

## Communications

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**From:** Mark Rhoades <mark@rhoadesplanninggroup.com>  
**Sent:** Friday, June 3, 2022 9:42 PM  
**To:** Wu, Grace <GWu@cityofberkeley.info>; Covello, Zoe <ZCovello@cityofberkeley.info>  
**Cc:** Pearson, Alene <apearson@cityofberkeley.info>  
**Subject:** Housing Sites Inventory Comment Letter

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Grace,

Thank you for all of the hard work that you are doing with respect to the housing policy development the department is currently engaged in. The housing presentation that was done at Council a couple of months ago was outstanding.

Attached is our comment letter relevant to the draft Housing Sites Inventory that has been presented to the community so far. This letter is a collaborative letter prepared by my office including Mia Perkins, Geneva Hesner, and Jean Eisberg. We believe that the City must rethink the approach to the sites inventory, or HCD will reject the Housing Element. Housing Elements from all over Southern California are currently being rejected – and including in part for the reasons stated in our letter.

We would be happy to discuss this with you at your request.

Best Regards,

**Mark Rhoades, AICP**  
**Rhoades Planning Group**

June 3, 2022

Grace Wu, Senior Planner  
Planning and Development Department  
City of Berkeley  
1947 Center Street, Second Floor  
Berkeley, CA 94704

**Subject:** *The City of Berkeley Housing Element will be rejected by California's Department of Housing and Community Development because the Housing Sites Inventory fails to acknowledge the Affirmatively Furthering Fair Housing component of California Housing Element law, which will require an equity lens be placed on portions of the City underserved by the list of sites – such as the Elmwood, North Shattuck, and Upper Solano.*

Dear Ms. Pearson,

This letter responds to the Draft Sites Inventory for the 6<sup>th</sup> Cycle Berkeley Housing Element, presented to the Planning Commission on May 4, 2022. We at Rhodes Planning Group have evaluated the methodology and the result of the Housing Sites Inventory and have determined it to be deeply flawed.

The Housing Sites Inventory is a fundamentally important and required component of the Housing Element. The Housing Sites Inventory demonstrates how a city may meet its housing production goals based on the methodology that is being used – which is a choice. In addition, if a site is on the Housing Sites Inventory for more than one cycle, and development is proposed in a subsequent cycle, that housing development project must receive ministerial application processing. So, the sites list is also important from a process perspective.

The presentation of the Housing Sites Inventory to the Planning Commission has made it clear that Berkeley has neither chosen to use an equity lens in the preparation of the Housing Sites Inventory, nor has it considered the Affirmatively Furthering Fair Housing (AFFH) component of the new Housing Element requirements. If the AFFH is used, a zoning equity lens will have to be considered (such as the standards for the C-1 or the C-W zoning districts as the bases of development) to identify potential housing sites in these very high resourced areas. Many additional sites in the Elmwood, North Shattuck, and Upper Solano will be identified. The staff's choice in using a ratio between site improvement and land valuation is a dated methodology that only exacerbates the institutionalized racism that still has a heavy presence ant throughout the City's zoning development standards. The ratio of land and building valuation is not a required methodology for Housing Elements.

The draft Housing Sites Inventory perpetuates Berkeley's still-too prevalent inequitable land use policies by using a methodology that weights data to produce sites that appear primarily in central, south, or west Berkeley. Very few sites exist in the City's northern or southeastern areas. And they won't show up in those locations without thorough adherence to the AFFH principles and a zoning equity lens. The Upper Solano, North Shattuck, and College/Elmwood commercial districts have high quality transit access and surrounded by the highest resources in the City. There are no valid reasons why these neighborhoods should continue to be shielded from otherwise feasible development.

### Draft Sites Inventory Does Not Meet Fair Housing Requirements

State Housing Element Law has changed since the 5<sup>th</sup> Cycle Housing Element was prepared, but the draft sites inventory does not reflect or respond to these changes. Specifically, the draft sites inventory does not meet State statutory requirements with respect to AFFH. As a result, the Department of Housing & Community Development will reject the inventory and will not certify the Element without substantial changes.

Pursuant to AB 686, for the City's 6<sup>th</sup> Cycle Housing Element 1, 2021, sites must be identified throughout the community in a manner that affirmatively furthers fair housing opportunities (**emphasis** added):

“Affirmatively furthering fair housing” means **taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities** free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, **address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity**, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a public agency's activities and programs relating to housing and community development.”<sup>1</sup>

HCD requires that sites identified to accommodate the lower income RHNA must be distributed throughout the community in a manner that affirmatively furthers fair housing.<sup>2</sup> HCD's recommended methods to do this are detailed below.

### Sites Inventory Methodology is Insufficient.

The methodology that the City has chosen to determine potential opportunity sites does not follow HCD's guidelines. The City's methods are based on existing physical conditions, such as minimum density, age of structure, and assessed value/land value. However, HCD now requires that jurisdictions look locational advantages, quality of schools, job, and transit access, and metrics for “high opportunity neighborhoods.” Below is an excerpt from HCD's guidance for building a sites inventory (**emphasis** added):

“Other characteristics to consider when evaluating the appropriateness of sites include **physical features** (e.g., size and shape of the site, improvements currently on the site, slope instability or erosion, or environmental and pollution considerations), **location** (e.g., proximity to and access to infrastructure, transit, job centers, and public or community services), **competitiveness for**

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<sup>1</sup> Government Code 8899.50(a)(1)

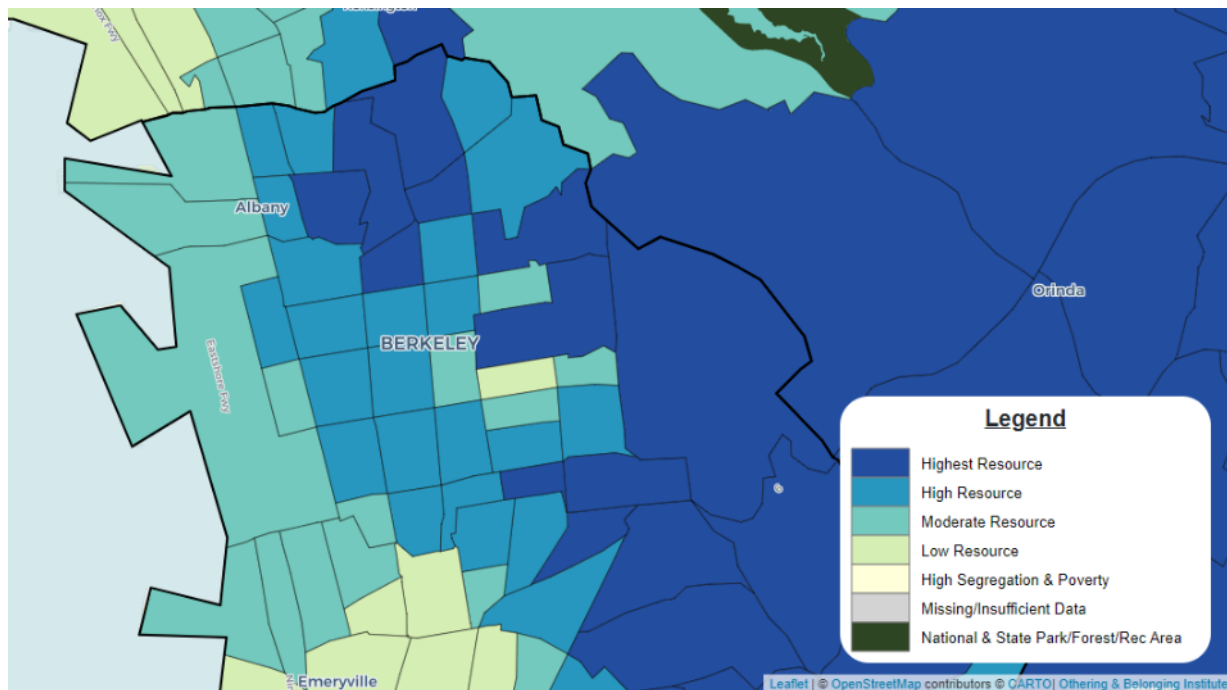
<sup>2</sup> It is not just Berkeley that is struggling with these new requirements. The Association of Bay Area Governments has issued a summary of lessons learned from Southern California and Sacramento County, which are ahead of the Bay Area in the 6<sup>th</sup> Cycle updates. 94% of submittal Housing Elements (33 comment letters/jurisdictions) were insufficient with respect to AFFH, including failing to connect findings from the AFFH analysis with specific site inventory strategies. (Association of Bay Area Governments, “Summary of Housing Element Review Letters” April 26, 2022. <https://citiesassociation.org/documents/summary-of-housing-element-review-letters/>)

**affordable housing funding** (e.g., Low Income Housing Tax Credit scoring criteria), and **likelihood or interest in development due to access to opportunities such as jobs and high performing schools**. When determining sites to include in the inventory to meet the lower income housing need, HCD recommends that a local government **first identify development potential in high opportunity neighborhoods**. This will assist the local government in meeting its requirements to affirmatively further fair housing and ensure developments are more competitive for development financing.”<sup>3</sup>

HCD references the following source to determine high resource opportunity areas, as shown in Figure 1. In Berkeley, the lowest resource area is on the Southside, primarily occupied by students with lower incomes. Moderate resource areas are clustered in West Berkeley, Downtown and around UC Berkeley campus. High resource areas compose much of central Berkeley. This mapping shows the highest resource areas in the northern portion of the City, in the hills to the east, and in the Claremont neighborhood. These are areas that SHOULD be looked to for housing opportunity sites.

Importantly, the draft Sites Inventory map appears inverse to this High Resource map. The Sites Inventory clusters around San Pablo Ave., University Ave., and Shattuck Ave., extending primarily through Moderate to High Resource areas. It lacks a significant number of sites within the Highest Resource areas that have access to high quality transit, jobs, and services, such as Solano Ave., North Shattuck, Telegraph Ave., and College Ave.

**Figure 1: High Opportunity Map**

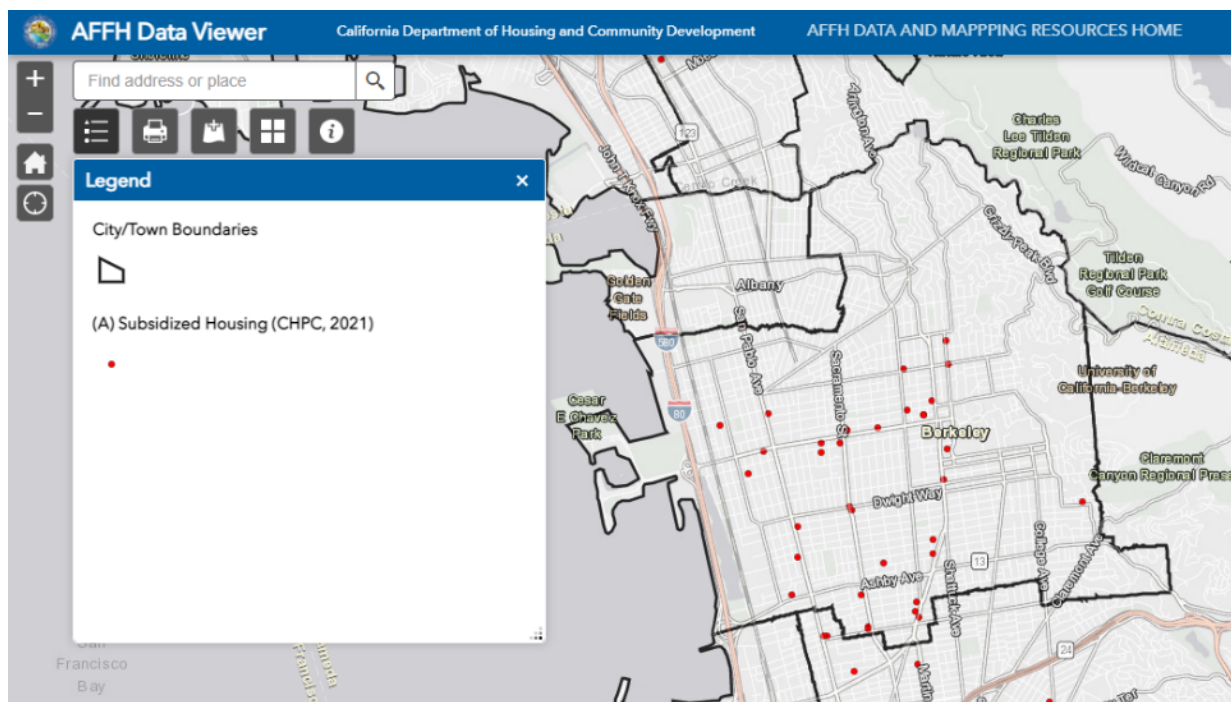


<sup>3</sup> Department of Housing & Community Development (HCD). “Memorandum to Planning Directors and Interested Parties. Housing Element Site Inventory Guidebook” June 10, 2020: 3. [https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sites\\_inventory\\_memo\\_final06102020.pdf](https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sites_inventory_memo_final06102020.pdf)

Source: 2022 TCAC/HCD Opportunity Map of High Resource Places  
<https://www.treasurer.ca.gov/ctcac/opportunity.asp>

Similarly, HCD provides other useful data sources to help jurisdictions identify inequities and analyze ways to further fair housing. For example, Figure 2 shows the locations of subsidized housing in Berkeley, which cluster in central and south Berkeley and are significantly fewer or lacking in North Berkeley.

**Figure 2: AFFH Data Viewer & Subsidized Housing Map**

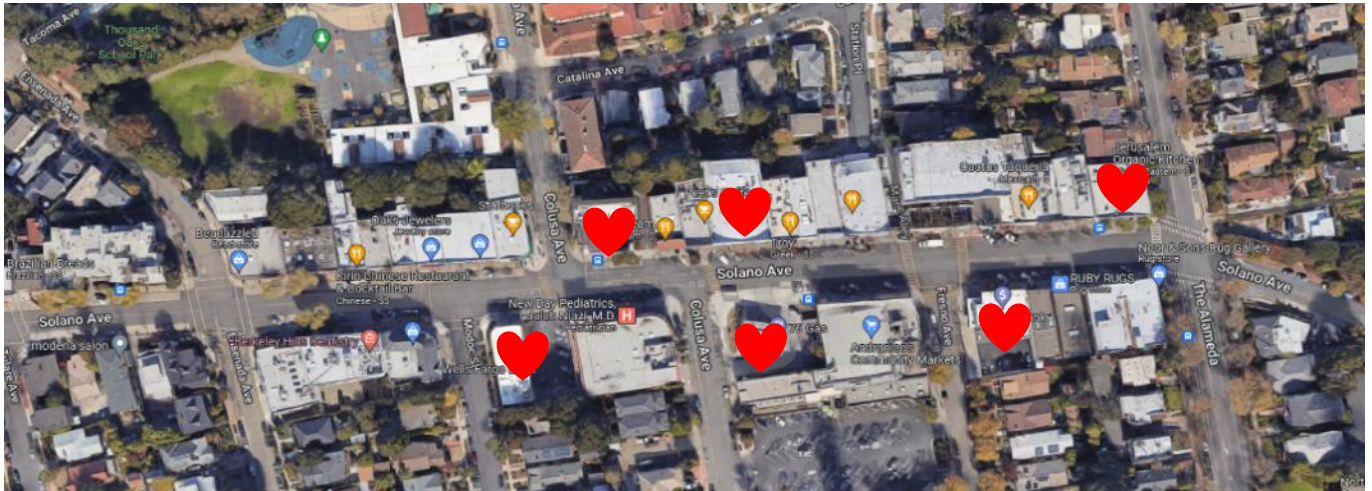


Source: California Department of Housing and Community Development, Affirmatively Furthering Fair Housing Data Viewer  
<https://affh-data-resources-cahcd.hub.arcgis.com/>

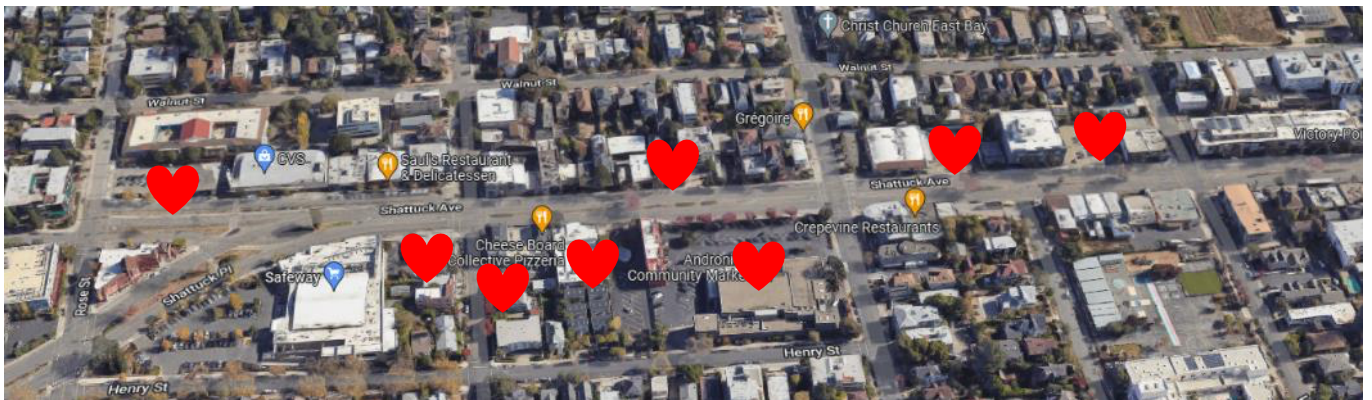
HCD Guidelines highlight best practices for selecting sites to accommodate the lower income RHNA. These factors include access to transit, amenities, such as parks, services, health care, and grocery stores.<sup>4</sup> Solano Ave., North Shattuck, Telegraph Ave., and College Ave. enjoy these elements, yet they are not reflected on the Sites Inventory. In some cases, the current zoning densities (i.e., on Solano Ave.) are insufficient to support development of lower income housing. Based on AFFH requirements, rezoning of sites to higher densities may be required. Figure 3 highlights some sites (shown as red hearts) that could be easily considered as opportunity sites were an equity lens applied that included development assumptions as they exist for the City's other commercial/mixed use zones.

<sup>4</sup> HCD, 2020: 9.

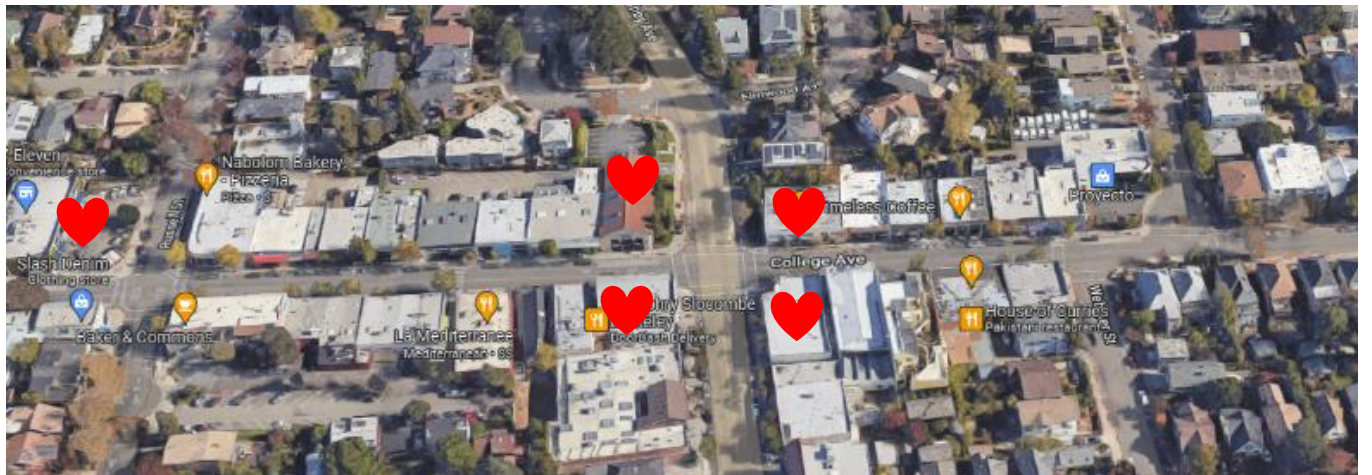
Figure 3: Opportunity Sites, for Consideration – Upper Solano, North Shattuck, Elmwood



Upper Solano



North Shattuck



College/Elmwood

Sites on the Inventory May be More Likely to Develop

A Housing Element is not just an exercise to get through. It is a required element of a City's General Plan and represents a road map for housing policy and programs, as well as anticipated locations for new housing development at all income levels. Since the 5<sup>th</sup> Cycle Housing Element was prepared, the State legislature has layered more requirements and incentives into Housing Element law to ensure that sites listed in the inventory are truly developable sites, at the income levels stated.

A notable example is that new in this 6<sup>th</sup> Cycle, if a site was listed in the prior Housing Element Sites Inventory, the City is obligated to rezone the site to allow residential use by right (i.e., ministerially) at specific densities if at least 20% of the units are affordable to lower income households. This is a substantial advantage for a project sponsor to reduce the risk inherent in a discretionary public review process, and may provide a real incentive for a property owner to develop. However, if the City continues to identify sites within only a portion of the city, development may continue to be concentrated in these locations, accordingly.

Thank you for your consideration of this critically important issue. It is an important step in Berkeley's efforts to address the City's institutionalized racism as it continues to be expressed in Berkeley's zoning and General Plan policies. This letter also is not exhaustive of the various aspects of the AFFH process the staff must conduct for the Housing Element. It is in all of our interests to draft a Housing Element that will be approved by California HCD. If you have any questions, please do not hesitate to contact us at 510.545.4341, or at [mark@rhoadesplanninggroup.com](mailto:mark@rhoadesplanninggroup.com).

Sincerely,



**Mark Rhoades, AICP**

President/CEO, Rhoades Planning Group  
Housing Policy Project Co-Chair, California Planning Roundtable

CC:

Planning Commission

Alene Pearson, Deputy Director of Planning and Development

City of Berkeley Planning Commission

## Communications

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**From:** Sean Golden <spgolden@gmail.com>  
**Sent:** Tuesday, June 7, 2022 4:12 PM  
**To:** Pearson, Alene <apearson@cityofberkeley.info>  
**Subject:** Housing Element Inventory Review

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Alene:

I'm writing to you as a citizen of Berkeley living near Ashby and Claremont Ave in regards to the work the Planning Commission is doing on the Housing Element review.

In my neighborhood, there are two underutilized gas stations at 3009 Ashby Ave, Berkeley, CA 94705 and 2935 Claremont Ave, Berkeley, CA 94705. These would be excellent sites for dense multi-family housing. Instead of maintaining barren parking lots that only worsen the effects of climate change, we should zone this area for more vibrant multi-family homes near bus thoroughfares and mixed-use commercial areas.

I would appreciate it if you could share these comments with the other commissioners.

Thank you for your service and I look forward to a denser and more environmentally friendly Berkeley.

Sean Golden

## Communications

**From:** Pearson, Alene  
**Sent:** Wednesday, June 8, 2022 9:03 AM  
**To:** Covello, Zoe  
**Cc:** Wu, Grace  
**Subject:** Follow-up to June 1 PC Meeting

Dear Commissioners.

Thanks for your discussion of and valuable feedback on Residential Objective Standards for middle housing at the June 1 Planning Commission meeting.

As Chair Mikiten stated at the meeting, staff would appreciate any additional comments you have in writing while the material is fresh in your minds!

Please send comments to Grace Wu ([gwu@cityofberkeley.info](mailto:gwu@cityofberkeley.info)). All emails will be added to the public record as Communications in the July 6th Planning Commission packet.

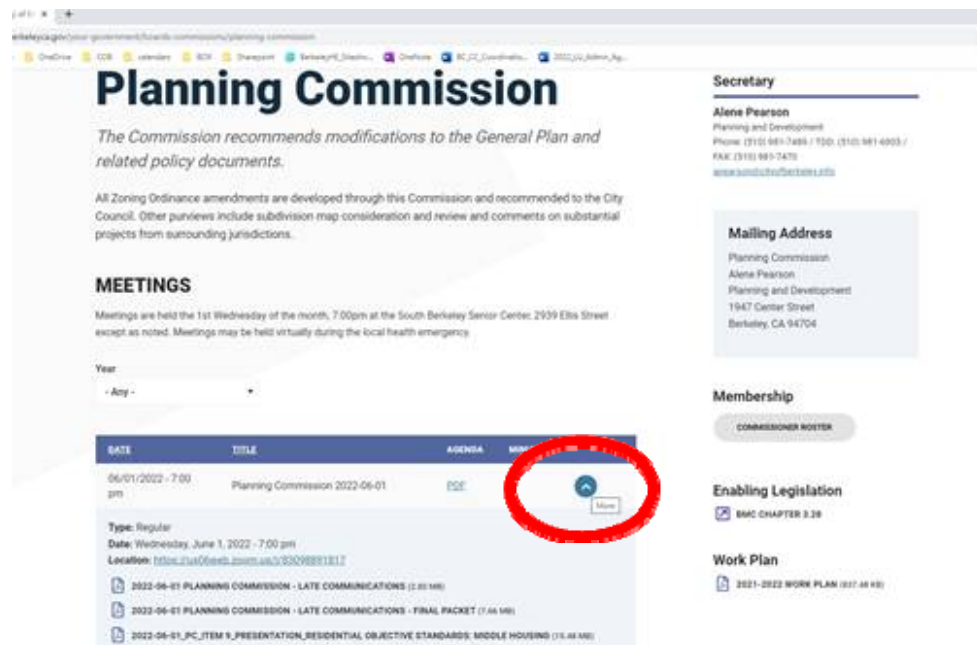
If you would like to review the zoom recording of the meeting, you can access it here:

<https://cityofberkeley.box.com/v/20220601-PC-ObjStandards>

The staff report and a PDF of the presentation can be found on the Planning Commission webpage:

<https://berkeleyca.gov/your-government/boards-commissions/planning-commission>

On the new website, you need to click the down/up arrow to expand/compress the selection of meeting files:



The screenshot shows the Planning Commission website. The main heading is "Planning Commission" with the tagline "The Commission recommends modifications to the General Plan and related policy documents." Below this is a "MEETINGS" section. A table lists meetings with columns for DATE, TITLE, AGENCY, and MORE. The first row is for 06/01/2022 - 7:00 pm, Planning Commission 2022-06-01, PDE. A red circle highlights a dropdown arrow icon in the "MORE" column of this row. To the right of the table are sections for "Secretary" (Alene Pearson), "Mailing Address", "Membership" (COMMISSIONER ROSTER), "Enabling Legislation" (BMC CHAPTER 8.38), and "Work Plan" (2021-2022 WORK PLAN (07.08.18)).

DATE	TITLE	AGENCY	MORE
06/01/2022 - 7:00 pm	Planning Commission 2022-06-01	PDE	More

Thanks again!  
Alene

## Communications

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**From:** Pearson, Alene  
**Sent:** Tuesday, June 14, 2022 4:03 PM  
**To:** Covello, Zoe  
**Subject:** City of Berkeley Draft Housing Element Update

Dear Planning Commissioners,  
The public draft of Berkeley's Housing Element Update was released today! See the announcement below. The comment period will be open for 30 days. Please review, comment and share with your networks!  
Thanks,  
Alene

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**Alene Pearson, AICP**  
**Secretary to the Planning Commission**  
Deputy Director, Planning and Development Department  
City of Berkeley  
apearson@cityofberkeley.info  
510-981-7489

**June 13, 2022**

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Finding Solutions to Berkeley Housing Choices

## **Housing Element Update**



## Provide comments on the City of Berkeley's draft Housing Element!

The draft Housing Element Update, sites inventory map, and appendices are now available at <https://cityofberkeley.info/HousingElement> for review.

### Berkeley Housing Element 2023-2031

**To provide specific feedback or download a PDF copy, please use the drop down menu to select each section and click anywhere in the document to add a comment.**

- [Berkeley Housing Element Public Draft](#)
- [Sites Inventory Map](#)
- [Appendix A. Publicly Assisted Housing](#)
- [Appendix B. Development Standards](#)
- [Appendix C. Sites Inventory](#)
- [Appendix D. Review of 5th Cycle](#)
- [Appendix E. Affirmatively Furthering Fair Housing \(AFFH\)](#)
- [Appendix F. Outreach and Engagement](#)

**For general feedback on the Housing Element Update:**  
<https://bit.ly/HEUGeneralFeedback>.

The Housing Element Update will serve as the City of Berkeley's housing plan for the next 8 years (2023-2031). It is an important opportunity for Berkeley's residents and stakeholders to come together on assessing

housing needs, identifying policy and resource priorities, and finding solutions to implement a wide range of housing choices.

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## **Save the Date! Public Workshop #3**

On **Wednesday, June 29, from 6-8pm** the City will be hosting the third public workshop for the Housing Element, which will be an opportunity to provide feedback on the public draft of the Housing Element Update. Please join us!

- **Zoom registration link:** <https://bit.ly/HEUWorkshop3>

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## Communications

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**From:** Alex Sharenko <alexsharenko@gmail.com>  
**Sent:** Tuesday, June 21, 2022 8:00 AM  
**To:** Pearson, Alene <apearson@cityofberkeley.info>  
**Subject:** missing middle zoning changes

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Dear Staff and Commissioners,

I wanted to thank you all for the thoughtful work you've done on the missing middle zoning changes. I believe these are important changes that will make Berkeley a better city, and I believe you've gotten most of the important decisions correct.

I am, however, very concerned about the proposed front and rear setbacks. As I understand it, proposed rear setbacks will be a minuscule 4 feet and most front setbacks will be an expansive 20 ft (with denser zones reduced to 15 feet). I think this prioritization of creating front yard space while not explicitly carving out backyard space for privacy and building separation is the exact opposite approach we should be taking.

Front yard space is very underutilized and provides no privacy or separation from neighboring buildings. It is essentially wasted space. Such large front setbacks are also out of character with much of my neighborhood in West Berkeley where front setbacks of less than 10 feet are extremely common.

4 feet rear setbacks, however, are much too small as this will result in the elimination of backyard outdoor space and importantly result in legitimate light and privacy conflicts between neighbors that count on backyard space as a buffer between dwelling units in our neighborhoods. I believe 4 ft rear setbacks were chosen to harmonize Berkeley zoning with SB 9, but this is a somewhat arbitrary goal. SB 9 projects should be special cases and hopefully this option will not be used often given the proposed missing middle zoning changes you have crafted will likely be more desirable than SB 9 in many cases. Zoning should be written with the goal of maximizing housing production and quality of life, but as written the front/rear setbacks prioritize the creation of large front yards and harmonization with an obscure state law instead of prioritizing building separation (between buildings on neighboring lots), private outdoor space and access to light.

I implore you to reduce the front setbacks to 10 ft to reduce the amount of mandated wasted space built into the zoning code and to increase rear setbacks to at least 15 feet in all cases. I think these changes are necessary to ensure these zoning changes 1) produce the new housing our city needs and 2) maintain the privacy and access to light and air that residents in our neighborhoods expect. I firmly believe these are compatible goals, with careful zoning decisions we can absolutely create new housing while maintaining appreciable privacy and access to light. And in this case, the way to do this is to reduce front setbacks to 10 ft and increase rear setbacks to 15 feet.

Thank you,  
Alex