the adopted HEU; that the environmental effects of the amendments were evaluated in the certified Final EIR of the HEU and the Addendum to the Final EIR; and

NOW THEREFORE, BE IT FURTHER RESOLVED by the City Council that the General Plan Land Use Diagram is hereby amended, as shown in Exhibit A, and the General Plan Land Use Designations are hereby amended, as shown in Exhibit B; and

BE IT FURTHER RESOLVED that the City Council hereby authorizes the City Manager to make non-substantive, technical conforming edits (e.g., correction of typographical errors and/or clerical errors) to the Berkeley Municipal Code, including but not limited to page, figure or table numbering, or internal cross-references to amended or new sections of the Berkeley Municipal Code, and to return to the Planning Commission and City Council for major revisions only; and

BE IT FURTHER RESOLVED that nothing in this Resolution shall be interpreted or applied so as to create a requirement, power, or duty in conflict with any federal or State law.

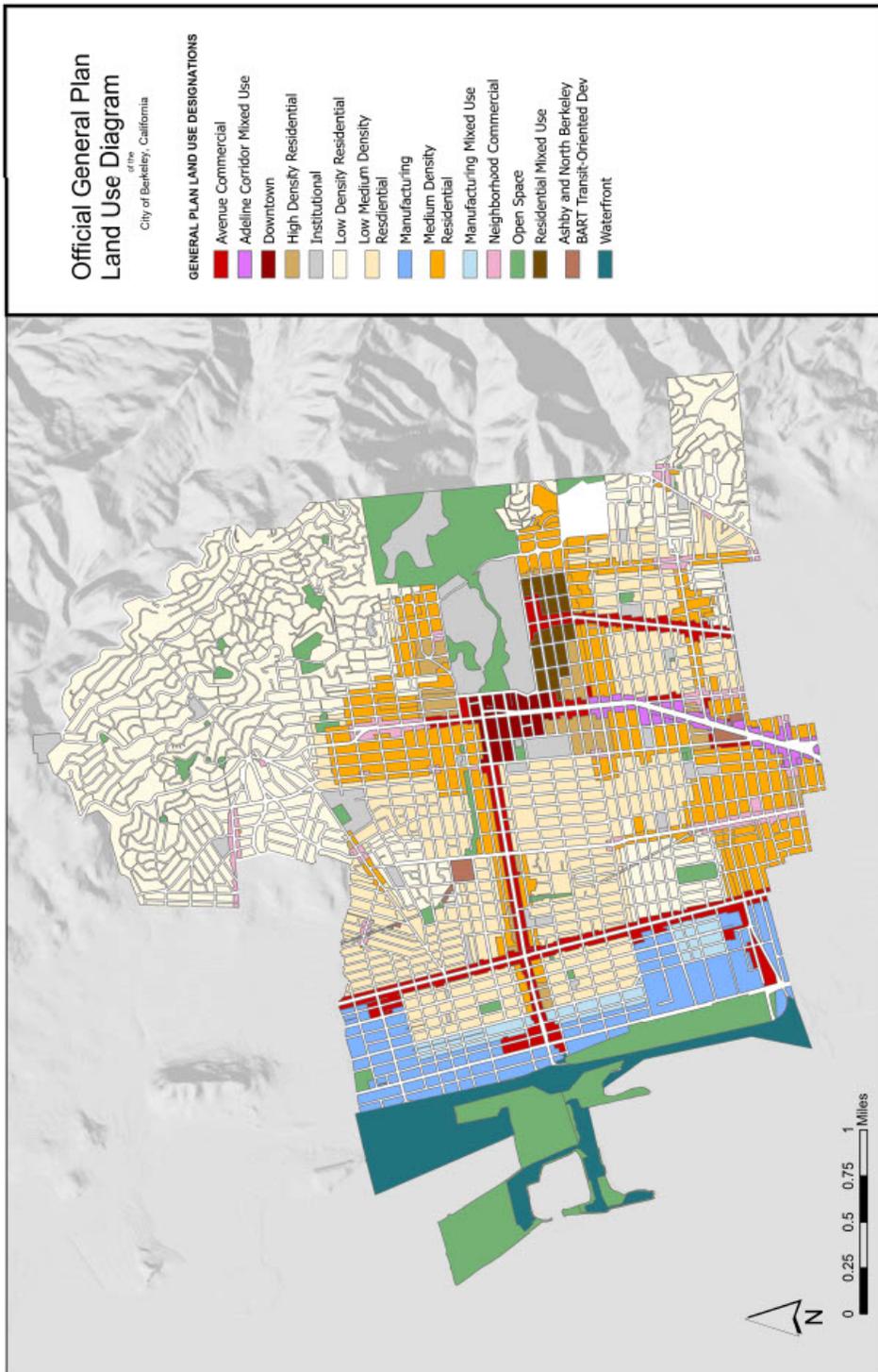
Exhibits

A: Maps of existing and proposed General Plan Land Use Diagram.

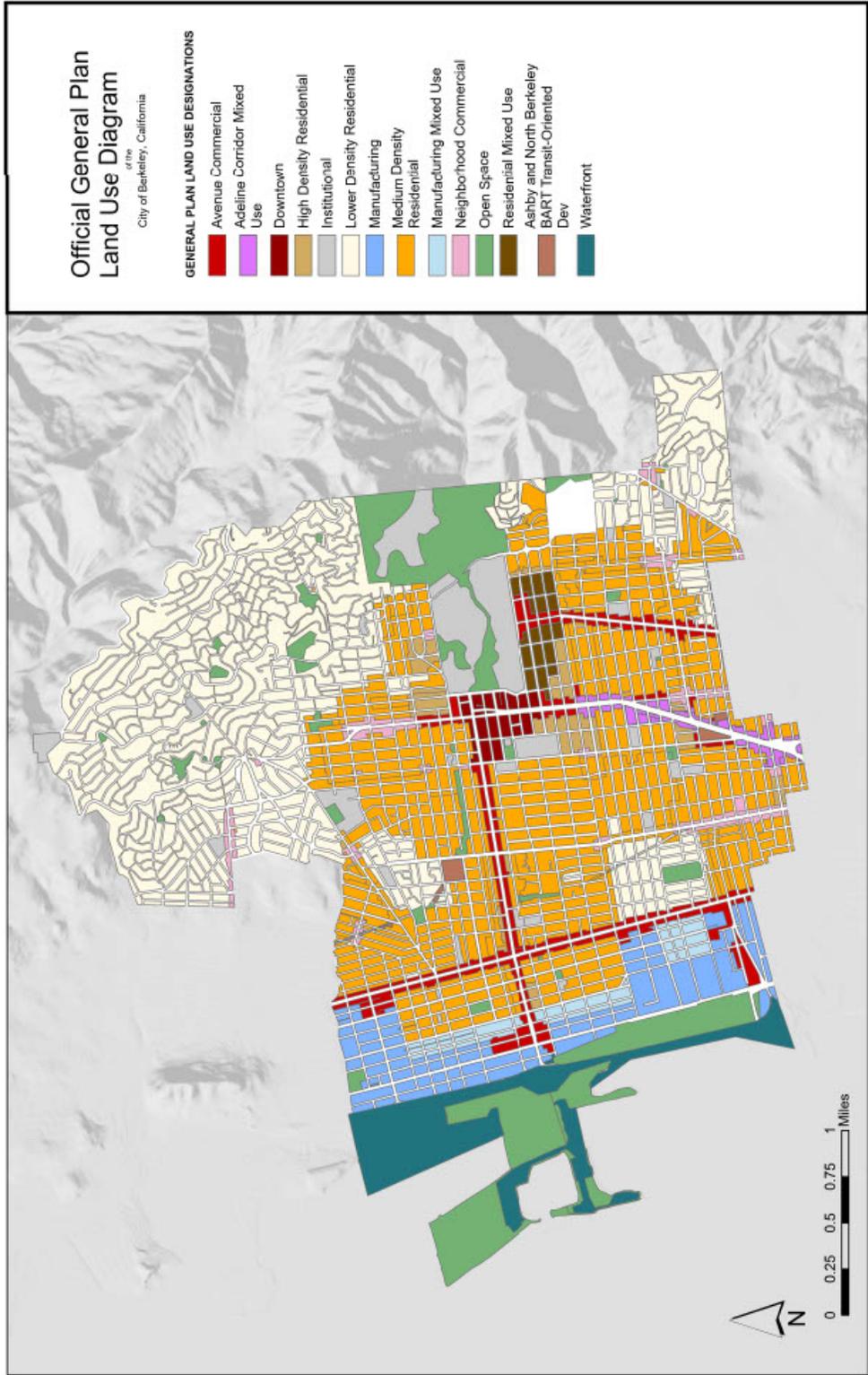
B: Text of General Plan Land Use Designation amendments.

### Exhibit A

Map 1. Existing General Plan Land Use Designations



Map 2. Proposed General Plan Land Use Designations



## Exhibit B

### Policy LU-7 Neighborhood Quality of Life

Preserve and protect the quality of life in Berkeley's residential areas through careful land use decisions.

Actions:

- A. Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.
- B. Carefully evaluate and monitor new and existing uses to minimize or eliminate negative impacts on adjacent residential uses.
- C. Carefully review and regulate proposals for additional residential development in the Hill Fire Hazard Area and the tsunami, seismic and landslide hazard areas identified in the Disaster Preparedness and Safety Element. (Also see Disaster Preparedness and Safety Policies S-14 and S-16.)
- D. Strengthen Zoning Ordinance language to ensure greater protection of solar access to adjacent properties when new projects or additions are proposed.
- E. Acquire an analysis of the implications of revising R-1, ~~R-1A~~, R-2, R-2A, MU-R, and C-N zoning to require a Use Permit and public hearings for projects that exceed 28 feet.

## LAND USE CLASSIFICATIONS

### **Lower Density Residential**

These areas are generally characterized by single-family homes, ~~and small multi-family structures~~. Appropriate uses for these areas include: residential, community services, schools, home occupations, recreational uses, and open space and institutional facilities. Building intensity ~~will can~~ range from one to ~~40 50~~ dwelling units per net acre<sup>1</sup>, not including secondary units, and the population density will generally not exceed ~~22 110~~ persons per acre.

For information purposes, the compatible zoning districts for this classification are: ~~Single-Family Residential Multi-Unit 1~~ (R-1), ~~which allows approximately 9 principle dwelling unit/acre~~, and Environmental Safety- Residential (ES-R), which allows approximately 5 dwelling units per acre. Height limits in these zoning districts are ~~typically~~ 28 feet ~~average maximum height with provisions to allow up to and~~ 35 feet ~~maximum height~~.

### **Low-Medium Density Residential**

~~These areas are generally characterized by single-family homes and small multi-family structures with two or three units. The same uses appropriate in Low Density Residential are appropriate in Low-Medium Density Residential areas. Building intensity will range from 10 to 20 dwelling units per net acre, not including secondary units, and the population density will generally range from 22 to 44 persons per acre.~~

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<sup>1</sup> Net acreage excludes land area dedicated to roads, watercourses, and dedicated rights-of-way.

~~For information purposes, the compatible zoning districts for this classification are: Limited Two-family Residential (R-1A) and Restricted Two-family Residential (R-2), which allow approximately 17 units per acre. Height limits in these zoning districts are typically 28 feet with provisions to allow up to 35 feet.~~

### **Medium Density Residential**

These areas of Berkeley are generally characterized by a mix of single-family homes and small to medium sized multi-family structures. The same uses appropriate in Lower Density Residential are appropriate in Medium Density Residential areas. Building intensity ~~will~~ **can** range from 20 to ~~40~~ **80** dwelling units per net acre, and the population density will generally range from 44 to ~~88~~ **175** persons per acre, with the exception of the Southside Plan Area.

Within the R-3 within the Southside Plan Area, except in areas located in the Hillside Overlay zoning district, building intensity will range from a FAR of less than 1.0 to a FAR of 3.0. Residential development is subject to a minimum density of 60 dwelling units per acre and a minimum population density of 150 persons per acre. There is no residential density limit. This allows for greater flexibility in housing types to maximize housing opportunities in the Southside Plan Area.

For information purposes, the compatible zoning districts for this classification are: ~~Restricted Multi-family Residential Residential Multi-Unit 2 (R-2), Residential Multi-Unit 2A (R-2A), which allows approximately 17 units per acre,~~ and Multiple-family Residential (R-3), which allows approximately 26 units per acre. Height limits in the R-2 and R-2A zoning district are ~~typically~~ **28 feet average height and feet with provisions to allow up to** 35 feet maximum height, and are 35 feet in the R-3 and R-3H zoning district (or 45 feet in the R-3 zoning district within the Southside Plan Area).

### **Mixed Use-Residential**

These areas are intended to maintain and preserve areas of the city for lighter manufacturing and industrial uses and allow for additional uses, including residential, where determined appropriate by zoning, and only if the use will not weaken Berkeley's manufacturing and industrial economy. Appropriate uses for these areas are identified in the West Berkeley Plan. Within these areas, building intensity will generally range from a Floor Area Ratio (FAR) of less than 1 to an FAR of 1.5. Population density will generally range from 22 to 44 persons per acre, where housing is allowed.

For information purposes, the compatible zoning district for this classification is Mixed Use-Residential (MU-R), which allows a maximum FAR of 1.5 for non-residential uses and a maximum building height of ~~28 to~~ 35 feet.

Table 1. Existing Development Standards

"-" = not applicable; P = Permitted UPPH = Use Permit Public Hearing NP = Not Permitted *Use-Specific Regs Apply		R-1	R-1H	R-1A	R-2	R-2H	R-2A	R-2AH	MU-R
		Single-Family		Ltd Two-Family	Restricted Two-Family		Restricted		Mixed-Use Residential
Single-Family		UPPH	UPPH	UPPH	UPPH	UPPH	UPPH	UPPH	AUP
Two-Family		NP	NP	UPPH	UPPH	NP	UPPH	UPPH	AUP
Multi-Family		NP	NP	NP	UPPH	NP	UPPH	UPPH	AUP/UPPH [10]
Low Barrier Navigation Center		NP	NP	NP	ZC	ZC	ZC	ZC	ZC
Supportive Housing		NP	NP	NP	ZC	ZC	ZC	ZC	ZC
Min Lot Area (SF)	New Lots	5000	5000	5000	5000	5000	5000	5000	No min
	Min Lot Width (ft)	-	-	-	-	-	-	-	40
	Per DU	No min	No min	No min	2500	2500	1650	1650	1,250
	2 Units	-	-	4500	No min	No min	No min	No min	-
Min OS (SF)	Per DU	400	400	400	400	400	300	300	150
	Live/Work	-	-	-	-	-	-	-	40
Max Avg Height, New Bldg or Non-Resi Addition (ft) Hillside max height 35'	Base	28	28	28	28	28	28	28	-
	Increase w/AUP	35	35	35	35	35	35	35	35
	Max Avg Height, Rear Main (ft)			22					
	Max Height, Resi/MU	-	-	-	-	-	-	-	35
	Max Height, Live-Work	-	-	-	-	-	-	-	28
	Live/Work w/UP	-	-	-	-	-	-	-	35
Max Avg Height, Resi addition (ft)	Base	14	14	14	14	14	14	14	-
	w/ AUP	35	35	35	35	35	35	35	-
Max Stories, New Bldg or Non-Resi Addition	Base	3	3	3	3	3	3	3	3
Max Stories, Rear Main		-	-	2	-	-	-	-	-
Max Lot Coverage Interior/Thru (%)	1 story	40	40	40	45	45	45	45	100
	2 stories	40	40	40	40	40	40	40	100
	3 stories	40	40	40	35	35	35	35	100
	Increase w/ AUP	-	-	-	-	-	-	-	100
Max Lot Coverage Corner (%)	1 story	40	40	45	50	50	50	50	100
	2 stories	40	-	45	45	-	45	45	100
	3 stories	40	-	45	40	-	40	40	100
	Increase w/ UP	-	-	-	-	-	-	-	-
Min Setback, Front (ft)	1st-2nd Story	20	20	20	20	20	15	15	-
	3rd Story	20	20	20	20	20	15	15	-
	Adjacent Non-R Dist	-	-	-	-	-	-	-	5
	Adjacent R Dist	-	-	-	-	-	-	-	10
	Reduce w/ AUP	-	No min	-	-	No min	-	No min	No min
Min Setback, Rear (ft)	1st-2nd Story	20	20	20	20	20	15	15	-
	3rd Story	20	20	20	20	20	15	15	-
	Adjacent Non-R Dist	-	-	-	-	-	-	-	0/5 [11]
	Adjacent R Dist	-	-	-	-	-	-	-	10/10% [12]
	Reduce w/ ZC	20%[3]	20%[3]	20%[3]	-	-	-	-	-
	Reduce w/AUP	-	-	12[6]	-	-	-	-	-
Min Setback, Interior Side (ft)	1st-2nd Story	4	4	4	4	4	4	4	-
	3rd Story	4	4	4	6	6	6	6	-
	1st-2nd Story w/ ZC	3/10%[4]	3/10%[4]	3/10%[4]	3/10%[4]	3/10%[4]	3/10%[4]	3/10%[4]	-
	3rd Story w/ ZC	3/10%[4]	3/10%[4]	3/10%[4]	5[4]	5[4]	5[4]	5[4]	-
	Adjacent Non-R Dist	-	-	-	-	-	-	-	0
Adjacent R Dist	-	-	-	-	-	-	-	10/10% [12]	
Min Setback, Street Side (ft)	1st Story	4	4	4	10	10	6	6	-
	2nd Story	4	4	4	10	10	8	8	-
	3rd Story	4	4	4	10	10	10	10	-
	Adjacent Non-R Dist	-	-	-	-	-	-	-	5
	Adjacent R Dist	-	-	-	-	-	-	-	10/10% [12]
Min Setback, Int/Street Rear Bldg (ft)		-	-	6	-	-	-	-	-
Min Bldg Separation (ft)	1st story	No min	No min	8[9]	8	8	8	8	No min
	2nd story	No min	No min	12[9]	12	12	12	12	No min
	3rd story	No min	No min	16[9]	16	16	16	16	No min
	Reduce w/UP	-	-	P(AUP)	P(AUP)	P(AUP)	P(AUP)	P(AUP)	-

[1] If min 50% of floor area is Residential, UP to increase GLA density  
 [2] If min 50% of floor area is Residential  
 [3] On a lot less than 100 ft deep, reduction of rear setback by 20% of lot depth with ZC.  
 [4] Whichever is greater. Lot width less than 40 ft, NP for rear main buildings in R-1A  
 [5] If MU or Residential W of San Pablo Ave  
 [6] To construct a dwelling unit and would not cause detrimental impact on neighboring properties.

[7] Lots <5,000 SF, no reductions for property lines abutting a property under different ownership.  
 [8] Lot <5,000 SF, max 1 dwelling unit and max gross floor area of 1,000 SF.  
 [9] R-1A Separation Standard based on building height, not by story.  
 [10] 3 to 4 units requires AUP, 5+ units requires UP(PH)  
 [11] Min 5 ft rear setback if rear of lot abuts a street  
 [12] 10 ft of 10% of lot width, whichever is less

Table 2. Proposed Development Standards

"-" = not applicable; P = Permitted UPPH = Use Permit Public Hearing NP = Not Permitted *Use-Specific Regs Apply		R-1	R-1H	R-2	R-2H	R-2A	R-2AH	MU-R
		Residential Multi-Unit 1	Residential Multi-Unit 2	Residential Multi-Unit 2A	Mixed-Use Residential			
Single-Family		ZC	ZC	ZC	ZC	ZC	ZC	ZC
Multi-Unit Residential		ZC	ZC	ZC	ZC	ZC	ZC	ZC
Low Barrier Navigation Center		ZC	ZC	ZC	ZC	ZC	ZC	ZC
Supportive Housing		ZC	ZC	ZC	ZC	ZC	ZC	ZC
Min Density (DUA) - Round to the nearest whole number <sup>1</sup>		10	No min	10	No min	20	No min	20
Min Lot Area (SF)	New Lots	5000	5000	5000	5000	5000	5000	No min
Min OS (SF)	Per 1,000 sf floor area	150	150	150	150	150	150	150
	Live/Work	-	-	-	-	-	-	40
Maximum Height (ft) Main Buildings and Additions	Average	28	28	28	28	28	28	28
	Maximum	35	35	35	35	35	35	35
	Within 15' of rear property line	22	22	22	22	22	22	22
Max Lot Coverage (%)		60	60	60	60	60	60	100
Min Setback, Front (ft)		15 [1]	20 [1]	15 [1]	20 [1]	10 [1]	15 [1]	-
	Adjacent Non-R Dist	-	-	-	-	-	-	5 [1]
	Adjacent R Dist	-	-	-	-	-	-	10 [1]
	Reduce w/ AUP	-	No min	-	No min	-	No min	No min
Min Setback, Rear (ft)		4	20	4	20	4	15	-
	Adjacent Non-R Dist	-	-	-	-	-	-	0/5 [2]
	Adjacent R Dist	-	-	-	-	-	-	10/10% [3]
Min Setback, Interior Side (ft)		4	5	4	5	4	5	-
	Adjacent Non-R Dist	-	-	-	-	-	-	0
	Adjacent R Dist	-	-	-	-	-	-	10/10% [3]
Min Setback, Street Side (ft)		4 [4]	4 [4]	4 [4]	4 [4]	4 [4]	4 [4]	-
	Adjacent Non-R Dist	-	-	-	-	-	-	5
	Adjacent R Dist	-	-	-	-	-	-	10/10% [3]
Min Bldg. Separation (ft)		5	8	5	8	5	8	5

[1] Or average front setback of adjacent structure(s), whichever is less. On key lots, average of street side and adjacent front yard setback.

[2] Min 5 ft rear setback if rear of lot abuts a street

[3] 10 ft of 10% of lot width, whichever is less

[4] Street side setback requirements for corner lots with a rear lot line abutting a key lot in 23.304.B.1 apply.

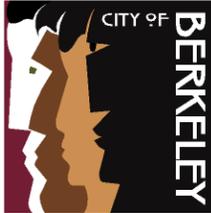
<sup>1</sup> Minimum densities would apply for new development on a vacant lot or redevelopment and infill of existing nonvacant lots.

Table 3. Proposed Development Standards (Redlined)

"-" = not applicable; P = Permitted UPPH = Use Permit Public Hearing NP = Not Permitted *Use-Specific Regs Apply		R-1	R-1H	R-1A	R-2	R-2H	R-2A	R-2AH	MU-R
		Single-Family Residential Multi-Unit 1	Ltd Two-Family	Restricted Two-Family Residential Multi-Unit 2	Restricted Multi-Family Residential Multi-Unit 2A	Mixed-Use Residential			
Single-Family		UPPH ZC	UPPH ZC	UPPH	UPPH ZC	UPPH ZC	UPPH ZC	UPPH ZC	AUP ZC
Two-Family		NP	NP	UPPH	UPPH	NP	UPPH	UPPH	-AUP
Multi-Family Unit Residential		NP ZC	NP ZC	NP	UPPH ZC	NP ZC	UPPH ZC	UPPH ZC	AUP/UPPH {10}ZC
Low Barrier Navigation Center		NP ZC	NP ZC	ZC	ZC	ZC	ZC	ZC	ZC
Supportive Housing		NP ZC	NP ZC	ZC	ZC	ZC	ZC	ZC	ZC
<u>Min Density (DUA) - Round to the nearest whole number</u>		No min 10	No min	No min	No min 10	No min	No min 20	No min	No min 20
Min Lot Area (SF)	New Lots	5000	5000	5000	5000	5000	5000	5000	No min
	Min Lot Width (ft)	-	-	-	-	-	-	-	40
	Per DU	No min	No min	No min	2500	2500	1650	1650	1,250
	2 Units	-	-	4500	No min	No min	No min	No min	-
Min OS (SF)	Per DU	400	400	400	400	400	300	300	150
	Per 1,000 sf floor area	150	150	150	150	150	150	150	
	Live/Work	-	-	-	-	-	-	-	40
<u>Maximum Height (ft)</u> <u>Main Buildings and Additions</u>	Average Base	28	28	28	28	28	28	28	28
	Maximum Increase w/AUP	35	35	35	35	35	35	35	35
	Within 15' of rear property line Max Avg Height, Rear Main (ft)	22	22	22	22	22	22	22	22
	Max Height, Resi/MU	-	-	-	-	-	-	-	35
	Max Height, Live-Work	-	-	-	-	-	-	-	28
	Live/Work w/UP	-	-	-	-	-	-	-	35
Max Avg Height, Resi-addition (ft)	Base	14	14	14	14	14	14	14	-
	w/AUP	35	35	35	35	35	35	35	-
Max Stories, New Bldg or Non-Resi Addition	Base	3	3	3	3	3	3	3	3
Max Stories, Rear Main		-	-	2	-	-	-	-	-
Max Lot Coverage Interior/Thru (%)	1-story	40	40	40	45	45	45	45	100
	2-stories	40	40	40	40	40	40	40	100
	3-stories	40	40	40	35	35	35	35	100
	Increase w/AUP	-	-	-	-	-	-	-	100
Max Lot Coverage Corner (%)	1-story	40 60	40 60	45 60	50 60	50 60	50 60	50 60	100
	2-stories	40	40	45	45	45	45	45	100
	3-stories	40	40	45	40	40	40	40	100
	Increase w/UP	-	-	-	-	-	-	-	-
Min Setback, Front (ft)	1st-2nd Story	20-15 [1]	20 [1]	20	20-15 [1]	20 [1]	15-10 [1]	15 [1]	-
	3rd Story	20	20	20	20	20	15	15	-
	Adjacent Non-R Dist	-	-	-	-	-	-	-	5 [1]
	Adjacent R Dist	-	-	-	-	-	-	-	10 [1]
	Reduce w/ AUP	-	No min	-	-	No min	-	No min	No min
Min Setback, Rear (ft)	1st-2nd Story	20-4	20	20-4	20	20-4	15-4	15	-
	3rd Story	20	20	20	20	20	15	15	-
	Adjacent Non-R Dist	-	-	-	-	-	-	-	0/5 [11]
	Adjacent R Dist	-	-	-	-	-	-	-	10/10% [12]
	Reduce w/ZC	20%[3]	20%[3]	20%[3]	-	-	-	-	-
	Reduce w/AUP	-	-	12[6]	-	-	-	-	-
Min Setback, Interior Side (ft)	1st-2nd Story	4	4-5	4	4	4-5	4	4-5	-
	3rd Story	4	4	4	6	6	6	6	-
	1st-2nd Story w/ZC	3/10%[4]	3/10%[4]	3/10%[4]	3/10%[4]	3/10%[4]	3/10%[4]	3/10%[4]	-
	3rd Story w/ZC	3/10%[4]	3/10%[4]	3/10%[4]	5[4]	5[4]	5[4]	5[4]	-
	Adjacent Non-R Dist	-	-	-	-	-	-	-	0
	Adjacent R Dist	-	-	-	-	-	-	-	10/10% [12]
Min Setback, Street Side (ft)	1st Story	4 [4]	4 [4]	4	10 4 [4]	10 4 [4]	6 4 [4]	6 4 [4]	-
	2nd Story	4	4	4	10	10	8	8	-
	3rd Story	4	4	4	10	10	10	10	-
	Adjacent Non-R Dist	-	-	-	-	-	-	-	5
	Adjacent R Dist	-	-	-	-	-	-	-	10/10% [12]
Min Setback, Int/Street Rear Bldg (ft)		-	-	6	-	-	-	-	
Min Bldg Separation (ft)	1st story	No min 5	No min 8	8[9] 5	8 5	8 8	8 5	8 8	No min 5
	2nd story	No min	No min	12[9]	12	12	12	12	No min
	3rd story	No min	No min	16[9]	16	16	16	16	No min

"-" = not applicable; P = Permitted UPPH = Use Permit Public Hearing NP = Not Permitted *Use-Specific Regs Apply	R-1	R-1H	R-1A	R-2	R-2H	R-2A	R-2AH	MU-R
	Single-Family Residential Multi- Unit 1		Ltd Two- Family	Restricted Two- Family Residential Multi- Unit 2		Restricted Multi- Family Residential Multi- Unit 2A		Mixed-Use Residential
Reduce w/UP	-	-	P(AUP)	P(AUP)	P(AUP)	P(AUP)	P(AUP)	-

- [1] Or average front setback of adjacent structure(s), whichever is less. On key lots, average of street side and adjacent front yard setback. If min 50% of floor area is Residential, UP to increase GLA density
- [2] Min 5 ft rear setback if rear of lot abuts a street. ]-If min 50% of floor area is Residential
- [3] 10 ft of 10% of lot width, whichever is less. On a lot less than 100 ft deep, reduction of rear setback by 20% of lot depth with ZC.
- [4] Street side setback requirements for corner lots with a rear lot line abutting a key lot in 23.304.B.1 apply. Whichever is greater. Lot width less than 40 ft, NP for rear main buildings in R-1A
- [5] If MU or Residential W of San Pablo Ave
- [6] To construct a dwelling unit and would not cause detrimental impact on emergency access or privacy, light, air for neighboring properties.
- [7] Lots <5,000 SF, reductions are not allowed for property lines abutting a property under different ownership.
- [8] Lot <5,000 SF, max 1 dwelling unit and max gross floor area of 1,000 SF.
- [9] R-1A Separation Standard based on building height, not by story.
- [10] 3 to 4 units requires AUP, 5+ units requires UP(PH)
- [11] Min 5 ft rear setback if rear of lot abuts a street
- [12] 10 ft of 10% of lot width, whichever is less



Planning and Development Department  
Land Use Planning Division

## STAFF REPORT

DATE: February 7, 2024  
 To: Members of the Planning Commission  
 From: Justin Horner, Associate Planner  
 Subject: Public Hearing: Amendments to Title 23, the Zoning Map, and the General Plan Relating to Middle Housing

### RECOMMENDATION

Conduct a public hearing, receive public comment, and upon conclusion, make a recommendation to the City Council on proposed amendments to Title 23 (**Attachment 1**), the Zoning Map, and the General Plan (**Attachment 4**) to encourage the development of “middle housing” in areas currently zoned R-1, R-1A, R-2, R-2A and MU-R (“low-density residential districts”).

### BACKGROUND

The proposed zoning amendments are prepared in response to a number of City Council referrals and to satisfy the requirements of Program 29—Middle Housing in the adopted Housing Element. Detailed discussion of the relevant referrals, Program 29 of the Housing Element, and previous deliberations on the issue of middle housing can be found in **Attachment 2**.

At its meeting of November 1, 2023, the Planning Commission received an informational report from staff on the development of zoning changes to encourage middle housing in low-density residential districts and provided the following direction to staff:

- **Middle Housing Zoning:** Prepare zoning ordinance amendments that include changes to development standards to encourage middle housing;
- **Demolition of Single-Family Homes:** Prepare zoning ordinance amendments to permit demolition of single-family dwellings with a Zoning Certificate (ZC) if associated with a middle housing project.

At its January 17<sup>th</sup>, 2024 meeting, the Planning Commission recommended a change to the Demolition Ordinance which permitted demolition of a single-family dwelling without tenants with an Administrative Use Permit (AUP). The 4x4 Joint

Task Force Committee on Housing has recommended a set of changes to the Demolition Ordinance that maintained the requirement of a Use Permit for the demolition of any dwelling unit.

The proposed ordinance includes a new revision to the Demolition Ordinance that permits the demolition of single-family dwellings with a ZC, as long as the demolition is part of a development project that results in an increase in density. Pursuant to SB 9, demolition for the purposes of increasing density on a lot is permitted by-right in the R-1 zoning district, which is currently a single-family zone. The proposed ordinance, however, includes revisions to the R-1 development standards which would result in the R-1 no longer qualifying as a single-family zone, thus eliminating the by-right demolition conveyed by SB 9. Therefore, the proposed ordinance includes a by-right demolition provision to preserve a right that already exists in the R-1 zoning district. Most middle housing development is anticipated to involve the redevelopment of existing properties. Maintaining a requirement to obtain a Use Permit to demolish a single-family dwelling to develop middle housing effectively creates a Use Permit threshold for approval of a middle housing project.

As the Environmental Impact Report for the Housing Element disclosed, “development accommodated by the proposed Housing Element Update [including middle housing and by-right demolition] could adversely affect known and previously unidentified historic period resource.” Currently, the requirement to obtain a Use Permit to demolish a structure requires properties more than 40 years old to be subject to an Historic Resource Evaluation (HRE), which helps establish whether a property is an historic or cultural resource. If demolition were permitted with a ZC, an HRE would not be required. As a result, some properties that have not yet had their historic or cultural resources status evaluated could be subject to demolition without preservation review.

The Housing Element EIR includes the following mitigation measure to address this potential impact:

**CUL-1 Historic Context Statement, Cultural Resources Survey and Designations.** During the period of this Housing Element, the City should conduct a citywide historic context statement and a cultural resource survey to identify historic resources, with priority given to sites in the EIR Site Inventory, to determine if there are designed built environment features which are over 40 years of age proposed to be altered or demolished. Designation of historic or cultural resources should be conducted by the Landmarks Preservation Commission pursuant to 3.24.260 of the Berkeley Municipal Code.

The development of a citywide historic context statement has been proposed but has not yet been budgeted. As part of its recommendation, the Planning Commission could include a suggestion that the City Council provide funding for a citywide historic context statement. To reduce the time and cost related to such a study, an historic context statement could also be focused geographically on areas of the city that are either a) particularly rich in potential historic resources, and/or b) are anticipated to experience redevelopment as a result of the proposed ordinance.

- **Hillside Overlay Zone:** Ensure that the proposed zoning amendments apply to low-density residential districts both within, and outside of, the Hillside Overlay zone.

Staff's recommendation to the Planning Commission at its November 1, 2023 meeting excluded parcels in the R-1H, R-2H, and R-2AH from the proposed middle housing standards. The proposed ordinance includes those parcels, which would be subject to specific development standards (minimum and maximum densities, and front, rear, and side setbacks) that would apply only to parcels in the Hillside Overlay zone, as presented to the City Council in September, 2022.

Planning Commissioners also provided the following suggestions:

- **Remove Floor Area Ratio (FAR) maximums.** Some commissioners remarked that building bulk is adequately-regulated through development standards related to height, setbacks and lot coverage.
- **Remove maximum residential density standards.** Some commissioners remarked that development standards should only regulate the size and bulk of a building, not the maximum number of units within it. A maximum density standard was seen as an unnecessary cap on the number of housing units when building size and bulk are regulated through development standards related to height, setbacks and lot coverage.
- **Increase maximum lot coverage to 60%.** Some commissioners remarked that allowing 60% lot coverage on all parcels would increase the feasibility of middle housing projects while preserving sufficient open space for resident use and maintaining the residential feel of these zoning districts.

The proposed ordinance maintains staff's November 1, 2023 recommendation for these three development standards. During the development of the proposed ordinance, staff received feedback from both the City Council and the Planning Commission that the middle housing standards should promote the creation of more housing units, and should not simply allow larger unit sizes at low densities. The key trade-off within the proposed ordinance is that larger development projects are permitted, with the understanding that these projects contribute to addressing the city's housing shortage by providing more housing units. Accordingly, FAR and lot coverage are scaled up so as to be more expansive for projects that include more units. Staff continues to recommend this approach.

- **Maintain parking maximums** for middle housing projects. Although parking maximums may make the marketing of middle housing projects more difficult, the City's policies related to greenhouse gas reduction and promoting alternatives to private vehicle travel continue to justify this policy. The proposed ordinance does not include any revisions to the maximum parking requirements.

The proposed ordinance also includes the following three revisions that relate to the conversion of existing residential buildings:

- The definition of a **Residential Addition** is revised to exclude floor area associated with new dwelling units that are added to an existing single-family or multi-family dwelling. Currently, BMC Section 23.502.020.A.8 requires an AUP for a Residential Addition that exceeds a certain size, and the Addition is subject to height limits that are more restrictive than those for new main buildings. As the proposed ordinance would permit altogether new Multi-Family Residential buildings ministerially, it would be inconsistent to require a discretionary review process for additional units that are added to an existing building. The AUP requirement would remain for a Residential Addition that is solely for the purpose of expanding the size of an existing unit;
- The proposed ordinance includes a revision which excludes **bedrooms** proposed within new dwelling units that are added to existing dwellings or lots developed with existing residential uses. Currently, BMC Section 23.202.030 requires an AUP when adding a fifth bedroom *to a lot*, and a UP for adding any bedroom beyond the fifth *to a lot*. As the proposed ordinance would permit altogether new Multi-Family Residential buildings ministerially, it would be inconsistent to require a discretionary review process for the additional bedrooms that would be added to the lot as a result of a new building or addition that includes new units. The AUP and UP requirements would remain for projects adding bedrooms to an existing lot solely for the purpose of expanding the size(s) of an existing unit(s); and
- A note is added to the **Floor Area Ratio, Maximum** development standard in the R-1, R-2 and R-2A Development Standards Tables that clarifies that the FAR of an existing residential building does not need to be reduced to comply with the maximum Floor Area Ratio standard to add new units. There may be cases where an existing residential building exceeds the allowable maximum FAR. If there were a requirement to reduce the size of the existing building to comply with the maximum FAR applicable to a new building, it could deter the creation of more dwelling units within that existing building.

The proposed zoning amendments are included in **Attachment 1** and are summarized in Table 1, below. Existing and proposed development standards are also summarized in comparative tables in **Attachment 3**.

**Table 1. Summary of Proposed Middle Housing Zoning Amendments**

Ord. Sect.	BMC Section & Title	Description of Changes	Rationale
<b>Title 23, Division 1 – General Provisions</b>			
1	23.108.020 Zoning Districts	<ul style="list-style-type: none"> <li>• R-1A district removed;</li> <li>• R-1, R-2, and R-2A renamed.</li> </ul>	Conforming edits.
<b>Title 23, Division 2 – Zoning Districts</b>			
2	23.202.020 Allowed Land Uses Table	<ul style="list-style-type: none"> <li>• R-1A district removed;</li> <li>• Two-Family land use type removed;</li> <li>• Multi-Family Residential land use type revised: two or more units permitted with a ZC in the R-1, R-2, and R-2A zoning district.</li> </ul>	Permitting middle housing by-right.
3	23.202.030 Additional Permit Requirements	<ul style="list-style-type: none"> <li>• R-1A district removed.</li> <li>• Requirements for additional bedrooms in new units removed.</li> </ul>	<p>Conforming edit.</p> <p>Promoting middle housing.</p>
4, 5	23.202.050 R-1 Title and District Purpose	<ul style="list-style-type: none"> <li>• R-1 renamed;</li> <li>• District purpose revised.</li> </ul>	Clarifying that R-1 is not a single-family only district.
6	23.202.050 R-1 Development Standards	<ul style="list-style-type: none"> <li>• Development standards revised.</li> </ul>	Promoting middle housing.
7	23.202.060 R-1A District	<ul style="list-style-type: none"> <li>• R-1A district removed.</li> </ul>	Merging of R-1A and R-2 zoning districts.
8, 9	23.202.070 ES-R District	<ul style="list-style-type: none"> <li>• Renumbering.</li> </ul>	Renumbering.
10, 11	23.202.080 R-2 Title and District Purpose	<ul style="list-style-type: none"> <li>• R-2 district renamed.</li> <li>• District purpose revised.</li> </ul>	Conforming edit.
12	23.202.080 R-2 Development Standards	<ul style="list-style-type: none"> <li>• Development standards revised.</li> </ul>	Promoting middle housing.
13, 14	23.202.090 R-2A Title and District Purpose	<ul style="list-style-type: none"> <li>• R-2A district renamed.</li> <li>• District purpose revised.</li> </ul>	Conforming edit.
15	23.202.090 R-2A Development Standards	<ul style="list-style-type: none"> <li>• Development standards revised.</li> </ul>	Promoting middle housing.
16-33	Various	<ul style="list-style-type: none"> <li>• Renumbering.</li> </ul>	Renumbering.

34	23.206.020 Allowed Land Use in Manufacturing Districts	<ul style="list-style-type: none"> <li>Two-Family land use type removed;</li> <li>Multi-Family Residential land use type revised: two or more units permitted with a ZC in the MU-R district.</li> </ul>	Permitting middle housing by-right in the MU-R.
35	23.206.090 MU-R District	<ul style="list-style-type: none"> <li>Provisions conditioning residential uses in the MU-R district removed.</li> </ul>	Permitting middle housing by-right in the MU-R.
36	23.206.090 MU-R Development Standards	<ul style="list-style-type: none"> <li>Development standards revised.</li> </ul>	Promoting middle housing.
37	23.210.020 Hillside Overlay Zone	<ul style="list-style-type: none"> <li>Prohibition of multiple dwellings on a parcel in the R-2H removed.</li> </ul>	Promoting middle housing.
38	23.210.020 Hillside Overlay Zone Development Standards	<ul style="list-style-type: none"> <li>R-1A district removed;</li> <li>3 stories maximum removed (maximum height unchanged).</li> </ul>	Conforming edit.  Promoting middle housing.
<b>Title 23, Division 3 – Citywide Provisions</b>			
39	23.304.030 Setbacks	<ul style="list-style-type: none"> <li>R-1A district removed.</li> </ul>	Conforming edit.
40	23.304.030 Allowed Setback Reductions	<ul style="list-style-type: none"> <li>R-1A district removed.</li> <li>Revised minimum setback with reduction to 4 feet in the R-2 and R-2A zoning districts</li> </ul>	Conforming edits.
41	23.304.040 Permits Required for Building Separation	<ul style="list-style-type: none"> <li>R-1A district removed.</li> </ul>	Conforming edit.
42	23.322.100 On-site Loading Spaces	<ul style="list-style-type: none"> <li>R-1A district removed.</li> </ul>	Conforming edit
43	23.326.030 Eliminating Dwelling Units through Demolition	<ul style="list-style-type: none"> <li>Demolition of single-family dwellings permitted with a ZC, if project results in increased density.</li> </ul>	Promoting middle housing.
<b>Title 23, Division 5 – Glossary</b>			
44	23.502.020 Defined Terms	<ul style="list-style-type: none"> <li>Revised definition of Addition to exclude new floor area that consists of new unit(s).</li> </ul>	Promote middle housing.
45		<ul style="list-style-type: none"> <li>Revised definition of Multi-family Dwelling from three or more units to two or more units.</li> </ul>	Promote middle housing.  Conforming edit.

		<ul style="list-style-type: none"> <li>Define Multi-Family Residential land use type.</li> </ul>	
46		<ul style="list-style-type: none"> <li>Remove definition of rear building.</li> </ul>	Conforming edit.
47		<ul style="list-style-type: none"> <li>Add Single-Family Residential land use type</li> </ul>	Conforming edit.
48		<ul style="list-style-type: none"> <li>Remove definition of Two-Family Dwelling</li> </ul>	Conforming edit.
<b>Zoning Map</b>			
Att. A	Zoning Map	<ul style="list-style-type: none"> <li>Replace all R-1A zone labels with R-2.</li> </ul>	Conforming edit.

The proposed zoning changes require conforming General Plan amendments. **Attachment 4** is a resolution that includes the text of these amendments. The amendments are summarized below:

- *Removal of R-1A Zoning District:* The proposed zoning changes include consolidating parcels currently zoned as R-1A and R-2 into a single R-2 zoning district. The proposed General Plan amendments include removal of references to the R-1A zoning district.
- *Renaming R-1, R-2, and R-2A Zoning Districts:* The proposed zoning changes include new names for the R-1, R-2 and R-2A zoning districts. The proposed General Plan amendments incorporate these new names.
- *Density, Height and FAR:* The proposed zoning changes include revisions to development standards related to density, height and FAR. The General Plan includes descriptions of each Land Use Classification that note the density, height and FAR anticipated to characterize each area. The proposed General Plan amendments include updates to the Low Density Residential, Low Medium Density Residential, Medium Density Residential and Mixed-Use Residential descriptions to reflect the revised development standards in the proposed zoning changes.

**ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS**

*Housing Element Update EIR*

Development projections for this project and all reasonably foreseeable growth resulting from development contemplated by the City’s updated Housing Element were analyzed in the Environmental Impact Report (EIR) for the 2023-2031 Housing Element Update (“Housing Element Update EIR”), which was certified by the City Council on January 18, 2023.<sup>1</sup>

<sup>1</sup> Housing Element Update 2023-2031 Final EIR.  
[https://berkeleyca.gov/sites/default/files/documents/ATT%20%20FEIR\\_RTC.pdf](https://berkeleyca.gov/sites/default/files/documents/ATT%20%20FEIR_RTC.pdf)

The Housing Element EIR identified one significant and unavoidable environmental impact related to Cultural Resources (impacts to historic-period resources), one significant and unavoidable impact related to Noise (temporary construction noise) and four significant and unavoidable impacts related to Wildfire (emergency evacuation and response, wildfire risk and pollutant exposure, terrain and slope impacts, and infrastructure). All other environmental effects of the proposed Project can be reduced to less than significant levels through implementation of Standard Condition(s) of Approval and/or recommended mitigation measures. Adopting the Housing Element EIR included a statement of overriding consideration that provides reasons the Housing Element could be adopted even though those impacts could occur.

CONTACT PERSON

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

Attachments:

1: Ordinance

A: Zoning Map Changes

2: Planning Commission Staff Report, November 1, 2023

3: Existing and Proposed Development Standards Tables

4: Resolution -- General Plan Amendments

5: Public Hearing Notice

ORDINANCE NO.    -N.S.

MIDDLE HOUSING ZONING AMENDMENTS

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

Section 1. That Table 23.108-1 Zoning Districts within BMC Chapter 23.180.020 is amended to read as follows:

**TABLE 23.108-1: ZONING DISTRICTS**

DISTRICT SYMBOL	NAME OF DISTRICT
<b>Residential Districts</b>	
R-1	<del>Single-Family Residential</del> <u>Multi-Unit 1</u>
<del>R-1A</del>	<del>Limited Two-family Residential</del>
ES-R	Environmental Safety Residential
R-2	<del>Restricted Two-family Residential</del> <u>Multi-Unit 2</u>
R-2A	<del>Restricted Multiple-family Residential</del> <u>Multi-Unit 2A</u>
R-3	Multiple-family Residential
R-4	Multi-family Residential
R-5	High Density Residential
R-S	Residential Southside
R-SMU	Residential Southside Mixed Use
R-BMU	Residential BART Mixed Use
<b>Commercial Districts</b>	
C-C	Corridor Commercial
C-U	University Avenue Commercial
C-N	Neighborhood Commercial
C-E	Elmwood Commercial
C-NS	North Shattuck Commercial
C-SA	South Area Commercial
C-T	Telegraph Avenue Commercial
C-SO	Solano Avenue Commercial
C-DMU	Downtown Mixed-Use

Text highlighted in gray is just renumbering or other minor technical edit.

DISTRICT SYMBOL	NAME OF DISTRICT
C-W	West Berkeley Commercial
C-AC	Adeline Corridor Commercial
<b>Manufacturing Districts</b>	
M	Manufacturing
MM	Mixed Manufacturing
MU-LI	Mixed Use-Light Industrial
MU-R	Mixed Use-Residential
<b>Special Districts</b>	
S	Specific Plan
U	Unclassified

Text highlighted in gray is just renumbering or other minor technical edit.

Section 2. That Table 23.202-1 Allowed Land Uses in Residential Districts within BMC Section 23.202.020 is amended to read as follows:

**TABLE 23.202-1: ALLOWED LAND USES IN RESIDENTIAL DISTRICTS**

ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply **Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	RESIDENTIAL DISTRICTS											USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)	
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU**		
<b>Residential Uses</b>													
Accessory Dwelling Unit	See 23.306—Accessory Dwelling Units		NP	See 23.306—Accessory Dwelling Units									
<b>Dwellings</b>													
Single-Family <u>Residential</u>	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	23.302.070(H)
<u>Two-Family</u>	NP	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	23.302.070(H)
Multi-Family <u>Residential</u>	NP ZC	NP	NP	UP(PH) ZC	UP(PH) ZC	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.302.070(H)
Group Living Accommodation	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.302.070(H)
Senior Congregate Housing	NP	NP	NP	NP	See 23.302.070.H– Use-Specific Regulations								
Mixed-Use Residential	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.302.070(H)
<b>Public and Quasi-Public Uses</b>													
Child Care Center	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.302.070(H)
Club/Lodge	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.302.070(H)
Columbaria	AUP*	AUP*	NP	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	NP	23.302.070.C– Use-Specific Regulations
Community Care Facility	See 23.202.040.A– Use-Specific Regulations												
Community Center	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	

Text highlighted in gray is just renumbering or other minor technical edit.

ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply **Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	RESIDENTIAL DISTRICTS											USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)	
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU**		
Emergency Shelter, 15 beds or fewer	NP	NP	NP	NP	NP	NP	ZC	ZC	ZC	ZC	ZC	23.308-Emergency Shelters	
Emergency Shelter, more than 15 beds	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.308-Emergency Shelters	
Hospital	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	NP		
Library	UP(PH)	UP(PH)	NP	UP(PH)									
Low Barrier Navigation Center	NP	NP	NP	ZC									
Nursing Home	NP	NP	NP	-	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP		
Park/Playground	ZC	ZC	UP	ZC									
Public Safety and Emergency Service	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)		
Public Utility Substation/Tank	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)		
Religious Assembly	UP(PH)	UP(PH)	NP	UP(PH)									
School	UP(PH)	UP(PH)	NP	UP(PH)									
Supportive Housing	NP	NP	NP	ZC*	23.302.070.I-Supportive Housing								
<b>Commercial Uses</b>													
Alcoholic Beverage Service	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	ZC	UP(PH)	23.310—Alcoholic Beverage Sales and Service
Food Products Store	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)*	UP(PH)	23.202.140.B.3– R-SMU Residential Southside Mixed Use District
Food Service Establishment, Under 3,000 sq. ft.	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	ZC*	ZC*	23.302.070.(E) – Use=Specific Regulations
Food Service Establishment, 3,000 sq. ft. or larger	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP*	AUP*	23.302.070.(E) – Use=Specific Regulations
Group Instruction	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(P)	23.202.150(C) – R-BMU

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ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply **Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	RESIDENTIAL DISTRICTS											USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU**	
											H)	Residential BART Mixed Use District
Health and Fitness Facility	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	23.202.150 (C) – R-BMU Residential BART Mixed Use District
Hotel, Tourist	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	
Laundromat and Cleaner	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	
Office	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	23.202.150.C – R-BMU Residential BART Mixed Use District
Parking Lot/Structure	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH)	23.302.070.G– Unenclosed Accessory Structures in Residential Districts  23.322.100– On-site Loading Spaces
Personal and Household Service, General	NP	NP	NP	NP	NP	NP	NP	NP	NP	ZC*	ZC*	23.202.140.B.2– R-SMU Residential Southside Mixed Use District
Retail, General	NP	NP	NP	NP	NP	NP	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH)	23.202.040.B– Use-Specific Regulations
Veterinary Clinic	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	
Video Tape/Disk Rental	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	NP	
<b>Incidental Uses</b>												
Live Entertainment Unamplified	NP	NP	NP	NP	NP	NP	NP	NP	NP	ZC	NP	
Live Entertainment Amplified	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP	NP	
<b>Industrial and Heavy Commercial Uses</b>												
Commercial Excavation	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
<b>Other Uses</b>												

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ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply **Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	RESIDENTIAL DISTRICTS											USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU**	
Accessory Uses	See 23.302.020.A– General Use Regulations											
Art/Craft Studio	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	ZC	
ATM: Exterior and Attached to Bank or Interior or Exterior and Not With Bank	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP	
Home Occupations	See 23.302.040– Home Occupations											
Live/Work	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH) *)	23.312—Live/Work
Public Market, Open Air	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP	
Public Market, Enclosed	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP	
Short-Term Rental	ZC*	ZC*	NP	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	23.314—Short-Term Rentals
Temporary Uses	See 23.302.030– Temporary Uses and Structures											
Urban Agriculture, Low-Impact	ZC*	ZC*	NP	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	23.318—Urban Agriculture
Urban Agriculture, High-Impact	AUP*	AUP*	NP	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	23.318—Urban Agriculture
Wireless Telecommunication Facility	See 23.332—Wireless Communication Facilities											

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Section 3. That BMC Section 23.202.030(B)(1) is amended to read as follows:

1. In the R-1, ~~R-1A~~, R-2, R-2A, and R-3 districts, adding a bedroom to a lot requires permits as follows:
  - (a) Adding a first, second, third, or fourth bedroom to a lot: no permit required.
  - (b) Adding a fifth bedroom to a lot: AUP.
  - (c) Adding a bedroom to a lot beyond the fifth: Use Permit.
  
2. The following are excluded from the bedroom count for the purposes of permit requirements in Section 23.202.030(B)(1):
  - (a) Bedrooms associated solely with any proposed new dwelling unit or units added to an existing single-family dwelling, multi-family dwelling, or lot developed with residential uses.
  - (b) Bedrooms associated with an existing or proposed Accessory Dwelling Unit or Junior Accessory Dwelling Unit.
  - (c) Up to two bedrooms created entirely from interior reconfiguration of existing habitable space within a main building.

~~2~~ 3. See Section 23.502.020.B--Defined Terms ("B" Terms) for bedroom definition.

~~3~~ 4. In the ES-R district, any alteration to create a new bedroom in a single-family detached home on a single lot requires an AUP. See Section 23.202.070.H.6 (Land Use Intensification) for required finding.

~~4~~ 5. In the R=3, R-S, or R-SMU districts within the Southside Plan boundaries, adding any bedroom to a lot requires a Zoning Certificate.

Section 4. That BMC Section 23.202.050(A) is amended to read as follows:

- A. **District Purpose.** The purpose of the ~~Single-Family~~ Residential Multi-Unit 1 (R-1) district is to:
1. Implement the General Plan by encouraging the development of residential areas consistent with a pattern of housing types ranging from single-family to small apartment structures ~~Recognize and protect the existing pattern of development in the low-density, single-family residential areas of the city consistent with the General Plan;~~
  2. Make housing available for persons who desire detached and multi-unit housing ~~with and a relatively large amount of~~ usable open space;
  3. Provide objective standards to protect adjacent properties from unreasonable

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obstruction of light and air; and

4. Permit community facilities such as religious assembly uses, schools, parks, and libraries which serve the local population and are not detrimental to the immediate neighborhood.

Section 5. That the title of BMC Section 23.202.050 is amended to read as follows:

23.202.050 – R-1 ~~Single-Family~~ Residential Multi-Unit 1 District

Section 6. That Table 23.202-2 R-1 Development Standards within BMC Chapter 23.202.050 is amended to read as follows:

**Table 23.202-2 R-1 Development Standards**

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Area for New Lots, Minimum	5,000 sq. ft.	23.304.020 – Lot Requirements
Usable Open Space per <u>1,000 sq. ft. Gross Residential Floor Area Dwelling Unit</u> , Minimum	<u>150 400</u> sq. ft.	23.304.090 – Usable Open Space
Floor Area Ratio, Maximum <u>[1]</u>	<del>No maximum</del>	<u>23.106.050 - Floor Area Ratio</u>
<u>1 Unit and Non-Residential Uses</u>	<u>1.2</u>	
<u>2 Units</u>	<u>0.5</u>	
<u>3-7 Units</u>	<u>1.2</u>	
<u>8+ Units</u>	<u>1.5</u>	
Main Building Height, <del>Average</del>		23.304.050 – Building Height
New Buildings <del>or and</del> Non-Residential Additions, <u>Average</u>	28 ft. <del>and 3 stories</del> <u>[1]</u>	
<u>New Buildings and Non-Residential Additions, Maximum</u>	<u>35 ft.</u>	
<u>Within 15 ft. of Rear Property Line</u>	<u>22 ft.</u>	
Residential Additions, <u>Average</u>	14 ft. <u>[2]</u>	
<u>Residential Density (DU/acre)</u>		<u>23.106.100 – Residential Density</u>
<u>Minimum</u>	<u>10</u>	
<u>Within Hillside Overlay Zone</u>	<u>No minimum</u>	
<u>Maximum</u>	<u>40</u>	
<u>Within Hillside Overlay Zone</u>	<u>20</u>	

Text highlighted in gray is just renumbering or other minor technical edit.

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Line Setbacks, Minimum		23.304.030 – Setbacks
Front	<del>15</del> [3] <del>20</del> ft.	
<u>Within Hillside Overlay Zone</u>	<u>20 ft.</u>	
Rear	<del>4</del> <del>20</del> ft.	
<u>Within Hillside Overlay Zone</u>	<u>20 ft.</u>	
Interior Side	4 ft.	
<u>Within Hillside Overlay Zone</u>	<u>5 ft.</u>	
Street Side	4 ft.	
Building Separation, Minimum	<del>No minimum</del> <u>5 ft.</u>	
Lot Coverage, Maximum		23.304.120 – Lot Coverage
<u>1-2 Units and Non-Residential Uses</u>	<u>40%</u>	
<u>3-7 Units</u>	<u>50%</u>	
<u>8+ Units</u>	<u>55%</u>	
Notes:		
<p><del>[1] Maximum 35 ft. with an AUP. When adding a dwelling unit or dwelling units to an existing residential main building entirely through conversion, with no modifications to the existing building envelope, the maximum FAR does not apply.</del></p> <p><del>[2] Additional average building H-height greater than 14 ft. up to 28 ft. allowed with an AUP, subject to a maximum building height of .Height greater than 28 ft up to 35 ft. allowed with an additional AUP.</del></p> <p><del>[3] Or average of front lot line setback of adjacent structure(s), whichever is less.</del></p>		

Section 7. That BMC Chapter 23.202.060 is repealed as follows:

~~23.202.060 R-1A Limited Two-Family Residential District Reserved~~

~~A. **District Purpose.** The purpose of the Limited Two-Family Residential (R-1A) district is to:~~

- ~~1. Recognize and protect the existing pattern of low-medium-density residential areas characterized by reasonable open and spacious type of development consistent with the General Plan;~~
- ~~2. Protect adjacent properties from unreasonable obstruction of light and air;~~
- ~~3. Allow flexibility in the use of property for residential purposes by permitting two dwelling units on one lot under limited conditions; and~~

Text highlighted in gray is just renumbering or other minor technical edit.

4. ~~Appropriately regulate the rear and side setback areas for the construction of a dwelling unit in areas west of San Pablo Avenue.~~

~~B. **Allowed Land Uses.** See Table 23.202-1: Allowed Land Uses in Residential Districts~~

~~C. **Additional Permit Requirements.** See Subsection A (Residential Additions) and Subsection B (Adding Bedrooms) of Section 23.202.030 Additional Permit Requirements.~~

~~D. **Development Standards.**~~

~~1. **Basic Standards.** See Table 23.202-3: R-1A Development Standards.~~

~~2. **Supplemental Standards.** Supplemental development standards that apply in the R-1A district are noted in Table 23.202-3: R-1A Development Standards.~~

**TABLE 23.202-3: R-1A DEVELOPMENT STANDARDS**

<b>BASIC STANDARDS</b>		<b>SUPPLEMENTAL STANDARDS</b>
Lot Area, Minimum		23.304.020—Lot Requirements
New Lots	5,000 sq. ft.	
For Two Dwelling Units	4,500 sq. ft. [1]	
Usable Open Space Per Dwelling Unit, Minimum	400 sq. ft. [2]	23.304.090—Usable Open Space
Floor Area Ratio, Maximum	No maximum	
Main Building Height, Average		23.304.050—Building Height
New Buildings and Non-Residential Additions	28 ft. and 3 stories [3]	
Rear Main Buildings	22 ft. and 2 stories	
Residential Additions	14 ft. [4]	
Lot Line Setbacks, Minimum		23.304.030—Setbacks
Front	20 ft.	
Rear	20 ft.	
Interior Side	4 ft.	
Street Side	4 ft.	
Interior and Street Side for Rear Main Building	6 ft.	
Building Separation, Minimum		23.304.040—

Text highlighted in gray is just renumbering or other minor technical edit.

<del>BASIC STANDARDS</del>		<del>SUPPLEMENTAL STANDARDS</del>
1-story	8 ft.	<del>Building Separation in Residential Districts</del>
2-stories	12 ft.	
3-stories	16 ft.	
<del>Lot Coverage, Maximum</del>		<del>23.304.120—Lot Coverage</del>
<del>Interior and Through Lot</del>	40%	
<del>Corner Lot</del>	45%	
<p>Notes:</p> <p>[1] <del>Maximum two units per lot.</del></p> <p>[2] <del>Open space is not required for accessory dwelling unit.</del></p> <p>[3] <del>Maximum 35 ft. with an AUP.</del></p> <p>[4] <del>Height greater than 14 ft. up to 28 ft. allowed with an AUP. Height greater than 28 ft up to 35 ft allowed with an additional AUP.</del></p>		

Section 8. That BMC Chapter 23.202.070(H)(1) and (2) are amended to read as follows:

H. *Development Standards.*

1. *Basic Standards.* See Table 23.202-~~43~~: ES-R Development Standards.
2. *Supplemental Standards.* Supplemental development standards that apply in the ES-R district are noted in Table 23.202-~~43~~: ES-R Development Standards.

Section 9. That the title of Table 23.202-4 ES-R Development Standards within 23.202.070 is amended to read as follows:

**Table 23.202-~~34~~. ES-R DEVELOPMENT STANDARDS**

Section 10. That the title of BMC Section 23.202.080 is amended to read as follows:

**23.202.080- R-2 ~~Restricted Two-Family~~ Residential Multi-Unit 2 District**

Section 11. That BMC Section 23.202.080(A) is amended to read as follows:

A. **District Purpose.** The purpose of the ~~Restricted Two-Family~~ Residential Multi-Unit 2 (R-2) district is to:

1. Implement the General Plan by encouraging the development of ~~low-medium-density~~ residential areas ~~characterized by a reasonably open and spacious~~

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~~type of development with a pattern with a range of housing types ranging from single-family to duplexes and small apartment structures;~~

2. Make available housing for persons who desire a range of housing choice with ~~a relatively large amount of~~ useable open space; and
3. Provide objective standards to protect adjacent properties from unreasonable obstruction of light and air.

Section 12. That BMC Section 23.202.080(D) is amended to read as follows:

**D. Development Standards.**

1. **Basic Standards.** See Table 23.202-~~54~~: R-2 Development Lot and Height Development Standards, Table 23.202-5: R-2 Setback and Building Separation Standards, and Table 23.202-6: R-2 Lot Coverage Standards for development standards in the R-2 district.
2. **Supplemental Standards.** Supplemental development standards that apply in the R-2 district are noted in Table 23.202-~~54~~: R-2 Lot and Height Development Standards, Table 23.202-5: R-2 Setback and Building Separation Standards, and Table 23.202-6: R-2 Lot Coverage Standards.

**TABLE 23.202-~~54~~: R-2 LOT AND HEIGHT DEVELOPMENT STANDARDS**

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Area, Minimum		23.304.020 – Lot Requirements
New Lots	5,000 sq. ft.	
<u>Per Dwelling Unit</u>	<u>2,500 sq. ft. [1]</u>	
Usable Open Space Per <u>1,000 sq. ft. Gross Residential Floor Area Dwelling Unit</u> , Minimum		23.304.090 – Usable Open Space
Floor Area Ratio, Maximum <u>[1]</u>		23.106.050 - Floor Area Ratio
<u>1 Unit and Non-Residential Uses</u>	<u>1.2</u>	
<u>2 Units</u>	<u>0.6</u>	
<u>3-7 Units</u>	<u>1.2</u>	
<u>8+ Units</u>	<u>1.25</u>	
Main Building Height, <del>Average</del>		23.304.050 – Building Height
New Buildings and Non-Residential Additions, <u>Average</u>	28 ft. <del>and 3 stories</del> <u>[2]</u>	

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BASIC STANDARDS		SUPPLEMENTAL STANDARDS
<u>New Buildings and Non-Residential Additions, Maximum</u>	<u>35 ft.</u>	
<u>Within 15 feet of Rear Property Line</u>	<u>22 ft.</u>	
Residential Additions, <u>Average</u>	14 ft. [ <u>32</u> ]	
<u>Residential Density (DU/acre)</u>		
<u>Minimum</u>	<u>10</u>	<u>23.106.100 – Residential Density</u>
<u>Within Hillside Overlay Zone</u>	<u>No minimum</u>	
<u>Maximum</u>	<u>50</u>	
<u>Within Hillside Overlay Zone</u>	<u>50</u>	
<u>Lot Line Setbacks, Minimum</u>		
<u>Front</u>	<u>15 [3] 20 ft.</u>	<u>23.304.030 – Setbacks</u>
<u>Within Hillside Overlay Zone</u>	<u>20 ft.</u>	
<u>Rear</u>	<u>4 ft.</u>	
<u>Within Hillside Overlay Zone</u>	<u>20 ft.</u>	
<u>Interior Side</u>	<u>4 ft.</u>	
<u>Within Hillside Overlay Zone</u>	<u>5 ft.</u>	
<u>Street Side</u>	<u>4 ft.</u>	
<u>Building Separation, Minimum</u>	<u>5 ft.</u>	
<u>Lot Coverage, Maximum</u>		
<u>1-2 Units and Non-Residential Uses</u>	<u>50%</u>	<u>23.304.120 – Lot Coverage</u>
<u>3-7 Units</u>	<u>55%</u>	
<u>8+ Units</u>	<u>55%</u>	

Text highlighted in gray is just renumbering or other minor technical edit.

BASIC STANDARDS	SUPPLEMENTAL STANDARDS
Notes: [1] <del>One additional dwelling unit is allowed for any remaining lot area between 2,000 and 2,500 square feet. When adding a dwelling unit or dwelling units to an existing residential main building entirely through conversion, with no modifications to the existing building envelope, the maximum FAR does not apply.</del> [2] <del>Maximum 35 ft. with an AUP. Additional average height greater than 14 ft. up to 28 ft. allowed with an AUP, subject to a maximum building height of . Addition height greater than 28 ft up to 35 ft. allowed with an additional AUP.</del> [3] <del>Or average front lot line setback of adjacent structure(s), whichever is less.</del>	

**TABLE 23.202-5: R-2 SETBACK AND BUILDING SEPARATION STANDARDS**

	STANDARDS BY BUILDING STORY			SUPPLEMENTAL STANDARDS
	1 <sup>ST</sup>	2 <sup>ND</sup>	3 <sup>RD</sup>	
<del>Lot Line Setbacks, Minimum</del>				
<del>Front</del>	20 ft.	20 ft.	20 ft.	<del>23.304.030—Setbacks</del>
<del>Rear</del>	20 ft.	20 ft.	20 ft.	
<del>Interior</del>	4 ft.	4 ft.	6 ft.	
<del>Street Side</del>	10 ft.	10 ft.	10 ft.	
<del>Building Separation, Minimum</del>	8 ft.	12 ft.	16 ft.	<del>23.304.040—Building Separation in Residential Districts</del>

**TABLE 23.202-6: R-2 LOT COVERAGE STANDARDS**

	STANDARD BASED ON BUILDING HEIGHT			SUPPLEMENTAL STANDARDS
	1 STORY	2 STORIES	3 STORIES	
<del>Lot Coverage, Maximum</del>				
<del>Interior and Through Lot</del>	45%	40%	35%	<del>23.304.120—Lot Coverage</del>
<del>Corner Lot</del>	50%	45%	40%	

Text highlighted in gray is just renumbering or other minor technical edit.

Section 13. That the title BMC Section 23.202.090 is amended to read as follows:

**23.202.090- R-2A ~~Restricted Multiple-Family Residential~~ Multi-Unit 2A District**

Section 14. That BMC Section 23.202.090(A) is amended to read as follows:

A. **District Purpose.** The purpose of the ~~Restricted Multiple-Family Residential~~ Multi-Unit 2A (R-2A) district is to:

1. Implement the General Plan by encouraging the development of ~~medium-density~~ residential areas characterized by a range of housing types small multiple-family and garden-type apartment structures with a maximum of open space consistent with this type of development;
2. Make available housing for persons who desire apartment-type accommodations with ~~a maximum of~~ open space; and
3. Provide objective standards to P-protect adjacent properties from unreasonable obstruction of light and air; and
4. ~~Permit only land use intensity which is compatible with existing low-density residential structures and is not detrimental to the immediate neighborhood.~~

Section 15. That BMC Section 23.202.090(D) is amended to read as follows:

D. **Development Standards.**

1. **Basic Standards.** See Table 23.202-~~58~~: R-2A Lot and Height Development Standards, Table 23.202-8: R-2A Setback and Building Separation Standards, and Table 23.202-9: R-2A Lot Coverage Standards.
2. **Supplemental Standards.** Supplemental development standards that apply in the R-2A district are noted in Table 23.202-~~58~~: R-2A Lot and Height Development Standards, Table 23.202-8: R-2A Setback and Building Separation Standards, and Table 23.202-9: R-2A Lot Coverage Standards.

**TABLE 23.202-~~58~~: R-2A LOT AND HEIGHT DEVELOPMENT STANDARDS**

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Area, Minimum		
New Lots	5,000 sq. ft.	23.304.010 <u>- Lot Requirements</u>
<del>Per Dwelling Unit</del>	<del>1,650 sq. ft. [1]</del>	

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Usable Open Space Per <u>1,000 sq. ft. Gross Residential Floor Area Dwelling Unit</u> , Minimum	<u>150,300</u> sq. ft.	23.304.090 – <u>Usable Open Space</u>
<u>Floor Area Ratio, Maximum [1]</u>		
<u>1 Unit and Non-Residential Uses</u>	<u>1.2</u>	<u>23.106.050 - Floor Area Ratio</u>
<u>2 Units</u>	<u>0.6</u>	
<u>3-7 Units</u>	<u>1.5</u>	
<u>8+ Units</u>	<u>1.75</u>	
<u>Main Building Height, Average</u>		23.304.050 – Building Height
<u>New Buildings and Non-Residential Additions, Average</u>	<u>28 ft. and 3 stories [2]</u>	
<u>New Buildings and Non-Residential Additions, Maximum</u>	<u>35 ft.</u>	
<u>Within 15 ft. of Rear Property Line</u>	<u>22 ft.</u>	
<u>Residential Additions, Average</u>	<u>14 ft. [23]</u>	
<u>Residential Density (DU/acre)</u>		<u>23.106.100 – Residential Density</u>
<u>Minimum</u>	<u>20</u>	
<u>Within Hillside Overlay District</u>	<u>No minimum</u>	
<u>Maximum</u>	<u>60</u>	
<u>Within Hillside Overlay District</u>	<u>60</u>	
<u>Lot Line Setbacks, Minimum</u>		<u>23.304.030 – Setbacks</u>
<u>Front</u>	<u>10 ft. [3]</u>	
<u>Within Hillside Overlay Zone</u>	<u>15 ft.</u>	
<u>Rear</u>	<u>4 ft.</u>	
<u>Within Hillside Overlay Zone</u>	<u>15 ft.</u>	
<u>Interior Side</u>	<u>4 ft.</u>	
<u>Within Hillside Overlay Zone</u>	<u>5 ft.</u>	
<u>Street Side</u>	<u>4 ft.</u>	
<u>Building Separation, Minimum</u>	<u>5 ft.</u>	
<u>Lot Coverage, Maximum</u>		<u>23.304.120 – Lot Coverage</u>
<u>1-2 Units and Non-Residential Uses</u>	<u>50%</u>	
<u>3-7 Units</u>	<u>55%</u>	
<u>8+ Units</u>	<u>60%</u>	

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Notes:  
~~[1] One additional dwelling unit is allowed for remaining lot area between 1,300 and 1,650 square feet. When adding a dwelling unit or dwelling units to an existing residential main building entirely through conversion, with no modifications to the existing building envelope, the maximum FAR does not apply.~~  
~~[2] Maximum 35 ft. with an AUP. Additional average building height greater than 14 ft. up to 28 ft. allowed with an AUP, subject to a maximum building height of Addition height greater than 28 ft up to 35 ft.. allowed with an additional AUP.~~  
~~[3] Or average front setback of adjacent structure(s), whichever is less.~~

**TABLE 23.202-8: R-2A SETBACK AND BUILDING SEPARATION STANDARDS**

	STANDARDS BY BUILDING STORY			SUPPLEMENTAL STANDARDS
	1 <sup>ST</sup>	2 <sup>ND</sup>	3 <sup>RD</sup>	
<b>Lot Line Setbacks, Minimum</b>				
Front	15 ft.	15 ft.	15 ft.	23.304.030– Setbacks
Rear	15 ft.	15 ft.	15 ft.	
Interior	4 ft.	4 ft.	6 ft.	
Street Side	6 ft.	8 ft.	10 ft.	
Building Separation, Minimum	8 ft.	12 ft.	16 ft.	23.304.040– Building Separation in Residential Districts

**TABLE 23.202-9: R-2A LOT COVERAGE STANDARDS**

	STANDARD BASED ON BUILDING HEIGHT			SUPPLEMENTAL STANDARDS
	1 STORY	2 STORIES	3 STORIES	
<b>Lot Coverage, Maximum</b>				
Interior and Through Lots	45%	40%	35%	23.304.120
Corner Lots	50%	45%	40%	

Section 16. That BMC Section 23.202.100(E)(2) is amended to read as follows:

- Supplemental Standards.** Supplemental development standards that apply in the R-3 district are noted in Table 23.202-640: R-3 Development

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Standards.

Section 17. That the title of Table 23.202-10: R-3 Development Standards within BMC Section 23.202.100 is amended to read as follows:

**TABLE 23.202-~~640~~: R-3 DEVELOPMENT STANDARDS**

Section 18. That the BMC Sections 23.202.100(E)(1) and (2) are amended to read as follows:

**E. Development Standards.**

1. **Basic Standards.** See Table 23.202-~~742~~: R-4 Lot and Height Standards, Table 23.202-~~843~~: R-4 Setback and Building Separation Standards, and Table 23.202-~~944~~: R-4 Lot Coverage Standards.
2. **Supplemental Standards.** Supplemental development standards that apply in the R-4 district are noted in Table 23.202-~~742~~: R-4 Lot and Height Standards, Table 23.202-~~843~~: R-4 Setback and Building Separation Standards, and Table 23.202-~~944~~: R-4 Lot Coverage Standards.

Section 19. That the title of Table 23.202-12: R-4 Lot and Height Standards within BMC Section 23.202.110 is amended to read as follows:

**TABLE 23.202-~~742~~: R-4 LOT AND HEIGHT STANDARDS**

Section 20. That the title of Table 23.202-13: R-4 Setback and Building Separation Standards within BMC Section 23.202.110 is amended to read as follows:

**TABLE 23.202-~~843~~: R-4 SETBACK AND BUILDING SEPARATION STANDARDS**

Section 21. That the title of Table 23.202-14: R-4 Lot Coverage Standards within BMC Section 23.202.110 is amended to read as follows:

**TABLE 23.202-~~944~~: R-4 LOT COVERAGE STANDARDS**

Section 22. That BMC Section 23.202.120(D)(1) and (2) be amended to read as follows:

**D. Development Standards.**

1. **Basic Standards.** See Table 23.202-~~105~~: R-5 Lot and Height Standards, Table 23.202-~~116~~: R-5 Setback and Building Separation Standards, and Table 23.202-~~127~~: R-5 Lot Coverage Standards.

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- 2. Supplemental Standards.** Supplemental development standards that apply in the R-5 district are noted in Table 23.202-~~105~~: R-5 Lot and Height Standards, Table 23.202-~~116~~: R-5 Setback and Building Separation Standards, and Table 23.202-~~127~~: R-5 Lot Coverage Standards.

Section 23. That the title of Table 23.202-15: R-5 Lot and Height Standards within BMC Section 23.202.120 is amended to read as follows:

**TABLE 23.202-~~105~~: R-5 LOT AND HEIGHT STANDARDS**

Section 24. That the title of Table 23.202-16: R-5 Setback and Building Separation Standards within BMC Section 23.202.120 is amended to read as follows:

**TABLE 23.202-~~116~~: R-5 SETBACK AND BUILDING SEPARATION STANDARDS**

Section 25. That the title of Table 23.202-17: R-5 Lot Coverage Standards within BMC Section 23.202.120 is amended to read as follows:

**TABLE 23.202-~~127~~: R-5 LOT COVERAGE STANDARDS**

Section 26. That BMC Section 23.202.130(E)(1) and (2) are amended to read as follows:

**E. Development Standards.**

- 1. Basic Standards.** See Table 23.202-~~138~~: R-S Development Standards.
- 2. Supplemental Standards.** Supplemental development standards that apply in the R-S district are noted in Table 23.202-~~138~~: R-S Development Standards.

Section 27. That the title of Table 23.202-18: R-S Development Standards within BMC Section 23.202.130 is amended to read as follows:

**TABLE 23.202-~~138~~: R-S DEVELOPMENT STANDARDS**

Section 28. That BMC Section 23.202.140(E)(1) is amended to read as follows:

- 1. Basic Standards.** See Table 23.202-~~149~~: R-SMU Development Standards.

Section 29. That the title of Table 23.202-19: R-SMU Development Standards within BMC Section 23.202.140 is amended to read as follows:

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**TABLE 23.202-149: R-SMU DEVELOPMENT STANDARDS**

Section 30. That BMC Section 23.202.150(D) is amended to read as follows:

**D. Ground-floor Uses.** See Table 23.202-1520: Permitted Street-Facing Ground Floor Uses.

Section 31. That the title of Table 23.202-20: Permitted Street-Facing Ground Floor Uses within BMC Section 23.202.150 is amended to read as follows:

**TABLE 23.202-1520: PERMITTED STREET-FACING GROUND FLOOR USES**

Section 32. That BMC Section 23.202.150(F)(1) and (2) are amended to read as follows:

1. **Basic Standards.** See Table 23.202-1624.
2. **Supplemental Standards.** Supplemental standards that apply in the R- BMU district are noted in Table 23.202-1624.

Section 33. That the title of Table 23.202-21 within BMC Section 23.202.150 is amended to read:

**TABLE 23.202-1624: R-BMU DEVELOPMENT STANDARDS**

Section 34. That the lines “Two Family,” “Multi-Unit Family” and “Mixed Use Residential” in Table 23.206-1: Allowed Land Uses in Manufacturing Districts within BMC Section 23.206.020 are amended to read as follows:

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit -- = Permitted with an AUP, see 23.206.020(B) NP = Not Permitted [#] = Floor Area Permit Requirement * Use-Specific Standards Apply	MANUFACTURING DISTRICTS				Use-Specific Standards Applies to uses with an asterisk following the permit requirement (e.g., ZC*)
	M	MM	MU-LI	MU-R	
<b>Residential Uses</b>					
<b>Dwellings</b>					
Single-Family Residential	NP	NP	NP	AUP*	23.206.090.B.8
<del>Two Family</del>	<del>NP</del>	<del>NP</del>	<del>NP</del>	<del>AUP*</del>	<del>23.206.090.B.8</del>
Multi-Unit Residential Family	NP	NP	NP	ZC UP(PH) *	23.206.090.B.7&8

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ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit -- = Permitted with an AUP, see 23.206.020(B) NP = Not Permitted [#] = Floor Area Permit Requirement * Use-Specific Standards Apply	<b>MANUFACTURING DISTRICTS</b>				<b>Use-Specific Standards</b> Applies to uses with an asterisk following the permit requirement (e.g., ZC*)
	<b>M</b>	<b>MM</b>	<b>MU-LI</b>	<b>MU-R</b>	
Mixed-Use Residential	NP	NP	NP	UP(PH) * -	23.206.090.B.7 <b>8&amp;9</b>

Section 35. That BMC Section 23.206.090(B)(7) to (9) are amended to read as follows:

~~7. Multi-Family Dwellings.~~ Table 23.206-13 shows permits required for multi-family dwellings in the MU-R district.

**TABLE 23.206-13: MU-R MULTI-FAMILY DWELLING PERMIT REQUIREMENTS**

NUMBER OF UNITS	PERMIT REQUIRED
<del>3 or 4</del>	AUP
<del>5 or more</del>	UP(PH)

**8. Residential Uses.**

- (a) ~~A Use Permit is required to establish a dwelling unit, group living accommodation, or live/work unit MU-R that is within 150 feet of:~~
  - ~~i. An M or MM district; or~~
  - ~~ii. A construction product manufacturing or primary product manufacturing use.~~
- (b) ~~To deny a Use Permit required by Paragraph (a) above, the ZAB must find that:~~
  - ~~i. The proposed residential use would unreasonably interfere with existing or reasonably foreseeable adjacent land uses in the M or MM district; or~~
  - ~~ii. Existing or reasonably foreseeable adjacent land uses in the M or MM district would have a material adverse effect on the proposed residential use.~~
- (c) ~~As a condition of approval for a Use Permit required by Paragraph (a) above, the residential property owner shall record an acknowledgement that existing or reasonably foreseeable adjacent land uses in the M or MM district may create noise, dust, odors, light/glare, and other impacts that will not be considered a nuisance if they are developed and conducted pursuant to the standards of the district.~~

**9. 7. Residential Mixed-Use.** To approve an AUP or Use Permit to establish or expand of a residential mixed-use building in the MU-R district, the review

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authority must find that the specific combination of proposed residential and non-residential uses will not be hazardous or detrimental to persons living and/or working on the site or within the project vicinity.

Section 36. That Table 23.206-14- MU-R Development Standards within Section 23.206.090 is amended to read as follows:

**TABLE 23.206-14: MU-R DEVELOPMENT STANDARDS**

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Area, Minimum		23.304.020 – Lot Requirements
New Lot	No minimum	
Per <del>Dwelling Unit</del> or Live/Work Unit	1,250 sq. ft. <del>[4]</del>	
Lot Width, Minimum	40 ft.	
Usable Open Space, Minimum		23.304.090 – Usable Open Space
Per <del>Dwelling Unit</del> <u>Gross 1,000 sq. ft. of residential floor area</u>	150 sq. ft.	
Per Live/Work Unit	40 sq. ft.	
Floor Area Ratio, Maximum, <u>Non-Residential</u>	1.50 <del>[12]</del>	<u>23.106.050 - Floor Area Ratio</u>
<u>Floor Area Ratio, Maximum, Residential</u>		
<u>1-7 Dwelling Units</u>	<u>1.5</u>	
<u>8+ Dwelling Units</u>	<u>1.75</u>	
<u>Residential Density (DU/acre)</u>		<u>23.106.100 – Residential Density</u>
<u>Minimum</u>	<u>20</u>	
<u>Maximum</u>	<u>60</u>	
Main Building Height, Maximum		23.304.050 - Building Height
Live/work	28 ft. and 3 stories <del>[23]</del>	
Residential or mixed-use <del>[34]</del>	35 ft. <del>and 3 stories</del>	
<u>Within 15 ft. of rear property line</u>	<u>22 ft.</u>	
All other uses	35 ft. and 2 stories <del>[45]</del>	
Lot Line Setbacks, Minimum		23.304.030 – Setbacks
Front	5 ft.	

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Rear	No minimum <del>[56]</del>	
Interior Side	No minimum	
Street Side	5 ft.	
Building Separation, Minimum	<del>No minimum</del> 5 ft.	
Lot Coverage, Maximum	100% <del>No maximum</del>	

Notes:

~~[1] One additional dwelling unit allowed for remaining lot area between 750 and 1,250 square feet.~~

[12] Maximum 1.5 for buildings with 50 percent or more residential or live/work floor area

[23] Maximum 35 ft. with a Use Permit.

[34] Mixed use is defined here as a building with 50 percent or more of gross floor area used for residential (including live/work) purposes.

[45] Maximum 3 stories for arts/craft studios and light manufacturing (with no other non-residential uses) on a block without dwelling units.

[56] Minimum 5 ft. if rear of lot abuts a street.

~~[7] Setbacks required when abutting or confronting a Residential District. See 23.304.030.C.2.~~

Section 37. That BMC Section 23.210.020(B)(2) is amended to read as follows:

~~2. Multiple Dwellings in R-2. When the H overlay zone is combined with the R-2 district, multiple dwellings on a single property are not permitted.~~

Section 38. That Table 23.210-1: H Overlay Zone Maximum Allowed Height within Section 23.210.020 is amended to read as follows:

**TABLE 23.210-1: H OVERLAY ZONE MAXIMUM ALLOWED HEIGHT**

UNDERLYING BASE DISTRICT	ALLOWED HEIGHT		MAXIMUM STORIES
	AVERAGE	MAXIMUM	
New Buildings			
R-1, <del>R-1A</del> , R-2, R-2A	28 ft.	35 ft.	<del>3 stories</del> No maximum
R-3, R-4, R-5, R-S, C-N, C-NS	35 ft.	35 ft.	3 stories

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Residential Additions	As required by the base district or the highest existing portion of the roof, whichever is lower	20 ft.	N/A
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Section 39. That BMC Section 23.304.030(B)(1) is amended to read as follows:

1. **Corner Lots with a Rear Lot Line Abutting a Key Lot.** For corner lots in the R-1, ~~R-1A~~, R-2 and R-2A districts with a rear lot line abutting a key lot, the minimum street side setback is either:
  - (a) One-half the front setback required or existing on the key lot, whichever is less; or
  - (b) Four feet if the corner lot maintains 50 feet or more rear setback.

Section 40: That Table 23.304-1 Allowed Setback Reductions in Residential District within BMC Section 23.304.030 is amended to read:

**TABLE 23.304-1: ALLOWED SETBACK REDUCTIONS IN RESIDENTIAL DISTRICTS**

DISTRICT WHERE ALLOWED	WHEN ALLOWED	MINIMUM SETBACK WITH REDUCTION	REQUIRED PERMIT	REQUIRED ADDITIONAL FINDINGS [1]
<b>Front Setback Reductions</b>				
ES-R	On any lot	No minimum.	UP(PH) [2]	The reduced setback is: 1) necessary to allow economic use of property due to the size, shape of the lot or the topography of the site; and 2) consistent with the ES-R district purpose.
<b>Rear Setback Reductions</b>				

Text highlighted in gray is just renumbering or other minor technical edit.

DISTRICT WHERE ALLOWED	WHEN ALLOWED	MINIMUM SETBACK WITH REDUCTION	REQUIRED PERMIT	REQUIRED ADDITIONAL FINDINGS [1]
ES-R [3]	On any lot	No minimum	UP(PH) [2]	The reduced setback is: 1) necessary to allow economic use of property due to the size, shape of the lot or the topography of the site; and 2) consistent with the ES-R district purpose.
<del>R-1, R-1A</del>	<del>On a lot less than 100 ft. deep</del>	<del>20% of lot depth</del>	<del>ZC</del>	<del>None</del>
<del>R-1A</del>	<del>To construct a dwelling unit</del>	<del>12 ft.</del>	<del>AUP</del>	<del>The unit would not cause a detrimental impact on emergency access; or on light, air or privacy for neighboring properties.</del>
R-2, R-2A, R-3, R-4, R-5 [4],	On a lot with two or more main buildings with dwelling units	No minimum	AUP	No additional findings
<b>Side Setback Reductions</b>				
ES-R [3]	Any lot	No minimum	UP(PH) [2]	The reduced setback is: 1) necessary to allow economic use of property due to the size, shape of the lot or the topography of the site; and 2) consistent with the ES-R district purpose.
<del>R-1, R-1A</del>	<del>Lot width less than 40 ft. [5]</del>	<del>10% of lot width or 3 ft., whichever is greater</del>	<del>ZC</del>	<del>None</del>

Text highlighted in gray is just renumbering or other minor technical edit.

DISTRICT WHERE ALLOWED	WHEN ALLOWED	MINIMUM SETBACK WITH REDUCTION	REQUIRED PERMIT	REQUIRED ADDITIONAL FINDINGS [1]
R-2, R-2A	Lot width less than 40 ft.	First and second stories: 10% of lot width or 3 ft., whichever is greater; Third story: 5 4 ft.	ZC	None
<p>Notes:</p> <p>[1] Findings are in addition to any AUP or Use Permit findings required in 23.406-Specific Permit Requirements.</p> <p>[2] Fire Department must review and approve reduced setbacks in respect to fire safety.</p> <p>[3] For lots less than 5,000 square feet, reductions are not allowed for property lines abutting a property under different ownership.</p> <p>[4] Parcels located within the R-3 district within the Southside Plan boundaries are exempt from this section.</p> <p>[5] Not permitted for rear main buildings in the R-1A district.</p>				

Section 41. That the line “R-1A” in Table 23.304-4: Permits Required for Building Separation in Residential Districts within BMC Section 23.304.040 is amended to read as follows

DISTRICT WHERE ALLOWED	WHEN ALLOWED	PERMIT REQUIRED	FINDINGS [1]
<del>R-1A</del>	<del>On a lot with two or more main buildings with a dwelling unit</del>	<del>AUP</del>	<del>The unit would not cause a detrimental impact on emergency access; or on light, air or privacy for neighboring properties.</del>

Section 42. That BMC Section 23.322.100(C)(1) is amended to read as follows:

1. General. The following requirements apply to required on-site loading spaces in all districts except for the R-1, ~~R-1A~~, R-2, R-2A districts.

(a) *Dimensions.* A required loading space must be at least 12 feet wide and 25 feet long with a minimum vertical clearance of 14 feet.

Text highlighted in gray is just renumbering or other minor technical edit.

(b) *Location.* A required loading spaces must be located on the same lot as the structure or use the space is designed to serve.

(c) *Parking Spaces.* A required parking space may not be used to satisfy the requirements for an off-street loading space.

(d) *Access and Paving.* A required loading space must have adequate means of access from a street or alley. Both the space and access driveway must be paved with a durable, dustless material that is usable under all weather conditions.

Section 43. That BMC Section 23.326.030.D is added to read as follows:

D. A single-family dwelling may be demolished with a Zoning Certificate, if the demolition is part of a development project that would result in a net increase in residential density.

Section 44. That BMC Section 23.502.020.A.8 is amended to read as follows:

8. *Addition, Residential.* The creation of any new portion of a main building which results in a vertical or horizontal extension of the building, or results in additional residential gross floor area to an existing main building, as long as such new gross floor area does not exceed 15 percent of the lot area or 600 square feet, whichever is less.

**For purposes of this definition gross floor area does not include:**

(a) Additions of gross floor area devoted to required off-street parking spaces, creation of mezzanines or lofts within the building's shell;

(b) Making previously unusable attics into habitable floor area (except where new areas with vertical clearance of 6 feet or greater are created through expansions of the building shell);

(c) Excavations of earth within the existing building footprint (i.e. expansion of existing basements or new basements), or

(d) Replacement of existing floor area that was lawfully constructed and is located entirely within the addition's shell.

(e) The floor area associated with any existing or proposed accessory dwelling unit or junior accessory dwelling unit, up to 800 square feet per lot.

(f) The floor area associated solely with any proposed new dwelling unit or units added to an existing single-family dwelling or multi-family dwelling.

Section 45. That BMC Section 23.502.020.M.17 and 18 are amended to read as follows:

Text highlighted in gray is just renumbering or other minor technical edit.

17. **Multi-Family Dwelling.** A building, group of buildings, or portion of a building used or designed as ~~three~~ two or more dwelling units.

18. **Multi-Family Residential.** A residential use that includes two or more units on a single lot.

~~19.~~ 19. **Municipal Animal Shelter.** A City-owned facility providing services for humane animal care with programs and services focused on maximizing opportunities for animal adoption. Supporting facilities may include medical care (including spay/neuter), kennels, exercise areas and adoption centers.

Section 46. That BMC Section 23.502.020.R is amended to read as follows:

R. "R" Terms.

~~1. **Rear Main Building.** A main building situated behind another main building existing or proposed on a parcel located in the R-1A district.~~

21. **Receiving Lot.** See Lot, Receiving.

32. **Recycled Materials Processing.** A facility that receives and processes recyclable materials. Processing means preparation of material for efficient shipment, or to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning, and remanufacturing.

43. **Recycling Redemption Center.** A facility, use, or structure for the collection of recyclable goods, including beverage containers and newspapers.

54. **Related Equipment.** All equipment necessary for or related to the provision of personal wireless services. Such equipment may include, but is not limited to, cable, conduit and connectors, equipment pads, equipment shelters, cabinets, buildings and access ladders.

65. **Religious Assembly.** A building or space primarily used for an assembly of persons to conduct worship or other religious ceremonies, including, but not limited to, churches, synagogues, temples, mosques or shrines.

76. **Repair Service, Non-Vehicle.** An establishment that provides repair and maintenance services for household appliance, home electronics, office equipment, furniture and other similar items. Excludes vehicle repair.

87. **Research and Development.** An establishment engaged in the following activities: 1) industrial, biological or scientific research; and/or 2) product or process design, development, prototyping, or testing. This may include labs,

Text highlighted in gray is just renumbering or other minor technical edit.

offices, warehousing, and light manufacturing functions as part of the overall Research and Development use.

98. *Resident*. A person whose primary residence is in Berkeley.

409. *Residential Care Facility*. See Community Care Facility.

4410. *Residential Hotel*. See Hotel, Residential.

4211. *Residential Addition*. See Addition, Residential.

4312. *Residential Districts*. The districts listed under the Residential Districts heading in Table 23.108-1: Zoning Districts.

4413. *Residential Hotel Room*. A room which is:

- (a) Used, designed, or intended to be used for sleeping for a period of 14 consecutive days or more;
- (b) Not a complete dwelling unit, as defined in this chapter; and
- (c) Not a Tourist Hotel Room, as defined in this chapter.

4514. *Residential Use*. Any legal use of a property as a place of residence, including but not limited to dwelling units, group living accommodations, and residential hotels.

4615. *Retail, General*. A retail establishment engaged in the sales of personal, consumer, or household items to the customers who will use such items. This use includes antique stores, art galleries, arts and crafts supply stores, bicycle shops, building materials and garden supplies stores, clothing stores, computer stores, cosmetic/personal care items, department stores, drug paraphernalia stores, drug stores, fabric, textile and sewing supply shops, flower and plant stores, food product stores, furniture stores, garden supply stores, nurseries, gift/novelty shops, household hardware and housewares stores, household electronics/electrical stores, jewelry/watch shops, linen shops includes bedding, musical instruments and materials stores, office supply stores, paint stores, photography equipment supply stores, secondhand stores, sporting goods stores, stationery, cards and paper goods stores toy stores and variety stores. This use excludes video rental stores, service of vehicle parts, and firearm/munition sales.

4716. *Retaining Wall*. A wall designed to contain and resist the lateral displacement of soil and of which such soil is at a higher elevation on one side of the wall.

Text highlighted in gray is just renumbering or other minor technical edit.

**4817.** *Review Authority.* The City official or body responsible for approving or denying a permit application or other form of requested approval under the Zoning Ordinance.

**4918.** *Rooming House.* A building used for residential purposes, other than a hotel, where lodging for 5 or more persons, who are not living as a single household, is provided for compensation, whether direct or indirect. In determining the number of persons lodging in a rooming house, all residents shall be counted, including those acting as manager, landlord, landlady or building superintendent. See also Boarding House.

Section 47. That BMC Section 23.502.020.S.21 through 23.502.020.S.36 is amended to read as follows:

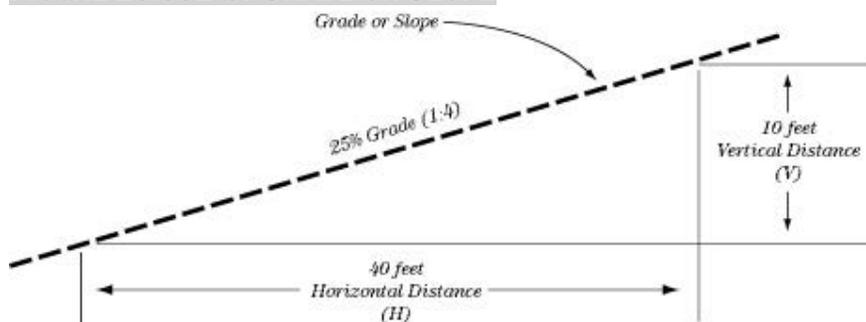
**21. Single-Family Residential.** A residential use that includes only one single-family dwelling on a single lot.

**22.4. Single Residential Occupancy (SRO) Room.** A room for residential or sleeping purposes in a residential hotel which is designed for occupancy of one person only.

**23. 2. Skateboard Ramp.** A ramp, platform, course or facility used for skateboard riding and made of wood or other solid material.

**24. 3-Slope.** The steepness of a site, measured as the ratio of the vertical distance to the horizontal distance between the highest and lowest points of the site. See Figure 23.502-5: Grade or Slope.

**FIGURE 23.502-5: GRADE OR SLOPE**



**25.4 Small Vehicle Sales and Service.** An establishment which sells or leases long-term new, used, or pre-owned motorized vehicles other than passenger automobiles and trucks which are characterized by fewer than four wheels or a minimal frame. Types of vehicles sold or leased by this use include motorcycles, scooters, three-wheel motorcycles, electric carts, electric scooters, and such vehicles designed or refurbished for alternative fuels/power sources (alternative to conventional gasoline).

Text highlighted in gray is just renumbering or other minor technical edit.

~~26.5~~ **Smoke Shop.** An establishment engaged primarily in the sale of tobacco and/or tobacco-related products.

~~27.6~~ **Solar Energy Device/Equipment.** Any solar collector or other solar energy device or any structural design feature of a building of which the primary purpose is to provide for the collection, storage or distribution of solar energy for space heating or cooling, water heating or the generation of electricity.

~~28.7~~ **Sorority House.** A building used for group living accommodations by an organization recognized by the UC Berkeley, or other institution of higher learning.

~~29.8~~ **Source Lot.** See Lot, Source.

~~30.29~~ **Story.** See Section 23.106.060 (Story)

~~31.30~~ **Street.** A public or private thoroughfare which provides principal means of access to abutting lots, including but not limited to, avenue, place, way, manor, drive, circle, lane, court, boulevard, highway, road and any other thoroughfare except an alley or a path as defined in this chapter.

~~32.31~~ **Street Line.** The boundary between a lot and an adjacent street.

~~33.32~~ **Structural Alteration.** Any physical change to or removal of the supporting members of a building, foundation or bearing walls, columns, beams or girders or creation or enlargement of a window or door, change of a roofline or roof shape, including creating, enlarging or extending a dormer.

~~34.33~~ **Structural Alteration, Public Safety.** Any structural alteration or physical change to a building that provides greater safety to the public or occupants by strengthening the building against seismic activity, which does not result in new floor area except that created by necessary structural improvements or physical changes as required under Municipal Code Chapter 19.38 and 19.39.

~~35.34~~ **Structure.** Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. A building is a structure for the purposes of this chapter.

- (a) **Accessory Structure.** A detached structure, other than an accessory building, in which non-habitable uses or activities other than the principal use of the property are conducted. Residential accessory structures include, but are not limited to, enclosed structures such as garages, carports, garden or tool sheds, and non-enclosed structures such as, but not limited to, fences, gazebos, ground-mounted satellite dishes, skateboard ramps and wheelchair ramps. Non-residential accessory structures include, but are not limited to, storage buildings, garages, sheds and other outbuildings.
- (b) **Subterranean Structure.** A roofed structure constructed underground, with no building stories aboveground, of which the roof does not exceed 3 feet

above the pre-existing grade. Such structures are either separated from a building or connected to a building only by a passageway or hallway with no openings to finished grade except for a doorway.

- (c) **Temporary Structure.** A tent, tent-house, trailer, mobile office, mobile home or other movable structure or other temporary structure whose construction does not require a building permit.

~~36. 35~~ **Studio.** See Art/Craft Studio.

~~37. 36~~ **Supportive Housing.** As defined in Health and Safety Code 50675.14(b)(2), housing with no limit on length of stay that is occupied by the target population as defined in Health and Safety Code 50675.14(b)(3) and is linked to on- or off-site services that assist the supportive housing residents in retaining the housing, improving their health status, and maximizing their ability to live and, when possible, work in the community.

Section 48. That BMC Section 23.502.020.T.14 is removed as follows:

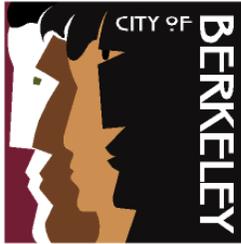
~~14. **Two-Family Dwelling.** A building or use of a lot designed for, or occupied exclusively by, two households.~~

Section 49. 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.

Text highlighted in gray is just renumbering or other minor technical edit.







**Item 11**  
**November 1, 2023**

**Planning and Development Department**  
Land Use Planning Division

DATE: November 1, 2023  
TO: Members of the Planning Commission  
FROM: Justin Horner, Associate Planner  
SUBJECT: Middle Housing Discussion

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## **INTRODUCTION**

Pursuant to City Council referrals and Program 29—Middle Housing, adopted as part of the City's *2023-2031 Housing Element Update* ("the Housing Element"), the Planning Commission is asked to consider:

1. Objective residential development standards ("zoning changes") to encourage the development of "middle housing" in the R-1, R-1A, R-2, R-2A and MU-R zoning districts ("low-density residential districts");
2. Amendments to Berkeley Municipal Code (BMC) Chapter 23.326 Demolition and Dwelling Unit Control ("Demolition Ordinance") to permit by-right demolition of single-family homes for projects that add density and have not been occupied by tenants within the past five years and in which Ellis Act eviction did not occur within the preceding five years; and
3. Changes to parking maximums for middle housing.

The intent of middle housing policies is to implement the City Council's direction to eliminate exclusionary zoning and encourage duplexes, triplexes/fourplexes, courtyard apartments and other small-scale multi-family housing types that have historically appeared in Berkeley neighborhoods primarily comprised of single-family homes.

Planning Commission is asked to receive a report and provide feedback on the proposed zoning policy changes. Subsequent to this discussion and further community outreach, staff plans return to present a draft ordinance to the Planning Commission in Spring 2024 for public hearing and recommendation to City Council.

## **BACKGROUND**

### **City Council Referrals**

The proposed zoning changes are presented in response to the City Council referrals and resolutions summarized in Table 1:

*Table 1. City Council Referrals and Resolutions*

Housing Accountability Act (2017)	On July 11, 2017, the City Council adopted a referral regarding the State Housing Accountability Act (Government Code Section 65589.5) and requested research into a set of objective zoning standards for new development projects in the following four areas: Density and/or building intensity; Public health and safety standards; Design review standards; and Views, shadows, and other impacts that underlie detriment findings.
<i>Missing Middle Housing (2019)</i>	On April 23, 2019 the City Council directed the City Manager to examine methods to provide for a broader range of housing types in areas of Berkeley with access to parks, schools, employment, transit, and other services. The Council directed the City Manager to explore opportunities to allow “missing middle” housing types in the R-1, R-1A, R-2, and R-2A zoning districts.
<i>Eliminating Exclusionary Zoning (2021)</i>	On February 23, 2021 the City Council adopted a resolution declaring the intent of the Council to allow multi-family housing in residential neighborhoods throughout Berkeley, and to allow for small-scale multi-family development in the R-1, R-1A, R-2, and R-2A zoning districts. As part of this effort, the resolution calls for the city to also: Protect public safety in all neighborhoods; Allow for new housing that reflects the existing mix of multi-family housing types within neighborhoods; Provide strong anti-displacement and tenant protections; Accommodate families in new and rehabilitated multi-family housing developments; Ensure that new development does not demolish any rent-controlled or below market-rate housing; Explore incentives for projects to contribute to the need for affordable housing; and Carry out a robust community process when developing zoning changes.

## Housing Element

The Housing Element includes Program 29—Middle Housing, which calls for the City to amend “the Zoning Code and applicable development standards to encourage and promote a mix of dwelling types and sizes, particularly infill and converted existing housing in high resource areas.” Program 29 includes three specific actions:

1. Amend the Affordable Housing Fee schedule to introduce a sliding scale for projects that are less than 12,000 square feet in size.

**Status:** This task has been completed. The sliding scale is based on “residential unit floor area,”<sup>1</sup> and includes an exemption for projects with 5,000 square feet or less of residential floor area.

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<sup>1</sup> See definition: [BMC Section 23.328.020\(J\)](#)

2. Amend the Berkeley Municipal Code to allow multi-unit development on one lot in lower density residential districts;

Status: This task is a subject of this report and Planning Commission meeting.

3. Consider amending the Demolition Ordinance to provide a by-right pathway for demolition of single-family homes for projects that add density, with provisions to protect tenants.

Status: This task is a subject of this report and Planning Commission meeting.<sup>2</sup>

### Previous Planning Commission and City Council Discussion

As part of the planning and engagement process for the Housing Element Update, staff received feedback pertinent to the proposed zoning changes at three prior Planning Commission and City Council meetings.

At the March 15, 2022 City Council worksession,<sup>3</sup> Councilmembers identified the following considerations:

- Permit **higher density** equitably throughout the City, including in high resource, high income neighborhoods, and consider provisions for the Hillside Overlay.
- Create an incentive for **adaptive reuse and smaller, more affordable units**, including allowing for more than four units in lower density districts.
- Consider **treating Residential zones similarly** and adopting the same standards for the R-1, R-1A, R-2 and R-2A districts (i.e., merging zoning districts).
- Embrace climate adaptation and resilience through local power generation, but **solar access should not be a barrier** to creating more housing.

At its June 1, 2022 meeting,<sup>4</sup> the Planning Commission received an informational report and provided feedback to staff on proposed zoning changes. At the meeting, commissioners identified the following considerations:

- Encourage **smaller unit sizes** and consider **eliminating minimum lot size** requirements.
- **Reduce minimum required open space dimensions.** Currently a minimum width and length of 10 feet is required, or a minimum of six feet for balconies.

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<sup>2</sup> Staff anticipates bringing forward a separate revised Demolition Ordinance for a public hearing at the Planning Commission in the Winter of 2023 that will not contain provisions for by-right demolition of single-family dwellings, which is being considered as part of this subsequent Middle Housing effort.

<sup>3</sup> <https://berkeleyca.gov/sites/default/files/2022-04/2022-03-15%20Item%2001%20Housing%20Element.pdf>

<sup>4</sup> [https://berkeleyca.gov/sites/default/files/documents/2022-06-01\\_PC\\_Item%209\\_linked%20.pdf](https://berkeleyca.gov/sites/default/files/documents/2022-06-01_PC_Item%209_linked%20.pdf)

Middle Housing Zoning Changes  
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November 1, 2023

On September 20, 2022,<sup>5</sup> the City Council held a worksession to review and discuss proposed zoning changes for middle housing and the Southside. At the meeting, the City Council identified the following additional considerations:

- Consider **potential speculation** and whether increasing development potential in these zones puts homeowners and families in competition with developers.
- **Incentivize more units** by increasing allowed densities while encouraging smaller units.

### **Outreach to City Councilmembers, Middle Housing Architects, and Community Groups**

Due to the prioritization of adopting the Housing Element and zoning amendments for the Southside Plan Area, accessory dwelling units, special needs housing, and bird safe buildings, neither the Planning Commission nor the City Council have discussed middle housing for more than a year. To restart this effort, staff conducted outreach in September and October of 2023 to City Councilmembers, Berkeley architects who specialize in middle housing, and community organizations.<sup>6</sup> These meetings provided opportunities to reintroduce the proposed zoning changes to important stakeholders and to receive updated feedback to inform the Planning Commission's discussion.

Feedback on individual development standards are mentioned below, as appropriate. The following general considerations are summarized:

*Missing Middle Architects.* Six local architects were consulted for their feedback on the proposed standards and their views on the feasibility of middle housing projects, generally. They indicated that there was a high demand for middle housing product types in Berkeley, especially for ownership units that are larger than 1,000 square feet and detached homes. In their experience, middle housing projects are most feasible on lots that are vacant or with a relatively low-value existing home, and exempt the City's Inclusionary Housing threshold (currently Residential Unit Floor Area of 5,000 square feet or less). On lots with an existing home that is retained, adding one to three units may be feasible, but it may be easier to add one or two ADUs. Projects with five or more units will likely be uncommon, due to construction costs, code requirements, inclusionary zoning requirements, buyer preferences and typical lot sizes, among other factors.

*Community Groups.* Staff met with several East Bay and Berkeley community groups who provided feedback on the proposed standards and middle housing, generally.

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<sup>5</sup> <https://berkeleyca.gov/sites/default/files/documents/2022-09-20%20WS%20Item%2001%20Residential%20Objective%20Standards.pdf>

<sup>6</sup> East Bay for Everyone (10/6/2023), Berkeley Neighborhoods Council (10/14/2023), and Berkeley Design Advocates (11/1/2023)

On October 14, 2023, staff made a presentation to the Berkeley Neighborhoods Council. Attendees expressed concern that the proposed standards, which encourage more density, would lead to a diminishment of open space, increased demand for emergency response services and, through an increase in building and paving, contribute to the urban heat island effect.

Staff is scheduled to meet with the Berkeley Design Advocates on November 1, 2023. Their feedback will be included as part of the presentation to the Planning Commission at the meeting that evening.

### **PROPOSED MIDDLE HOUSING ZONING CHANGES**

Table 2 below provides a summary glance at the proposed standards, the general direction of the recommended changes and the policy rationale for each recommendation. Each standard is further discussed below and the specific development standard changes can be found in **Attachment 1**.

*Table 2. Summary of Proposed Standards*

<b>Zoning Standard</b>	<b>Recommendation</b>	<b>Policy Goal</b>
Permits and Levels of Discretion	Projects with 2 or more units can be approved with a ZC	Encourage housing development; Streamline process; Increase predictability of approval process; Match typical state law definition of multifamily.
Minimum and Maximum Densities	Set minimum and maximum densities expressed in units per acre	Encourage appropriate densities; Provide predictability; Maintain middle housing scale in low-density residential districts
Maximum Floor Area Ratio (FAR)	Set a maximum FAR that scales up as units increase	Maintain middle housing scale in low-density residential districts; Encourage unit sizes that are “affordable by design”; Comply with SB 478, signed into law by the Governor on September 28, 2021, which prohibits a local agency from imposing a FAR less than 1.0 on a housing project with 3 to 7 units, or less than 1.25 on a housing project with 8 to 10 units.
Minimum Open Space	Set requirement on a per 1,000 square feet basis, rather than per unit	Provide flexibility for varying middle housing typologies and unit sizes.
Maximum Height	Set a maximum height based on meeting objective standards for setbacks; Remove maximum stories standard	Streamline process; Increase predictability of approval process; Maintain consistency for allowable heights in the rear.
Lot Coverage and Setbacks	Increase lot coverage as units increase, and reduce rear setbacks with reduced height	Encourage housing development

Building Separation	Remove building separation requirement based on stories	
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Most of the proposed development standards are the same as those presented to the Planning Commission and City Council last year. Changes or revisions from last year’s proposal are specifically noted and explained under each standard.

**ZONING MAP, LAND USE, AND PERMIT AMENDMENTS**

The proposed zones and permit requirements have been revised since the Planning Commission and City Council discussed middle housing in 2022. Properties located in the Hillside Overlay would not be subject to these new permit requirements, but would rather continue to be subject to existing permit requirements (Multi-Unit Residential is Not Permitted in the R-1H and R-2H zoning districts, and is permitted with a Use Permit in the R-2AH zoning district).

*Current Policy:* Table 3 includes the current permit requirements in low-density residential districts for residential projects that include more than one dwelling unit. The proposed standards *do not change* any permit requirements for Single-Family, Group Living Accommodation or Mixed-Use Residential uses in these zones.

*Table 3. Current Permit Requirements*

	R-1	R-1H	R-1A	R-2	R-2H	R-2A	R-2AH	MU-R
Two-family	NP	NP	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	AUP
Multi-Family	NP	NP	NP	UP(PH)	NP	UP(PH)	UP(PH)	AUP UP(PH)

*Proposed Standard:* The proposed zoning changes include three changes related to zoning districts, permits and levels of discretion:

1. *Zoning map amendment.* The proposed R-1A and R-2 standards are identical and can be merged to simplify zoning administration. Both R-1A and R-2 are currently in the same General Plan land use designation: Low Medium Density Residential. Accordingly, parcels currently zoned R-1A would be rezoned R-2.
2. *Land use amendment.* Combine two residential land use types (Two-Family and Multi-Family) into one (Multi-Unit Residential) for residential projects that include more than one dwelling unit.
3. *Required permit and level of discretion.* Permit Multi-Unit Residential projects that comply with all objective standards with a Zoning Certificate (ZC); no discretionary permit or public hearing would be required. Table 4 summarizes the recommendation:

*Table 4. Proposed Permit Requirements*

	R-1	R-1H	R-2	R-2H	R-2A	R-2AH	MU-R
Multi-Unit Residential	ZC	NP	ZC	NP	ZC	UP(PH)	ZC

**MINIMUM AND MAXIMUM DENSITIES**

The proposed density standards have been revised since the Planning Commission and City Council discussed middle housing last year. These changes include:

- Increasing the maximum densities for all of the lower density residential zoning districts outside of the Hillside Overlay. This would achieve the following potential project types:
  - Ensuring the ability to have at least four units in the R-1 zone on a 4,000 square foot lot;
  - Ensuring the ability to have five units on a 4,000 square foot lot in the R-2 zone, which could allow projects to utilize State Density Bonus and/or add affordable units; and
  - Ensuring the ability to have six units on a 4,000 square foot lot in the relatively higher-density R-2A and MU-R zoning districts.
- Removing properties in the Hillside Overlay from the new density standards. The values included for R-1H, R-2H and R-2AH in Table 5 reflect existing development standards. Staff recommend that zoning modifications for the Hillside Overlay be taken up at a later date so that it can be informed by pending work on an evacuation study, an update to the General Plan Safety Element, and other work to inform wildfire mitigation measures.

*Current Policy:* The Berkeley Municipal Code does not include any minimum or maximum density standards for low-density residential zones that are expressed in “units per acre”. In the R-1, R-1A, R-2, and R-2A districts, density is limited by requirements for a “minimum lot size per unit” standard and by specific residential land use types (e.g. “Single-Family”, “Two-Family”).

*Proposed Standard:* Table 5 summarizes the proposed density standards expressed in units per acre, and includes an example of the maximum number of units that may result from each standard on a 4,000 square foot lot in each zone. The proposed density standards *do not include* any eligible Accessory Dwelling Units (ADUs) permitted under the City’s ADU provisions.<sup>7</sup> There is no minimum density requirement for lots in the Hillside Overlay. Minimum densities would apply for new development on vacant lot or redevelopment and infill of existing nonvacant lots.

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<sup>7</sup> On a lot with one single-family dwelling: 1 ADU and 1 Junior ADU; on a lot with more than one detached dwelling: 1 ADU; on a lot with a duplex or attached multi-family dwelling: 2 ADUs and at least one 1 interior ADU, up to an additional 25% of existing units.

*Table 5. Proposed Density Standards*

	R-1	R-1H	R-2	R-2H	R-2A	R-2AH	MU-R
Minimum Density (DU/acre)	10	0	10	0	20	0	20
Maximum Density (DU/acre)	40	20	50	20	60	55	60
Resulting units on a 4,000 square foot lot							
Minimum Units	1	0	1	0	2	0	2
Maximum Units	4	2	5	2	6	5	6

In interviews, missing middle architects noted that project densities would more likely be influenced by considerations unrelated to specific density standards, such as construction costs, code requirements, inclusionary zoning requirements, buyer preferences and typical lot sizes, among other factors. They also noted that projects that utilize State Density Bonus are typically feasible only with 11 units or more. To achieve an allowed density of 11 units, projects would need to be located on larger lots in the R-2A (6,300 square feet), MU-R (5,500 square feet), R-2 (8,800 square feet) and R-1 (11,000 square feet) zoning districts.

**MAXIMUM FLOOR AREA RATIO (FAR)**

The proposed FAR standards have been revised since the Planning Commission and City Council discussed middle housing last year. The changes include:

- The maximum FAR standard in the R-1 and R-2 zoning district for 3-7 units was increased to 1.2. During outreach, both missing middle architects and East Bay for Everyone encouraged FAR standards that would permit units of at least 1,200 square feet when a project includes four units on a 4,000 square foot lot. An FAR of 1.2 in these zones would make that more feasible.
- Properties located in the Hillside Overlay would not be subject to an FAR standard; no change from the existing development standards.

*Current Policy:* While an effective maximum FAR can be calculated based on existing standards for lot coverage and maximum number of stories, the Berkeley Municipal Code does not include a specific FAR standard in the R-1, R-1A, R-2, and R-2A. The BMC does include a maximum 1.5 FAR in the MU-R district.

*Proposed Policy:* Table 6 summarizes the proposed maximum FAR standards. No FAR limit is applied if a project is subdividing existing habitable space to create additional dwelling units.

Staff propose scaling the FAR standard to increase as the number of units increase on a site; that is, if a project includes more units, it can be larger. This would have the

potential to incentivize the development of more units, as well as smaller units that may be offered at lower rents than larger units. In addition, state law prohibits a local agency from imposing a FAR less than 1.0 on a housing project with 3 to 7 units, or less than 1.25 on a housing project with 8 to 10 units.

*Table 6. Proposed Maximum FAR Standards*

	R-1	R-2	R-2A	MU-R
1 unit and nonresidential	1.2	1.2	1.2	1.5
2 units	0.5	0.6	0.6	1.5
3-7 units	1.2	1.2	1.5	1.5
8 + units	1.5	1.5	1.75	1.75

**MINIMUM REQUIRED OPEN SPACE**

The proposed open space standard has been revised since the Planning Commission and City Council discussed middle housing last year. Properties located in the Hillside Overlay would not be subject to the proposed open space standards and would continue to be evaluated under existing development standards (400 square feet per dwelling unit in the R-1H and R-2H zoning districts and 300 square feet per dwelling unit in the R-2AH zoning district).

*Current Policy:* Table 7 summarizes minimum open space requirements in low-density residential zones, on a per unit basis.

*Table 7. Required Open Space*

	R-1	R-1A	R-2	R-2A	MU-R
CURRENT: Per dwelling unit (square feet)	400			300	150
PROPOSED: Per 1,000 square feet of floor area (square feet)	150				

*Proposed Policy:* The proposed development standard would require 150 square feet of open space for every 1,000 square feet of floor area on a project site, in each of the lower density residential districts. Note that required open space is no longer based on the number of units, but on a project’s total floor area. The proposed open space standard is designed to preserve the requirement to provide residents with usable open space permit while also providing for flexibility in how the open space is arranged and allocated on a lot that may include different housing configurations.

**MAXIMUM HEIGHT**

The proposed height standard has been revised since the Planning Commission and City Council discussed middle housing last year to keep the Hillside Overlay as-is. The proposed zoning changes largely preserve existing height limits and apply objective height standards by removing discretionary processes to exceed allowable heights. The

proposed standards also include provisions for lower maximum heights near the rear property line in consideration of potential impacts on neighboring properties.

*Current Policy:* The Berkeley Municipal Code generally limits average building heights for main buildings in most low-density residential districts to 28 feet and three stories, with a possible increase to 35 feet with an AUP. In the MU-R, the maximum height is 35 feet and 3 stories. Current policy also limits the height of residential additions to 14 feet, with a possible increase to 35 feet with an AUP. Accessory buildings and structures are permitted with a maximum average height of 24 feet, although portions of buildings located between 4 feet and 10 feet from a lot line are limited to a 12 foot maximum average height, and portions of buildings and structures less than four feet from a lot line are limited to a 10 foot maximum average height.

*Proposed Policy:* The proposed development standards for maximum building height include the following:

- The maximum *average* building height in low-density residential districts would be 28 feet, with a maximum height at any one point of 35 feet. This would accommodate three-story residential projects while controlling the overall bulk of a proposed project. The maximum height would be reduced to 22 feet within 15 feet of a rear property line;
- Maximum height would only be measured in feet and the limit on the maximum number of stories would be removed;
- Maximum height standards for main buildings and residential additions would be the same.

Properties located in the Hillside Overlay would not be subject to the proposed height standards and would continue to be evaluated under existing development standards. These include a maximum average height of 28 feet and three stories, with a possible increase to 35 feet with an AUP. Projects in the H overlay would *not* be limited to 22 feet in height within 15 feet of the rear property line, and height regulations unique to residential additions would be preserved.

**MAXIMUM LOT COVERAGE**

The proposed lot coverage standards have been revised since the Planning Commission and City Council discussed middle housing last year to keep the Hillside Overlay as-is.

*Current Policy:* Table 7 summarizes existing maximum lot coverage requirements. Current requirements distinguish between interior and corner lots, and reduce maximum lot coverage for taller projects.

*Table 7. Current Maximum Lot Coverage Standards*

	R-1	R-1A	R-2	R-2A	MU-R
<b>Interior &amp; Through-Lots</b>					

1 story	40%	40%	45%	45%	100%
2 stories	40%	40%	40%	40%	100%
3 stories	40%	40%	35%	35%	100%
<b>Corner Lots</b>					
1 story	40%	50%	50%	50%	100%
2 stories	40%	45%	45%	45%	100%
3 stories	40%	45%	40%	40%	100%

*Proposed Policy:* The proposed development standards, summarized in Table 8:

- Increase maximum lot coverage in most low-density residential districts;
- Use the total number of units in a project as the controlling factor for the standard, instead of the number of stories; and
- Eliminate the distinction between interior/through lots and corner lots to simplify the standard.

*Table 8. Proposed Maximum Lot Coverage Standards*

	R-1	R-2	R-2A	MU-R
1-2 units & non-residential	40%	50%	50%	100%
3-7 units	50%	55%	55%	100%
8+ units	55%	55%	60%	100%

Properties located in the H overlay district would not be subject to the proposed lot coverage standards and would continue to be evaluated under existing development standards, which are included in Table 7, above.

### MINIMUM SETBACKS

The proposed setback standards have been revised since the Planning Commission and City Council discussed middle housing last year to keep the Hillside Overlay standards as-is.

*Current Policy:* The Berkeley Municipal Code currently regulates four types of setbacks:

- Front and Rear Setbacks: Front and rear setbacks are 20 feet in the R-1, R-1H, R-1A, R-2 and R-2H zoning districts, and 15 feet in the R-2A and the R-2AH districts.

In the MU-R zoning district, lots adjacent to a non-residential district have no rear setback, unless they abut a street, in which case a 5 foot rear setback is required. A lot in the MU-R adjacent to a residential district must provide a rear setback of either 10 feet or 10 percent of the lot width, whichever is less.

- **Interior Side Setbacks:** Interior side setbacks are based on building height. The interior side setback is 4 feet at the first story for all low-density residential districts, except the MU-R. At the second story, the interior setback increases to 6 feet in the R-2, R-2H, R-2A, and R-2H districts. Interior side setbacks can be reduced to 3 feet (or 5 feet) with a ZC, as the specific setback distance and eligibility depend on the zoning district and the particular story of the building being measured.

In the MU-R district, lots adjacent to a residential district must provide an interior side setback of either 10 feet or 10 percent of the lot width, whichever is less. There are no other interior side setback requirements in the MU-R.

- **Street Side Setbacks:** Street side setbacks are 4 feet in the R-1, R-1H, and R-1A districts, 10 feet in the R-2 and R-2H districts, and vary by height in the R-2A and R-2AH districts (6 feet at first story, 8 feet at second story and 10 feet at third story).

In the MU-R district, lots adjacent to a non-residential district must provide a 5 foot street side setback. Lots adjacent to a residential district must provide a street side setback of either 10 feet or 10 percent of the lot width, whichever is less. There are no other street side setback requirements in the MU-R.

A Zoning Officer may approve an AUP to reduce the minimum setbacks in the H Overlay.

*Proposed Policy:* The proposed development standards include the following:

- **Front Setbacks:** Front setback standards would be reduced by 5 feet in the R-1 and R-2 zoning districts (from 20 feet to 15 feet), and the R-2A zoning district (from 15 feet to 10 feet). Projects could provide a smaller setback that is the average of the front setback(s) of adjacent structure(s), if that is less than the required setback.
- **Rear Setbacks:** The rear setback in the R-1, R-2, and R-2A zoning districts would be 4 feet; the MU-R would maintain its existing regulations. This is consistent with the required setbacks required for ADUs. As noted above, a building's maximum height is limited to 22 feet within 15 feet of the rear property line.
- **Interior Side Setbacks:** The interior side setback in the R-1, R-2, and R-2A zoning districts would be a consistent 4 feet regardless of height. The MU-R would maintain its existing regulations.
- **Street Side Setbacks:** Street side setbacks in the in the R-1, R-2, R-2A zoning districts would be a consistent 4 feet would be 4 feet. There would be no changes to street side setbacks in the MU-R.

Members of the Berkeley Neighborhoods Council expressed concern that reducing setbacks could impede emergency response and urged consultation with the Berkeley Fire Department before these standards are finalized. The Fire Department noted that a

5-foot rear and side setbacks would provide enough room to place ladders for accessing buildings during a fire or other emergency.

**BUILDING SEPARATION**

The proposed building separation standards have been revised since the Planning Commission and City Council discussed middle housing last year. The proposed standards would maintain the Hillside Overlay standards as-is, and reduce, but not eliminate, building separation standards in the R-1, R-2, and R-2A zoning districts.

*Current Policy:* Current building separation requirements are summarized in Table 9:

*Table 9. Current Building Separation Standards*

	R-1	R-1H	R-1A	R-2	R-2H	R-2A	R-2AH	MU-R
1 story (feet)	No min	No min	8	8	8	8	8	No min
2 stories (feet)	No min	No min	12	12	12	12	12	No min
3 stories (feet)	No min	No min	16	16	16	16	16	No min
Reduce with an AUP	--	--	AUP	AUP	AUP	AUP	AUP	--

*Proposed Policy:* The proposed development standards would create a 5-foot building separation requirement in the R-1, R-2, R-2A and MU-R zoning districts, consistent with the separation requirements recently adopted for ADUs, and summarized below in Table 10. Building and fire code requirements fire rating and separation would still apply. Members of the Berkeley Neighborhoods Council expressed concern that eliminating building separation standards could impede emergency response and urged consultation with the Berkeley Fire Department before these standards are finalized.

*Table 10. Proposed Building Separation Standards*

	R-1	R-1H	R-2	R-2H	R-2A	R-2AH	MU-R
Building Separation (feet)	5	No changes. See Table 9	5	No changes. See Table 9	5	No changes. See Table 9	5

**BY-RIGHT DEMOLITION OF SINGLE-FAMILY STRUCTURES**

The adopted Housing Element commits the City Council to consider permitting the demolition of single-family homes with a Zoning Certificate, with provisions to protect existing tenants, in cases where the proposed project would include a net increase in the number of dwelling units.

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Any proposal to demolish a dwelling unit must comply with BMC Chapter 23.326- Demolition and Dwelling Unit Control (“the Demolition Ordinance” -- **Attachment 2**). The Demolition Ordinance includes the following:

- A Use Permit (UP(PH)) is required to demolish a single-family home. To approve a UP, the Zoning Adjustments Board must find that “eliminating the dwelling unit would not be materially detrimental to the housing needs and public interest of the affected neighborhood and Berkeley;” and
- Demolition of a single-family unit is not allowed if it was removed from the rental market under the Ellis Act during the preceding five years or if there have been verified cases of harassment or threatened or actual illegal eviction during the preceding three years.

At its meeting of February 2, 2023, the Planning Commission received a report from staff asking for a recommendation regarding amendments to the Demolition Ordinance. The impetus for these revisions was recent changes in state law that provide additional requirements for new housing development projects that involve the demolition of existing residential units. The 4x4 Joint Task Force Committee on Housing has recommended additional modifications to the Demolition Ordinance, related primarily to replacement unit requirements, tenant protections, and other technical amendments to bring the local ordinance into alignment with state law.

### **PARKING MAXIMUMS**

BMC Section 23.322.070—Off-Street Parking Maximums for Residential Development limits the amount of off-street parking that can be provided for new residential projects of two or more units within 0.25 miles of a major transit stop or transit corridor to one space for every two units. The parking maximum can be exceeded with a discretionary AUP.

Planning staff have noted a trend of smaller, middle housing-scale projects requesting AUPs to exceed the parking maximum, usually to a ratio of one space per unit. Project sponsors, as well as the middle housing architects interviewed as part of community outreach, note that the maximum parking standard discourages middle housing production as builders are concerned about selling or renting units, particularly those that are marketed to first-time homebuyers and families with children. The ZAB has been sympathetic to these concerns for middle housing-scale projects, and has regularly issued AUPs to permit more parking.

The Planning Commission is asked to consider possible revisions to parking maximums. Feedback from community outreach includes the following suggestions:

- Eliminating parking maximums for projects of 9 units or less;
- Adjusting the parking maximum to one space per unit for middle housing projects, with an added requirement that the spaces have chargers for electric vehicles.

## **ALTERNATIVES CONSIDERED**

*Unbundled Parking.* As part of community outreach, there was a suggestion to require unbundled parking in middle housing projects, particularly for projects that may be permitted to exceed parking maximums.

BMC Section 23.334.030—Transportation Demand Management Requirements states that projects that include ten or more dwelling units must lease or sell parking spaces separately from the rental and purchase of the dwelling units themselves. Middle housing projects would typically include fewer than ten units. In addition, given the relatively small numbers of dwelling units and parking spaces in each middle housing project, applying unbundled parking in these cases would be difficult to enforce and may complicate the marketability of units.

## **DISCUSSION**

The Planning Commission is asked to review the proposed development standards, and the suggested revisions to the Demolition Ordinance and parking maximums, and provide direction to staff for the purposes of preparing a Zoning Ordinance for Planning Commission consideration and recommendation.

## **ATTACHMENTS**

1. Middle Housing Development Standards Comparison Table
2. Demolition Ordinance



**ATTACHMENT 3. EXISTING AND PROPOSED DEVELOPMENT STANDARDS TABLES**

**Table 1. Existing Development Standards – Lower Density Residential Districts**

"-" = not applicable; P = Permitted AUP = Administrative Use Permit UPPH = Use Permit Public Hearing NP = Not Permitted		R-1	R-1H	R-1A	R-2	R-2H	R-2A	R-2AH	MU-R
		Single-Family Residential	Ltd. Two-Family Residential	Restricted Two-Family Residential	Restricted Multi-Family Residential	Mixed-Use Residential			
Single-Family		UPPH	UPPH	UPPH	UPPH	UPPH	UPPH	UPPH	AUP [1]
Two-Family		NP	NP	UPPH	UPPH	NP	UPPH	UPPH	AUP
Multi-Family		NP	NP	NP	UPPH	NP	UPPH	UPPH	AUP/UPPH[7]
Group Living Accommodation		NP	NP	NP	NP	NP	NP	NP	UPPH
Mixed-Use Residential		NP	NP	NP	UPPH	NP	UPPH	UPPH	UPPH
Live/Work		NP	NP	NP	NP	NP	NP	NP	AUP/UPPH[10]
Max. ADUs		Varies [11]	1	Varies [11]	Varies [11]	1	Varies [11]	1	Varies [11]
Min. Lot Area (sf)	New Lots	5000	5000	5000	5000	5000	5000	5000	No Min.
	Min. Lot Width (ft)	-	-	-	-	-	-	-	40
	Per Unit	No Min.	No Min.	No Min.	2500	2500	1650	1650	1,250
	2 Units	-	-	4500	No Min.	No Min.	No Min.	No Min.	-
Max FAR		No Max.	No Max.	No Max.	No Max.	No Max.	-	-	1.5 [2]
Min. Open Space (sf)	Per Unit	400	400	400	400	400	300	300	150
	Live/Work	-	-	-	-	-	-	-	40
Max. Height, New Bldg. or Non-Res. Addition (ft)	Max. Avg. Height	28	28	28	28	28	28	28	-
	Max. Height w/AUP	35	35	35	35	35	35	35	35
	Increase w/AUP	-	No Max.	-	-	No Max.	-	No Max.	-
	Max. Avg. Height, Rear Main (ft)	-	-	22	-	-	-	-	-
	ADU	20	16	20	20	16	20	16	20
	Max. Height, Res./MU	-	-	-	-	-	-	-	35
	Max. Height, Live-Work	-	-	-	-	-	-	-	28
Max. Avg Height, Res. addition (ft)	Live/Work w/UP	-	-	-	-	-	-	-	35
		14	14	14	14	14	14	14	-
Max. Stories, New Bldg. or Non-Res. Addition	w/AUP	35	35	35	35	35	35	35	-
		3	3	3	3	3	3	3	3
Max. Stories, Rear Main		-	-	2	-	-	-	-	-
Max. Lot Coverage - Interior/Thru Lot (%)	1 Story	40	40	40	45	45	45	45	100
	2 Stories	40	40	40	40	40	40	40	100
	3 Stories	40	40	40	35	35	35	35	100
	Increase w/AUP	-	-	-	-	-	-	-	100
Max. Lot Coverage - Corner Lot (%)	1 Story	40	40	45	50	50	50	50	100
	2 Stories	40	40	45	45	45	45	45	100
	3 Stories	40	40	45	40	40	40	40	100
	Increase w/UPPH	-	-	-	-	-	-	-	-
Min. Setback, Front (ft)	1st-2nd Story	20	20	20	20	20	15	15	-
	3rd Story	20	20	20	20	20	15	15	-
	Adjacent Non-Res. District	-	-	-	-	-	-	-	5
	Adjacent Res. District	-	-	-	-	-	-	-	10
	Reduce w/AUP	-	No Min.	-	-	No Min.	-	No Min.	No Min.
Min. Setback, Rear (ft)	1st-2nd Story	20	20	20	20	20	15	15	-
	3rd Story	20	20	20	20	20	15	15	-
	ADU	4	4	4	4	4	4	4	4
	Adjacent Non-Res. District	-	-	-	-	-	-	-	No Min./5 [8]
	Adjacent Res. District	-	-	-	-	-	-	-	10/10% [9]
	Reduce w/ZC	20% [3]	20% [3]	20% [3]	-	-	-	-	-
	Reduce w/AUP	-	-	12 [6]	-	-	-	-	-
Min. Setback, Interior Side (ft)	1st-2nd Story	4	4	4	4	4	4	4	-
	3rd Story	-	-	-	6	6	6	6	-
	1st-2nd Story w/ZC	3/10% [4]	3/10% [4]	3/10% [4]	3/10% [4]	3/10% [4]	3/10% [4]	3/10% [4]	-
	3rd Story w/ZC	3/10% [4]	3/10% [4]	3/10% [4]	5 [4]	5 [4]	5 [4]	5 [4]	-
	ADU	4	4	4	4	4	4	4	4
	Adjacent Non-Res. District	-	-	-	-	-	-	-	No Min.
	Adjacent Res. District	-	-	-	-	-	-	-	10/10% [9]
Min. Setback, Street Side (ft)	1st Story	4	4	4	10	10	6	6	-
	2nd Story	-	-	-	10	10	8	8	-
	3rd Story	-	-	-	10	10	10	10	-
	Adjacent Non-Res. District	-	-	-	-	-	-	-	5

"-" = not applicable; P = Permitted AUP = Administrative Use Permit UPPH = Use Permit Public Hearing NP = Not Permitted		R-1	R-1H	R-1A	R-2	R-2H	R-2A	R-2AH	MU-R
		Single-Family Residential	Ltd. Two-Family Residential	Restricted Two-Family Residential	Restricted Multi-Family Residential	Mixed-Use Residential			
Adjacent Res. District	-	-	-	-	-	-	-	-	10/10% [9]
Min. Setback, Interior/Street Rear Bldg. (ft)	-	-	6	-	-	-	-	-	-
Min. Building Separation (ft)	1st Story	No Min.	No Min.	8 [6]	8	8	8	8	No Min.
	2nd Story	No Min.	No Min.	12 [6]	12	12	12	12	No Min.
	3rd Story	No Min.	No Min.	16 [6]	16	16	16	16	No Min.
	Reduce w/UP	-	-	P (AUP)	P (AUP)	P (AUP)	P (AUP)	P (AUP)	-
Off-Street Parking (spaces per unit)	Min. Spaces	No Min.	No Min.	No Min.	No Min.	No Min.	No Min.	No Min.	No Min.
	Min. Spaces, Roadway width < 26 ft	-	1	-	-	1	-	1	-
	Max. Spaces, 2+ DU, 0.25 from Transit Hub or Corridor	0.5	0.5	0.5	0.5	0.5	0.5	0.5	-
	Tandem Parking	w/AUP	w/AUP	w/AUP	w/AUP	w/AUP	w/AUP	w/AUP	w/AUP
	Landscaped Buffer (ft)	2/4 [5]	2/4 [5]	2/4 [5]	2/4 [5]	2/4 [5]	2/4 [5]	2/4 [5]	2/4 [5]
	Max. Driveway Width (ft)	20	20	20	20	20	20	20	20
Min. Long-Term Residential Bicycle Parking	1-4 Units: None 5+ Units: 1 per 3 bedrooms GLA: Greater of 2 or 1 per 2.5 bedrooms								
Min. Short-Term Residential Bicycle Parking	1-4 Units: None 5+ Units: Greater of 2 or 1 per 40 bedrooms GLA: Greater of 2 or 1 per 20 bedrooms								

[1] A Use Permit is required to establish a unit that is within 150 feet of an M or MM district; or a construction product manufacturing or primary product manufacturing use. [BMC 23.206.090(B)(8) MU-R Mixed Use-Residential District]

[2] If min 50% of floor area is Residential

[3] On a lot less than 100 ft deep, reduction of rear setback by 20% of lot depth with ZC

[4] On a lot width less than 40 ft, reduction of side setback by 10% of lot width of 3 ft., whichever is greater. Third story is 5 ft. for R-2, R-2A. Not permitted for rear main buildings in R-1A [BMC 23.304.030(B)(2) Setback Reductions]

[5] All paved areas for off-street parking must be separated from adjacent lot lines and the public right-of-way by a landscaped strip. 2 ft for 1-3 parking spaces; 4 ft for 4 or more parking spaces. (BMC 23.322.080(H) Landscape Buffers)

[6] R-1A Separation Standard based on building height, not by story.

[7] 3 to 4 units requires AUP, 5+ units requires UP(PH)

[8] Min 5 ft rear setback if rear of lot abuts a street

[9] 10 ft or 10% of lot width, whichever is less

[10] AUP if meets all development and parking requirements, less than 5,000 SF of GSF is added or changed, less than five live/work units are created, and a dwelling unit is not changed into a live/work unit; otherwise UP required.

[11] If on a lot with a duplex or attached multi-family dwelling, max 2 detached ADUs or up to 25% of the total number of existing units may be converted into ADUs, otherwise max 1 ADU if more than 1 detached dwelling unit on a lot. A maximum of 1 ADU or JADU is permitted in the R-1H, R-2H, and R-2AH.

**Table 2. Proposed Development Standards – Lower Density Residential Districts**

"-" = not applicable; P = Permitted AUP = Administrative Use Permit UPPH = Use Permit Public Hearing NP = Not Permitted		R-1	R-1H	R-2	R-2H	R-2A	R-2AH	MU-R
		Residential Multi-Unit 1		Residential Multi-Unit 2		Residential Multi-Unit 2A		Mixed-Use Residential
Single-Family Residential		UPPH	UPPH	UPPH	UPPH	UPPH	UPPH	AUP [1]
Multi-Family Residential		ZC	ZC	ZC	ZC	ZC	ZC	ZC [1]
Group Living Accommodation		NP	NP	NP	NP	NP	NP	UPPH
Mixed-Use Residential		NP	NP	UPPH	NP	UPPH	UPPH	UPPH
Live/Work		NP	NP	NP	NP	NP	NP	ZC[1]
Min. Density (DU/acre) - Round to the nearest whole number		10	No Min.	10	No Min.	20	No Min.	20
Max. Density (DU/acre) – Round to the nearest whole number		40	20	50	50	60	60	60
Max. ADUs		Varies [5]	1	Varies [5]	1	Varies [5]	1	Varies [5]
Min. Lot Area (sf)		New Lots	5000	5000	5000	5000	5000	No Min.
Max. FAR	1 Unit and Non-Res. Uses	1.2	1.2	1.2	1.2	1.2	1.2	1.5
	2 Units	0.5	0.5	0.6	0.6	0.6	0.6	1.5
	3-7 Units	1.2	1.2	1.2	1.2	1.5	1.5	1.5
	8+ Units	1.5	1.5	1.25	1.25	1.75	1.75	1.75
Min. Open Space (sf)		Per 1,000 sf Floor Area	150	150	150	150	150	150
Max. Height, New Bldg. or Non-Res. Addition (ft)	Max. Avg. Height	28	28	28	28	28	28	-
	Max. Height	35	35	35	35	35	35	35
	Within 15' of Rear Property Line	22	22	22	22	22	22	22
	ADU	20	20	20	20	20	20	20
Max. Lot Coverage (%)	1-2 Units and Non-Res. Uses	40	40	50	50	50	50	100
	3-7 Units	50	50	55	55	55	55	100
	8+ Units	55	55	55	55	60	60	100
Min. Setback, Front (ft)		15 [4]	20	15 [4]	20	10 [4]	15	-
	Adjacent Non-Res. District	-	-	-	-	-	-	5
	Adjacent Res. District	-	-	-	-	-	-	10
	Reduce w/AUP	-	-	-	-	-	-	No Min.
Min. Setback, Rear (ft)		4	20	4	20	4	15	-
	ADU	4	4	4	4	4	4	4
	Adjacent Non-Res. District	-	-	-	-	-	-	No Min./5 [2]
	Adjacent Res. District	-	-	-	-	-	-	10/10% [3]
Min. Setback, Interior Side (ft)		4	5	4	5	4	5	-
	ADU	4	4	4	4	4	4	4
	Adjacent Non-Res. District	-	-	-	-	-	-	0
	Adjacent Res. District	-	-	-	-	-	-	10/10% [3]
Min. Setback, Street Side (ft)		4	4	4	4	4	4	-
	Adjacent Non-Res. District	-	-	-	-	-	-	5
	Adjacent Res. District	-	-	-	-	-	-	10/10% [3]
Min. Building Separation (ft)		5	5	5	5	5	5	5
Off-Street Parking (spaces per unit)	Min. Spaces	No Min.	No Min.	No Min.	No Min.	No Min.	No Min.	No Min.
	Min. Spaces if Roadway width < 26 ft	-	1	-	1	-	1	-
	Max. Spaces if 0.25mi from Transit Hub or Corridor	1 du: 0 2+ du: 0.5	1 du: 0 2+ du: 0.5	1 du: 0 2+ du: 0.5	1 du: 0 2+ du: 0.5	1 du: 0 2+ du: 0.5	1 du: 0 2+ du: 0.5	-
	Max. Driveway Width (ft)	20	20	20	20	20	20	20
Min. Long-Term Residential Bicycle Parking		1-4 Units: None 5+ Units: 1 per 3 Bedrooms GLA: Greater of 2 or 1 per 2.5 Bedrooms						
Min. Short-Term Residential Bicycle Parking		1-4 Units: None 5+ Units: Greater of 2 or 1 per 40 Bedrooms GLA: Greater of 2 or 1 per 20 Bedrooms						

[1] A Use Permit is required to establish a unit that is within 150 feet of an M or MM district; or a construction product manufacturing or primary product manufacturing use. ([BMC 23.206.090\(B\)\(8\)](#) MU-R Mixed Use-Residential District)  
 [2] Min 5 ft rear setback if rear of lot abuts a street  
 [3] 10 ft of 10% of lot width, whichever is less  
 [4] Or average front setback of adjacent structure(s), whichever is less.  
 [5] If on a lot with a duplex or attached multi-family dwelling, max 2 detached ADUs or up to 25% of the total number of existing units may be converted into ADUs, otherwise max 1 ADU if more than 1 detached dwelling unit on a lot. A maximum of 1 ADU or JADU is permitted in the R-1H, R-2H, and R-2AH.



RESOLUTION NO. ##,###-N.S

A RESOLUTION APPROVING AND ADOPTING GENERAL PLAN AMENDMENTS  
TO THE LOW DENSITY RESIDENTIAL, LOW MEDIUM DENSITY RESIDENTIAL,  
MEDIUM DENSITY RESIDENTIAL, AND MIXED-USE RESIDENTIAL LAND USE  
DESIGNATIONS TO BE CONSISTENT WITH ASSOCIATED ZONING TEXT  
AMENDMENTS TO ENCOURAGE MIDDLE HOUSING.

WHEREAS, the City of Berkeley, in accordance with the provisions of California Government Code Section 65300 et seq., is required to adopt a General Plan for its long-range development, and further to periodically update that plan to reflect current conditions; and

WHEREAS, on January 18, 2023, the City Council of the City of Berkeley approved and adopted a General Plan Amendment to update the Housing Element for the period of 2023-2031, including extensive community outreach and public input between June 2021 and January 2023, and certified the Final Environmental Impact Report (referred to as EIR or Final EIR) (Resolution No. 70,669-N.S), which evaluated the environmental effects of the proposed amendments prepared in connection with the Housing Element Update (HEU); and

WHEREAS, on February 28, 2023, the California Department of Housing and Community Development (HCD) found the adopted Housing Element to be in substantial compliance with State Housing Element Law; and

WHEREAS, the adopted Housing Element includes “Program 29 – Middle Housing” to pursue zoning ordinance to allow multi-unit development on one lot in lower density residential districts (R-1, R-1A, R-2, R-2A and MU-R); and

WHEREAS, on February 7, 2024, the Planning Commission held a duly noticed public hearing and took public testimony, which was preceded by the distribution of notices in accordance with State and local noticing requirements; and, after conducting and closing the public hearing, recommended that the City Council (1) Adopt a Resolution, as recommended by the Planning Commission to, amend the Low Density Residential, Low Medium Density Residential, Medium Density Residential and Mixed-Use Residential General Plan Land Use Designations to be consistent with associated zoning text amendments that increase residential development potential; and (2) Adopt an Ordinance, as recommended by the Planning Commission, amending the Berkeley Municipal Code (BMC) to allow multi-unit development on one lot in lower density residential districts, adopt Zoning Map changes, and make conforming changes to other BMC sections; and

WHEREAS, on XXX, 2024 the City Council held a duly noticed public hearing to consider the General Plan amendments, as well as an ordinance amending the BMC to allow multi-unit development on one lot in lower density residential districts, adopt Zoning Map changes, and make conforming changes to other BMC sections; and

WHEREAS, the proposed amendments are consistent with the adopted Housing Element and serve the public interest by facilitating additional housing capacity and production; and

WHEREAS, the amendments would not be detrimental to the public health, safety and welfare of the City because they would facilitate development that does not substantially deviate from the current pattern of development and mix of land uses within the low density residential districts; would be completed in compliance with current building and fire codes and regulations; and would be subject to the City's standard conditions of approval regarding noise and air quality, waste diversion, toxics and stormwater requirements, as well as applicable mitigation measures included in the Housing Element Update EIR ; and

WHEREAS, 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); and

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.

NOW THEREFORE, BE IT RESOLVED, that the amendments are consistent with Program 29 of the adopted HEU; that the environmental effects of the amendments were evaluated in the certified Final EIR of the HEU and the Addendum to the Final EIR; and

NOW THEREFORE, BE IT FURTHER RESOLVED by the City Council that the General Plan Land Use Designations are hereby amended, as shown in Exhibit A; and

BE IT FURTHER RESOLVED that the City Council hereby authorizes the City Manager to make non-substantive, technical conforming edits (e.g., correction of typographical errors and/or clerical errors) to the Berkeley Municipal Code, including but not limited to page, figure or table numbering, or internal cross-references to amended or new sections of the Berkeley Municipal Code, and to return to the Planning Commission and City Council for major revisions only; and

BE IT FURTHER RESOLVED that nothing in this Resolution shall be interpreted or applied so as to create a requirement, power, or duty in conflict with any federal or State law.

Exhibits

A: Text of General Plan Land Use Designation amendments.

## Exhibit A

### Policy LU-7 Neighborhood Quality of Life

Preserve and protect the quality of life in Berkeley's residential areas through careful land use decisions.

#### Actions:

- A. Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.
- B. Carefully evaluate and monitor new and existing uses to minimize or eliminate negative impacts on adjacent residential uses.
- C. Carefully review and regulate proposals for additional residential development in the Hill Fire Hazard Area and the tsunami, seismic and landslide hazard areas identified in the Disaster Preparedness and Safety Element. (Also see Disaster Preparedness and Safety Policies S-14 and S-16.)
- D. Strengthen Zoning Ordinance language to ensure greater protection of solar access to adjacent properties when new projects or additions are proposed.
- E. Acquire an analysis of the implications of revising R-1, ~~R-1A~~, R-2, R-2A, MU-R, and C-N zoning to require a Use Permit and public hearings for projects that exceed 28 feet.

### Land Use Classifications

#### Low Density Residential

These areas are generally characterized by single-family homes. Appropriate uses for these areas include: residential, community services, schools, home occupations, recreational uses, and open space and institutional facilities. Building intensity will range from ~~one 10~~ to ~~40 40~~ dwelling units per net acre<sup>1</sup>, not including secondary units, and the population density will generally not exceed ~~22 98~~ persons per acre.

For information purposes, the compatible zoning districts for this classification are: Single Family Residential Multi-Unit 1 (R-1), which allows approximately ~~40 9~~ principal dwelling units/acre<sup>2</sup> and Environmental Safety- Residential (ES-R), which allows approximately 5 dwelling units per acre. ~~The Hheight limits~~ in these zoning districts is ~~are typically 28 feet with provisions to allow up to~~ 35 feet.

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<sup>1</sup> Net acreage excludes land area dedicated to roads, watercourses, and dedicated rights-of-way.

<sup>2</sup> State law requires and Berkeley zoning provides for property owners to add one accessory unit under specified conditions and standards described in the R-1 zoning provisions, which may increase density in these areas.

### Low Medium Density Residential

These areas are generally characterized by single-family homes and small multi-family structures with two or three units. The same uses appropriate in Low Density Residential are appropriate in Low Medium Density Residential areas. Building intensity will range from 10 to ~~50~~ ~~20~~ dwelling units per net acre, not including secondary units, and the population density will generally range from 22 to ~~122~~ ~~44~~ persons per acre.

For information purposes, the compatible zoning districts for this classification ~~is are:~~ ~~Limited Two-family Residential (R-1A) and Restricted Two-family Residential~~ Multi-Unit 2 (R-2), which allows approximately 17 dwelling units per acre. Height limits in ~~these~~ this zoning district ~~is s are typically 28 feet with provisions to allow up to~~ 35 feet.

### Medium Density Residential

These areas of Berkeley are generally characterized by a mix of single-family homes and small to medium sized multi-family structures. The same uses appropriate in Low Density Residential are appropriate in Medium Density Residential areas. Building intensity will range from 20 to 40 dwelling units per net acre, and the population density will generally range from 44 to 88 persons per acre, with the exception of the Southside Plan Area.

Within the Southside Plan Area, except in areas located in the Hillside Overlay zoning district, building intensity will range from a FAR of less than 1.0 to a FAR of 3.0. Residential development is subject to a minimum density of 60 dwelling units per acre and a minimum population density of 150 persons per acre. There is no residential density limit. This allows for greater flexibility in housing types to maximize housing opportunities in the Southside Plan Area.

For information purposes, the compatible zoning districts for this classification are: ~~Restricted Multi-family Residential~~ Multi-Unit 2A (R-2A), which allows ~~approximately 17~~ 60 dwelling units per acre, and Multiple-family Residential (R-3), which allows approximately 26 dwelling units per acre. ~~The Hheight~~ limits in the R-2A, R-3 and R-3H zoning districts ~~is are typically 28 feet with provisions to allow up to~~ 35 feet, ~~and are 35 feet in the R-3 and R-3H zoning district~~ (or 45 feet in the R-3 zoning district within the Southside Plan Area).

### Mixed Use-Residential

These areas are intended to maintain and preserve areas of the city for lighter manufacturing and industrial uses and allow for additional uses, including residential,

where determined appropriate by zoning, and only if the use will not weaken Berkeley's manufacturing and industrial economy. Appropriate uses for these areas are identified in the West Berkeley Plan. Within these areas, building intensity will generally range from a Floor Area Ratio (FAR) of less than 1 to an FAR of 1.75. Population density will generally range from ~~22~~ 48 to ~~44~~ 108 persons per acre, where housing is allowed.

For information purposes, the compatible zoning district for this classification is Mixed Use-Residential (MU-R), which allows a maximum FAR of ~~1 to~~ 1.75 and a maximum building height of ~~28 to~~ 35 feet.

## **NOTICE OF PUBLIC HEARING BERKELEY CITY COUNCIL**

### **Adoption of Zoning Ordinance Amendments to Title 23 of the Berkeley Municipal Code, Zoning Map Amendments, and General Plan Amendments to Encourage Middle Housing**

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

The Department of Planning and Development is proposing amendments to the City's Zoning Ordinance (Title 23) in response to City Council referrals and the City's 2023-2031 Housing Element, which requires the City to promote "middle housing" (2-6 units) in the Single-Family Residential (R-1), Limited Two-Family Residential (R-1A), Restricted Two-Family Residential (R-2), Restricted Multiple-Family (R-2A) and Mixed-Use Residential (MU-R) zoning district. The Department is also proposing amendments to the text of the General Plan and the General Plan map that conform with the proposed zoning amendments.

Proposed zoning amendments affect the following Sections of Title 23: 23.108.020 (Zoning Districts), 23.202.020 (Allowed Land Uses), 23.202.030 (Additional Permit Requirements), 23.202.050 (R-1 Single Family Residential District), 23.202.060 (R-1A Limited Two-Family Residential District), 23.202.070 (ES-R Environmental Safety-Residential District), 23.202.080 (R-2 Restricted Two-Family Residential District), 23.202.090 (R-2A Restricted Multi-Family Residential District), 23.206.020 (Allowed Land Uses and Permit Requirements), 23.206.030 (Additional Permit Requirements), 23.206.090 (MU-R Mixed-Use Residential District), 23.210.020 (Hillside Overlay Zone), 23.304.030 (Setbacks), 23.304.040 (Building Separation in Residential Districts), 23.322.100 (On-site Loading Spaces), 23.326.030 (Demolition and Dwelling Unit Control), and 23.502.020 (Glossary).

Proposed amendments also affect the following Sections of Title 23, but only insofar as they are being renumbered: 23.202.100 (R-3 Multiple-Family Residential District), 23.202.110 (R-4 Multi-Family Residential District), 23.202.120 (R-5 High-Density Residential District), 23.202.130 (R-S Residential Southside District), 23.202.140 (R-SMU Residential Southside Mixed Use District), 23.202.150 (R-BMU Residential BART Mixed Use). The proposed amendments also include conforming Zoning Map amendments, and non-substantive technical corrections to ensure consistency throughout the Zoning Ordinance.

Proposed General Plan text and map amendments include renaming the Low Density Residential classification to Lower Density Residential, assigning the Medium Density Residential classification to the R-2, R-2A and R-3 zoning districts, and including technical edits that reflect the Planning Commission's recommendation with respect to the names of zoning districts and the proposed development standards.

The hearing will be held on, Tuesday, July 23, 2024 at 3:30 pm in the School District Board Room, located at 1231 Addison Street, Berkeley CA 94702.

A copy of the agenda material for this hearing will be available on the City’s website at <https://berkeleyca.gov/> as of July 11, 2024. **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.**

For further information, please contact Justin Horner, Principal Planner at 510-981-7476. 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](mailto:council@berkeleyca.gov) in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

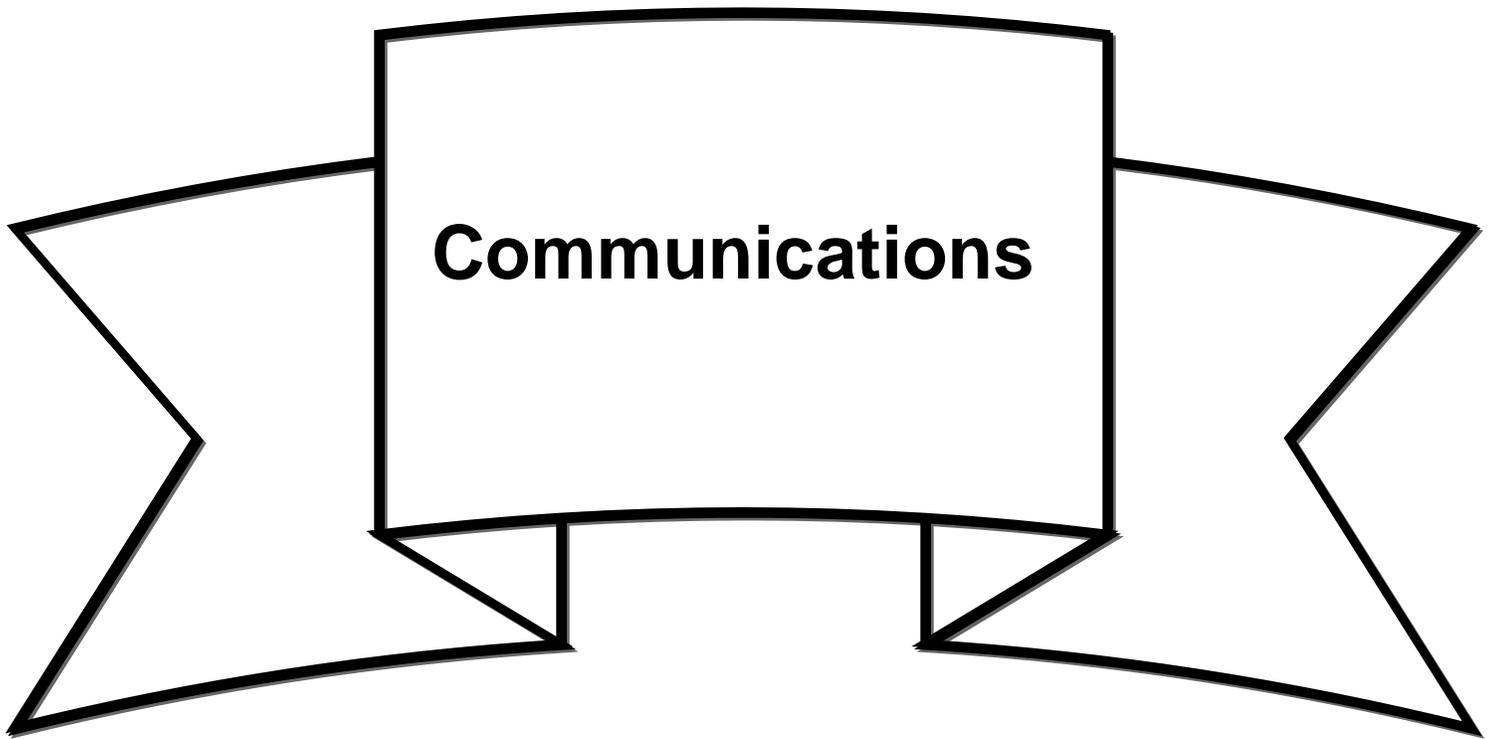
Communications to the Berkeley City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication 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](mailto:clerk@berkeleyca.gov) for further information.

**Published:** July 12, 2024 – 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.

~~~~~  
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 July 11, 2024.

\_\_\_\_\_  
Mark Numainville, City Clerk



All communications submitted to the City Council are public record. Communications are not published directly to the City's website. Copies of individual communications are available for viewing at the City Clerk Department and through Records Online.

**City Clerk Department**

2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

**Records Online**

<https://records.cityofberkeley.info/>

To search for communications associated with a particular City Council meeting using Records Online:

1. Select Search Type = “Public – Communication Query (Keywords)”
2. From Date: Enter the date of the Council meeting
3. To Date: Enter the date of the Council meeting (this may match the From Date field)
4. Click the “Search” button
5. Communication packets matching the entered criteria will be returned
6. Click the desired file in the Results column to view the document as a PDF