Lori Droste
Councilmember, District 8

REVISED AGENDA MATERIAL for Supplemental Packet 1

Meeting Date: **February 26, 2019**

Item Number: **22**

Item Description: **Missing Middle Report**

Submitted by: Councilmember Lori Droste, Councilmember Ben Bartlett, Councilmember Rigel Robinson, and Councilmember Rashi Kesarwani

This item has been revised to include considerations for scaling of floor to area ratios, land value recapture.

Lori Droste
Councilmember, District 8

ACTION CALENDAR
February 26, 2019

To: Members of the City Council

From: Councilmember Lori Droste, Councilmember Ben Bartlett, Councilmember Rigel Robinson, and Councilmember Rashi Kesarwani

Subject: Missing Middle Report

RECOMMENDATION

Refer to the City Manager to bring back to Council a report of potential revisions to the zoning code to foster a broader range of housing types across Berkeley, particularly missing middle housing types (duplexes, triplexes/fourplexes, courtyard apartments, bungalow courts, townhouses, etc.), in areas with access to essential components of livability like parks, schools, employment, transit, and other services.

Report should include, but is not limited to:

- Identifying where missing middle housing is optimal~~/should be permitted~~
- Allowing the possibility of existing houses/footprints/zoning envelopes to be divided into up to 4 units, potentially scaling the floor area ratio (FAR) to increase as the number of units increase on site, creating homes that are more affordable, saving and lightly modifying an older structure as part of internally dividing it into more than one unit.[1]
- Excluding very high fire severity zones as defined by ~~the~~ Cal Fire and/or City of Berkeley.

[1] City of Portland, https://www.portlandoregon.gov/bps/article/711691.

- Considering form-based zoning as a potential strategy[2],
- Creating incentives to maintain family-friendly housing stock while adding more diversity and range of smaller units
- Creating incentives for building more than one unit on larger than average lots,
- Considering provision of tenant protections, demolition controls, and no net loss provisions
- Considering provisions that align with our land value recapture policy objectives to maximize affordability in Berkeley.

CURRENT PROBLEM AND ITS EFFECTS

The nine-county Bay Area region is facing an extreme shortage of homes that are affordable for working families. The Metropolitan Transportation Commission illustrates the job-housing imbalance in a recently released a report showing that only one home is added for every 3.5 jobs created in the Bay Area region.[3] Governor Gavin Newsom has called for a "Marshall Plan for affordable housing" and has pledged to create millions of more homes in California to tackle the state's affordability and homelessness crisis.

In Berkeley, the median sale price of a home is $1.2 million (as of December 2018)–an increase of 65% over the median sale price in December 2013 of $727,000. Similarly, Berkeley's median rent index is $3,663/month–a 54% increase since since December 2013.[4] The escalating rents coincide with an increase of 17% in Berkeley's homeless population as documented in the 2015 and 2017 point-in-time counts.[5] These skyrocketing housing costs put extreme pressure on low-, moderate- and middle-income households, as they are forced to spend an increasing percentage share of their income on housing (leaving less for other necessities like food and medicine), live in overcrowded conditions, or endure super-commutes of 90 minutes or more in order to make ends meet.

Low-Income Households

Recently, low-income households experienced the greatest increases in rent as a portion of their monthly income. According to the Urban Displacement Project, households are considered to be "rent burdened" when more than a third of their income goes toward housing costs. In Alameda County, "Although rent burden increased across all income groups, it rose most substantially for low- and very low-

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[2] Form-Based Codes Institute at Smart Growth America, 1152 15th Street NW Ste. 450 Washington, DC 20005. https://formbasedcodes.org/definition/

[3] Metropolitan Transportation Commission, 2018. http://www.vitalsigns.mtc.ca.gov/

[4] Berkeley Home Prices and Values, https://www.zillow.com/berkeley-ca/home-values/

[5] Berkeley Homeless Point-in-Time Count and Survey Data, 2017. https://www.cityofberkeley.info/Clerk/City_Council/2017/07_Jul/Documents/2017-07-25_Item_53_2017_Berkeley_Homeless.aspx

income households. In both 2000 and 2015, extremely low-income renters were by far the most likely to experience severe rent burden, with nearly three quarters spending more than half their income on rent."[6]

Although residents of Berkeley recently passed Measure O which will substantially increase funding for affordable housing, low-income units are increasingly expensive to create. Low-income housing units typically cost well over $500,000 to create and the demand for this type of affordable/subsidized housing exceeds the supply.[7] In Berkeley, roughly 700 seniors applied for the 42 affordable/subsidized units at Harpers Crossings.[8] Without a substantial additional increase in funding for affordable housing, the vast majority of low-income individuals have to rely on the market.

Middle-Income Households

In the Bay Area, those earning middle incomes are facing similar challenges in finding affordable homes. The Pew Research Center classifies middle income households as those with "adults whose annual household income is two-thirds to double the national median." In 2016, middle income households were those earning approximately $45,000 to $136,000 for a household of three.[9] However, in Berkeley, a similarly-sized family earning up to $80,650 (80% Area Median Income) is considered low-income according to the U.S. Department of Housing and Urban Development.[10]

In the Bay Area, a family currently has to earn $200,000 annually to afford the principal, interest, taxes and insurance payments on a median-priced home in the Bay Area (assuming they can pay 20 percent of the median home price of nearly $1,000,000 up front).[11] This means that many City of Berkeley employees couldn't afford to live where they work: a community health worker (making $63,600) and a janitor (making $58,300) wouldn't be able to afford a home. Neither would a fire captain (making $142,000) with a

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[6] Zuk, M., & Chapple, K. (2015). Urban Displacement Project. http://www.urbandisplacement.org/sites/default/files/images/alameda_final.pdf

[7] "The Cost of Building Housing" *The Terner Center* https://ternercenter.berkeley.edu/construction-costs-series

[8] Flood, Lucy. (1/18/2018). "Berkeley low-income seniors get a fresh start at Harper Crossing." https://www.berkeleyside.com/2018/01/18/berkeley-low-income-seniors-get-fresh-start-harper-crossing

[9] Kochhar, Rakesh. "The American middle class is stable in size, but losing ground financially to upper-income families," 9/16/2018, Pew Research Center. http://www.pewresearch.org/fact-tank/2018/09/06/the-american-middle-class-is-stable-in-size-but-losing-ground-financially-to-upper-income-families/

[10] Berkeley Housing Authority, HUD Income Guidelines, effective April 1, 2018. https://www.cityofberkeley.info/BHA/Home/Payment_Standards,_Income_Limits,_and_Utility_Allowance.aspx

[11] "The salary you must earn to buy a home in the 50 largest metros" (10/14/2018). HSH.com https://www.hsh.com/finance/mortgage/salary-home-buying-25-cities.html#_

stay at home spouse. Even a police officer (making $122,600) and a groundskeeper (making $69,300), or two librarians (making $71,700) couldn't buy a house.[12]

Families

Many families are fleeing the Bay Area due to the high cost of living. According to a recently released study by the Terner Center for Housing Innovation, the income and racial patterns out-migration and in-migration indicate that "the region risks backsliding on inclusion and diversity and displacing its economically vulnerable and minority residents to areas of more limited opportunity."[13] Rent for a two bedroom apartment in Berkeley costs approximately $3,200/month[14] while the median child care cost in Alameda County is $1,824 a month, an increase of 36% in the past four years.[15] Consequently, many families are paying well over $60,000 for living and childcare expenses alone.

Homelessness

High housing costs also lead to California having among the highest rates of poverty in the nation at 19%.[16] Consequently, homelessness is on the rise throughout California. The Bay Area has one of the largest and least-sheltered homeless populations in North America.[17] The proliferation of homeless encampments—from select urban neighborhoods to locations across the region—is the most visible manifestation of the Bay Area's extreme housing affordability crisis. According to the 2017 point-in-time count, Berkeley had approximately 972 individuals experiencing homelessness on any given night.[18] In order to help homeless individuals get housed, the City needs to create more homes. Tighter housing markets are associated with higher rates of homelessness, indicating that the creation of additional housing for all income levels is key to mitigating the crisis.[19]

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[12] City of Berkeley Human Resources, "Job Descriptions" accessed 2.4.2019 http://agency.governmentjobs.com/berkeley/default.cfm?action=agencyspecs&agencyID=1568

[13] Romem, Issa and Elizabeth Kneebone, 2018. "Disparity in Departure: Who Leaves the Bay Area and Where Do They Go?" https://ternercenter.berkeley.edu/disparity-in-departure

[14] Berkeley Rentals, https://www.zillow.com/berkeley-ca/home-values/

[15] D'Souza, Karen, 2/3/19. "You think Bay Area housing is expensive? Child care costs are rising, too." https://www.mercurynews.com/2019/02/03/you-think-bay-area-housing-is-expensive-childcare-costs-are-rising-too/amp/

[16] The U.S. Census The Supplemental Poverty Measure adjusts thresholds based on cost of living indexes.

[17] SPUR: Ideas and Action for a Better City. "Homelessness in the Bay Area: Solving the problem of homelessness is arguably our region's greatest challenge." Molly Turner, Urbanist Article, October 23, 2017 https://www.spur.org/publications/urbanist-article/2017-10-23/homelessness-bay-area

[18] Berkeley Homeless Point-in-Time Count and Survey Data, 2017. https://www.cityofberkeley.info/Clerk/City_Council/2017/07_Jul/Documents/2017-07-25_Item_53_2017_Berkeley_Homeless.aspxn

[19] *Homeless in America, Homeless in California*. John M. Quigley, Steven Raphael, and Eugene Smolensky. The Review of Economics and Statistics, February 2001, 83(1): 37–51 © 2001 by the

BACKGROUND

Missing Middle

What is missing middle housing?

Missing middle housing is a term used to describe:

1. a range of clustered or multi-unit housing types compatible in scale with single family homes[20] and/or
2. housing types naturally affordable to those earning between 80-120% of the area median income.

While this legislation aims to address the former, by definition and design, missing middle housing will always be less expensive than comparable single family homes in the same neighborhood, leading to greater accessibility to those earning median, middle, or lower incomes. Currently, the median price of a single family home in Berkeley is $1.2 million dollars, which is out of reach for the majority of working people.[21] Approximately half of Berkeley's housing stock consists of single family units[22] and more than half of Berkeley's residential land is zoned in ways that preclude most missing middle housing. As a result, today, only wealthy households can afford homes in Berkeley.

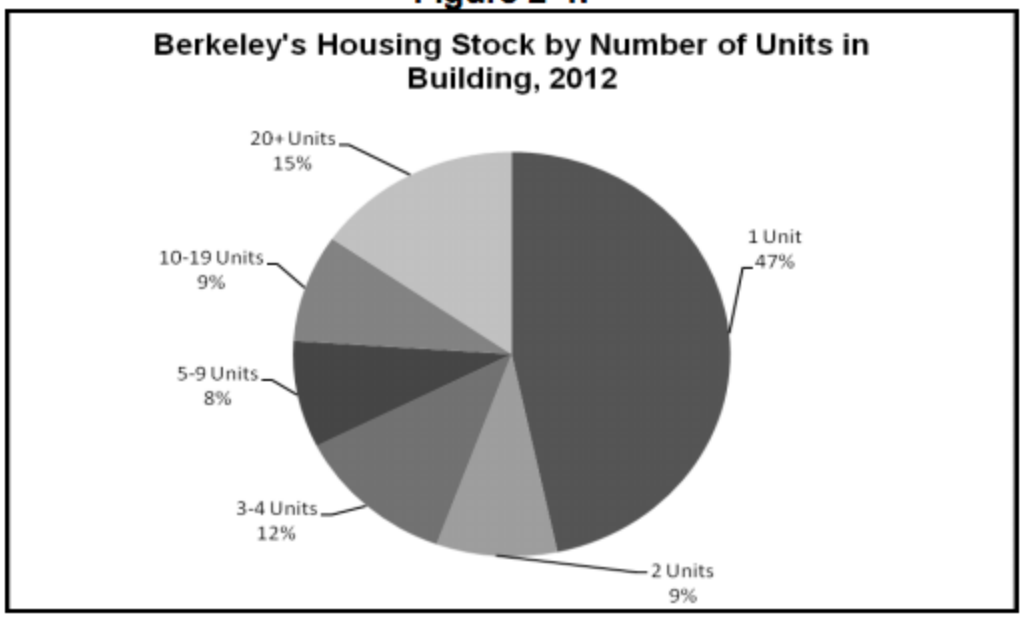
President and Fellows of Harvard College and the Massachusetts Institute of Technology. https://urbanpolicy.berkeley.edu/pdf/qrs_restat01pb.pdf

[20] Parolek, Dan. Opticos Design. http://missingmiddlehousing.com/

[21] Berkeley Home Prices and Values, https://www.zillow.com/berkeley-ca/home-values/

[22] City of Berkeley 2015 -2023 Housing Element. https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2015-2023%20Berkeley%20Housing%20Element_FINAL.pdf

Figure 2-4:



Source: US Census, ACS 2008-2012 5-Year Estimate., Table B25024

Missing middle housing includes duplexes, triplexes, courtyard apartments, bungalow courts, and multiplexes that often house people with a variety of incomes. These housing types generally have small- to medium-sized footprints and are often three stories or less, allowing them to blend into the existing neighborhood while still encouraging greater socioeconomic diversity. These types of homes exist in every district of Berkeley, having been built before they were banned in districts only allowing single family homes. Missing middle homes were severely limited in other districts by zoning changes initiated in 1973.

One study found that individuals trying to create missing middle housing cannot compete financially with larger projects in areas zoned for higher density, noting "many smaller developers have difficulty obtaining the necessary resources (including the competitive funding) required to offset the high initial per-unit development costs, and larger developers with deeper pockets and more experience navigating complex regulatory systems will almost always opt to build projects that are large enough to achieve the bulk per-unit development rate."[23] Additionally, missing middle housing is not permitted in areas zoned R1 (single family family only). Other factors that may prevent the creation of missing middle housing include onerous lot coverage ratios and excessive setback and parking requirements.[24]

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[23] The Montgomery Planning Dept., "The Missing Middle Housing Study," September 2018. http://montgomeryplanning.org/wp-content/uploads/2018/09/MissingMiddleHousingStudy_9-2018.pdf

[24] Ibid.

History of Exclusionary Zoning, Racial and Economic Segregation and Current Zoning

Prior to the 1970s, a variety of missing middle housing was still being produced and made available to families throughout the Bay Area, particularly in Berkeley. Many triplexes, etc exist in areas now zoned for single family residential (R-1), limited two-family residential (R-1A), and restricted two-family residential (R-2). These areas are now some of the most expensive parts of our city—especially on a per-unit basis.

Until 1984, Martin Luther King Jr Way was known as Grove Street. For decades, Grove Street created a wall of segregation down the center of Berkeley. Asian-Americans and African-Americans could not live east of Grove Street due to race-restrictive covenants that barred them from purchasing or leasing property.[25] While many people are aware of this sordid piece of Berkeley history, less know about Mason-McDuffie Company's use of zoning laws and racially-restrictive property deeds and covenants to prevent people of color from living in east Berkeley.

Mason-McDuffie race-restrictive covenants state: "if prior to the first day of January 1930 any person of African or Mongolian descent shall be allowed to purchase or lease said property or any part thereof, then this conveyance shall be and become void…"[26] In 1916, McDuffie began lobbying for the exclusionary zoning ordinances in Berkeley to protect against the "disastrous effects of uncontrolled development"[27] and restrict Chinese laundromats and African American dance halls, particularly in the Elmwood and Claremont neighborhoods.[28]

After Buchanan v Wareley in 1917, explicit racially restrictive zoning became illegal. However, consideration to maintaining the character of districts became paramount and Mason-McDuffie contracts still stipulated that property owners must be white.

In 1933, the federal government created a Home Owners Loan Corporation (HOLC), which produced residential maps of neighborhoods to identify mortgage lending risks for real estate agents, lenders, etc. These maps were based on racial composition, quality of housing stock, access to amenities, etc. and were color coded to identify best (green), still desirable (blue), definitely declining (yellow), and hazardous (red)

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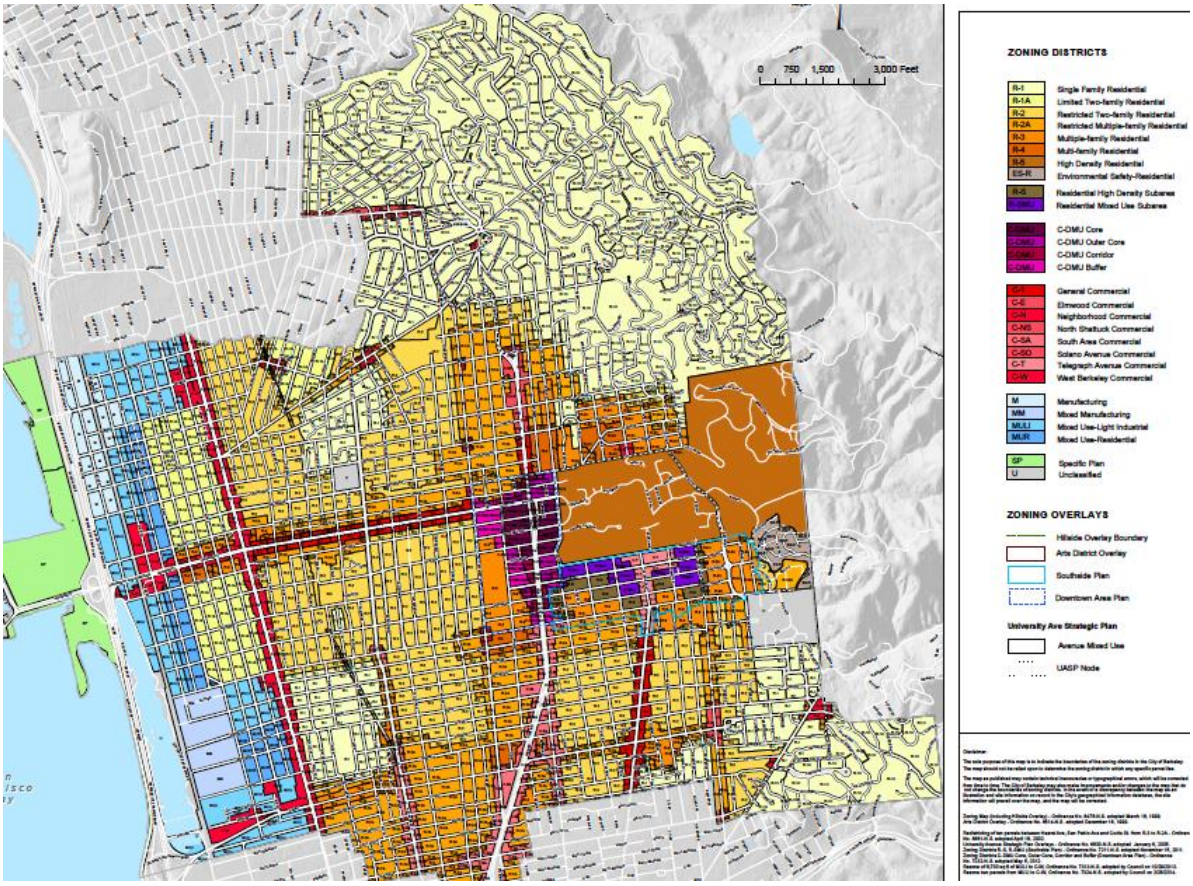
[25] Wollenberg, *Berkeley, A City in History,* 2008.
[26] Claremont Park Company Indenture, 1910
[27] Lory, Maya Tulip. "A History of Racial Segregation, 1878–1960." *The Concord Review*, 2013. http://www.schoolinfosystem.org/pdf/2014/06/04SegregationinCA24-2.pdf
[28] Weiss, M. A. (1986). Urban Land Developers and the Origins of Zoning Laws: The Case of Berkeley. Berkeley Planning Journal, 3(1). Retrieved from https://escholarship.org/uc/item/26b8d8zh

neighborhoods. These maps enabled discriminatory lending practices (later called ‘redlining’) and allowed lenders to enforce local segregation standards.[29]

Thomas Bros Map of Oakland, Berkeley, Alameda, San Leandro, Piedmont Emeryville Albany. https://dsl.richmond.edu/panorama/redlining/#loc=10/37.8201/-122.4399&opacity=0.8&sort=17&city=oakland-ca&adview=full in Robert K. Nelson, LaDale Winling, Richard Marciano, Nathan Connolly, et al., “Mapping Inequality,” American Panorama, ed. Robert K. Nelson and Edward L. Ayers, accessed January 24, 2019.

[29] NCRC Opening Doors to Economic Opportunity, “ HOLC “REDLINING” MAPS: The persistent structure of segregation and economic inequality.” Bruce Mitchell and Juan Franco. https://ncrc.org/wp-content/uploads/dlm_uploads/2018/02/NCRC-Research-HOLC-10.pdf



[The images above compare a HOLC-era map of Berkeley with a current zoning map. Neighborhoods identified as “best” in green on the HOLC-era map typically remain zoned as single family residential areas today. Red ‘hazardous’ neighborhoods in the first map are now largely zoned as manufacturing, mixed use, light industrial, or limited two family residential.]

Most cities still retain the vestiges of exclusionary zoning practices. By restricting desirable areas to single-family homes (and banning less expensive housing options, such as duplexes, tri-/four-plexes, courtyard apartments, bungalow courts, and townhouses), the current zoning map dictates that only wealthier families will be able to live or rent in Berkeley. Today, with the median sale price at $1.2 million, this de-facto form of segregation is even more pronounced.

According to the data mapped by the Urban Displacement Project, most of the low-income tracts in Berkeley are at-risk or have ongoing displacement and gentrification. Higher-income tracts in Berkeley are classified as ‘at-risk of exclusion’, currently feature ‘ongoing exclusion’, or are at stages of ‘advanced exclusion’. Degrees of exclusion are measured by a combination of data: the loss of low-income households over time, presence of high income households, being considered in a ‘hot housing market,’ and migration patterns. The Urban Displacement Project’s findings indicate that exclusion is

more prevalent than gentrification in the Bay Area.[30] While Berkeley has created policies and designated funding to prevent gentrification, policies that focus on preventing exclusion have lagged.

TENANT AND ANTI-DISPLACEMENT STRATEGIES

The types of zoning modifications that may result from the requested report could, as discussed above, significantly increase Berkeley's housing stock with units that are more affordable to low- and middle-income residents. However, staff's report should consider possible side effects and ways that policy can be crafted to prevent and mitigate negative externalities which could affect tenants and low-income homeowners. Steps must be taken to address the possibility that altering, demolishing, remodeling, or moving existing structures doesn't result in the widespread displacement of Berkeley tenants or loss of rent-controlled units. Staff should consider what measures are needed in conjunction with these zoning changes (e.g. strengthening the demolition ordinance, tenant protections or assistance, no net loss requirements or prohibiting owners from applying if housing was occupied by tenants five years preceding date of application).

ALTERNATIVE ACTIONS CONSIDERED

We considered an urgency ordinance but after consultation with City of Berkeley staff, we are recommending a report on potential zoning changes to inform future policy decisions, as opposed to immediate zoning revisions.

IMPLEMENTATION, ADMINISTRATION, AND ENFORCEMENT

Not applicable as this item requests an analytical report.

FINANCIAL IMPLICATIONS

Staffing or consulting costs to analyze zoning code and produce the report.

ENVIRONMENTAL SUSTAINABILITY

Berkeley declared a climate emergency in 2018. Among other concerns, wildfires and sea level rise are constant ecological threats to our community. The City of Berkeley needs to act urgently to address this imminent danger. Last year, climate researchers in Berkeley quantified local and state opportunities to reduce greenhouse gases from a "comprehensive consumption-based perspective."[31] The most impactful local policy to potentially reduce greenhouse gas consumption by 2030 is urban infill. In short,

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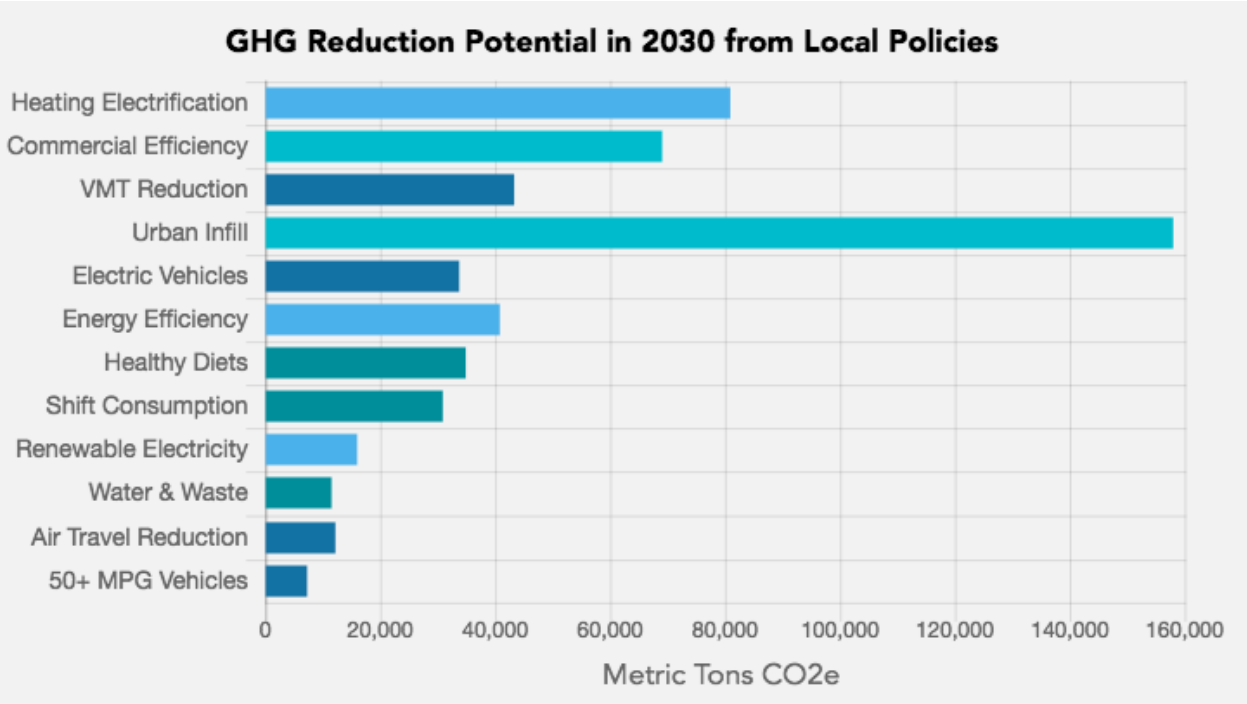
[30] Zuk, M., & Chapple, K. (2015). Urban Displacement Project. http://www.urbandisplacement.org/map/sf

[31] "Carbon Footprint Planning: Quantifying Local and State Mitigation Opportunities for 700 California Cities." Christopher M. Jones, Stephen M. Wheeler, and Daniel M. Kammen.Urban Planning (ISSN: 2183–7635) 2018, Volume 3, Issue 2. https://rael.berkeley.edu/wp-content/uploads/2018/04/Jones-Wheeler-Kammen-700-California-Cities-Carbon-Footprint-2018.pdf

Berkeley can meaningfully address climate change if we allow the production of more homes near job centers and transit.



CONTACT PERSON(S):
Lori Droste, 510-981-7180

ATTACHMENTS:
Minneapolis Plan:
https://minneapolis2040.com/media/1428/pdf_minneapolis2040_with_appendices.pdf

Seattle' Plan:
http://www.seattle.gov/Documents/Departments/SeattlePlanningCommission/SPCNeighborhoodsForAllFINAL121318digital.pdf

Berkeleyside

Opinion: We can design our way out of Berkeley's housing crisis with 'missing middle' buildings

A Berkeley architect argues that Berkeley should build more small-scale, multi-unit buildings such as duplexes, bungalow courts, fourplexes, and small mansion apartments.

By Daniel Parolek
Dec. 19, 2017

Berkeley's housing problems have gone national recently, as The New York Times' Conor Dougherty highlighted in a thought-provoking article, "The Great American Single-Family Home Problem." Dougherty examines the conflicting interests and regulations that threatened to halt the development of one lot on Haskell Street, and shows how those conflicting forces are contributing to the affordable housing crisis we are seeing in our state – and across the country.

As an architect and urban designer based in Berkeley for the past 20 years, I agree that California municipalities have an urgent need to deliver more housing. That said, just delivering more housing is not enough. We need to think about how this housing reinforces a high quality built environment and how to provide a range of housing for all segments of the market, including moderate and low-income households. More small-scale, multi-unit buildings such as duplexes, bungalow courts, fourplexes, and small mansion apartments, or what I call "Missing Middle Housing," should be a key focus of that housing.

Unfortunately, the design proposed for the Haskell Street site in Berkeley does not deliver on reinforcing a high quality built environment or affordability and, as the NYT article makes clear, does not deliver on any level of affordability. There are better design solutions that deliver a more compatible form, that have more and a broader range of housing units, and that can be more effective at building local support for this and similar infill projects.

For example, the 50' x 150' lot at 310 Haskell Street is big enough to accommodate a traditional fourplex, with two units down and two units above in a building that is the scale of a house (see image attached from our Missing Middle research). The units would typically be between 750-900 square feet each. An important characteristic of this housing type is that they do not go deeper onto the lot than a traditional house, thus eliminating the concern about privacy and shading and providing high-quality outdoor living spaces. These fourplex housing types exist all over Berkeley and are often successfully integrated onto blocks with single-family homes.

So how do we get there? Berkeley and most cities across the country need to sharpen their pencils on their outdated zoning codes, first to remove barriers for better solutions and secondly, to create a set of regulations that ensure that inappropriate design solutions like the one proposed for Haskell Street or even worse are not allowed on these sites. Lower densities do not equal better design solutions and higher densities do not need to mean larger or more buildings. This is a delicate balance that few zoning codes achieve and few code writers fully

understand.

We also need to change the way we communicate about housing needs in our communities. If we are using George Lakoff's rules for effective communication we would never go into a housing conversation with a community and use terms like "increasing density, adding multi-family, or upzoning a neighborhood." I can think of few neighborhoods that would feel good about saying yes to any of those options if they were framed in that way, but which can mostly get on board with thinking about aging within a neighborhood, or ensuring their kids or grandkids can afford to move back to the city they grew up in. Beginning this conversation by simply showing photographic and/or local existing documented examples of good Missing Middle housing types often disarms this conversation and leads to more fruitful results.

Berkeley's challenges related to housing are not going to go away anytime soon. We need to thoughtfully remove barriers to enable a broad range of solutions like the fourplex that have been a core part of choices provided in our communities already and learn how to effectively build consensus and support for good design solutions such as Missing Middle housing types.

Daniel Parolek is an architect and urban designer who co-authored the book "Form-Based Codes," coined the term Missing Middle Housing (www.missingmiddlehousing.com) and speaks and consults nationally on these topics.