Planning Commission

AGENDA

REGULAR MEETING OF THE PLANNING COMMISSION

This meeting is held in a wheelchair accessible location.

Wednesday, December 4, 2024
6:00 PM

North Berkeley Senior Center
1901 Hearst Avenue, Berkeley

See "MEETING PROCEDURES" below.

All written materials identified on this agenda are available on the Planning Commission webpage: https://berkeleyca.gov/your-government/boards-commissions/planning-commission

PRELIMINARY MATTERS

1. ***Roll Call:*** **Merker, Blaine,** appointed by Councilmember Kesarwani, District 1
Vincent, Jeff, **Chair,** appointed by Councilmember Taplin, District 2
Moore III, John E. "Chip", appointed by Councilmember Bartlett, District 3
Oatfield, Christina, appointed by Councilmember Harrison, District 4
Mikiten, Elisa, appointed by Councilmember Hahn, District 5
Marthinsen, Emily, appointed by Councilmember Wengraf, District 6
Twu, Alfred, appointed by Councilmember Robinson, District 7
Hauser, Savlan, appointed by Councilmember Droste, District 8
Ghosh, **Barnali, Vice Chair**, appointed by Mayor Arreguín

2. ***Land Acknowledgement:*** The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.

3. ***Order of Agenda:*** The Commission may rearrange the agenda or place items on the Consent Calendar.

4. ***Public Comment:*** Comments on subjects not included on the agenda. Speakers may comment on agenda items when the Commission hears those items. (*See “Public Testimony Guidelines” below):*

5. ***Planning Staff Report:*** In addition to the items below, additional matters may be reported at the meeting. **Next Commission meeting: February 5, 2025**

6. ***Chairperson’s Report:*** Report by Planning Commission Chair.

7. ***Committee Reports:*** Reports by Commission committees or liaisons. In addition to the items below, additional matters may be reported at the meeting.

8. ***Approval of Minutes***: Approval of Draft Minutes from the regular meeting on November 6, 2024.

9. ***Future Agenda Items and Other Planning-Related Events:*** None.

AGENDA ITEMS: *All agenda items are for discussion and possible action. Public Hearing items require hearing prior to Commission action.*

10.	***Action:***	**Public Hearing: Affordable Housing Fee**
	Recommendation:	Conduct a public hearing, discuss the proposed resolution which includes an amendment to the Berkeley Municipal Code (BMC) Chapter 23.328 Inclusionary Housing, and provide a recommendation to the City Council.
	Written Materials:	Attached.
	Presentation:	N/A
11.	***Discussion:***	**San Pablo Avenue Specific Plan Update**
	Recommendation:	Receive an update on the San Pablo Specific Plan and discuss.
	Written Materials:	Attached.
	Presentation:	N/A
12.	***Action:***	**Public Hearing: Tentative Tract Map #8717**
	Recommendation:	Hold a public hearing to consider Tentative Map #8717 pursuant to BMC Section 21.16.047.
	Written Materials:	Attached.
	Presentation:	N/A

ADDITIONAL AGENDA ITEMS: In compliance with Brown Act regulations, no action may be taken on these items. However, discussion may occur at this meeting upon Commissioner request.

Information Items: None.

Communications: General.

Late Communications: (Received after the packet deadline):

Late Communications: (Received and distributed at the meeting):
ADJOURNMENT

Meeting Procedures

Public Testimony Guidelines:
Speakers are customarily allotted up to two minutes each and may not cede their time to another speaker. The Commission Chair may limit the number of speakers and the length of time allowed to each speaker to ensure adequate time for all items on the Agenda. ***To speak during Public Comment or during a Public Hearing, please line up behind the microphone.*** Customarily, speakers are asked to address agenda items when the items are before the Commission rather than during the general public comment period. Speakers are encouraged to submit comments in writing. See "Procedures for Correspondence to the Commissioners" below.

Consent Calendar Guidelines:
The Consent Calendar allows the Commission to take action with no discussion on projects to which no one objects. The Commission may place items on the Consent Calendar if no one present wishes to testify on an item. Anyone present who wishes to speak on an item should submit a speaker card prior to the start of the meeting, or raise his or her hand and advise the Chairperson, and the item will be pulled from the Consent Calendar for public comment and discussion prior to action.

Procedures for Correspondence to the Commissioners:
To distribute correspondence to Commissioners prior to the meeting date, submit comments by 12:00 p.m. (noon), eight days before the meeting day (Tuesday) (email preferred):

- If correspondence is more than 20 pages, requires printing of color pages, or includes pages larger than 8.5x11 inches, please provide 15 copies.
- Any correspondence received after this deadline will be given to Commissioners on the day just prior to the meeting.
- Staff will not deliver to Commissioners any additional written (or emailed) materials received after 12:00 p.m. (noon) on the day of the meeting.
- Members of the public may submit written comments themselves early in the meeting. To distribute correspondence at the meeting, please provide 15 copies and submit to the Planning Commission Secretary just before, or at the beginning of, the meeting.

- Written comments should be directed to the Planning Commission Secretary, at the Land Use Planning Division (Attn: Planning Commission Secretary).

Communications are Public Records: Communications to Berkeley boards, commissions, or committees are public records 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 a City board, commission, or committee, 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 Secretary of the relevant board, commission, or committee. <u>If you do not want your contact information included in the public record, please do not include that information in your communication.</u> Please contact the Secretary to the relevant board, commission, or committee for further information.

Written material may be viewed in advance of the meeting at the Department of Planning & Development, Permit Service Center, **1947 Center Street, 3rd Floor**, during regular business hours.

Note: If you object to a project or to any City action or procedure relating to a project application, any lawsuit which you may later file may be limited to those issues raised by you or someone else in the public hearing on the project, or in written communication delivered at or prior to the public hearing. The time limit within which to commence any lawsuit or legal challenge related to these applications is governed by Section 1094.6, of the Code of Civil Procedure, unless a shorter limitations period is specified by any other provision. Under Section 1094.6, any lawsuit or legal challenge to any quasi-adjudicative decision made by the City must be filed no later than the 90th day following the date on which such decision becomes final. Any lawsuit or legal challenge, which is not filed within that 90-day period, will be barred.

***Meeting Access*: 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 981-6418 (V) or 981-6347 (TDD), at least three business days before the meeting date.**

Please refrain from wearing scented products to public meetings.

Planning Commission

DRAFT MINUTES OF THE REGULAR PLANNING COMMISSION MEETING
November 6, 2024

The meeting was called to order at 6:04 p.m.

Location: North Berkeley Senior Center, 1901 Hearst Avenue, Berkeley, CA 94709

- **ROLL CALL:**
  Commissioners Present: Blaine Merker, Jeff Vincent, Chip Moore, Janis Ching, Emily Marthinsen (arrived at 6:04 p.m.), Elisa Mikiten, Alfred Twu, Savlan Hauser, and Barnali Ghosh.

  Commissioner Absent: Christina Oatfield (excused).

  Staff Present: Secretary Justin Horner, Clerk Zoe Covello, Branka Tatarevic, Faye Messner, Ashley James, Claudia Garcia, Alene Pearson.

- **LAND ACKNOWLEDGEMENT.**

  The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.

- **ORDER OF AGENDA:**
  - Chair Vincent clarified the process for Item 10. Staff's presentation covers both part A and B, the commissioners ask clarifying questions, a public hearing is held, and then the commissioners discuss.

- **PUBLIC COMMENT PERIOD:** 0.

- **PLANNING STAFF REPORT:**
  - December Planning Commission Agenda
    - Discussion Item: San Pablo Avenue Specific Plan
    - Action Item: Affordable Housing Requirements
    - Action Item: Tentative Tract Map
  - Upcoming Events
    - San Pablo Avenue Specific Plan Walking Tour will be held on Saturday, November 16th from 10:30 am -12 pm
  - Upcoming City Council Agenda Items
    - Development Agreement Procedure Revisions – November 19, 2024
    - Keeping Innovation in Berkeley – December 3, 2024

Information Items:

- None.

Communications:

- General.

Late Communications:

- Supplemental 1.
- Supplemental 2.

- **CHAIR REPORT:**
  - Chair Vincent commented on the public process, public participation, and our democracy, acknowledging that this was a difficult day. Urges people to participate in the process of democracy but urges residents to be civil, citing recent extreme treatment of City Councilmembers.

- **COMMITTEE REPORT:** Reports by Commission committees or liaisons. In addition to the items below, additional matters may be reported at the meeting.

  - None.

8. APPROVAL OF MINUTES:

Motion/Second/Carried (Mikiten/Twu) to approve the Planning Commission Meeting Minutes from October 9, 2024. Ayes: Vincent, Moore, Mikiten, Marthinsen, Twu, Hauser, and Ghosh. Noes: None. Abstain: Merker and Ching. Absent: None. (7-0-2-0)

9. OTHER PLANNING RELATED EVENTS:

- None.

AGENDA ITEMS

10. Public Hearing: Gilman Gateway

Senior Planner Ashley James presented on proposed amendments to the Zoning Ordinance, Zoning Map, West Berkeley Plan and General Plan related to the Gilman Gateway Rezone Project. Principal Planner Claudia Garcia presented on the Draft Environmental Impact Report (DEIR) for the Gilman Gateway Rezone Project. The Commissioners took public comment, asked questions and made comments including, but not limited to: whether the DEIR studied shorebird migration and glass collision; phasing and the protection of resources during construction as mitigation measures; height exceptions for development greater than 9 acres; existing onsite uses and potential uses for the smaller parcels on the site; continuation of all current M zone uses in the new zone; and the impact this rezoning would have on current residents of the site. There were six public commenters.

Motions/Second/Carried (Vincent/Ghosh) to close the public hearing at 7:31 pm.

Ayes: Merker, Vincent, Moore, Ching, Mikiten, Marthinsen, Twu, Hauser, and Ghosh. Noes: None. Abstain: None. Absent: None. (9-0-0-0)

Motions/Second (Twu/Moore) to recommend that City Council adopt staff's recommendation, and direct staff to:

1. Conduct research on providing more robust TDM and opportunities to reduce parking requirements and parking onsite,
2. Look into landscaping and outdoor space requirements on the site, and
3. Have the staff report clarify incidental uses and the legal nonconforming aspect of that

at 8:30 pm.

Ayes: Merker, Vincent, Moore, Ching, Mikiten, Marthinsen, Twu, Hauser, and Ghosh. Noes: None. Abstain: None. Absent: None. (9-0-0-0)

Public Comments: 6

11. Action: Work Plan and Calendar

Principal Planner Justin Horner presented on the Planning Commission 2024-2025 Work Plan and 2025 Planning Commission Calendar. The Commissioners asked questions and discussed and adopted the 2024 Planning Commission Calendar. There were no public commenters.

Motions/Second (Twu/Moore) to approve the 2025 Planning Commission Calendar as follows at 8:51 pm.

Wednesday, January 15, 2025
Wednesday, February 5, 2025
Wednesday, March 5, 2025
Wednesday, April 16, 2025
Wednesday, May 7, 2025
Wednesday, June 4, 2025
Wednesday, July 16, 2025
August Recess
Wednesday, September 17, 2025
Wednesday, October 8, 2025
Wednesday, November 5, 2025
Wednesday, December 3, 2025

Ayes: Merker, Vincent, Moore, Mikiten, Marthinsen, Twu, Hauser, and Ghosh. Noes: None. Abstain: Ching. Absent: None. (8-0-1-0)

Motion/Second/Carried (Vincent/Moore) to adjourn the meeting at 8:54 pm.

Ayes: Merker, Vincent, Moore, Ching, Mikiten, Marthinsen, Twu, Hauser, and Ghosh. Noes: None. Abstain: None. Absent: None. (9-0-0-0)

Members in the public in attendance: 14
Public Speakers: 6
Length of the meeting: 2 hr 50 min

Planning and Development Department
Land Use Planning Division

STAFF REPORT
December 4, 2024

TO: Members of the Planning Commission

FROM: Alisa Shen, Planning and Development Department

SUBJECT: Amendment to BMC Chapter 23.328 Inclusionary Housing

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RECOMMENDATION

Conduct a public hearing, discuss the proposed resolution (***Attachment 1***) which includes an amendment to the Berkeley Municipal Code (BMC) Chapter 23.328 Inclusionary Housing, and provide a recommendation to the City Council.

CURRENT SITUATION AND ITS EFFECTS

On February 28, 2023, the Berkeley City Council adopted the affordable housing requirements for new market-rate construction, transitioning from the Affordable Housing Mitigation Fee (AHMF) ordinance to the Inclusionary Housing Ordinance (IHO).[1] Concurrently, the City Council directed staff to conduct a subsequent feasibility analysis of the recently adopted inclusionary housing In-Lieu Fee. The subsequent analysis would 1) reflect (updated) prevailing market conditions; 2) study the In-Lieu Fee's impact on Middle Housing production[2]; and 3) study the impact of other recently adopted policy changes affecting market-rate housing development, including the HARD HATS ordinance, Bird Safe Building ordinance, and prevailing wage requirements within the Southside Plan Area.

The City retained Strategic Economics and Street Level Advisors to analyze impacts of these requirements on the financial feasibility of new market-rate housing development, and to provide recommendations about the City's affordable housing In-Lieu Fee amount and application. The study's four recommendations propose limited changes to the application of the In-Lieu Fee and an associated amendment to the City's Zoning Ordinance (Title 23). The amendment to BMC Chapter 23.328 would eliminate BMC Sec. 23.328.050.F.2, which consists of an exemption to Chapter 23.328 (Inclusionary Zoning) for Housing Development Projects with 5,000 square feet or less of Residential

[1] Resolution No. 70,698-N.S and Ordinance No. 7, 854-N.S.
[2] For purposes of this analysis, Middle Housing refers to housing projects with two to 19 units on sites equivalent to one or two single-family lots.

Unit Floor Area, and instead establish via separate Resolution an exemption from the fee for the first 5,000 square feet of all Housing Development Projects that pay the full fee. The analysis and recommendations are described in detail the attached December 2, 2024 Housing Advisory Committee staff report (***Attachment 2***). Staff presented this analysis and recommendations to the City Council at Work Session on May 21, 2024. Staff are now seeking review and input from the Housing Advisory Commission and the Planning Commission to adopt an amended In-Lieu Fee with accompanying recommendations for project feasibility.

NEXT STEPS

Hold a public hearing and provide a recommendation to the City Council on the proposed resolution and zoning ordinance amendment (***Attachment 1***).

CONTACT PERSON

Alisa Shen, Principal Planner, Planning and Development Department, 510-981-7409

Attachments:

1. Planning Commission Resolution 2024-04 with Exhibit A: Draft Ordinance Amending BMC Chapter 23.328 Inclusionary Housing
2. December 2, 2024 Housing Advisory Commission Report, Inclusionary Housing In-Lieu Fee Recommendations
3. Public Hearing Notice.

ATTACHMENT 1

PLANNING COMMISSION
RESOLUTION # 2024-04

A RESOLUTION OF THE CITY OF BERKELEY PLANNING COMMISSION RECOMMENDING THE CITY COUNCIL ADOPT PROPOSED AMENDMENT TO BERKELEY MUNICIPAL CODE CHAPTER 23.328 INCLUSIONARY HOUSING

WHEREAS, Berkeley Municipal Code ("BMC") Chapter 23.328 establishes a requirement that 20% of Residential Units (as defined) in market-rate developments be offered for rent or sale at affordable rents or prices, as defined ("Affordable Units"); and

WHEREAS, BMC Chapter 23.328 authorizes the City Council to establish by resolution preferences for renting Affordable Units offered for rent to tenants receiving assistance under the Section 8 Program (42 U.S.C. Section 1437f), the Shelter Plus Care Program (42 U.S.C. Section 11403 et. seq.), or similar state or federally-funded rent subsidy programs; and

WHEREAS, BMC Chapter 23.328 authorizes developers of market-rate housing to pay a fee in lieu of complying with the requirement to provide on-site affordable housing ("In-Lieu Fee"); and

WHEREAS, this project is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA; and

WHEREAS, the Planning Commission held a public hearing and considered all public comments received, the presentation by City staff, the staff report, and all other pertinent documents regarding the proposed request; and

WHEREAS, a public hearing notice was published in the Berkeley Voice and posted in three public places pursuant to California Government Code Section 65090 on November 22, 2024 for the public hearing held on December 4, 2024.

NOW, THEREFORE, IT BE RESOLVED that the Planning Commission does hereby recommend that the City Council adopt the Development Agreement Ordinance amendments attached hereto as Exhibit A.

Pursuant to Berkeley Municipal Code Section 23.412.060, the Planning Commission makes the following findings to support its recommendation for the zoning ordinance amendments:

(1) **The proposed amendments are consistent with the General Plan and any applicable specific plan or area plan.** The zoning ordinance amendment is consistent and compatible with the General Plan, as the proposed amendment will implement General Plan Housing Element Program 3.

(2) **The proposed amendments are consistent with state law.** The zoning ordinance amendment is consistent with state law that authorizes the legislative body of any city to adopt an inclusionary housing ordinance that includes residential rental units affordable to lower- and moderate-income households,

and also includes alternative means of compliance such as in-lieu fees pursuant to Gov. Code, § 65850, subd. (g).

(3) **The proposed amendments will not be detrimental to the public interest, health, safety, convenience, or welfare**. The zoning ordinance amendments serve the public interest by facilitating development of affordable housing by ensuring that proposed application of the In-Lieu fee reflects economic feasibility.

(4) **The proposed amendment Is internally consistent with other applicable provisions of the Zoning Ordinance.** The proposed zoning amendment removing BMC Sec. 23.328.050.F.2, which consists of an exemption to Chapter 23.328 (Inclusionary Zoning) for Housing Development Projects with 5,000 square feet or less of Residential Unit Floor Area, is consistent with other applicable provisions of the Zoning Ordinance.

I HEREBY CERTIFY the foregoing resolution was passed and adopted by the Planning Commission of the City of Berkeley, at a regular meeting thereof, held on the 4th day of December 2024 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

____

Alisa Shen, Principal Planner
SECRETARY TO THE PLANNING COMMISSION

EXHIBIT A
DRAFT ORDINANCE

ORDINANCE NO. -N.S.

INCLUSIONARY HOUSING

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

Section 1. That Berkeley Municipal Code Section 23.328.050(F) is amended to read as follows:

BMC Section 23.328.050(F) *Exemptions*

The following types of Housing Development Projects and Residential Units are exempt from this Chapter:

1. A Housing Development Project for which either a building permit was issued on or before April 1, 2023 or a preliminary application including all of the information required by subdivision (a) of California Government Code section65941.1 was submitted on or before April 1, 2023 shall be subject to this Chapter's requirements that were in place as of the preliminary application's submittal date but shall otherwise be exempt from this Chapter. This exemption shall expire upon the occurrence of any of the circumstances defined in paragraphs (2), (6), or (7) of subdivision (o) of California Government Code section 65589.5 or in subdivision (d) of California Government Code section 65941.

~~2. A Housing Development Project with 5,000 square feet or less of Residential Unit Floor Area, unless it is part of a larger Housing Development Project. This exemption shall expire on April 1, 2025, or at such time as the City Council modifies or repeals this exemption, whichever date is sooner.~~

2~~,3~~. A Residential Unit that replaces a unit existing as of April 1, 2023 that has been destroyed by fire, earthquake or other disaster, or that was previously subject to a mitigation fee or inclusionary housing requirement.

3~~4~~. A Residential Unit existing as of April 1, 2023 that is expanded, renovated, or rehabilitated.

Section 2. 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.

Health, Housing, and
Community Services Department
Housing & Community Services Division

MEMORANDUM

To: Housing Advisory Commission

From: Mike Uberti, Senior Community Development Project Coordinator

Date: December 2, 2024

Subject: **Inclusionary Housing In-Lieu Fee Recommendations**

RECOMMENDATION

Recommend the City Council take the following actions:

- Adopt a resolution setting the Inclusionary Housing In-Lieu fee at $56.25 per square foot of the Residential Unit Floor Area (RUFA) of a Housing Development Project; and
- Include a provision in the resolution to allow a project paying the full In-Lieu fee instead of providing Affordable Units to deduct 5,000 square feet from the RUFA calculation; and
- Include a provision in the resolution dedicating 80% of Very Low-Income Units for Section 8 and Shelter Plus Care voucher holders
- Continue to adjust the fee biennially by the Construction Cost Index (CCI) starting on July 1, 2025; and
- Adopt an amendment to Berkeley Municipal Code (BMC) Chapter 23.328 to remove the exemption for projects with 5,000 square feet or less of RUFA

CURRENT SITUATION AND ITS EFFECTS

On February 14, 2023, the Berkeley City Council updated the affordable housing requirements for new market-rate construction, transitioning from the Affordable Housing Mitigation Fee (AHMF) ordinance to the Inclusionary Housing Ordinance (IHO).

This shift established on-site Below Market Rate (BMR) housing requirements and introduced an alternative In-Lieu fee payment option. The In-Lieu fee calculation changed from per unit to per square foot of Residential Unit Floor Area (RUFA), with a set fee of $56.25 per square foot, adjusted biennially with the California Construction Cost Index (CCI).

The fee determination was based on the 2020 AHMF equivalent for typically sized units,

to account for market shifts post-COVID-19. Council directed Staff to conduct a feasibility analysis of the In-Lieu fee in light of current market conditions.
A temporary exemption (until April 1, 2025) was adopted for projects under 5,000 square feet to evaluate the In-Lieu fee's impact on Middle Housing production. For purposes of this analysis, Middle Housing refers to housing projects with two to 19 units on sites equivalent to one or two single-family lots.

In addition to the IHO, the City Council recently adopted further policy changes affecting market-rate housing development, including the HARD HATS ordinance, Bird Safe Building ordinance, and prevailing wage requirements within the Southside Plan Area.

The City retained Strategic Economics and Street Level Advisors to analyze the impacts of these requirements on the financial feasibility of new market-rate housing development. Their task was to provide recommendations for the City's affordable housing In-Lieu fee amount and application.

Staff presented this analysis and recommendations to the City Council at Work Session on May 21, 2024. Each Councilmember had the opportunity to meet with staff and the consultants following the Work Session to further review the material and ask additional questions.

Staff are now seeking review and input from the Housing Advisory Commission and the Planning Commission to adopt an In-Lieu fee with accompanying recommendations for project feasibility.

Recommendations

This memo provides a summary of the recommendations, findings, and methodology. Strategic Economics and Street Level Advisors report is included as Attachment 3.

The recommendations were drafted considering the financial feasibility analysis and the following policy goals:

- Continue producing affordable housing through on-site BMR units and In-Lieu fees, which leverage external funding for 100% affordable housing developments.
- Support the financial feasibility of market-rate housing to a) generate on-site BMR units or In-Lieu fee funding; and b) expand Berkeley's housing stock.
- Offer flexibility for projects to choose between multiple compliance options depending on different circumstances.
- Promote the development of Middle Housing product types that add between two and 19-unit housing options in Berkeley's neighborhoods.

Recommendation 1: Apply the same In-Lieu fee level to all housing development Projects

- Remove the current In-Lieu fee exemption for projects under 5,000 square feet.
- Remove the tiered fee scale for projects between 5,000 and 12,000 square feet.
- Apply the same In-Lieu fee level to all housing development projects.
- Goal: This simplification removes the incentive to manipulate project sizes to avoid higher fees, promoting clarity and fairness in fee application. It will also facilitate a more streamlined application process for City staff.

Recommendation 2: Support Middle Housing by exempting 5,000 square feet of RUFA from the In-Lieu fee calculation for any project opting to pay the full fee

- Exempt 5,000 square feet of RUFA from the In-Lieu fee for projects opting to pay the full fee instead of providing on-site BMR units.
- Goal: This exemption encourages the development of Middle Housing by facilitating relatively lower fees for Middle Housing projects while maintaining fees for mid-rise and high-rise projects, which typically provide on-site BMR units to access the State Density Bonus ("Density Bonus"). The Density Bonus allows for increased project density in exchange for on-site BMR units, and is commonly used for Berkeley's multi-family housing development. Since Density Bonus provides significant benefits for larger projects, most will likely continue to opt to provide on-site BMR units and pay a pro-rated In-Lieu fee for the remaining obligation.

Recommendation 3: Maintain the existing $56.25 maximum In-Lieu fee level as the universally applicable In-Lieu fee.

- Maintain the maximum In-Lieu fee level at $56.25 per square foot, and apply this to all development projects. This is the equivalent of the maximum fee in the current tiered fee scale.
- Goal: Maintaining the current fee level ($56.25 per square foot) achieves close consistency with the maximum justifiable fee determined by applying an Average Local Contribution to Affordable Housing approach ($58.59 per square foot), but avoids imposing new development costs, especially during challenging development conditions. This allows the City to maintain a fee that is approximately equivalent to the City's typical direct contributions to the cost of leveraging off-site affordable housing units at deeper affordability levels. It ensures the City will maintain its primary affordable housing funding source, mitigating the risk of lost opportunity to secure funding when market conditions shift.

Recommendation 4: Regularly Adjust In-Lieu Fee Based on Construction Cost Index

- Continue the current policy of adjusting the In-Lieu fee every two years based on the California Construction Cost Index (CCCI).
- Goal: The City's average per unit Housing Trust Fund contribution continues to increase as nonprofit development must manage market fluctuations (e.g., labor, materials, financing costs). Adjusting the fee consistent with CCCI facilitates the City's ability to adequately support future HTF projects as development costs shift. This practice supports the fee's ability to address affordable housing needs over time but does not guarantee it will align with the City's HTF costs. This is because the CCCI is a generalized index of labor and materials costs that cannot fully account for all project costs or the unique circumstances of specific local projects.

Staff are including an additional recommendation in addition to the four recommendations from the Strategic Economics/Street Level Advisors analysis.

Recommendation 5 (Staff Recommendation): Dedicate 80% of Very-Low Income Units to Section 8 and Shelter Plus Care Voucher Holders

- Make the reservations equally split between Shelter Plus Care (40%) and Section 8 (40%). This is consistent with the City's previous policy under the Affordable Housing Mitigation Fee Ordinance.
- Goal: To ensure the City's affordable housing program serves a broad range of community members, Staff recommend adjusting the voucher allocation for Very Low-Income units from 100% to 80%. This revision will allow the City to prioritize not only voucher holders but also other populations the City intends to support through the affordable housing preference policy, including displaced community members and those facing displacement. By reserving 20% of the units for non-voucher holders, the City can ensure a more balanced approach that aligns with its commitment to inclusivity and equity in housing opportunities.

Figure 1: Current In-Lieu Fee Policy and Recommended Changes

POLICY	CURRENT IN-LIEU FEE	RECOMMENDATION
In-Lieu Fee Amount	$0 per square foot for projects below 5,000 square feet (residential unit floor area) $38.75 for projects between 5,000 and 5,999 square feet, and then incrementally increases for each thousand square feet between 6,000 up to 11,999 square feet $56.25 for projects of 12,000 square feet or more	$56.25 per square foot for all projects
Application to Projects Opting to Pay The Full Fee And Provide No Qualifying On-Site Inclusionary Units	See above	The first 5,000 square feet would be exempt from the In-Lieu fee for any project opting to pay the full fee instead of providing any on-site inclusionary units (Density Bonus projects would not qualify for the exemption)
Fee Level Adjustment Over Time	The In-Lieu fee is adjusted every two years based on the California Construction Cost Index	Maintain the CCCI adjustment.
Voucher Allocation	100% of Very Low Income Units (50% for Shelter Plus Care/50% for Section 8)	80% of Very Low Income Units (40% for Shelter Plus Care/40% for Section 8)

Findings

The analysis' findings examine the in-lieu fee from multiple perspectives, including consideration of comparability with the costs of providing on-site BMR units, the cost to produce an off-site affordable housing unit via fee revenue, financial feasibility conditions, and consideration of barriers and opportunities to support Middle Housing.

Justifiable Fee Ranges

The analysis used three approaches to determine a range of potential maximum justifiable in-lieu fee levels. The justifiable In-Lieu fee level is based on an analysis determining the per-square-foot fee equivalent to providing an on-site unit. These fee levels should be considered within the context of external factors influencing housing development. These factors and the methodology of each approach are summarized below.

- Affordability Gap: the maximum justifiable in-lieu fee for the rental prototypes is $117.69 per square foot.

- Production Cost: the maximum justifiable in-lieu fee for the rental prototypes is $103.77 per square foot.

- Average Local Contribution to Affordable Housing: a fee of $58.59 per square foot is approximately equivalent to the City's typical direct contributions to the cost of leveraging off-site affordable housing units. This is approximate to the current maximum fee level of $56.25. The HTF per unit contribution has consistently increased over time to reflect the same market increases (e.g., labor, materials, financing) the private market is experiencing.

Medium Density Middle Housing

Smaller Middle Housing products — Small Lot Single Family and Fourplex/Townhomes — demonstrate financial capacity to support an In-Lieu fee when built as ownership products, but these housing types are rarely built due to other challenges. The financial feasibility analysis cannot capture the qualitative factors preventing the development of these housing types. The survey of development activity shows that these types of small infill projects are not often built in Berkeley, despite their strong financial performance as a high-end ownership product.

The mismatch between financial performance and actual outcomes is attributable to factors including the lack of small-scale developers with capacity and interest in this type of development and the limited inventory of lower-cost underutilized sites available for sale in existing neighborhoods.

The financial performance of larger Middle Housing products, such as the 10-unit small multifamily, were more limited by financial constraints of current development and market conditions (e.g., construction costs, financing) and did not benefit from economies of scale.

HARD HATS, Prevailing Wage, and Bird Safe Building

HARD HATS and prevailing wage requirements are most readily met through use of union labor, although some non-union contractors can also comply. Meeting the requirements would likely increase development costs at a level comparable to switching from a largely non-union labor to union labor for a midrise development project, increasing hard costs (i.e., labor and materials). This would increase costs by approximately 18 to 25 percent for midrise projects that would otherwise use non-union labor for most trades. These cost increases are the same whether the project invokes one or both requirements if union labor is used.

Cost impacts will be relatively limited for high-rise construction projects since a larger share of trades for these projects typically use union labor. However, smaller mid-rise projects are more likely to use a higher percentage of non-union trades for their development. The additional costs driven by HARD HATS/prevailing wage could become a significant factor for determining when or whether a mid-rise project is built as market conditions shift. Over the past five years, these mid-rise projects comprised approximately two-thirds of new permitted housing units in Berkeley, so these policies could have implications for the timing of future housing production.

Despite this finding, the cost premium associated with meeting HARD HATS and prevailing wage requirements is likely to decline over time due to a variety of state legislation and legislation in other cities that will incentivize or expand use of contractors meeting or exceeding these labor standards. California housing legislation, such as AB 2011 and SB 6, imposes labor requirements like prevailing wages and employing skilled and trained labor. As more cities adopt similar measures, a larger pool of contractors may qualify under HARD HATS requirements—potentially increasing competition and reducing associated costs.

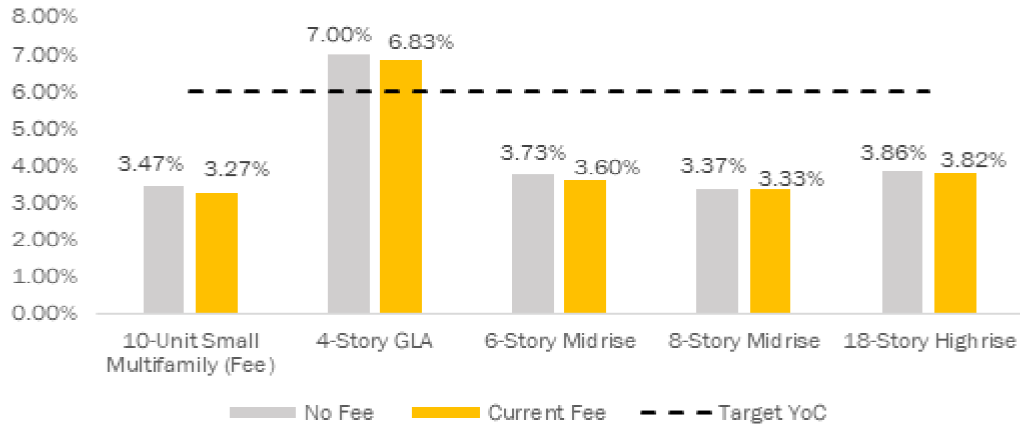
The additional development costs associated with the HARD HATS, prevailing wage, and Bird Safe Glass requirements are not likely to pose an insurmountable barrier to future market-rate residential development in Berkeley when development conditions improve, but the requirements will constrain the likelihood and pace of future housing production.

The Bird Safe Building requirement adds approximately 1.5 percent to construction hard costs (i.e., materials). The costs associated with the policy likely will not determine whether a project is built.

State Density Bonus Impact

The Density Bonus provides significant incentives (e.g., development capacity, waivers, concessions) for larger development projects in Berkeley to provide on-site BMR units. Most mid-rise and high-rise developments will opt to provide on-site BMR units and a pro-rated In-Lieu fee, regardless of the In-Lieu level, to leverage the Density Bonus incentives.

Figure 2. Impact of In-Lieu Fee on Financial Feasibility of Applicable Prototypes



Source: Strategic Economics, 2024.

This analysis provides a snapshot in time of current market conditions. Sensitivity analysis demonstrates that feasibility shifts as development costs, achievable rents and sales prices, and thresholds for financial return change. In 2023, the City received 25 applications for 2,224 new units and entitled 2,093 units. This pipeline demonstrates that the static models are intended as a guiding barometer of potential market activity rather than a concrete expectation. These factors should be considered when determining an appropriate fee amount.

Trade-Offs

Raising the fee may limit a potential project moving forward. Alternatively, rescinding or lowering the fee does not guarantee a project will be feasible. The myriad factors influencing the market (i.e., construction, financing, rates of return) are dynamic and shift over time.

Setting a high fee may encourage developers to include on-site BMR units, expanding the community's affordable housing stock in mixed-income developments. It also heightens development feasibility challenges and project completion delays. Setting a low fee can better support development feasibility, but would reduce the number of HTF units the City can subsidize when the In-Lieu fee is paid; and setting the fee too low also risks missing out on potential affordable housing funding during favorable development conditions. Limiting In-Lieu fee revenue restricts the City's ability to support and leverage external funding for more deeply affordable housing in 100 percent affordable projects.

The Commission and City Council should consider these trade-offs when determining an In-Lieu fee amount.

Methodology

Development Prototypes
The study used seven development prototypes to evaluate the financial feasibility impacts of the examined policies and identify development barriers. The prototypes were determined by reviewing Berkeley's recent development trends. Mid-rise (4- to 8-stories) prototypes and the high-rise prototype (18 stories) were modeled on recent projects entitled and completed in Berkeley. Middle Housing prototypes were based on a mix of recent examples in Berkeley and outside examples, given the rarity of these projects in Berkeley. Middle Housing prototypes included the Small-Lot Single Family, Fourplex/Townhomes, and 10-unit Small Multifamily prototypes. These prototypes may not be attainable under potential zoning amendments. Figure 3 provides an overview of the development prototypes.

The mid-rise and high-rise prototypes (four stories and above) incorporate the Density Bonus.

Figure 3. Development Prototypes Summary

Prototype	Description
Small-Lot Single Family*	Multiple single-family homes on a standard single-family lot size.
Fourplex/Townhomes*	Stacked townhomes on a standard single-family lot size.
10-Unit Small Multifamily*	3-story multiplex with surface parking.
4-Story Group Living Accommodation (GLA)	Micro-studio units with shared common spaces. Assumed to use Density Bonus.
6-Story Mid-Rise	Podium style mid-rise. Assumed to use Density Bonus.
8-Story Mid-Rise	Podium style mid-rise. Assumed to use Density Bonus.
18-Story High-Rise	Type 1 high-rise. Assumed to use Density Bonus.

* Prototype is designed to represent a Missing Middle housing type.
Source: Strategic Economics, 2024.

Pro Forma Analysis
A pro forma model tested the financial feasibility of each prototype against the 1) range of In-Lieu fee options (as identified below) and 2) HARD HATS, Bird Safe, and prevailing wage requirements. The pro forma inputs reflected today's market conditions including prices/rents, construction costs, and financing costs.

Cost and revenue assumptions were informed by a review of existing reports, recent development activity, market data, and 13 interviews with developers, general contractors, and architects with experience working in Berkeley and the broader Bay Area. Detailed information about the development prototypes and proforma analysis is provided in Attachment 3.

Feasibility Threshold
Financial feasibility was assessed by considering current market thresholds for financial return requirements, which are shaped by broader market conditions and encompass the range of investment options available to developers and investors. This evaluation employed two metrics: "yield on cost" for rental prototypes and "return on cost" for ownership prototypes. Yield on cost was calculated by dividing the expected net annual operating income at full lease-up by total development costs, while return on cost was determined by dividing the expected net sales revenue by total development costs.

To establish reasonable thresholds for developer returns in Berkeley, Strategic Economics interviewed local developers, reviewed comparable financial analyses in the Bay Area, and examined publications on the local and regional real estate market. As a result, rental projects were deemed feasible at a yield on cost of at least six percent, while ownership projects were considered viable at a return on cost of at least eight percent.

Sensitivity Analysis
Strategic Economics conducted a sensitivity analysis to provide context for the factors influencing the financial performance of the prototypes (e.g., construction costs, labor, rents) and how changing conditions influence the performance of the prototypes.

Development costs, revenues, and required return on investment change over time, and each change influences development feasibility outcomes. Development does not occur in a vacuum. Every housing project is subject to its own unique development and market conditions that cannot be completely accounted for by static prototype modeling. The findings and recommendations account for these considerations.

Fee Calculations
The analysis used three approaches to determine justifiable fee ranges.

- **Affordability Gap**: This method calculates the maximum In-Lieu fee by comparing the revenues generated from market-rate and affordable rents for a typical new housing unit. The justifiable fee is set at the equivalent revenue loss incurred by providing an on-site BMR unit in a market-rate project, reflecting the perspective of for-profit developers.

- **Production Cost Gap**: This method determines the maximum in-lieu fee by considering the difference between affordable rents and the cost to produce an income-restricted housing unit. It represents the difference between the value of a BMR unit (i.e., rental or sale revenue) and its construction cost, indicating the total cost gap to produce affordable housing.

- **Average Local Contribution to Affordable Housing:** This method calculates an equivalent in-lieu fee based on the average financial contribution from local sources to 100 percent affordable developments. Staff surveyed recent contributions by the City's Housing Trust Fund program to affordable housing projects. This establishes the average minimum fee revenue required for the City to provide its typical contribution toward an affordable housing unit in 100% affordable projects.

These approaches generated a range of potential maximum justifiable In-Lieu fee levels. These fees were then compared against neighboring communities' fees and against the ability of market-rate housing development to support payment of the fees based on current development conditions.

A detailed description of methodology, assumptions, and calculations is included in Attachment 3.

BACKGROUND

On February 28, 2023, the City Council approved an ordinance updating the City's inclusionary housing requirements in response to Council referrals and State laws. Assembly Bill 1505 in 2017 influenced these changes, consolidating affordable housing requirements for rental and ownership properties. The ordinance shifted the fee structure from the Affordable Housing Mitigation to inclusionary housing In-Lieu fees based on Residential Unit Floor Area. A temporary exemption for projects under 5,000 square feet was introduced to assess impacts on Middle Housing.

The current In-Lieu fee amount, determined by Street Level Advisors analysis from February 2022, transitioned the 2020 AHMF to a per-square-foot basis in line with the IHO. The Council chose this fee over the adjusted AHMF from July 2022 to enable a thorough analysis of COVID-19 and inflation impacts on the housing market. The previous AHMF was adopted on July 19, 2016 and biennially adjusted with the CCCI.

The inclusionary housing program has provided 575 BMR units across 54 properties (15% of the total units built). Since 2016, the affordable housing mitigation fee/in-lieu fee has generated over $51,000,000 for local affordable housing via the HTF program.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

An In-Lieu fee of $56.25 per square foot would apply to new residential projects not providing on-site BMR units per IHO requirements. The proposed 5,000 square-foot exemption for projects paying the full fee aims to reduce the fee and stimulate development for Middle Housing projects that currently are not feasible due to a variety of market constraints. Staff do not anticipate this exemption will apply to most larger projects, which typically provide on-site BMR units to leverage Density Bonus benefits.

In-Lieu fees are deposited in the City's HTF program. Bond measures, such as Measure O, provide a significant but one-time source for affordable housing. The In-Lieu fee is

Berkeley's primary dedicated funding source to support 100% affordable housing and leverage County, State, and federal funding.

Future affordable housing fee revenue trends are driven by variables outside the City's control (e.g., how projects choose to comply with the IHO, changes in state law, and broader housing market trends). However, Staff anticipate consistent revenue generation for affordable housing over the next Housing Element cycle if overall housing development and affordable housing compliance trends continue.

CONTACT PERSON
Mike Uberti, Senior Community Development Project Coordinator, HHCS, 510-981-5114

Attachments:
1: Resolution
2: Berkeley Municipal Code Chapter 23.328 Amendment
3: Berkeley In-Lieu Fee and Housing Policies Economic Feasibility Analysis. Prepared by Strategic Economics, November 18, 2024.

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

ADOPTING REGULATIONS FOR VOUCHER PROGRAM AND ESTABLISHING AN IN-LIEU FEE TO SUPPORT THE PROVISION OF AFFORDABLE HOUSING PURSUANT TO BERKELEY MUNICIPAL CODE CHAPTER 23.328 AND RESCINDING RESOLUTION 70,698-N.S

WHEREAS, Berkeley Municipal Code ("BMC") Chapter 23.328 establishes a requirement that 20% of Residential Units (as defined) in market-rate developments be offered for rent or sale at affordable rents or prices, as defined ("Affordable Units"); and

WHEREAS, BMC Chapter 23.328 authorizes the City Council to establish by resolution preferences for renting Affordable Units offered for rent to tenants receiving assistance under the Section 8 Program (42 U.S.C. Section 1437f), the Shelter Plus Care Program (42 U.S.C. Section 11403 *et. seq.),* or similar state or federally-funded rent subsidy programs; and

WHEREAS, BMC Chapter 23.328 authorizes developers of market-rate housing to pay a fee in lieu of complying with the requirement to provide on-site affordable housing ("In-Lieu Fee"); and

WHEREAS, BMC Chapter 23.328 authorizes the City Council to establish the In-Lieu Fee by resolution, and further authorizes the Council to differentiate among types, classes, and locations of Housing Development Projects to the extent permitted by law; to establish separate fees and criteria for the provision of units that are affordable to Very Low Income Households and units that are affordable to Low Income Households; and to establish the method for calculating the In-Lieu Fee; and

WHEREAS, the City retained Strategic Economics to provide analysis and recommendations for updating the City's affordable housing requirements, the scope of which included a financial feasibility study of the City's housing requirements; and

WHEREAS, Strategic Economics' analysis determined that Middle Housing projects between two and nineteen units face the greatest financial barriers and were less likely to provide on-site BMR units; and

WHEREAS, Strategic Economics prepared a Financial Feasibility Analysis dated April 12, 2024, recommends an In-Lieu Fee of $56.25 per square foot of the residential Gross Floor Area (as defined in BMC Section 23.106.030);
and

WHEREAS, this Resolution supersedes Resolution No. 70,698-N.S.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley as follows:

1. All Affordable Units shall be offered to tenants in accordance with Council-adopted eligibility preference criteria. 80% of Very Low-Income Units, comprising a portion of

the Affordable Units authorized and provided for by BMC Chapter 23.328, must be offered to tenants receiving assistance under the Section 8 Program (42 U.S.C. Section 1437f) or the Shelter Plus Care Program (42 U.S.C. Section 11403 et. seq.) before being marketed to other income-eligible households. The allocations shall be divided equally between the Section 8 Program (40%) and the Shelter Plus Care Program (40%).

2. The In-Lieu Fee authorized and provided for by BMC Chapter 23.328 shall be $56.25 per square foot of the Residential Unit Floor Area of a Housing Development Project (as defined in BMC Chapter 23.328). This fee amount shall be automatically adjusted on July 1, 2025 based on changes to the California Construction Cost Index and shall increase biennially thereafter based on the same index, unless otherwise provided for by BMC Chapter 23.328 or by this Resolution.

3. Housing Development Projects subject to BMC Chapter 23.328 may provide less than the required number of Affordable Units in the Housing Development Project and pay a proportionately reduced In-Lieu Fee, calculated as follows: the fee per square foot multiplied by the total Residential Unit Floor Area of a Housing Development Project, multiplied by the percentage of the applicable requirement remaining after accounting for any on-site Affordable Units provided. Projects that provide no on-site Affordable Units will have an applicable requirement multiplier of one.

4. Housing Development Projects subject to BMC Chapter 23.328 who select to pay the full In-Lieu fee instead of providing Affordable Units shall be entitled to deduct 5,000 square feet from the Residential Unit Floor Area calculation.

BE IT FURTHER RESOLVED, Resolution No. 70,698-N.S. is hereby rescinded and is of no force or effect on any Housing Development Project that obtains a building permit after the effective date of this resolution, but shall continue to apply to those projects that were approved and subject to its provisions or the provisions of predecessor resolutions and ordinances addressing the same subject matter.

BE IT FURTHER RESOLVED, the rescission of Resolution No. 70,698-N.S and this Resolution shall be effective upon the effective date of contemporaneously adopted amendments to BMC Chapter 23.328.

ORDINANCE NO. -N.S.

REMOVAL OF SMALL PROJECT EXEMPTION FROM INCLUSIONARY HOUSING REQUIREMENT

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

Section 1. That Berkeley Municipal Code Section 23.328.050(F) is amended to read as follows:

BMC Section 23.328.050(F) *Exemptions*

The following types of Housing Development Projects and Residential Units are exempt from this Chapter:

1. A Housing Development Project for which either a building permit was issued on or before April 1, 2023 or a preliminary application including all of the information required by subdivision (a) of California Government Code section65941.1 was submitted on or before April 1, 2023 shall be subject to this Chapter's requirements that were in place as of the preliminary application's submittal date but shall otherwise be exempt from this Chapter. This exemption shall expire upon the occurrence of any of the circumstances defined in paragraphs (2), (6), or (7) of subdivision (o) of California Government Code section 65589.5 or in subdivision (d) of California Government Code section 65941.

~~2. A Housing Development Project with 5,000 square feet or less of Residential Unit Floor Area, unless it is part of a larger Housing Development Project. This exemption shall expire on April 1, 2025, or at such time as the City Council modifies or repeals this exemption, whichever date is sooner.~~

2~~,3~~. A Residential Unit that replaces a unit existing as of April 1, 2023 that has been destroyed by fire, earthquake or other disaster, or that was previously subject to a mitigation fee or inclusionary housing requirement.

3. A Residential Unit existing as of April 1, 2023 that is expanded, renovated, or rehabilitated.

Section 2. 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.

BERKELEY IN-LIEU FEE AND HOUSING POLICIES ECONOMIC FEASIBILITY ANALYSIS

ASSESSMENTS OF THE IN-LIEU FEE AND HARD HATS, BIRD SAFE BUILDING, AND PREVAILING WAGE REQUIREMENTS

Prepared for:

City of Berkeley
November 18, 2024

TABLE OF CONTENTS

TABLE OF FIGURES

EXECUTIVE SUMMARY

Strategic Economics and Street Level Advisors were retained by the City of Berkeley to analyze the current residential development market context and provide recommendations regarding changes to the City's affordable housing "in-lieu" fee amount and application. As part of this study, Strategic Economics analyzed three new City construction requirements to assess their impacts on the financial feasibility of new market rate housing development.

These analyses supplemented and built upon changes made by the City of Berkeley to its affordable housing requirements in 2023. The 2023 changes included applying the in-lieu fee based on square feet of residential unit floor area (instead of a fee per housing unit), applying progressively lower fee amounts for projects below 12,000 square feet, and exempting projects with fewer than 5,000 square feet of housing unit floor area from the fee.

Those updates did not involve changing the equivalent in-lieu fee amount for a typical housing unit, nor did they include a deeper study of barriers to the development of small projects. Instead, the City of Berkeley sought the current study to examine the in-lieu fee level and its application under current market conditions. The resulting recommendations of this study propose further refinements that can help the City of Berkeley meet its housing production goals and encourage the development of small residential developments that diversify the housing stock.

Issues and Policies Studied

In-Lieu Fee Amounts and Policy:

- The purpose of this study was to analyze and recommend revised in-lieu fee amounts; in-lieu fees are an option for fulfilling the requirements applied to market rate housing development projects under the City's Inclusionary Housing Ordinance (IHO). [1] The IHO requires that developers of new housing with 5,000 or greater square feet of residential unit floor area (RUFA) [2] must either provide 20 percent of housing units as Below Market Rate (BMR) deed-restricted affordable housing, pay an in-lieu fee, provide a mix of BMR units and a pro-rated in-lieu fee payment, or pursue specified alternative options.

- A second goal of the in-lieu fee policy analysis was to ensure the policy does not discourage production of Missing Middle housing. As used in this report, the term "Missing Middle" refers to housing development projects with two to 19 housing units at sites equivalent in size to approximately one or two typical single-family lots. [3] Examples include small-lot single family homes (built on a single typically sized residential lot), duplexes, fourplexes, and modest multifamily buildings. The City of Berkeley is considering zoning changes to encourage Missing

[1] Berkeley Municipal Code Chapter 23.328.
[2] RUFA refers to the floor area of the Residential Unit(s) of a Housing Development Project, as measured from the interior walls of each unit.
[3] For purposes of this report, "Missing Middle" refers only to building design, and does *not* refer to any form of deed-restricted affordable or moderate-income BMR housing.

Middle housing; under the City's existing zoning rules, Missing Middle housing is generally not permitted in the City's low-density residential zoning districts.

Impacts of Construction Requirements on Construction Costs and Housing Development Feasibility:

- The Helping Achieve Responsible Development with Healthcare and Apprenticeship Training Standards ("HARD HATS") Ordinance, effective January 1, 2024, applies to development projects of 50,000 gross square feet and above and requires that contractors and subcontractors demonstrate that they provide apprenticeship programs and health care coverage for workers.[4]

- The Bird Safe Building Ordinance, effective July 27, 2023, requires the use of materials known to reduce the incidence of bird collisions for development projects above 10,000 gross square feet and 35 feet in height.[5]

- The prevailing wage requirements analyzed in this report would apply to construction projects of 50,000 gross square feet and above, comparable to the policy recently approved by the City Council as part of the Southside Plan Area zoning revisions[6] (but not in effect elsewhere).

Development Prototypes

This study used seven "development prototypes" to assess the financial feasibility impacts of the studied policies and understand barriers to development. Development prototypes are general models that typify recent or potential development projects in the City of Berkeley. The midrise and high-rise prototypes (4 stories and above) were developed to model the use of the State Density Bonus Law (SDBL), which allows for an increase in project size in exchange for the provision of on-site Below Market Rate (BMR) units. Nearly all midrise and high-rise housing development projects in Berkeley now use SDBL to access bonus building area and concessions and waivers from local requirements.

The first three prototypes shown in Figure 1 represent Missing Middle housing products. The 10-Unit Small Multifamily prototype was based on outside examples rather than local projects since this Missing Middle product is rarely built in Berkeley.

[4] Berkeley Municipal Code Chapter 13.107.

[5] Berkeley Municipal Code Section 23.304.150.

[6] Approved January 30, 2024 as Ordinance 7,89-N.S. to amend the Berkeley Municipal Code by adding Chapter 13.108.

FIGURE 1. DEVELOPMENT PROTOTYPES SUMMARY

Prototype	Description
Small-Lot Single Family*	Multiple single-family homes on a standard single family lot size.
Fourplex/Townhomes*	Stacked townhomes on a standard single family lot size.
10-Unit Small Multifamily*	3-story multiplex with surface parking.
4-Story Group Living Accommodation (GLA)	Micro-studio units with shared common spaces. Assumed to use SDBL.
6-Story Midrise	Podium style midrise. Assumed to use State Density Bonus
8-Story Midrise	Podium style midrise. Assumed to use State Density Bonus.
18-Story High-rise	Type 1 high-rise. Assumed to use State Density Bonus.

* Prototype is designed to represent a Missing Middle housing type.
Source: Strategic Economics, 2024.

Financial Feasibility Overview and Impacts of HARD HATS, Bird Safe Building, and Prevailing Wage Requirements

The financial feasibility analysis found that few prototypes are currently feasible even without the additional cost impacts of HARD HATS, Bird Safe Building, and prevailing wage requirements; of the rental prototypes, only the 4-Story GLA was feasible, while the Small-Lot Single Family and Fourplex/Townhomes were the only feasible ownership prototypes. These results are driven by relatively high current construction costs for labor and materials, high financing costs, and comparatively limited rent appreciation in recent years. The residential development types that are currently feasible in Berkeley tend to have relatively lower costs for materials and labor while also commanding high rents per square foot or high overall sales prices.

Although most typical market rate residential development projects are currently financially infeasible, developers may still propose projects or construct projects in anticipation of improved development conditions or due to project-specific factors. The results of the financial feasibility analysis represent outcomes for a developer initiating a typical market rate project under today's typical cost, revenue, and thresholds for return on investment. Multiple factors explain why developers continue to propose or construct housing projects in Berkeley. Developers submitted several project applications in 2023 to potentially avoid being subject to HARD HATS, which took effect in January 2024. Other developers are optimistic and believe that development conditions will change soon—such as increasing achievable rents (driven partly by strong student demand), slowing increases in construction costs, or reduced project financing costs. Individual development projects can also have unique beneficial characteristics that reduce development costs, such as lower land acquisition costs, innovative construction techniques (such as modular construction), or access to unique financing arrangements.

The reported increase in total hard costs for a typical midrise development project to meet the HARD HATS requirements ranges between 18 percent to 25 percent. This percentage reflects the approximate reported cost increase to shift from a midrise project built with largely non-union labor to instead use union labor. This reported cost increase is influenced by the number of trades that are shifting from non-union to union labor. The healthcare requirements of the HARD HATS ordinance are most readily met through use of union labor, although a subset of non-union contractors also comply. The ordinance currently requires contractors to show proof of health insurance contributions for workers six months prior to the start of any construction job and does not contain exemptions for workers who have declined coverage.

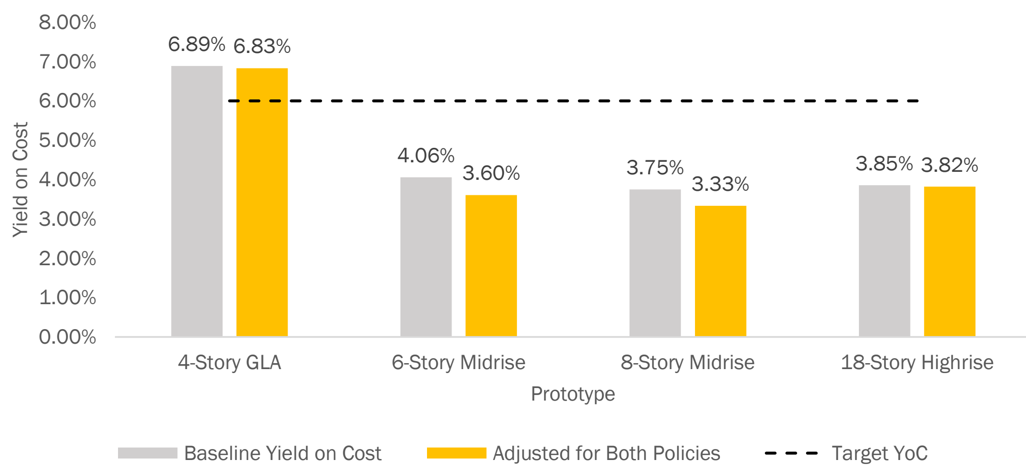
This cost differential varies based on project size and design, with smaller midrise projects being more likely to experience an increased cost burden and high-rise projects experiencing minimal cost increases. This is because smaller midrise projects are more likely to use a higher percentage of non-union trades for their construction, or trades with a larger share of contractors that do not otherwise comply with HARD HATS. Larger projects, such as high-rises, are much more likely to use union contractors and subcontractors, minimizing the costs associated with meeting HARD HATS requirements and a potential prevailing wage requirement.

A potential prevailing wage requirement would have similar cost implications as HARD HATS requirements if met through use of union labor, although *not in addition to HARD HATS' cost implications* if a development project is subject to both requirements. The cost differential between non prevailing wage and prevailing wage is approximately equivalent to the shift from non-union to union labor. This is because prevailing wages incorporate costs corresponding to most of the benefits provided by union membership, such as apprenticeships, retirement contributions, and healthcare.

The Bird Safe Building requirements add an additional 1.5 percent to the hard costs of residential development. This cost impact varies based on the amount of glass in the building's design.

As development conditions improve and more housing types become feasible to build again, the new and proposed labor and construction policies will most significantly increase costs for and reduce the feasibility of midrise residential development in Berkeley. Figure 2 shows the cost impact of HARD HATS and the Bird Safe Building requirements on the financial feasibility of the applicable prototypes. Only the 6-Story and 8-Story midrise prototypes are subject to the full cost impacts of both policies. As shown, the percent change in yield on cost—a measure of return on investment used here to assess financial performance—is negative 11 percent for the 6-Story and 8-Story Midrise prototypes when incorporating HARD HATS and Bird Safe Building requirements, versus less than one percent for the 18-Story Highrise prototype.

FIGURE 2. FINANCIAL FEASIBILITY IMPACTS OF HARD HATS AND BIRD SAFE BUILDING REQUIREMENTS



Note: Prototypes are feasible when the yield on cost exceeds six percent.
Source: Strategic Economics, 2024.

The cost premium associated with meeting HARD HATS and prevailing wage requirements is likely to decline over time due to a variety of state legislation and legislation in other cities that will incentivize or expand use of contractors meeting or exceeding these labor standards. California housing legislation, such as AB 2011 and SB 6, imposes labor requirements like prevailing wages and employing skilled and trained labor. As more cities adopt similar measures, a larger pool of contractors may qualify for HARD HATS requirements—potentially increasing competition and reducing associated costs.

The City of Berkeley could potentially complete a future study to clarify the actual cost impacts of HARD HATS based on completed projects. This report's findings on HARD HATS construction costs are based on current information and conditions. As no projects have been built under HARD HATS yet, a more accurate cost assessment could be conducted in three to five years or during the City's next re-study of inclusionary or in-lieu fee requirements.

The City of Berkeley could also consider studying the HARD HATS policy beyond its impact on construction costs. This study focused solely on the construction cost impacts associated with the HARD HATS requirements. A broader analysis of HARD HATS would allow consideration of the policy's broader benefits and drawbacks.

Development conditions are dynamic, with constant changes over time in achievable rents/prices, components of development costs, and required rates of return on investment. Figure 3 illustrates this principle by showing the impact on project return (expressed as yield on cost) given hypothetical changes in rent and total development costs for one unit of housing from the 6-Story Midrise prototype. The project return would need to increase from 3.60 percent to 4.06 percent to achieve the same financial performance while absorbing the additional cost impacts of HARD HATS, etc., as shown above in Figure 2. This could be achieved if, for example, rents increased 10 to 15 percent, or if rents increased five to 10 percent and development costs declined five percent.

FIGURE 3. IMPACTS OF CHANGES IN RENT AND DEVELOPMENT COSTS ON THE YIELD ON COST OF ONE RENTAL UNIT

		Change in Rent					
		-10%	-5%	0%	5%	10%	15%
Change in Development Costs	-10%	3.60%	3.80%	4.00%	4.20%	4.40%	4.61%
	-5%	3.41%	3.60%	3.79%	3.98%	4.17%	4.36%
	0%	3.24%	3.42%	3.60%	3.78%	3.96%	4.14%
	5%	3.09%	3.26%	3.43%	3.60%	3.78%	3.95%
	10%	2.95%	3.11%	3.28%	3.44%	3.60%	3.77%

Source: Strategic Economics, 2024.
Note: Feasible yield on cost in this analysis is six percent. While the development becomes slightly more feasible as rents increase and development costs decrease, the project is still infeasible in all scenarios displayed above.

The additional development costs associated with the HARD HATS, prevailing wage, and Bird Safe Glass requirements are not likely to pose an insurmountable barrier to future market rate residential development in Berkeley when development conditions improve, but the requirements will constrain the likelihood and pace of future housing production. The magnitude of changes in rents, development costs, and other development conditions required to cover the impacts of HARD HATS and the other requirements is likely achievable over time as market conditions shift. Overall demand for housing is strong in Berkeley, especially given the number of students seeking housing. However, the development cost increases associated with HARD HATS, prevailing wage, and Bird Safe building requirements are significant enough to delay or constrain housing production since the policies increase the required changes in rents/prices, development costs, and market return thresholds necessary before housing development becomes feasible.

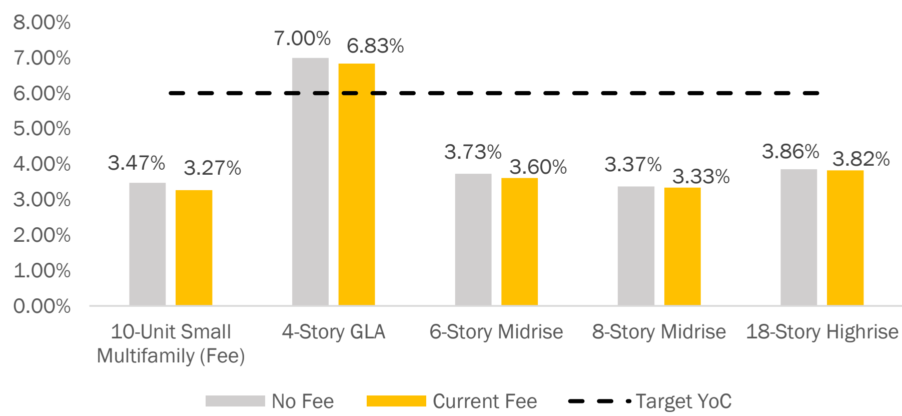
In-lieu Fee Analysis and Recommendations

Strategic Economics examined the in-lieu fee revision from multiple perspectives, including consideration of comparability with the costs of providing on-site Below Market Rate (BMR) units, the cost to produce off-site affordable units via fee revenue, financial feasibility conditions, comparability with fees in other nearby communities, and consideration of barriers and opportunities to support Missing Middle housing. The analyses found the following:

- Nearly all of the analyzed development prototypes are currently financially infeasible to build as a new project under today's development conditions and existing City requirements, except for the 4-Story GLA rental project, Small Lot Single Family ownership product, and Fourplex/Townhomes ownership product.

- The poor financial performance of the development prototypes is primarily attributable to the broader feasibility challenges, noted earlier, rather than the current in-lieu fee level. For example, the in-lieu fee only results in a negative percent change in project return of between one and six percent for the rental prototypes, as shown in Figure 4.

FIGURE 4. IMPACT OF IN LIEU FEE ON FINANCIAL FEASIBILITY OF APPLICABLE PROTOTYPES



Source: Strategic Economics, 2024.

- Smaller Missing Middle products—Small Lot Single Family and Fourplex/Townhomes—demonstrate some financial capacity to support an in-lieu fee under today's development conditions, but these products are rarely built due to challenges such as the lack of small-scale developers with capacity and interest in this type of development and the limited inventory of lower-cost underutilized sites available for sale in existing neighborhoods.

- A variety of tradeoffs must be considered when selecting an in-lieu fee. Setting a high fee can incentivize developers to provide on-site BMR units rather than pay the fee; this adds to the

City's affordable housing stock and contributes to mixed-income developments, yet limits City resources to leverage outside funding to produce more deeply affordable housing in 100 percent affordable projects created through the Housing Trust Fund program. Setting a high fee increases development feasibility challenges and can delay when and whether housing projects are built. Setting a low fee can achieve the opposite outcomes—but setting the fee too low can also create a scenario in which the City may "miss the market" by failing to collect potential affordable housing funding when development conditions improve.

- Regardless of the fee level, larger development projects will continue to include and produce on-site BMR units to receive density bonuses; these projects typically also contribute prorated fee revenue. Given the value of SDBL incentives, most midrise and high-rise development projects in Berkeley are likely to be built with density bonuses.

- The current in-lieu fee level is similar to the City's typical contribution toward the cost of providing off-site affordable housing units in 100 percent affordable housing projects before accounting for additional administrative costs. The average funding contributed by the City of Berkeley to produce an equal number of affordable units in a 100 percent affordable housing project is generally equivalent to a per residential square foot in lieu fee of $58.59, or $67.38 after including a 15 percent increase for administrative costs. The City's current maximum in-lieu fee is $56.25 per square foot.

Based on these findings, Strategic Economics prepared recommendations seeking to support the following goals:

1. Produce affordable housing through on-site BMR inclusionary units or through in-lieu fees that the City can use to leverage outside funding to produce affordable units in 100 percent affordable housing developments.
2. Support the financial feasibility of market rate housing development so these projects can in turn generate on-site BMR units or in-lieu fee funding resources.
3. Promote the development of Missing Middle product types that add two- to 19-unit housing options in Berkeley's neighborhoods.

The following table summarizes the current in-lieu fee structure and recommended changes. The recommended changes are explained in the narrative following the table.

FIGURE 5: CURRENT IN-LIEU FEE POLICY AND RECOMMENDED CHANGES

	Current In-Lieu Fee Policy	Recommended Changes
In-Lieu Fee Amount	$0 per square foot for projects below 5,000 square feet (residential unit floor area) $38.75 for projects between 5,000 and 5,999 square feet, and then incrementally increases for each thousand square feet between 6,000 up to 11,999 square feet $56.25 for projects of 12,000 square feet or more	$56.25 per square foot for all projects
Application to Projects Opting to Pay the Full Fee and Provide No Qualifying On-Site Inclusionary Units	See above	The first 5,000 square feet would be exempt from the in-lieu fee for any project opting to pay the full fee instead of providing any on-site inclusionary units (State Density Bonus projects cannot qualify for the exemption since they include qualifying on-site inclusionary units)
Application to Projects Opting to Pay a Prorated Fee Through Mixed Compliance with the Inclusionary Requirements	Fee structure and level remains the same as above; for State Density Bonus projects a prorated fee would apply to the remaining obligation after accounting for on-site BMR units produced to attain density bonus status, and the fee only applies to the base project (i.e., City inclusionary requirements and in-lieu fee cannot apply to the bonus area of the development)	Projects opting to include any on-site inclusionary units (including State Density Bonus projects) would still be obligated to pay any remaining prorated fee obligation, if applicable, with no exemption; the fee itself would now be $56.25 per the first recommended change
Fee Level Adjustment Over Time	The in-lieu fee is adjusted every two years based on the California Construction Cost Index	No change

Recommendation 1: Eliminate the current in-lieu fee structure that exempts projects with less than 5,000 square feet of RUFA from the fee and progressively increases fee levels for projects between 5,000 and 12,000 square feet. Instead, apply the same in-lieu fee level to all housing development projects.

Currently there is an exemption to the affordable housing requirements for new residential development with less than 5,000 square feet of RUFA. Strategic Economics recommends removing this exemption as part of a package of recommendations designed to simplify the affordable housing requirements and support the development of Missing Middle housing in Berkeley. Adjusting the policy to apply to all residential developments, with no “phase in” based on project size, reduces the incentive for developers to pursue projects just under the applicable square footage to avoid triggering higher in-lieu fees. For example, currently a housing project with 4,999 square feet of RUFA would pay zero in-lieu fees, while a project with 5,001 square feet would pay over $193,000 in in-lieu fees.

Recommendation 2: For any project opting to pay the full fee instead of providing any on-site inclusionary units, exempt the first 5,000 square feet of RUFA from the in-lieu fee.

This exemption supports production of Missing Middle housing by ensuring these small developments pay a relatively low fee per square foot of project area, yet developers would no longer be incentivized to reduce the project size to avoid triggering a significantly higher total fee. At the same time, the full fee would still apply to nearly all larger midrise and high-rise housing projects since developers are likely to continue building these product types as SDBL projects that require on-site BMR units.

The policy change would modestly decrease the total in-lieu fee paid by a limited number of housing product types that are rarely built in Berkeley, such as the 10-unit Small Multifamily building tested in this analysis. However, the policy change would also slightly increase fee revenue from other projects, such as the 4-story Group Living Accommodation prototype tested in this analysis.

While the exemption slightly disincentivizes satisfying the affordable housing requirement by providing on-site BMR units—since the fee is lower than the equivalent affordability gap—developers of SDBL projects will continue to provide on-site BMR units to trigger access to the State Density Bonus law’s valuable concessions, waivers, and additional development capacity. Since SDBL provides these significant benefits for projects, most larger projects will likely continue to provide on-site units and pay prorated in-lieu fees for the remaining obligation.

Recommendation 3: Maintain the existing $56.25 maximum in-lieu fee level as the universally applicable in-lieu fee.

While the in-lieu fee could justifiably be increased to become equivalent to the cost of producing an on-site BMR unit, Strategic Economics recommends maintaining the new universal in-lieu fee level at its current maximum of $56.25. This supports the production of new housing by not increasing the fee level at a time when project financing and construction materials and labor costs are making residential development particularly challenging. Maintaining the current in-lieu fee level also allows the City of Berkeley to maintain a fee that is approximately equivalent to the City’s typical direct contributions to the cost of leveraging an off-site affordable housing unit. By maintaining the current in-lieu fee, the City will maintain its primary affordable housing funding source as development conditions improve, mitigating the risk of lost opportunity to secure funding when development conditions shift.

Recommendation 4: Continue to adjust the in-lieu fee regularly based on the California Construction Cost Index.

Regular adjustment of the fee increases the likelihood that the revenue collected will continue to support a comparable number of affordable units in future 100 percent affordable housing projects.

I. INTRODUCTION: KEY CONCEPTS, APPROACH, AND DEVELOPMENT PROTOTYPES

Purpose of Study

Strategic Economics and Street Level Advisors were retained by the City of Berkeley to analyze the current residential development market context and provide recommendations regarding changes to the City's affordable housing "in-lieu" fee amount and application. As part of this study, Strategic Economics analyzed three new City construction requirements to assess their impacts on the financial feasibility of new market rate housing development.

The analysis of the City of Berkeley's in-lieu fee policy examined maximum supportable fee levels and whether and how to adjust application of the fees. In-lieu fees are paid by market rate developers in lieu of providing on-site affordable housing units required under the City of Berkeley's Inclusionary Housing Ordinance (IHO).

These analyses supplemented and built upon changes made by the City of Berkeley to its affordable housing requirements in 2023. The 2023 changes included applying the in-lieu fee based on square feet of residential unit floor area (instead of a fee per housing unit), applying progressively lower fee amounts for projects below 12,000 square feet, and exempting projects with fewer than 5,000 square feet of housing unit floor area from the fee.

Those updates did not involve changing the equivalent in-lieu fee amount for a typical housing unit, nor did they include a deeper study of barriers to the development of small projects. Instead, the City of Berkeley sought the current study to examine the in-lieu fee level and its application under current market conditions. The resulting recommendations of this study propose further refinements that can help the City of Berkeley meet its housing production goals and encourage the development of small residential developments that diversify the housing stock.

Two new City requirements analyzed by Strategic Economics consisted of those enacted by the Helping Achieve Responsible Development with Healthcare and Apprenticeship Training Standards ("HARD HATS") ordinance and the Bird Safe Building requirements ("Bird Safe Building") ordinance. Strategic Economics also studied the impact of an expanded prevailing wage requirement on certain residential developments; this requirement is currently only in place in the Southside Plan area. Each of these requirements is discussed in detail below.

The study was guided by five key policy questions:

1. How should the in-lieu fee and its application be updated to support the City's policy goals of encouraging new affordable and market rate housing development?
2. What are key barriers to developing small "Missing Middle" infill housing products?
3. How can the in-lieu fee be adjusted to support the development of small missing middle infill housing products?
4. How do recent policy changes, including Bird Safe Building and HARD HATS, impact the financial feasibility of residential development?
5. How does the potential prevailing wage requirement impact the financial feasibility of residential development?

OVERVIEW OF IN-LIEU FEE POLICY AND MISSING MIDDLE HOUSING GOALS

The purpose of this study was to study and recommend revised in-lieu fee amounts based on an analysis of current market conditions for residential development. The in lieu fee is a way in which developers can fulfill the requirements applied to market rate housing development projects under the City's Inclusionary Housing Ordinance (IHO).[7] The IHO requires that developers of new housing with over 5,000 square feet of residential unit floor area (RUFA)[8] must either provide 20 percent of housing units as Below Market Rate (BMR) deed-restricted affordable housing, pay an in-lieu fee, provide a mix of BMR units and pro-rated in-lieu fee payment, or pursue specified alternative options.

The City's current in-lieu fee is tiered based on the total square footage of the development project, with fee levels starting at $38.75 per square foot of RUFA for a 5,000 square foot project. The fee then increases every 1,000 square feet until reaching the maximum current fee of $56.25 per square foot for projects of 12,000 square feet and larger. The fee is automatically adjusted every two years, based on changes to the California Construction Cost Index.

The in-lieu fee analyses and recommendations in this report focus on ensuring that new market rate development projects can and will generate affordable housing units. These units could be generated either through provision of on-site BMR units or through in-lieu fee funding resources. Those resources enable the City to leverage additional outside funding and produce affordable housing units in 100 percent affordable housing projects.

A second goal of the in-lieu fee policy analysis was to ensure the policy does not discourage production of Missing Middle housing. As used in this report, the term "Missing Middle" refers to housing development projects with two to 19 housing units at sites equivalent in size to approximately one or two typical single-family lots.[9] Examples include small-lot single family homes, duplexes, fourplexes, and modest multifamily buildings. This type of housing provides an intermediate density that can increase the number of homes in existing neighborhoods.

The City of Berkeley has pursued multiple efforts to encourage Missing Middle housing, which is not commonly built in the city today. These efforts include City Council referrals to study the issue and to remove exclusionary zoning, Housing Element policies, and preparation of Middle Housing zoning amendments and objective design standards. This study explores the key barriers to developing Missing Middle housing and recommends in-lieu fee policy adjustments intended to support future development of this housing type while simplifying the current in-lieu fee structure.

OVERVIEW OF THE HARD HATS, BIRD SAFE BUILDING, AND PREVAILING WAGE POLICIES

This study analyzed the impact of construction policies on the financial feasibility of residential development to understand the current market conditions that might influence the future direction of the in-lieu fee. The City of Berkeley's HARD HATS Ordinance, effective January 1, 2024, applies to development projects of 50,000 gross square feet and above, which is the equivalent of approximately 50 housing units in a multifamily development project.[10] HARD HATS requires contractor and subcontractor prequalification to demonstrate that these employers provide apprenticeship programs

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[7] Berkeley Municipal Code Chapter 23.328.
[8] RUFA refers to the floor area of the Residential Unit(s) of a Housing Development Project, as measured from the interior walls of each unit.
[9] For purposes of this report, "Missing Middle" refers only to building design, and does *not* refer to any form of deed-restricted affordable or moderate-income BMR housing.
[10] Berkeley Municipal Code Chapter 13.107.

and health care coverage for workers. The Bird Safe Building Ordinance, effective July 27, 2023, requires the use of materials known to reduce the incidence of bird collisions for development projects above 10,000 gross square feet and 35 feet in height.[11] The City also sought an analysis of the financial feasibility impacts associated with applying prevailing wage requirements to construction projects of 50,000 gross square feet and above—comparable to those recently approved by the City Council as part of the Southside Plan Area zoning revisions.[12]

Report Structure

This report consists of the following content:

- The remainder of this report introduction describes the approach used to complete the feasibility analyses conducted as part of the study.

- **Section II** describes analysis findings, conclusions, and policy recommendations for adjustments to the in-lieu fee and policy (page 25).

- **Section III** describes the findings and conclusions of the financial feasibility analysis. This includes analysis of the impacts of the HARD HATS, Bird Safe Building, and proposed prevailing wage requirements on the current market conditions for residential development (page 36).

- **Appendix** provides detailed tables describing the key assumptions, inputs, calculations, and outputs of the analyses (page 47).

Financial Feasibility Analysis Concepts

The following content introduces important concepts related to the financial feasibility analysis components of the study. At the most basic level, "financial feasibility" simply refers to whether a development project generates sufficient revenues to justify the costs and risks of building the project.

Because inclusionary housing and in-lieu requirements like Berkeley's seek to leverage the activities of the private market to produce affordable housing, the requirements rely on the financial feasibility of market rate housing projects. This means inclusionary and in-lieu fee policies are reliant on some factors outside of the City's control. Cities can control what types of housing are allowed on each parcel using land use regulation, and whether project proposals are approved. However, a city cannot control whether developers propose projects within those regulations, nor the exact composition of proposed projects. Developers will only propose projects that they assess as being feasible to construct.

Requirements to provide inclusionary affordable units or pay a certain level of additional fees influence development feasibility for market rate housing developers by reducing revenues or increasing costs. Thus, for an inclusionary policy to contribute to affordable housing production, its requirements must be high enough that they result in the production of new on-site affordable units or fee revenues, but not be so high that they prevent market rate housing projects from being feasible. This makes it

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[11] Berkeley Municipal Code Section 23.304.150.
[12] Approved January 30, 2024 as Ordinance 7,89-N.S. to amend the Berkeley Municipal Code by adding Chapter 13.108.

important to identify how different in-lieu fee levels relate to the total revenue and expenses of a project.

On the other hand, requiring on-site BMR units or in-lieu fee contributions can help Berkeley meet its affordable housing development goals through multiple means of affordable housing production. Thus, the content of this section explains why financial feasibility of housing development matters for setting inclusionary policies; how "affordable" housing is defined and affects financial feasibility considerations; and how inclusionary policies fit within the context of overall affordable housing production in a community.

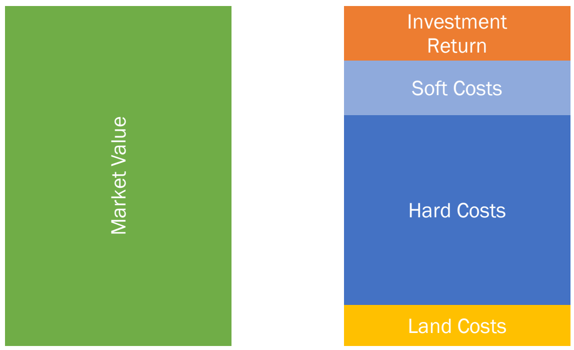
From a market rate housing developer's perspective, development projects are only financially feasible when the market value of the project (based on total net operating income) exceeds project costs and investment return. As shown in Figure 6, this is determined by the following factors.

- Total project revenue is determined by the market value of the project.
    - For for-sale projects, the market value consists of the sales prices the units can obtain.
    - For rental projects, the market value of the project depends on the annual revenue it will generate and the current capitalization rate, which reflects overall project investment risk relative to alternative investments (see the box on Page 13 for more information on investment return metrics).

- Total project costs include hard costs, soft costs, investment return, and land costs.
    - Hard costs include materials and labor associated with physical construction of the building.
    - Soft costs include indirect expenses such as architecture and engineering, taxes, insurance, financing costs, and municipal fees.
    - Investment return consists of the required financial return on investment that a project must achieve to attract developer and lender investment.
    - Land costs refer to the price the developer pays to acquire the land.

Each of these factors is very dynamic; project costs and revenues can fluctuate significantly, and many factors, such as the market rate price of housing, are beyond the City's direct influence. Instead, the market rate price or rental rate for housing is primarily set by local market demand; the price and rent may rise and fall according to the availability of housing supply, presence of amenities, or other factors in the market area.

FIGURE 6. COMPONENTS OF FINANCIAL FEASIBILITY: PROJECT VALUE AND PROJECT COST COMPONENTS



Source: Strategic Economics, 2023.

KEY DEVELOPMENT TERMS AND DEFINITIONS

Net Operating Income (NOI): The total revenue remaining after accounting for all expenses and vacancies.

Capitalization Rate: A ratio of annual net operating income of an asset to its market value. This rate, which accounts for current market conditions, is used for purposes of analysis to translate the revenue from the income-producing rental prototypes into the equivalent sales value of the projects. This study used a capitalization rate of five percent to determine the "capitalized value" of each prototype.

Yield on Cost: The project's potential return on investment as a proportion of total development costs. It is calculated by dividing a property's net operating income by the total cost to develop the property. Yield on cost is typically the metric used for capturing the potential return of rental properties. This study used a yield on cost threshold of six percent to determine financial feasibility.

Return on Cost: The project's potential return on investment as a proportion of total development costs. It is calculated by subtracting total development costs from total revenue, and dividing the remainder by the total cost to develop the property. Return on cost is typically used for capturing the return of ownership properties. This study used a return on cost threshold of eight percent to determine financial feasibility.

An in-lieu fee provides an option for a developer to pay a fixed sum rather than provide on-site units to satisfy the City's affordable housing requirements. The fee can be set in a variety of ways to encourage development in line with the City's priorities for affordable housing production. For example, if a fee is significantly less than the cost of providing additional on-site units, it can disincentivize on-site production of BMR units. However, if the City aims to collect funds for affordable housing, fee payments can be a desirable outcome.

Ultimately, in-lieu fees, HARD HATS, Bird Safe Building, and prevailing wage requirements create costs for development projects while the market value of the project remains the same. These policies create tradeoffs between maximizing the potential pace of housing production versus ensuring housing development contributes to other important City goals.

Approach to the Financial Feasibility Analysis

Strategic Economics performed a financial feasibility analysis to test the impacts of HARD HATS, Bird Safe Building, and prevailing wage requirements on new housing development projects, and to examine the extent to which different market rate housing products in Berkeley can support in-lieu fee contributions.

Strategic Economics first worked with City staff and analyzed information about recent projects to create development “prototypes.” Then Strategic Economics built a pro forma model to test the financial feasibility of each prototype under different requirements and fees. Detailed information about the development prototypes is provided in the following section of the report.

Strategic Economics measured the financial feasibility of each prototype and scenario using a static pro forma model that solves for the financial “return on investment” supported by the project. A pro forma model is a tool used to estimate the financial performance of a development project. The base static model reflected today’s market conditions such as prices/rents, construction costs, and financing costs. Cost and revenue assumptions were informed by review of existing reports, recent development activity, market data, and 13 interviews with developers, general contractors, and architects with experience working in Berkeley and the broader Bay Area. This report’s appendix shows detailed cost and revenue assumptions, other inputs and calculations, and a set of basic pro forma statements.

A project was considered financially feasible when the investment return met current market thresholds. These thresholds are driven by broader market conditions, recognizing that developers and investors have a range of investment options beyond a given development project.

Financial feasibility was assessed using “yield on cost” for rental prototypes and “return on cost” for ownership prototypes. Yield on cost was calculated by dividing the expected net annual operating income at full lease-up by total development costs. Return on cost was calculated by dividing the expected net sales revenue by total development costs.

To establish a reasonable threshold for a developer’s rate of return on new development projects in Berkeley, Strategic Economics interviewed local developers, reviewed other similar financial analyses in the Bay Area, and reviewed publications on the local and regional real estate market. Based on this research, the analysis assumed that rental projects were feasible at a yield on cost of at least six percent and ownership projects at a return on cost of at least eight percent.

Development Prototypes Used in the Feasibility Analysis

Strategic Economics created seven development prototypes that represent typical residential developments recently completed or proposed in Berkeley. The prototypes were then used to test the financial feasibility of new and proposed labor and construction policies, as well as potential updates to the in-lieu fee. The creation of the prototypes was completed in collaboration with the City of

Berkeley. The prototypes represent a range of tenures, locations within the city, residential densities, building heights, parking formats, and use of the State Density Bonus Law (see the pullout on the law).

STATE DENSITY BONUS LAW: BACKGROUND, APPLICATION, AND LOCAL CONTEXT

The State Density Bonus Law (SDBL) was originally enacted in 1979 to encourage affordable housing development. The law allows developers to build beyond the maximum allowed density in a jurisdictions' land use plan in exchange for providing a certain number of new deed-restricted affordable dwelling units on site. It also grants developers access to certain incentives that allow for cost reductions as well as waivers to development standards that would otherwise physically preclude the project from being built on the chosen site.

Developers submit applications for SDBL projects that are based on a base project that conforms to the development standards of the site. This base project then has a density bonus applied to it based on the number of on-site affordable units provided and their level of affordability. These elements directly correspond to the increase in density allowed to the project. They also influence the number of incentives and waivers granted to the project. Developments with more below-market rate units and deeper affordability levels (i.e., very low and low income) qualify for larger density bonuses and up to four incentives and waivers. In 2021, the law was modified to allow up to a 50% bonus with the corresponding provision of on-site affordable units. In 2023, AB 1287 was passed, allowing for an additional density bonus with the provision of moderate income units. This study only models projects that use very low and low income units to gain access to a density bonus.

SDBL projects are subject to the inclusionary housing ordinance of the jurisdiction in which they are built. However, the on-site units provided to gain access to the density bonus can be used to satisfy all or part of the local affordable housing requirements, which typically require either the provision of on-site units, the payment of an in-lieu fee, or some combination of both. Inclusionary and in-lieu fees are only applied to the base project version of the SDBL development, which means that the fee is applied based on the square footage of a smaller project than what is eventually built. Since SDBL projects must provide some on-site units to qualify for the density bonus, if they choose to pay a fee to satisfy the remainder of the affordable housing requirements then the fee is prorated. Thus, SDBL projects tend to pay a much smaller in lieu fee than a similarly sized project that does not take a density bonus.

Several of the prototypes used for this study utilize the SDBL. This decision reflects patterns seen in the recent development activity in the City of Berkeley. The City's building permit log from 2022 and 2023 demonstrates the increased use of SDBL for midrise and high-rise development; over half of the permitted midrise projects and all the permitted high-rise projects use the law. Local developers interviewed for this study provided further verification of the importance of SDBL for making residential development projects pencil, as the increased unit count and incentives and waivers provide additional revenue while reducing development costs.

The prototypes were also developed to respond to specific policy questions around underrepresented development types, including Missing Middle housing, which is between two and 19 units. Thus, the Missing Middle prototypes draw from real projects in Berkeley and from outside sources, such as Opticos Design's guidelines for Missing Middle Housing.[13]

The development prototype characteristics are described below and summarized in Figure 7.

Missing Middle Prototypes:

- *Small Lot Single Family:* This prototype was designed to fit three single-family homes on the standard size lot for one single family home in Berkeley, which is approximately 0.1 acres. Each of the three single family homes included in the prototype is three stories, 1,500 gross square feet, and has one garage parking space.
- *Fourplex/Townhomes:* This prototype consists of four townhomes built around a four-car garage. This prototype is also designed on a standard size lot for one single family home (0.1 acres) and is three stories at its highest point. Each townhome is 1,200 square feet.
- *10-Unit Small Multifamily:* This prototype includes ten units split evenly between 1- and 2-bedroom apartments. The one-bedroom units are 750 square feet, and the two-bedroom units are 1,100 square feet.

These prototypes were developed based on existing and proposed developments in Berkeley. However, there are few existing examples of this type of housing in the city, especially for the 10-Unit Small Multifamily prototype. As a result, that prototype draws from Opticos Design's guidelines for a "multiplex" housing type.

Group Living Accommodation (GLA), Midrise, and High-rise Prototypes:

- *4-Story GLA:* This prototype was designed according to the City of Berkeley's definition of a GLA, requires separate sleeping rooms with large common spaces. GLA buildings are typically marketed to students. The prototype fits on a 0.2 acre lot and has 36 units. One unit is a one-bedroom, designed for a resident manager, while the other 35 are micro-studios. The prototype does not include parking.
- *6-Story Midrise:* This prototype was designed on a 0.5 acre lot, with 75 units. It reflects newer developments that have been proposed or built near the Ashby BART station and along the San Pablo corridor.
- *8-Story Midrise:* This prototype was designed on a 0.5 acre lot, with 120 units. It reflects newer developments that have been proposed or built near the Ashby BART station and along the San Pablo corridor.
- *18-Story High-rise:* This prototype is designed on a 0.5 acre lot, with 240 units. This type of development is currently only allowed in the area covered by the Downtown Berkeley Area Plan.

Additional Prototype Characteristics

- **Tenure:** The Small Lot Single Family, Fourplex/Townhome, and 10-unit Small Multifamily prototypes were tested as ownership and rental products. The other prototypes were only tested as rental products since current development conditions greatly disfavor larger condominium development projects—as indicated by minimal development activity of midrise

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[13] Opticos Design,"Missing Middle Housing," https://missingmiddlehousing.com/types.

and high-rise condominium projects in and near Berkeley over the past decade. This is largely due to condo construction liability under California state law, which can make insurance costs prohibitively expensive.

- **Project Density:** The prototypes represent various lot sizes and densities found across Berkeley, with denser projects typically located closer to Downtown and the UC Berkeley campus.

- **Common Location:** "Common Location" in Figure 7 notes where the prototype would most likely be developed, based on past development activity.

- **Parking Format:**
  - The Small Lot Single Family and Fourplex/Townhome prototypes have a parking ratio of one space per unit.
  - All other prototypes have lower parking ratios, with those located closest to the UC Berkeley campus and most likely to be targeted to students including zero automobile parking spaces. This reflects real-world development trends since the City removed its minimum parking requirements in 2022.

- **State Density Bonus Law:**
  - Prototypes from the 4-story GLA and larger were all assumed to use the State Density Bonus Law to achieve their unit counts. The prototypes were therefore derived from an assumed base project that has a certain percent of density added, based on the number of inclusionary BMR units provided on site (see Figure 7 for the percentage of on-site BMR units provided per prototype).

FIGURE 7. DEVELOPMENT PROTOTYPE DEFINITIONS AND CHARACTERISTICS

	Small Lot Single Family	Fourplex/ Townhomes	10-Unit Small Multifamily	4-Story GLA	6-Story Midrise	8-Story Midrise	18-Story High-rise
Description	Multiple single family homes on a standard single family lot size	Stacked townhomes on a standard single family lot size	3-story multiplex with surface parking	Micro-studio units with shared common spaces	Podium style midrise	Podium style midrise	Type 1 high-rise
Common Location	West Berkeley	West Berkeley	West Berkeley	Southside & Downtown	South & Southwest Berkeley	South & Southwest Berkeley	Downtown
Site Size (acres)	0.1	0.1	0.2	0.2	0.5	0.5	0.5
Floors	3	3	3	4	6	8	18
Gross Square Feet	4,500	4,800	11,587	14,520	61,930	89,984	208,727
Residential Square Feet	4,500	4,800	9,250	9,400	49,460	71,320	165,780
Housing Units	3	4	10	36	75	120	240
Density (units/acre)	30	40	50	180	150	240	480
Parking Ratio (spaces/unit)	1	1	0.5	0	0.5	0.125	0
Tenure	Rental & Owner	Rental & Owner	Rental & Owner	Rental	Rental	Rental	Rental
Uses SDBL*	No	No	No	Yes	Yes	Yes	Yes

Note:
* SDBL = State Density Bonus Law.
Source: Strategic Economics, 2024.

II. IN-LIEU FEE ANALYSIS AND RECOMMENDATIONS

This section of the report describes relevant findings and concluding recommendations for updating the City of Berkeley inclusionary housing policy's in-lieu fee amount and application. The findings examine the in-lieu fee revision from multiple perspectives, including consideration of comparability with the costs of providing on-site BMR units, the cost to produce an off-site affordable housing unit via fee revenue, financial feasibility conditions, comparability with fees in other nearby communities, and consideration of barriers and opportunities to support Missing Middle housing (as defined in the introduction to this report).

The City of Berkeley's current in-lieu fees vary depending on the size of the projects. As shown in Figure 8, below, projects with 12,000 square feet or greater pay the full $56.25 fee per square foot of RUFA. Smaller projects pay lower specified fees on the entirety of their square feet of RUFA, and projects below 5,000 square feet do not pay an in-lieu fee and are exempt from inclusionary housing requirements.

FIGURE 8: CURRENT CITY OF BERKELEY IN-LIEU FEES

RESIDENTIAL UNIT FLOOR AREA SQUARE FEET (SQ. FT.)	FEE PER SQUARE FOOT (APRIL 1, 2023 – JUNE 30, 2025)
12,000 sq. ft. or more	$56.25
11,000-11,999 sq. ft.	$53.75
10,000-10,999 sq. ft.	$51.25
9,000-9,999 sq. ft.	$48.75
8,000-8,999 sq. ft.	$46.25
7,000-7,999 sq. ft.	$43.75
6,000-6,999 sq. ft.	$41.25
More than 5,000-5,999 sq. ft.	$38.75

Source: City of Berkeley, 2024.

Approach to Calculating Potential In-Lieu Fee Levels

This study used two methods to calculate a maximum reasonable in-lieu fee: the affordability gap and the production cost affordability gap (production cost). These gaps were then translated into an equivalent fee per square foot of RUFA. These methods establish the maximum fee equivalent to the cost of providing on-site BMR units or a comparable off-site BMR unit. These fees represent the maximum fee that would be justifiable under the City's current Inclusionary Housing Ordinance, which sets out a certain percentage of housing units in new development that must be affordable.

The study then used another approach to calculate the average cost for the City of Berkeley to produce an off-site affordable unit as part of a 100 percent affordable housing project—one of the primary uses of in-lieu fee revenue. This cost was then translated into an equivalent fee per square foot of RUFA.

This equivalent fee represents the fee level at which the City is likely to produce a comparable number of affordable housing units (often at deeper affordability levels) by leveraging in-lieu fee revenue.

These three approaches provide a range of possible fees that were then compared against those of peer cities to contextualize the regional landscape of affordable housing impact fees. Each approach is described in greater detail below:

- **Affordability Gap:** The affordability gap method of calculating a maximum in-lieu fee is based on the difference in revenues between market rate and affordable rents for a typical new housing unit. The maximum fee is equivalent to the reduced revenue associated with providing a BMR unit on site at a new market rate development project. As a result, this method demonstrates the for-profit developer's perspective by capturing the equivalent loss of revenue to provide an on-site BMR unit.

- **Production Cost Affordability Gap:** The production cost affordability gap ("production cost") method of calculating a maximum in-lieu fee is based on the difference between affordable rents and the cost to produce a unit of income-restricted housing. The maximum fee is the difference between the value of the BMR unit (based on its restricted rental rates or sales price) and the cost to construct it. This method demonstrates the total cost gap to produce an affordable housing unit.

- **Average Local Contribution:** The average local contribution method of calculating an equivalent in-lieu fee is based on the average dollar contribution from local sources to 100 percent affordable developments. This method involves a survey of recent affordable housing projects in the jurisdiction to determine the average contribution from the City's Housing Trust Fund program. This method establishes the average minimum in-lieu fee revenue that must be generated for the City of Berkeley to provide its typical contribution toward an affordable housing unit in a 100 percent affordable development project.

These approaches generated a potential range of in-lieu fee levels. These fees were then compared against neighboring communities' fees and against the current ability of market rate housing development to support payment of the fees based on current development conditions. A more detailed description of methodology, assumptions, and calculations is included in this report's Appendix.

The conclusion of Section II describes Strategic Economics' policy recommendations based on the analyses and policy priorities expressed by the City of Berkeley.

Justifiable Maximum In-Lieu Fee Levels

This section describes the results of the approaches to calculating the maximum justifiable in-lieu fee and the result of the average local contribution analysis. The justifiable in lieu fee level is based on an analysis that determines the per square foot fee equivalent to providing an on-site unit. The maximum justifiable in-lieu fee was calculated using the affordability gap and production cost methods. This established the high end of potential in-lieu fees to consider in this study, as these methods directly translate the City's affordable housing requirements into equivalent costs per square foot of building area. The average local contribution analysis provided an in-lieu fee amount that is equivalent to the average amount of City revenue needed to leverage outside funds to produce an equivalent number of off-site affordable housing units in a 100 percent affordable project.

Using the affordability gap method, the maximum justifiable in-lieu fee for the rental prototypes is $117.69 per square foot (see Figure 9). This method calculates the justifiable cost as the revenue difference between renting or selling new units at market rate and at the affordability levels required by the City's inclusionary housing policy.

Using the production cost method, the maximum justifiable in-lieu fee for the rental prototypes is $103.77 per square foot (see Figure 9). This method calculates the justifiable cost as the difference between the revenue from renting or selling a BMR unit and the cost to produce the unit.

The average local contribution towards 100 percent affordable multifamily rental developments in the city is $58.59 per square foot—similar to today's maximum fee level of $56.25 (see Figure 9). While not the maximum justifiable fee, this average provides an equivalent fee level that supports the City of Berkeley's typical contribution to affordable units in 100 percent affordable housing projects.

The average local contribution fee per square foot does not include the overhead costs for the city to administer its Housing Trust Fund program. Based on City input, these administrative costs add a premium of 15 percent to the per square foot cost of the fee, bringing it to $67.38.

FIGURE 9: IN-LIEU FEE RESULTS BY APPROACH

	Affordability Gap	Production Cost	Local Contribution
Average per BMR Unit	$388,374	$342,432	$193,348
Average per Square Foot of Market Rate Project RUFA	$117.69	$103.77	$58.59

Source: Strategic Economics, 2024.

Supportable In-Lieu Fees from a Development Feasibility Perspective

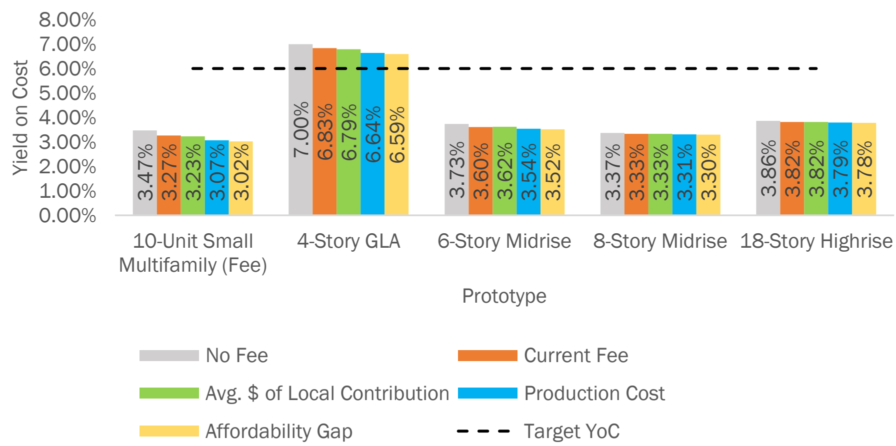
The following findings describe the results of a sensitivity analysis that examined the financial feasibility of the rental and ownership development prototypes after incorporating the range of fee levels calculated in the preceding section of this report. This analysis provides context for how different in-lieu fees impact the financial feasibility of the development prototypes based on characteristics such as the prototypes' size, density, number of on-site units provided, and use of the SDBL. As described in this report's Introduction, in-lieu fees only apply to a small share of the total square feet in a SDBL project; in those projects, a portion of the inclusionary requirement is satisfied by on-site BMR units, and the prorated remaining in-lieu fee obligation only applies to the "base" project and not the project's "bonus" square feet.

Unlike the "Baseline" analysis presented in the following section of this report, the following feasibility analyses do incorporate the cost impacts of the HARD HATS and Bird Safe Buildings requirements since these requirements are already in effect.

Since all the rental development prototypes are currently infeasible except the GLA, only the GLA is currently capable of supporting any in-lieu fee. Figure 10 shows the impacts of the different approaches to calculating an in-lieu fee on the financial feasibility of the applicable prototypes. As shown, the negative feasibility impacts of the in-lieu fee are relatively modest for the larger midrise and high-rise prototypes. The fee applies to only a small portion of the overall square feet of these projects since they are assumed to use significant density bonuses. The fee also represents a relatively small share of overall construction costs for these projects due to their size. However, none of these projects are currently financially feasible to build, as they do not achieve a six percent yield on cost return.

The poor financial performance of the development prototypes is primarily attributable to broader development feasibility challenges rather than the current in-lieu fee level. Figure 10 shows the impact of the current fee on the financial feasibility of the applicable prototypes. For the smallest project, the percent change in the yield on cost is a reduction of 5.8 percent, while the largest project sees a much smaller one percent decline. However, both prototypes are currently infeasible, with or without the fee. Developments that are currently being proposed and built in the city likely have unique attributes that have enabled them to progress to this stage or are relying on market conditions improving in the future.

FIGURE 10. IN-LIEU FEE SENSITIVITY ANALYSIS FOR RENTAL PROTOTYPES

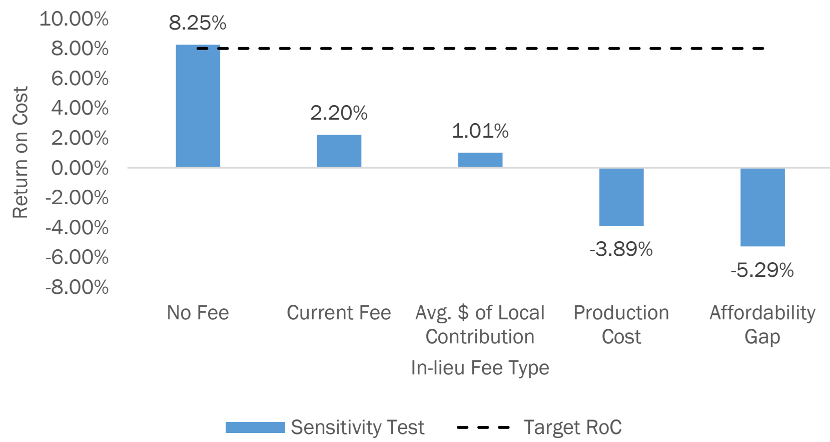


Note: These results incorporate the cost impacts of the Bird Safe Building and HARD HATS ordinances.
Source: Strategic Economics, 2024.

The small 10-Unit multifamily ownership (condo) prototype is infeasible with application of an in-lieu fee. (see Figure 11). The feasibility of this prototype is more sensitive to the size of the in-lieu fee due to the prototype's status as a non SDBL project (which therefore means the fee applies to the entire residential area) and the prototype's lower construction costs per square foot of building area; both factors result in the fee constituting a larger proportion of the total development costs compared to the midrise and high-rise prototypes. However, reducing or removing the fee burden allows this type of development to perform better financially, as the sensitivity analysis without a fee results in a return on cost of 8.25 percent, which is above the target return on cost of eight percent.

As noted earlier, the smaller Missing Middle prototypes are feasible as ownership products under current development conditions. However, they are not currently subject to the affordable housing requirements.

FIGURE 11. IN-LIEU FEE SENSITIVITY ANALYSIS FOR THE 10-UNIT SMALL MULTIFAMILY PROTOTYPE OWNERSHIP



Source: Strategic Economics, 2024.

Consideration of "Peer City" In-Lieu Fee Levels

Housing production in Berkeley does not occur in a vacuum; developers often construct housing in many different areas within a region, and differences in inclusionary requirements can have an impact on where developers choose to pursue projects. Therefore, the analysis compared Berkeley's current inclusionary housing requirements with those of nearby communities. This comparison provides context for potential changes to Berkeley's in-lieu fee level and takes into consideration the market factors that are unique to the city.

The City of Berkeley's current in-lieu fee (and inclusionary requirement) is higher than most peer cities. In-lieu fees in the cities listed in Figure 12 range from $19.37 per square foot on the lowest end to approximately $100 per square foot on the highest. Several cities levy fees on a per housing unit basis; assuming an average unit size of 1,000 square feet, these fees translate to between $12 and $45 per square foot. Berkeley's current in-lieu fee is $56.25 per square foot. Note, however, that cities apply their fees in a variety of ways, including different exemptions, differences depending on locations, and application on either a building area basis or a housing unit basis.

However, the Berkeley housing market differs from that of the peer cities due to Berkeley's strong ongoing demand for housing that is influenced by the large population of students residing in the city. The student population creates consistent and reliable housing demand in the city, particularly in areas close to the UC Berkeley campus such as Downtown and Southside. As a result, Berkeley tends to command relatively high rents and sales prices compared to many peer communities, which can potentially translate to long-term market support for relatively higher City fees. The student market also drives demand for types of housing projects not built elsewhere, such as the group living accommodation prototype tested in this analysis.

FIGURE 12. PEER CITIES' AFFORDABLE HOUSING REQUIREMENTS

City	% On Site Affordable Units Required	In-lieu Fee*	Year Enacted
Alameda	15% for all multifamily projects	$20,342 per unit	2023
Emeryville	20% for all multifamily projects	$31,032 per unit	2023
Fremont	12.9% for rental projects	$27.00 per residential square foot	2022
Hayward	6% for rental, 10% for ownership projects	$19.37 per residential square foot	2017
Livermore	10% for projects downtown, 15% for projects everywhere else	$29.23 per residential square foot	2023
Oakland	10% of project if providing low- or moderate-income units, or 5% if providing very low-income units	For multifamily projects: $22,000 per unit in Zone 1 $17,750 per unit in Zone 2 $12,000 per unit in Zone 3	2023
Pleasanton	15% for all multifamily projects	$45,083 per unit	2023
San Francisco	All requirements below temporarily reduced by 50%: 20% for small projects, 25% for large rental projects, 33% for large ownership projects	50% of $199.50 per gross square foot	2019
San Jose	15% for all multifamily projects	Moderate Market Areas: $18.26 per net residential square foot Strong Market Areas: $43 per net residential square foot	2022/2023

*Note that the exact application of these fees varies from city to city. Examples of potential differences include application based on building area versus unit area, various exemptions, and potential differences within subareas of the cities.
Source: Strategic Economics, 2024.

Key Conclusions of the In-Lieu Fee Analyses

As noted earlier, the financial feasibility results indicate that most development prototypes cannot feasibly support the current in-lieu fee level. This is especially true for the rental prototypes, as only the student-oriented GLA prototype is currently feasible. In general, high construction costs and interest rates are the main factors rendering development infeasible today, while rents have failed to keep pace with these challenges. The GLA performs well due to its relatively low construction costs as a relatively inexpensive to build 4-story wood frame building, its lack of costly parking, and the high achievable rents in the student-oriented submarkets of the city.

Smaller Missing Middle products—Small Lot Single Family and Fourplex/Townhomes—demonstrate some financial capacity to support an in-lieu fee, but these products are rarely built due to other challenges. The financial feasibility analysis cannot capture the qualitative factors preventing the development of these housing types. The survey of development activity shows that these types of small infill projects are not often built in Berkeley, despite their strong financial performance as a high-end ownership product. The mismatch between financial performance and actual outcomes is attributable to factors including the lack of small-scale developers with capacity and interest in this type of development and the limited inventory of lower-cost underutilized sites available for sale in existing neighborhoods.

The multifamily 10-unit Missing Middle prototype is not feasible under current conditions as a rental or ownership product. It is also the worst performing of the rental prototypes when it provides a full fee and no on-site units. This matches trends in recent development activity in Berkeley, which includes no examples of this product being built in the city. The product type does appear marginally feasible as an *ownership* product if no in-lieu fees or inclusionary requirements applied, but this prototype is also subject to the same development challenges as the other Missing Middle prototypes.

It is likely that the fee should not be adopted at the maximum justifiable level determined by the affordability gap or production cost methods; tradeoffs exist when selecting a fee level. A variety of tradeoffs must be considered when selecting an in-lieu fee. For example:

- Setting a high fee can incentivize developers to provide on-site BMR units rather than pay the fee; this adds to the City's affordable housing stock and contributes to mixed-income developments, yet limits City resources to leverage outside funding to produce more deeply affordable housing in 100 percent affordable projects. Setting a high fee worsens development feasibility challenges and can delay when and whether housing projects are built.

- Setting a low fee can achieve the opposite outcomes—but setting the fee too low can also create a scenario in which the City may "miss the market" by failing to collect potential affordable housing funding when development conditions improve.

Regardless of the fee level, larger development projects will continue to include and produce on-site BMR units to receive density bonuses; these projects typically also contribute prorated fee revenue. Given the value of SDBL incentives, most midrise and high-rise development projects in Berkeley are likely to be built with density bonuses. These projects inherently contribute to the City's deed-restricted affordable housing inventory via SDBL's on-site BMR unit requirements, albeit at a lower level than the City's inclusionary requirements.

The current in-lieu fee level is similar to the City's typical contribution toward the cost of providing an equal number of off-site affordable housing units in 100 percent affordable housing projects before accounting for additional administrative costs. The funding contributed by the City of Berkeley to produce an equal number of affordable units in a 100 percent affordable housing project is the equivalent of a $58.59 per residential square foot in-lieu fee level, or $67.38 after including a 15 percent increase for administrative costs. The City's current maximum in-lieu fee is $56.25 per square foot.

A larger in-lieu fee results in a greater relative impact on the financial feasibility of smaller developments—especially Missing Middle products. As a percentage of total project cost, the size of the in-lieu fee plays a greater role in the feasibility of smaller projects, both because of the lower cost per square foot to build these projects and because these projects do not typically make use of SDBL. In addition, since larger SDBL midrise and high-rise projects are more likely to pay a prorated in-lieu fee that applies to a small portion of the total square feet, these projects are less impacted by changes in the fee level.

In-Lieu Fee Policy Recommendations

Strategic Economics prepared the following recommendations for adjusting the City of Berkeley's in-lieu fee amount and application of the fee to different sizes and types of projects. The recommendations incorporate consideration of the results of the preceding analyses to support the following goals:

1. Continue to produce affordable housing through on-site BMR inclusionary units or through production of in-lieu fee resources that the City can use to leverage outside funding to produce affordable units in 100 percent affordable housing developments.

2. Continue to support the financial feasibility of market rate housing development so these projects can in turn generate on-site BMR units or in-lieu fee funding resources and achieve the City's housing production goals.

3. Promote the development of Missing Middle product types that add two to 19 unit housing options in Berkeley's neighborhoods.

Recommendation 1: Eliminate the current in-lieu fee structure that currently exempts projects with less than 5,000 square feet of RUFA from the fee and increases fee levels for projects between 5,000 and 12,000 square feet. Instead, apply the same in-lieu fee level to all housing development projects.

Currently there is an exemption to the affordable housing requirements for new residential development with less than 5,000 square feet of RUFA. This exemption is set to expire in April 2025. Strategic Economics recommends removing this exemption as part of a package of recommendations designed to simplify the affordable housing requirements and support the development of Missing Middle housing in Berkeley.

Adjusting the policy to apply to all residential developments, with no "phase in" based on project size, reduces the incentive for developers to pursue projects just under the applicable square footage to avoid triggering higher in-lieu fees. For example, currently a housing project with 4,999 square feet of RUFA would pay zero in-lieu fees, while a project with 5,001 square feet would pay over $193,000 in in-lieu fees.

Recommendation 2: For any project opting to pay the full fee instead of providing any on-site inclusionary units, exempt the first 5,000 square feet of RUFA from the in-lieu fee.

This exemption for projects that pay the full fee (rather than a prorated fee that typically occurs for SDBL projects) supports production of Missing Middle housing by ensuring these small developments pay a relatively low fee per square foot of project area. It also removes the incentive to reduce project size to avoid triggering a significantly higher total fee. At the same time, the full fee would still apply to nearly all larger midrise and high-rise housing projects since developers are likely to continue building these product types as SDBL projects that must include some on-site BMR units. For example, Figure 13 shows that the midrise and high-rise prototypes would continue to pay the same fee amount as under the current policy, assuming the fee is maintained at the same maximum level.

The 10-Unit Small Multifamily prototype serves as an illustrative example of the positive feasibility impacts of the exemption for this Missing Middle product type. As shown in Figure 13, the exemption reduces in-lieu fee costs for the rental version of the prototype such that its yield on cost increases by 0.09 percentage points—moving the prototype closer to becoming financially feasible to build. Similarly, the exemption supports the development of higher density Missing Middle ownership housing types. As shown in Figure 14, the 10-Unit Small Multifamily prototype experiences an increase in its return on cost of 2.74 percent with the exemption.

The policy change would modestly decrease the total in-lieu fee revenue paid by a limited number of housing product types. The 10-Unit Small Multifamily prototype in Figure 13 and Figure 14 is an example of a project that would pay reduced fee revenue, with the exemption reducing fee payment by an amount equivalent to the funds needed to leverage 1.1 off-site BMR units. However, these kinds of small but relatively higher-density product types are likely to constitute a very small share of total housing development in Berkeley due to the feasibility and general development challenges noted in this report.

However, the policy change would also slightly *increase* fee revenue from other projects. By removing the phase in, some projects pay a slightly higher amount for the in-lieu fee. An illustrative example is the 4-Story GLA prototype. As shown in Figure 13, the policy change would slightly decrease the prototype's feasibility (yield on cost) and increase its fee payment at a level equivalent to approximately one-quarter of the funds needed to leverage an additional unit.

While the exemption slightly disincentivizes satisfying the affordable housing requirement by providing on-site units—since the fee is lower than the equivalent affordability gap—SDBL projects will continue to provide on-site units. In order to satisfy the state's requirement to be granted valuable additional density, waivers, and concessions, developers of SDBL projects must provide a certain percentage of on-site deed restricted affordable units. Since there are significant advantages for projects qualifying for use of the SDBL, the City of Berkeley will continue to see developments that satisfy the affordable housing requirements through mixed compliance.

Recommendation 3: Maintain the existing $56.25 maximum in-lieu fee level as the universally applicable in-lieu fee.

While the in-lieu fee could justifiably be increased to become equivalent to the cost of producing an on-site BMR unit, Strategic Economics recommends maintaining the new universal in-lieu fee level at its current maximum of $56.25. This supports the production of new housing by not increasing the fee level at a time when project financing and construction materials and labor costs are making residential development particularly challenging. Maintaining the current in-lieu fee level also allows the City of Berkeley to maintain a fee that is approximately equivalent to the City's typical direct contributions to the cost of leveraging an off-site affordable housing unit. By maintaining the current in-lieu fee, the City will maintain its primary affordable housing funding source as development conditions improve, mitigating the risk of lost opportunity to secure funding when development conditions shift.

Recommendation 4: Continue to adjust the in-lieu fee regularly based on the California Construction Cost Index.

Regular adjustment of the fee increases the likelihood that the revenue collected will continue to support a comparable number of affordable units in future 100 percent affordable housing projects.

FIGURE 13. IMPACTS OF THE 5,000 SQUARE FOOT EXEMPTION ON THE RENTAL PROTOTYPES

	Small Lot Single Family [a]	Fourplex/ Townhomes [a]	10-Unit Small Multifamily [b]	4-Story GLA [c]	6-Story Midrise	8-Story Midrise	18-Story High-rise
Yield on Cost: Current Fee Policy	4.03%	3.69%	3.27%	6.83%	3.60%	3.33%	3.82%
Yield on Cost: Recommended Exemption Policy	4.03%	3.69%	3.36%	6.80%	3.60%	3.33%	3.82%
YoC Difference	0.00%	0.00%	0.09%	-0.03%	0.00%	0.00%	0.00%
In-lieu Fee Revenue: Current Fee Policy	$0	$0	$450,938	$202,737	$1,255,416	$723,642	$1,580,453
In-lieu Fee Revenue: Recommended Exemption Policy	$0	$0	$239,063	$246,572	$1,255,416	$723,642	$1,580,453
Difference in Number of Off-site Units Leveraged	0	0	-1.10	0.23	0	0	0

[a] These prototypes are less than 5,000 square feet and are therefore exempt from the in-lieu fee under the existing and recommended in-lieu fee policies.
[b] Based on this prototype's size, the project would be required to pay $48.75 per square foot of its 9,250 square feet of RUFA under the existing policy. As a project that provides no on-site BMR units, the prototype would qualify for the first 5,000 square feet of RUFA to be exempt from the in-lieu fee under the recommended policy, which means the prototype would be required to pay $56.25 for only 4,250 square feet of RUFA.
[c] As an SDBL project with 9,400 square feet of RUFA, this project is currently required to pay $48.75 per square foot for its prorated in-lieu fee obligation on the base version of the bonus project after accounting for on-site affordable units that partially satisfy the City's inclusionary housing requirements. Under the recommended policy, this project would not qualify for any exemption from payment of the in-lieu fee because it provides BMR units to achieve the SDBL status and therefore must use mixed compliance to pay a prorated fee; the project would therefore pay $56.25 per square foot for its remaining prorated in-lieu fee obligation on the base version of the project.
Source: Strategic Economics, 2024.

FIGURE 14. IMPACTS OF 5,000 SQUARE FOOT EXEMPTION ON THE OWNERSHIP PROTOTYPES

	Small Lot Single Family [a]	Fourplex/ Townhomes [a]	10-Unit Small Multifamily [b]
Return on Cost: Current Fee Policy	28.44%	29.16%	2.20%
Return on Cost: Recommended Exemption Policy	28.44%	29.16%	4.94%
Difference	0.00%	0.00%	2.74%
In-lieu Fee Revenue: Current Fee Policy	$0	$0	$450,938
In-lieu Fee Revenue: Recommended Exemption Policy	$0	$0	$239,063
Difference in Number of Off-site Units Leveraged	0.00	0.00	-1.10

[a] These prototypes are less than 5,000 square feet and are therefore exempt from the in-lieu fee under the existing and recommended in-lieu fee policies.
[b] Based on this prototype's size, the project would be required to pay $48.75 per square foot of its 9,250 square feet of RUFA under the existing policy. As a project that provides no on-site BMR units, the prototype would qualify for the first 5,000 square feet of RUFA to be exempt from the in-lieu fee under the recommended policy, which means the prototype would be required to pay $56.25 for only 4,250 square feet of RUFA.
Source: Strategic Economics, 2024.

III. FINANCIAL FEASIBILITY IMPACTS OF HARD HATS, BIRD SAFE BUILDING, AND PREVAILING WAGE REQUIREMENTS

This section of the report describes findings and conclusions of the research and analyses used to assess:

1. The "Baseline" financial feasibility of the development prototypes under current market conditions, inclusionary requirements, and in-lieu fees—but *without* incorporation of the Bird Safe Building, HARD Hats, and prevailing wage policies;
2. How the Bird Safe Building, HARD HATS, and prevailing wage policies potentially impact development costs;
3. Influence of the three policies on development feasibility outcomes.

Essentially, the Baseline analysis describes development feasibility outcomes under today's conditions as if the Bird Safe Building and HARD HATS policies were not in effect. This provides a point of comparison to understand changes created by those requirements. As noted earlier, the Bird Safe Building policy went into effect July 27, 2023 and the HARD HATS policy on January 1, 2024, while a prevailing wage requirement was recently adopted for the Southside Area Plan only.

The analysis examined the financial feasibility and cost impacts of the policies under today's conditions based on available information; the analysis was not a broader assessment of the outcomes and merits of these policies. Information about the specific development cost impacts of the policies is also somewhat speculative, since no projects have yet been completed under these requirements.

Figure 15 displays each of the prototypes and scenarios modeled as part of the analyses. The table describes how different policies apply to each residential development prototype, as summarized below:

- **Current Affordable Housing Requirements Applied to the Baseline Analysis:**
    - **Inclusionary Requirements for Rental Projects:** Applies to new residential developments above 5,000 gross square feet. 20 percent of units must be provided as Below Market Rate (BMR), with half of the units affordable to Very Low Income households (defined as those making 50 percent of the Area Median Income) and half of the units affordable to Low Income households (defined as those making 80 percent of the Area Median Income). These requirements can be satisfied through a combination of providing units and paying a prorated fee.

    - **Inclusionary Requirements for Ownership Projects:** Applies to new residential developments above 5,000 gross square feet. 20 percent of units must be provided as Below Market Rate (BMR) at levels affordable to Low Income households. These requirements can be satisfied through a combination of providing units and paying a prorated fee.

- **Bird Safe Building:** Applies to new residential development above 10,000 gross square feet and with an average height above 35 feet.

- **HARD HATS:** Applies to new residential development above 50,000 gross square feet.

- **Prevailing Wage:** Applies to new residential development above 50,000 gross square feet within the Southside Plan Area and is under consideration for citywide applicability.

For the 10-Unit Small Multifamily prototype, two scenarios were tested (as shown in Figure 15): one in which the project meets inclusionary requirements by providing 20 percent of housing units as BMR units, and another in which the project pays an in-lieu fee. Note that the smaller Missing Middle prototypes are exempt from the City's current affordable housing requirements because they are under 5,000 gross square feet.

Also shown in Figure 15, the SDBL prototypes satisfy affordable housing requirements by providing the State-required number of BMR units on-site and paying an in-lieu fee to satisfy the remainder of the City of Berkeley's inclusionary requirement. The analysis followed current City policy to apply the in-lieu fee only to the remainder of the *base* project.

FIGURE 15. APPLICATION OF AFFORDABILITY REQUIREMENTS AND TESTED POLICIES TO DEVELOPMENT PROTOTYPES

	Small Lot Single Family	Fourplex/ Townhomes	10-Unit Small Multifamily (On-Site BMR Version)	10-Unit Small Multifamily (In-Lieu Fee Version)	4-Story GLA	6-Story Midrise	8-Story Midrise	18-Story High-rise
Baseline Analysis: Affordable Housing Requirements Applicable to the Rental Prototypes								
Affordable Housing Requirements Applicable to Rental Prototypes	Not applicable (under 5,000 gsf)	Not applicable (under 5,000 gsf)	On site BMR units	Full in-lieu fee	On site units to satisfy SDBL*; prorated fee	On site units to satisfy SDBL*; prorated fee	On site units to satisfy SDBL*; prorated fee	On site units to satisfy SDBL*; prorated fee
BMR % of Units	N/A	N/A	20%	0%	10%	10%	15%	15%
Affordability Level	N/A	N/A	Half VLI, half LI**	N/A	All VLI**	All VLI**	All VLI**	All VLI**
Baseline: Affordable Housing Requirements Applicable to the Ownership Prototypes								
Affordable Housing Requirements Applicable to Ownership Prototypes	Not applicable (under 5,000 gsf)	Not applicable (under 5,000 gsf)	On site BMR units	Full in-lieu fee	N/A (Not tested as an ownership product)	N/A (Not tested as an ownership product)	N/A (Not tested as an ownership product)	N/A (Not tested as an ownership product)
BMR % of Units	N/A	N/A	20%	0%	N/A	N/A	N/A	N/A
Affordability Level	N/A	N/A	All LI**	N/A	N/A	N/A	N/A	N/A
Bird Safe Building Requirements Applied to Prototypes (regardless of tenure)								
Bird Safe Building Requirements Applicability	Not applicable (under 10,000 gsf)	Not applicable (under 10,000 gsf)	Not applicable (over 10,000 gsf but less than 35 feet high)	Not applicable (over 10,000 gsf but less than 35 feet high)	Applicable	Applicable	Applicable	Applicable
HARD HATS and Prevailing Wage Requirements Applied to Prototypes (regardless of tenure)								
HARD HATS / Prevailing Wage Applicability	Not applicable (under 50,000 gsf)	Not applicable (under 50,000 gsf)	Not applicable (under 50,000 gsf)	Not applicable (under 50,000 gsf)	Not applicable (under 50,000 gsf)	Applicable	Applicable	Applicable

Note:
* SDBL = State Density Bonus Law.
** VLI = Very Low Income; LI = Low Income.
Source: Strategic Economics, 2024

Baseline Financial Feasibility Analysis

The following findings describe the results of the Baseline financial feasibility analysis. The findings describe the performance of the development prototypes under existing City of Berkeley inclusionary and in-lieu fee requirements without the Bird Safe Building, HARD HATS, and prevailing wage requirements. Since the results show that all but two of the development prototypes are currently infeasible, the basic description of the results is followed by findings of a sensitivity analysis. The sensitivity analysis provides context for factors influencing the financial performance of the prototypes and how changing conditions could eventually improve the performance of the prototypes.

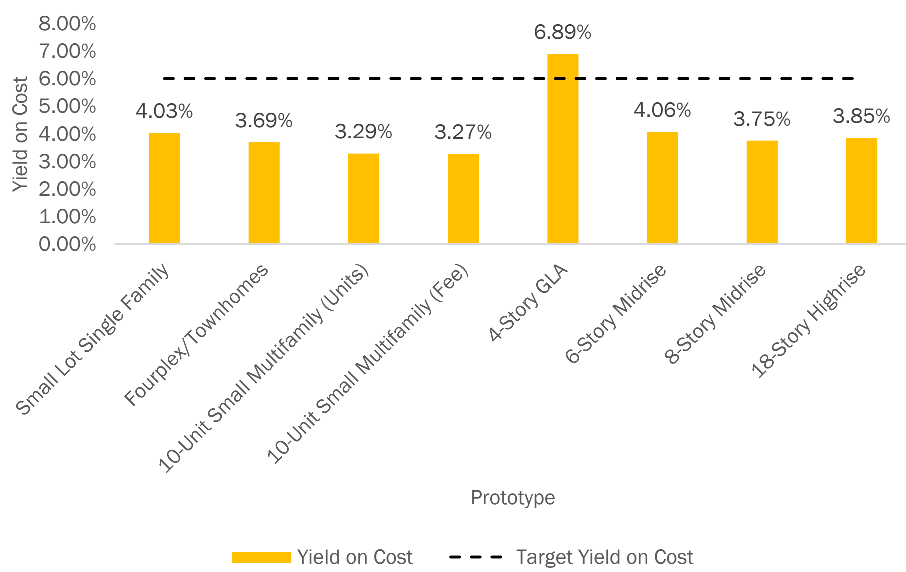
The baseline feasibility analysis is followed by analysis of the feasibility impacts of construction policies to illustrate the current conditions for residential development.

BASELINE FEASIBILITY RESULTS FOR THE RENTAL PROTOTYPES

Under current conditions, the only rental prototype that is financially feasible in Berkeley is the 4-Story GLA. Figure 16 shows results for all tested rental prototypes. As shown, only the 4-Story GLA project achieves the minimum yield on cost threshold of six percent, with all other prototypes achieving a yield on cost of between 3.27 and 4.06 percent.

None of the Missing Middle prototypes are feasible as rental products under current conditions. The 10-Unit Small Multifamily prototype paying the full fee performs the worst of all the prototypes (achieving a yield on cost of 3.27 percent). The other two Missing Middle prototypes, the Small Lot Single Family and Fourplex/Townhomes, which are not currently subject to the City's inclusionary policy, perform slightly better. These prototypes achieve yields of 4.03 percent and 3.69 percent, respectively—still short of the required six percent target yield.

FIGURE 16. BASELINE RENTAL PROTOTYPE FEASIBILITY RESULTS



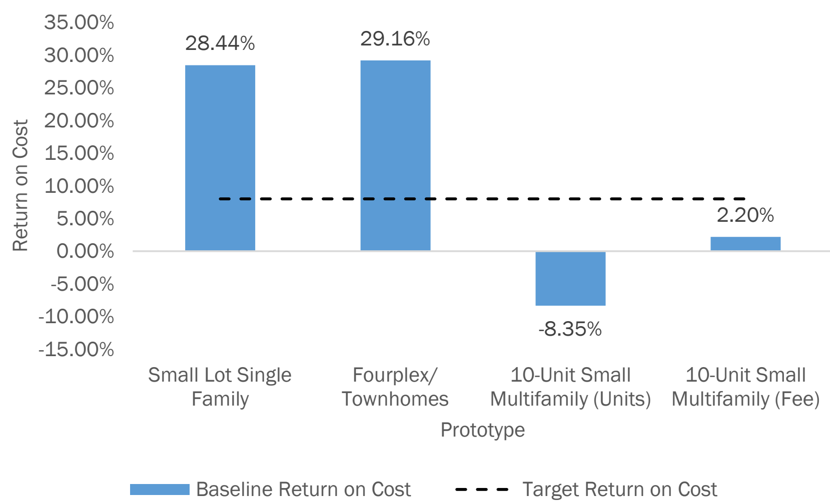
Source: Strategic Economics, 2024.

BASELINE FEASIBILITY RESULTS FOR THE OWNERSHIP PROTOTOYPES

The Small Lot Single Family and Fourplex/Townhomes prototypes are feasible as ownership products (see Figure 17). The target return on cost for the ownership products is eight percent. The Small Lot Single Family and Fourplex/Townhome prototype exceed this with returns of 28.44 percent and 29.16 percent, respectively.

The 10-Unit Small Multifamily prototype is infeasible as an ownership product, both when providing on-site BMR units and when paying a full in-lieu fee (see Figure 17). The multifamily Missing Middle prototype is infeasible under both affordability requirement scenarios. The prototype does, however, perform significantly better when paying the in-lieu fee (return on cost of 2.2 percent) instead of providing on-site units (return on cost of -8.35 percent).

FIGURE 17. BASELINE OWNERSHIP PROTOTYPE FEASIBILITY RESULTS



Source: Strategic Economics, 2024.

COMBINED SUMMARY OF BASELINE FEASIBILITY RESULTS FOR ALL DEVELOPMENT PROTOTYPES

Under current development conditions, very few of the residential prototypes are financially feasible. Only the 4-Story GLA rental, Small Lot Single Family ownership, and Fourplex/Townhomes ownership prototypes are feasible. Figure 18 summarizes the baseline feasibility results for all of the scenarios tested.

Although most typical market rate residential development projects are currently financially infeasible, developers may still propose projects or construct projects in anticipation of improved development conditions or due to project-specific factors. The results of the financial feasibility analysis represent outcomes for a developer initiating a typical market rate project under today's typical cost, revenue, and thresholds for return on investment. Multiple factors explain why developers continue to propose or construct housing projects in Berkeley. Developers submitted several project applications in 2023 to potentially avoid being subject to HARD HATS, which took effect in January 2024. Other developers are optimistic and believe that development conditions will change soon—such as increasing achievable rents (driven partly by strong student demand), slowing increases in construction costs, or reduced project financing costs. Individual development projects can also have unique beneficial characteristics that reduce development costs, such as lower land acquisition costs, innovative construction techniques (such as modular construction), or access to unique financing arrangements.

FIGURE 18. SUMMARY OF BASELINE FINANCIAL FEASIBILITY RESULTS

Prototype	Yield or Return on Cost	Target	Feasible (Y/N)
Rental Prototypes			
Small Lot Single Family	4.03%	6.00%	N
Fourplex/Townhomes	3.69%	6.00%	N
10-Unit Small Multifamily (Units)	3.29%	6.00%	N
10-Unit Small Multifamily (Fee)	3.27%	6.00%	N
4-Story GLA	6.89%	6.00%	Y
6-Story Midrise	4.06%	6.00%	N
8-Story Midrise	3.75%	6.00%	N
18-Story High-rise	3.85%	6.00%	N
Ownership Prototypes			
Small Lot Single Family	28.44%	8.00%	Y
Fourplex/Townhomes	29.16%	8.00%	Y
10-Unit Small Multifamily (Units)	-8.35%	8.00%	N
10-Unit Small Multifamily (Fee)	2.20%	8.00%	N

Source: Strategic Economics, 2024.

SENSITIVITY ANALYSIS AND CONTEXT FOR THE BASELINE FEASIBILITY RESULTS

Given that all but two of the development prototypes are currently infeasible, Strategic Economics conducted a sensitivity analysis to provide context for the factors influencing the financial performance of the prototypes and how changing conditions could eventually improve the performance of the prototypes.

Development costs, revenues, and required return on investment change over time, and each change influences development feasibility outcomes. The financial feasibility of development is driven by the relationships between the total cost to build a development project, the expected revenue generated by the project, and the current required return on investment. Rents or sales prices determine the expected revenue generated by a development project, while development costs can include a variety of factors, such as construction materials and labor, land, and municipal fees.

The following tables illustrate how changes in development costs and revenues can impact feasibility outcomes. Figure 19 and Figure 20 demonstrate the impact of changes to revenue and development costs on the financial feasibility of one rental housing unit and one ownership housing unit, respectively. The figures represent one rental unit from the 6-Story Midrise prototype and one ownership unit from the Fourplex/Townhomes prototype. The axes show the change in revenue and costs. The cell showing “0 percent” and “0 percent” change shows the estimated feasibility outcome for projects currently, expressed as either yield on cost or return on costs. The “-10 percent,” “10 percent” cell in the top left represents the feasibility outcome for projects if revenues decrease 10 percent and development costs increase 10 percent. Green cells indicate feasibility, while red cells indicate infeasibility.

With current rents and development costs, rental projects are not feasible, with an estimated yield on cost of 3.60 percent. Even with an increase in rents and a decrease in costs, the rental prototype remains unfeasible. The ownership prototype demonstrates how the reduction in sales value and an increase in development costs can make a project infeasible.

As shown, development projects can be highly sensitive to shifting cost and revenue conditions; in reality, the required return on investment would also shift over time, adding additional complexity to when and whether a given development project becomes feasible to build.

FIGURE 19. COST AND REVENUE CHANGE IMPACTS ON THE YIELD ON COST OF ONE RENTAL UNIT

Change in Development Costs	Change in Rent: -10%	-5%	0%	5%	10%	15%
-10%	3.60%	3.80%	4.00%	4.20%	4.40%	4.61%
-5%	3.41%	3.60%	3.79%	3.98%	4.17%	4.36%
0%	3.24%	3.42%	3.60%	3.78%	3.96%	4.14%
5%	3.09%	3.26%	3.43%	3.60%	3.78%	3.95%
10%	2.95%	3.11%	3.28%	3.44%	3.60%	3.77%

Note: Feasible yield on cost is considered 6 percent. Darker red yield on cost outcomes indicate a weaker return on cost, while lighter outcomes indicate a stronger return. However, none of the outcomes presented is financially feasible, even with increased revenue and decreased costs.
Source: Strategic Economics, 2024.

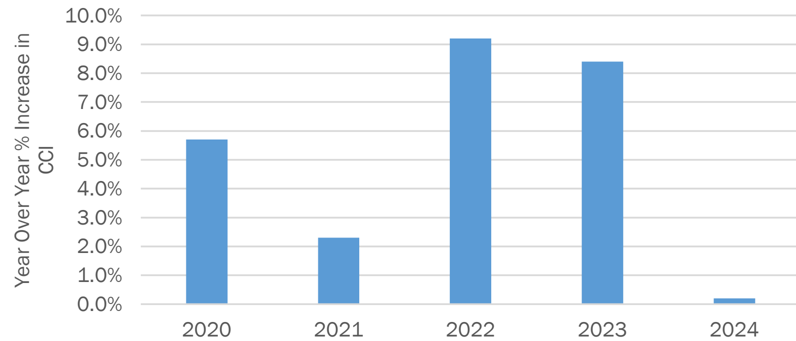
FIGURE 20. COST AND REVENUE CHANGE IMPACTS ON THE RETURN ON COST OF ONE OWNERSHIP UNIT

Change in Development Costs	Change in Sales Value: -10%	-5%	0%	5%	10%
-10%	29.16%	36.33%	43.51%	50.69%	57.86%
-5%	22.36%	29.16%	35.96%	42.76%	49.55%
0%	16.24%	22.70%	29.16%	35.62%	42.08%
5%	10.71%	16.86%	23.01%	29.16%	35.31%
10%	5.68%	11.55%	17.42%	23.29%	29.16%
15%	1.08%	6.70%	12.31%	17.93%	23.54%

Note: Feasible return on cost is considered 8 percent. Return on cost outcomes labelled in green indicate a financially feasible project, while numbers in red indicate an infeasible project. Darker green indicates stronger returns.
Source: Strategic Economics, 2024.

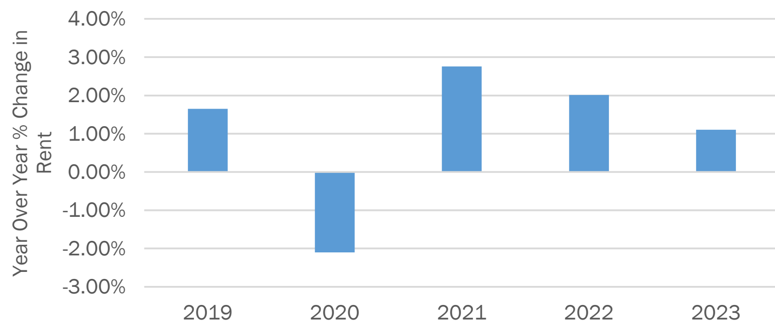
Development costs, revenues, and required return on investment do not often change at the same rate over time. Changes to each factor occur largely independently and at an uneven pace. For example, Figure 21 shows the year over year change in the Construction Cost Index (CCI) tracked by Engineering News Record for San Francisco over the past five years. The chart shows a spike in cost increases in 2022 and 2023 due to supply chain challenges, which are beginning to moderate in 2024. Similarly, rents decreased in Berkeley during the COVID-19 pandemic and have gradually started to increase since 2020—although the increases in rents have been significantly lower than the increases in construction costs since 2020 (see Figure 22).

FIGURE 21. YEAR OVER YEAR CHANGE IN THE CONSTRUCTION COST INDEX FOR SAN FRANCISCO



Source: Engineering News Report, 2024; Strategic Economics, 2024.

FIGURE 22. YEAR OVER YEAR CHANGE IN AVERAGE RENT IN BERKELEY



Source: CoStar, 2024; Strategic Economics, 2024.

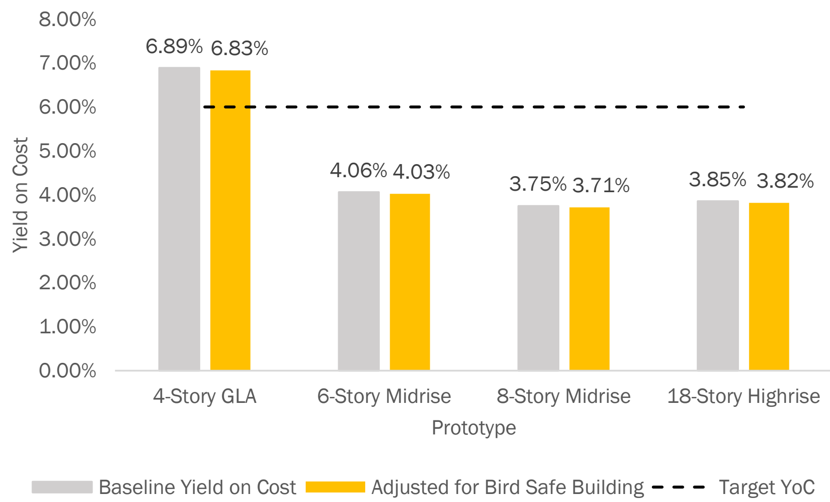
Bird Safe Building Ordinance Impacts on Financial Feasibility

Strategic Economics conducted interviews and research to examine the cost impacts of the Bird Safe Building policy, and then examined the policies' impacts on the financial feasibility of the development prototypes. As noted earlier, the Bird Safe Building requirements took effect in 2023.

The Bird Safe Building requirements increase hard costs of development (i.e., materials and labor) by approximately one percent to 1.5 percent. This range was based on input from general contractors and developers interviewed for this study. The Bird Safe Building Ordinance required that new developments of a certain size use a form of glass or other treatments that reduce the risk of bird collisions and fatalities. This policy change applied to the mid- and high-rise prototypes in this study. The need for and cost of compliance would vary depending on a specific project's design—especially depending on whether the requirement is triggered based on the building's ratio of windows to façade, and the total amount of window area requiring compliance.

The Bird Safe Building requirement marginally negatively impacts the feasibility of the mid- and high-rise prototypes. Figure 23 demonstrates the impact of this increase on the yield on cost of the relevant prototypes. However, interviews with stakeholders indicated that the cost premium for qualifying glass types might decrease as policies such as this become more common across cities.

FIGURE 23. BIRD SAFE BUILDING REQUIREMENTS IMPACTS ON FINANCIAL FEASIBILITY



Source: Strategic Economics, 2024.

HARD HATS and Prevailing Wage Impacts on Financial Feasibility

Strategic Economics conducted interviews and research to examine the potential cost impacts of the HARD HATS and prevailing wage policies, and then examined the policies' impacts on the financial feasibility of the development prototypes. As noted earlier, HARD HATS was adopted in 2023 and came into effect in January of 2024. The ordinance requires that contractors provide or fund apprenticeship programs and provide healthcare to workers on all new construction projects above 50,000 gross square feet. In addition, the City of Berkeley is considering expanding a prevailing wage requirement on new construction projects above 50,000 gross square feet from the Southside Plan Area to the entire city. See Figure 15 for the applicability to the prototypes in this study.

The cost impacts of HARD HATS are based on current conditions and available information—which is limited since no projects have yet been completed under the HARD HATS requirements. The actual impacts of HARD HATS will be clarified over time as projects are proposed or built under the requirements.

The healthcare requirements of the HARD HATS ordinance, as currently written, are most readily met through use of union labor, although a subset of non-union contractors also comply. The ordinance currently requires contractors to show proof of health insurance contributions for workers six months prior to the start of any construction job and does not contain exemptions for workers who have declined coverage. In practice, the HARD HATS requirement is most readily met through use of contractors using union labor because healthcare is included in workers' membership and these contractors also meet the apprenticeship program requirements. Local developers and contractors interviewed for this study noted that the healthcare reporting requirements are a major factor that limits the pool of contractors to those using union labor. However, a smaller subset of non-union contractors are also likely to comply with the policy.

A potential prevailing wage requirement would have similar cost implications as HARD HATS requirements if met through use of union labor, although *not in addition to HARD HATS' cost implications* if a development project is subject to both requirements. The cost differential between non prevailing wage and prevailing wage is approximately equivalent to the shift from non-union to union labor. This is because prevailing wages incorporate costs corresponding to most of the benefits provided by union membership, such as apprenticeships, retirement contributions, and healthcare.

The reported increase in total hard costs for a typical midrise development project to meet the HARD HATS requirements ranges between 18 percent to 25 percent. This percentage reflects the approximate reported cost increase to shift from a project built with largely non-union labor to instead use union labor. This reported cost increase is influenced by the number of trades that are shifting from non-union to union labor.

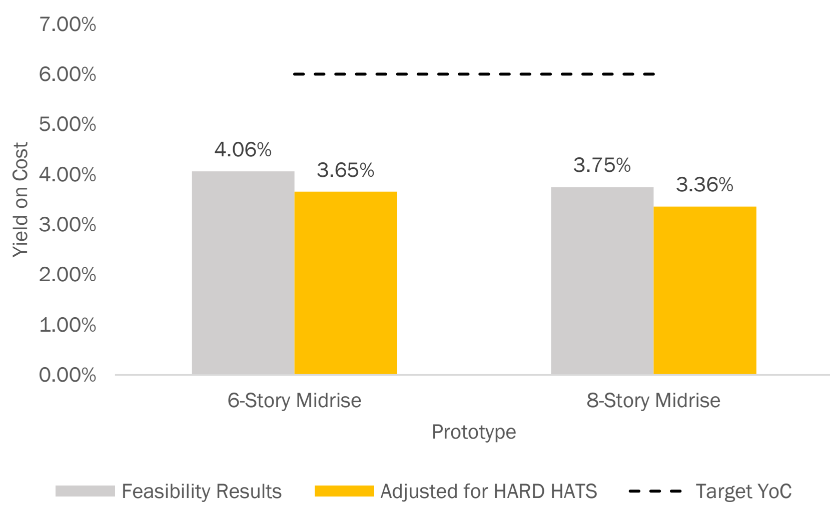
This cost differential varies based on project size and design, with smaller midrise projects being more likely to experience an increased cost burden. This is because smaller midrise projects are more likely to use a higher percentage of non-union trades for their development, or trades with a larger share of contractors that do not otherwise comply with HARD HATS. Specific trades tend to often use union labor and would automatically qualify under HARD HATS, such as those associated with concrete work. However, for trades such as mechanical, electrical, and plumbing (MEP), smaller projects' contractors often do not meet the requirements.

Larger projects, such as high-rises, are much more likely to use union contractors and subcontractors, minimizing the costs associated with meeting HARD HATS requirements and a potential prevailing wage requirement. Findings from interviews suggest that even if a general contractor on a high-rise project is non-union, they will use about 80 percent of union trades to complete the project. Otherwise, contractors on high-rise projects tend to use union labor, and thus do not experience the cost increase from HARD HATS or the potential prevailing wage requirement.

For this study, HARD HATS and the potential prevailing wage requirement were assumed to have the same impact on project costs—one that represents the shift to costs comparable to a project using entirely union labor since this is the current means of most readily meeting the requirements. The midrise prototypes were assumed to experience a 20 percent increase in total hard costs and the high-rise was assumed to not experience a change in costs. The 20 percent cost increase represents implementation of one or both requirements, since both essentially increase hard costs to a level comparable with a union labor project. This analysis provides an illustrative example to understand how residential development might be impacted by the recent and proposed policy changes. The midrise prototypes were assumed to experience similar cost increases because they are relatively similar in size. In contrast, the high-rise was assumed to already incorporate costs for contractors already meeting the requirements in the hard cost assumptions for the prototype's pro forma analysis. However, the actual circumstances might vary based on the composition of union and non-union trades used by a specific project.

Based on the 20 percent increase in hard costs, both labor requirements negatively impact the financial feasibility of the 6- and 8-Story prototypes (see Figure 24). While neither prototype is currently feasible, these requirements significantly increase development costs without changing expected revenues. As a result, a larger magnitude of positive change in rents, return on investment thresholds, or other costs would need to occur before development of these prototypes could move forward in Berkeley, relative to a condition without the requirements.

FIGURE 24. HARD HATS IMPACT ON FINANCIAL FEASIBILITY



Source: Strategic Economics, 2024.

Key Conclusions

Currently, residential development is infeasible for most of the prototypes tested in this study. The exceptions are the 4-Story GLA rental, and the Small Lot Single Family and Townhomes/Fourplex ownership products. While these results can and likely will change as development conditions improve, this baseline was used to gauge current feasibility of different housing prototypes and to test the impacts of the recently adopted and proposed labor and construction policies.

The overall cost impact of the Bird Safe Building requirements is relatively limited, but the requirements do create additional development costs and negatively impact project feasibility. The Bird Safe Building requirement adds development costs, but on its own the costs associated with the policy likely won't determine whether a project is built.

The cost impacts of HARD HATS are significant for midrise development projects, but are limited for high-rise development. While the applicable prototypes are not feasible in current development conditions, the additional costs driven by HARD HATS could become a significant factor for determining when or whether a midrise project is built as conditions improve.

HARD HATS reduces the pool of compliant contractors and their workers available for development projects in Berkeley. As noted, a limited percentage of non-union contractors are currently likely to meet the requirements of HARD HATS.

The cost impact of a prevailing wage requirement would be significant for midrise development. A prevailing wage requirement would increase hard costs for development projects at a level comparable to (but not in addition to) the costs associated with the HARD HATS requirement.

The additional development costs associated with the HARD HATS, prevailing wage, and Bird Safe Glass requirements are not likely to pose an insurmountable barrier to future market rate residential development in Berkeley when development conditions improve, but any cost impacts associated with the requirements will constrain the likelihood and pace of future housing production. The magnitude of changes in rents, development costs, and other development conditions required to cover the impacts of HARD HATS, etc. are likely achievable over time as market conditions shift. Overall demand for housing is strong in Berkeley, especially given the number of students seeking housing. However, the development cost increases associated with HARD HATS and other tested policies are significant enough to delay or constrain housing production since the policies increase the required changes in rents/prices, development costs, and market return thresholds necessary before housing development becomes feasible.

The cost premium associated with meeting HARD HATS and prevailing wage requirements is likely to decline over time due to a variety of state legislation and legislation in other cities that will incentivize or expand use of contractors meeting or exceeding these labor standards. Many state housing laws require developers to meet labor requirements to qualify for benefits. For example, the ministerial approval benefits under AB 2011 require payment of prevailing wages to construction workers, while SB 6 requires use of a “skilled and trained workforce”—most readily met through use of union contractors. Other California cities are also considering or adopting additional labor requirements. As a result, a greater share of contractors may qualify for HARD HATS requirements over time. This would expand the pool of competing contractors and potentially reduce the cost premiums associated with meeting HARD HATS requirements.

The City of Berkeley could potentially complete a future study to clarify the actual cost impacts of HARD HATS based on completed projects. This report’s findings regarding the construction costs associated with HARD HATS were based on available information and current conditions. However, developers have not yet built any housing development projects subject to HARD HATS. The City of Berkeley could potentially re-study the HARD HATS construction cost and development feasibility impacts after several projects subject to the requirements are proposed or completed—potentially in three to five years and during the City’s next re-study of inclusionary or in-lieu fee requirements.

The City of Berkeley could also consider studying the HARD HATS policy beyond its impact on construction costs. This study focused solely on the construction cost impacts associated with the HARD HATS requirements. A broader analysis of HARD HATS would allow consideration of the policy’s broader benefits and drawbacks.

APPENDIX

Pro Forma Assumptions

Strategic Economics used a static pro forma to evaluate the financial feasibility impacts of the affordable housing requirements, HARD HATS, Bird Safe Building requirements, and a prevailing wage requirement. This approach involved collecting data on revenue and cost inputs for the pro forma model. Data was collected through interviews with local stakeholders, including developers, general contractors, and architects, as well as through review of existing studies and analysis of data from CoStar and Redfin.

ESTIMATING REVENUES

Revenue inputs were primarily informed by CoStar and Redfin data on recent market rents and sales prices. However, since several of the prototypes have on-site affordable rental or ownership units, revenue inputs were also informed by the California Department of Housing and Community Development county income limits, as well as guidance from the City of Berkeley.

Figure 25 provides a breakdown of unit sizes, types, and affordability levels across the ownership and rental prototypes used in this study.

FIGURE 25. SQUARE FEET PER UNIT AND SHARE OF UNITS BY BEDROOM SIZE AND AFFORDABILITY LEVEL

	Small Lot Single Family (a)	Fourplex/ Townhomes (a)	10-Unit Small Multifamily (Units)	10-Unit Small Multifamily (Fee)	4-Story GLA	6-Story Midrise	8-Story Midrise	18-Story High-rise	10-Unit Small Multifamily (Units) (b)
Market Rate Units									
Unit Count									
Studio	-	-	-	-	32	23	78	16	-
One Bedroom	-	-	4	5	1	35	20	41	4
Two Bedroom	-	4	4	5	-	11	10	16	4
Three Bedroom	3	-	-	-	-	-	-	21	-
Units Above 8 Stories (c)									
Studio	-	-	-	-	-	-	-	27	-
One Bedroom	-	-	-	-	-	-	-	45	-
Two Bedroom	-	-	-	-	-	-	-	28	-
Three Bedroom	-	-	-	-	-	-	-	22	-
Total	3	4	8	10	33	69	108	216	8
Unit Size									
Studio	-	-	-	-	250	500	510	400	-
One Bedroom	-	-	750	750	650	660	750	580	750
Two Bedroom	-	1,200	1,100	1,100	-	990	950	800	1,100
Three Bedroom	1,500	-	-	-	-	-	-	1,100	-
Average Unit Size	1,500	1,200	925	925	262	659	595	693	925
BMR Units									
Unit Count - VLI									
Studio	-	-	-	-	3	2	9	5	-
One Bedroom	-	-	1	-	-	3	2	10	-
Two Bedroom	-	-	-	-	-	1	1	5	-
Three Bedroom	-	-	-	-	-	-	-	4	-
Unit Count - LI									
Studio	-	-	-	-	-	-	-	-	-
One Bedroom	-	-	-	-	-	-	-	-	1
Two Bedroom	-	-	1	-	-	-	-	-	1
Three Bedroom	-	-	-	-	-	-	-	-	-
Total	0	0	2	0	3	6	12	24	2
Unit Size									
Studio	-	-	-	-	250	500	510	400	-
One Bedroom	-	-	750	750	-	660	750	580	750
Two Bedroom	-	-	1,100	1,100	-	990	950	800	1,100
Three Bedroom	-	-	-	-	-	-	-	1,100	-
Average Unit Size	N/A	N/A	925	N/A	250	662	587	675	925

Note:
(a) These prototypes have the same unit composition and unit sizes in their rental and ownership forms.
(b) This prototype represents the ownership version, which has different affordability levels for its below-market rate units.
(c) Units above 8 stories were given a premium of $0.75 per square foot for the market rate units. This premium is not applicable to the below-market rate units above 8 stories.
Source: Strategic Economics, 2024.

MARKET RATE RENTS

Market rate rent assumptions were established by using CoStar data from the last year. Submarkets data was used to approximate average rents for the relevant geographic areas of the city. A new construction premium of 10 percent was applied to the rents. The submarket rents were applied to each prototype based on their proposed location in the city, as shown in Figure 26.

FIGURE 26. MARKET RATE RENTAL ASSUMPTIONS PER MONTH (DOLLARS PER MONTH)

	Small Lot Single Family	Fourplex/ Townhomes	10-Unit Small Multifamily	4-Story GLA	6-Story Midrise	8-Story Midrise	18-Story High-rise
Unit Rent							
Studio	-	-	-	2,400	2,800	2,850	3,300
One Bedroom	-	-	3,000	3,500	3,250	3,500	3,750
Two Bedroom	-	4,000	4,100	-	4,500	4,300	4,700
Three Bedroom	5,500	-	-	-	-	-	6,000
Unit Rent - Above 8 Floors							
Studio	-	-	-	-	-	-	3,630
One Bedroom	-	-	-	-	-	-	4,125
Two Bedroom	-	-	-	-	-	-	5,170
Three Bedroom	-	-	-	-	-	-	6,600

Source: Strategic Economics, 2024.

BELOW MARKET RATE RENTS

The BMR rents used in the pro forma analysis were adopted from the City of Berkely's guidance on gross rent maximums for 2023, shown in Figure 27. Utility costs were then subtracted from the rent from each unit type to determine the net rent maximum.[14] The net rent (see Figure 28) was used in the analysis across all of the rental prototypes. Figure 29 shows the operating cost, vacancy rate, and cap rate used across the market and BMR units.

FIGURE 27. CITY OF BERKELEY GROSS RENT MAXIMUMS FOR VERY LOW- AND LOW-INCOME HOUSEHOLDS

	Studio	1 BR	2BR	3BR	4BR	5BR
50% AMI	$1,295	$1,480	$1,665	$1,849	$1,998	$2,293
80% AMI	$1,964	$2,244	$2,524	$2,804	$3,029	$3,478

Source: City of Berkeley, 2023; Strategic Economics, 2024.

FIGURE 28. CITY OF BERKELEY NET RENT MAXIMUMS FOR VERY LOW- AND LOW-INCOME HOUSEHOLDS

	Studio	1 BR	2BR	3BR
50% AMI	$1,195	$1,332	$1,473	$1,614
80% AMI	$1,864	$2,096	$2,332	$2,569

Source: City of Berkeley, 2023; Strategic Economics, 2024.

FIGURE 29. RETAIL AND RENT ASSUMPTIONS

	Units	Apartments - Market Rate	Apartments - BMR	Retail
Operating Expenses	% of GSI	30.0%	30.0%	0.0%
Vacancy Rate - Market Rate	% of GSI	5.0%	2.5%	10.0%
Cap Rate	NOI / Project Value	5.0%	5.0%	5.0%

Source: Strategic Economics, 2024.

[14] Utilities were calculated using the City's Utility Allowance Schedule for BMR units, available here: https://berkeleyca.gov/sites/default/files/documents/2023%20COB%20BMR%20Utility%20Allowance%20Schedule.pdf.

MARKET RATE SALES PRICES

Market rate sales prices for townhomes, condos, and single-family dwelling units were established using Redfin data for recently built and sold units for similar size developments to those in the for-sale prototypes for this study. Figure 30 provides a summary of the sales prices for each prototype by unit type.

FIGURE 30. MARKET RATE SALES PRICES BY PROTOTYPE

	Small Lot Single Family	Fourplex/ Townhomes	10-Unit Small Multifamily
Studio	-	-	-
One Bedroom	-	-	$800,000
Two Bedroom	-	$1,200,000	$1,100,000
Three Bedroom	$1,500,000	-	-

Source: Redfin, 2023; Strategic Economics, 2024.

BELOW MARKET RATE SALES PRICES

Affordable housing prices were identified based on resources from California HCD, which sets income levels and maximum housing costs for federal and state-funded affordable housing programs. The City of Berkeley then provided a specific approach for calculating affordable sales prices. Background research, as well as City requirements, informed the assumptions that were used to calculate affordable sales prices (see Figure 31).

FIGURE 31. BELOW MARKET RATE HOMEOWNERSHIP ASSUMPTIONS

	Assumption	Basis	Source
Loan Type	Conventional	-	-
Down Payment	5%	Sales Price	*City of Berkeley, 2023*
Loan-To-Value (LTV) Ratio	95%	Sales Price	*City of Berkeley, 2023*
Interest Rate	6.76%	Annual	*FreddieMac 52-Week Average for 30-Year FRM, 2023*
Term of Loan	30	Years	*City of Berkeley, 2023*
Monthly HOA Dues	$0.32	Square Foot	*Zillow, 2023*
Property Tax Rate (Annual)	1.25%	Sales Price	*Bekins AMS Relocation, 2023*
Private Mortgage Insurance Premium Rate (Annual)	0.98%	Mortgage Amount	*Urban Institute Housing Finance Policy Center, 2023*
Homeowner's Insurance	0.35%	Sales Price	*QuoteWizard 2023*

Source: Strategic Economics, 2024.

Based on HCD guidelines, the affordable rent was calculated as 30 percent of a household's gross monthly income, minus a deduction for utilities [15]. The maximum monthly housing cost used to calculate the affordable sales price for condos in this study was 30 percent of a household's gross income, minus the cost of utilities. See Figure 32 for the affordable sales price calculation.

[15] Utilities were calculated using the City's Utility Allowance Schedule for BMR units, available here: https://berkeleyca.gov/sites/default/files/documents/2023%20COB%20BMR%20Utility%20Allowance%20Schedule.pdf.

FIGURE 32. BELOW-MARKET RATE CONDO SALES PRICE CALCULATION BY UNIT TYPE

	1 Bedroom	2 Bedroom
Household Size (Persons per HH)	2	3
Annual Household Income at 80% AMI	$89,750	$100,950
Maximum Monthly Housing Cost	$2,244	$2,524
Monthly Deductions		
Utilities	$229	$283
HOA Dues	$237	$348
Property Taxes	$224	$238
Private Mortgage Insurance	$167	$177
Homeowner's Insurance	$63	$67
Monthly Income Available for Mortgage Payment	$1,325	$1,410
Maximum Mortgage Amount	$204,008	$217,239
Down Payment	$10,737	$11,434
Maximum Affordable Sales Price	**$214,745**	**$228,672**

Source: Strategic Economics, 2024.

ESTIMATING DEVELOPMENT COSTS

Development costs were estimated for each of the development prototypes. Development costs include land costs, direct or "hard" construction costs, indirect or "soft" costs, as well as financing costs, a developer fee, and a contingency for overruns.

Assumptions for development costs were informed by interviews and data analysis. This was supplemented by Strategic Economics' general experience with the economics of real estate development projects in the Bay Area.

The development cost assumptions for rental and ownership prototypes are shown below in Figure 34 and Figure 35, respectively. The remainder of this section explains the cost assumptions in more detail.

LAND COST

Land costs typically vary widely, depending on factors such as location, zoning, and the amount of site work required to prepare the land for development. Because the price of land is so strongly tied to what can be built upon it, land costs are characterized in this study as the cost per dwelling unit of development.

Land costs were estimated based on CoStar land sales data from the past five years. When available, the size and unit count of the proposed redevelopment was used to inform the assumption of land cost per unit and per square foot for each of the prototypes in this study. Assumptions were also informed by the general market trend that larger developments command higher land costs per square foot of land, but lower per unit costs.

HARD COSTS

Hard costs refer to both horizontal site costs and vertical construction costs, including the residential area construction and parking construction.

The construction costs also include horizontal/site costs that include demolition, grading, utility connection installation, paving, and landscaping. For the purposes of this analysis, it was assumed that the hypothetical sites are relatively flat, with horizontal costs between $20 to $35 per land square foot. The 10-Unit Small Multifamily was assumed to have higher horizontal costs because it includes surface parking.

The vertical costs include parking structures and building materials. The construction costs were based on assumptions for the materials used to construct each prototype. Type V construction is the least expensive and is used for wood frame structures. The Missing Middle prototypes and the GLA are constructed entirely with Type V building materials. The midrise prototypes utilize a mix of Type V and Type III building materials. Type III construction is used for developments over five stories, above the Type I podium used for a parking structure. The high-rise prototype utilizes Type I building materials, which is typically reinforced concrete and steel, with high fire safety standards. Total building costs were based on the amount of Type V, III, and I materials corresponding to the prototype design. The costs result in the per unit and per square foot costs as seen in Figure 33.

FIGURE 33. BUILDING AREA HARD COST PER UNIT AND PER SQUARE FOOT

	Small Lot Single Family	Fourplex/ Townhomes	10-Unit Small Multifamily	4-Story GLA	6-Story Midrise	8-Story Midrise	18-Story High-rise
Cost per Unit	$600,000	$480,000	$463,480	$141,167	$304,567	$344,360	$479,999
Cost per Square Foot	$400	$400	$400	$350	$360	$449	$547

Source: Strategic Economics, 2024.

Parking costs were assumed to be $100 per square foot for garage spaces, and $200 per square foot for podium spaces. Each space was assumed to be 300 square feet.

The construction costs for the ownership prototypes were slightly higher than the rental costs per square foot. This is because the ownership prototypes were assumed to be of slightly higher building quality.

SOFT COSTS

Soft costs refer to necessary costs of development that are not directly related to the physical construction of the building. They include architecture, engineering costs and other professional services fees, as well as other costs associated with doing business, such as insurance and taxes. Finally, soft costs include city permits and fees, and other miscellaneous costs. It is estimated that soft costs are 13 percent of hard costs for the Missing Middle prototypes, and 18 percent for the GLA, midrise, and high-rise prototypes. This was reflected in interviews with local and outside developers. The developer's contingency and overhead also account for an additional five and four percent of hard costs, respectively, though there are no overhead fees for the Missing Middle prototypes.

FINANCING COSTS

Based on input from developers, 55 percent of the project cost would be financed with debt, with interest rates currently in the 7 percent to 9.25 percent range. For the purpose of this study, an interest rate in the middle of this range was selected (8 percent). Financing assumptions are consistent for the for-rent and for-sale prototypes because the hypothetical projects would have similar loan terms and construction timelines. The development period for the Small Lot Single Family and Townhome prototypes was assumed to be 12 months. It was assumed to be 18 months for the 10- Unit Small Multifamily and GLA prototypes, 24 months for the midrise prototypes, and 36 months for the high-rise. All prototypes incorporate a 1.0 percent construction loan fee, which is a standard industry assumption. See Figure 36 for a summary of financing assumptions.

FEES

City fees were added to the pro forma. These fees include, but are not limited to, the affordable housing in lieu fee. A full breakdown of the fees for each prototype is provided in Figure 37.

FIGURE 34. HARD AND SOFT COST ASSUMPTIONS BY RENTAL PROTOTYPE

	Unit of measure	Small Lot Single Family	Fourplex/ Townhomes	10-Unit Small Multifamily	4-Story GLA	6-Story Midrise	8-Story Midrise	18-Story High-rise
Land Costs	per square foot	$150	$150	$175	$200	$325	$500	$850
Hard Costs								
Demolition and Site Work	per sf land	$20	$20	$35	$20	$25	$25	$25
Residential - Type V	per gross sf	$400	$400	$400	$350	$350	-	-
Residential - Type III	per gross sf	-	-	-	-	-	$400	-
Residential - Type I	per gross sf	-	-	-	-	$550	$550	$550
Retail - Type I	per gross sf	$100	$100	-	-	$200	$200	$200
Parking Garage	per space	$30,000	$30,000	$0	$0	$0	$0	$0
Parking Podium	per space	$0	$0	$0	$0	$60,000	$60,000	$0
Tenant Improvement Allowance	per net sf	$0	$0	$0	$0	$100	$100	$100
Soft Costs								
Arch, Eng & Consulting	% of hard costs	5%	5%	5%	8%	8%	8%	8%
Taxes, Insurance, Legal & Accounting	% of hard costs	5%	5%	5%	8%	8%	8%	8%
Other Soft Costs	% of hard costs	3%	3%	3%	3%	3%	3%	3%
Total Soft Costs (Excluding Fees)	% of hard costs	13%	13%	13%	18%	18%	18%	18%
Contingency	% of hard + soft costs	5%	5%	5%	5%	5%	5%	5%

Source: Strategic Economics, 2024.

FIGURE 35. HARD AND SOFT COST ASSUMPTIONS BY OWNERSHIP PROTOTYPE

	Unit of measure	Small Lot Single Family	Fourplex/ Townhomes	10-Unit Small Multifamily
Land Costs	per square foot	$150	$150	$175
Hard Costs				
Demolition and Site Work	per sf land	$20	$20	$35
Residential - Type V	per gross sf	$425	$425	$425
Parking Garage	per space	$30,000	$30,000	$0
Tenant Improvement Allowance	per net sf	$0	$0	$0
Soft Costs				
Arch, Eng & Consulting	% of hard costs	5%	5%	5%
Taxes, Insurance, Legal & Accounting	% of hard costs	5%	5%	5%
Other Soft Costs	% of hard costs	3%	3%	3%
Total Soft Costs (Excluding Fees)	% of hard costs	13%	13%	13%
Contingency	% of hard + soft costs	5%	5%	5%

Source: Strategic Economics, 2024.

FIGURE 36. FINANCING COST ASSUMPTIONS

	Units	Small Lot Single Family	Fourplex/ Townhomes	3-Story Missing Middle (Units)	3-Story Missing Middle (Fee)	4-Story GLA	6-Story Midrise	8-Story Midrise	18-Story High-rise
Total Development Cost (Excl. Financing)	Millions of $	$2.90	$3.10	$7.30	$7.80	$8.90	$41.80	$67.70	$170.97
Amount Financed	% of hard + soft costs	55%	55%	55%	55%	55%	55%	55%	55%
Average Outstanding Balance	% of amount financed	55%	55%	55%	55%	55%	55%	55%	55%
Construction Loan Fee	% of amount financed	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%
Construction Interest (annual)	% of amount financed	8.0%	8.0%	8.0%	8.0%	8.0%	8.0%	8.0%	8.0%
Term	Months	12	12	18	18	18	24	24	36
Total Cost of Financing	Millions of $	$0.09	$0.09	$0.31	$0.33	$0.37	$2.25	$3.65	$13.35
Financing as Share of TDC	% of total costs	2.8%	2.8%	3.9%	3.9%	3.8%	4.4%	4.4%	6.9%

Source: Strategic Economics, 2024.

FIGURE 37. CITY FEES BY PROTOTYPE (WHEN TESTED UNDER EXISTING IN-LIEU FEE POLICY)

	Small Lot Single Family	Fourplex/ Townhomes	10-Unit Small Multifamily (Units)	10-Unit Small Multifamily (Fee)	4-Story GLA	6-Story Midrise	8-Story Midrise	18-Story High-rise
Affordable Housing In-Lieu Fee	$0	$0	$0	$450,938	$202,737	$1,255,416	$723,642	$1,580,453
BUSD Developer Fee	$15,660	$16,704	$40,323	$40,323	$50,530	$215,516	$313,144	$726,370
Building Permit Fees*	$31,850	$33,896	$83,218	$83,218	$115,672	$557,448	$936,523	$2,550,810
Plan Check Fees*	$20,702	$22,032	$54,091	$54,091	$75,187	$362,341	$608,740	$1,658,027
Other Permit Fees (Fire Plan, etc)*	$15,238	$16,216	$39,779	$39,779	$55,283	$266,330	$447,425	$1,218,614
SOSIP (Residential) Fee	$0	$0	$0	$0	$0	$0	$0	$369,689
SOSIP (Commercial) Fee	$0	$0	$0	$0	$0	$0	$0	$3,360
Sewer Connection*	$10,608	$14,144	$36,000	$36,000	$129,600	$270,000	$432,000	$864,000
1% Arts Fee	$0	$0	$3,952	$4,205	$4,205	$20,510	$34,374	$92,755
POPOS	$0	$0	$0	$0	$0	$0	$0	$0

Note:
* Calculated using the City of Berkeley's online fee calculator.
** Assumes $3,600 per unit for multifamily based on similar projects.
Source: Strategic Economics, 2024.

Pro Forma Results

This appendix provides the full pro forma results for the rental and ownership scenarios in Figure 38 and Figure 39. The rental results demonstrate the impacts of HARD HATS/prevailing wage and Bird Safe Building requirements. The section also provides the full pro forma results for the rental and ownership scenarios after the recommended in-lieu fee exemption for the first 5,000 square feet of development is applied in Figure 40 and Figure 41.

FIGURE 38. FULL RENTAL PRO FORMA RESULTS (WITH CURRENT IN-LIEU FEE, BIRD SAFE BUILDING, AND HARD HATS REQUIREMENTS)

	Small Lot Single Family	Fourplex/ Townhomes	10-Unit Small Multifamily (Units)	10-Unit Small Multifamily (Fee)	4-Story GLA	6-Story Midrise	8-Story Midrise	18-Story High-rise
Revenues								
Market Rate Units								
Gross Scheduled Income	$198,000	$192,000	$340,800	$426,000	$963,600	$2,731,800	$4,023,600	$11,776,140
Less Vacancy	-$9,900	-$9,600	-$17,040	-$21,300	-$48,180	-$136,590	-$201,180	-$588,807
Less Operating Expenses	-$59,400	-$57,600	-$102,240	-$127,800	-$289,080	-$819,540	-$1,207,080	-$4,121,649
Below Market Rate Units								
Gross Scheduled Income	$0	$0	$43,968	$0	$43,020	$94,308	$178,704	$397,392
Less Vacancy	$0	$0	-$1,099	$0	-$1,076	-$2,358	-$4,468	-$9,935
Less Operating Expenses	$0	$0	-$2,130	$0	-$2,190	-$5,939	-$11,177	-$38,163
Retail Area	$0	$0	$0	$0	$0	$6,075	$8,100	$8,100
Total Net Operating Income	**$128,700**	**$124,800**	**$262,259**	**$276,900**	**$666,095**	**$1,867,757**	**$2,786,500**	**$7,423,078**
Total Capitalized Value	**$2,574,000**	**$2,496,000**	**$5,245,176**	**$5,538,000**	**$13,321,890**	**$37,355,132**	**$55,729,995**	**$148,461,556**
Development Costs								
Land Costs	$653,400	$653,400	$1,524,600	$1,524,600	$1,742,400	$7,078,500	$10,890,000	$18,513,000
Direct Costs								
Demolition and Site Work	$87,120	$87,120	$304,920	$304,920	$174,240	$544,500	$544,500	$544,500
Building Area	$1,800,000	$1,920,000	$4,634,800	$4,634,800	$5,082,000	$22,842,500	$41,323,200	$115,199,850
Parking	$90,000	$120,000	$0	$0	$0	$2,100,000	$900,000	$0
Tenant Improvements	$0	$0	$0	$0	$0	$150,000	$200,000	$200,000
City Initiatives								
Bird Safe Building	$0	$0	$0	$0	$78,844	$384,555	$644,516	$1,739,165
Hard Hats	$0	$0	$0	$0	$0	$5,127,400	$8,593,540	$0
Indirect Costs								
Soft Costs	$257,026	$276,526	$642,164	$642,164	$946,123	$4,614,660	$7,734,186	$20,869,983
Municipal Fees	$94,058	$102,992	$257,363	$708,553	$633,213	$2,947,561	$3,495,849	$9,064,078
Developer Overhead	$0	$0	$0	$0	$343,119	$1,611,109	$2,603,509	$6,575,656
Financing	$88,554	$93,853	$307,809	$326,669	$372,902	$2,254,902	$3,648,558	$13,352,528
Contingency	$120,838	$130,025	$307,353	$330,855	$377,580	$1,868,262	$3,022,490	$8,290,330
Total Development Costs	**$3,190,995**	**$3,383,915**	**$7,979,008**	**$8,472,561**	**$9,750,421**	**$51,823,948**	**$83,600,348**	**$194,349,091**
Feasibility Summary								
Yield-on-cost	4.03%	3.69%	3.29%	3.27%	6.83%	3.60%	3.33%	3.82%
Target yield-on-cost	6.00%	6.00%	6.00%	6.00%	6.00%	6.00%	6.00%	6.00%
Difference	**-1.97%**	**-2.31%**	**-2.71%**	**-2.73%**	**0.83%**	**-2.37%**	**-2.67%**	**-2.18%**

Source: Strategic Economics, 2024.

FIGURE 39. FULL OWNERSHIP PRO FORMA RESULTS (WITH CURRENT IN-LIEU FEE, BIRD SAFE BUILDING, AND HARD HATS REQUIREMENTS)

	Small Lot Single Family	Fourplex/ Townhomes	10-Unit Small Multifamily (Units)	10-Unit Small Multifamily (Fee)
Revenues				
Market Rate Units				
Gross Revenue	$4,500,000	$4,800,000	$7,600,000	$9,500,000
Less Marketing Expenses	-$225,000	-$240,000	-$380,000	-$475,000
Below Market Rate Units				
Gross Revenue	$0	$0	$443,417	$0
Less Marketing Expenses	$0	$0	-$22,171	$0
Total Proceeds	**$4,275,000**	**$4,560,000**	**$7,641,246**	**$9,025,000**
Development Costs				
Land Costs	$653,400	$653,400	$1,524,600	$1,524,600
Direct Costs				
Demolition and Site Work	$87,120	$87,120	$304,920	$304,920
Building Area	$1,912,500	$2,040,000	$4,924,475	$4,924,475
Parking	$90,000	$120,000	$0	$0
Tenant Improvements	$0	$0	$0	$0
Indirect Costs				
Soft Costs	$271,651	$292,126	$679,821	$679,821
Municipal Fees	$94,058	$102,992	$258,521	$708,532
Developer Overhead	$0	$0	$0	$0
Financing	$92,329	$97,880	$321,540	$340,350
Contingency	$127,383	$137,006	$324,464	$347,905
Total Development Costs	**$3,328,441**	**$3,530,524**	**$8,338,341**	**$8,830,603**
Feasibility Summary				
Total Revenue	$4,275,000	$4,560,000	$7,641,246	$9,025,000
Total Development Cost	$3,328,441	$3,530,524	$8,338,341	$8,830,603
Net Revenue	**$946,559**	**$1,029,476**	**-$697,095**	**$194,397**
Return-on-Cost	28%	29%	-8%	2%
Target Return on Cost	8%	8%	8%	8%
Difference	**20%**	**21%**	**-16%**	**-6%**

Source: Strategic Economics, 2024.

FIGURE 40. FULL RENTAL PRO FORMA RESULTS WITH RECOMMENDED IN-LIEU FEE EXEMPTION (INCLUDES BIRD SAFE BUILDING AND HARD HATS REQUIREMENTS)

	Small Lot Single Family	Fourplex/ Townhomes	10-Unit Small Multifamily (Units)	10-Unit Small Multifamily (Fee)	4-Story GLA	6-Story Midrise	8-Story Midrise	18-Story High-rise
Revenues								
Market Rate Units								
Gross Scheduled Income	$198,000	$192,000	$340,800	$426,000	$963,600	$2,731,800	$4,023,600	$11,776,140
Less Vacancy	-$9,900	-$9,600	-$17,040	-$21,300	-$48,180	-$136,590	-$201,180	-$588,807
Less Operating Expenses	-$59,400	-$57,600	-$102,240	-$127,800	-$289,080	-$819,540	-$1,207,080	-$4,121,649
Below Market Rate Units								
Gross Scheduled Income	$0	$0	$43,968	$0	$43,020	$94,308	$178,704	$397,392
Less Vacancy	$0	$0	-$1,099	$0	-$1,076	-$2,358	-$4,468	-$9,935
Less Operating Expenses	$0	$0	-$2,130	$0	-$2,190	-$5,939	-$11,177	-$38,163
Retail Area	$0	$0	$0	$0	$0	$6,075	$8,100	$8,100
Total Net Operating Income	**$128,700**	**$124,800**	**$262,259**	**$276,900**	**$666,095**	**$1,867,757**	**$2,786,500**	**$7,423,078**
Total Capitalized Value	**$2,574,000**	**$2,496,000**	**$5,245,176**	**$5,538,000**	**$13,321,890**	**$37,355,132**	**$55,729,995**	**$148,461,556**
Development Costs								
Land Costs	$653,400	$653,400	$1,524,600	$1,524,600	$1,742,400	$7,078,500	$10,890,000	$18,513,000
Direct Costs								
Demolition and Site Work	$87,120	$87,120	$304,920	$304,920	$174,240	$544,500	$544,500	$544,500
Building Area	$1,800,000	$1,920,000	$4,634,800	$4,634,800	$5,082,000	$22,842,500	$41,323,200	$115,199,850
Parking	$90,000	$120,000	$0	$0	$0	$2,100,000	$900,000	$0
Tenant Improvements	$0	$0	$0	$0	$0	$150,000	$200,000	$200,000
City Initiatives								
Bird Safe Glass	$0	$0	$0	$0	$78,844	$384,555	$644,516	$1,739,165
Hard Hats	$0	$0	$0	$0	$0	$5,127,400	$8,593,540	$0
Indirect Costs								
Soft Costs	$257,026	$276,526	$642,164	$642,164	$946,123	$4,614,660	$7,734,186	$20,869,983
Municipal Fees	$94,058	$102,992	$256,436	$496,678	$677,048	$2,947,561	$3,495,849	$9,064,078
Developer Overhead	$0	$0	$0	$0	$344,872	$1,611,109	$2,603,509	$6,575,656
Financing	$88,554	$93,853	$307,770	$317,812	$374,807	$2,254,902	$3,648,558	$13,352,528
Contingency	$120,838	$130,025	$307,304	$319,819	$379,955	$1,868,262	$3,022,490	$8,290,330
Total Development Costs	**$3,190,995**	**$3,383,915**	**$7,977,994**	**$8,240,793**	**$9,800,290**	**$51,823,948**	**$83,600,348**	**$194,349,091**
Feasibility Summary								
Yield-on-cost	4.03%	3.69%	3.29%	3.36%	6.83%	3.60%	3.33%	3.82%
Target yield-on-cost	6.00%	6.00%	6.00%	6.00%	6.00%	6.00%	6.00%	6.00%
Difference	**-1.97%**	**-2.31%**	**-2.71%**	**-2.64%**	**0.83%**	**-2.37%**	**-2.67%**	**-2.18%**

Source: Strategic Economics, 2024.

FIGURE 41. FULL OWNERSHIP PRO FORMA RESULTS WITH RECOMMENDED IN-LIEU FEE EXEMPTION (INCLUDES BIRD SAFE BUILDING AND HARD HATS REQUIREMENTS)

	Small Lot Single Family	Fourplex/ Townhomes	10-Unit Small Multifamily (Units)	10-Unit Small Multifamily (Fee)
Revenues				
Market Rate Units				
Gross Revenue	$4,500,000	$4,800,000	$7,600,000	$9,500,000
Less Marketing Expenses	-$225,000	-$240,000	-$380,000	-$475,000
Below Market Rate Units				
Gross Revenue	$0	$0	$443,417	$0
Less Marketing Expenses	$0	$0	-$22,171	$0
Total Proceeds	**$4,275,000**	**$4,560,000**	**$7,641,246**	**$9,025,000**
Development Costs				
Land Costs	$653,400	$653,400	$1,524,600	$1,524,600
Direct Costs				
Demolition and Site Work	$87,120	$87,120	$304,920	$304,920
Building Area	$1,912,500	$2,040,000	$4,924,475	$4,924,475
Parking	$90,000	$120,000	$0	$0
Tenant Improvements	$0	$0	$0	$0
Indirect Costs				
Soft Costs	$271,651	$292,126	$679,821	$679,821
Municipal Fees	$94,058	$102,992	$258,521	$497,584
Developer Overhead	$0	$0	$0	$0
Financing	$92,329	$97,880	$321,540	$331,533
Contingency	$127,383	$137,006	$324,464	$336,917
Total Development Costs	**$3,328,441**	**$3,530,524**	**$8,338,341**	**$8,599,849**
Feasibility Summary				
Total Revenue	$4,275,000	$4,560,000	$7,641,246	$9,025,000
Total Development Cost	$3,328,441	$3,530,524	$8,338,341	$8,599,849
Net Revenue	**$946,559**	**$1,029,476**	**-$697,095**	**$425,151**
Return-on-Cost	28%	29%	-8%	5%
Target Return on Cost	8%	8%	8%	8%
Difference	**20%**	**21%**	**-16%**	**-3%**

Source: Strategic Economics, 2024.

Maximum Justifiable In-Lieu Fee Calculation

METHODOLOGY

The following steps illustrate the methodology for calculating the production cost affordability gap:

1. Estimate affordable rents and housing prices for households in target groups (see pages 36 and 37 for a description, and Figure 28 and Figure 32 for affordable rents and sales prices used in this study);
2. Estimate development costs of building new housing units, based on current cost and market data from the pro forma analysis;
3. Calculate the difference between what renters and homeowners can afford to pay for housing, and the cost of developing those rental and for-sale units (see Figure 42).

The following steps illustrate the methodology for calculating the affordability gap:

1. Estimate affordable rents and housing prices for households in target groups (see pages 36 and 37 for a description, and Figure 28 and Figure 32 for affordable rents and sales prices used in this study);
2. Subtract the difference in annual revenue between a market rate and below market rate unit (see Figure 26 for the market rate rents used in this study);
3. Divide the difference by the cap rate to determine the difference in revenue between producing a market rate and BMR unit.

The following steps illustrate the methodology to translate the gap per unit to a gap per square foot for both the production cost and the affordability gap methodologies:

1. Average the gap per unit across the income groups tested to determine the average gap per unit;
2. Multiply the average gap per unit by the required number of BMR units of a test prototype that satisfies the jurisdiction's inclusionary requirement via on-site units; [16]
3. Divide the total gap of the development project by the project's net square feet (see Figure 44).

[16] The test prototype used for this study has 100 units, of which 20 were below market rate. This satisfies the city's 20% inclusionary requirement.

FIGURE 42. PRODUCTION COST AFFORDABILITY GAP CALCULATION BY INCOME LEVEL

Unit Type	Unit Sq Ft	Units	Maximum Monthly Rent	Annual Revenue	Net Operating Income (a)	Available for Debt Service (b)	Supportable Debt (c)	Development Costs	Affordability Gap (d)
Very Low Income (50% AMI)									
Studio	500	33	$1,195	$14,340	$5,222	$4,540	$57,728	$351,000	$293,272
1 Bedroom	660	51	$1,332	$15,984	$6,824	$5,934	$75,449	$463,320	$387,871
2 Bedroom	990	16	$1,473	$17,676	$8,474	$7,369	$93,688	$694,980	$601,292
Average Affordability Gap									**$390,801**
Low Income (80% AMI)									
Studio	500	33	$1,864	$22,368	$13,049	$11,347	$144,265	$351,000	$206,735
1 Bedroom	660	51	$2,096	$25,152	$15,763	$13,707	$174,275	$463,320	$289,045
2 Bedroom	990	16	$2,332	$27,984	$18,524	$16,108	$204,802	$694,980	$490,178
Average Affordability Gap									**$294,064**

Note:
(a) Assumes 2.5% vacancy and $730/month operations cost per unit.
(b) Assumes 1.15 debt coverage ratio.
(c) Assumes 6.76% interest rate and 30 year loan.
(d) Calculated as the difference between development costs and the supportable debt.
Source: Strategic Economics, 2024.

FIGURE 43. AFFORDABILITY GAP CALCULATION BY INCOME LEVEL

Unit Type	Unit Sq Ft	Units	Maximum Monthly Rent	Annual Revenue	Market Rate Rent*	Annual Market Rate Revenue	Annual Difference	Difference/Cap Rate**	Affordability Gap Per Unit
Very Low Income (50% AMI)									
Studio	500	33	$1,195	$14,340	$2,800	$33,600	$19,260	$385,200	$385,200
1 Bedroom	660	51	$1,332	$15,984	$3,250	$39,000	$23,016	$460,320	$460,320
2 Bedroom	990	16	$1,473	$17,676	$4,500	$54,000	$36,324	$726,480	$726,480
Average Affordability Gap									**$478,116**
Low Income (80% AMI)									
Studio	500	33	$1,864	$22,368	$2,800	$33,600	$11,232	$224,640	$224,640
1 Bedroom	660	51	$2,096	$25,152	$3,250	$39,000	$13,848	$276,960	$276,960
2 Bedroom	990	16	$2,332	$27,984	$4,500	$54,000	$26,016	$520,320	$520,320
Average Affordability Gap									**$298,632**

Note:
* Market rate rents are assumed in the pro forma analysis and are based on the rent of the 6-Story Midrise prototype.
** The cap rate is assumed to be 5.0%.
Source: Strategic Economics, 202

FIGURE 44. MAXIMUM JUSTIFIABLE IN-LIEU FEE PER SQUARE FOOT

	Production Cost	Affordability Gap
Prototype		
Units	100	100
Required BMR units	20	20
Weighted Average Unit Sq. Ft.	660	660
Affordability Gap per Unit		
Very Low Income (50% AMI)	$390,801	$478,116
Low Income (80% AMI)	$294,064	$298,632
Average Affordability Gap per Unit	**$342,432**	**$388,374**
Affordability Gap Fee per Sq. Ft.	**$103.77**	**$117.69**

Source: Strategic Economics, 2024.

LOCAL CONTRIBUTION EQUIVALENT IN-LIEU FEE

In order to determine the equivalent local contribution needed to leverage funding for one off-site affordable unit, Strategic Economics reviewed recent data from the City of Berkeley on its financial support for 100 percent affordable tax credit projects (Figure 45).

The steps to calculate the local contribution fee include:

1. Calculate the average per unit contribution of local funding towards 100 percent affordable projects;
2. Multiply the average gap per unit by the required number of BMR units of a test prototype that satisfies the jurisdiction's inclusionary requirement via on-site units;[17]
3. Divide the total gap of the development project by its net square feet (see Figure 46).

FIGURE 45: CITY OF BERKELEY'S LOCAL CONTRIBUTION PER UNIT TO TAX CREDIT PROJECTS

	Ephesian	St Paul Terrace	Supportive Housing in People's Park	BUSD Workforce Housing	1740 San Pablo	Maudelle	Blake Apartments	Hope Center PSH + BRIDGE Affordable*
$ per unit	$228,958	$250,000	$121,691	$224,771	$150,000	$197,674	$193,548	$180,142

Note:
* Hope Center PSH and BRIDGE Affordable were combined because they are part of the same development project.
Source: City of Berkeley, 2023; Strategic Economics, 2024.

FIGURE 46. LOCAL CONTRIBUTION EQUIVALENT IN-LIEU FEE PER SQUARE FOOT

	Local Contribution
Prototype	
Units	100
Required BMR units	20
Weighted Average Unit Sq. Ft.	660
Average Contribution per Unit	**$193,348**
Local Contribution per Sq. Ft.	**$58.59**

Source: Strategic Economics, 2023.

[17] The test prototype used for this study has 100 units, of which 20 were below market rate. This satisfies the city's 20% inclusionary requirement.

PLANNING COMMISSION

Notice of Public Hearing

Wednesday, December 4, 2024

Adoption of Zoning Ordinance Amendment to Title 23 of the Berkeley Municipal Code to Revise Affordable Housing Requirements

The Planning Commission of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23.412, on **Wednesday, December 4, 2024 at 5:30 p.m**. at the **North Berkeley Senior Center**, 1901 Hearst Ave, Berkeley (wheelchair accessible). In accordance with the Brown Act, Planning Commission meetings will be held in person only.

The agenda will be posted on the Planning Commission website (https://berkeleyca.gov/your-government/boards-commissions/planning-commission) no later than 5pm on Friday, November 29, 2024.

PROJECT DESCRIPTION

The proposed amendment to the City's Zoning Ordinance (Title 23) would remove an exemption to Chapter 23.328 (Inclusionary Zoning) for Housing Development Projects with 5,000 square feet or less of Residential Unit Floor Area (BMC Sec. 23.328.050.F.2). The proposed amendment would make Housing Development Projects with 5,000 square feet or less of Residential Unit Floor Area subject to the City's Inclusionary Zoning requirements.

LOCATION: The proposed amendments would apply to all projects that meet the applicability requirements of Chapter 23.328, regardless of zoning district or location within the city.

ENVIRONMENTAL REVIEW STATUS

California Public Resource Code Section 21065 defines a "project" under CEQA as "an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." The proposed amendment applies to the administration of an affordable housing program and would not result in any physical changes in the environment. The proposed ordinance is therefore not a project under CEQA.

PUBLIC COMMENT & FURTHER INFORMATION

All persons are welcome to attend the hearing and will be given an opportunity to address the Commission. Comments may be made verbally at the public hearing and/or in writing before the hearing. Written comments must be directed to:

Brian Garvey
Planning Commission Clerk
Email: PlanningPC@berkeleyca.gov

City of Berkeley, Land Use Planning Division
1947 Center Street, 2nd Floor
Berkeley, CA 94704

- Correspondence received by **12pm on Tuesday, November 26, 2024**, will be included as a Communication in the agenda packet. Correspondence received after this deadline will be conveyed to the Commission and the public in the following manner:
- Correspondence received by **12pm on Monday, December 2, 2024** will be included in a Supplemental Packet, which will be posted to the online agenda as a Late Communication one day before the public hearing.
- Correspondence received **by 5pm on Tuesday, December 3, 2024** will be included in a second Supplemental Packet, which will be posted to the online agenda as a Late Communication by 5pm on the day of the public hearing.
- Correspondence received **after 5pm on Tuesday, December 3, 2024** will be saved as part of the public record.

Members of the public may submit written comments just before or at the beginning of the meeting by providing 15 printed copies of the correspondence to the Planning Commission Secretary.

COMMUNICATION ACCESS

To request a meeting agenda in large print, Braille, or on audiocassette, or to request a sign language interpreter for the meeting, call (510) 981-7410 (voice) or 981-6903 (TDD). Notice of at least five (5) business days will ensure availability. All materials will be made available via the Planning Commission agenda page online at https://berkeleyca.gov/your-government/boards-commissions/planning-commission.

FURTHER INFORMATION

Questions should be directed to Mike Uberti, at (510) 981-5114 or muberti@berkeleyca.gov.
Current and past agendas are available on the City of Berkeley website at: https://berkeleyca.gov/your-government/boards-commissions/planning-commission.

Planning and Development Department
Land Use Planning Division

STAFF REPORT
December 4, 2024

TO: Members of the Planning Commission

FROM: Robert Rivera, Senior Planner

SUBJECT: San Pablo Avenue Specific Plan Update

RECOMMENDATION

Planning Commission review the staff report, receive a staff presentation, consider public comments, and provide feedback to staff on the San Pablo Avenue Specific Plan (Specific Plan), the Community Assessment Report (Report) and the Policy Options and Development Framework Memo (Memo).

BACKGROUND

At the November 1, 2023 meeting, staff presented an overview of the Specific Plan's planning process to the Planning Commission. The presentation included a summary of the existing conditions analysis and outlined the Specific Plan's public outreach strategy. The staff report also introduced the project team and provided a timeline of project completion by the end of 2025 (***Attachment 1***).

At the April 3, 2024 meeting, the Planning Commission received a staff presentation providing an update on the Specific Plan process and detailed the key findings from the public workshop held on January 24, 2024 (***Attachment 2***). The presentation also highlighted next steps, which included completion of the Report, and Memo.

A second public workshop was held on Thursday, September 9, 2024, at the Frances Albrier Community Center. (***Attachment 6***). Attendees participated in breakout sessions to evaluate potential improvements, identify opportunities for open space and community gathering facilities, and discuss future development options along the corridor.

DISCUSSION

The Community Assessment Report summarizes the planning process to date and highlights key themes, issues, and goals identified through the community outreach efforts. The Policy Options and Development Framework memo suggests potential policies to address these goals and will guide the development of the San Pablo

Avenue Specific Plan. These documents are being presented to gather feedback to refine the policy options and ensure they align with community priorities.

The Community Assessment Report

The Community Assessment Report (***Attachment 3***) was published on the City's website on August 20, 2024. The Report notes that more than 330 community members have participated in 13 outreach events and forums to date, contributing over 500 comments through interactive activities, surveys, and stakeholder interviews. These events explored housing, commercial development, local businesses, placemaking, mobility, and public safety along the San Pablo Avenue corridor.

The Community Assessment Report identified three primary objectives for the community's future vision for the Specific Plan:

1. **Housing**: Provide guidelines and incentives for additional housing to enhance the corridor's vitality.

   The Community Assessment Report found support for additional housing along San Pablo Avenue, with a recognition that San Pablo Avenue provides opportunities to address regional and local housing issues. Community members emphasized the importance of diversity in housing types, and supported a mix of multi-family, townhouses, live-work units and condominiums.

2. **Public Realm and Community Spaces** Better integrate San Pablo Avenue with the surrounding community by addressing San Pablo Avenue's perception as a physical obstacle to the community and creating opportunities for neighborhood interaction.

   With regard to transportation safety, community feedback revealed that San Pablo Avenue currently acts as barrier between east and west communities. Community members stressed the importance of a pedestrian friendly corridor and expressed the need for better crossings across San Pablo Avenue.

3. **Small Business** Broaden opportunities for business and community activities that can adapt to evolving economic and market conditions.

   Feedback from community members and stakeholders revealed challenges and opportunities for business, particularly ground-floor commercial uses. Developers and local professionals identified high tenant improvement costs as a significant barrier to ground-floor business expansion. Others identified the wide storefronts that typify new retail space design as not meeting the needs of smaller businesses looking for deeper spaces with back-of-house access.

   Community members expressed a strong interest in expanding ground-floor use types, advocating for programs and incentives to fill vacant spaces. They expressed support for expanded temporary uses, such as art galleries, pop-up spaces, and coworking areas, alongside more flexible development standards and financial support for small businesses.

The Policy Options and a Development Framework Memo

Policy Options
The Policy Options and Development Framework Memo (***Attachment 4***) builds on the feedback and data gathered from the Community Assessment Report and provides a range of draft policy options to address the key themes summarized in Table 1.

Some policy options reference the existing West Berkeley Plan development framework of “nodes” along San Pablo Avenue. The nodes are intended to encourage ground-floor retail and community amenities. There are five nodes along San Pablo Avenue: Ashby and San Pablo, Dwight and San Pablo, University and San Pablo, Cedar and San Pablo and Gilman and San Pablo (***Attachment 5***). The policy options differ for areas inside, outside and in between the existing nodes. The development framework could also change node boundaries to include or exclude additional sites and may amend development regulations within all or some nodes.

Table 1: Summary of Policy Options

Key Themes	Summary of Policy Options
A. Increase Business Activity Along the Corridor	
1. Improve Commercial Identity	Re-evaluate node boundaries to focus uses in certain areas. Utilize nodes to direct policies and incentives, and focus public investment on nodes to support local business clusters.
2. Reduce Commercial and Retail Vacancy	Allow temporary pop-up uses, expand by-right uses, allow residential ground floors with conditions, establish new development standards for commercial viability.
3. Support Local Business Vitality and Growth	Establish a Local Small Business Support Fund, streamline business support programs, review permit requirements, establish public-private events, and explore infrastructure finance districts to raise revenue to support local business and public improvements.
B. Improve and Increase Interaction Between Private and Public Spaces	
1. Engaging Buildings	Incentivize public access to interior private amenities, define objective design standards for façades, and require ground floor amenities.
2. Engaging Site Frontages	Establish objective development standards for pedestrian-friendly ground floors, define objective design standards for façades, activate ground floors, and activate pedestrian transitions between buildings and the public realm.
C. Increase Housing Supply and Diversity	
1. Revise Housing Development Regulations	Increase height/ floor area ratio (FAR) by-right, streamline approval processes, revise development standards for mixed-use and residential developments.
2. Support Increased Diversity of Housing Types	Consider person/acre density standard instead of units/acre, waive mixed-use ground floor commercial requirements for specific housing types, allow flexibility in development standards for workforce housing.
3. Support Housing Affordability	Permit 100% affordable housing on select MU-LI parcels, establish a financing program to reserve affordable units for artists in newly-established cultural districts.
D. Improve the Public Realm	
1. Increase Amount and Quality of Sidewalk Space	Require sidewalk easements, create curb extensions, and expand public spaces through parklets and easements (mid-block crossings, e.g.).

2. Improve and Maintain Lighting, Sidewalks, and Landscaping	Update the San Pablo Public Improvement Plan's streetscape standards, ensure compliance with streetscape standards, pursue grant funding for public improvements, and study infrastructure financing districts.
3. Increase Public Open Space and Community Gathering Space	Create plazas by closing streets, require or incentivize privately-owned public open space (POPOS).
4. Integrate Public Art and Cultural Programming	Expand opportunities for public art in in the corridor. Highlight West Berkeley's neighborhoods through branding, and improve wayfinding through art.
E. Enhance Local Access	
1. Improve East-West Connectivity	Study the feasibility of shared shuttle services and improve connections between transit hubs and key areas.
2. Enhance Pedestrian and Bicycle Safety and Access	Implement wayfinding standards, improve streetscape conditions, encourage mid-block pathways, study feasibility of lowering speed limit and study bike/bus lanes with Alameda County Transportation Commission.
3. Improve Transit Access and Frequency	Collaborate with AC Transit to maintain/improve bus service and bus stop improvements.
4. Manage On-Street Parking and Loading	Establish parking and loading management programs, study expansion of parking meter locations, explore establishing parking permit areas for residents and merchants.

Existing Development Framework

Currently, development standards in the West Berkeley Commercial (C-W) District permit a maximum building height of 40 feet or 3 stories. Mixed-use projects are permitted an additional story and a maximum height of 50 feet, so long as the additional fourth story is a residential use. Development standards do not include setbacks, unless the property is abutting or confronting a residential district, in which case a 10 feet rear setback or 5 feet interior side setback is required. Open space requirements are 40 sq. ft. per dwelling unit or live/work unit.

Nodes: Within nodes, only mixed-use projects are permitted. A ground floor use in a mixed-use building in a node must be one of the following:

- Retail sales.
- Personal and household services.
- Retail financial services (banks).
- Food and alcohol service.
- Lodging.
- Entertainment and assembly uses.

- Gasoline/vehicle fuel stations.
- Vehicle repair uses.
- New car sales.
- Used vehicles sales.
- Required access to and lobbies serving upper-story uses.

The following uses, which are permitted elsewhere in the C-W zoning district, are prohibited in nodes:

- Vehicle rentals.
- Used vehicle sales when not principally in buildings.
- Vehicle washes.
- Tire sales and service.
- Open air markets.
- Circus/carnivals.
- Public utility substation buildings, tanks.

Policy Options and Development Framework

The Policy Options and Development Framework Memo discusses possible changes to development intensity and zoning. While many policies would apply to the entire corridor, three key policies are used to shape development both within and outside of the nodes; building height and intensity, ground floor uses, and community open space. The three scenarios from the Memo are examples of how these policies can be used to regulate intensity of development, concentrate public realm and community improvements, and encourage retail or residential uses.

Table 2 below summarizes the three example scenarios presented in the Memo.

- *Scenario 1: Retail Focused Nodes and Minor Height Increases*. This scenario represents the baseline development on which Scenario 2 and Scenario 3 are based. Scenario 1 allows a maximum height of 55 feet and a FAR of 3.5 within nodes. Ground floor residential is still prohibited within nodes. Outside of nodes mixed-use residential development is permitted a maximum height of 55 feet and FAR of 3.5, with a potential option to waive ground floor commercial requirements through a commercial exemption fee. Public realm improvements would be located throughout the corridor.

- *Scenario 2: Flexible Storefronts with More Intensity at University Avenue Node*. A maximum height of 55 feet and FAR of 3.5 are throughout the C-W zoning district, except within the University Avenue node. The University Avenue node would permit a maximum height of 85 feet and a FAR of 5.0. Flexible development standards may apply if developments provide privately-owned public open space. The mixed-use height exemption, which allows mixed-use projects to go up to 55 feet, would still apply to projects outside of nodes.

- *Scenario 3: Flexible Storefronts with Expanded Nodes and More Intensity at Select Parcels in the Gilman, University, Dwight and Ashby Nodes.* This scenario represents a maximum development scenario as a maximum height of 85 feet and a FAR of 5.0 are permitted within the expanded nodes. This scenario prioritizes public space within the Gilman, University, Dwight and Ashby nodes. The mixed-use height exemption, which allows mixed-use projects to go up to 55 feet, would still apply to projects outside of nodes.

Table 2: Summary Scenarios

Category	Scenario 1: Retail Focused Nodes with Minor Height Increase	Scenario 2: Flexible Storefronts with Increased Intensity at the University Avenue Node	Scenario 3: Flexible Storefronts with Expanded Nodes and Increased Intensity at Select Parcels
Maximum Development Intensity – Outside of Nodes	• No change for single-use buildings • Mixed-use: 55' height, 3.5 FAR • Can increase to 85' height, 5.0 FAR with Plan Area Improvement or State Density Bonus		
Maximum Development Intensity – Within Nodes	**All nodes:** • Base zoning: 55' height, 3.5 FAR • Can increase to 85' height, 5.0 FAR with Local Community Benefits or State Density Bonus	**University Node:** • Base zoning: 85' height, 5.0 FAR • Can increase to 120' height, 8.0 FAR with Specific Plan Improvements (including storefront standards, public open space)	**Select Parcels in Gilman, University, Dwight, and Ashby Nodes:** • Base zoning: 85' height, 5.0 FAR • Can increase to 120' height, 8.0 FAR with Local Community Benefits (including storefront

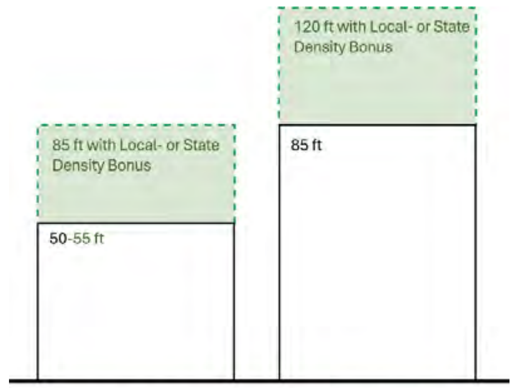
		Other nodes: • No change for single-use buildings • Mixed-use: 55' height, 3.5 FAR • Can increase to 85' height, 5.0 FAR with Plan Area Improvement or State Density Bonus	standards, public open space)
Public Realm Improvements	Specific Plan Improvement Program throughout the corridor; improvement areas may vary from nodes	**University Node**: • High priority for public space	**Gilman, University, and Ashby West Nodes**: • High priority for public space
		Other Nodes: • Streetscape improvements focus, privately owned public spaces incentivized	**Cedar Node**: • Streetscape improvements focus, privately owned public spaces incentivized

Application of State Density Bonus to Height and Intensity

State Density Bonus allows developers to increase residential densities in exchange for providing affordable housing, and grants waivers and/or modifications to development standards for qualifying projects. During the previous Housing Element cycle, development proposals along the corridor exceeded existing development standards, primarily due to the application of State Density Bonus. On average, these proposals feature buildings of 6 to 8 story buildings with a FAR between 3.75 and 4.7.[1]

Height and intensity options in the Memo also consider how State Density Bonus could be applied.

- An increase to 55 feet (5 stories) and 3.5 FAR allows for a 5-story building with additional ground floor clearance, creating higher ceilings suited for active ground floor uses. If State Density Bonus is applied, the building height could increase up to 85 feet.
- An increase to 85 feet (8 stories) and 5.0 FAR, could result in a building height of up to 120 feet, if State Density Bonus is applied.



Berkeley San Pablo Ave Specific Plan Options

Local Density Bonus
The Memo includes discussion of a potential local density bonus, which could offer increased density, height, or other zoning changes in return for specific corridor improvements, such as additional open space or public improvements. The City of Emeryville has implemented a local density bonus to incentivize developers to provide parks, free transit, and to build with mass timber. However, given how generous State Density Bonus has become, a local density bonus program may not be able to compete with the benefits afforded by State Density Bonus.

<u>QUESTIONS FOR PLANNING COMMISSION</u>
In addition to providing feedback on the Community assessment Report and the Policy and Development Options Memo, staff requests feedback from the Planning Commission on the following topics:

[1] Based on average development proposals within the 2015-2023 Housing Element cycle.

Table 3: Topics for Feedback

Topic for Feedback	Specific Considerations
Prioritization of Public Improvements in the Corridor	- Which public improvements (e.g., streetscape enhancements, lighting, public art) should be prioritized along San Pablo Avenue? - Are there specific nodes or areas that should receive focused investment?
Open Space and Community Gathering Locations	- Where along the corridor should open spaces and community gathering places be concentrated? - What types of open space or amenities would best serve the community's needs?
Housing and Commercial Density	- How should residential and commercial densities be distributed along the corridor? - Are there particular locations where higher density would be more appropriate?
Commercial and Retail Clustering	- Where should the Specific Plan concentrate commercial and retail activities? - How should we address the design and size of commercial spaces to better support small businesses?
Residential on Ground Floors	- In what locations, if any, would ground-floor residential use be appropriate along the corridor? - Are there conditions under which ground-floor residential should be permitted?
Building Heights	- What areas along San Pablo Avenue could accommodate taller buildings? - How should building heights relate to the existing character of surrounding neighborhoods?
Local Density Bonus or Other Funding Mechanisms	- Would a Local Density Bonus be a viable policy option to incentivize open space and public improvements or should other funding mechanism be studied?

ENVIRONMENTAL REVIEW

There are no identifiable environmental effects or opportunities associated with this informational report however possible future actions will be reviewed in accordance with the California Environmental Quality Act Guidelines (CEQA).

NEXT STEPS

Staff will continue to update the Planning Commission on the progress of the Specific Plan through additional informational memos, presentation, and other communications.

The project team will continue analyzing feedback and studying policy options narrow them down to a list of "preferred" policies. These policies will be incorporated in the draft Specific Plan. Once a draft is complete, staff will solicit feedback from the community and continue through the various phases of the project, including an additional community workshop, public draft plan review, and final plan adoption.

The project website is at https://berkeleyca.gov/construction-development/land-use-development/general-plan-and-area-plans/san-pablo-avenue-specific and is regularly updated about information with meeting dates, times, and public documents. Interested parties may subscribe to email notifications about the San Pablo Avenue Specific Plan from the project website.

CONTACT PERSON

Robert Rivera, Planning and Development Department, 510-981-7480

ATTACHMENTS

1. Planning Commission Staff Report – November 1, 2023.
2. Planning Commission Presentation – April 4, 2024.
3. Community Assessment Report
4. Policy Options and Development Framework
5. San Pablo Avenue Specific Plan Area Map
6. Community Workshop Boards

Information Item 1
Planning Commission
November 1, 2023

Planning and Development Department
Land Use Planning Division

STAFF MEMORANDUM
November 1, 2023

TO Members of the Planning Commission

FROM Robert Rivera, Senior Planner

SUBJECT San Pablo Avenue Specific Plan – Overview and Update

SUMMARY

The San Pablo Avenue Specific Plan seeks to create a vision for the future of the corridor that considers regional and citywide goals for access to housing, equity, safer streets, sustainability, and an economically vibrant commercial corridor. The Specific Plan will primarily focus on land use policies including allowed uses and development standards and their relationship to economic development, such as promoting active ground floor frontage and encouraging activity within commercial nodes along the San Pablo Avenue. The plan will outline programs and policies to encourage and support diverse housing, commercial activities, and public amenities consistent with the City of Berkeley's Strategic Plan goals to "create affordable housing" and "champion and demonstrate social and racial equity".

The SPASP effort began in June 2023 and is projected to be completed by the end of 2025. This memo provides an update on the current status of the planning process, a summary of recently conducted outreach efforts, and an overall timeline for completion.

CURRENT SITUATION AND ITS EFFECTS

Project team

In April 2023, MTC and ABAG awarded the consulting team a contract to assist the City of Berkeley with the development of the specific plan. The project team consists of a variety of City departments which include staff from the Land Use Planning Division, Transportation Division, and Office of Economic Development, as well as firms such as Community Design + Architecture (landscape architecture, transportation planning, urban design), Urban Planning Partners (land use), InterEthnica (outreach and engagement, translation services), Street Level Advisors (economic development and housing), Fehr + Peers (transportation), and Diablo Engineers (research and technical analysis).

San Pablo Avenue Specific Plan Area and Study Area

Staff have conducted an analysis of the PDA in order to determine the proposed San Pablo Avenue Specific Plan Area and the Study Area (Attachment 1). Priority Development Areas are areas near public transit planned for new homes, jobs and community amenities. PDAs are areas adopted by ABAG and MTC in the regional long-range plan, Plan Bay Area 2050. The existing PDA boundary primarily focuses on parcels fronting San Pablo Avenue and is intended for regional planning and funding related efforts. The proposed Specific Plan Area boundary is more refined on a parcel-by-parcel basis based on staff analysis of existing uses, lot and parcel configurations, and existing conditions.

Existing Conditions Summary

Currently, staff are collecting and analyzing existing conditions to establish baseline conditions and provide context for policy recommendations during planned public outreach and engagement events. Initial findings include:

- **Demographics and Racial Equity.** The study area population increased by 20 percent between 2000 to 2020. Black or African American, non-Hispanic population within the study area decreased approximately 14 percentage points, from 29 percent in 2000 to 15 percent in 2020. White, non-Hispanic population within the study grew 8 percentage points, from 38 percent in 2000 to 46 percent in 2020. Asian, Pacific Islander population grew approximately three percentage points from 11 percent in 2000 to 14 percent in 2020. Hispanic or Latinx population slightly declined by half a percentage point from 17 percent in 2000 to 16.6 percent in 2020. Other race or multiple races population grew from 5 percent in 2000 to 9 percent in 2020.[1] Education levels within the study area are high. In all census tracts within the study area, the average percent of people 25 years and over with a High School graduate or higher is 95 percent and the average percent with a Bachelor’s degree or higher is 64 percent. The study area population includes a higher percent of people between the age of 25 to 44 years, 35 percent, compare to citywide population, 28 percent. The average median individual income for all census tracts within the study area is approximately $60,077.[2]
- **Land Use.** Along the entire San Pablo Avenue frontage, the General Plan land use designation is Avenue Commercial. The land use designations for properties adjacent to the corridor are mixed and include Manufacturing, Manufacturing Mixed-Use, Low Medium Density Residential, Medium Density Residential, and High Density Residential. The Plan Area is predominantly zoned West Berkeley Commercial and provide diverse commercial services to residents and businesses, including restaurants and both small and large retail formats. Beyond San Pablo Avenue, the zoning districts include Mixed-Use Light Industrial (MULI), Mixed-Use Residential (MUR), Limited Two-Family Residential (R-1A), Restricted Two-Family Residential (R-2), Restricted Multiple-Family

[1] *U.S. Decennial Census, 2000 Table P7, 2010-2020 Table P9*
[2] ACS21_5yr: TableS0601. Selected Characteristics of the Total and Native Populations in the United States

Residential (R-2A), and University Avenue Commercial (C-U), Multi-Family Residential (R-4)

- **Public Infrastructure and Transportation.** San Pablo Avenue is a four-lane primary transportation corridor extending from the Carquinez Bridge through Berkeley to Downtown Oakland. Within Berkeley, San Pablo Avenue is characterized by mostly mature trees along the majority of the corridor, street trees along the sidewalks on both sides of the corridor and trees in the median. The average sidewalk width is 13 feet from the face of curb to the edge of right of way. Existing bus stops provide limited shelter, seating and lighting.
- **Housing.** Within the study area, half of tenants pay more than 30 percent of their income for rent and 26 percent of tenants are paying more than 50 percent of their income.[3] Eighteen percent of tenants are paying 50 percent or more of their income and make less than $35,000 annually.[4] Household ownership percentage is higher within the study area on average than citywide. Owner-occupied housing is 52 percent of units while owner-occupied housing citywide is 47 percent. However, percentage of owner-occupied and renter-occupied units vary greatly based on census tract within the study area with the lowest percentage of owner-occupied housing being 24 percent and the highest percent being 66 percent.
- **Jobs and Economic Programs.** San Pablo Avenue is the City of Berkeley's only primary commercial district that does not have its own business association, likely due to the length of the corridor, the wide range of business types and the regional nature of the corridor. A 2023 National Federation of Independent Business Research Foundation[5] Survey showed that 32 percent of small business owners cite inflation as their biggest challenge, that 41 percent are struggling to fill open jobs, and that 85 percent have felt supply chain problems. Recent commercial closures on the corridor include KC's BBQ, Ohmega Salvage and Albatross Pub. Recent openings include Daruma Sushi, Solar Car Wash, and the reopening of Bartavelle in a new location just down the street.
- **Resilience and Climate Adaptation.** The Study Area includes parks and green spaces such as San Pablo Park, George Florence Park, and Strawberry Creek Park. Plan Bay Area 2050 includes strategies to encourage expanding access to parks and open space include maintaining urban growth boundaries and modernizing and expanding parks, trails, and recreation facilities. The City's Climate Action Plan (2009) recognizes an inequitable distribution of urban tree canopy citywide, with fewer trees located in the West and South Berkeley Neighborhoods. The City plans to plant 1,000 new trees in West and South Berkeley neighborhoods over the next two years through an Urban Greening Grant ($726,000) and an Environmental Enhancement and Mitigation Grant ($576,000).

<u>Public Outreach</u>

[3] ACS21_5yr: TableB25074. Household Income by Gross Rent As A Percentage Of Household Income In The Past 12 Months
[4] Ibid, 2021
[5] https://www.nfib.com/surveys/small-business-economic-trends/

The process includes an outreach strategy that engages a diverse group of stakeholders, especially community members living and working within and adjacent to the plan areas. The public process includes a variety of methods and activities to broaden participation including:

- Small Group Interviews
- Community Leader Interviews
- Public Workshops
- Technical Advisory Group Meetings
- Community Survey
- Pop-up Workshops/Tabling
- Targeted Intercept Surveys
- Site Tour

Community Leader Interviews. Staff conducted five initial community leader interviews in August and September 2023, which included representatives from a community-based organization, a neighborhood organization, and multiple local business owners who work and live within the San Pablo Avenue Study Area. Common themes and comments from the interviews include:

- **Create a sustainable, healthy environment.** Stakeholders would like the specific plan to promote and ensure access to nature, greenery, open space, and mature trees. Stakeholders expressed that the specific plan should design community gathering spaces and streetscapes to support community networks and encourage funded community resources and activities, such as farmer's markets or community gatherings.
- **Encourage and support small local business opportunities.** Stakeholders emphasized that streamlined permitting would help local business owners navigate the process. They would like the specific plan to encourage pedestrian traffic and foster a stronger sense of community and safety and suggested increasing lighting to improve safety and walkability.
- **Plan for future projected population and uses.** Stakeholders emphasized that RHNA-mandated housing number goals should address historic disparities and preserve architectural heritage to contribute to the character of the corridor.

Technical Advisory Group. On September 27, 2023, staff held the first Technical Advisory Group (TAG) meeting with representatives from Alameda County Transit Commission (ACTC), Alameda County Transit (AC Transit), City of Emeryville, City of Oakland and City of Berkeley staff from Office of Economic Development, Public Works, Planning and Transportation. Key takeaways from the discussion include:

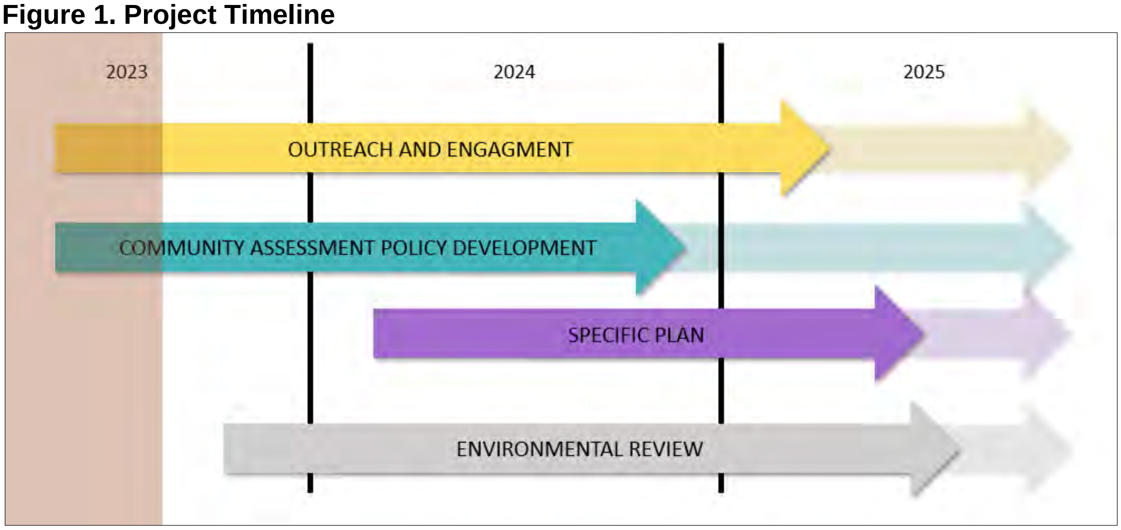
- **Open Spaces.** TAG members recognize that public open space and amenities are desired and noted that the median of London plane trees is a unique asset that limits right-of-way streetscaping. TAG members suggested looking at side streets and other options to accommodate a public "third" space. Staff noted there are limitations on San Pablo because it is a state designated highway and considered overflow for Highway I-80. TAG members recommended that staff consider how privately owned public open spaces can be created and noted an opportunity to look at rooftops to provide additional amenities for the public.

- **Planning for public transit is important.** TAG members noted that AC Transit has identified San Pablo as a bus rapid transit corridor and expects a high demand for public transit services.
- **Land Value Capture and Community Benefits.** TAG members recommended a benefit program similar to Emeryville's Development Bonuses, a local point-based system that incentivizes developers to fund certain affordable housing and community benefits (e.g. parks, free transit, public art, small business assistance) in exchange for concessions such as greater density or less parking.[6]
- **Homeownership.** TAG members suggested looking at programs to incentivize townhouses and condominiums to provide more opportunities for ownership.

Project Timeline

The overall timeline of the planning process is approximately two years. Staff anticipate completion of the specific plan and any associated environmental review by Winter 2025. (Figure 1)

Figure 1. Project Timeline



BACKGROUND

Plan Bay Area 2050 (2021) is the long-range regional planning effort undertaken by MTC and ABAG to outline strategies for growth and investment in the nine-county Bay Area through the year 2050. Plan Bay Area 2050 envisions new development concentrated in PDAs. PDAs are places with convenient public transit service prioritized by local governments for housing, jobs and services. Jurisdictions with PDAs have access to dedicated funding for plans and infrastructure improvements focused in those areas.

[6] https://www.codepublishing.com/CA/Emeryville/#!/Emeryville09/Emeryville094.html#9-4.204

In December of 2020, MTC and ABAG released a Call for Letters of Interest for $7.8 million in PDA Planning and Technical Assistance funds for jurisdictions in the Bay Area Region. The City of Berkeley submitted a Letter of Interest in February of 2021 and were awarded $750,000 in PDA Planning Grant Funds for the San Pablo Avenue Specific Plan. The terms of the grant require the San Pablo Avenue Specific Plan be completed by the end of 2025.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS
There are no identifiable environmental effects or opportunities associated with this informational report however possible future actions will be reviewed in accordance with the California Environmental Quality Act.

POSSIBLE FUTURE ACTION
Staff will continue to update the Planning Commission on the progress of the SPASP effort through additional informational memos, presentations, and other communications.

The project team is currently finalizing the timing and materials for an upcoming community survey (Fall 2023), pop-up information event (Fall 2023), and public workshop (Winter 2024). Community engagement will continue through the various phases of the project, including community asset analysis, policy development, public draft plan review, and final plan adoption. More detailed information about specific meeting dates and other project updates will be announced via email, printed flyers and postcards and on the project website, as location and agendas are confirmed.

The project website is available at https://berkeleyca.gov/construction-development/land-use-development/general-plan-and-area-plans/san-pablo-avenue-specific and will be regularly updated about information with meeting dates, times, and public documents. Interested parties may subscribe to email notifications about the San Pablo Avenue Specific Plan from the project website.

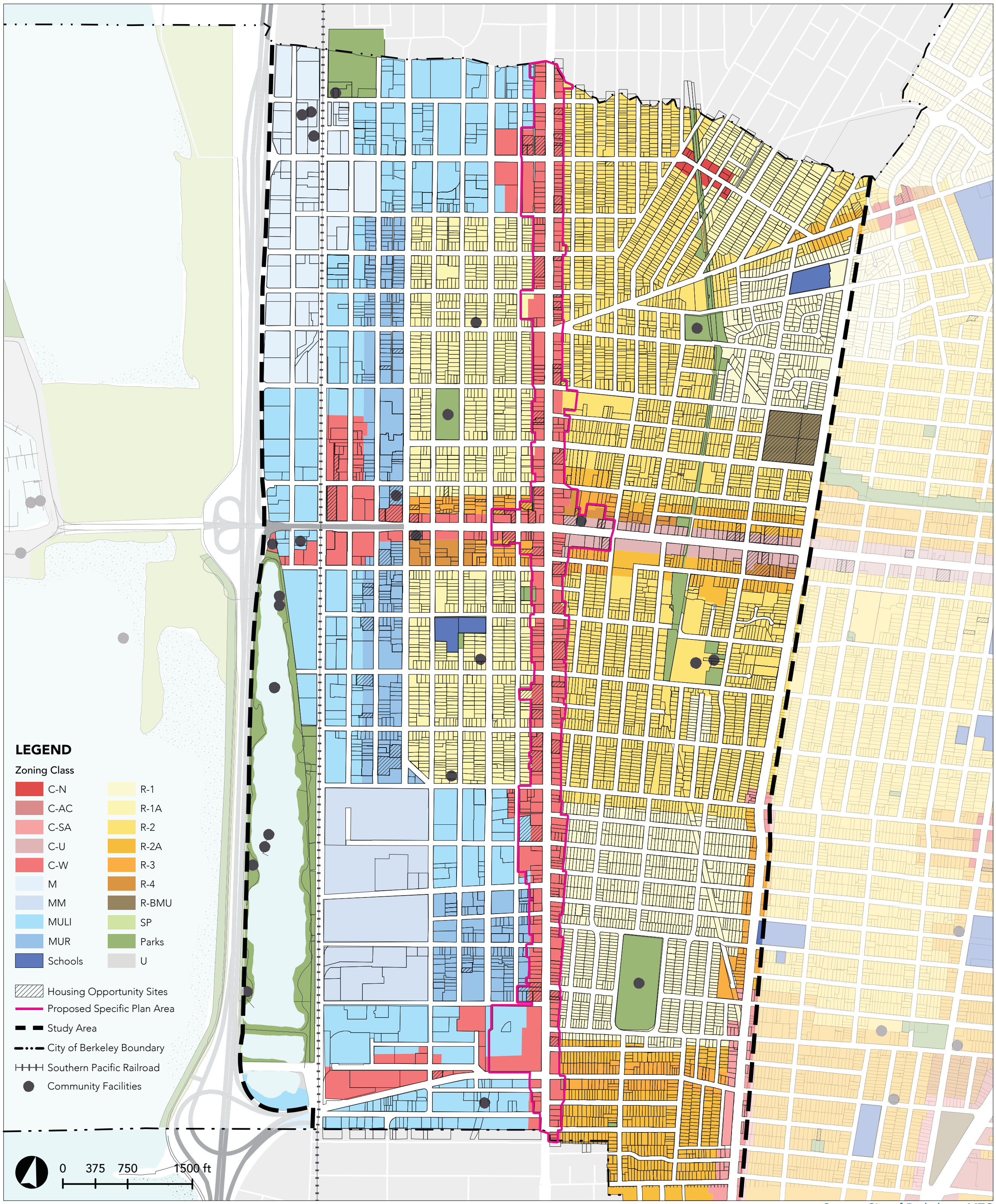
FISCAL IMPACTS OF POSSIBLE FUTURE ACTION
Berkeley has secured a $750,000 PDA Planning grant from the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG) for this effort. Additionally, Council allocated $150,000 toward additional work in the fiscal year 2022-23 budget.

The proposed Specific Plan and possible zoning changes are intended to encourage the development potential of housing as well as commercial activities, which may result in higher property tax revenues and additional development fees, as well as increased City staff to administer and respond to increased demand for permits, community services and facilities, and fire and emergency services.

CONTACT PERSON
Robert Rivera, Senior Planner, Planning and Development, RRivera@Berkeleyca.gov

ATTACHMENTS

Attachment 1: San Pablo Avenue Specific Plan and Study Area



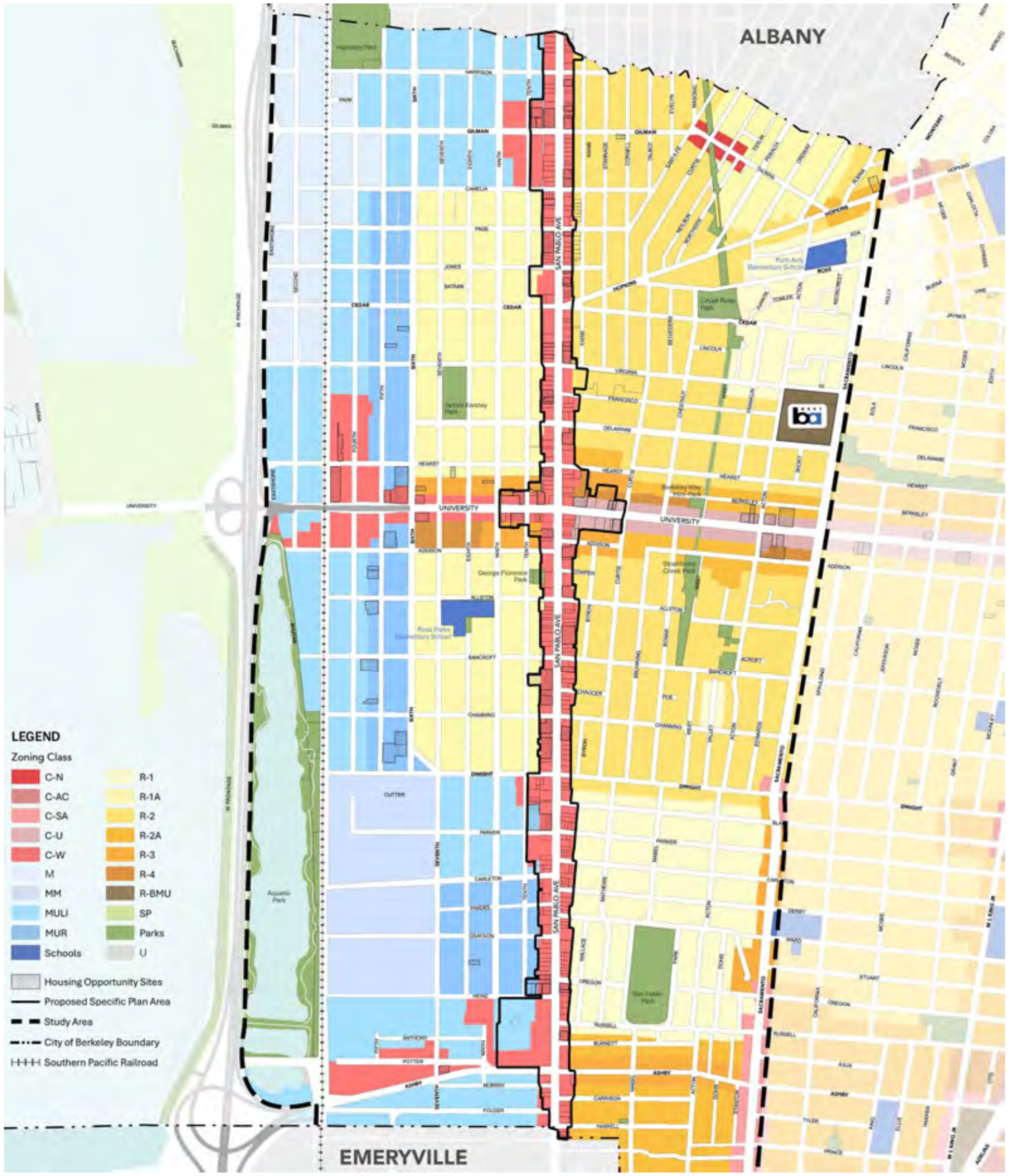
Source: City of Berkeley + MTC

San Pablo Avenue Specific Plan

Status Update and Overview

Agenda

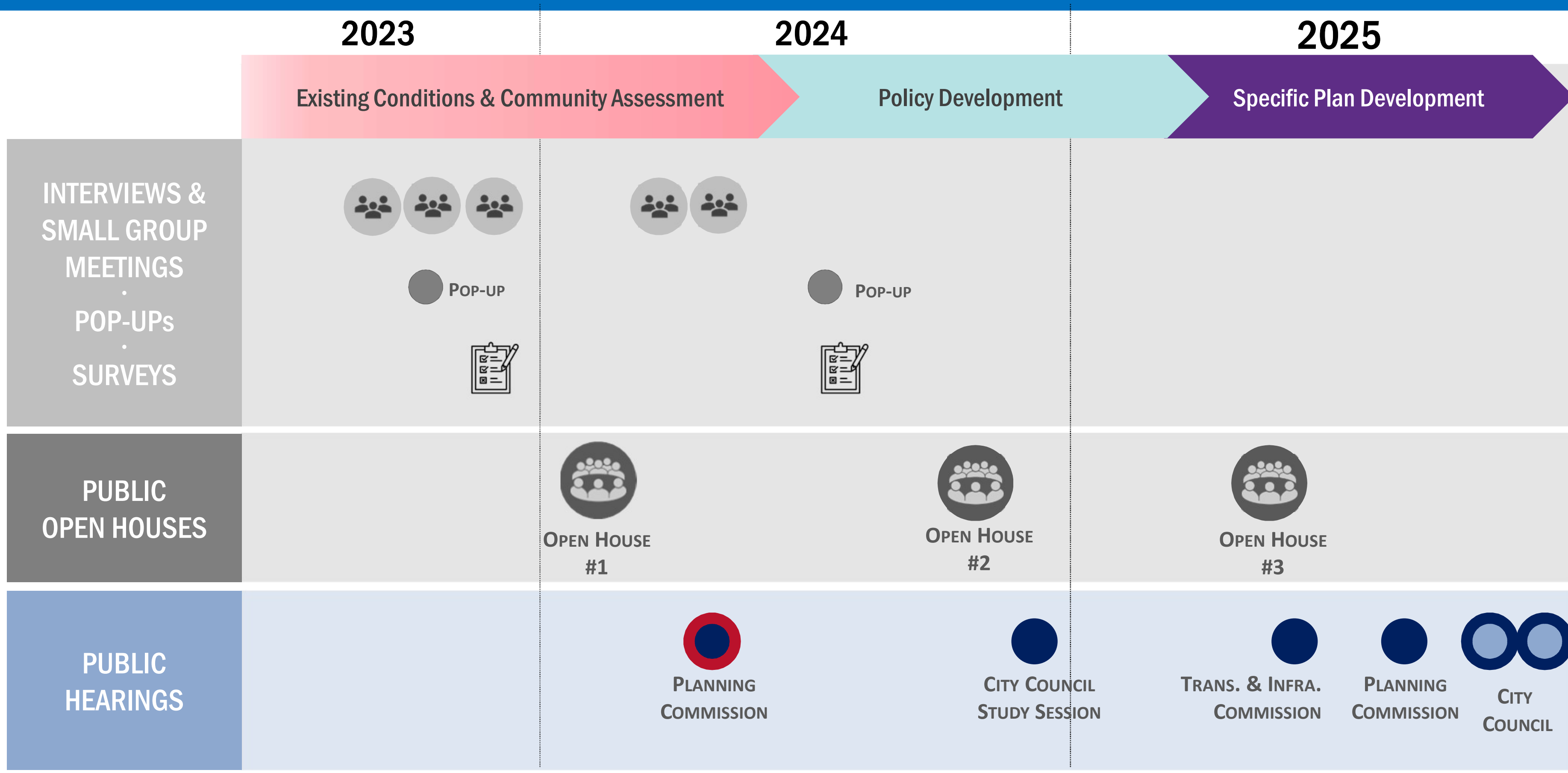
1. Status Update
2. Key Existing Conditions Data
3. Community Open House Overview
4. Questions and Discussion



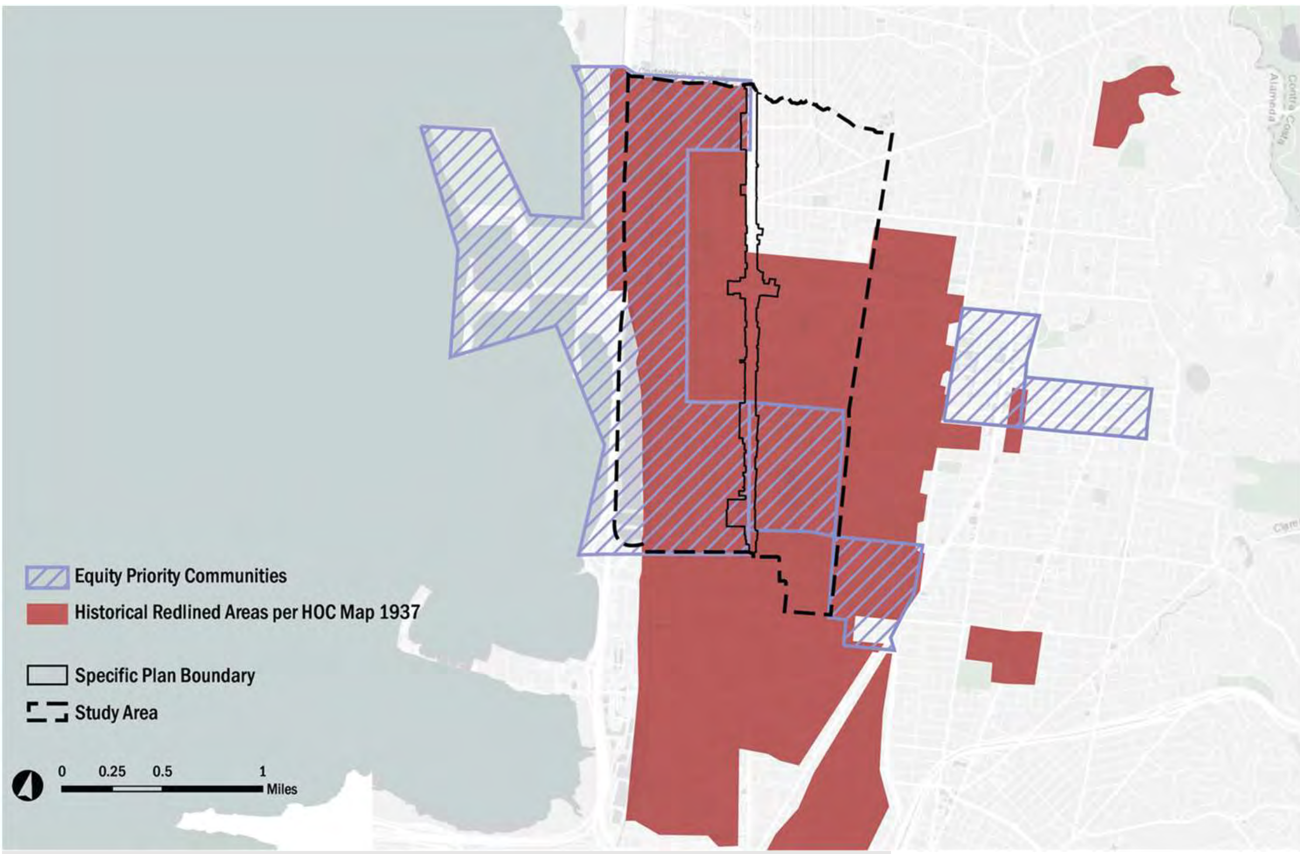
Specific Plan Boundary and Study Area

- **Specific Plan Boundary**: Most of the parcels are part of existing West Berkeley Commercial district (C-W)
- **Study Area:** Adjacent neighborhoods with strong relationship to San Pablo Ave area, and part of community engagement process

Project Timeline

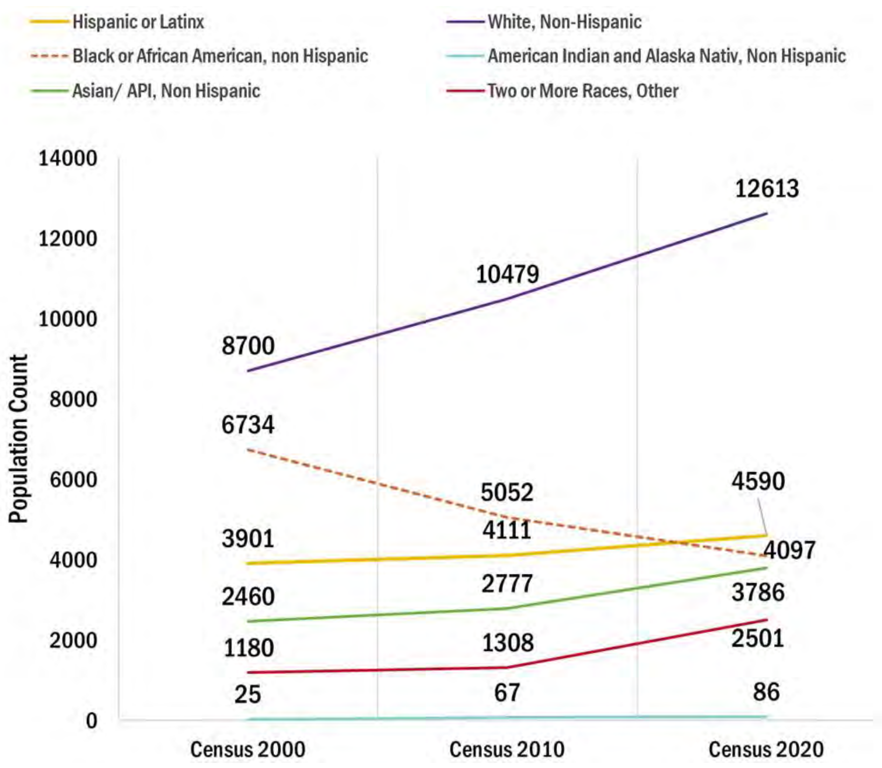


Community Demographics and Equity

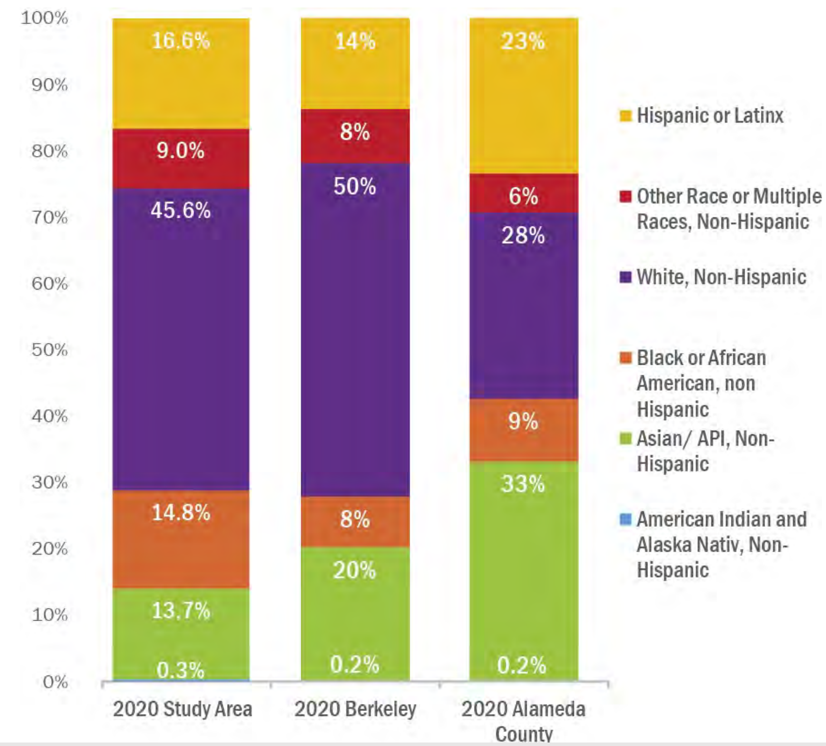


Equity Priority Communities and Redlined Communities. Source: Robert K. Nelson and Edward L Ayers, Mapping Redlining, 2023. MTC, EPC Data, 2021.

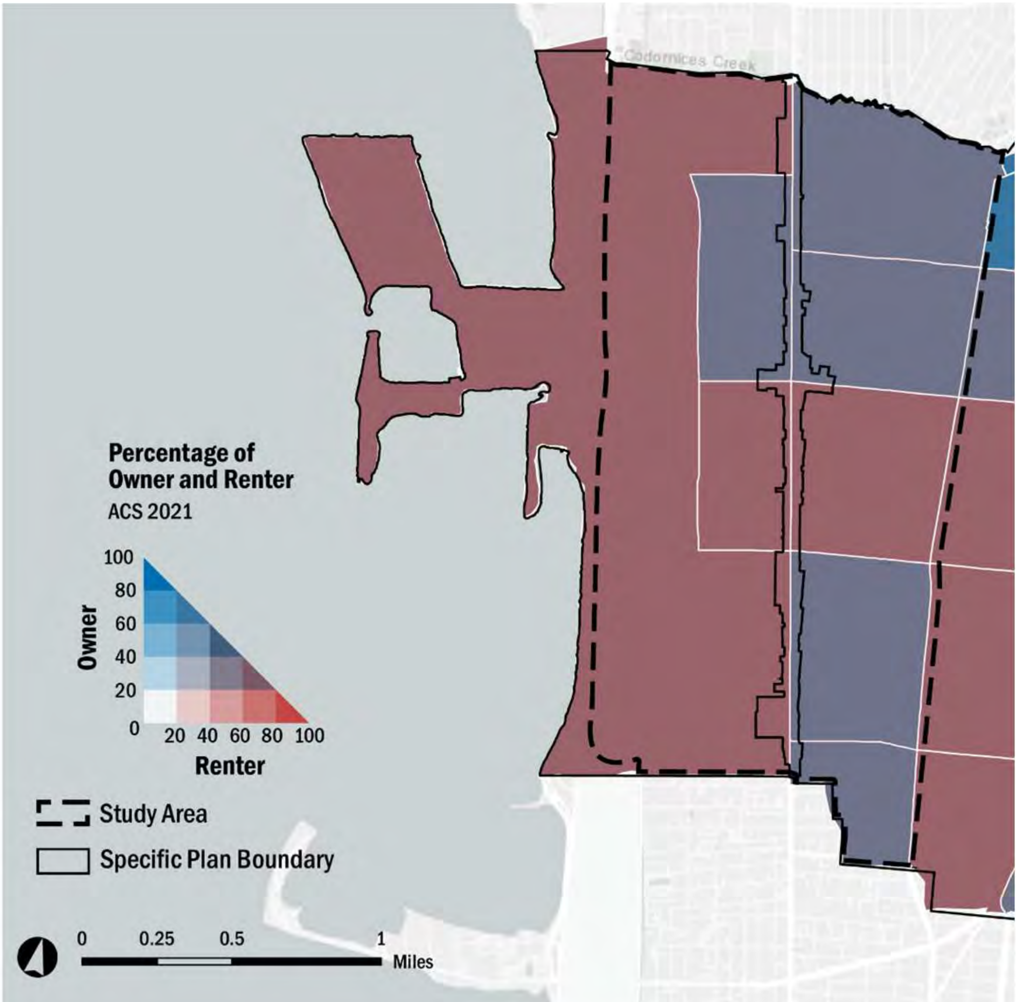
Community Demographics and Equity



Racial and Ethnic Composition in 2020, Source: U.S. Decennial Census 2020 Table P9



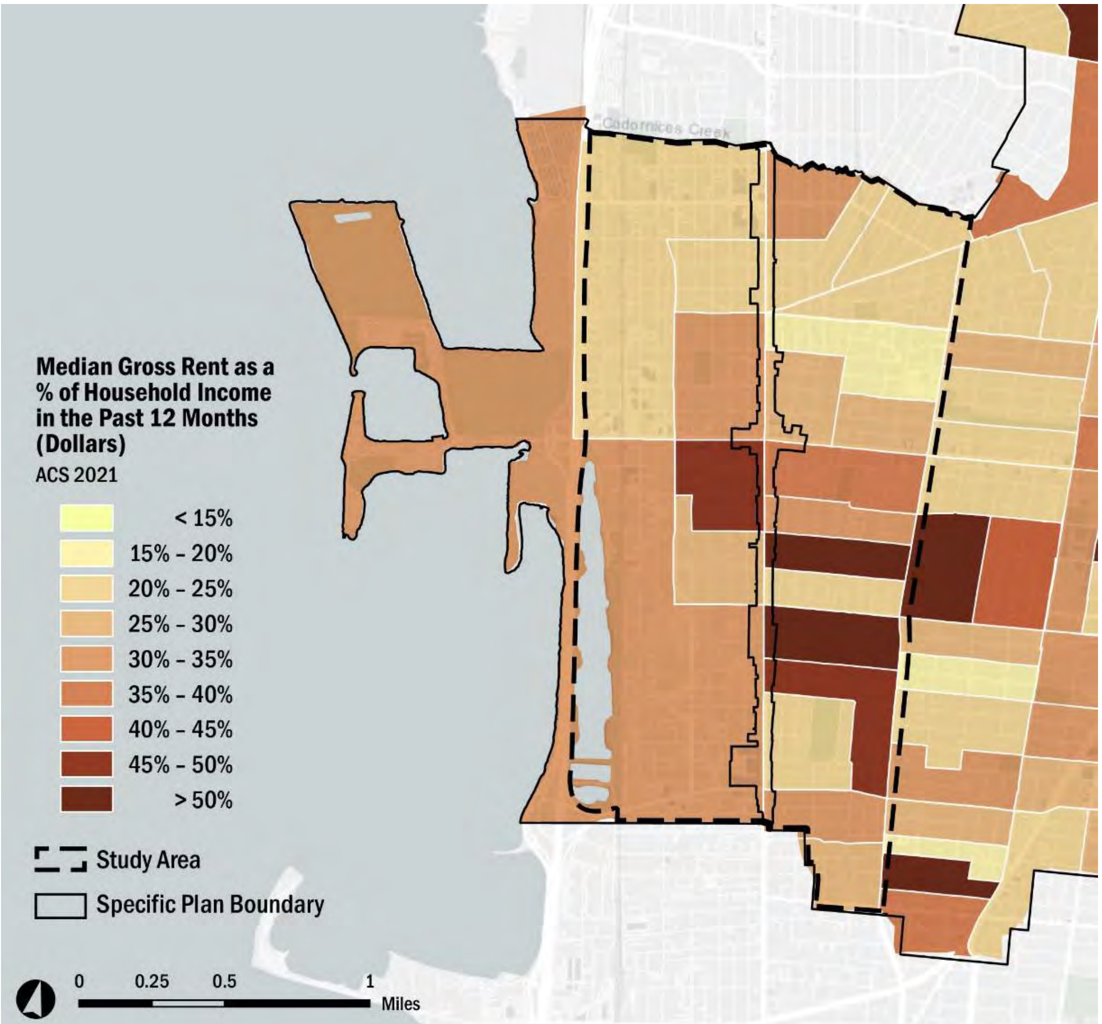
Racial Shift in Study Area by Census Tracts, Source: U.S. Decennial Census, 2000 Table P7, 2010-2020 Table P9



Mix of Households that Own or Rent in Berkeley. United States Census Bureau. ACS. 2021, Table DP04.

Household Conditions

- The Study Area (**10,781 units**) has a higher share of renters (55.3%) relative to owners (44.7%).
- In 2021, the Study Area contained 319 overcrowded units **30% of overcrowded housing citywide**
- In the area, **Owners' housing costs are a lower share** of their income



Median Gross Rent as a Percentage of Household Income in the Past 12 Months (Dollars), ACS 2021 (5-year Estimates)

Household Income and Housing Cost

	Less Than $10,000:	$10,000 To $19,999:	$20,000 To $34,999:
Total:	395	602	762
Less Than 20.0 Percent	0	0	6
20.0 To 24.9 Percent	0	0	3
25.0 To 29.9 Percent	18	51	42
30.0 To 34.9 Percent	8	53	41
35.0 To 39.9 Percent	7	24	15
40.0 To 49.9 Percent	0	172	101
50.0 Percent Or More	**286**	**284**	**548**
Not Computed	76	18	6

Rent Burden by Household Income in the Past 12 Months (Dollars), ACS 2021 (5-year Estimates)

- More than half of tenants are cost burdened
- Over 1,100 renter households earn less than $35,000 and pay more than 50% of their income for rent.

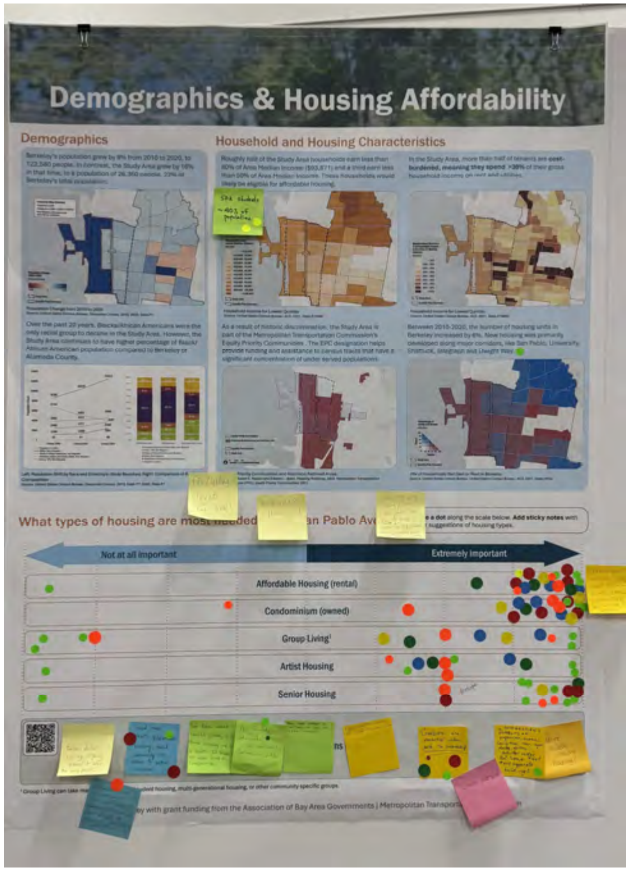
Community Open House – January 24, 2024

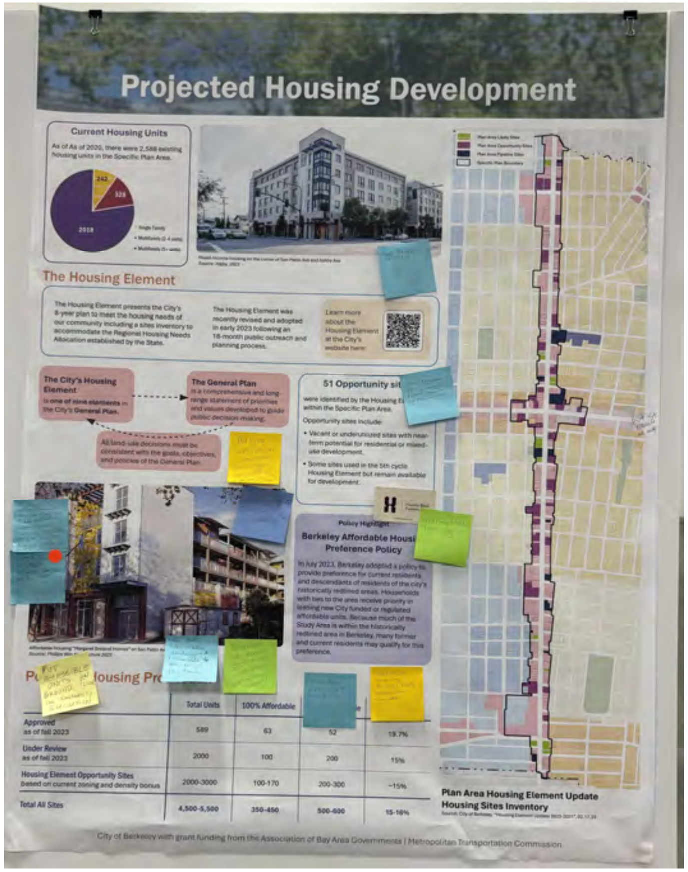
Community Open House – January 24, 2024

Let's Draw!

- Kids' Station
- 1 Specific Plan Overview
- 2 Existing Demographics and Land Use Conditions
- 3 Land Use Policies
- 4 Mobility
- 5 Public Realm and Community Life
- 6 Priorities for Your Future Vision

Community Open House – Housing





- Overall support for increased housing options
- Affordable housing, condominiums and senior housing are seen as the most important.

"Different kinds of housing. Not just tall apartment buildings and mix of socio-economic groups."

Community Open House – Land Use Policy

- Community gathering spaces, entertainment and nightlife were the most important and most strongly desired ground floor uses

“Community plaza: public open space with green nature at San Pablo Avenue & University”

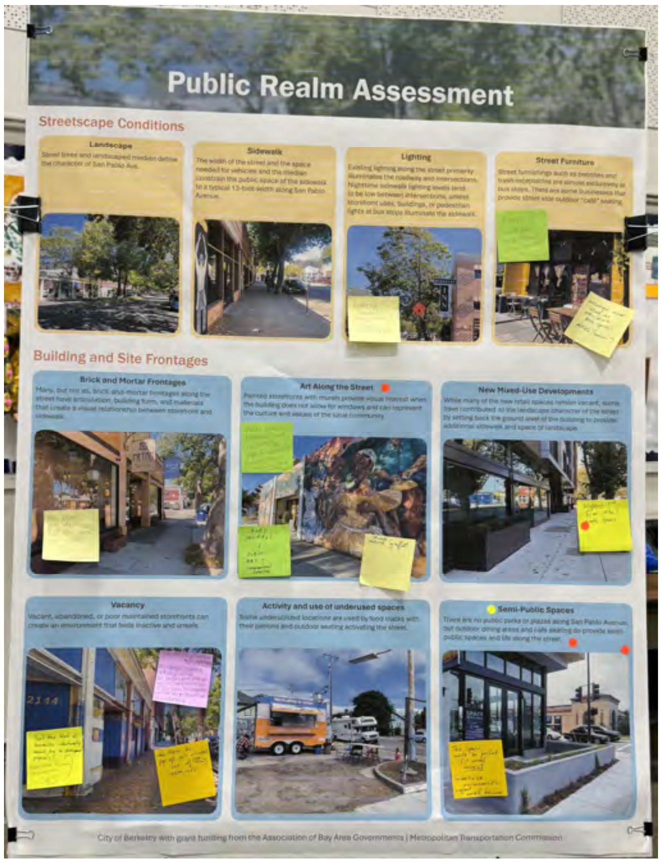
12

Community Open House – Mobility

- Walking is identified as the most common mode where participants feel unsafe, especially at night.
- Community members note that San Pablo Avenue at its current state causes stress and serves as a barrier dividing the surrounding neighborhood instead of a community gather and commercial hub.

"San Pablo Avenue is stressful. It acts as a border, and I hate crossing over it. Increase space for people, less space for cars."

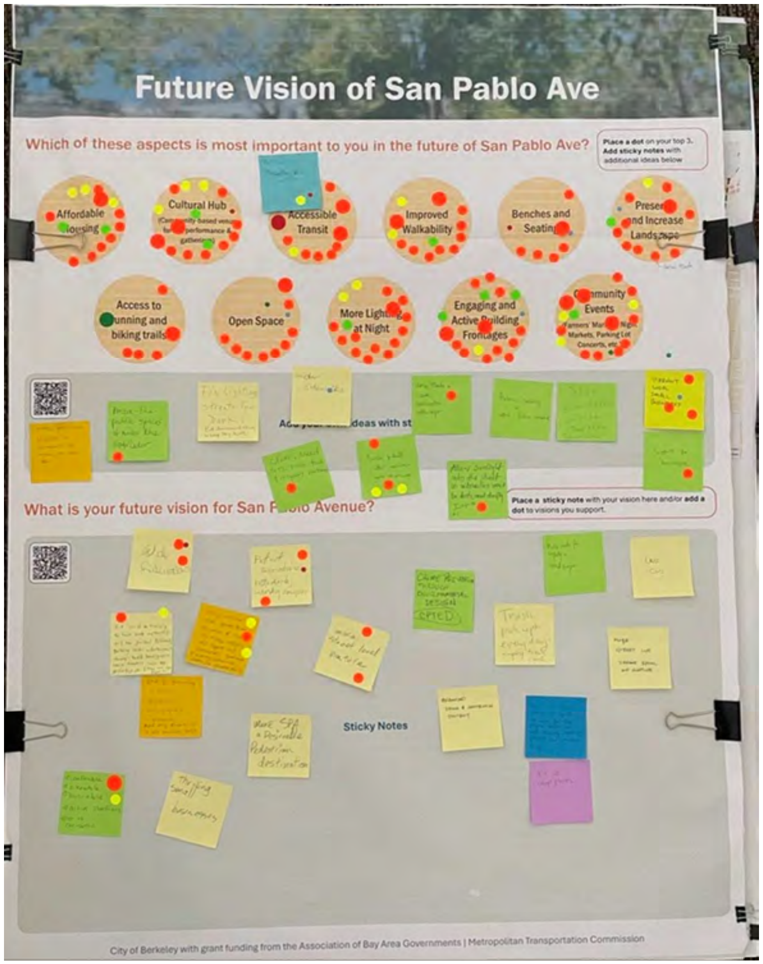
Community Open House – Public Realm



- Lush tree canopy and open spaces are valued assets, with strong support for maintaining greenery and activating the public realm through art.
- Long term business owners along San Pablo Avenue noted a lack of communication and collaboration among businesses.

“Open public spaces at nodes to foster community, pull buildings back”

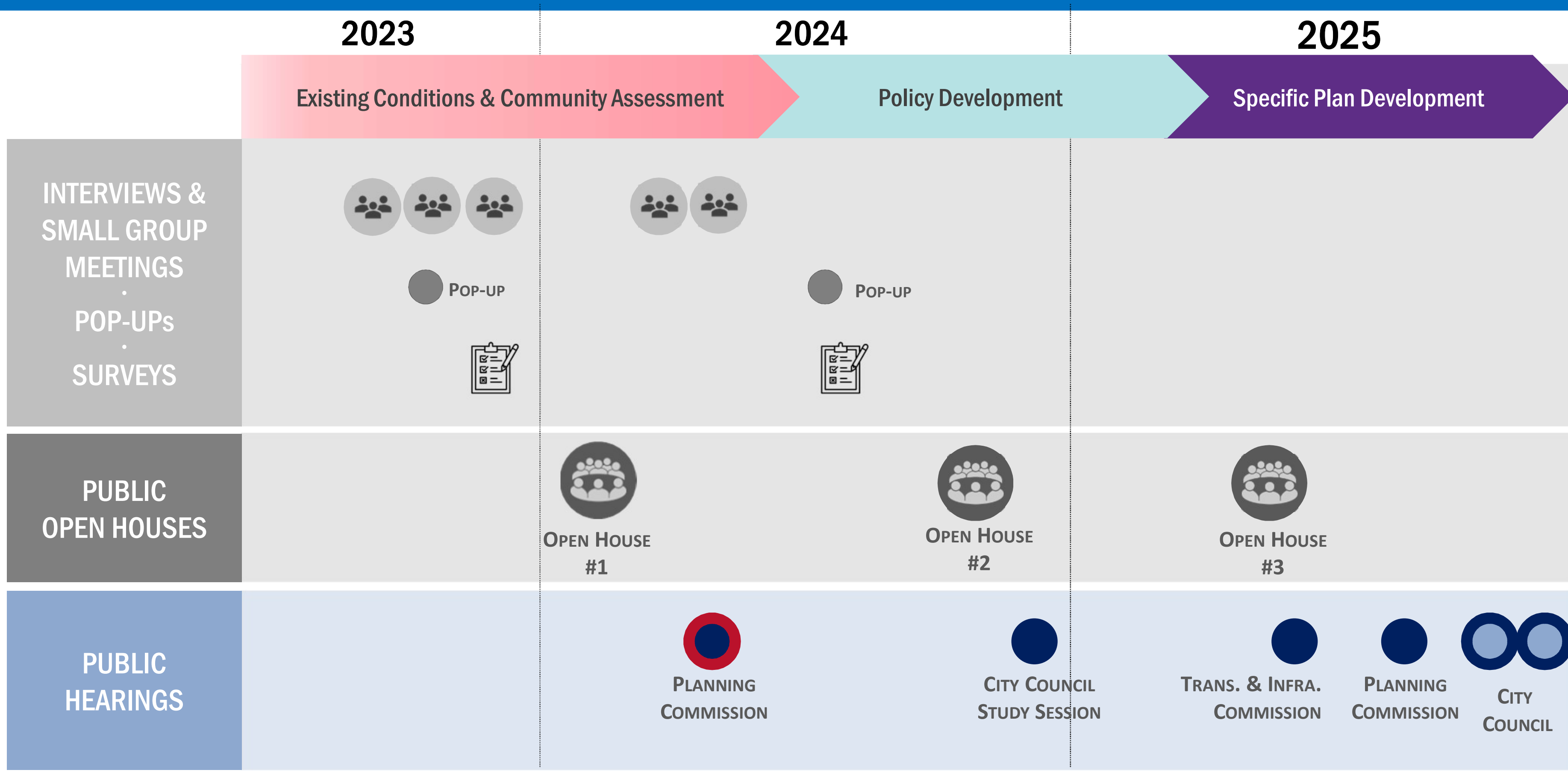
Community Open House – Future Vision



- Community members expressed a desire to see a more engaging and active San Pablo Avenue.
- The top three future aspects
    1. Engaging & Active Building Frontage
    2. Community Events
    3. More Lighting at night

"Lively corridor where people from all walks of life can enjoy, mingle, and support local businesses. Good mix of housing, restaurants, stores (and grocery stores)."

Project Timeline and Next Steps



San Pablo Avenue Specific Plan

Community Assessment Report

August 20, 2024

City of Berkeley

Table of Contents

Project Team
Community Design + Architecture
Urban Planning Partners
StreetLevelAdvisor
InterEthnica
Aaron Welch Planning
Fehr & Peers
Diablo Engineering Group

Chapter 1

Introduction

This Community Assessment Report (the Report) provides an overview of the San Pablo Avenue Specific Plan's planning process to date and the findings associated with the existing conditions analysis and community input.

The Report includes:

1. **Existing Conditions Summary Findings:** An overview of key demographics, land use, housing, transportation and economic findings. This summary is intended to help provide an understanding of the context in which the community operates.
2. **Community Engagement Summary:** A description of the engagement approach which includes a summary of the input received from community members, stakeholders, and other interested parties. This input is provided alongside the relevant existing condition findings and lists community concerns, priorities and aspirations.
3. **Key issues and Themes:** This section details key takeaways from findings from the community assessment and engagement efforts. The key issues and themes will inform the Specific Plan's policies and implementation strategies to ensure future development and public investment are aligned with the community's vision, needs, and priorities.

Specific Plan Overview

San Pablo Avenue is one of the primary multi-jurisdictional transportation corridors in the East Bay, extending as a major boulevard from the Carquinez Bridge to Downtown Oakland, through the cities of Hercules, Pinole, San Pablo, Richmond, El Cerrito, Albany, Berkeley, Emeryville and Oakland. The character and intensity of San Pablo Avenue varies between towns; however, its connectivity and diversity of uses establishes it as a potential multi-model mixed-use corridor in the East Bay. For that reason, San Pablo Avenue has been the subject of multiple regional planning efforts – such as the Association of Bay Area's (ABAG) East Bay Corridor Initiative and the Alameda County Transit Commission's (ACTC) San Pablo Avenue Corridor Project. Berkeley has taken part in these efforts and has also followed the development and adoption of Specific Plans in neighboring jurisdictions with great interest.

San Pablo Avenue in Berkeley has undergone much change – ranging from pedestrian safety improvements to new mixed-use housing developments to new commercial ventures. Strong market demand for housing has led to new development throughout the city, including along San Pablo Avenue, and contributed to State and Regional policies and programs that require and support the city's facilitation of housing production. Berkeley recognizes that without a vision and plan, housing projects will not contribute to a cohesive community, public investments may not effectively support changing needs along San Pablo Avenue, nor will there be coordination to meet community and regional goals. In 2015 the City Council recognized these missed opportunities and requested development of a San Pablo Avenue Plan, a comprehensive planning process that will guide future development on this important corridor.

The City initiated the planning process in 2023 to prepare a Specific Plan to articulate the community's vision for the future of San Pablo Avenue. The vision will identify improvements and create a framework for creating a multi-modal corridor that provides diverse opportunities for living, working, shopping, and taking part in community life along San Pablo Avenue. The Specific Plan will establish community-based and context-sensitive policies, programs, standards, and implementation actions to realize the community's vision.

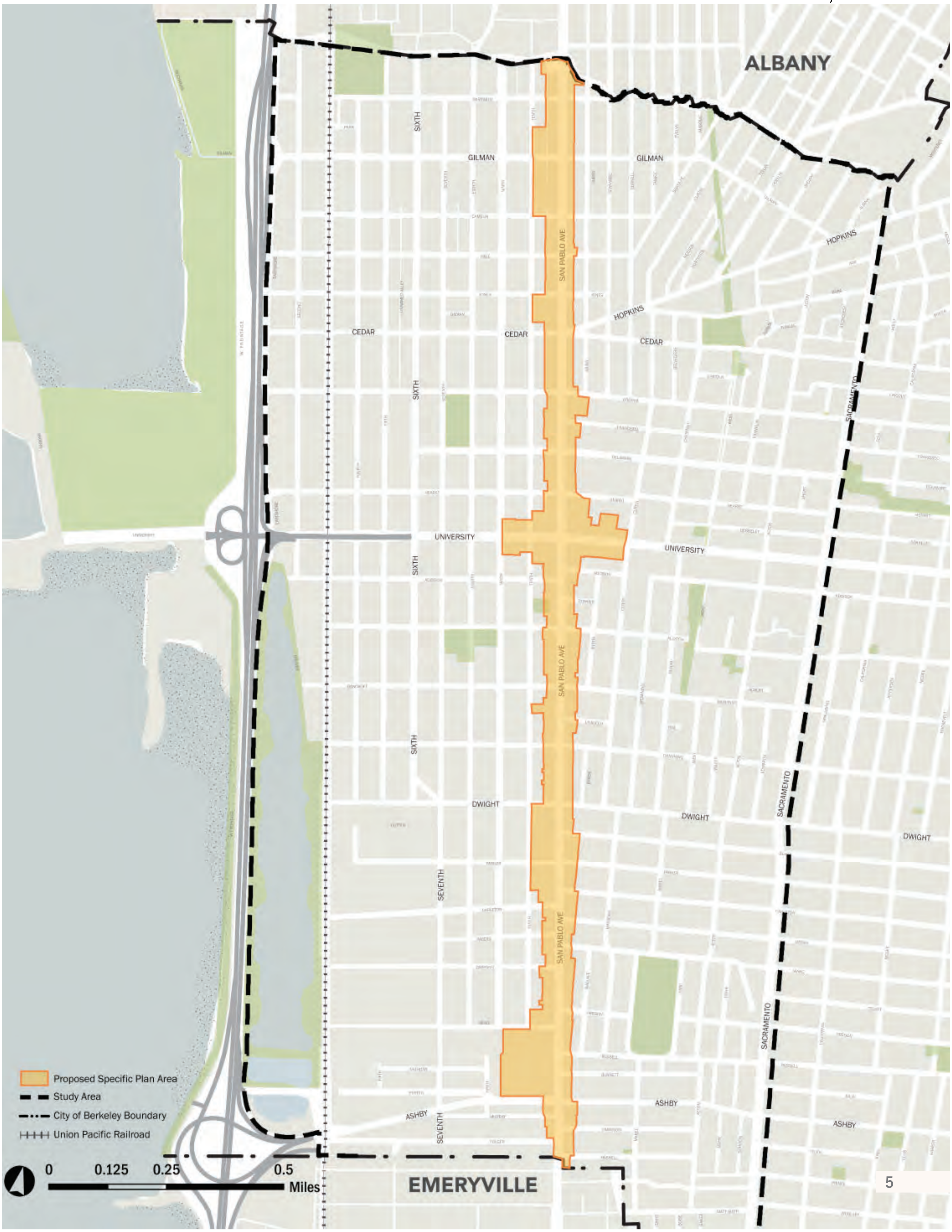
The Plan and Study Area boundaries are described below along with an overview of the Specific Plan planning process.

Graphic to the right:
Figure 1. Specific Plan Boundary Map

Specific Plan Boundaries

The Specific Plan Boundary (Specific Plan Area) encompasses the 2.35-mile corridor along San Pablo Avenue, from the Berkeley/Oakland border in the south, to the Berkeley/Albany border in the north. The Specific Plan Area includes parcels fronting on and adjacent to San Pablo Avenue. Additionally, it covers parcels along University Avenue between Ninth Street and Curtis Street and about 100 ft along some side streets as shown in Figure 1.

The Study Area includes the neighborhoods and employment areas that are proximate to and have a strong relationship with the uses along San Pablo Avenue. The Study Area extends from the I-80 freeway in the west to Sacramento Street in the east and from Albany in the north to Emeryville and Oakland in the south as shown in Figure 1. The Study Area is included in select analyses throughout the Specific Plan process to gain an understanding of the social and economic relationships between San Pablo Avenue and surrounding neighborhoods and districts.


ALBANY
GILMAN
SIXTH
SAN PABLO AVE
HOPKINS
CEDAR
SACRAMENTO
UNIVERSITY
SEVENTH
DWIGHT
ASHBY
EMERYVILLE
Proposed Specific Plan Area
Study Area
City of Berkeley Boundary
Union Pacific Railroad
0
0.125
0.25
0.5
Miles

5

Plan Process

The Specific Plan planning process includes three primary phases:

- Existing Conditions & Community Assessment
- Policy Development Recommendations
- Specific Plan Preparation

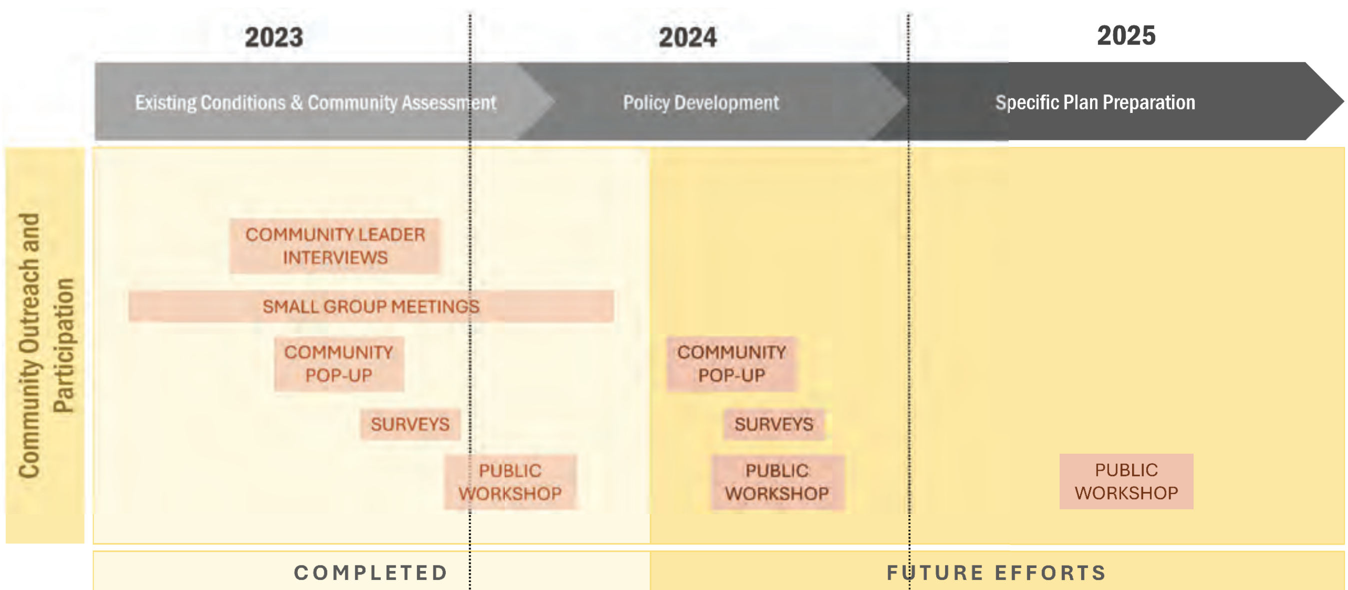
Community outreach and participation efforts occur throughout the entire planning process to ensure community input is received early, and informs key decision points in the process.

This Report is the culmination of the Existing Conditions and Community Assessment work including:

- **Summary of Existing Conditions, Plans and Programs** included an assessment of existing conditions and planning policies and programs relevant to the Specific Plan Area. This work was completed Fall 2023 and is included in Appendix A.
- **Key Community Assets and Issues** included a comprehensive analysis of the community outreach and engagement events (13 events) held between August 2023 and May 2024.

The timeline below highlights complete and future community engagement opportunities. The preparation of the draft and final Specific Plan document is anticipated for 2025, with adoption in late 2025.

San Pablo Specific Plan Timeline



Methodology

This section outlines the data collection and analyses used for the Existing conditions report and describes the community engagement between August 2023 to June 2024.

Existing Conditions

The Existing Conditions analyses used quantitative and qualitative data to capture details unique to the Specific Plan and Study Area. Data collection and analysis included review of:

- Berkeley planning documents such as General Plan elements, including the 2021-2031 Housing Element Update, Specific Plans, Area Plans, and the Climate Action Plan.
- The City's Municipal Code and Zoning Ordinance.
- State Legislation and Regional Policies.
- Past and current planning efforts such as the Alameda CTC San Pablo Avenue Corridor Project, the City's Vision Zero Action Plan and Program 29 – Middle Housing, and Objective Design Standards.
- Historical zoning documents, related to equity and displacement, including Equity Priority Communities data and reports from the Metropolitan Transportation Commission (MTC).
- Commercial data and reports including the City of Berkeley's Office of Economic Development 2016 Economic Development Work Session, and active business license records.
- Past and current demographic and population data from the U.S. Census Bureau

Field study and direct observation of the corridor included two field surveys along the corridor from the Berkeley/Albany border to the Berkeley/Oakland border in both directions. During the field study, the team observed and assessed existing parcels, public realm conditions including building frontages, sidewalk areas, and landscaping. Team members attended community events, such as the SF Bay Brazilian Day and Lavagem Festival for additional observation opportunities. Team members also attended a San Pablo Avenue Bike Tour, led by Berkeley Design Advocates, on September 16, 2023, to view recently constructed, entitled and submitted projects along the corridor.

Community Engagement

During this initial planning work, over 330 community members were engaged in 13 outreach events and forums, and over 500 comments have been received. **Table 1** below outlines the events conducted between August 2023 and May 2024. During these events, participants and members of the community explored issues related to housing and commercial development, economic markets, including local business and retail activities, placemaking, mobility, and personal safety in the public realm. Through comments, interactive activities, surveys, and stakeholder interviews and small group meetings, community members provided insight into their varied experiences living, working, and spending time along and surrounding San Pablo Avenue, as well as traveling to and from the corridor. The input collected includes a range of ideas, experiences, and priorities, however, many similar comments and themes appeared consistently throughout all outreach events.

The Specific Plan process has resulted in valuable feedback throughout the community outreach and engagement events. However, this report acknowledges the limitations of the data and participation process. Engagement can often be disproportionate as some members are more able to participate resulting in an unequal representation of the Specific Plan and Study Area community. This report reflects the full range of feedback received throughout all events, and the planning process will continue to identify strategies to reach a representative range of future and existing residents within the whole Specific Plan and Study Area community.

Table 1: Community Outreach Events

Event	Summary
Key Community Leader Interviews (5)	August 28-31, 2023. – Virtual on Zoom Format: 5 qualitative interviews held for 60 minutes each Attendees: Community Based Organization Leaders & Small Business Owners
Pop-up at Harvest Festival	October 21, 2023. 11am - 4pm. – Harvest Festival at Cedar Rose Park Format: Pop-up stand with interactive elements to receive community feedback. The stand was staffed with city representatives to answer any questions. Attendees: Visitors of the Harvest Festival, primarily Berkeley residents Received 26 comments and approx. 142 dots on interactive elements
Targeted Intercept Survey	November 2-12, 2023. – In-person along San Pablo Avenue Format: Quantitative survey, designed to be completed in under 10 min Audience: San Pablo Avenue users 222 in-person interviews

Event	Summary
Community Open House (Appendix F)	January 24, 2023. 5:30am - 7:30pm. – Berkeley Adult School multipurpose space Format: Introduction presentation, followed by drop-in style open house with 7 stations and interactive elements to receive community feedback. The event was staffed by the project team to answer any questions. Attendees: Approximately 80 community members and Berkeley residents with interest on San Pablo Avenue. Received about 270 comments
Public Meeting	December 9, 2023. 10:00am - 12:00pm. – Berkeley Neighborhood Council, Virtual Format: Staff gave a brief presentation and answered questions from the Berkeley Neighborhood Council. April 3, 2024. 6:00pm. – Planning Commission, North Berkeley Senior Center Format: Public Hearing – Staff gave a brief presentation updating the Commission on the status of the Specific Plan and provided an overview of the Community Open House. Commission asked staff questions and provided comments. May 2, 2024. 7pm - 11pm. – Berkeley Housing Advisory Commission, South Berkeley Senior Center Format: Public Hearing – Staff gave a brief presentation updating the Commission on the status of the Specific Plan and provided an overview of the Community Open House. Commission asked staff questions and provided comments.
Small Group Meetings (5)	Residents: October 17, 2023. 5:30pm. – West Berkeley Library Small Businesses: November 8, 2023. – City Hall at 5:30pm. Community Based Organizations (CBOs): November 14, 2023. 12:00pm. – City of Berkeley Offices Architects and Developers: March19, 2024. 12:00pm. – City of Berkeley Offices Large Employers, Developers, and Land Owners: May 28, 2024. 9:30am. – Virtual on Zoom Format: In-person group discussion with intro presentation, with exception of the Major Employers Group Meeting, which was held virtual on zoom Attendees: 7 Residents of adjacent neighborhoods; 3 small business owners; 2 CBO representatives of Rebuilding Together and David Bower Center; 10 architects and developers; 5 representatives of major employers and consultants


JIĀ HOME
friday

Chapter 2

Existing Conditions + Community Feedback

Chapter 2 of this report provides a summary of the Plan Area's existing conditions and input received from the community. The existing conditions summary provides a high-level overview of the more detailed Existing Conditions Assessment Report included in Appendix A. The Existing Conditions Assessment was prepared in Fall 2023. The following section highlights analyses related to the Existing Conditions Assessment and integrates pertinent feedback received from community members, stakeholders and other relevant parties.

Community Demographics

A demographic analysis was conducted for the Study Area to highlight characteristics of the community in the area over time.

Population

The Study Area's population in 2020 was 26,360. The population grew 16% between 2010 to 2020, representing 22% of the city's total population and outpacing the city's overall population growth of 9% to122,580 people in the same period.

"It is essential to ensure that the plan addresses the needs of the historically undeserved communities around San Pablo Avenue."

– Community advocate from Beautiful San Pablo Avenue

Racial and Ethnic Diversity

Growth in racial and ethnic populations has been disproportionate, resulting in an uneven demographic change within the Study Area. From 2000 to 2020, the White population increased by over 3,900 (+45%), while the Black population decreased by over 2,600 (-39%), see Figure 3. The population increase of Hispanic/ Latinx, Asians/ API, and other races during that period was moderate. The Study Area is still diverse with the percentage of the Black population in the Study Area being higher than the percentage citywide, see Figure 4.

The Study Area displays greater diversity overall compared to the city and county, and the percentage of Black population is higher in the Study Area.

The Study Area has a history of land use and economic policy that excluded Black, Asian, and other racial and ethnic groups from other areas of Berkeley. The majority of the Specific Plan and Study Area is a historically redlined area. Although effectively eliminated by 1966 by the Supreme Court, impacts are still seen today as areas that were redlined are often found to be more prone to racial and economic segregation, economic inequality, risk of displacement, and associated conditions. Those restrictions resulted in Study Area neighborhoods being historically more diverse than the rest of the city.

As a result of being historically under served, the Study area is part of the Metropolitan Transportation Commission (MTC)'s Equity Priority Communities (EPCs)[1]. The EPC designation helps provide funding and assistance to census tracts that have a significant concentration of under served populations, such as households with low incomes, limited English proficiency, zero-vehicle households, seniors 75 years and over, people with disability, single-parent families, severely rent-burdened households, and people of color.

Community Feedback: Equity and Diversity

- Several community comments expressed appreciation for the racial and ethnic diversity of San Pablo Avenue and surrounding neighborhoods. Fear that new developments and influx of new residents will increase gentrification and displace marginalized community members was also expressed.
- Overall, many community members support increased housing, specifically affordable housing (rentals), condominiums (owned), and senior housing.

What was Redlining?

In 1933, as part of the federal program and policies, the Home Owners' Loan Corporation (HOLC) was created to refinance home mortgages and expand home buying opportunities. HOLC was the originator of the color-coded mortgage security risk practice known as redlining and redlined the majority of the Specific Plan Area and Study Area. See Figure 2. This discriminatory practice withheld significant investment to areas deemed "D (Hazardous)," because of adjacent industrial areas, older buildings, and the presence of "undesirable populations" (e.g., Jewish, Asian, Mexican, and Black families).based and context-sensitive policies, programs, standards, and implementation actions to realize the community's vision.

Figure 2. Equity Priority Communities and Historical Redlined Areas. Source: Robert K. Nelson and Edward L. Ayers, Mapping Redlining, 2023. Metropolitan Transportation Commission (MTC), Equity Priority Communities, 2021.

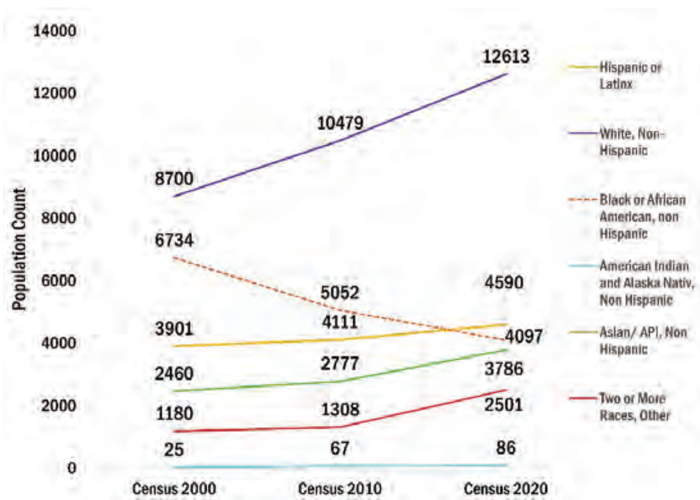


Figure 3. Population Shift by Race and Ethnicity in Study Boundary. Source: United States Census Bureau. Decennial Census. 2010, Table P7. 2020, Table P1

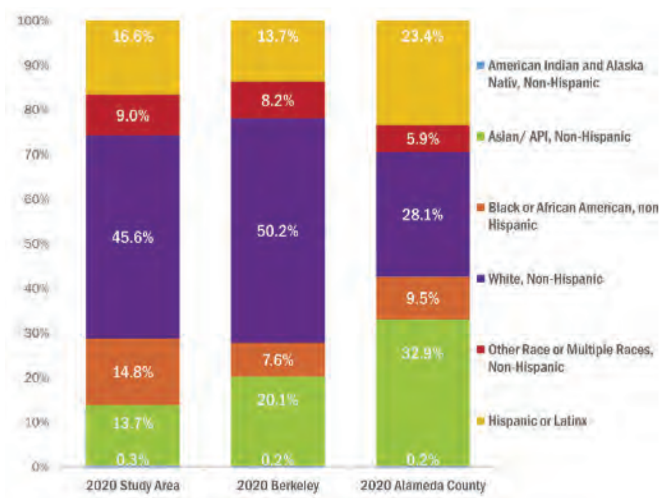


Figure 4. Comparison of Racial Composition. Source: United States Census Bureau. Decennial Census. 2010, Table P7. 2020, Table P1.

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[1] *To learn more about EPCs, visit: https://mtc.ca.gov/planning/transportation/access-equity-mobility/equity-priority-communities. MTC is updating the EPC geography in the region based on the most recent American Community Survey data, and this will change the EPC designations in the Study Area reflecting recent increasing household incomes and shifts in demographics, for more information and to see draft update mapping, visit: https://mtc.ca.gov/planning/transportation/access-equity-mobility/equity-priority-communities/mtcs-2024-equity-priority-communities-update.*

Community and Housing

Housing Characteristics

Between 2010-2020, the number of housing units in Berkeley increased by 6% (2,877 units). New housing was primarily developed along major corridors, like San Pablo, University, Shattuck, Telegraph and Dwight Way. The increased number of units in West Berkeley correlates with the population growth. The number of units in West Berkeley nearly doubled in the last decade, accounting for about one-fifth of the total housing growth in Berkeley.

"To put in low-income housing and not fully take care of businesses will create resentment among residents and business owners. It will be an uphill battle."

– Interviewed non-profit leader

Household Tenure

As of 2020, the Study Area makes up 17% of the city's households and 22% of the city's population. Consistent with the city's household tenure trends, the Study Area has more renter-occupied households than owner-occupied households. The Study Area has a higher proportion of overcrowded housing units compared to the city, with 30% of the city's overcrowded units. In the Study Area, significantly more renter-occupied households (237) were overcrowded than owner-occupied (82 households).

Housing Cost

In 2021, the Study Area's median household income ($93,871) was approximately $7,000 below the Berkeley median ($101,048).

In the Study Area, over 50 percent of tenants are cost-burdened, meaning they spend more than 30 percent of their gross household income on rent and utilities. Of those tenants, 26 percent are severely cost-burdened, meaning they are spending more than 50 percent of their income on rent and utilities.

Homeowners in the area are spending a lower share of their income on housing costs (mortgages payments, deeds of trust, contracts to purchase, etc.) than renters are, on average.

Household Eligibility for Affordable Housing

There are 1,513 severely cost-burdened households in the Study Area, and 73 percent (1,118) of these households earn less than $35,000 and spend more than 50 percent of their income for rent.

Approximately half of Study Area households earn less than 80 percent of Area Median Income and a third earn less than 50 percent of Area Median Income. These households would likely be eligible for affordable housing.

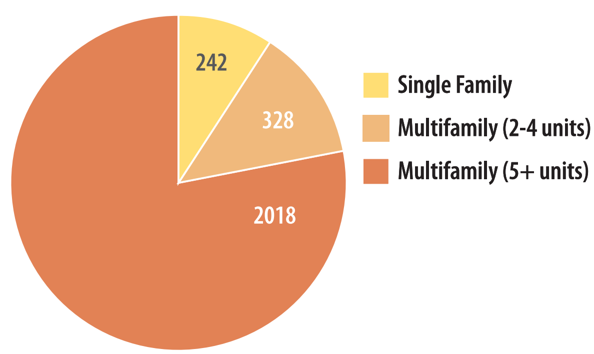


Figure 5. Distribution of Existing Housing Units in the Plan Area by Type. Source: City of Berkeley, 2023.

Community Feedback: Affordable Housing

Affordable Housing

- The community supports more housing options, particularly affordable housing, as it received overall support from all outreach efforts.
- Some community members expressed strong support for condominium and other ownership opportunities along the corridor.
- Input from some events demonstrated specific support for senior housing.

Community Service

- Several community comments noted that an increase in affordable housing units should be met with an increase in supporting services. Suggestions spanned from “daily necessities” like affordable grocery stores to flexible and low-cost space for non-profit organizations.

Land Use

Existing Uses

The Specific Plan Area contains a mix of residential and commercial uses (see Figure 8). Residential uses include multifamily, mixed-use, live-work, and a few single-family homes. Live-work spaces are designed to be used both as a workplace and as a residence by one or more persons, and a mixed-use space is a use of a lot or building with two or more different land uses. There are a variety of existing commercial uses, however the main uses include services, auto-related uses, restaurant, and retail uses. Popular commercial uses include auto and home-improvement businesses, including retail, manufacturing, and wholesale uses. Many commercial uses along the corridor are locally owned businesses with brick-and-mortar storefronts. Approximately 90 percent of brick-and-mortar businesses on San Pablo Avenue are locally owned businesses; 21 percent of which are likely owned by women; and 41 percent are likely owned by people of color.

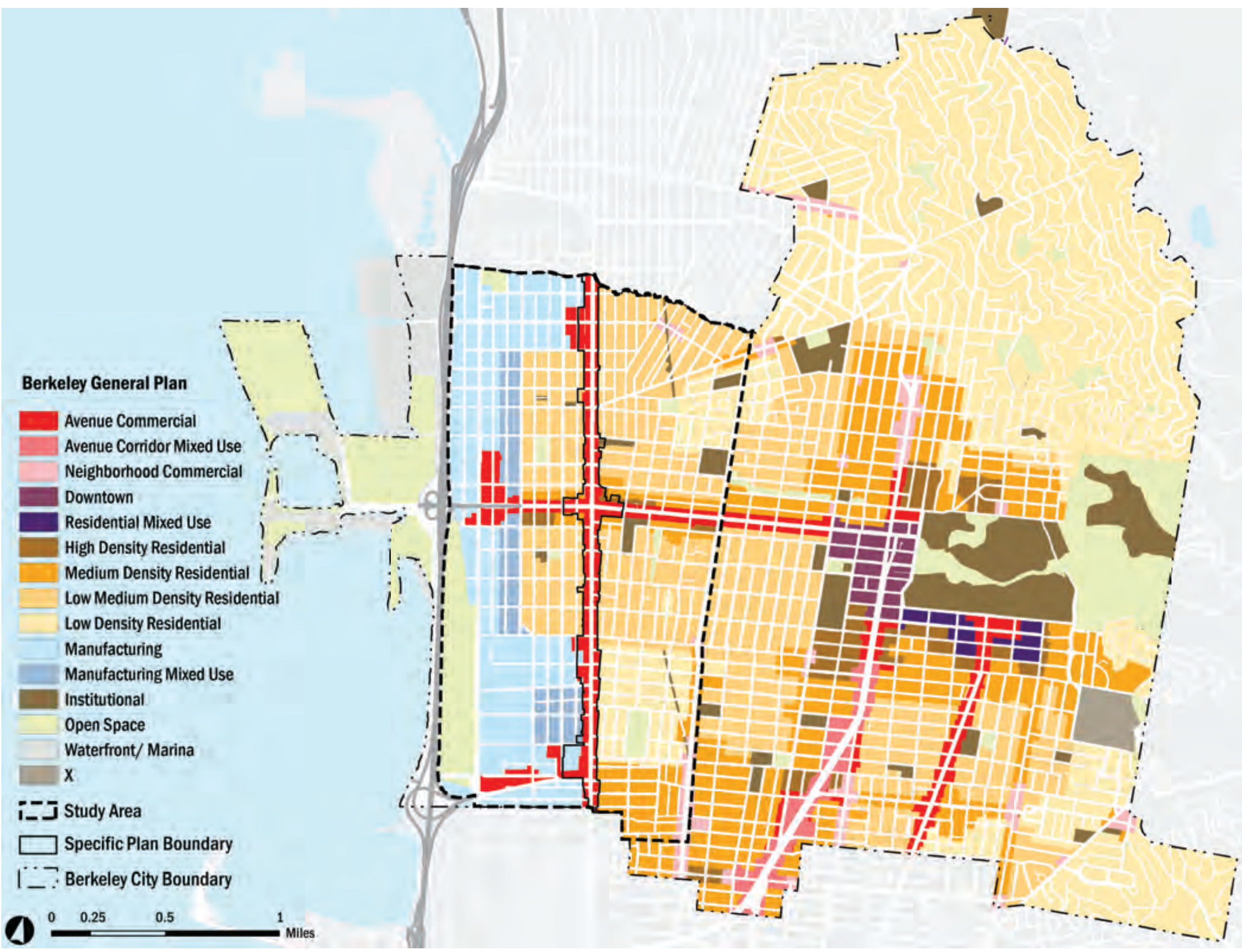


Figure 6. Berkeley General Plan. Source: City of Berkeley, 2023.

Vacancy Rates

According to the Berkeley Office of Economic Development data, San Pablo Avenue's ground floor commercial vacancy rate (by square footage) doubled from 5.5% in 2017 to 10.8% in 2022. This rate increased most significantly, by three percentage points, from 2020 to 2021 and then again from 2021 to 2022, likely due to the impacts of the COVID-19 pandemic. The latter vacancy rate is notably higher than other commercial corridors such as Solano (3.7%), Elmwood (7.7%), and North Shattuck (4.4%), but similar to University (12.8%), Downtown (11.9%) and South Berkeley (11.8%) neighborhoods.

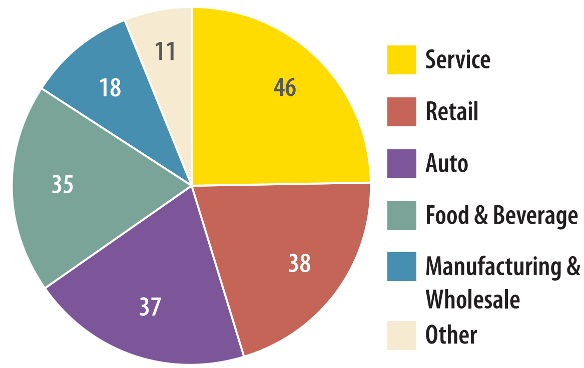


Figure 7. Locally Owned Businesses on San Pablo Ave. Source: Finance Department Active Business License Data & in-person observation (August 2023).

Community Feedback

Vacant storefront

Across all outreach events and forums, the community expressed concern about the high number of vacant storefronts along San Pablo Avenue. Reduced activity and vitality along the street and perceived safety were often cited as primary concerns.

Ground floor use types

Community members expressed support for expanding permitted ground floor uses and advocated for programs and incentives to fill vacant ground floor spaces. Specific ideas included:

- Allowing temporary ground floor uses and other unconventional uses such as art galleries or other pop-ups.
- Allowing a wider variety of uses such as co-working spaces and meeting spaces, galleries and art installations, business incubators, offices, and artist housing.
- Establishing more flexible development standards, reducing discretionary use permits, and other regulatory barriers for small businesses.
- Establishing financial support programs for small businesses for tenant improvements and other startup costs.

Community members mentioned a variety of desired business types and services including:

- Local-serving businesses to meet every day retail and service needs
- Business with affordable products
- Restaurants, cafes and bars

Ground floor commercial challenges

Several members of the developer and professional services community that live and work on and around San Pablo Avenue identified the following challenges for ground floor commercial uses:

- High Tenant Improvement (TI) costs are prohibitive. Specifically, bathrooms and specialized infrastructure such as grease-traps and exhaust hood ducts are expensive costs for small businesses.
- Retail spaces in new developments are not suitable for small businesses as they are currently designed as wide retail storefronts. Small businesses are looking for small storefronts with deeper floorspace, and back of house access.

Figure 8. Ground Floor Use based on Land Use Codes. Source: City of Berkeley, 2023. Alameda County Assessor, 2023.

Figure 9. Mix of ground floor locally owned, brick and mortar businesses. Source: Street Level Advisors and Gordon Consulting, 2023.

Existing Land Use Designations and Designated Nodes

Land uses are regulated by the City's General Plan and Zoning Ordinance (see Figures 6 and 10). The General Plan land use designation along the entire San Pablo Avenue frontage is **Avenue Commercial**. The Zoning district for properties fronting on San Pablo Avenue is predominantly **West Berkeley Commercial (C-W)**. Some parcels front on San Pablo Avenue have split zoning C-W and another zoning districts including Mixed Use-Light Industrial (MULI), Multi-Family Residential (R-4), and Single-Family Residential (R-1).

The C-W district aims to implement the West Berkeley Plan by providing for diverse commercial services to residents and businesses, including restaurants and both small and large retail formats. It delineates certain areas as nodes to encourage the intensification of commercial activity and prevent overspill into industrial areas while creating a pedestrian oriented environment. The district also aims to promote residential development within commercial zones to support local retail and the use of public transportation. Overall, the district supports development in underutilized commercial areas, while ensuring the developments are compatible with adjacent commercial, residential, and industrial zones.

The Specific Plan Area includes five of the six Commercial Designated nodes in the **West Berkeley Plan.** The five nodes are located in areas around major intersections along San Pablo Avenue at Gilman Street, Cedar Street, University Avenue, Dwight Way, and Ashby Avenue. Another commercial node is located along Fourth Street. The intent of these nodes is to intensify retail, commercial, and mixed-use activity to support a strong commercial and pedestrian-oriented environment by requiring that ground floors be activated with select commercial uses. A University Commercial District Node Area is located on the east side of the University and San Pablo intersection. This designation requires that new residential uses be integrated with non-residential uses. While ground floor commercial is required in the nodes, existing commercial uses are scattered along San Pablo Avenue (see Figure 9).

Community Feedback

The community expressed a wide range of perspectives regarding the quantity and location of ground floor commercial and retail along San Pablo Avenue:

- Several comments supported continuing to require ground floor retail in the nodes, while others suggested removing the requirement altogether.
- Some community comments questioned the existing node locations and suggested expanded or reduced node sizes.

The community also expressed competing priorities for the nodes:

- Several members of the developer community believe nodes should concentrate high density residential housing.
- San Pablo Avenue visitors and users suggested that nodes should have retail and other commercial uses.
- Some local residents believe nodes should have open space, plazas, and outdoor dining, as opposed to commercial and retail uses.

Other suggestions for the nodes included:

- Prioritizing infrastructure and public realm improvements at the nodes.
- Increasing density and height within the nodes.

Figure 10. Zoning Map with designated nodes in the Specific Plan and Study Areas. Source: City of Berkeley

Existing Development Standards and Recent Development Trends

The C-W zoning district permits 3-story (40 feet) residential- and commercial-only developments, and 4-story (50 feet) mixed-use developments with either ground floor commercial or live-work units. State Density Bonus Law (See "State Legislation" section) has resulted in developments ranging from six to eight stories and up to 85 feet in height. A detailed overview of the existing development standards is located in the Existing Conditions Report in Appendix A.

Table 2: Existing Development Standards

Designation	FAR (Non-Res/ MU)	Height (Non-Res/Res/MU)	Stories (Non-Res/MU)	Density applied in Housing Element (DU/acre)	Recent Proposed and Approved Development along SPA (C-W)
C-W	3.0	40 - 50' 50' for mixed-use Mixed-Use req. in node	3 - 4 4 stories for mixed-use 4story must be res or live-work	150	6-8 story mixed-use developments 3.75-4.70 FAR 150-380 DU/ac
C-U	2.2 - 3.0 or None	36 - 48'/36' Res only: 36' MU/non-res: 36' MU req. in Node: 48' Non-Res in Node: 40'	3 - 4 MU in Node: 4 stories 3rd floor and above residential only.	150	
General Plan: Avenue Commercial	1.0 to 5.0	Up to 65 ft	Up to 6	150	

State legislation

Several state laws and regional policies have been approved since the adoption of the City's General Plan in 2002. The Berkeley Municipal Code continues to be updated to remain consistent with State laws and policies. The following provides an overview of legislation and policy relevant to the Specific Plan. Many recent State laws have made changes to the development review process, timeline, and requirements, as well as defined limitations on the city's discretion regarding project approval, conformance with certain development standards, and the applicability of the California Environmental Quality Act (CEQA).

Housing Accountability Act (HAA): This legislation limits cities' ability to deny, reduce the density of, or make infeasible housing development projects or emergency shelters that are consistent with the city's objective local development standards.

Senate Bill 35 (2017): SB 35 streamlines the housing approval process for qualifying multifamily residential projects with certain minimum affordable housing. This allows such projects to move more quickly through the city's review process and restricts the city's ability to reject these proposals to encourage the development of affordable housing. See more at the Housing and Community Development SB 35 Guidelines.

Senate Bill 330 (2019): This legislation limits cities' ability to impose restrictions on housing developments. SB 330 seeks to expedite the housing approval process, enhance housing supply, and ensure predictability for developers by reducing regulatory uncertainty and potential obstacles to new housing construction.

Density Bonus (Gov Code 65915): State density bonus provisions have changed frequently and significantly in recent years to further incentivize certain types of housing, including but not limited to various levels of affordability, senior, transitional, veterans, and student. In exchange for a commitment to build the specified housing type or meet a specified level of affordability, the city must allow a density bonus — an increase over the maximum allowable residential density. In addition to increasing density under density bonus law, developers can use "waivers" and "concessions" to reduce, modify, or waive development standards. The use of concessions can limit the applicability of development standards and other requirements for projects that quality for a density bonus.

Assembly Bill 2011 (2022): AB 2011 allows for by-right approval of one-hundred percent affordable and mixed-income housing projects in zones where office, retail, or parking are the principally permitted use.

Potential Housing Production

An estimate of potential housing production within the Specific Plan Area has been prepared using data sources including:

1. Approved projects that have been entitled but not yet issued Certificates of Occupancy
2. Permit Applications for projects that are currently under review by the city
3. 2023-2031 Housing Element Opportunity Sites which identifies an additional 51 sites that could accommodate 2,023 housing units by-right. Density Bonus law could result in approximately additional 700 units.

As of 2022, the approved and anticipated sites along San Pablo Avenue could accommodate over 5,300 units including over 800 deed-restricted affordable units, **see Table 3**. In addition to on-site affordable units, this level of development could generate roughly $20 million in-lieu fees, which is sufficient to fund about one-third of the local subsidy needed to support the projected number of 100% affordable buildings in the Specific Plan Area.

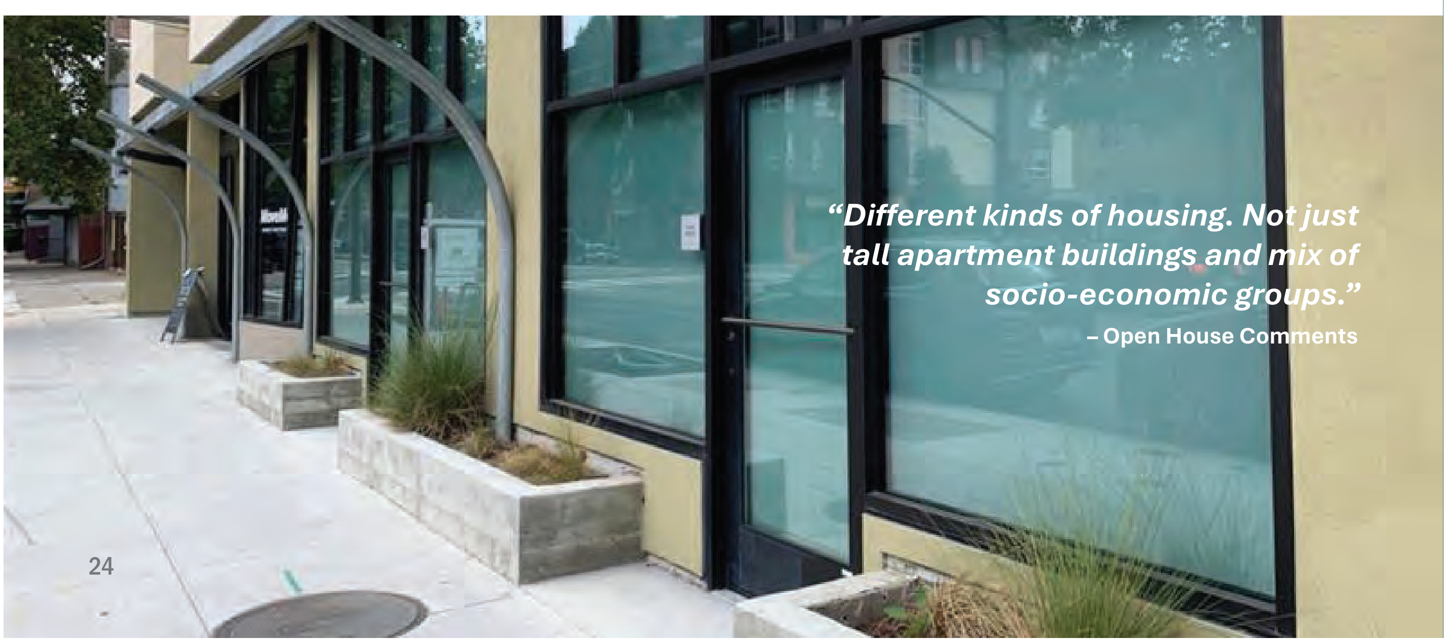
Berkeley Affordable Housing Preference Policy

In July 2023, Berkeley adopted a policy to provide a preference for current residents and descendants of residents of the city's historically redlined areas. Households with ties to redlined areas receive priority in leasing new city funded or regulated affordable units.

Table 3: Estimate of Potential Housing Production

	Total Units	100% Affordable	On site Affordable	% Affordable
Approved (as of 2022)	589	63	52	19.7%
Permit Applications (as of 2022)	2,029	110	192	14.9%
Housing Element Opportunity Sites (Including potential density bonus units)	2,023	110	191	14.9%
Density Bonus[1]	+1,090-2,700	+58-145	+100-255	14.9%
Total All Sites	+5,690-7,400	+340-430	+535-700	15.4%

[1] Estimated based on the typical density bonus achieved from recent projects in Berkeley.
Source: City of Berkeley, 2023. 2023-2031 Housing Element Update. Tables C-3, C-6, and C-10.



"Different kinds of housing. Not just tall apartment buildings and mix of socio-economic groups."
– Open House Comments

Community Feedback

Housing Density

In all outreach events, participants expressed support for more density and for more housing. The community recognizes that San Pablo Avenue provides opportunities to address regional and local housing issues.

Housing Height

- The community expressed varied opinions regarding building height for new developments on San Pablo Avenue. Some comments raised concern about shadows on adjacent low-rise neighborhoods, while others supported increasing permitted building height to allow 8 to 12 stories along the corridor to increase housing capacity and economic support for commercial activity.

"Taller, denser housing urgently needed to house more people."

– Open House Comments

- There was support for increased height for residential-only projects along San Pablo Avenue.

Housing Types and Ownership

- There is support for a greater diversity of housing types. Most community feedback supports a variety of housing typologies (multi-family, townhouse, live-work, etc.).
- The community expressed competing priorities between affordable rental housing options and condominium ownership housing options.

Building Design

- Some community comments expressed concern over "bulky" and unarticulated buildings.

"[Make building facades] Architecturally unique. Implement standards that aren't so strict to allow for variety (i.e. ornamental, setbacks, etc.)"

– Open House Comments

- Community feedback supports the development of buildings with engaging and active building frontages. The community shared the perspective that ground floor setbacks and other strategies to increase the pedestrian realm along San Pablo Ave will increase pedestrian activity. The additional ground floor setbacks at recent developments along the corridor received positive feedback.

"New developments [are] nice to live in, but not to live around."

– Small Group Meeting comment

Multi-family Building Amenities and Access

- Some local residents expressed concern about private amenities within new developments resulting in the creation of "urban gated communities".
- Several community members suggested that new developments provide local public access to some amenities such as gyms, rooftop lounges, etc., to encourage community cohesion.

Public Realm and Open Spaces

The public realm and open space analysis evaluate the streetscape conditions and its elements, such as sidewalks, landscaping, street furnishings, lighting, and building and site frontages. While the Specific Plan Area does not have any existing public open space or parks, several physical conditions of San Pablo Avenue contribute to a sense of "community life," including semi-public spaces, community events, and social engagement.

Figure 11. Mature London Plain trees define the character of San Pablo Avenue.

Streetscape Conditions

Landscape

A mature tree-canopy covers the majority of San Pablo Avenue, adding greenery and shade throughout the corridor. However, there are gaps in the tree canopy and maintenance issues with trees and tree wells along the sidewalks. Other public landscaping on San Pablo Avenue is minimal. Some other major streets in the city have business improvement districts that install and maintain landscaping, but there are no existing improvement districts in the Specific Plan Area.

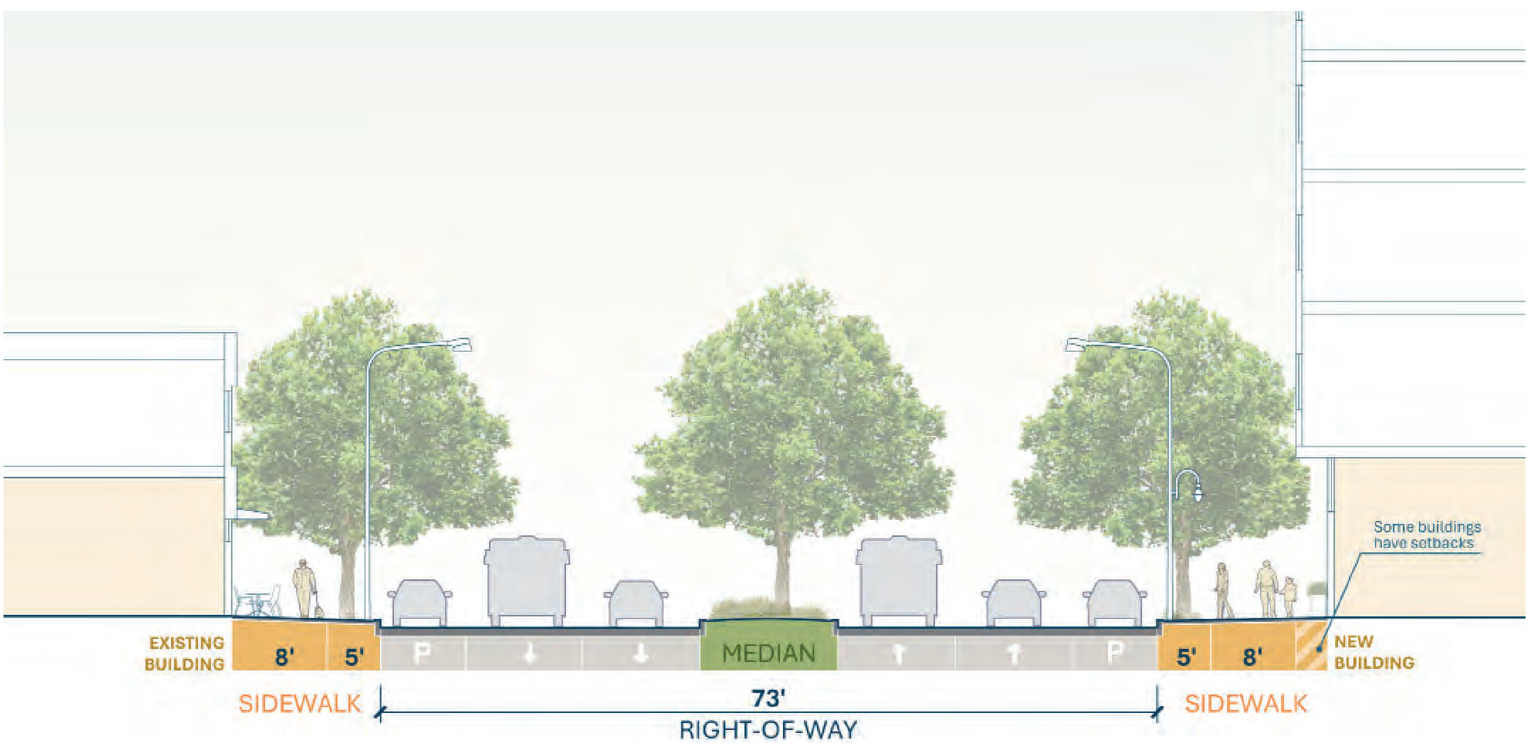


Figure 12. Existing Streetscape Section

Sidewalk

The sidewalk along San Pablo Avenue is 13-feet wide and in variable conditions along the corridor. In some cases, front yard landscaping and other elements extend into the sidewalk right-of-way. The public-right-way is a State highway and managed by Caltrans, not the city. Figure 13

Building and Site Frontages

A wide range of built form fronts along San Pablo Avenue including occupied and vacant brick-and-mortar storefronts and new mixed-use developments, residential- and office-only buildings, parking lots and semi-public spaces. Painted murals and storefronts add visual character to buildings without windows. Some new developments have contributed to the landscape character of the street by setting back the ground level of the building to provide additional sidewalk and space of landscape, such as landscape planters at The Jones north of Cedar Street. Others like the Aquatic at Ashby Ave have a small seating area and a bench and rain shelter built into the additional sidewalk level space. See Figure 14.

Figure 13. Existing 13 ft. wide sidewalk.

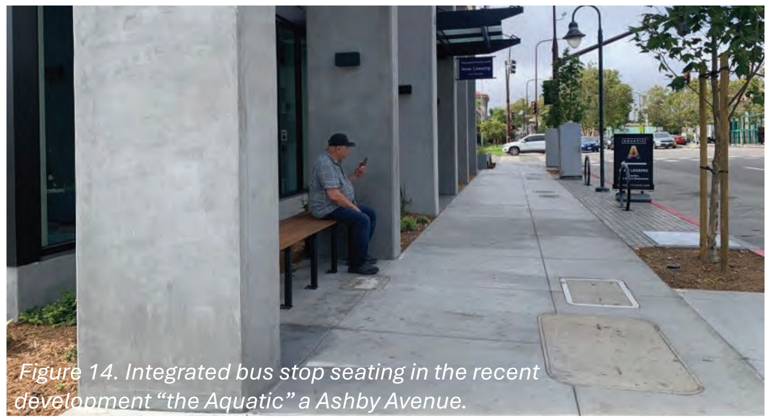


Figure 14. Integrated bus stop seating in the recent development "the Aquatic" a Ashby Avenue.

Community Feedback: Streetscape

- The community views the street trees and landscaped medians as valued assets that makes San Pablo Ave in Berkeley unique.
- The narrow sidewalk width in combination with poor physical conditions was a frequent issue mentioned by participants in regards to personal safety and comfort as vehicles pass by at higher speeds.
- Narrow sidewalks also limit pedestrian space and opportunities for public interaction and gathering. Overall, community feedback expressed support for wider sidewalks.
- The community expressed the need for better maintenance of the public right-of-way. Participants were frustrated by poorly maintained segments and would like to see repairs and upkeep.
- A common and prevalent comment across all community outreach events was the desire for more pedestrian lighting along San Pablo Avenue. Many community members expressed concerns about personal safety and visibility along the corridor at night. Both pedestrian-scale lighting and lighting from storefront displays were mentioned as possible solutions to improving the sense of safety at night.

Figure 16. Existing roadway and pedestrian lighting.


Figure 17. Existing private outdoor "café" seating.

Lighting

Existing lighting along San Pablo Avenue primarily includes streetlights. Nighttime sidewalk lighting levels tend to be low between intersections, unless storefront uses, buildings, or pedestrian lights at bus stops illuminate the sidewalk. See Figure 15. The 2004 Improvement Plan identified this issue and set new lighting standards. While there has been some implementation of the standards in front of new development, there have not been recent publicly funded pedestrian lighting improvements along San Pablo Avenue. The Alameda CTC Safety Enhancement Project will upgrade lighting at some improved bus stops and pedestrian crossings.

Street Furnishing

Street furnishings such as benches and trash receptacles are almost exclusively at bus stops. There are some businesses that provide outdoor "café" seating for their patrons. See Figure 16.

Community Feedback: Community Life

Art and Cultural Installations

- Community members are interested in improvements in the public realm that include art and cultural installations. They see the potential in practical improvements, such as lighting not only for safety but also for aesthetics and comfort – light strings, artistic lighting, and lighting the trees.
- People were supportive of the potential for physical public art through murals and street furnishings. Also, public art as special events with local artists and performers was mentioned.
- Participants would like to see the ground floor and underused spaces to become community gathering spaces or places of common ground activities, including indoor or outdoor space for community events, food trucks, pop-up retail to support local businesses or art events.

Personal Safety

Conditions along the street can create an environment that feels unsafe. Assessment of crime data from the Berkeley Police Department from August 2022 to August 2023 shows a total of 578 incidents in the Specific Plan Area, which makes up 5 percent of the overall crime incidents in Berkeley during that time.

Figure 18. 1901 San Pablo Avenue houses Brasarte and other Brazilian culturally oriented groups. This shows the 2023 Brazilian Day & Lavagem event on the block of Hearst St just east of San Pablo Avenue.

Open Space and "Community Life"

There are no public parks along San Pablo Avenue or within the Specific Plan Area. A number of parks surround San Pablo Avenue including George Florence Park, James Kenney Park, Strawberry Creek Park and San Pablo Park.

Several semi-public and private spaces along San Pablo Avenue such as parking lots, restaurant and café and residential development outdoor spaces provide informal community gathering spaces.

There are also existing organizations that provide community gathering venues including Brasarte and Ashkenaz.

San Pablo Avenue, as a State Highway, does not close for street festivals, however the SF Bay Brazilian Day & Lavagem festival took place in the Gilman District, and neighborhood street parties close some streets that cross San Pablo Avenue, see Figure 17.

Open Space

People have diverse feelings about open space along San Pablo Avenue. For some, concerns about personal safety and lack of maintenance appear to override the potential for community open space on San Pablo Avenue. Others strongly expressed a desire for civic open spaces and community gathering places to bring new and existing residents together. Some suggest that such an environment may support commercial activity.

Several ideas were frequently raised across multiple engagement events including:

- Establishing a parklet program to expand public space.
- Expanding sidewalks and bulb-outs on side streets.
- Temporary or permanent road closures of minor streets intersecting San Pablo.

Transportation Safety

Concerns about personal safety were prominent, with a majority feeling more unsafe at night and expressing unease while walking along the corridor. Especially on segments with empty property frontages and vacant storefronts, participants experience discomfort as pedestrians.

All outreach efforts resulted in a strong desire for better pedestrian lighting. Participants cited more lighting would improve the safety and walkability during evening and nighttime.

Transportation, Parking and Utilities

San Pablo Avenue is a California state highway (State Route 123) and improvements within the street right-of-way require approval by Caltrans. The city is responsible for maintenance of the sidewalks and medians, including street trees and landscaping.

The Specific Plan will not focus on making transportation improvements to San Pablo Avenue, because regional transportation authority, the Alameda Transportation Commission (Alameda CTC), has completed a multimodal planning project for San Pablo Avenue throughout Alameda County. The project has led to three projects that will result in construction of safety improvements for all users, bus stop improvements, and parallel bicycle facility improvements, as well as a short segment of bicycle and bus lanes on the southern end of San Pablo Avenue in Berkeley.

The Specific Plan will focus on the public realm of the sidewalks along San Pablo Avenue, parking management, and other transportation improvements that are not being addressed through the Alameda CTC efforts.

Transit Network

Local Transit

AC Transit provides bus service throughout western Alameda County and Contra Costa County and operates 12 bus routes within the Study Area that provides direct access to the Specific Plan Area. AC Transit is currently evaluating and developing a new network in response to changing travel patterns through the AC Transit Realign Plan. The Realign Plan may alter future AC Transit service in the Specific Plan Area.

In addition to public transit, several privately-operated shuttle services operate in Berkeley. The West Berkeley Shuttle links the Ashby BART station with employment centers in West Berkeley on weekdays. Bear Transit, UC Berkeley's shuttle system, serves Campus Park, Downtown Berkeley, and Berkeley Hills, offering free rides for the university community and $1 fares for the public. The Lawrence Berkeley National Laboratory (LBL) Shuttle provides free service for LBL employees and guests between LBL and North Berkeley BART, with stops along San Pablo Avenue. Upcoming developments like The Berkeley Commons Project and TheLAB will introduce new shuttles between the North Berkeley BART Station and their sites. Though these services cross San Pablo Avenue, they don't directly serve the Specific Plan Area.

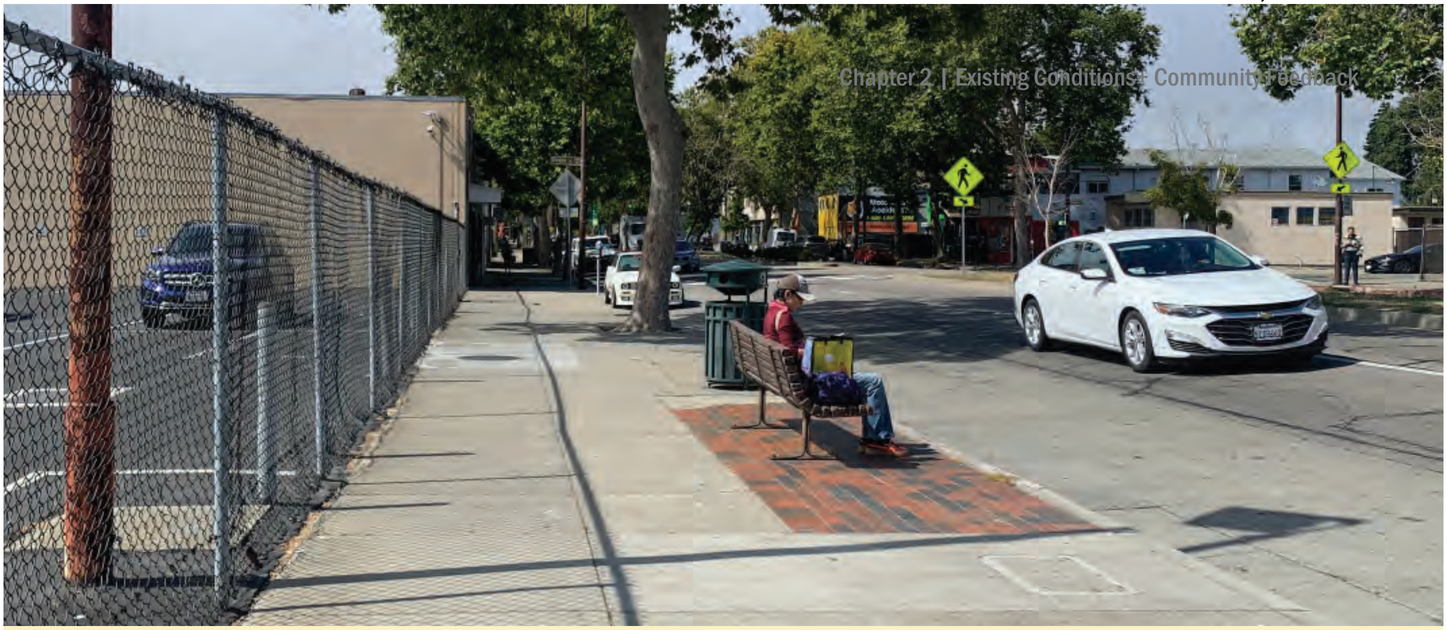
Regional Transit

BART provides regional commuter rail transit in Alameda, Contra Costa, San Francisco, San Mateo, and Santa Clara counties. BART provides regional commuter rail transit in Alameda, Contra Costa, San Francisco, San Mateo, and Santa Clara counties.

Amtrak's Capitol Corridor route operates between San Jose and Sacramento and stops at the Berkeley Rail Station. The station is located under the University Avenue overpass, about 0.5 miles west of San Pablo Avenue. The station provides basic amenities, including outside seating and automobile and bicycle parking.

Parking

Street parking is available along San Pablo Avenue and on side streets within the Study Area. The majority of parking is paid and timed as part of the GoBerkeley paid parking pricing program. In addition to street parking, many businesses within the Specific Plan Area have small parking lots specific to their business.



Community Feedback: Transit & Parking

Transit Service

There are concerns about the possibility of reduced transit service along San Pablo Avenue, specifically the Transbay services. More accessible transit and improved transit stop infrastructure were perceived as important aspects for the corridor's future.

Transit Routes

Some community members articulated the importance of East-West transit connections and expressed support for additional routes and service for connectivity to and from Central Berkeley and UC Berkeley.

Private vs Public Transit

Community members expressed varied interest and support for private shuttles. Some community comments suggested greater shuttle service throughout San Pablo Avenue, while others raised concerns about a two-tier transit system and suggested transit investment in public networks.

Parking

- The community expressed mixed feedback related to parking. Some local residents express concern about parking overflow from new developments into adjacent residential neighborhoods. Other comments supported not requiring parking with residential or commercial uses.

"My business' storefront isn't visible to people driving by because of cars parking in front of the store 24/7 [blocking the view and lack of timed parking enforcement]."

– Small Group Meeting Comment

- Some community comments express desire for greater parking enforcement for vehicles parked beyond the maximum parking times.
- Several local businesses and large employers expressed support for maximum parking times to prevent long-term parking in front of their businesses for extended periods of time.

Transportation Safety

The entire length of San Pablo Avenue is included in the City of Berkeley's High-Injury Network. Between 2017 and 2021, there were 190 collisions on San Pablo Avenue that resulted in an injury or death, representing 7% of the Berkeley total.

The portion of San Pablo Avenue within Berkeley does not have existing bicycle facilities. Four East-West streets have existing bicycle facilities that cross San Pablo Avenue going East-West (Gilman Street, Virginia Street, Delaware Street, and Channing Way). The Alameda CTC Parallel Bike Improvement Project will construct bike safety and connectivity improvements along streets parallel to and across San Pablo Avenue, there are no plans on providing bicycle lanes on the majority of San Pablo Avenue. Bicycle improvements for the Bus and Bike Lanes Project will extend into the southern city limit to Heinz Avenue.

Utilities

According to the 2023-2031 Housing Element Update Environmental Impact Report (EIR), existing utility systems for domestic water, wastewater, stormwater, telecommunications, electricity, and natural gas facilities in Berkeley have sufficient capacity to serve the planned housing developments.

Community Feedback

Transportation Safety

- Throughout the community outreach, participants stated that they desire a more pedestrian friendly corridor, as survey data and feedback found walking as the second most common mode of transportation to and from San Pablo Avenue.
- Community feedback reveals that San Pablo Avenue currently acts as a stress-inducing barrier between east and west Study Area community.
- Several community members expressed concerns about cycling across and along San Pablo Avenue. The most frequent concern was safety due to vehicular traffic and lack of protected bike lanes.
- Community comments included suggestions for a variety of bike infrastructure including bike lanes along San Pablo Avenue and/or cross-streets, and bike boulevard crossing improvements.

Utilities

- Development stakeholders expressed concern about the time and cost of making utility connections, particularly when connections occur on San Pablo Avenue and require approvals by Caltrans.

"SPA is stressful. Just realized it acts as a border and I hate crossing over it. Increase space for people, less space for cars (i.e. parklets, bulb outs, turn median into park.)"

– Open House Comment

Figure 19. Transit Lines and Bicycle Routes. Source: City of Berkeley, Alameda CTC, and Fehr & Peers, 2023.

Economic Development

Berkeley's Office of Economic Development's (OED's) 2016 Economic Development Work Session highlights two existing economic tensions along San Pablo Avenue:

- Local and regional interests for transportation and land use compete for space. Local interests include better walkability, multi-modal transportation options, a broad range of businesses, and housing infill development. Regional interests support car access, street parking, and clusters of specialized businesses not widely available in other parts of Berkeley.
- Demand for housing development in the area threatens to displace the existing concentration of auto businesses along San Pablo Avenue.

The COVID-19 pandemic and broader economic impacts have also affected the corridor and businesses across the city. Nationally, small businesses closed at unprecedented rates from February to April of 2020. African-American, Latinx, Asian, immigrant, and women business owners were disproportionately affected, with African-American businesses owners most impacted. Since then, many small businesses have re-opened or opened for the first time. During 2023, business owners cite inflation, supply chain effects, and filling open jobs as among their primary concerns.

There are several existing business organizations within the Specific Plan Area and Study Area:

- Gilman district association (Local breweries, organic wineries, food producers, shopping, art).
- West Berkeley Design Loop: Group of local merchants, designers, consultants, and builders that provide unique products and services for design and building projects.
- SoU (South University) Berkeley "eclectic fun shopping district in West Berkeley, South of University near 4th Street".
- West Berkeley Artisans and Industrial Companies (WEBAIC): Collaboration of PDRR (Production, distribution, repair and recycling companies), existing art, music and dance studios, initiated by Office of Economic Development.

Community Feedback

Vacancy

Many community members across all outreach events expressed concern over ground-floor vacancies along the corridor. Several concerns were raised related to the vacancy, including:

- Reduced vitality and vibrancy along the corridor.
- Fewer “eyes on the street”, resulting in personal safety concerns.
- Visual and aesthetic concerns regarding dilapidated storefronts.

During the outreach process, participants voiced support for commercial uses and advocated for programs and incentives to fill vacant ground floor space. This is coupled with a belief that there is too much retail space given current demand, and therefore there is a desire to allow and encourage other uses. Throughout the outreach, when asked about opportunities vacant storefront could provide, participants expressed a desire for more community gathering space, entertainment and temporary uses to avoid long term vacancies and accompanying maintenance issues. Generally, community members would like to see more support for businesses to fill those spaces.

Business Incentives

Participants describe San Pablo Avenue as a series of commercial destinations, with household goods, food stores and restaurants/cafes being the most frequently visited destinations They would like to see more financial support for existing small businesses, such as Mi Terra and Casa Latina, and are worried about losing small and local businesses.

Tourism/ Marketing/BID

Participants suggested organizing special events with local artists and performers. They also recommended establishing a Business Improvement District in retail-heavy segments or nodes to fund streetscape improvements.

Relationship to West Berkeley Employment Development

Several comments highlighted the lack of safe walking paths between employment campuses and San Pablo Avenue. Participants also expressed a desire for more “quick and easy” lunch places, as well as after-work restaurants to enhance the area’s vibrancy after work hours.

“San Pablo is not a shopping destination [like 4th St], rather people travel to specific businesses along the corridor.”

– Business Small Group Meeting participant

There is currently no Business Improvement District associated with San Pablo Avenue. However, there are several city-led programs and initiatives to support small and independently owned businesses in Berkeley, which can help to make San Pablo Avenue a more attractive retail location. These include:

- **Zoning Amendments:** Berkeley's City Council passed the Zoning Amendments for Berkeley Business package on February, 2024 to encourage local economic development and enhance cultural offerings in an equitable manner across Berkeley. The zoning ordinance changes are wide ranging; spanning the permitting of group class instruction, the service of distilled spirits, expanded hours of operation, live entertainment, pet stores, art and craft studios, outdoor food service, and the removal of restrictions related to change of use, removal of food service quotas, and rentals of food service establishments to third parties.
- **Revolving Loan Fund & Resiliency Loan Program:** The City of Berkeley's Revolving Loan Fund offers capital to Berkeley-based businesses and entrepreneurs for various growth and operational needs, targeting those who don't qualify for traditional bank loans.
- **#DiscoveredinBerkeley Campaign:** The Discovered in Berkeley marketing campaign showcased diverse local businesses, achieving over 3.8 million impressions and 146 thousand direct engagements through various online platforms and social media promotions.
- **Expanded Outdoor Commerce:** In 2020 and 2021, the City of Berkeley expanded outdoor activity allowances and streamlined permits, now offering businesses a permanent option for outdoor commerce installations with fees starting May 20, 2024, anticipating over 30 businesses to participate.
- **Art Investments:** The City established a Civic Arts grant program offering up to $5,000 each in Fiscal Year 2025 to support local arts and cultural programming. In addition, the City created a Capital Project Grant for local nonprofit arts and cultural organizations for real estate and capital project support.

"San Pablo is not a shopping destination [like 4th St], rather people travel to specific businesses along the corridor."

– Business Small Group Meeting participant


Demographics & Housing Affordability
San Pablo Avenue Specific Plan

Chapter 3

Key Themes + Issues

This chapter summarizes key themes and issues identified throughout the Existing Conditions and Community Assessment phase. These findings will inform the development of policies, programs, guidelines and incentives for the Specific Plan. The summary is organized by theme, though many issues are interconnected and span multiple themes. Overall, the Community Assessment revealed three overarching objectives for the community's vision for the Specific Plan:

1

Provide guidelines and incentives for more housing that improves the vitality of the corridor.

2

Remove barriers and integrate San Pablo Ave with the surrounding community and shape opportunities for neighborhood life.

3

Broaden opportunities for business and community activities that can adapt to economic and market conditions.

Increase Business and Activity Along the Corridor

Improve of Commercial Identity

The Commercial Nodes are not being realized. While C-W nodes are intended to concentrate retail, commercial, and mixed-use hubs along San Pablo Avenue, actual commercial activity and proposed housing developments are dispersed throughout the corridor.

Reduce Commercial and Retail Vacancy

The Community Assessment revealed that commercial and retail vacancy along San Pablo Avenue is a concern for all community groups. Key issues identified through the existing conditions research, and community feedback as contributing factors to vacancy include:

- **Current market conditions:** Vacancy rates increased due to broader economic impacts, leading to vacant and abandoned commercial ground floors throughout the corridor.
- **Land-use and regulatory restrictions:**
  - Limited range of permitted land-uses
  - Lengthy and costly permitting process
- **Over supply of retail spaces:** Mixed-use developments are allowed greater heights than residential-only developments, incentivizing the construction of more mixed-use buildings and commercial space. However, due to current economic market conditions and land-use restrictions, many retail and commercial ground floor space remain vacant.
- **Incompatible design:** The design of commercial and retail spaces are not compatible with small

Support Local Business Vitality and Growth

Both the small business community and the developer community cited the following challenges and barriers for small businesses to start-up and thrive.

- **Permitting process:** The permitting process for new businesses is very long, adding costs and uncertainty to small business owners.
- **High start-up costs:**
  - Tenant improvements are a substantial cost for small businesses and are often prohibitive in new commercial spaces.
  - Compliance with commercial use regulations often requires additional costly tenant improvements, such as adding bathrooms and installing grease-ducts, driving up costs beyond what smaller businesses can afford.
- **Ongoing maintenance and curb-appeal:** Existing property owners/businesses/tenants face challenges in maintaining the street frontage and sidewalk next to their property due to incidents of vandalism and theft. The issue results in both a financial and time-sensitive burden demotivating additional street frontage improvements.

Increase Housing Supply and Diversity

The Community Assessment findings indicate overall support for housing along San Pablo Avenue. The following includes key issues raised by the local and professional community as to the challenges of low housing supply and development.

Revise Housing Development Regulations

Residential zoning regulations for Mixed-Use and Residential-only development are overly restrictive regarding height, floor area ratio, and ground-floor commercial requirements, therefore restricting development.

Support Increased Diversity of Housing Types

There are limited opportunities for home ownership other than single-family detached options, limiting options for renters and workers to stay within the community.

Support Housing Affordability

There is a need for Affordable Housing for people with a range of incomes on the corridor and throughout the city.

Improve and Increase Interaction between Private and Public Spaces

Encourage Engaging Buildings

Residents from surrounding neighborhoods feel isolated from new residential buildings, describing those as a single “bulky” development. The lack of connection between the public realm and private open space oriented away from San Pablo Avenue reduces interactive experiences.

Support Engaging Site Frontage

Large vacant parking lots, and long, windowless frontages contribute to an alienating public environment that discourages walkability and makes pedestrians feel unsafe by fragmenting the urban fabric.

Improve the Public Realm

Increase Amount and Quality of Sidewalk Space

- The sidewalk width is limited by the amount of right of way currently used for vehicles due to San Pablo Avenue's regional function and designation as a state highway. The sidewalk narrows at several locations where existing development, landscaping, and other furnishing extends into it.
- The narrow sidewalk in combination with higher speeds of bypassing vehicles negatively affects pedestrian comfort and opportunities for public interaction.

Improve Lighting and Maintenance of Sidewalk and Landscape

- Several sidewalk segments lack the upkeep and maintenance of sidewalk, such as trash cleanup, paving and landscaping of tree wells.
- The absence of essential public amenities, particularly pedestrian lighting for nighttime safety, is a concern. Currently, there are insufficient public funds available to address these improvements. This shortage impacts public safety and community well-being.

Increase Public Open Space and Community Gathering Space

- There are no publicly owned parcels available to convert or adapt into open spaces, and limited funds may restrict the possibility of acquiring additional land for this purpose.
- There is a shortage of community gathering spaces, as private open areas within new developments are inaccessible to the public. Third spaces are limited to semi-private locations, such as restaurant and café seating, and some private surface parking and outdoor seating/dining areas.

Enhance local Access

Improve East-West Connectivity

- Pedestrians and bicyclists feel unsafe crossing San Pablo Avenue.
- East-West transit routes are limited in number and frequency.
- San Pablo Avenue suffers from a deficiency in public transit connections between East and West Berkeley, exacerbating its function as a barrier between neighborhoods. Presently, private shuttles operated by major employers and UC Berkeley bridge this gap to a degree. However, their availability to the public is limited with no guarantee of access.

Enhance Pedestrian and Bicycle Safety and Access

- High car volume and fast speeds contribute to pedestrian and bicycle safety concerns.
- There are limited crossing points along San Pablo Avenue and many community members feel unsafe crossing the road.
- There is limited connectivity to adjacent parks and community spaces around San Pablo Avenue including a lack of clear signage, pedestrian- and cyclist-friendly pathways, and safe crossing facilities, further hindering community engagement and access to recreational areas.

Transit Access and Frequency/Availability

- AC Transit's Realign Plan is still in development. So, the future of local transit service along San Pablo Avenue is uncertain.

Parking/ Loading Access/ Management of On-Street Parking

- Potential reduction of on-street parking and loading along San Pablo Ave, as well as lack of time-parking enforcement makes operation for existing businesses difficult.

Date: 8.20.2024

To: Robert Riviera and Anne Hersch, City of Berkeley

From: Phil Erickson and Dewi Bleher, Community Design + Architecture
Lynette Dias and Hannah Chan Smyth, Urban Planning Partners

Re: San Pablo Avenue Specific Plan – Task 3.4 Policy and Development Options Memorandum

Policy Options

This memorandum outlines policy options and a development framework to address key themes and issues identified in the Existing Conditions and Community Assessment phase of the Specific Plan process (see Chapter 3 of the Community Assessment Report). The policy options and development framework below provide a range of draft policy options and example development scenarios for public review and comment. Community input from the community outreach and engagement process and continued analysis will help the City identify a set of preferred policies that will be developed and refined for the Specific Plan.

The policy options are organized by Key Theme and Issue, which correspond to Chapter 3 of the Community Assessment Report:

A. (CAPITAL LETTER): Key Theme
   1. (Number) Issue
      a. (lowercase letter) Policy or Development Option
         - (Bullet point) Incentives, strategies and alternatives

Each policy option is sorted according to the relevant issue. If there are related policies under different issues, they are referenced in related policies. Incentives, strategies, and alternatives to the policy option are listed below each policy option, providing detailed actions and variables to consider when finalizing the policy and to achieve successful implementation. All policy options, including those not recommended, are discussed to transparently present the full range of community suggestions received during the Community Assessment. This approach ensures that all potential options are acknowledged and considered.

The Development Framework outlines three policy areas to shape development along the corridor and strengthen the designated nodes (see more information on nodes in Community Assessment Report, page 20). The Development Framework describes how key land use policies and standards – Height and Density, Ground Floor Use and Design, and Community Benefits can be used to shape future conditions and hierarchies between the nodes and the other parts of the corridor. **The Development Framework is conceptual and designed to incorporate community input. No specific decisions or approaches have been finalized.** The preferred Development Framework will be determined through the preparation of the Specific Plan and include further public review and input opportunities including public hearings with the Planning Commission and City Council.

The Development Scenarios are examples that illustrate how policy areas can shape different development scenarios, balancing community benefits with variations in height and density across designated nodes and the entire corridor.

Table of Contents

A. Increase Business Activity Along the Corridor

1. *Improve Commercial Identity*

a. **Re-evaluate and adjust node boundaries, policies, and development standards** to focus uses such as commercial, public resources (open space, community meeting/social spaces, etc.), or housing along the corridor. Node alternatives are further considered in the *Development Scenarios* section below.
   - Provide incentives for commercial clusters and mixed-use development within the nodes such as increased heights or intensity by-right[1]. (*Related Policies – A.2.d; B.2.a; C.1.a; C.1.b*)
   - Focus initial public investment on improvements in the nodes (*Related Policies – A.3.a; D.1.a; D.3.c*)
   - Target business support programs on local businesses in nodes, including tenant improvement grants or no-interest loans and rent support for a start-up period. (*Related Policies – A.3.a)*

b. Work with the businesses, cultural institutions and artist groups in the community to **identify Commercial and Cultural Districts along San Pablo Avenue,** such as a maker/light industrial district, international district, or state-designated cultural district. (*Related Policies – C.3.c*)

c. **Support creation of business "cluster" organizations** that publicize the range of businesses in the San Pablo Avenue and West Berkeley areas, such as the West Berkeley Design Loop with goal of creating an identity similar to a Commercial District while being more flexible with business location. (*Related Policies – A.3.b*)

2. *Reduce Commercial and Retail Vacancy*

a. **Allow temporary pop-up uses** such as business incubators, art installations, galleries, etc.

b. **Expand the list of by-right uses**.
   - Expand the list for selective uses to encourage community gathering space (public or semi-public third spaces such as a community center or public plaza) and maker-uses (light-industrial). Allow all office uses, public markets (open air and enclosed), art studios, galleries, theaters, and live work with a Zoning Certificate. Exclude heavy-industrial uses. (Related Policies – A. 2. c.; B.1.b; and B.2.a)
   - Allow 100% affordable housing conversion of existing non-residential building.

c. **Allow non-commercial ground floor use,** in nodes.
   - Allow for transitional ground-floor residential use along side streets within nodes. (Related Policies – A. 2. b.)
   - Allow ground floor-residential use along San Pablo Avenue within nodes. ***Not Recommended*** – this would go against goals of reinforcing clusters of commercial and service uses at nodes/high-service transit locations and improving commercial identity.
   - *Alternative:* allow ground-floor residential towards node edges.

d. **Allow residential ground floor in mixed-use developments outside of nodes**. Developers would be allowed to wave the commercial ground floor requirements by **paying a ground floor retail in-lieu fee into a Small Business Support Fund.** (*Related Policies – A.3.a.*)

e. **Improve new ground floor commercial space viability** with objective design standards for minimum floor-to-ceiling height, minimum depths, flexibility for different sized spaces, shared bathrooms, storefront design of building frontage. (Related Policies – B.2.a).

[1] The use of the term "by-right" is used to mean that a use, height, intensity, etc. can be approved without discretionary review, public hearing, additional conditions or community benefits.

f. **Establish size limits for certain types of uses,** which may discourage larger chain businesses from locating on the corridor. ***Not recommended*** – can be challenging to define "larger chain" businesses (e.g., regional vs. national chains, etc.) and some can be smaller sized. Also, given the current weaknesses in the retail market some chains might be welcomed by the community.

g. **Implement a commercial space vacancy tax** to encourage owners to keep spaces occupied. ***Not Recommended*** – while a vacancy tax may encourage owners to fill vacant space that they are "holding" for one reason or another, success of vacancy taxes is variable. We commend implementing policies and programs to support businesses to locate on San Pablo Avenue first and evaluate if a vacancy tax is necessary to support those efforts after they have been in place for a period of time.

3. *Support Local Business Vitality and Growth*

a. **Establish a Local Small Business Support Fund** for start-up businesses. This would be funded through the combination of a ground floor retail in-lieu fee, development project community benefits, or other local funding sources. (*Related Policies – A. 2.d; Also see, Policy Levers, Community Benefits, page 11*)
   - Offer tenant improvement and relocation funding to small businesses.
   - Provide start up rent subsidies to small businesses.
   - Waive permit fees or other City fees for small businesses.

b. Work with businesses to **establish business support programs** including marketing campaigns, weekly market programs, and a Community Benefit, Business Improvement District, or Enhanced Infrastructure Financing District (*Related Policies – A.1.c*).
   - City and local businesses/property owners to **fund and initiate a study of the feasibility and scope of forming a Community Benefit or Business Improvement District** for the San Pablo Avenue Specific Plan Area, subareas of the Plan Area, and/or the Plan Area and portions of West Berkeley.
   - **Support existing and encourage new business organizations/affiliations** such as the West Berkeley Design Loop, a sub-group of Open Studios that might be interested in more frequent co-marketing, and other location or service based "clusters" of businesses.

c. **Review City's efforts to streamline new business use, building, and other permitting approvals.**

d. **Establish public-private partnerships** for implementing indoor- and outdoor community events. (*Related Policies – A.2.a; A.2.b; and D.3 Increase Public Open Space and Community Gathering Space)*

e. **Initiate a study of the feasibility and scope of forming an Enhanced Infrastructure Financing District (EIFD)** to fund infrastructure maintenance and housing development, economic development, transportation infrastructure, sewage treatments, and climate adaptable projects, among other uses.

B. Improve and Increase Interaction between Private and Public Spaces

1. *Engaging Buildings*

a. **Incentivize public access to amenities** in new developments, such as courtyards, rooftop open space, or public working stations.
   - Provide semi-private access to amenities through neighborhood key-card programs.
   - *Alternative:* offer public access to private amenities as a community benefit contribution option to developers.

b. **Require new development amenities to be on the ground floor** (and to be sidewalk facing and visible), including gyms, coworking, and meeting spaces. (Related Policies – A.2.b)

c. **Define Objective Design Standards for articulation of upper floors** that animate the façade by addressing design elements including materials, projections and recesses, balconies, and window design.

2. *Engaging Site Frontages*

a. **Establish Objective Design Standards for the ground floor frontage** that have key elements of pedestrian friendly building frontage design. (Related Policies – A.2.b)
   - **Storefront standards** that provide a low proportion of “blank” walls, high windows percentage, and frequency of entries. These standards are designed to facilitate an easy change of use from retail to restaurant, gym, or similar active commercial or service use.
   - **Active Ground Floor standards** that provide more flexible design choices to allow a broader range of non-residential uses.
   - **Active Residential Ground Floor standards** that require a transition or connection from public sidewalk to unit, including entry patios, stoops, shallow landscaped setbacks, etc.

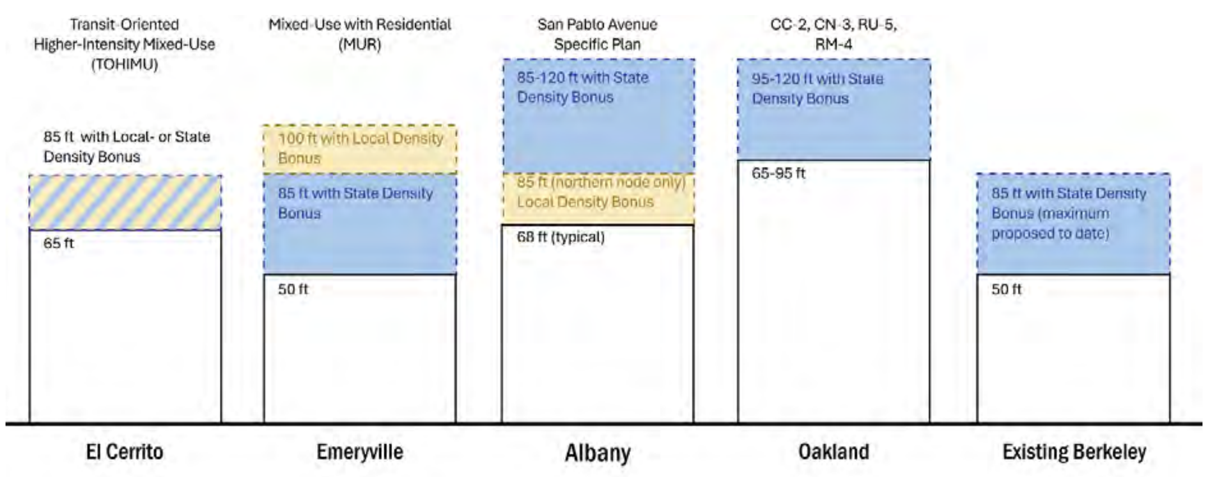
C. Increase Housing Supply and Diversity

1. Revise Housing Development Regulations

a. **Increase by-right maximum allowed height and floor area ratio (FAR) –** see Policy Levers – Height and Intensity section on page 10 for discussion of intensity scenarios that are being assessed.
   - *Alternative 1:* Increase throughout the whole corridor
   - *Alternative 2:* Increase only within the nodes

b. *Alternative to by-right increase in height and FAR*: **Modify current approach of allowing additional height for mixed-use building**. But allow 100%-residential buildings to achieve mixed-use height and FAR if the developments comply with all Objective Design Standards and provide a minimum threshold of community benefits (including payment of ground-floor retail in-lieu fee, provision of public open space, and other benefits). Also see Policy Levers, Community Benefits, page 11. (*Related Policy – A.2.d, B.2.a; C.2.b; D.3.c)*

c. **Review City's efforts to Streamline Planning Approval and Building Permit** process for new developments and make recommendations for further streamlining improvements.



3. Support Increased Diversity of Housing Types

a. **Allow density to be counted as units or bedrooms** to provide developers more flexibility in meeting min. density standards through either metric.

b. **Allow an option to waive mixed-use development requirement for additional height outside of the nodes** by providing a threshold percentage of workforce, senior or family-friendly housing. *(Related Policy – C.1.b.)*

c. **Permit rezoning of select MULI and MUR zoned parcels** within the Specific Plan if the development provides 100% percentage of workforce, senior or 2-3+ bedroom family-friendly housing; see Development Framework section for potential MULI and MUR zoned parcels that this policy could be applied to. *(Related Policy – C.3.a)*

Figure 1 Development Zoning Height Limits along San Pablo Avenue

4. Support Housing Affordability

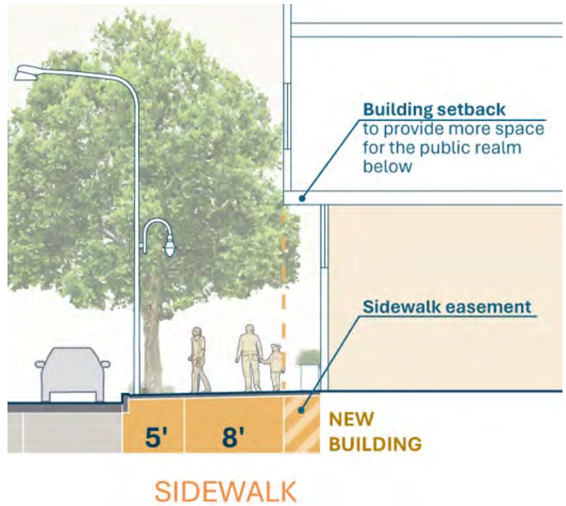


Figure 2 Section to illustrate sidewalk easement

a. **Permit rezoning of select MULI and MUR zoned parcels** within the Specific Plan if development provides 100% affordable housing; see Development Framework section for potential MULI and MUR zoned parcels that this policy could be applied to. *(Related Policy – C.2.c)*
b. **Provide a density bonus for projects with a percentage of middle-income** affordable units.
c. **Reserve up to 10% of affordable housing units for artists** in any state-designated cultural districts that are established. (*Related Policies – A.1.b*)
d. Establish a **site acquisition financing/funding program** for 100% affordable projects.
e. **Opt into and comply with the Metropolitan Transportation Commission's (MTC) Transit-Oriented Communities (TOC) Policy** to increase access to funding for housing and transit improvements including active transportation and pedestrian safety.[2]

D. Improve the Public Realm

1. Increase Amount and Quality of Sidewalk Space

a. **Provide community benefit for new or existing development to include sidewalk easements.** *(Related Policy – C.1.b.)*
b. **Create side street curb extensions** for public and outdoor dining.
c. **Expand the sidewalk area and create public space through City-owned/ Caltrans-permitted parklets**.

2. Improve and Maintain Lighting, Sidewalk, and Landscape

a. **Update Streetscape Standards** including landscape, pedestrian lighting, bicycle parking, seating, and other public realm standards.
    - Update pedestrian lighting standards, include street facing façade design and performance standards and require developments to implement.
b. **Require developments to implement streetscape standards** on their San Pablo Avenue frontage; this is an existing requirement that will be maintained by the Specific Plan.

[2] As described in MTC's April 2024 Working Draft Administrative Guidance for MTC's Transit-Oriented Communities Policy, jurisdictions with transit stops and stations that are not served by fixed-guideway service (e.g., areas that are only served by regular fixed-route bus transit) may choose to "opt in" and voluntarily meet TOC Policy requirements for these areas. For locations with no fixed-guideway transit service, the Tier 4 density and parking management requirements will apply in addition to all other TOC Policy requirements. The Tier 4 Average Minimum Zoning Density Required for Residential Development is 25 units/net acre or higher. The Tier 4 TOC Policy Parking Management Requirements is a parking maximum of 4.0 spaces per 1,000 square feet or lower and a minimum of 1 secure bicycle parking space per 5,000 square feet for commercial office. (MTC, May 14, 2024).

c. **Pursue grant funding** for public realm and infrastructure improvements.

d. **Study viability of funding districts for streetscape and other public improvements** in the Specific Plan area:
   - *Alternative 1:* a Landscape and Lighting District for public realm and infrastructure improvements.
   - *Alternative 2:* modify development impact fees for public realm and infrastructure improvements.
   - *Alternative 3:* a Tax Increment Financing District to fund capital improvements for the public realm.
   - *Alternative 4:* a Community Facilities District (CFD) against specific properties to fund streetscape improvements.

3. Increase Public Open Space and Community Gathering Space

a. **Create small plazas** by closing short and minor streets' access to San Pablo Avenue *(see Figure 3)*

b. **Purchase underutilized small properties** for public parks or plazas funded through an in-lieu fee that allows developers a percentage reduction of on-site open space, and other public funds including grants.

c. **Require privately owned and publicly accessible open space for high-rise developments over a certain square foot threshold** (in limited locations within nodes) with the requirement to provide a minimum area of private open public space (percent of total site area to be determined. (*Related Policy – C.1.b)*
   - *Alternative 1:* Allow to credit against private open space requirement
   - *Alternative 2:* Allow payment of in-lieu fee to public open space community benefit funds.

d. **Require a minimum amount of publicly accessible open space** either for all projects, or for projects above a certain size.

e. **Incentivize developments to create adjacent side-street public open space** through a community benefits program.
   - Projects that provide publicly accessible open space with amenities can count that space towards a to be determined percentage of required private amenity space.

4. Integrate Public Art and Cultural Programming into Public Open Space

a. **Integrate public art** into the San Pablo Avenue Specific Plan Area or subareas of the Plan Area to enhance the pedestrian experience along the corridor.

b. **Use public art to enhance and celebrate the unique characteristics of West Berkeley and to highlight distinct neighborhoods.**

c. **Use public art to enhance wayfinding and signage.**

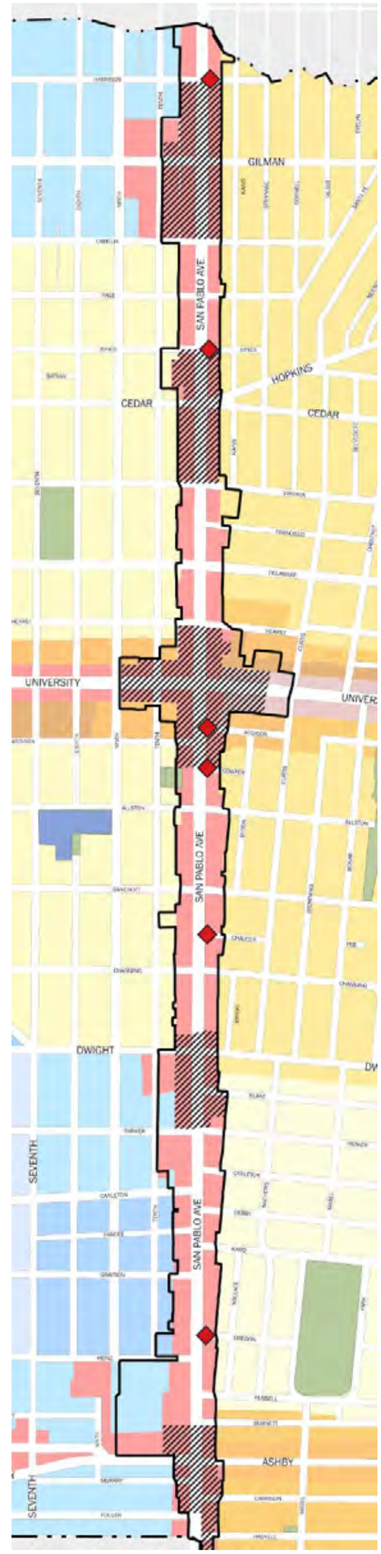


Figure 3 Potential side street closure locations

E. Enhance Local Access

1. *Improve East-West Connectivity*

a. **Study feasibility of a shared shuttle service** or an agreement between City and AC Transit to improve connections between Plan Area and West Berkeley, regional transit and East Berkeley (including Downtown Berkeley and the UC Berkeley Campus).

2. *Enhance Pedestrian and Bicycle Safety and Access*

a. **Develop and implement wayfinding standards** to improve connection between San Pablo Avenue and parallel bicycle facilities, the 4th Street West Berkeley node, adjacent parks and other community services.
b. **Improve sidewalk and streetscape conditions** between San Pablo Avenue and adjacent parks and other community services.
c. **Require public mid-block pathways** for development sites that go through a block.
d. **Study feasibility of lowering speed limit** on full length of segments of San Pablo Avenue.
e. **Study feasibility of separate bike lanes and bus lanes** on San Pabo Ave with Alameda CTC.

3. *Improve Transit Access and Frequency/Availability*

a. **Maintain and improve bus service** in collaboration with Alameda CTC and AC Transit. *(Related Policy – E.1.a)*
b. **Evaluate Alameda CTC bus stop improvements, including bus bulbs** and identify additional opportunities for streetscape and public open space improvements

4. *Management On-Street Parking and Loading*

a. **Create an active parking and loading management program** for San Pablo Avenue, including adjustment of parking meter rates, meter location expansion to side streets, and enforcement.
b. **Create residential and merchant parking permit area(s)** on adjacent neighborhood streets.

Development Framework

Throughout the public engagement process to-date, the community has expressed an overall interest in strengthening the nodes and prioritizing commercial viability with additional policy and beautification efforts. As described in the Community Assessment Report, there are five (5) nodes along the corridor at Gilman Street, Cedar Street, University Avenue, Dwight Way, and Ashby Avenue. The nodes are currently intended to provide focused clusters retail, commercial, and mixed-use activity to support a strong commercial and transit- and pedestrian-oriented environment by 1) requiring ground floor retail within the nodes, and 2) permitting only selective "active" commercial uses.

The Community Assessment report also identifies some challenges with existing nodes and opportunities for revising node boundaries within the Specific Plan. Existing node challenges include a lack of incentives for pedestrian-oriented retail, an oversupply of scattered retail space, and a non-distinct streetscape. Future opportunities include intensifying development at key areas, concentrating retail in walkable clusters, and investing in public space.

While many Specific Plan policies will apply to the entire corridor, this section outlines a **development framework based on three policy areas that act as levers and tools to shape development outcomes both inside and outside of nodes**, ensuring that strategies are tailored and effective for targeted areas. **The Development Framework is conceptual and designed to incorporate community input. No specific decisions or approaches have been finalized**. The preferred Development Framework will be determined through the preparation of the Specific Plan and include further public review and input opportunities including public hearings with the Planning Commission and City Council. The Development Scenarios section that follows presents three examples of how the framework, and its levers, can be applied to the corridor.

Policy Levers

Three key policy areas act as levers and tools to create a framework for future conditions and hierarchies between node and corridor development: height and intensity, ground floor use and design requirements, and community open space and activities.

Height and Intensity

Current development characteristics have deviated from existing zoning regulations due to density bonuses and market conditions. Developers often utilize density bonuses to propose 6 to 8 story buildings (3 to 4 stories permitted with existing zoning) with a Floor Area Ratio (FAR) between 3.75 and 4.7 (3.0 permitted with existing zoning) throughout the corridor. Developers also chose to propose mixed use developments to establish a more intensive base zoning condition, which results in more commercial space throughout the corridor and in particular outside of nodes. This necessitates a reevaluation of the current height and density standards for the overall corridor and its nodes. Policy opportunities could include increasing the base zoning building heights and FAR for the corridor or varying the intensity between nodes and the areas in between.

Height and intensity options to consider include:

- An increase to 55 feet (5 stories) and 3.5 FAR (55 feet is within the height range allowed for the General Plan Avenue Commercial designation in the city. This height allows a 5-story building with a higher clearance for the ground floor, allowing for adequate space. The FAR increases to account for the additional height). If a project applies State Density Bonus, the likely maximum height would be 85 feet. Similarly, the local density bonus with community benefits would allow up to 85 feet in height and a maximum 5.0 FAR.
- An increase to 85 feet (8 stories) and 5.0 FAR (85 feet is the maximum height for a wood framed construction type allowed by the building code. The 5.0 FAR reflects the increase in building height and is the current maximum FAR for Avenue Commercial, which is the General Plan designation for C-W zoned properties). If a project applies State Density Bonus, the likely maximum height would be 120 feet. Similarly, the local density bonus with community

benefits would allow up to 120 feet in height and a maximum 8.0 FAR.

Most in-process or approved residential or mixed-use development projects are not moving forward at this point, given current market conditions, including higher interest rates, building code requirements, and increasing construction costs. An exception to this could be some 100% affordable housing projects, because of lower interest funding that may be available for affordable projects. Projects with heights above 85 feet will likely not be feasible along San Pablo Avenue until there are significant decreases in construction costs and increases in market rents. Additional height and density allowances could be linked to contributions towards community benefits.

Density Bonus

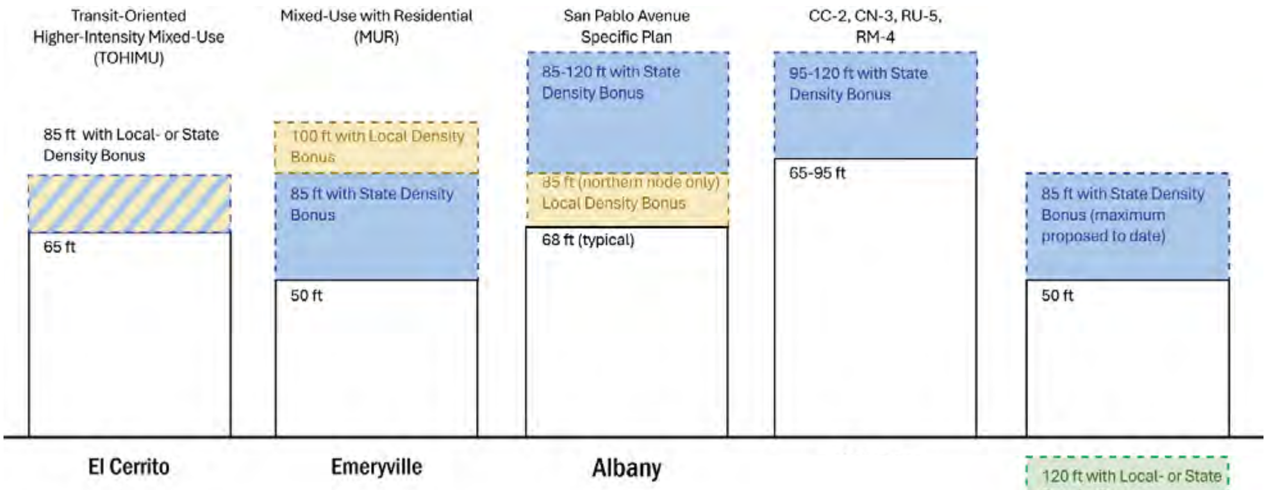


Figure 4 Development Zoning Height Limits along San Pablo Avenue

The state density bonus allows developers to increase the maximum allowable residential density in exchange for providing affordable housing (See the Community Assessment Report, page 23), and allows them to waive, reduce or modify development standards. A local density or development bonus, such as codified in the City of Emeryville aims to encourage the inclusion of public benefits in addition to affordable housing in new development projects. A local bonus provides developers with increased density, height, or other zoning modifications in exchange for providing specific community benefits.

By increasing the base height and Floor Area Ratio (FAR) along San Pablo Avenue, there may be an increase in market-rate developments and a reduction in developments utilizing the state density bonus. If developers choose not to utilize the density bonus, they cannot waive any development standards proposed in the Specific Plan, such as Objective Design Standards, ground floor policies, and public open space requirements.

Berkeley's inclusionary housing policies will still apply to all market-rate developments to ensure affordable housing availability for low- and moderate-income residents. Under these policies, housing development projects are required to provide a percentage of affordable units or choose alternatives such as paying an in-lieu fee or dedicating land for the construction of affordable units.

In summary, Berkeley does not need state density bonus projects to create affordable housing because the City's own rules require that market rate projects integrate affordable housing or pay an in-lieu fee. By letting developers reach the same density levels with local standards, the City maintains more control over development designs, as developers would not have access to waivers and concessions that would be available if they used the state density bonus.

Ground Floor Use and Design

Outside of the nodes, mixed-use buildings are permitted an additional height (one residential floor) compared to residential-only buildings. The difference in allowed height has led to mixed-use buildings being proposed by developers along San Pablo Avenue to achieve a 4-story base zoning condition for new buildings instead of 3-story for a residential-only building. This is contributing to an oversupply of retail space scattered throughout the corridor. This presents an opportunity to leverage the demand for additional height by allowing more flexibility in ground floor use and implementing an in-lieu fee structure to waive ground floor commercial or live/work requirements in exchange for increased building height. Through the in-lieu fee, developers could be allowed to create *active residential ground floor* units instead.

Some developers may want to adhere to the mixed-use requirement and choose other ground floor uses. With the proposed *active ground floor* requirement, they would still have to follow pedestrian-friendly design standards.

Currently, within the nodes, there is a general requirement for ground floor commercial space. However, this designation lacks incentives for pedestrian-oriented retail, which undermines the original intention of these nodes. Adjustments such as broadening the allowed uses and emphasizing *storefront ground floor design* would create more flexibility and creating a built environment that can flex to more active retail uses as the population within the Specific Plan Area increases over time, and better align with the intended pedestrian-friendly environment.

Expand Uses

The following describes three major types of expanded ground floor uses. Note that all types are equivalent to Ground Floor Objective Design Standards (see *B.2.a)*

Storefront ground floor use focuses on commercial type uses that allow for more sidewalk visibility, such as restaurants, retail, and certain office types.

Active ground floor use allows for all non-residential (and live work) uses and provides more flexible Objective Design Standards

Active residential ground floor allows for apartments on the ground floor, which are subject to Objective Design Standards.

Community Benefits

The above-mentioned policy levers can serve as tools to incentivize community benefits, which refer to amenities, improvements or contributions that developers can provide to enhance the surrounding community as part of their project. Developers may be offered trade-offs such as more height and density, or reductions for private open space. The following outlines potential community benefits:

1. San Pablo Avenue corridor open space contribution program
2. Streetscape setbacks to enhance the pedestrian experience
3. Additional streetscape improvements such as pedestrian lighting, furnishing, landscaping
4. Public rooftop or courtyard access
5. Privately owned public open spaces
6. Allocated community spaces for public use within developments
7. Provide neighborhood access to project amenities (roof top open space, gym, meeting space, community garden, etc.)
8. Community Benefit Fund to support small local serving businesses throughout the Specific Plan Area

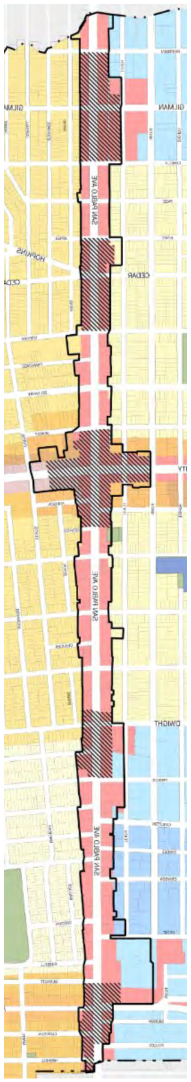
9. Additional workforce, senior or family friendly housing
10. Flexible Community Benefit proposed by the development

Development Scenarios

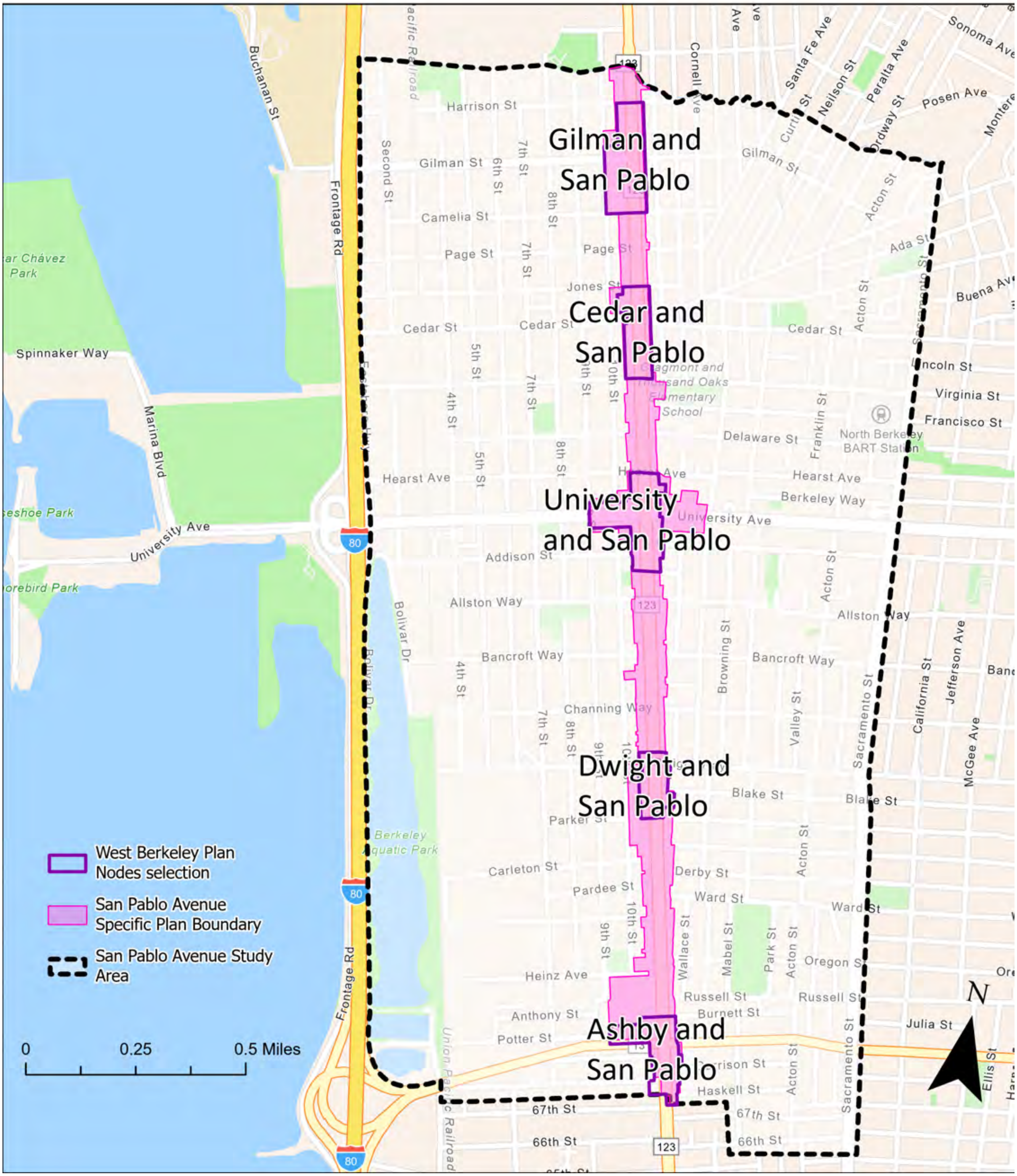
The development framework can be applied in various ways, creating different possibilities for developing nodes in the future. These possibilities include:

- Encourage more intensity of development
- Effectively concentrate retail in the nodes to create walkable neighborhood clusters
- Focus public open space investments and community use

The following three scenarios are examples to demonstrate how policy levers can be used as tools to develop various policy options. These scenarios illustrate the potential relationships between designated nodes and the entire corridor, showing how community benefits can be leveraged as trade-offs. This approach aims to achieve a variation in height and density while designating public realm and community improvements to priority areas.

	Scenario 1: Retail Focused Nodes with minor height increase	Scenario 2: Flexible Storefronts with more intensity at University Node	Scenario 3: Flexible Storefronts with expanded nodes and more intensity at select parcels in Gilman, University, Dwight, and Ashby Nodes
	**Maximum Development Intensity** <u>Outside of Nodes:</u> ▪ No change for single-use buildings ▪ Mixed-use Buildings maximum 55’ height and 3.5 FAR. Developers may pay an in-lieu fee to waive the ground floor commercial requirements *(See policy option A.2.d)* ▪ Mixed-use buildings can increase to 85’ height and 5.0 FAR, if they meet the Local Community Benefits Requirement or through the State Density Bonus <u>Nodes:</u> ▪ Base zoning: 55’ height and 3.5 FAR ▪ All buildings can increase to 85’ height and 5.0 FAR, if they meet the Local Community Benefits Requirement or through the State Density Bonus *Note: This may be more attractive than utilizing the state density bonus for additional development intensity*	**Maximum Development Intensity** <u>Outside of Nodes:</u> *See Scenario 1* <u>University Avenue Node:</u> ▪ Base zoning: 85’ height and 5.0 FAR, if meet Storefront Objective Standards (*See policy option B.2.a*) o Can increase to 120’ height and 8.0 FAR, if they meet Local Community Benefits Requirements, including: o Storefront Objective Design Standards o Provide privately owned public open space *(See policy option D.3.c)*. This may only apply to developments over a certain sq. ft. threshold <u>Other Nodes:</u> *See Scenario 1*	**Maximum Development Intensity** <u>Outside of Nodes:</u> *See Scenario 1* <u>Gilman Street West, University Avenue, Dwight, and Ashby Avenue West Nodes select parcels:</u> ▪ Base zoning: 85’ height and 5.0 FAR, if meet Storefront Objective Standards (*See policy option B.2.a*) o Can increase to 120’ height and 8.0 FAR, if they meet Local Community Benefits Requirements, including: o Storefront Objective Design Standards o Provide privately owned public open space *(See policy option D.3.c)*. This may only apply to developments over a certain sq. ft. threshold <u>Other Nodes:</u> *See Scenario 1*
	Public Realm Improvements Implement community benefits programs throughout the corridor. Locations for improvement areas may differ from nodes	**Public Realm Improvements** <u>University Node:</u> ▪ High priority for public space <u>Other Nodes:</u> ▪ Priority for streetscape improvements ▪ Incentives and focus for privately owned public spaces.	**Public Realm Improvements** <u>Gilman West, University, and Ashby West Nodes:</u> ▪ High priority for public space <u>Other Nodes:</u> ▪ Priority for streetscape improvements ▪ Incentives for privately owned public spaces
	Boundary and Zoning Designation Changes To be determined	**Boundary and Zoning Designation Changes** To be determined	**Boundary and Zoning Designation Changes** To be determined

Attachment 5: San Pablo Avenue Specific Plan Area Map



Potential Plan Area Improvements and Resources

What are Potential Improvements and Resources?

A range of investments in physical improvements, resources and benefits for local businesses and community vitality. The following list of improvements and resources is based on the findings from the previous Existing Conditions and Community Assessment phase of the planning process.

Additional workforce, senior or family friendly housing

Provide a threshold percentage of workforce, senior or family-friendly housing

Allocated community space within the development.

Provide interior space for a community room for public meetings, community celebrations, etc. or for non-profits providing day care or other services for seniors and youth.

Improvements and Resources Fund to support local small businesses

- Developers pay into a Small Business Support Fund (through commercial in-lieu fee and/or for alternate zoning requirements)

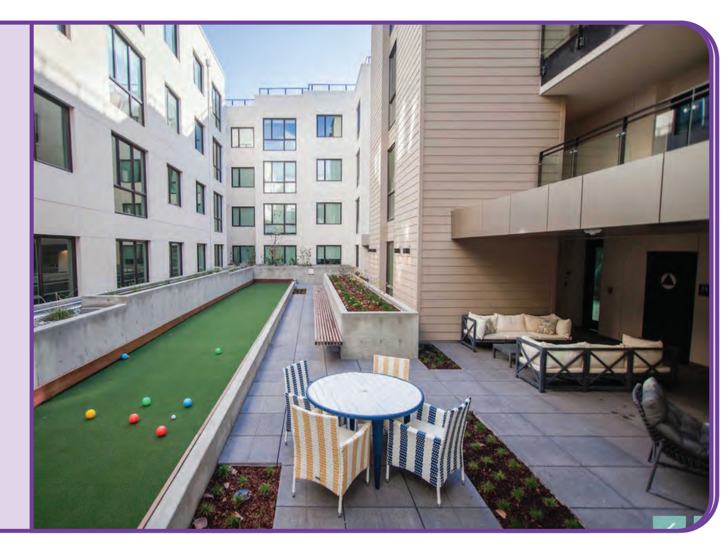
  The local Small Business Support Fund may be used for start-up or other small businesses to fund tenant improvements, relocation funding, start-up rent abatement or to waive permit or other City fees.

Open space & community gathering spaces

Provide via privately owned public space, an in-lieu fee, and/or publicly funded improvements

Neighborhood access to new development amenities

- Such as meeting rooms, workout rooms, rooftop open space, etc.
- Semi-private access to amenities through neighborhood key-card program.



Streetscape setbacks

Expand the sidewalk into private property with a ground floor setback

Additional streetscape improvements

(more details in the Public Realm activity)

Landscaping, decorative lighting, open space furnishing beyond the min. required through streetscape standards

Other Ideas for Plan Area Improvements and Resources

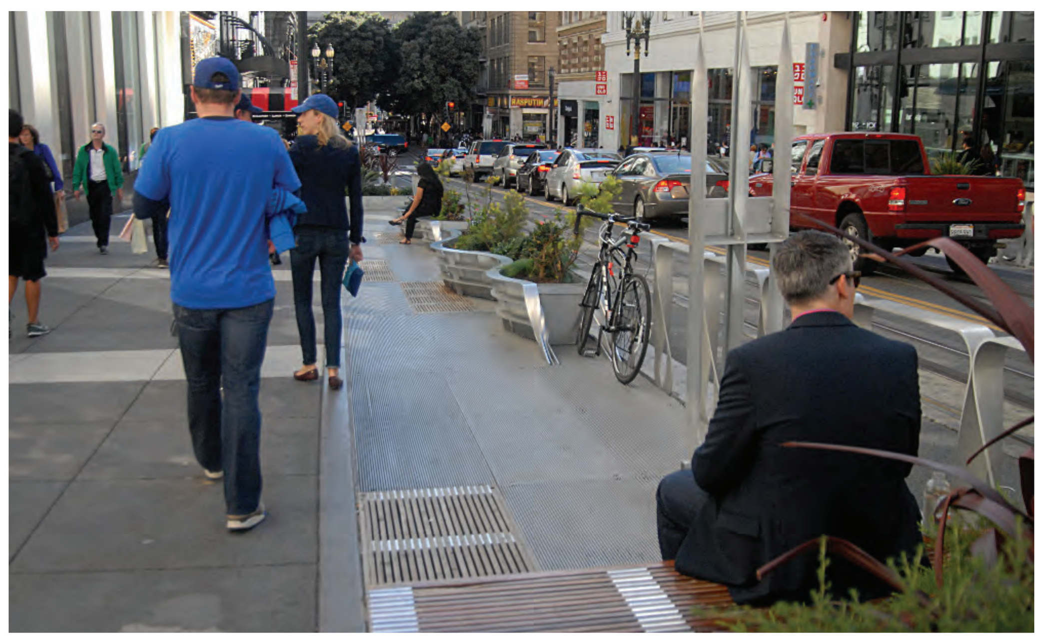
Sticky Notes

City of Berkeley with grant funding from the Association of Bay Area Governments | Metropolitan Transportation Commission

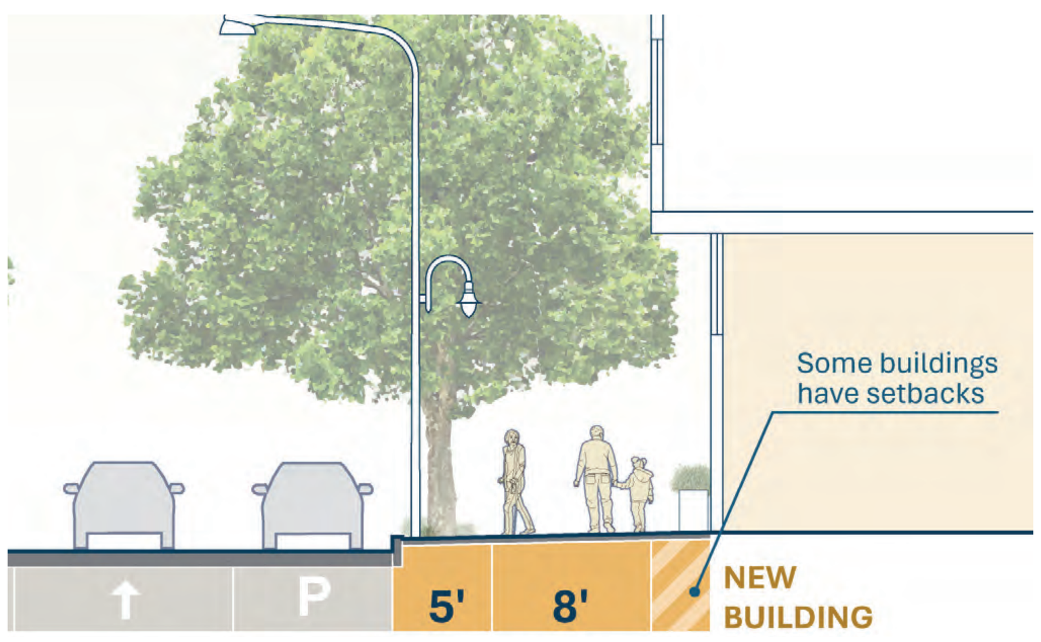
Public Realm

Types of Open Space and Community Gathering Spaces

Side street curb extension
Provide space for public use and outdoor dining, and more landscape



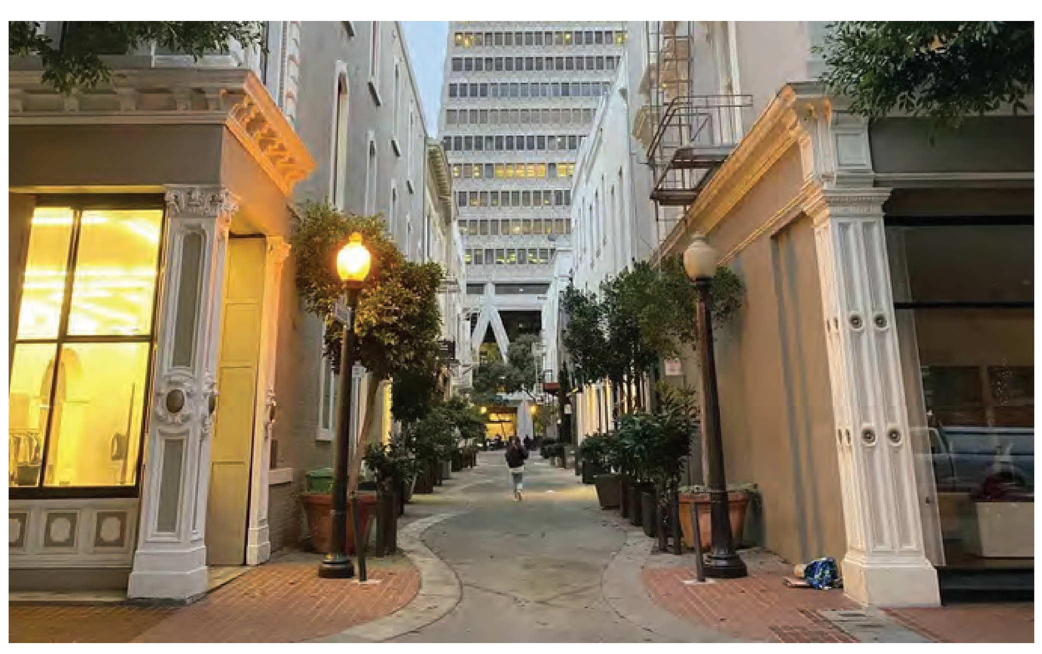
Parklets
On San Pablo Avenue parklets are required to be public space by Caltrans. Side street parklets can be part of standard Berkeley program



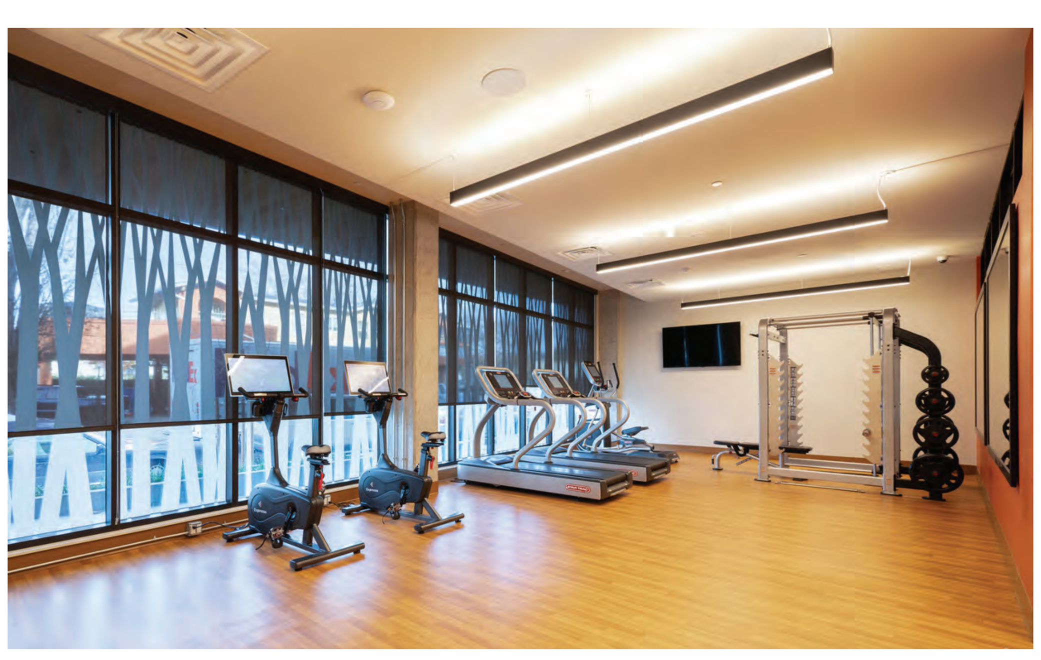
Ground Floor Setbacks
Provide more space for use of public sidewalk

Outdoor Dining/ Cafe Space
Sidewalk space can be used for outdoor dining

Indoor Multi-Purpose Room
Street fronting community rooms can be used by residents and for public activities



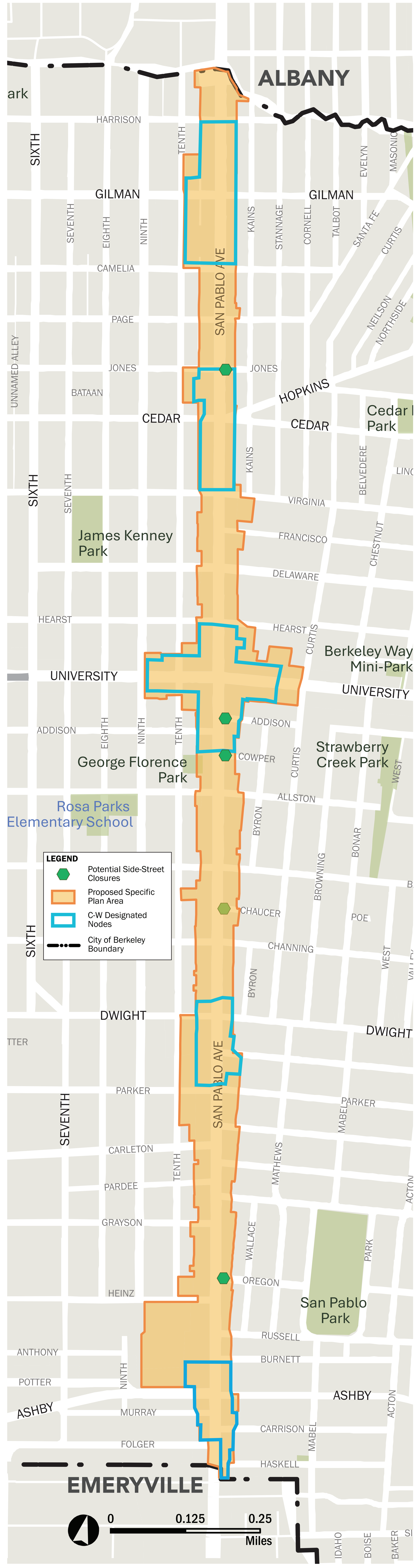
Mid-block pathways
Some new developments can provide pathways between San Pablo Ave and adjacent neighborhoods



Other Indoor Community Gathering Spaces
Social activity spaces, such as gyms or co-working spaces that can be used by residents and the neighborhood

Small plazas by closing minor side street access
Closing access from San Pablo Ave to minor streets for small public plazas for public use and urban greening

Sticky Notes



Mark public realm improvement locations on this map

City of Berkeley with grant funding from the Association of Bay Area Governments | Metropolitan Transportation Commission

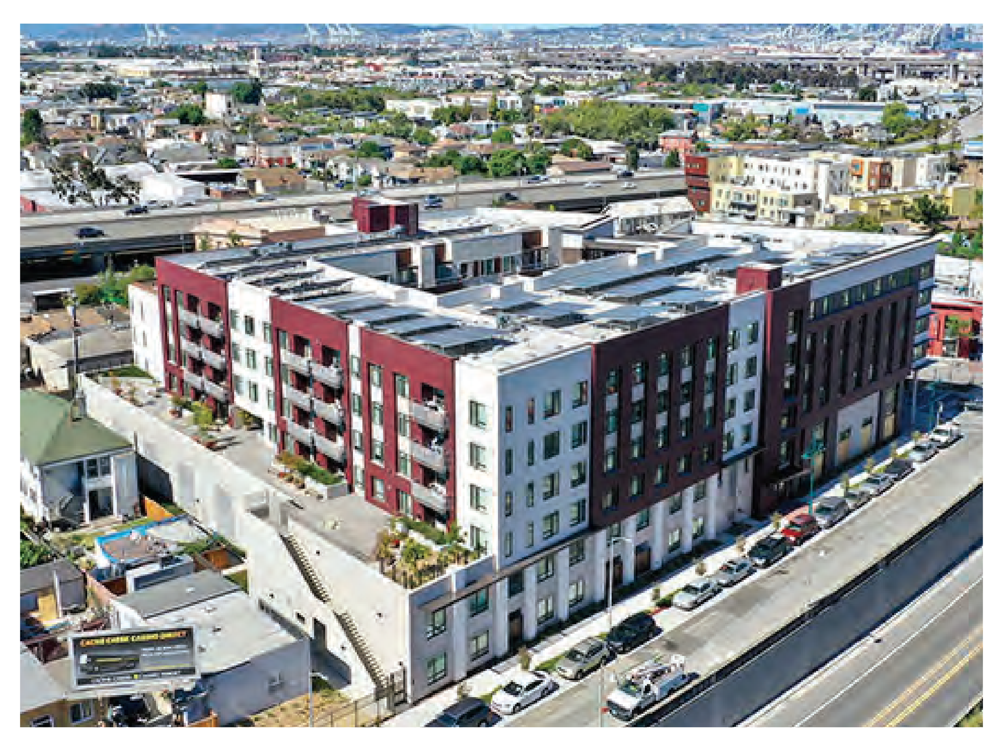
Development Scenarios

Height Diagram: University Ave to Hearst St

Example Densities and Heights

Berkeley
Mixed-Use | 12 Stories | 163 Units |120 ft

Oakland
Mixed-Use | 8 Stories | 127 Units | ~ 85 ft



Emeryville
Mixed-Use | 6 Stories | 87 Units | 76 ft

Oakland
Mixed-Use | 5 Stories | 51 Units | ~ 65 ft

El Cerrito
Mixed-Use | 4 Stories | 30 Units | 2 Live-Work | ~ 45 ft

City of Berkeley with grant funding from the Association of Bay Area Governments | Metropolitan Transportation Commission


0
375
750
1500 ft
LEGEND
Proposed Specific Plan Area
MUR/ MULI Zoning to consider including in Specific Plan
C-W Designated Nodes
C-U Designated Nodes
City of Berkeley Boundary
Union Pacific Railroad
ALBANY
EMERYVILLE
Harrison Park
James Kenney Park
George Florence Park
Rosa Parks Elementary School
Aquatic Park
Cedar Rose Park
Ruth Acty Elementary School
Berkeley Way Mini-Park
Strawberry Creek Park
San Pablo Park
SAN PABLO AVE
GILMAN
CEDAR
HOPKINS
UNIVERSITY
HEARST
BERKELEY
DWIGHT
ASHBY
W FRONTAGE
SIXTH
SEVENTH
TENTH
BOLIVAR
CUTTER
LINCOLN
FRANKLIN
CHESTNUT
WEST
ACROFT
SACRAMENTO
DOHR
TOMLEE
ROSE
PERALTA
TEVLIN
ORDWAY
CURTIS
SANTA FE
NEILSON
NORTHSIDE

Planning and Development Department
Land Use Planning Division

STAFF REPORT
December 4, 2024

TO: Members of the Planning Commission

FROM: Branka Tatarevic, Associate Planner

SUBJECT: Public Hearing: Tentative Tract Map #8717 for 805 Jones Street, Berkeley Proposed seven-unit condominium project comprised of six (6) residential units and one (one) commercial unit to allow condominium ownership

RECOMMENDATION

Hold a Public Hearing to approve Tentative Map #8717, and recommend that the City Council review and certify the map pursuant to Berkeley Municipal Code (BMC) Section 21.16.047, subject to the attached Findings and Conditions (see Attachment 1) and consistent with Berkeley's Tentative Maps Ordinance (BMC 21.16), the Subdivision Map Act, and the Berkeley General Plan.

SUMMARY OF PROJECT APPROVED BY THE ZONING ADJUSTMENTS BOARD

On October 26, 2023, the Zoning Adjustments Board (ZAB) approved a Use Permit to construct three, two-story duplexes for a total of six units (5,510 square feet) with a height of 26 feet and a 455 square foot second-story (22 feet) addition to the existing 1,750 square foot commercial building. ZAB found the project would be consistent with the General Plan, the Mixed Use Residential (MU-R) zoning district, and the Housing Accountability Act (HAA).

ROLE OF PLANNING COMMISSION IN APPROVAL OF TENTATIVE TRACT MAPS

The Zoning Adjustments Board approved the Use Permit #ZP2022-0162 on October 26, 2023, and the Tentative Tract Map application was submitted to Public Works and deemed complete on October 23, 2024. The Planning Commission will review the Tentative Tract Map on December 4, 2024, in compliance with the Subdivision Map Act deadlines. Pursuant to Berkeley Municipal Code (BMC) Section 21.16.047 (Tentative Maps Five or More Parcels—Planning Commission Action)[1], the Planning Commission may approve, conditionally approve, or deny a tentative map. However, the Planning Commission can only deny approval of a tentative map if it can make any of the findings from BMC Sections 21.16.047.A through 21.06.047.G.

[1] https://berkeley.municipal.codes/BMC/21.16.047

Additionally, pursuant to BMC Section 21.16.048 (Tentative Tract Map—Findings for approval of condominiums in new buildings),[2] the Planning Commission shall make the findings required for approval of a tentative map, and shall not deny or impose any conditions on a tentative map that meets specific requirements.

As discussed below, staff recommends approval of the tentative tract map as none of the required findings to deny the map under BMC Section 21.14.047 can be made and all of the conditions required for approval of the map under BMC Section 21.16.048 are satisfied.

<u>BMC Section 21.14.047 – Findings to Deny Approval</u>

Finding A: That the proposed map is not consistent with the applicable general and specific plans.
Finding B: That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.
Finding C. The site is not physically suitable for the proposed density of development.

The subject property and proposed improvements were evaluated and found to be consistent with the General Plan and Zoning Ordinance, and the density was found to be physically appropriate for the site and consistent with applicable zoning regulations, in conjunction with the Zoning Permits issued by the Zoning Adjustments Board on October 26, 2023. The project aligns with the underlying Mixed-use Residential (MU-R) district by increasing residential density and adding commercial space without deviating from MU-R zoning uses. It is compatible with nearby multifamily developments along Fifth and Page Streets regarding density, bulk, massing, and type. By adding limited office space and six dwelling units to an underdeveloped lot, the mixed-use project is consistent with the West Berkeley Plan. Therefore, Findings A, B or C cannot be made.

Finding D. That the design of the subdivision or the type of the improvements is likely to cause environmental damage or substantially and avoidably injure fish, or wildlife, or their habitat.
Finding E. That the design of the subdivision or the type improvements is likely to cause serious public health problems.

The potential for substantial environmental damage, or harm to fish and wildlife, or their habitat, or the likelihood of public health problems was evaluated when the Use Permits for the project were approved by the ZAB in order to determine whether any of the exceptions to the CEQA Exemption for in-fill development were present. No potential environmental or public health impacts were found. Therefore, Findings D or E cannot be made.

[2] https://berkeley.municipal.codes/BMC/21.16.048

Finding F. That conflicts with existing public access easements, in accordance with Section 6674(g), of the Subdivision Map Act, which states: "That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision."

The City of Berkeley Public Works department has verified that the proposed Subdivision will not conflict with any easements of record, or with any easements established by judgment of a court. Therefore, Finding F cannot be made.

Finding G. That the design of the subdivision does not provide, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision.

The subdivision of the project into condominiums will not further alter passive or natural heating or cooling opportunities, as it is limited to the approved mixed-use development. The project has been analyzed for shadow impacts and complies with the open space requirements for the MU-R district in the ZAB Staff Report. Therefore, Finding G cannot be made.

<u>BMC Section 21.16.048 – Criteria to Approve Tentative Map</u>

Pursuant to BMC Section 21.16.048, the Planning Commission shall make the findings required for approval of a tentative map as analyzed above, and shall not deny or impose any conditions on the subject tentative map because:

1. The project constitutes the approval of condominiums in the new building.
2. The tentative map is required solely in order to permit the establishment of condominiums in a building in which the units which are proposed to be condominiums have never been rented because the units are to be constructed.
3. The applicant has disclosed that the subject units were intended to be condominiums in the Applicant Statement submitted with the Use Permit documentation.
4. The ZAB made all the findings required by the Subdivision Map Act and the Tentative Maps Chapter for approval of a tentative map. The ZAB

findings are cited in this report under the relevant analysis and attached to this document.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS
Approval of the Tentative Map is categorically exempt from CEQA pursuant to CEQA Guidelines Section 15331, which exempts operations and permitting of existing facilities involving no expansion of use beyond prior approvals.

NEXT STEPS
After reviewing report, Planning Commission will hold a public hearing, receive public comment, and through a vote, make a recommendation to City Council on Tentative Map #8717.

CONTACT PERSON
Branka Tatarevic, Associate Planner, Planning and Development, BTatarevic@berkeleyca.gov, 510 981 7472

ATTACHMENTS
1. Findings and Conditions
2. Tentative Tract Map #8717
3. Condominium Plans for Tentative Map #8717
4. Public Hearing Notice
5. Use Permit #ZP2022-0162 Findings and Conditions

ATTACHMENT 1

FINDINGS AND CONDITIONS

DECEMBER 4, 2024

CEQA FINDINGS

1. Construction of the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq.) pursuant to Section 15332 of the CEQA Guidelines ("In-Fill Development Projects") and the approval of the Tentative Map is also categorically exempt pursuant to Section 15331 of the CEQA Guidelines which involves the operations and permitting of existing facilities involving no expansion of use beyond prior approvals. Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project will not affect any historical resource.

TENTATIVE MAP FINDINGS

2. Pursuant to Berkeley Municipal Code Section 21.16.047, the Planning Commission cannot make any of the seven findings for denial of the tentative map for the following reasons:

A. The proposed Tentative Map is consistent with the applicable general plan policies because:

The proposed Tentative Map is consistent with Policy LU-3, Infill Development. It exemplifies an appropriate infill, mixed-use development for its particular location in the Mixed Use-Residential (MU-R) District.

The project is consistent with the Policy LU-7, Neighborhood Quality of Life. Duplexes designed to a height of 26 feet and the commercial addition to 22 feet maintain the compatibility with the existing neighborhood scale, preserving the area's character.

The project is consistent with the Policy H-33, Regional Housing Needs. It contributes to fulfilling Berkeley's RHNA obligations by adding six units and increases the city's housing stock

The project is consistent with the Policy T-43, Bicycle Network. The project will provide bicycle parking and enhance the connectivity to existing bike lanes. The development supports cycling as a viable transportation option, aligning with the City's goals to promote sustainable travel modes.

B. The **design and development** of the project proposed to be subdivided is consistent with the City of Berkeley's General Plan because:

The project is consistent with Action A of Policy LU-7 Neighborhood Quality of Life. It encourages sensitive infill residential development in a manner that is consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.

The project is consistent with Policy LU-3 Infill Development and Policy H-33 Regional Housing Needs because it is architecturally compatible in design and scale with land uses within the surrounding West Berkeley neighborhood.

C. The project site and proposed improvements were evaluated and found to be consistent with the General Plan and Zoning Ordinance, and the density was found to be physically suitable for the site and consistent with applicable zoning regulations, in conjunction with the Zoning Permits issued by the Zoning Adjustments Board on October 26, 2023.

D. The project will not have negative environmental effects or substantially and avoidably injure fish or wildlife in their habitat since it is limited to the subdivision of condominium units buildings that were evaluated to determine whether any of the exceptions to the CEQA Exemption for in-fill development relating to environmental damage or harm to fish and wildlife or their habitat, and none were found.

E. The design of the subdivision or the proposed improvements will not likely cause serious health problems.

F. The project will not conflict with any public access easements, as determined pursuant to a review by the Berkeley Public Works Department.

G. The project will not alter passive or natural heating or cooling opportunities because it was designed to minimize impacts on solar access and minimize detrimental shadows to existing buildings adjacent to the subject property.

STANDARD CONDITIONS

1. The Final Map shall be submitted for certification and shall be recorded in compliance with the *Berkeley Municipal Code*, Title 21, and with the *Subdivision Map Act* of the State of California.

2. A copy of the Conditions, Covenants, and Restrictions shall be filed with the Planning and Development Department prior to approval of the Final Map.

3. The *Standard conditions of approval for all subdivisions, new condominiums and commercial condominium conversions within the City of Berkeley*, dated January 1994, applies and shall be satisfied prior to approval of the Final Map.

TRACT MAP

OWNERS' STATEMENT

THE UNDERSIGNED HEREBY STATES THAT THEY ARE THE OWNERS OF THE LAND DELINEATED AND EMBRACED WITHIN THE EXTERIOR BOUNDARY LINES ON THE HEREIN EMBODIED MAP ENTITLED TRACT MAP 8717, BERKELEY, ALAMEDA COUNTY, CALIFORNIA; THAT SAID OWNERS ACQUIRED TITLE TO SAID LAND BY VIRTUE OF THE DEEDS RECORDED JULY 29, 2019 UNDER SERIES NO. 2022-135077 AND JANUARY 31, 2024 UNDER SERIES NO. 2024-014896, RECORDS OF ALAMEDA COUNTY, CALIFORNIA, THAT SAID OWNERS CONSENT TO THE PREPARATION OF AND FILING OF THIS MAP.

805 JONES STREET, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

____
MATTHEW WADLUND, MANAGING MEMBER

WDS JONES STREET LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

____
MATTHEW WADLUND, MANAGER

OWNER'S ACKNOWLEDGMENT

> A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF ALAMEDA

ON __________ BEFORE ME, __________

A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED MATTHEW WADLUND, WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME IN HIS AUTHORIZED CAPACITY, AND THAT BY HIS SIGNATURE ON THE INSTRUMENT THE PERSON, OR THE ENTITY UPON BEHALF OF WHICH THE PERSON ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND:

SIGNATURE OF NOTARY PUBLIC: __________

PRINTED NAME OF NOTARY: __________

PRINCIPAL PLACE OF BUSINESS: __________

COMMISSION EXPIRES: __________

SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF MATTHEW WADLUND IN APRIL OF 2024. I HEREBY STATE THAT THIS MAP SUBSTANTIALLY CONFORMS TO THE APPROVED OR CONDITIONALLY APPROVED TENTATIVE MAP, IF ANY. I HEREBY STATE THAT THE MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED, AND THAT THE MONUMENTS ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

____
JAMES S. MORAN, LS 7881 DATE

BENEFICIARY'S STATEMENT

THE UNDERSIGNED, AS BENEFICIARY OF THE DEED OF TRUST RECORDED JANUARY 31, 2024, UNDER SERIES NUMBER 2024-014898, OFFICIAL RECORDS OF ALAMEDA COUNTY, CALIFORNIA, DOES HEREBY JOIN IN AND CONSENT TO THE EXECUTION OF THE FOREGOING OWNERS' STATEMENT AND TO THE PREPARATION AND FILING OF THIS MAP AND ALL DEEDINGS AND DEDICATIONS THEREON.

805 JONES STREET, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

____
MATTHEW WADLUND, MANAGING MEMBER DATE

BENEFICIARY'S ACKNOWLEDGMENT

> A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF __________

COUNTY OF __________

ON __________ BEFORE ME, __________

A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED DAVID MARGEN, WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME IN HIS AUTHORIZED CAPACITY, AND BY HIS SIGNATURE ON THE INSTRUMENT THE PERSON, OR THE ENTITY UPON BEHALF OF WHICH THE PERSON ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND:

(SIGNATURE OF NOTARY PUBLIC): __________

PRINTED NAME OF NOTARY: __________

PRINCIPAL PLACE OF BUSINESS: __________

COMMISSION EXPIRES: __________

PLANNING DIRECTOR'S STATEMENT

THIS MAP HAS BEEN APPROVED BY THE PLANNING DIRECTOR, CITY OF BERKELEY ON __________ 2024, AND WHEN RECORDED BECOMES THE OFFICIAL MAP OF THIS LAND DIVISION.

____
JORDAN KLEIN
PLANNING DIRECTOR

CITY ENGINEER'S STATEMENT

I HAVE EXAMINED THIS MAP AND THE SUBDIVISION AS SHOWN IS SUBSTANTIALLY THE SAME AS IT APPEARS ON THE TENTATIVE MAP (IF ANY) AND APPROVED ALTERATIONS THEREOF. THIS MAP CONFORMS TO THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCES. I AM SATISFIED THAT THIS MAP IS TECHNICALLY CORRECT.

____
JOSEPH ENKE, R.C.E. 49027, P.L.S. 7169
CITY ENGINEER
CITY OF BERKELEY

DATED: __________

CLERK OF THE BOARD OF SUPERVISORS STATEMENT

I, ANIKA CAMPBELL-BELTON, ASST. CLERK OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DO HEREBY STATE THAT CERTIFICATES HAVE BEEN FILED AND DEPOSITS HAVE BEEN MADE IN CONFORMANCE WITH THE REQUIREMENTS OF SECTION 66492 AND 66493 OF THE GOVERNMENT CODE OF THE STATE OF CALIFORNIA.

DATE: __________

____
ANIKA CAMPBELL-BELTON
ASST. CLERK OF THE BOARD OF SUPERVISORS,
COUNTY OF ALAMEDA, STATE OF CALIFORNIA

BY: __________
DEPUTY COUNTY CLERK

RECORDER'S STATEMENT

FILED THIS_____ DAY OF __________, 2024, AT_____M. IN BOOK _____ OF MAPS, AT PAGES _____, AT THE REQUEST OF OLD REPUBLIC TITLE COMPANY.

FEE: _____ INSTRUMENT NO.: __________

MELISSA WILK
COUNTY RECORDER

BY: __________
DEPUTY COUNTY RECORDER

OWNER/SUBDIVIDER:
805 JONES STREET, LLC
WDS JONES STREET LLC
805 JONES STREET
BERKELEY, CA 94710

A ONE LOT SUBDIVISION FOR CONDOMINIUM PURPOSES

LOT 1, PARCEL MAP 11306 (360 PM 15-16)
CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA

OCTOBER 2024

MORAN ENGINEERING, INC.
CIVIL ENGINEERS \ LAND SURVEYORS
1930 SHATTUCK AVENUE, SUITE A
BERKELEY, CALIFORNIA 94704
(510) 848-1930

T.M. 8717

F.B. NO. 1881 JONES-TTM.DWG JOB NO. 22-3736.1 SHEET 1 OF 3

TRACT MAP

TRUSTEES' STATEMENT

THE UNDERSIGNED, AS TRUSTEES OF THE DEED OF TRUST RECORDED JULY 29, 2022, UNDER SERIES NUMBER 2022-135078, OFFICIAL RECORDS OF ALAMEDA COUNTY, CALIFORNIA, DO HEREBY JOIN IN AND CONSENT TO THE EXECUTION OF THE FOREGOING OWNERS' STATEMENT AND TO THE PREPARATION AND FILING OF THIS MAP AND ALL DEEDINGS AND DEDICATIONS THEREON.

ERIC S. SCHMIER 2010 LIVING TRUST
DATED MAY 5, 2010, AS TO AN UNDIVIDED 40/100 INTEREST

KENNETH J. SCHMIER, TRUSTEE DATE

KENNETH J. SCHMIER 2010 SEPERATE PROPERTY TRUST
DATED FEBRUARY 24, 2010, AS TO AN UNDIVIDED 40/100 INTEREST

KENNETH J. SCHMIER, TRUSTEE DATE

ALISA LERNER SCHMIER 2010 SEPERATE PROPERTY TRUST
DATED MAY 5, 2010, AS TO AN UNDIVIDED 20/100 INTEREST

ALISA LERNER SCHMIER, TRUSTEE DATE

TRUSTEES' ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF ____________

COUNTY OF ____________

ON ____________ BEFORE ME, ____________
A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED

____

WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME IN THEIR AUTHORIZED CAPACITIES, AND BY THEIR SIGNATURES ON THE INSTRUMENT THE PERSONS, OR THE ENTITIES UPON BEHALF OF WHICH THE PERSONS ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND:

(SIGNATURE OF NOTARY PUBLIC): ____________

PRINTED NAME OF NOTARY: ____________

PRINCIPAL PLACE OF BUSINESS: ____________

COMMISSION EXPIRES: ____________

TRUSTEE'S STATEMENT

THE UNDERSIGNED, AS TRUSTEE OF THE DEEDS OF TRUST RECORDED JUNE 20, 2024, UNDER SERIES NUMBER 2024-074777 AND 2024-074779, OFFICIAL RECORDS OF ALAMEDA COUNTY, CALIFORNIA, DOES HEREBY JOIN IN AND CONSENT TO THE EXECUTION OF THE FOREGOING OWNERS' STATEMENT AND TO THE PREPARATION AND FILING OF THIS MAP AND ALL DEEDINGS AND DEDICATIONS THEREON.

BANK OF SAN FRANCISCO

NAME: DATE
TITLE:

NAME: DATE
TITLE:

TRUSTEE'S ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF ____________

COUNTY OF ____________

ON ____________ BEFORE ME, ____________
A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED

WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY(IES) UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND:

(SIGNATURE OF NOTARY PUBLIC): ____________

PRINTED NAME OF NOTARY: ____________

PRINCIPAL PLACE OF BUSINESS: ____________

COMMISSION EXPIRES: ____________

OWNER/SUBDIVIDER:
805 JONES STREET, LLC
WDS JONES STREET LLC
805 JONES STREET
BERKELEY, CA 94710

BENEFICIARY'S STATEMENT

THE UNDERSIGNED, AS BENEFICIARY OF THE DEED OF TRUST RECORDED JANUARY 31, 2024, UNDER SERIES NUMBER 2024-014897, OFFICIAL RECORDS OF ALAMEDA COUNTY, CALIFORNIA, DOES HEREBY JOIN IN AND CONSENT TO THE EXECUTION OF THE FOREGOING OWNERS' STATEMENT AND TO THE PREPARATION AND FILING OF THIS MAP AND ALL DEEDINGS AND DEDICATIONS THEREON.

HARVEST SMALL BUSINESS FINANCE, LLC

NAME: DATE
TITLE:

NAME: DATE
TITLE:

BENEFICIARY'S ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF ____________

COUNTY OF ____________

ON ____________ BEFORE ME, ____________
A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED

____

WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY(IES) UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND:

(SIGNATURE OF NOTARY PUBLIC): ____________

PRINTED NAME OF NOTARY: ____________

PRINCIPAL PLACE OF BUSINESS: ____________

COMMISSION EXPIRES: ____________

A ONE LOT SUBDIVISION FOR CONDOMINIUM PURPOSES

LOT 1, PARCEL MAP 11306 (360 PM 15-16)
CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA

OCTOBER 2024

MORAN ENGINEERING, INC.
CIVIL ENGINEERS \ LAND SURVEYORS
1930 SHATTUCK AVENUE, SUITE A
BERKELEY, CALIFORNIA 94704
(510) 848-1930

T.M. 8717

F.B. NO. 1881 JONES-TTM.DWG JOB NO. 22-3736.1 SHEET 2 OF 3

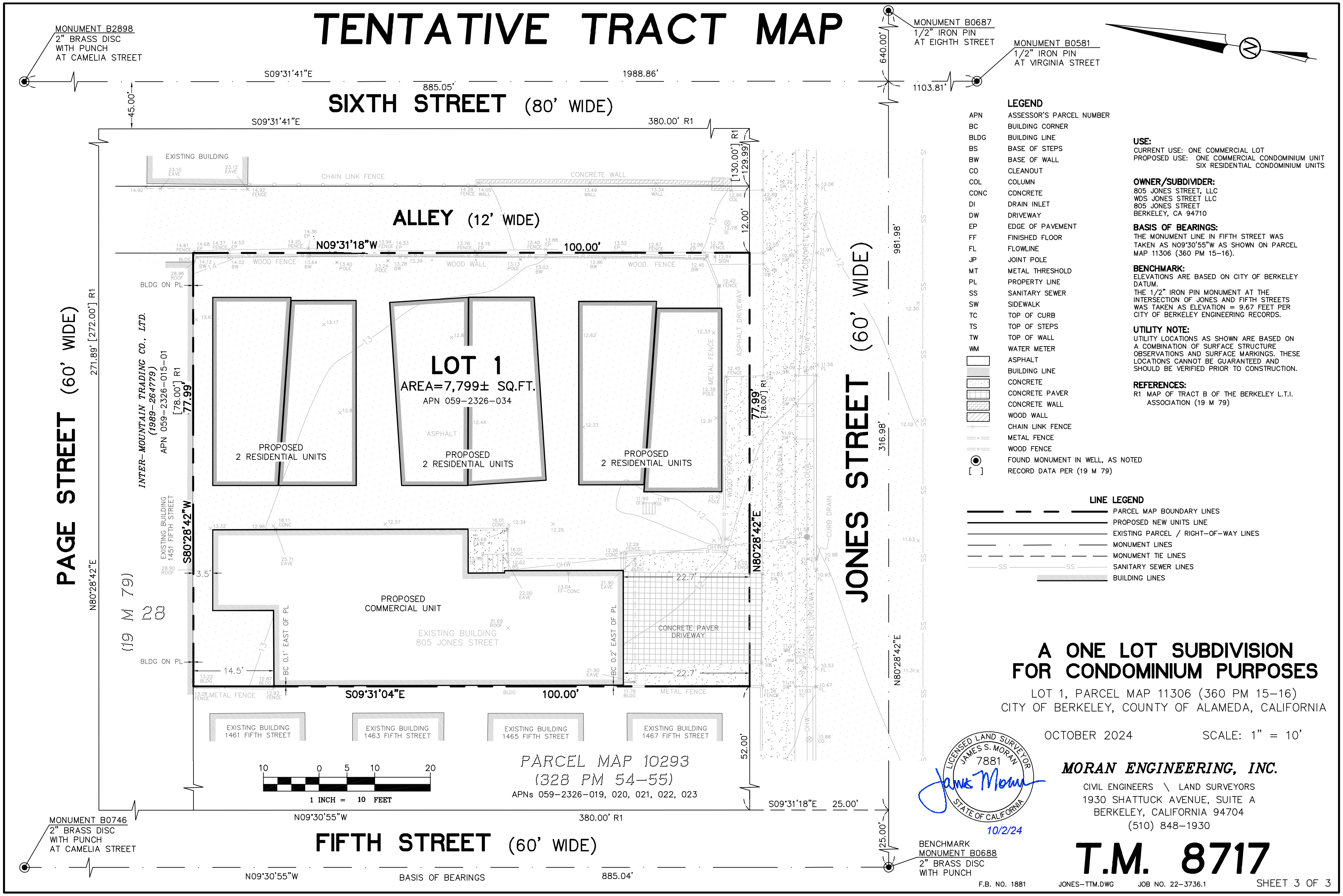

TENTATIVE TRACT MAP
MONUMENT B2898
2" BRASS DISC
WITH PUNCH
AT CAMELIA STREET
MONUMENT B0687
1/2" IRON PIN
AT EIGHTH STREET
MONUMENT B0581
1/2" IRON PIN
AT VIRGINIA STREET
S09°31'41"E
885.05'
1988.86'
1103.81'
640.00'
45.00'
SIXTH STREET (80' WIDE)
380.00' R1
ALLEY (12' WIDE)
N09°31'18"W
100.00'
12.00'
[130.00'] R1
129.99'
EXISTING BUILDING
CHAIN LINK FENCE
CONCRETE WALL
WOOD FENCE
WOOD WALL
PAGE STREET (60' WIDE)
271.89' [272.00'] R1
N80°28'42"E
INTER-MOUNTAIN TRADING CO. LTD.
(1989-264779)
APN 059-2326-015-01
[78.00'] R1
77.99'
S80°28'42"W
BLDG ON PL
LOT 1
AREA=7,799± SQ.FT.
APN 059-2326-034
PROPOSED
2 RESIDENTIAL UNITS
PROPOSED
2 RESIDENTIAL UNITS
PROPOSED
2 RESIDENTIAL UNITS
ASPHALT
METAL FENCE
ASPHALT DRIVEWAY
EXISTING BUILDING
1451 FIFTH STREET
PROPOSED
COMMERCIAL UNIT
EXISTING BUILDING
805 JONES STREET
CONCRETE PAVER
DRIVEWAY
22.7'
3.5'
14.5'
BC 0.1' EAST OF PL
BC 0.2' EAST OF PL
(19 M 79)
28
S09°31'04"E
100.00'
N80°28'42"E
77.99'
[78.00'] R1
JONES STREET (60' WIDE)
981.98'
316.98'
CONCRETE SIDEWALK
CONCRETE DRIVEWAY
CURB DRAIN
EXISTING BUILDING
1461 FIFTH STREET
EXISTING BUILDING
1463 FIFTH STREET
EXISTING BUILDING
1465 FIFTH STREET
EXISTING BUILDING
1467 FIFTH STREET
PARCEL MAP 10293
(328 PM 54-55)
APNs 059-2326-019, 020, 021, 022, 023
10 0 5 10 20
1 INCH = 10 FEET
52.00'
S09°31'18"E 25.00'
N09°30'55"W
380.00' R1
25.00'
FIFTH STREET (60' WIDE)
MONUMENT B0746
2" BRASS DISC
WITH PUNCH
AT CAMELIA STREET
N09°30'55"W
BASIS OF BEARINGS
885.04'
BENCHMARK
MONUMENT B0688
2" BRASS DISC
WITH PUNCH
LEGEND
APN ASSESSOR'S PARCEL NUMBER
BC BUILDING CORNER
BLDG BUILDING LINE
BS BASE OF STEPS
BW BASE OF WALL
CO CLEANOUT
COL COLUMN
CONC CONCRETE
DI DRAIN INLET
DW DRIVEWAY
EP EDGE OF PAVEMENT
FF FINISHED FLOOR
FL FLOWLINE
JP JOINT POLE
MT METAL THRESHOLD
PL PROPERTY LINE
SS SANITARY SEWER
SW SIDEWALK
TC TOP OF CURB
TS TOP OF STEPS
TW TOP OF WALL
WM WATER METER
ASPHALT
BUILDING LINE
CONCRETE
CONCRETE PAVER
CONCRETE WALL
WOOD WALL
CHAIN LINK FENCE
METAL FENCE
WOOD FENCE
FOUND MONUMENT IN WELL, AS NOTED
[ ] RECORD DATA PER (19 M 79)
USE:
CURRENT USE: ONE COMMERCIAL LOT
PROPOSED USE: ONE COMMERCIAL CONDOMINIUM UNIT
SIX RESIDENTIAL CONDOMINIUM UNITS
OWNER/SUBDIVIDER:
805 JONES STREET, LLC
WDS JONES STREET LLC
805 JONES STREET
BERKELEY, CA 94710
BASIS OF BEARINGS:
THE MONUMENT LINE IN FIFTH STREET WAS TAKEN AS N09°30'55"W AS SHOWN ON PARCEL MAP 11306 (360 PM 15-16).
BENCHMARK:
ELEVATIONS ARE BASED ON CITY OF BERKELEY DATUM.
THE 1/2" IRON PIN MONUMENT AT THE INTERSECTION OF JONES AND FIFTH STREETS WAS TAKEN AS ELEVATION = 9.67 FEET PER CITY OF BERKELEY ENGINEERING RECORDS.
UTILITY NOTE:
UTILITY LOCATIONS AS SHOWN ARE BASED ON A COMBINATION OF SURFACE STRUCTURE OBSERVATIONS AND SURFACE MARKINGS. THESE LOCATIONS CANNOT BE GUARANTEED AND SHOULD BE VERIFIED PRIOR TO CONSTRUCTION.
REFERENCES:
R1 MAP OF TRACT B OF THE BERKELEY L.T.I. ASSOCIATION (19 M 79)
LINE LEGEND
PARCEL MAP BOUNDARY LINES
PROPOSED NEW UNITS LINE
EXISTING PARCEL / RIGHT-OF-WAY LINES
MONUMENT LINES
MONUMENT TIE LINES
SANITARY SEWER LINES
BUILDING LINES
A ONE LOT SUBDIVISION
FOR CONDOMINIUM PURPOSES
LOT 1, PARCEL MAP 11306 (360 PM 15-16)
CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA
OCTOBER 2024
SCALE: 1" = 10'
LICENSED LAND SURVEYOR
JAMES S. MORAN
7881
STATE OF CALIFORNIA
10/2/24
MORAN ENGINEERING, INC.
CIVIL ENGINEERS \ LAND SURVEYORS
1930 SHATTUCK AVENUE, SUITE A
BERKELEY, CALIFORNIA 94704
(510) 848-1930
T.M. 8717
F.B. NO. 1881
JONES-TTM.DWG
JOB NO. 22-3736.1
SHEET 3 OF 3

EXHIBIT "A"

NOTES AND DEFINITIONS:

1. THIS PROJECT IS LOCATED IN LOT 1 OF TRACT MAP 8717 IN THE CITY OF BERKELEY, COUNTY OF ALAMEDA, STATE OF CALIFORNIA AS PER MAP FILED IN BOOK ___, PAGES __-__ OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER. THIS PROJECT IS COMPOSED OF A COMMON AREA, ONE COMMERCIAL CONDOMINIUM UNIT AND SIX RESIDENTIAL CONDOMINIUM UNITS.

2. THE CONDOMINIUM DELINEATED HEREIN IS SUBJECT TO THE PROVISIONS OF THE DAVIS-STIRLING COMMON INTEREST DEVELOPMENT ACT, PART 5, DIVISION FOUR OF THE CIVIL CODE.

3. THIS PLAN AND THE DIMENSIONS SHOWN HEREIN ARE INTENDED TO CONFORM TO CIVIL CODE 4285(a)&(b), WHICH REQUIRES A THREE DIMENSIONAL DESCRIPTION OF THE PROJECT IN SUFFICIENT DETAIL TO IDENTIFY THE COMMON AREAS AND EACH SEPARATE INTEREST. THE DIMENSIONS SHOWN HEREIN ARE NOT INTENDED TO BE SUFFICIENTLY ACCURATE TO USE FOR THE COMPUTATION OF FLOOR AREA OR AIR SPACE VOLUME IN ANY OR ALL OF THE UNITS.

4. THE DIAGRAMMATIC PLANS INTENTIONALLY OMIT DETAILED INFORMATION OF INTERNAL PARTITIONING WITHIN INDIVIDUAL UNITS. LIKEWISE, SUCH DETAILS AS PROTRUSIONS OF VENTS, BEAMS, COLUMNS, WINDOW CASINGS, AND OTHER SUCH FEATURES ARE NOT INTENDED TO BE REFLECTED ON THIS PLAN.

5. THE COMMON AREA IS ALL OF THE LAND AND REAL PROPERTY INCLUDED WITHIN THE BOUNDARY LINES OF SAID LOT 1, EXCEPT THOSE PORTIONS SHOWN AND DEFINED HEREIN AS CONDOMINIUM UNITS.

6. FOR ALL OTHER DEFINITIONS REFER TO THE "DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF 805-817 JONES STREET, BERKELEY, CALIFORNIA."

7. IF THERE ARE ANY MATTERS OF CONFLICT OR INCONSISTENCIES BETWEEN THIS CONDOMINIUM PLAN AND THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, THEN THE PROVISIONS OF THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS SHALL PREVAIL.

8. BENCHMARK: ELEVATIONS ARE BASED ON CITY OF BERKELEY DATUM. THE 1/2" IRON PIN IN MONUMENT WELL (B0691) AT THE INTERSECTION OF PAGE AND EIGHTH STREETS WAS TAKEN AS ELEVATION = 25.54 FEET PER CORNER RECORD 10094 (98 CR 66).

SURVEYOR'S STATEMENT

I HEREBY STATE THAT I AM A LICENSED LAND SURVEYOR OF THE STATE OF CALIFORNIA AND THAT THIS PLAN CONSISTING OF 4 SHEETS WAS PREPARED UNDER MY SUPERVISION AND IS BASED UPON THE ARCHITECTURAL PLANS PREPARED BY WADLUND+ DESIGN STUDIO, AND IS A DESCRIPTION OF A CONDOMINIUM PROJECT WHICH REFERS TO THE BUILDINGS' PERIMETERS ON THE GROUND AND A THREE DIMENSIONAL DESCRIPTION OF THE PROJECT IN SUFFICIENT DETAIL TO IDENTIFY THE COMMON AREAS AND EACH SEPARATE INTEREST PURSUANT TO THE REQUIREMENTS OF CALFORNIA CIVIL CODE SECTION 4285 (a)&(b).

JAMES S. MORAN, LS 7881

CONDOMINIUM PLAN

FOR 805-817 JONES STREET

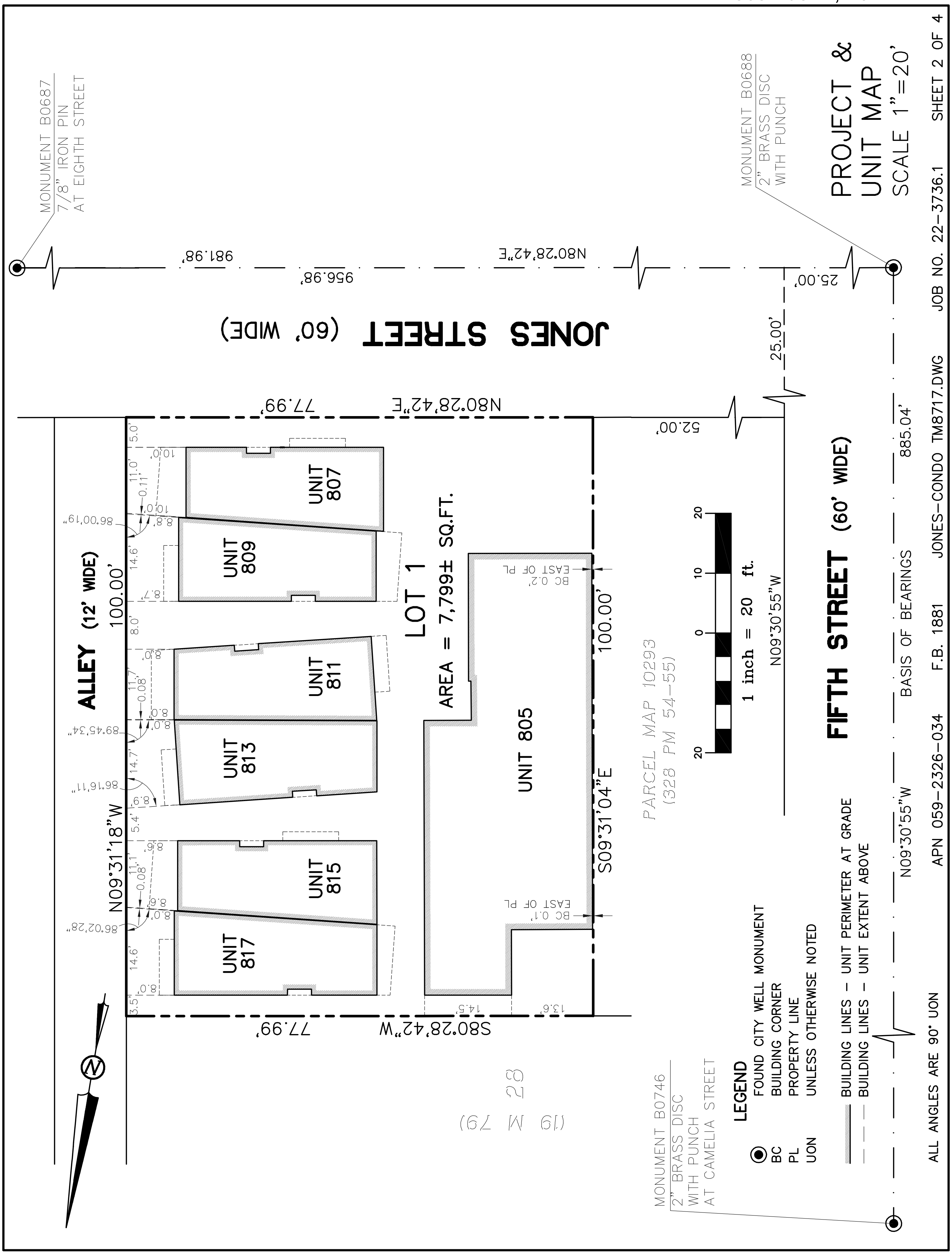
LOT 1, PARCEL MAP 11306 (360 M 15-16)
CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA

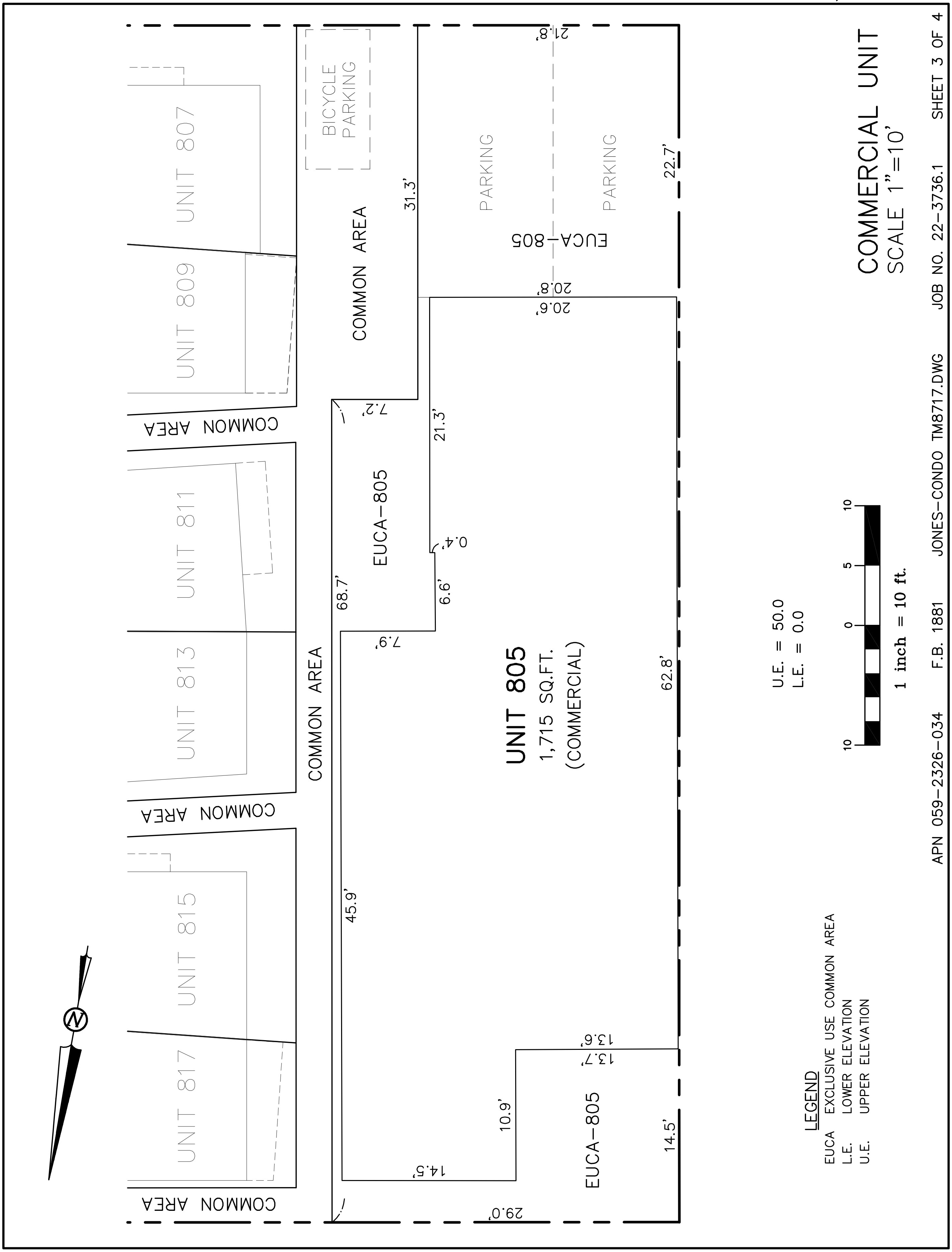
OCTOBER 2024

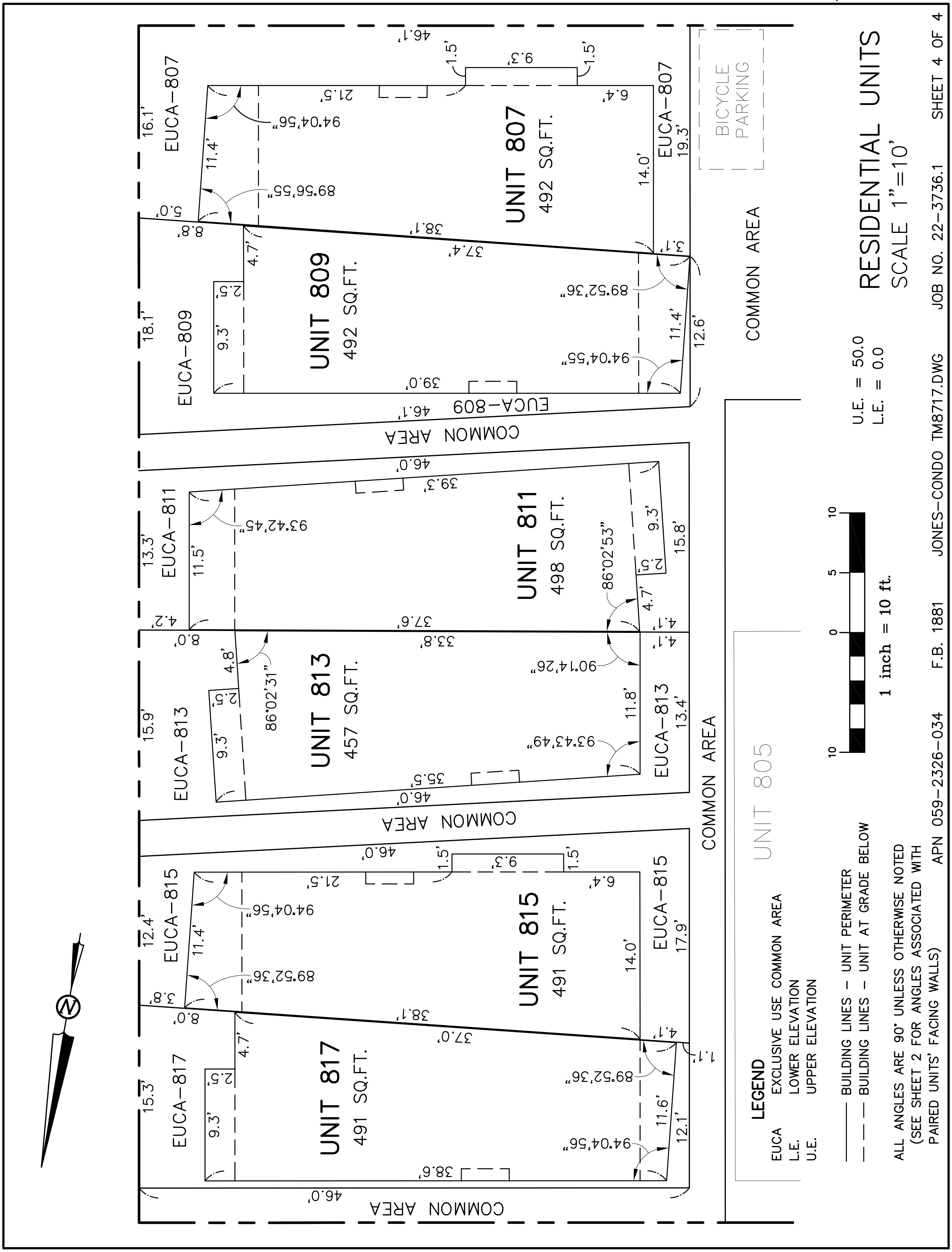
OWNERS:
805 JONES STREET, LLC
805 JONES STREET
BERKELEY, CA 94710

ENGINEER/SURVEYOR:
MORAN ENGINEERING, INC.
1930 SHATTUCK AVENUE
BERKELEY, CALIFORNIA 94704
510\848-1930

APN 059-2326-034 F.B. 1881 JONES-CONDO TM8717.DWG JOB NO. 22-3736.1 SHEET 1 OF 4


PROJECT & UNIT MAP
SCALE 1"=20'
SHEET 2 OF 4
JOB NO. 22-3736.1
JONES-CONDO TM8717.DWG
APN 059-2326-034
F.B. 1881
BASIS OF BEARINGS
N09°30'55"W
ALL ANGLES ARE 90° UON
MONUMENT B0687
7/8" IRON PIN
AT EIGHTH STREET
MONUMENT B0688
2" BRASS DISC
WITH PUNCH
MONUMENT B0746
2" BRASS DISC
WITH PUNCH
AT CAMELIA STREET
JONES STREET (60' WIDE)
FIFTH STREET (60' WIDE)
ALLEY (12' WIDE)
N80°28'42"E
981.98'
956.98'
25.00'
77.99'
52.00'
885.04'
S80°28'42"W
N09°31'18"W
100.00'
S09°31'04"E
LOT 1
AREA = 7,799± SQ.FT.
UNIT 805
UNIT 807
UNIT 809
UNIT 811
UNIT 813
UNIT 815
UNIT 817
BC 0.2' EAST OF PL
BC 0.1' EAST OF PL
PARCEL MAP 10293
(328 PM 54-55)
28
(19 M 79)
1 inch = 20 ft.
LEGEND
FOUND CITY WELL MONUMENT
BC BUILDING CORNER
PL PROPERTY LINE
UON UNLESS OTHERWISE NOTED
BUILDING LINES - UNIT PERIMETER AT GRADE
BUILDING LINES - UNIT EXTENT ABOVE


COMMERCIAL UNIT
SCALE 1"=10'
SHEET 3 OF 4
JOB NO. 22-3736.1
JONES-CONDO TM8717.DWG
F.B. 1881
APN 059-2326-034
UNIT 805
1,715 SQ.FT.
(COMMERCIAL)
EUCA-805
COMMON AREA
BICYCLE PARKING
PARKING
UNIT 807
UNIT 809
UNIT 811
UNIT 813
UNIT 815
UNIT 817
U.E. = 50.0
L.E. = 0.0
1 inch = 10 ft.
LEGEND
EUCA EXCLUSIVE USE COMMON AREA
L.E. LOWER ELEVATION
U.E. UPPER ELEVATION
21.8'
22.7'
31.3'
20.8'
20.6'
7.2'
21.3'
0.4'
6.6'
68.7'
7.9'
62.8'
45.9'
13.6'
13.7'
10.9'
14.5'
14.5'
29.0'


RESIDENTIAL UNITS
SCALE 1"=10'
SHEET 4 OF 4
JOB NO. 22-3736.1
JONES-CONDO TM8717.DWG
F.B. 1881
APN 059-2326-034
U.E. = 50.0
L.E. = 0.0
1 inch = 10 ft.
LEGEND
EUCA EXCLUSIVE USE COMMON AREA
L.E. LOWER ELEVATION
U.E. UPPER ELEVATION
BUILDING LINES - UNIT PERIMETER
BUILDING LINES - UNIT AT GRADE BELOW
ALL ANGLES ARE 90° UNLESS OTHERWISE NOTED (SEE SHEET 2 FOR ANGLES ASSOCIATED WITH PAIRED UNITS' FACING WALLS)
UNIT 807
492 SQ.FT.
UNIT 809
492 SQ.FT.
UNIT 811
498 SQ.FT.
UNIT 813
457 SQ.FT.
UNIT 815
491 SQ.FT.
UNIT 817
491 SQ.FT.
UNIT 805
EUCA-807
EUCA-809
EUCA-811
EUCA-813
EUCA-815
EUCA-817
COMMON AREA
BICYCLE PARKING

PLANNING COMMISSION

Notice of Public Hearing

Wednesday, December 4, 2024

Tentative Tract Map #8717 – 805 Jones Street

The Planning Commission of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 21.16.047, on **Wednesday, December 4, 2024 at 6:00 p.m**. at the **North Berkeley Senior Center**, 1901 Hearst Ave, Berkeley (wheelchair accessible).

The agenda will be posted on the Planning Commission website (https://berkeleyca.gov/your-government/boards-commissions/planning-commission) no later than 5:00 p.m. on Friday, November 29, 2024.

PROJECT DESCRIPTION

Tentative Tract Map #8717 would convert sole ownership of the entire property at 805 Jones Street into seven individual units. The project includes six residential units consisting of three two-story duplexes totaling 5,510 square feet. Additionally, there is a 455-square-foot, 22-foot-high second-story addition to the existing 1,750-square-foot commercial building, which is being converted into a seventh, commercial condominium unit. The project also provides 1,470 square feet of usable open space, seven bicycle parking spaces, and retains the existing two automobile parking spaces. The development project was approved by the Zoning Adjustments Board on October 26, 2023.

PROJECT APPLICANT: Matthew Wadlund, 805 Jones Street, Berkeley, CA 94710

LOCATION:
805 Jones Street, Berkeley, CA, 94710
APN: 59-2326-33

The site is a rectangular interior lot located on Jones Street in Berkeley, with approximately 78 feet of frontage along Jones Street. Its eastern lot line abuts a public alleyway (Fifth ½ Street), and the site is accessed by two curb cuts along Jones Street.

The zoning map is available online:
https://berkeley.maps.arcgis.com/apps/webappviewer/index.html?id=2c7dfafbb1f64e159f4fdf28a52f51c6&showLayers=Berkeley%20Parcels;Base%20Data;Planning%20and%20Building

ENVIRONMENTAL REVIEW STATUS: Construction of the project is categorically exempt pursuant to Section 15332 of the CEQA Guidelines ("In-Fill Development Projects"), and approval of the Tentative Map is also categorically exempt pursuant to Section 15331 of the CEQA Guidelines, which involves the operations and permitting of existing facilities involving no expansion of use beyond prior approvals.

PUBLIC COMMENT & FURTHER INFORMATION

All persons are welcome to attend the hearing and will be given an opportunity to address the Commission. Comments may be made verbally at the public hearing and/or in writing before the hearing. Written comments must be directed to:

Zoe Covello
Planning Commission Clerk
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City of Berkeley, Land Use Planning Division
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Correspondence received by **5 pm on Monday, November 25, 2024** will be included as a Communication in the agenda packet. Correspondence received after this deadline will be conveyed to the Commission and the public in the following manner:

- Correspondence received by **12 pm on Monday, December 2, 2024** will be included in a Supplemental Packet, which will be posted to the online agenda as a Late Communication one day before the public hearing.
- Correspondence received by **5 pm one day before this public hearing**, will be included in a second Supplemental Packet, which will be posted to the online agenda as a Late Communication by 5pm on the day of the public hearing.
- Correspondence received after 5pm one day before this public hearing will be saved as part of the public record.

Members of the public may submit written comments themselves early in the meeting. To distribute correspondence at the meeting, please provide 15 copies and submit to the Planning Commission Secretary just before, or at the beginning, of the meeting.

COMMUNICATION ACCESS

To request a meeting agenda in large print, Braille, or on audiocassette, or to request a sign language interpreter for the meeting, call (510) 981-7410 (voice) or 981-6903 (TDD). Notice of at least five (5) business days will ensure availability. All materials will be made available via the Planning Commission agenda page online at: https://berkeleyca.gov/your-government/boards-commissions/planning-commission.

FURTHER INFORMATION

Questions should be directed to Branka Tatarevic, at (510) 981-7472 or btatarevic@berkeleyca.gov.

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Planning and Development Department
Land Use Planning

U S E   P E R M I T

CITY OF BERKELEY ZONING ORDINANCE

Berkeley Municipal Code Title 23

USE PERMIT: #ZP2022-0162

Property Address: **805 JONES STREET**

Permittee Name: **MATTHEW WADLUND**

Use and/or Construction Permitted: **Use Permit #ZP2022-0162 to construct three, two-story duplexes for a total of six units (5,510 square feet) with a height of 26 feet and a 455 square foot second-story (22 feet) addition to the existing 1,750 square foot commercial building, pursuant to:**

- **Use Permit** to establish multiple dwelling units, under Berkeley Municipal Code (BMC) Section 23.203.090(B)(7)
- **Administrative Use Permit** to create between 5,000-10,000 square feet of new residential floor area in the MU-R, under BMC Section 23.206.030(A)(3)

FINDINGS, CONDITIONS AND APPROVED PLANS ATTACHED

The Use Permit herein described has been duly granted by the Zoning Adjustments Board and is in effect on November 27, 2023.

ATTACHMENT 1

FINDINGS AND CONDITIONS

OCTOBER 26, 2023

805 Jones Street

Use Permit #ZP2022-0162 to construct three, two-story duplexes for a total of six units (5,510 square feet) with a height of 26 feet and a 455 square foot second-story (22 feet) addition to the existing 1,750 square foot commercial building

PERMITS REQUIRED

- **Use Permit** to establish multiple dwelling units, under BMC Section 23.203.090(B)(7)
- **Administrative Use Permit** to create between 5,000-10,000 square feet of new residential floor area in the MU-R, under BMC Section 23.206.030(A)(3)

I. CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15332 of the CEQA Guidelines ("Infill Development").

The project meets all of the requirements of this exemption, as follows:

A. The project is consistent with the applicable General Plan designation and policies, and with the applicable zoning designation and regulations.
B. The project occurs within the Berkeley City limits on a project site of no more than five acres, and is surrounded by urban uses.
C. The parcels within the project site have previously been developed and have no value as habitat for endangered, rare or threatened species.
D. The project would not result in any significant effects relating to traffic, noise, air quality or water quality. The Traffic Impact Analysis prepared for the project was reviewed by the City Transportation Division which concurred with the findings of less than significant impacts. City Standard Conditions would address potential impacts related to traffic, noise, air quality, and water quality.
E. The site can be adequately served by all required utilities and public services.

2. Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

II. HOUSING ACCOUNTABILITY ACT FINDINGS

1. The Housing Accountability Act, Government Code Section 65589.5(j) requires that when a proposed housing development complies with applicable, objective general plan and zoning standards, a local agency may not deny the project or approve it with reduced density unless the agency makes written findings supported by substantial evidence that: (A) the development would have a specific adverse impact on public health or safety unless disapproved or approved at a lower density; and (B) there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval or approval at a lower density.

2. Because the project complies with applicable, objective general plan and zoning standards, §65589.5(j) does apply to this project. No significant, quantifiable, direct and unavoidable impacts, based on objective, identified written public health or safety standards, polices, or conditions, have been identified

III. FINDINGS FOR APPROVAL

1. As required by Section 23.406.040(E) of the BMC, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:

A. The project is located on a relatively flat lot in West Berkeley and does not obstruct any significant view corridors as defined in BMC Section 23.502.020(V)(12);

B. New shadows cast on neighboring lots and changes in sunlight pattern are found to be reasonable given the orientation of these properties in relation to the subject building and their close proximity given the urban residential environment. These affects would not be detrimental because limited in duration and will not persist for extended periods throughout the year; and

C. Also, the project is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project would not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City.

IV. OTHER FINDINGS FOR APPROVAL

2. As required by Section 23.206.100(B)(3) of the BMC, the Zoning Adjustments Board finds that the project is consistent with the purposes of the underlying district, and the project strengthens the residential concentration within district by redeveloping the existing lot with six-unit dwelling units. The project will also construct an addition to an existing commercial building on the lot that would create additional office space on the lot. The proposed residential units and commercial addition does not result in a cumulative change away from residential uses and is compatible within a mixed-use West Berkeley development pattern.

3. As required by Section 23.206.100(A) of the BMC, the Zoning Adjustments Board finds that the project is consistent with the underlying district because it increases the residential concentration and establishes additional commercial space without resulting in a cumulative change away from residential, live/work, light industrial, or arts and craft uses. The proposed development is compatible with several multifamily projects within one-block radius of the site – along Fifth and Page Streets in terms of density, bulk, massing, and type. The mixed-use nature of the project is consistent with the West Berkeley Plan as it would add limited office space and six dwelling units on an underutilized parcel.

STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS
The following conditions, as well as all other applicable provisions of the Zoning Ordinance, apply to this Permit:

1. **Conditions Shall be Printed on Plans**
The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions.' *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

2. **Compliance Required (BMC Section 23.102.050)**
All land uses and structures in Berkeley must comply with the Zoning Ordinance and all applicable City ordinances and regulations. Compliance with the Zoning Ordinance does not relieve an applicant from requirements to comply with other federal, state, and City regulations that also apply to the property.

3. **Approval Limited to Proposed Project and Replacement of Existing Uses (BMC Sections 23.404.060.B.1 and 2)**
   - A. This Permit authorizes only the proposed project described in the application. In no way does an approval authorize other uses, structures or activities not included in the project description.
   - B. When the City approves a new use that replaces an existing use, any prior approval of the existing use becomes null and void when permits for the new use are exercised (e.g., building permit or business license issued). To reestablish the previously existing use, an applicant must obtain all permits required by the Zoning Ordinance for the use.

4. **Conformance to Approved Plans (BMC Section 23.404.060.B.4)**
All work performed under an approved permit shall be in compliance with the approved plans and any conditions of approval.

5. **Exercise and Expiration of Permits (BMC Section 23.404.060.C)**
   - A. A permit authorizing a land use is exercised when both a valid City business license is issued (if required) and the land use is established on the property.
   - B. A permit authorizing construction is exercised when both a valid City building permit (if required) is issued and construction has lawfully begun.
   - C. The Zoning Officer may declare a permit lapsed if it is not exercised within one year of its issuance, except if the applicant has applied for a building permit or has made a substantial good faith effort to obtain a building permit and begin construction. The Zoning Officer may declare a permit lapsed only after 14 days written notice to the applicant. A determination that a permit has lapsed may be appealed to the ZAB in accordance with Chapter 23.410 (Appeals and Certification).
   - D. A permit declared lapsed shall be void and of no further force and effect. To establish the use or structure authorized by the lapsed permit, an applicant must apply for and receive City approval of a new permit.

6. **Permit Remains Effective for Vacant Property (BMC Section 23.404.060.D)**
Once a Permit for a use is exercised and the use is established, the permit authorizing the use

remains effective even if the property becomes vacant. The same use as allowed by the original permit may be re-established without obtaining a new permit, except as set forth in Standard Condition #5 above.

7. Permit Modifications (BMC Section 23.404.070)

No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Board. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.

8. Permit Revocation (BMC Section 23.404.080)

The City may revoke or modify a discretionary permit for completed projects due to: 1) violations of permit requirements; 2) Changes to the approved project; and/or 3) Vacancy for one year or more. However, no lawful residential use can lapse, regardless of the length of time of the vacancy. Proceedings to revoke or modify a permit may be initiated by the Zoning Officer, Zoning Adjustments Board (ZAB), or City Council referral.

9. Indemnification Agreement

The applicant shall hold harmless, defend, and indemnify the City of Berkeley and its officers, agents, and employees against any and all liability, damages, claims, demands, judgments or other losses (including without limitation, attorney's fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval associated with the project. The indemnity includes without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn, set aside, stay or otherwise rescind any or all approvals granted in connection with the Project, any environmental determination made for the project and granting any permit issued in accordance with the project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs shall include, without limitation, any attorney's fees, expert witness and consultant fees, court costs, and other litigation fees. City shall have the right to select counsel to represent the City at Applicant's expense in the defense of any action specified in this condition of approval. City shall take reasonable steps to promptly notify the Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.

V. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD

Pursuant to BMC 23.406.040.E, the Zoning Adjustments Board attaches the following additional conditions to this Permit:

Prior to Submittal of Any Building Permit:

10. Project Liaison. The applicant shall include in all building permit plans and post onsite the name and telephone number of an individual empowered to manage construction-related complaints generated from the project. The individual's name, telephone number, and responsibility for the project shall be posted at the project site for the duration of the project in a location easily visible to the public. The individual shall record all complaints received and actions taken in response, and submit written reports of such complaints and actions to the project planner on a weekly basis. **Please designate the name of this individual below:**

☐ **Project Liaison** ____
Name Phone #

11. Address Assignment. The applicant shall file an "Address Assignment Request Application" with the Permit Service Center (1947 Center Street) for any address change or new address associated with this Use Permit. The new address(es) shall be assigned and entered into the City's database prior to the applicant's submittal of a building permit application.

Prior to Issuance of Any Building & Safety Permit (Demolition or Construction)

12. Construction and Demolition Diversion. Applicant shall submit a Construction Waste Management Plan that meets the requirements of BMC Chapter 19.37 including 100% diversion of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65% diversion of other nonhazardous construction and demolition waste.

13. Geotechnical Plan Review. The applicant shall provide a geotechnical consultant letter that summarizes the results of the final project building and grading plan review to ensure that recommendations have been properly incorporated. Geotechnical aspects include, but are not limited to site preparation and grading including removal and replacement/treatment of expansive soils, site surface and subsurface drainage improvements including site runoff discharge, and design parameters for foundations, temporary shoring excavation and installation, etc.

14. Toxics. The applicant shall obtain approval of their Soil and Groundwater Management Plan from the Regional Water Quality Control Board prior to the issuance of any building and safety permit.

15. Toxics. The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:

A. Environmental Site Assessments:

1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 2 years old*) shall be submitted to TMD for developments for:

- All new commercial, industrial and mixed use developments and all large improvement projects.

- All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
- EMA is available online at: http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf

2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
3) If the Phase I is over 2 years old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.

B. Soil and Groundwater Management Plan:

1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units, that: (1) are in the Environmental Management Area (EMA) and (2) propose any excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.
2) The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.
3) TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.

C. Building Materials Survey:

1) Prior to approving any permit for partial or complete demolition and renovation activities involving the removal of 20 square or lineal feet of interior or exterior walls, a building materials survey shall be conducted by a qualified professional. The survey shall include, but not be limited to, identification of any lead-based paint, asbestos, polychlorinated biphenyl (PBC) containing equipment, hydraulic fluids in elevators or lifts, refrigeration systems, treated wood and mercury containing devices (including fluorescent light bulbs and mercury switches). The Survey shall include plans on hazardous waste or hazardous materials removal, reuse or disposal procedures to be implemented that fully comply state hazardous waste generator requirements (22 California Code of Regulations 66260 et seq). The Survey becomes a condition of any building or demolition permit for the project. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center.

D. Hazardous Materials Business Plan:

1) A Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 shall be submitted electronically at http://cers.calepa.ca.gov/ within 30 days if on-site hazardous materials exceed BMC 15.20.040. HMBP requirement can be found at http://ci.berkeley.ca.us/hmr/

Prior to Issuance of Any Building (Construction) Permit

16. Percent for Public Art: Consistent with BMC §23C.23, the applicant shall either pay the required in-lieu fee or provide the equivalent amount in a financial guarantee to be released after installation of the On-Site Publicly Accessible Art.

17. HVAC Noise Reduction. Prior to the issuance of building permits, the project applicant shall submit plans that show the location, type, and design of proposed heating, ventilation, and cooling (HVAC) equipment. In addition, the applicant shall provide product specification sheets or a report from a qualified acoustical consultant showing that operation of the proposed HVAC equipment will meet the City's exterior noise requirements in BMC Section 13.40.050. The City's Planning and Development Department shall review the submitted plans, including the selected HVAC equipment, to verify compliance with exterior noise standards.

18. Water Efficient Landscaping. Landscaping, totaling 500 square feet of more of new landscaping or 2,500 square feet or more of renovated irrigated area, shall comply with the State's Model Water Efficient Landscape Ordinance (MWELO). MWELO-compliant landscape documentation including a planting, grading, and irrigation plan shall be included in site plans. Water budget calculations are also required for landscapes of 2,500 square feet or more and shall be included in site plans. The reference evapotranspiration rate (ETo) for Berkeley is 41.8.

19. Prohibition of Natural Gas Infrastructure in New Buildings. The project shall comply with the City of Berkeley Prohibition of Natural Gas Infrastructure in New Buildings (BMC Chapter 12.80).

20. Recycling and Organics Collection. Applicant shall provide recycling and organics collection areas for occupants, clearly marked on site plans, which comply with the Alameda County Mandatory Recycling Ordinance (ACWMA Ordinance 2012-01).

21. Public Works ADA. Plans submitted for building permit shall include replacement of sidewalk, curb, gutter, and other streetscape improvements, as necessary to comply with current City of Berkeley standards for accessibility.

22. Required Parking Spaces for Persons with Disabilities. Per BMC Section 23.322.040.H of the Zoning Ordinance, "If the number of required off-street parking spaces in a non-residential district is reduced as allowed by this chapter, the number of required parking spaces for persons with disabilities shall be calculated as if there had been no reduction in required spaces."

During Construction:

23. Construction Hours. Construction activity shall be limited to between the hours of 7:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and 4:00 PM on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.

24. Construction and Demolition Diversion. Divert debris according to your plan and collect required documentation. Get construction debris receipts from sorting facilities in order to verify diversion requirements. Upload recycling and disposal receipts if using Green Halo and submit online for City review and approval prior to final inspection. Alternatively, complete the second page of the original Construction Waste Management Plan and present it, along with your construction debris receipts, to the Building Inspector by the final inspection to demonstrate diversion rate

compliance. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement.

25. Low-Carbon Concrete. The project shall maintain compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25%. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff.

26. Transportation Construction Plan. The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:

- Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);
- Storage of building materials, dumpsters, debris anywhere in the public ROW;
- Provision of exclusive contractor parking on-street; or
- Significant truck activity.

The applicant shall secure the City Traffic Engineer's approval of a TCP. Please contact the Office of Transportation at 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.

Contact the Permit Service Center (PSC) at 1947 Center Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

27. Avoid Disturbance of Nesting Birds. Initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 30), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the MBTA and CFGC, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines and a minimum buffer of 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.

28. Archaeological Resources (*Ongoing throughout demolition, grading, and/or construction*). Pursuant to CEQA Guidelines section 15064.5(f), "provisions for historical or unique archaeological resources accidentally discovered during construction" should be instituted. Therefore:

A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist, historian or paleontologist to assess the significance of the find.
B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards.
C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations.
D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.
E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.

29. Human Remains (*Ongoing throughout demolition, grading, and/or construction*). In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.

30. Paleontological Resources (*Ongoing throughout demolition, grading, and/or construction*). In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

31. Paleontological Resources (*Ongoing throughout demolition, grading, and/or construction*).

A. *Qualified Paleontologist.* The project applicant shall retain a Qualified Paleontologist prior to excavations or ground disturbance that will exceed three feet in depth. The Qualified Paleontologist shall direct all mitigation measures related to paleontological resources. A qualified professional paleontologist is defined by the SVP standards as an individual preferably with an M.S. or Ph.D. in paleontology or geology who is experienced with paleontological procedures and techniques, who is knowledgeable in the geology of California, and who has worked as a paleontological mitigation project supervisor for a least two years (SVP 2010).

B. *Paleontological Worker Environmental Awareness Program (WEAP).* Prior to ground disturbance, the applicant shall incorporate information on paleontological resources into the Project's Worker Environmental Awareness Training (WEAP) materials, or a stand-alone Paleontological Resources WEAP shall be submitted to the Department of Planning and Development at the City of Berkeley. The Qualified Paleontologist or his or her designee shall conduct training for construction personnel regarding the appearance of fossils and the procedures for notifying paleontological staff should fossils be discovered by construction staff. The Paleontological WEAP training shall be fulfilled simultaneously with the overall WEAP training, or at the first preconstruction meeting at which a Qualified Paleontologist attends prior to ground disturbance. Printed literature (handouts) shall accompany the initial training. Following the initial WEAP training, all new workers and contractors must be trained prior to conducting ground disturbance work.

C. *Paleontological Monitoring.* The extent of required paleontological monitoring for the project shall be determined by the Qualified Paleontologist based on an evaluation of the previously undisturbed geologic units exposed during ground disturbing activity. The Qualified Paleontologist shall conduct and initial spot check and evaluation of geologic conditions for ground disturbing activity for excavations between 5-10 feet below ground surface (BGS). The evaluation shall be based on field evidence including lithology of geologic units and results of microscreening or other inspections for fossil resources. If the paleontologist determines that geologic units exposed between 5-10 feet BGS have high paleontological sensitivity, then full-time monitoring shall be conducted for the duration of ground disturbing activity. If sediments between 5-10 feet BGS are determined to not be paleontological sensitive, spot checks should be conducted again for ground disturbance between 10-15 feet BGS and again for ground disturbance between 15-20 feet BGS, and again to the full depth of ground disturbance. If spot checks indicate low or no paleontological sensitivity, or if full time monitoring results in no fossil discoveries once the full depth of ground disturbance has been reached, paleontological monitoring can be discontinued for the remainder of project activity. Monitoring shall be reinstated if any new ground disturbances are required to depths exceeding previous depths of previous work, and reduction or suspension shall be reconsidered by the Qualified Paleontologist at that time.

D. In the event of a fossil discovery by the paleontological monitor or construction personnel, all work in the immediate vicinity of the find shall cease. A Qualified Paleontologist shall evaluate the find before restarting construction activity in the area. If it is determined that the fossil(s) is (are) scientifically significant, the Qualified Paleontologist shall complete the following conditions to mitigate impacts to significant fossil resources:

1) *Salvage of Fossils.* If fossils are discovered, the paleontological monitor shall have the authority to halt or temporarily divert construction equipment within 50 feet of the find until the monitor and/or lead paleontologist evaluate the discovery and determine if the

fossil may be considered significant. Typically, fossils can be safely salvaged quickly by a single paleontologist and not disrupt construction activity. In some cases, larger fossils (such as complete skeletons or large mammal fossils) require more extensive excavation and longer salvage periods. In this case, the Construction Contractor may be requested to supply heavy equipment and an operator to assist in the rapid removal of a large fossil specimen(s) or sediment sample(s). Bulk matrix sampling may be necessary to recover small invertebrates or microvertebrates from within paleontologically- sensitive Quaternary old alluvial deposits.

2) *Preparation and Curation of Recovered Fossils.* Once salvaged, significant fossils shall be identified to the lowest possible taxonomic level, prepared to a curation-ready condition, and curated in a scientific institution with a permanent paleontological collection (such as the UCMP), along with all pertinent field notes, photos, data, and maps. Fossils of undetermined significance at the time of collection may also warrant curation at the discretion of the Qualified Paleontologist.

E. *Final Paleontological Mitigation Report.* Upon completion of ground disturbing activity (and curation of fossils if necessary) the Qualified Paleontologist shall prepare a final report describing the results of the paleontological monitoring efforts associated with the project. The report shall include a summary of the field and laboratory methods, an overview of the project geology and paleontology, a list of taxa recovered (if any), an analysis of fossils recovered (if any) and their scientific significance, and recommendations. The report shall be submitted to the Department of Planning and Development at the City of Berkeley. If the monitoring efforts produced fossils, then a copy of the report shall also be submitted to the designated museum repository.

32. Halt Work/Unanticipated Discovery of Tribal Cultural Resources. In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archaeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.

33. Stormwater Requirements. The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:

A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.

B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.

C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.

D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be shall be conducted prior to the issuance of a Building Permit.

E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.

F. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.

G. All on-site storm drain inlets must be labeled “No Dumping – Drains to Bay” or equivalent using methods approved by the City.

H. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.

I. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.

J. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.

34. Public Works. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.

35. Public Works. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.

36. Public Works. The project sponsor shall maintain sandbags or other devices around the site perimeter during the rainy season to prevent on-site soils from being washed off-site and into the storm drain system. The project sponsor shall comply with all City ordinances regarding construction and grading.

37. Public Works. Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The applicant shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.

38. Public Works. The removal or obstruction of any fire hydrant shall require the submission of a plan to the City's Public Works Department for the relocation of the fire hydrant during construction.

39. Public Works. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.

Prior to Final Inspection or Issuance of Occupancy Permit:

40. Compliance with Conditions. The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit.

41. Compliance with Approved Plan. The project shall conform to the plans and statements in the Use Permit. All landscape, site and architectural improvements shall be completed per the attached approved drawings received on August 17, 2023, except as modified by conditions of approval.

42. Geotechnical Inspections. The applicant shall provide a geotechnical consultant letter to the City Engineer for review that summarizes the results of geotechnical inspections and the as-built conditions of the project. The inspections should include, but are not limited to: site preparation and grading, site surface and subsurface drainage improvements, and excavations for foundations and other improvements prior to the placement of steel and concrete.

At All Times:

43. Exterior Lighting. All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.

44. Rooftop Projections. No additional rooftop or elevator equipment shall be added to exceed the approved maximum roof height without submission of an application for a Use Permit Modification, subject to Board review and approval.

45. Design Review. Signage and any other exterior modifications, including but not limited to landscaping and lighting, shall be subject to Design Review Committee approval.

46. Drainage Patterns. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.

47. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.

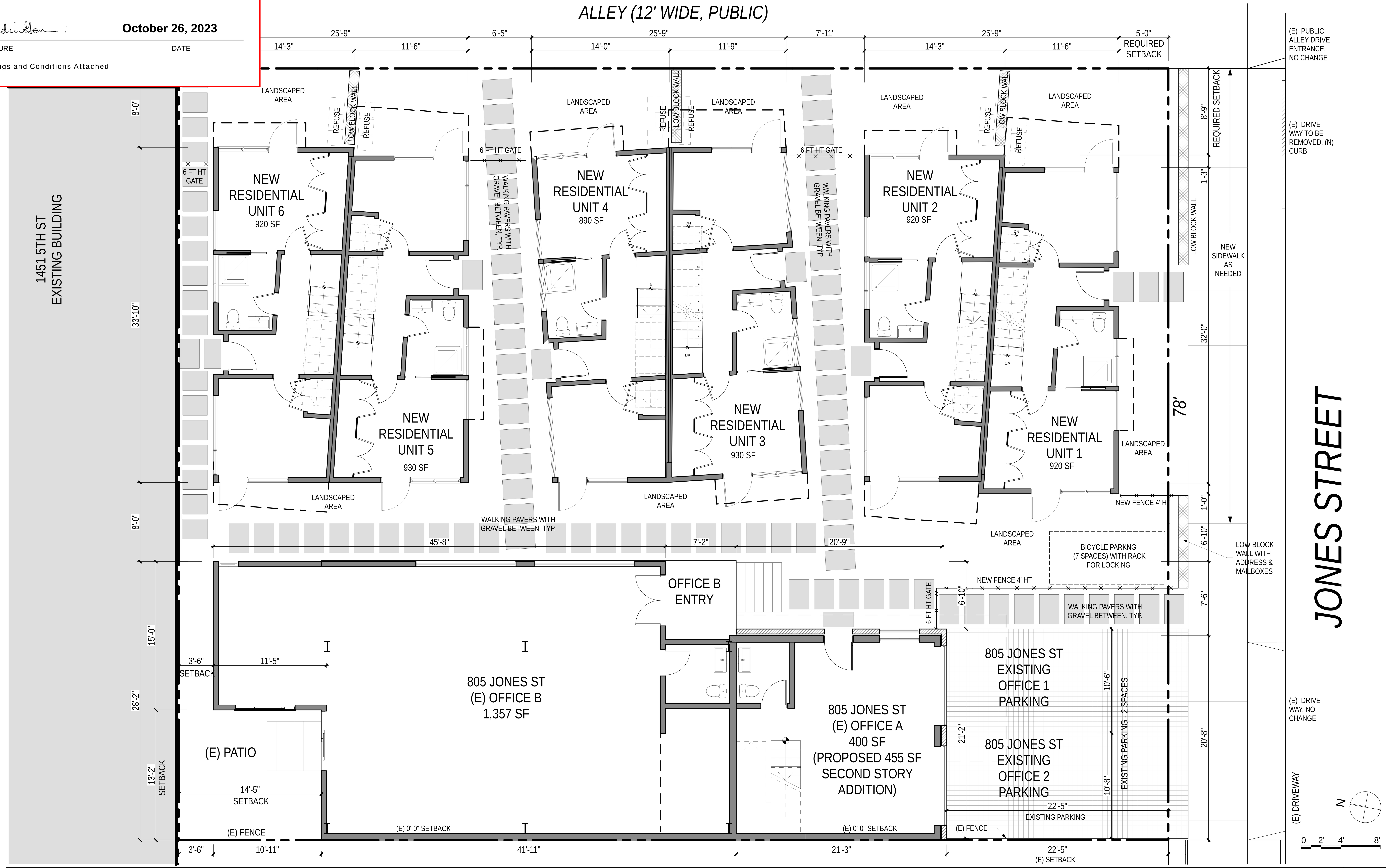
48. Residential Permit Parking. No Residential Permit Parking (RPP) permits shall be issued to project residents, nor shall commercial placards be issued to non-residential occupants and/or users of the site. The project planner shall notify the Finance Department, Customer Service Center, to add these addresses to the list of addresses ineligible for RPP permits. The property owner shall notify all tenants of rental units, and/or buyers of condominium units, of this restriction in leases and/or contracts, and shall provide sample leases and/or contracts including such notification to the project planner prior to issuance of an occupancy permit or final inspection.

PLANS APPROVED BY ZONING ADJUSTMENTS BOARD

October 26, 2023

SIGNATURE DATE

* Findings and Conditions Attached



SITE PLAN & FIRST FLOOR PLAN

805 JONES STREET

USE PERMIT APPLICATION

WADLUND+ Design Studio
August 2023

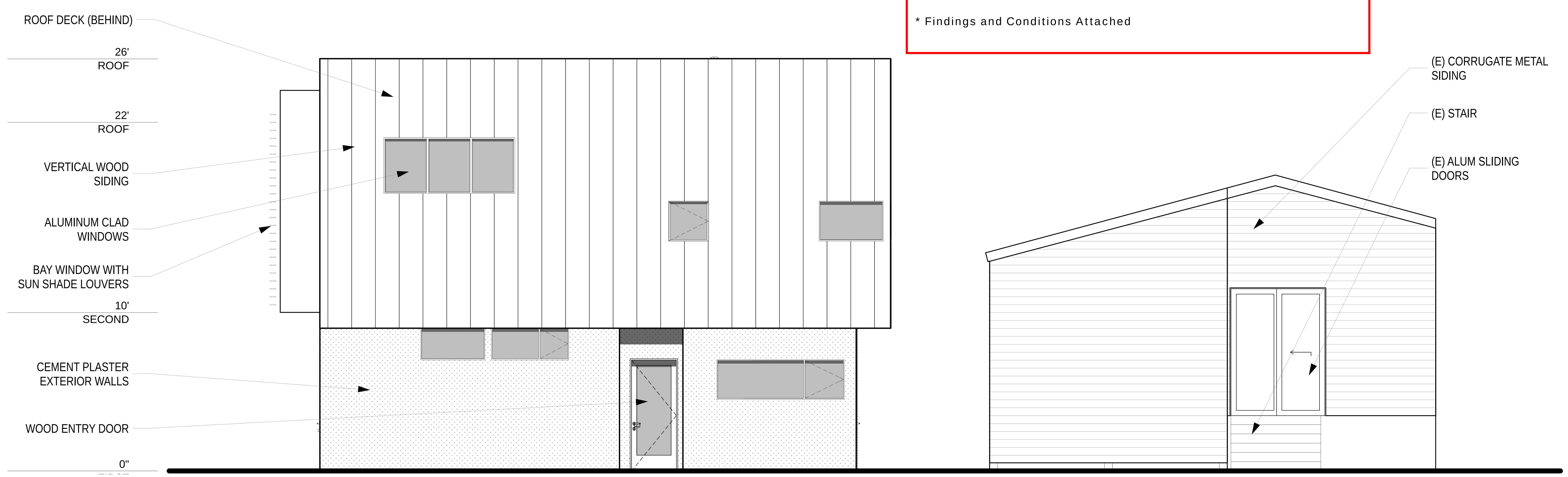
2

PLANS APPROVED BY ZONING ADJUSTMENTS BOARD

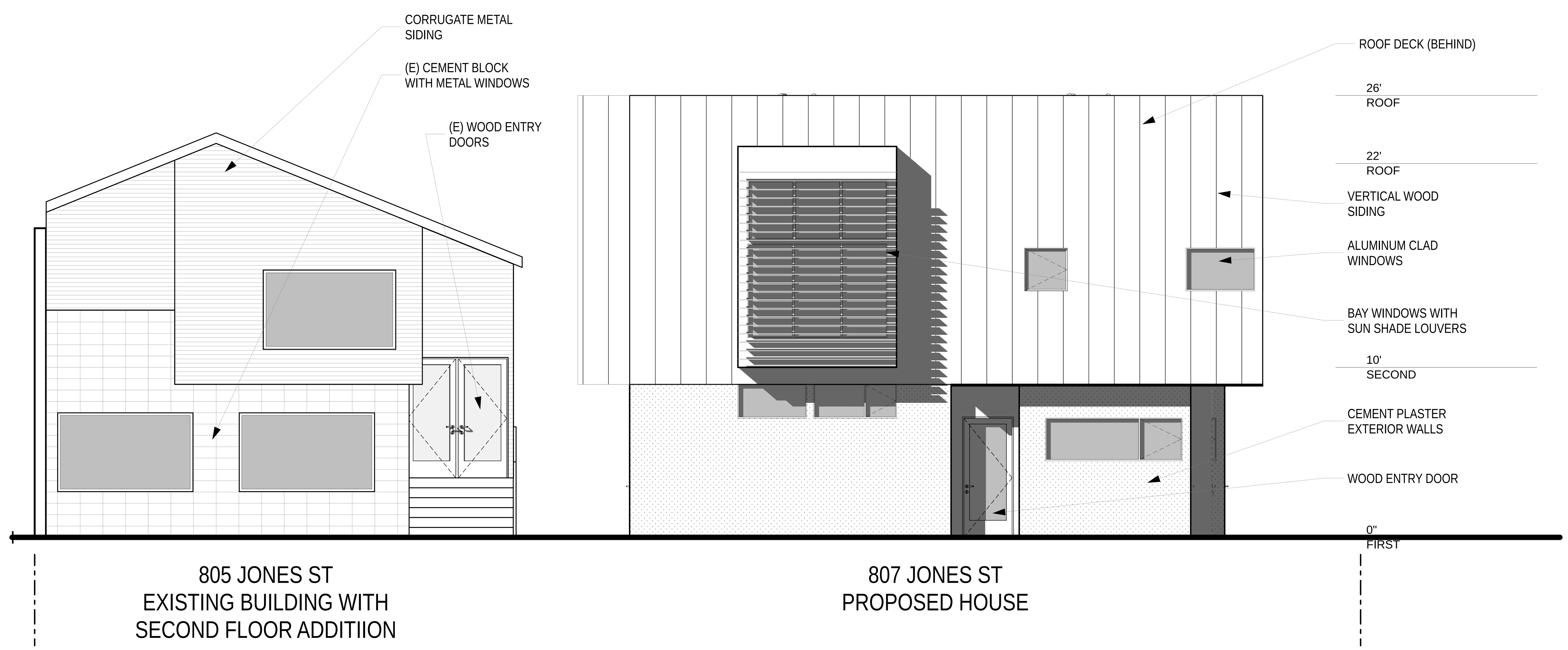
October 26, 2023

SIGNATURE DATE

* Findings and Conditions Attached



NORTH ELEVATION - INTERIOR LOT



SOUTH ELEVATION - JONES STREET

BUILDING ELEVATIONS - NORTH / SOUTH

805 JONES STREET

USE PERMIT APPLICATION

WADLUND+
Design Studio
August 2023 -
May 2023

6

Communications

From: Toni Mester <tonispann@sonic.net>
Sent: Wednesday, November 6, 2024 11:51 AM
To: Planning Commission
Subject: mid-density zoning

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Planning Commission:
The proposed blanket zoning is fundamentally flawed in its insufficient proportional standards. Since the area covered was developed with differing lot sizes, smaller to the west and larger to the east due to class (income) differences, any set of uniform standards must take lot size into account.
The three proportional standards are:
% of lot coverage
FAR (floor area ratio)
maximum densities.

1. Lot coverage: the increase from 40% to 60% has potential environmental impacts, particularly from run-off, potentially increasing the flood hazards to the west. 60% also increases the fuel supply in a fire and may make escape and evacuation more difficult.
2. FAR is the floor area of improvements divided by the lot area. For example, my property has an approximate FAR of .35 (1400 divided by 4000 sf). FAR already exists in all of Berkeley, for every lot, for every street and for every district or zone. The fact that it is not calculated as a zoning standard is a deficiency in our zoning. Before any zoning is changed, existing FAR should be considered. I believe the proposal increases the FAR more than x 4. Take a 5,000 square foot lot with a single story house covering 40%: that's 2,000 sf. That same lot of 5,000 sf. with a three story building covering 60% would be 3,000 x 3=9000 sf./5000=1.8 FAR.
Doubling the FAR would be fairly radical, but quadrupling is excessive.
3. Maximum densities are figured per lot by finding the % of an acre (43,560 SF) and multiplying the % by the density allowed. Like FAR, densities already exist even if they aren't calculated in the zoning ordinance. Like FAR, the new standards increase densities that are excessive compared to densities in neighborhing cities like Oakland and Richmond. It is unclear how partial densities such as 4.3 or 4.7 units will be applied. Since there are no proposed minimum or maximum unit sizes or maximum bedrooms per unit, the large allowances and number of bedrooms per project could result in bulky minidorms that have proved to be problematic in the past.

All in all, these are inadequate standards that will result in dangerous and disruptive overbuilding.

Communications

From: BPEorg <bpeorg2024@gmail.com>
Sent: Thursday, November 14, 2024 3:39 PM
To: BPEorg
Subject: Berkeley Public Eye: PC meeting Nov. 11, 2024 video recording

Greetings All,

Attached below is the video recording of the November 11th Planning Commission meeting. **Berkeley Public Eye** continues to provide these recordings as a Public Service at the expense of private citizens.

THESE RECORDINGS SHOULD BE PROVIDED BY THE CITY OF BERKELEY.

The Planning Commission meetings are recognized legal proceedings* just as the City Council, Zoning Adjustments Board, and the Rent Board meetings. The council members need to recognize their obligations to provide transparency in government and provide funds to video/audio record these meetings. Please write to your Council Member and request that these meetings be recorded in the same manner as the other three legally recognized meetings.

This citizen initiative will cease to function with the December meeting. We have run out of funds and cannot continue. Each meeting, depending on the length of time, can cost up to $600.

The TIMESTAMP highlights the speakers at **Public Comment**. Please note their concerns, since this will be the only time these comments will be voiced to the Berkeley citizenry until, maybe, there is a City Council meeting where speakers may be given a minute to speak. Fortunately, at this meeting the Chair of the Commission allowed speakers to take **three minutes** to voice their concerns.

https://youtu.be/mfWLMxxT3LU?si=i2iAxMdQrqcx98o2

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* Speakers at Public Comment have litigational rights due to their presence and comments at these meetings.

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Thank you,
- The BPE crew

November 6th, 2024

Dear Mr. Jeff Vincent,

Although I very much appreciated the Planning Commission meeting you ran today, it was disappointing to hear you chastise community members who either do not understand the ramifications of the (missing) middle housing rezoning or have been unable to attend meetings, or even do not know that the city has public meetings that they can attend!

As far as I know, the Planning Commission (PC) has not been on zoom and the filming of the Planning Commission meetings is relatively new and a somewhat "guerrilla" action. It is not easy for some of our community members to get to meetings and the subject matter is technical, complex, and sometimes obscure requiring background knowledge. It was precisely for that reason that Council directed its members to have smaller community meetings with planners to help people understand the big changes called for. I feel very sad that at the D1-D2 meeting open questions were cut off by the Councilmember. Although I could not attend, the people who attended were hoping for dialogue in order to come to a more in-depth understanding of the new zoning. When I watched the video recordings on Berkeleyside (and a friend's recording), the audience seemed generally docile, and their chant was not violent. They chanted, they "wanted to talk" and to be heard by Council and the Planning Department! I heard that Mr. Horner gave a presentation and then the community wanted interaction amongst all the community. And why not? (As a backdrop the D1 community has already gone through the separate tables planning thing with the North Berkeley BART and it was very bad, disappointing, and stupid).

Indeed, before the D1-D2 meeting, I wrote Mr. Jordan Klein and asked him if the R1 district west of San Pablo could receive flyers about the meeting and I was told there were no funds to do so. I have requested that materials be provided in other languages, and now, Mr. Rivera's San Pablo project at least allows for those who need translation to request the service. Let's be real – it is not everyone's joy to attend planning commission meetings, but the enormity of the missing middle should be something the citizens of Berkeley understand and weigh in on. Council Members are not listening to their constituents and not talking to them. If the city departments and managers want to be inclusive, then better outreach is needed. It cannot be left in the hands of Council members.

And let me add one more point about the (missing) middle housing rezoning. Tonight, in your beginning speech to the community members reminding us to behave, you mentioned that the PC had 4 meetings on the rezoning initiative. I attended one such meeting and was surprised that the alternative commissioners that evening, Mr. Todd Andrew and Mr. Laurie Capitelli, did not even know what the name "middle housing" meant, and they were to vote on the issue that evening! To be fair, it wasn't their fault as those who want to see a denser Berkeley for the past year have obfuscated the meaning and played havoc with the word "middle" even suggesting it might be racist to oppose the new zoning. It is no wonder the public is befuddled! Many thought for the longest time that it was "middle income" housing.

So there you have it. I appreciate the work, time and effort that it takes to be a PC commissioner and thank all the commissioners for their service to our city.

Sincerely,

Meryl Siegal

Cc:
Blaine Andrew Merker
Jeff Vincent
John E. Moore
Christina Oatfield
Janis Ching
Elisa Mikiten
Emily Marthinsen
Alfred Twu
Savlan Hauser
Barnali Ghosh
Justin Horner