



Housing Advisory Commission

Regular Meeting Thursday, March 5, 2026 7:00 pm	South Berkeley Senior Center 2939 Ellis Street Snow Zhu, Secretary HAC@berkeleyca.gov
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This meeting will be conducted in a hybrid model with both in-person and virtual attendance. Attend this meeting remotely using Zoom: <https://cityofberkeley-info.zoomgov.com/j/1611379152>. To request to speak, use the “raise hand” function in Zoom. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and enter **Meeting ID: 161 137 9152**. To provide public comment, Press *9 and wait to be recognized by the Chair. To submit a written communication for the public record, email HAC@berkeleyca.gov.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting, however, if you are feeling sick, please do not attend the meeting in person. Questions regarding this matter may be addressed to HAC@berkeleyca.gov.

Written communications submitted by mail or e-mail to the Housing Advisory Commission by 5:00 p.m. the day before the meeting will be distributed to the members of the Committee in advance of the meeting and retained as part of the official record.

All agenda items are for discussion and possible action.

Public comment policy: Members of the public may speak on any items on the Agenda and items not on the Agenda during the initial Public Comment period. Members of the public may also comment on any item listed on the agenda as the item is taken up. Members of the public may not speak more than once on any given item. The Chair may limit public comments to 3 minutes or less.

1. **Roll Call**
2. **Land Acknowledgment** (Attachment 1)
3. **Agenda Approval**
4. **Public Comment**
5. **Approval of February 5, 2026 Regular Meeting Minutes** (Attachment 2)
6. **Receive Presentation and Potential Action to Approve Annual Action Plan (AAP) for Federal Program Year (PY) 2026 (FY 2027) – Jiro Arase, HHCS** (Attachment 3)

7. **A Unified, Flexible Local Density Bonus Program** – Commissioner Shere (Attachment 4)
8. **Update on Council Items (Future Dates Subject to Change)**
 - a. City of Berkeley’s 2026 State and Federal Legislative Platform (2/24/2026)
9. **Announcements/Information Items**
10. **Future Items**
11. **Adjourn**

Attachments

1. Land Acknowledgment
2. Draft February 5, 2026 Regular Meeting Minutes
3. Jiro Arase, HHCS, Annual Action Plan (AAP) for Federal Program Year (PY) 2026 (FY 2027)
4. Commissioner Shere, District 2, A Unified, Flexible Local Density Bonus Program

Notices

Notice of Public Record

Communications to Berkeley boards, commissions or committees are public record and will become part of the City’s electronic records, which are accessible through the City’s website. Please note: E-mail addresses, names, addresses, and other contact information are not required but, if included in any communication to 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. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary of the relevant board, commission, or committee for further information.

Any writings or documents provided to a majority of the commission regarding any item on this agenda will be made available for public inspection at Health, Housing, and Community Services located at 2180 Milvia Street, Berkeley, CA 94704.



Communication Access Information

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at ada@berkeleyca.gov, (510) 981-6418 (V), or (510) 981-6347 (TDD) at least three business days before the meeting date. Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.

Certification of Public Posting

I hereby certify that the agenda for this meeting of the Berkeley City Commission was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on February 26, 2026.

A handwritten signature in black ink, appearing to be 'Snow Zhu', written in a cursive style.

Snow Zhu, Secretary

ATTACHMENT 1

Land Acknowledgement Statement

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.



Housing Advisory Commission

HOUSING ADVISORY COMMISSION DRAFT MINUTES

Regular Meeting Thursday, February 5, 2026 7:04 pm	South Berkeley Senior Center 2939 Ellis Street Snow Zhu, Secretary HAC@berkeleyca.gov
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1. Roll Call

Present: Sarah Bell, Karen Haycox, Syrak Micael, Rebecca Mirvish, Debbie Potter, David Shere, and Alfred Twu (arrived 7:15).

Absent: Leah Simon-Weisberg (unexcused).

Staff Present: Ian Flaherty, Andre Kidd, Angel Sindayen, Be Tran, and Snow Zhu.

Commissioners in attendance: 7 of 8

Members of the public: 3

Public Speakers: 1

2. Land Acknowledgement

3. Agenda Approval

Action: M/S/C (Potter/Haycox) to approve the agenda.

Vote: Ayes: Bell, Haycox, Micael, Mirvish, Potter, and Shere. Noes: None. Abstain: None.
Absent: Simon-Weisberg, Twu.

4. Public Comment

There was one speaker during public comment.

5. Approval of January 15, 2026 Regular Meeting Minutes

Action: M/S/C (Micael/Shere) to approve the January 15, 2026 Regular Meeting minutes.

Vote: Ayes: Bell, Haycox, Micael, Mirvish, Potter, and Shere. Noes: None. Abstain: None.
Absent: Simon-Weisberg, Twu.

6. Receive Presentation on Rental Housing Safety Program (RHSP)

7. Discussion and Possible Action: Feedback on State Legislative Priorities

Public Speakers: 1

Action: M/S/C (Mirvish/Shere) to add to the list of legislative priorities:

- a. Support legislative efforts to facilitate the development of for-sale multifamily housing, including condo deposit and construction defect liability reform.

Vote: Ayes: Bell, Haycox, Micael, Mirvish, Potter, Shere, and Twu. Noes: None. Abstain: None. Absent: Simon-Weisberg.

7. Discussion and Possible Action: Feedback on State Legislative Priorities (Continued)

Action: M/S/C (Haycox/Twu) to add to the list of legislative priorities:

- a. Creation of funding for affordable housing projects, including co-ops, land trusts, social housing, public housing, and affordable homeownership projects.

Vote: Ayes: Bell, Haycox, Micael, Mirvish, Potter, Shere, and Twu. Noes: None. Abstain: None. Absent: Simon-Weisberg.

Action: M/S/C (Potter/Shere) to remove Items 11 and 14 from the list of legislative priorities:

Item 11: Support legislative efforts that clarify recent ADU related legislation and count ADUs towards RHNA goals

Item 14: Strongly support efforts to restore any proposed reductions in funding to affordable housing programs including the Multifamily Housing Program, Transit Oriented Development Program, Infill and Infrastructure Grant Program, and others

Vote: Ayes: Bell, Haycox, Micael, Mirvish, Potter, Shere, and Twu. Noes: None. Abstain: None. Absent: Simon-Weisberg.

Action: M/S/C (Potter/Wu) to add “fight to repeal Article 34” from Item 1 as a separate item.

Vote: Ayes: Bell, Haycox, Micael, Mirvish, Potter, Shere, and Twu. Noes: None. Abstain: None. Absent: Simon-Weisberg.

Action: M/S/C (Potter/Wu) to remove Item 9.

Item 9: Support policy efforts to utilize the enhanced, lower bond finance threshold of 25% for the Low-Income Housing Tax Credit (LIHTC), supplement other affordable housing development programs

Vote: Ayes: Bell, Haycox, Micael, Mirvish, Potter, Shere, and Twu. Noes: None. Abstain: None. Absent: Simon-Weisberg.

Action: M/S/C (Potter/Mirvish) to add as a high priority item to the list of legislative priorities:

- a. Support legislative efforts to reduce the voter threshold for passage of affordable housing bonds to 50% + 1.

Vote: Ayes: Bell, Haycox, Micael, Mirvish, Potter, Shere, and Twu. Noes: None. Abstain: None. Absent: Simon-Weisberg.

7. Discussion and Possible Action: Feedback on State Legislative Priorities (Continued)

Action: M/S/C (Potter/Shere) to add to the list of legislative priorities:

- a. Support efforts to ban the use of predictive algorithms to set rents, meter occupancies, and screen potential tenants.

Vote: Ayes: Bell, Haycox, Micael, Mirvish, Potter, Shere, and Twu. Noes: None. Abstain: None. Absent: Simon-Weisberg.

Action: M/S/C (Twu/Haycox) to add to the list of legislative priorities:

- a. Support rent relief and eviction moratorium and eviction protections during emergencies.

Vote: Ayes: Bell, Haycox, Micael, Mirvish, Potter, Shere, and Twu. Noes: None. Abstain: None. Absent: Simon-Weisberg.

Action: M/S/C (Twu/Potter) to edit Item 10 on the list of legislative priorities as follows:

Item 10: Support more housing for students and workers in higher education.

Vote: Ayes: Bell, Haycox, Micael, Mirvish, Potter, Shere, and Twu. Noes: None. Abstain: None. Absent: Simon-Weisberg.

Action: M/S/C (Potter/Shere) to edit Items 2 and 3 on the list of legislative priorities as follows:

Item 2: Support efforts to reduce the cost of construction of middle housing including reforms to the state building code.

Item 3: Pursue updates to the State building code to promote innovative forms of housing construction including elevator reform, single stair reform, modular construction, and universal design.

Vote: Ayes: Bell, Haycox, Micael, Mirvish, Potter, Shere, and Twu. Noes: None. Abstain: None. Absent: Simon-Weisberg.

Action: M/S/C (Twu/Potter) to edit Item 15 on the list of legislative priorities as follows:

Item 15: Funding for seismic retrofit and home hardening.

Vote: Ayes: Bell, Haycox, Micael, Mirvish, Potter, Shere, and Twu. Noes: None. Abstain: None. Absent: Simon-Weisberg.

8. Officer Elections

Action: M/S/C (Shere/Micael) to elect Sarah Bell as Chair of the Housing Advisory Commission.

Vote: Ayes: Bell, Micael, Mirvish, Shere, and Twu. Noes: Haycox, Potter. Abstain: None. Absent: Simon-Weisberg.

Action: M/S/C (Twu/Shere) to elect Syrak Micael as Vice Chair of the Housing Advisory Commission.

Vote: Ayes: Bell, Haycox, Micael, Mirvish, Potter, Shere, and Twu. Noes: None. Abstain: None. Absent: Simon-Weisberg.

9. Update on Council Items (Future Dates Subject to Change)

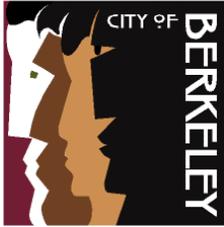
10. Announcements/Information Items

11. Future Items

12. Adjourn

Action: M/S/C (Bell/Mirvish) to adjourn at 10:02 pm.

Vote: Ayes: Bell, Haycox, Micael, Mirvish, Potter, Shere, and Twu. Noes: None. Abstain: None. Absent: Simon-Weisberg.



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

MEMORANDUM

To: Housing Advisory Commission (HAC)

From: Kat Larrowe, Community Services Specialist III and Jiro Arase, Associate Management Analyst

Date: March 5, 2026

Subject: **Annual Action Plan (AAP) for Federal Program Year (PY) 2026 (FY 2027)**

The City of Berkeley is an entitlement jurisdiction which receives federal Department of Housing and Urban Development (HUD) funds. This means that Berkeley receives an annual allocation of Community Development Block Grant (CDBG), Home Investment Partnerships Program (HOME) and Emergency Solutions Grant (ESG) funds. As an entitlement jurisdiction, the City is required to prepare a Five-Year Consolidated Plan detailing how the City will spend all HUD funds.

Housing and Community Services (HCS) staff has prepared the PY 2026 (FY 2027) Annual Action Plan outlining the City's allocation plan for utilizing the CDBG, ESG, and HOME funds for Commission review. The Housing Advisory Commission (HAC) acts as the advisory commission to Council on the allocation of CDBG, HOME, and ESG funds.

During this meeting, the HAC will deliberate, discuss, and provide recommendations to Council regarding the draft PY 2026 (FY 2027) AAP. Following this, the final draft AAP is scheduled to be presented at the April 28th, 2026 Council meeting, which will also serve as a Public Hearing.

The draft AAP will be made available on the City's [HUD Planning and Performance Reports website](#). We will post the draft report approximately three to seven days in advance of the meeting.

Additional Background

HUD regulations mandate that the City of Berkeley submit an AAP for CDBG, ESG, and HOME funds. HUD provides a template for the AAP that guides much of the form and

A Vibrant and Healthy Berkeley for All

content of the document. The PY 2026 Annual Action Plan, spanning July 1, 2026 through June 30, 2027, will outline the City's strategy for achieving the goal of developing and maintaining a viable urban community through the provision of decent housing and a suitable living environment, while expanding economic, health, and educational opportunities principally for households with incomes at or below 80% of Area Median Income.

The PY 2026 AAP is based on goals contained in the City's Five-Year Consolidated Plan (PY 2025 – 2029), which examines housing needs and establishes funding priorities in the areas of affordable housing and services for a wide range of low-income populations. HUD mandates public involvement in AAP creation, necessitating community meetings and public hearings to ensure a collaborative and inclusive approach to the planning process.

Berkeley has not yet received its PY 2026 (FY 2027) entitlement awards; therefore, our AAP is based on estimates from the current year.

The final AAP is due on or around May 2026, after entitlement awards are released from HUD.

HOME Funds

We anticipate a HOME allocation of approximately \$566,445.30 for PY 2026. The City expects to add \$20,000 in HOME program income, for a total of \$586,445.30 in available HOME funds for PY 26.

Staff recommend that the City continue to utilize up to the maximum possible for administration (10% of the grant) and Community Housing Development Organization (CHDO) operations (5%), with the remaining adjustments applied to the Housing Trust Fund program.

ESG Funds

We anticipate an ESG allocation of approximately \$227,452. Staff recommend utilizing the maximum possible for administration (7.5% of the grant), allocating \$6,676 to Homeless Management Information System (HMIS) support, up to 60% be used for emergency shelter/street outreach (\$136,471.20), and that the remainder will be used for rapid rehousing (\$67,245.90).

CDBG Funds

We anticipate a CDBG allocation of approximately \$2,541,165. Staff is projecting receipt of \$600,000 PY 2026 (FY 2027) program income from CDBG-funded activities and anticipates the availability of approximately \$362,424 in earlier unused funds. The anticipated program income and earlier unused funds combined with the anticipated \$2,541,165 HUD award of CDBG funds will give the City a total of \$3,503,589 (estimated) in CDBG funds to allocate for PY 2026.

Staff recommends allocating 20% of the PY26 CDBG funds to the Planning and Administration, up to 17.83% for public services, and the remaining to be distributed to Housing Services and Community Facility Improvements as outlined in the AAP Attachment 1, with the Public Facility Improvements being a flexible line item should the HUD allocation and/or program income and earlier unexpended funds be more or less than anticipated. If there are additional earlier unused funds at the end of PY 25, they will be allocated to the public facility improvement program and up to \$300,000 will be allocated to the Senior and Disabled Rehabilitation Loan Program.

A Unified Local Density Bonus Program For Berkeley

State Density Bonus Law is a powerful lever for creating desperately needed market rate and affordable housing units to address our housing shortage. While it brings major benefits to the city and state, it is a one-size-fits-all policy that lacks the flexibility to adapt to local needs and conditions.

A city like Berkeley, which has demonstrated more openness to new development than others, can innovate on density bonus law by creating a flexible local alternative that provides comparable benefits to developers while tailoring the social and economic benefits for the city to the specific needs of the city and of individual neighborhoods and communities. An innovative local program could serve as a blueprint for a more flexible and effective State Density Bonus Law.

Current Policy Processes Regarding Local Density Bonus

As of February 2026, there are at least three distinct local density bonus proposals at various stages of the policy development process.

Revisiting The Adeline Corridor to Avoid State Pre-Emption

https://berkeleyca.gov/sites/default/files/2026-01/2026_01_27%20SR_%20C-AC%20Density%20Bonus%20Discussion.pdf

At the February 4, 2026 Regular Meeting of the Planning Commission, staff intended to present the commission with a report on the Adeline Corridor, which has tiered development standards, with more height and density allowed for more affordable units.

The staff report raises the concern that under state law, a development might stack a state density bonus *on top of* the local density benefit, whereas the tiered framework was meant to be used *instead of* state density bonus.

The report proposes revising zoning standards to make the intent of the program more clear, and suggests council refer to staff to develop a proper local density bonus program as allowed under state law.

SDBL Benefits For Condos With Full In-Lieu Fee

<https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2026-02-02%20Agenda%20Packet%20-%20Land%20Use.pdf#page=21>

At the January X 2026 meeting of the Agenda and Rules Committee, the committee considered and referred to the Land Use Committee a new proposal from Councilmember Kesarwani to develop a local density bonus program focused on for sale units in multifamily buildings.

Under SDBL, a condo development taking advantage of a density bonus would be required to include the necessary affordable for sale units on site, similar to the requirements for affordable rental units. The Kesarwani proposal allows condo units to take advantage of density bonus provisions while paying the full in-lieu fee under the city's inclusionary housing ordinance.

Proponents claim this proposal would unlock developments downtown that are currently frozen, and would create greatly needed for-sale stock in the city. If effective the policy would raise tens of millions of dollars for the city's Housing Trust Fund.

Objective Standards On San Pablo

https://berkeleyca.gov/sites/default/files/documents/Att4_Public%20Review%20Draft%20of%20San%20Pablo%20Avenue%20Specific%20Plan.pdf

As part of the San Pablo Area Specific Plan, currently in development, the city is proposing a density bonus program that is specific to the Plan Area. The proposal is to offer an alternative to state density bonus, where developers can choose to pay the full in-lieu fee rather than build any affordable units on site. In return, developers agree to abide by certain local objective development standards that would otherwise be avoided via waiver or concession under SDBL.

Council Should Refer A Single Flexible Density Bonus Program

Rather than proceed with three separate density bonus programs - along with however many more council may want to see in the future - council and staff should work to develop a single program that offers the city and developers a menu of options that achieve the city's policy priorities while ensuring that feasible developments are able to proceed.

Council could create a set of options that are available citywide, as well as specific options in specific neighborhoods.

Some options could include:

Rent Stabilization Opt-In

Developers could be given the benefits of a density bonus if they agree that some percentage of units after some number of years be voluntarily subject to the city's Rent Stabilization Ordinance.

Condo Development

A developer who agrees to build for-sale units and pay the full in-lieu fee could receive the benefits of a density bonus per the Kesarwani proposal.

Fewer MI Units, More VLI Units

Under state law, a development that includes a certain number of moderate income units is eligible for a 50% density bonus. Moderate income units rent for near-market rates and impose an administrative burden on both tenants and property owners. The city could offer that same bonus for a smaller number of VLI units, which serve a far more vulnerable population.

Inclusion of Family Units

A developer could be given the benefits of a density bonus by building more 2 and 3 bedroom units. Under SDBL, the affordable units in a building must be similar to the market rate units in a building. The city could allow developers to swap, for example, a 1 bedroom and a 2 bedroom or 1 bed and two studios for 3 bedroom apartment. This would lead to a lower absolute count of affordable units but would create the kind of units that are rare in the city.

Small, Affordable Ground Floor Retail

A developer could be given the benefit of a density bonus by building smaller retail units on the ground floor and promising - via deed restriction or some other long-term, enforceable mechanism - to rent them out to local businesses at affordable long-term rents.

Stackable Density Bonus For HARD HATS / Southside Prevailing Wage Compliance

Recently several projects that came under Berkeley's HARD HATS and Southside prevailing wage requirements were granted concessions under SDBL to avoid those requirements. When HARD HATS was passed, council suggested additional policies to offset increased costs to developers in order to ensure that the city's labor protections did not render new development infeasible. One possibility is that a developer who is eligible for these concessions and forgoes them could be granted an additional density bonus on top of SDBL.

Questions for the Commission:

- Should we be prescriptive in a recommendation about the specific options, or more suggestive of possibilities and allow a policy process to play out?
- Should we address the existing proposals?
 - Endorse the condo density bonus

- Express skepticism about the San Pablo proposal
- How can we make a recommendation that avoids delaying programs that are time sensitive?
 - The condo bonus is meant to unblock stalled developments
 - San Pablo proposal is deep in development.

Attachment 1: DENSITY BONUS LAW What Are Incentives/Concessions and Waivers?
https://scag.ca.gov/sites/default/files/2024-05/density_bonus_law_-_what_are_incentives_concessions_and_waivers.pdf

Attachment 2: Draft San Pablo Plan: San Pablo Avenue Density Bonus Program

Attachment 3: Referral to Establish a Citywide Local Density Bonus Program to Facilitate Lower-Cost Ownership Homes (Condominiums)

Attachment 4: Density Bonus in the Adeline Corridor Commercial (C-AC) Zoning District



DENSITY BONUS LAW

What Are Incentives/ Concessions and Waivers?



Background on Density Bonus Law (DBL)

Originally enacted in 1979, California's Density Bonus Law (Gov. Code §§65915 - 65918) allows a developer to increase density on a property above the maximum set under a jurisdiction's General Plan land use plan. In exchange for the increased density, a certain number of the new affordable dwelling units must be reserved at below market rate (BMR) rents. Qualifying applicants can also receive reductions in required development standards. Greater benefits are available for projects that reach higher percentages of affordability (with unlimited density available for certain transit-adjacent, 100-percent BMR projects).

Besides granting rights to housing and mixed-used developments to increase density, the law provides three provisions that require local governments to grant qualifying projects: 1) incentives (or concessions)¹ that provide cost reductions; 2) waivers of development standards that would physically preclude the development of a project at the density permitted and with the incentives granted, and; 3) reductions in parking requirements.

Project Eligibility and Location

Any housing development that proposes five or more units and incorporates at least one of the requirements below is eligible for a density bonus:

- ▶ 5% units restricted to "Very Low Income"
- ▶ 10% units restricted to "Low Income" rental units or 10% "Moderate Income" for sale units
- ▶ 100% affordable units (excluding manager's units) with a maximum of 20% moderate units
- ▶ 10% "Very Low Income" units restricted for transitional foster youth, disabled veterans, or homeless
- ▶ 20% "Low Income" units for student housing at accredited colleges
- ▶ A senior housing development (no affordable units are required)²
- ▶ An age-restricted mobile home park (no affordable units required)³
- ▶ The project donates at least one acre of land to the jurisdiction for very low-income units, the land has the appropriate permits and approvals, and has access to needed public facilities
- ▶ Projects which include a child care facility

Units must be restricted to their level of affordability for at least 55 years by a recorded document. Eligibility is established by state law. A jurisdiction may not enact or impose local laws that conflict with State law or prohibit what the legislature intends to authorize. In addition, the project can be located anywhere in the jurisdiction. [Gov. Code §65915(b)(1) and §65915(i)]

¹The law uses both "concession" and "incentive" as coterminous terms.

²As defined in Sections 51.3 and 51.12 of the Civil Code

³As defined in Section 798.76 or 799.5 of the Civil Code

What Is the Density Bonus Amount?

The amount of additional units allowed under State law is set on a sliding scale, based upon two factors:

- ▶ The percentage of units in the project that will be set aside as affordable; and
- ▶ The household income category of those affordable units (very low, low, or moderate household income).

What Is an Incentive/Concession?

Usually, a development project must be modified and/or reduced to comply with established objective design standards and other development regulations such as limits on building height, setback, parking, and on-site open space requirements, etc. Concessions and incentives, as defined under State law, allow a developer to deviate from those design standards and/or development regulations when such regulations potentially make the project economically infeasible for the developer to build. Incentives/concessions include “[a] reduction in site development standards or a modification of zoning code requirements or architectural design requirements ... that result in identifiable and actual cost reductions, to provide for affordable housing costs.”

[Gov. Code §65915(d)(1) and §65915(k)]

How Many Incentives/Concessions Can Be Requested?

An applicant may apply for one or more “incentives” for density bonus projects, between one and four, depending upon the number of affordable units in the project – to reduce affordable housing costs. Included here is a table of incentives that can be requested.

In addition to this table of incentives, the DBL allows the granting of one incentive/concession for projects that include at least 20% of the units for lower income students in a student housing development.

[Government Code §65915(d)(2)(E)]

Income Category	% of Reserved Units			
Very Low	5%	10%	15%	Up to 80%
Low	10%	17%	24%	Up to 80%
Moderate	10%	20%	30%	Up to 80%
Senior	N/A	N/A	100%	N/A
Maximum # of Incentives/Concessions	1	2	3	4*

* To qualify for 4 incentives/concessions, a project must reserve at least 80% of the units to lower income households (very low, low, or combination thereof). The remaining 20% may be reserved for moderate income households. Government Code §65915(d)(2)(D).



How Do You Determine Economic Infeasibility?

An appellate court ruled in 2021 (*Schreiber v. City of Los Angeles*) that local agencies cannot require density bonus applicants to submit pro formas or other documentation to prove that requested incentives/concessions are necessary to make the housing development financially feasible. As the court explained, “[b]y requiring the city to grant incentives unless it makes particular findings, the statute places the burden of proof on the city to overcome the presumption that incentives will result in cost reductions.”^{3,4} Thus, incentives are presumed to result in cost reductions, and local governments may either accept this presumption and grant the incentives or overcome this presumption with a showing of substantial evidence to the contrary. A developer is not required to demonstrate on the front end that any requested incentive will result in actual cost reductions. However, is it still a good practice for applicants to reasonably document why the requested incentives will reduce affordable housing development costs. A local government’s other options to deny an incentive are to find on the basis of substantial evidence that the incentive would be contrary to state or federal law, or would have a specific, adverse and unavoidable impact on public health, safety or on a listed historic property.

[Gov. Code § 65589.5(d)(1)]

What Are Waivers?

Waivers are yet another form of assistance under State law, separate from incentives/concessions. A waiver is a reduction or modification of any “**development standards**” and other regulations when those requirements potentially make the construction of the project **physically infeasible**, if not approved. The developer must provide written documentation to justify why the waiver(s) is needed to construct the project. Unlike concessions and incentives, there is no limit in the number of waivers an applicant can request and applicants are entitled to a waiver of any and all development standards that would physically preclude the development at the density permitted and with the incentive(s) granted. [Gov. Code §65915(e)(1) and §65915(e)(2)]

“**Development standards**” includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation. [Gov. Code §65915(o)(1)]

³*Schreiber*, 69 Cal. App. 5th at 556.

⁴Gov. Code § 65915, subd. (d)(4) ([t]he city ... shall bear the burden of proof for the denial of a requested concession or incentive.”).

How Do You Determine Physical Infeasibility?

Waiver requests must be accompanied by sufficient documentation to demonstrate that the usual development standards would physically preclude development of the project with a density bonus. Furthermore, while the developer must justify the need for a waiver, a pro-forma (or other similar analysis) is not required. An example of sufficient documentation is a written explanation of the requested waiver(s) and a waiver exhibit showing the developable envelope remaining once all development standards are met.

[Gov. Code §65915(a)(2)]

Can the Agency Deny a Concession/Incentive or Waiver?

Yes. Nothing in the DBL requires a local government to grant an incentive or waiver that will potentially result in a specific, adverse impact upon public health, safety, the environment or on any property listed in the California Register of Historic Resources.

[Gov. Code §65915(d)(1) and §65915(e)(1)]



Projects in the Coastal Zone

When a density bonus project is proposed in the coastal zone, legislation that went into effect in 2019 struck a balance between the state goals of promoting housing and protecting the coast. Density bonuses, incentives, waivers, and parking reductions are to be permitted so that they are consistent with both density bonus law and the California Coastal Act. Granting of a density bonus or an incentive does not require a general plan, zoning, or local coastal plan amendment.

The purpose of this material is to provide guidance, which agencies and other entities may use at their discretion. This guidance does not alter lead agency discretion in decision-making, independent judgment and analysis, and preparing environmental documents for project or governmental action subject to CEQA requirements. This material is for general information only and should not be construed as legal advice or legal opinion.

Ground Floor Uses

Ground floor use requirements play a critical role in shaping the pedestrian experience, supporting local businesses, and ensuring a vibrant street life. To support the Specific Plan’s goals of a more active, pedestrian-oriented, and economically resilient area, the Specific Plan introduces a revised typology of ground floor types. These categories are designed to respond to different context conditions – such as Node tier – while providing flexibility to adapt to changing demand over time.

LU-P.10 Establish Ground Floor Typologies to Promote Pedestrian-Scaled and Flexible Ground Floors

Establish four ground floor typologies—Storefront, Other Non-Residential, Active Residential, and Live-work—with tailored design standards to support an adaptable and walkable public realm. Prioritize transparency, architectural articulation, and seamless adaptability between commercial uses (*Ground Floor Typologies* in **Appendix E: Objective Design Standards** for applicable standards). Additional ground floor typologies may be added to the objective development standards to achieve the Plan’s vision.

Ground Floor Typologies

- **Storefront Ground Floor:** Designed to allow for more visibility from the sidewalk to support pedestrian-oriented commercial activity, such as restaurants, retail, and certain office types. These standards are designed to ensure compatibility with a wide range of uses to facilitate an easy change of use from retail to restaurant, gym, or similar active commercial or service use. Storefront Ground Floor Design is required within the Nodes (exceptions apply see **Appendix E: Objective Design Standards** Figure ODS.1).
- **Other Non-residential Ground Floor:** Designed to allow for all non-residential uses and provides more flexible Objective Design Standards.
- **Active Residential Ground Floor:** Designed to allow residential units at the ground floor, subject to Objective Design Standards that require a transition or connection from the public sidewalk to a residential unit, including entry patios, stoops, shallow landscaped setbacks, etc.
- **Live-work:** Design to allow spaces for both living and working at the ground floor level, subject to Objective Design Standards.

San Pablo Avenue Density Bonus Program

State Density Bonus law allows developers to increase the allowable residential density of a project in exchange for providing affordable housing within their developments. The law also allows developers to waive, reduce or modify development standards, such as setbacks, design standards, and open space requirements, to accommodate the additional units.

Throughout the Specific Plan’s community engagement process, local residents emphasized housing goals that extend beyond simply increasing unit production. Key priorities included improving housing affordability, ensuring high-quality housing design that fosters social connection, and increased public open space and community gathering areas.

Establishing a San Pablo Avenue Density Bonus Program would provide an alternative to the State Density Bonus within the Plan Area and allow the City to achieve affordable housing production while maintaining greater control over the form and character of development in the Specific Plan Area. Under this program, a project could choose either the State Density Bonus or the San Pablo Avenue Density Bonus, but not both. Selecting the San Pablo Avenue Density Bonus would mean that the project chooses to opt-out of the State Density Bonus, including the rights to some waivers and concessions. This would ensure that the City can offer a clear, locally administered path to additional density while retaining the ability to define which waivers and concessions apply.

The San Pablo Avenue Density Bonus would generate dedicated funding for the City’s existing Affordable Housing Trust Fund, a proven program with a backlog of projects in need of additional funding. By offering a local alternative to the State Density Bonus, the City would still receive an affordable housing benefit, but would maintain control over which waivers and concessions would apply to eligible projects, ensuring that important urban design standards and public realm priorities from this Specific Plan—such as active ground-floor frontages and open space requirements—are protected.

It is worth noting that Berkeley’s Inclusionary Housing policies would continue to apply to all market-rate development, ensuring that every project contributes to affordable housing—either through on-site units or in-lieu fees. Because of these requirements, Berkeley does not rely solely on the State Density Bonus program to create affordable housing. Instead, the San Pablo Avenue Density Bonus would provide an additional pathway for developers to achieve equivalent density while giving the City stronger tools to align new development with community objectives, particularly in housing affordability, urban design, and public realm improvements.

LU-P.11 Establish a San Pablo Avenue Density Bonus Program

Establish a San Pablo Avenue Density Bonus Program by developing an affordable-housing benefit for new residential projects that is exclusively met through paying an in-lieu fee to the City’s Affordable Housing Trust Fund. The following components shall be included in the program:

Program Exclusivity

- A project may utilize only the San Pablo Avenue Density Bonus Program and would be required to waive the ability to use the State Density Bonus for the project.
- Developers must declare their selected program at the time of application, and the selected program’s provisions would govern density, incentives, waivers, and concessions.

Affordable Housing Contribution

- In-lieu fee shall be placed in the City of Berkeley’s Housing Trust Fund equivalent to the City’s inclusionary housing in-lieu fee (currently \$62.83 per square foot of residential floor area).
- Funds shall be prioritized for projects within the Plan Area to support the creation and preservation of affordable housing.
- Fund management and allocation will be determined in accordance with the City of Berkeley Housing Trust Fund and Small Sites Program Guidelines, as amended.

Incentives

- Bonus density, waivers, and concessions under this program shall mirror the structure of the State Density Bonus, with the exception that the City may identify certain standards (e.g., ground-floor design, step-backs, or public realm improvements) that are not eligible for waiver under the San Pablo Avenue Density Bonus Program, such as:
 - Ground floor frontage use requirements, including their corresponding ODS.
 - Medium Development and Mid-Rise Public Open Space Requirement
 - Streetscape Standards
 - Maximum Building Length (ODS)
 - Reduced Massing for Large/High-Rise Buildings (ODS)
 - Vertical Rhythm/Façade Articulation (ODS)
 - Minor Modulation/Massing Breaks (ODS)
 - Ornamental Façade (ODS)
 - Façade Articulation (ODS)



Rashi Kesarwani
Councilmember, District 1

CONSENT CALENDAR

February 10, 2026

TO: Honorable Mayor and Members of the City Council

FROM: Councilmember Rashi Kesarwani (Author), Councilmember Igor Tregub, Mayor Adena Ishii, and Councilmember Brent Blackaby (Co-Sponsors)

SUBJECT: Referral to Establish a Citywide Local Density Bonus Program to Facilitate Lower-Cost Ownership Homes (Condominiums)

RECOMMENDATION

Refer to the City Manager to develop a citywide local density bonus modelled after the state density bonus that would incentivize new condominium development by allowing condo projects to take advantage of the same densities, bonuses, waivers, and concessions available under state density bonus law. Under the local density bonus, however, condo projects would be able to pay the current in-lieu affordable housing fee to the City's Housing Trust Fund for all units, rather than create on-site for-sale below-market-rate condo units—a requirement under state density bonus law that renders larger-scale condo development infeasible.

The fiscal and policy goals of this proposed citywide local density bonus are to help stalled rental residential projects in our downtown reach feasibility as condo projects, which will provide affordable housing in-lieu fee revenue, property tax revenue, serve as an economic force multiplier for our downtown, and provide much-needed ownership opportunities for young families seeking a starter home and aging residents seeking to downsize. Further, the citywide local density bonus should apply to projects that have received a zoning permit since Jan. 1, 2024 or another retroactive date as appropriate to help jumpstart stalled rental development projects.

CURRENT SITUATION AND ITS EFFECTS

At Least Nine Recent Rental Residential Development Projects Are Stalled in Berkeley's Downtown, Sometimes Creating Blight. Currently, there are at least nine rental residential development projects that have received a zoning permit, the initial step that allows a project to apply for a building permit, as shown in Exhibit 1.

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However, only five of these nine projects have received a building permit and none have broken ground due to unfavorable economic conditions. According to a May 2024 residential feasibility analysis for the City of Berkeley, most development prototypes cannot support the current cost of development in today's market.¹ The report states, "This is being driven by increased construction and financing costs that are outpacing projected rental revenue relative to the required rate of return developers must provide to finance a project."

Exhibit 1: Nine Recent Proposed Rental Residential Development Projects in Downtown Have Received a Zoning Permit, But Have Not Broken Ground

Address	Date Zoning Permit Was Received	Number of Proposed Units
2128 Oxford	Oct. 4, 2024	456
2190 Shattuck	April 28, 2023	325
2274 Shattuck	April 22, 2025	277
2015 Blake	Sept. 25, 2023	219
2100 Milvia	July 1, 2025	205
2065 Kittredge ¹	Feb. 22, 2023	189
2037 Durant	June 19, 2024	74
2138 Kittredge	Oct. 20, 2025	66
2210 Harold Way	Dec. 10, 2020	38
Total Number of Proposed Units Stalled		1,849

Source: City of Berkeley, <https://berkeley.buildingeye.com/building>

¹Note: Harold Way Development at 2065 Kittredge has broken ground but is currently stalled.

For the nine proposed projects listed above that received a zoning permit, five projects went on to receive a building permit (2210 Harold Way, 2065 Kittredge, 2190 Shattuck, 2128 Oxford, and 2138 Kittredge) but have not broken ground for various reasons. We note that another three projects not listed above (2113 Kittredge, 1998 Shattuck, and 2450 Shattuck) submitted a pre-application but never received a zoning permit. Some of these stalled projects are creating blighted conditions in our downtown:

- The 2128 Oxford Street stalled project has caused a once vibrant block of small businesses to remain shuttered, with boarded up storefronts and fencing for an extended period;
- 2065 Kittredge project is the site of an unsightly pit of dirt; and
- 2274 Shattuck is the site of the shuttered United Artists Theatres.

¹ Ernst, Margot, "Residential Feasibility Analysis and In-Lieu Fee Recommendations," City of Berkeley Worksession, May 21, 2024, <https://berkeleyca.gov/sites/default/files/documents/2025-02-25%20Item%2014%20Inclusionary%20Housing%20Ordinance.pdf>

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Over Last Five Years, No Largescale Condo Projects Utilizing the State Density Bonus Have Been Built in Berkeley. While many multiunit rental housing developments have recently been added to Berkeley's housing stock, that has not been the case with multiunit ownership developments. Nor have many rental units been converted to condominiums over the same period. In large part that can be attributed to affordable housing requirements compelling developers to either include below-market-rate housing on site, which costs would need to be offset by the construction of additional market rate units, or pay an in-lieu fee that until very recently was costly.² The City's condominium conversion fees are also high which likely impacts the numbers of units converted to ownership opportunities.³ Exhibit 2 shows the numbers of condominiums constructed and/or converted from rental units in Berkeley over the last five years.

Exhibit 2: Number of Condominium Units Constructed and Converted over the Last Five Years in Berkeley

Year	Project Addresses (New Construction Only)	Number of New Construction Units	Number of Converted Rental Units	Total Number of Condo Units
2020	1811 Sixty-Third St (3 units)	7	14	21
	1444 Fifth St (4 units)			
2021	1923 Ninth St (3 units)	6	3	9
	1516 Carleton St (3 units)			
2022	1157 Hearst Ave (4 units)	4	5	9
2023	1519 Fairview St (1 units)	4	10	14
	776 Page St (3 units)			
2024	2421 Ninth St (2 units)	4	2	6
	2323 Eighth St (2 units)			
2025	2403 San Pablo Ave (36 units)*	42	0	42
	805 Jones St (6 units)			
TOTAL		67	34	101

Source: Berkeley Planning Department

*Indicates a private development for the purpose of a group living/ownership situation.

Note: There are two developments (2025 Kala Bagai Way, constructing 48 units, and 3000 San Pablo Avenue constructing 78 units) that have put a condo map on their projects but are being advertised as rental units; they are using a density bonus for those developments though will not be providing ownership units.

² Berkeley's Inclusionary Housing Ordinance In-Lieu Fee was amended February 2025: [https://berkeleyca.gov/sites/default/files/documents/2025-02-25%20Item%2014%20Inclusionary%20Housing%20Ordinance.pdf#:~:text=SUMMARY%20The%20proposed%20updates%20to%20Berkeley's%20Inclusionary,development%20\(2%E2%80%9319%20units\)%2C%20which%20face%20market%20constraints](https://berkeleyca.gov/sites/default/files/documents/2025-02-25%20Item%2014%20Inclusionary%20Housing%20Ordinance.pdf#:~:text=SUMMARY%20The%20proposed%20updates%20to%20Berkeley's%20Inclusionary,development%20(2%E2%80%9319%20units)%2C%20which%20face%20market%20constraints).

³ City of Berkeley Planning and Development Residential Condominium Conversion Packet: https://berkeleyca.gov/sites/default/files/documents/Condo%20Packet%2007-01-2022_Posted%20Online.pdf

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A Local Density Bonus Would Alter the Financial Feasibility of Larger-Scale Condominium Development, Allowing Stalled Rental Projects to Move Forward as Condominium Projects. Establishing a local density bonus for stalled rental residential projects that received a zoning permit since Jan. 1, 2024 could enable these projects to move forward as condo projects. A local density bonus can provide the benefits of the state density bonus (in terms of densities, bonuses, concessions, and waivers) that helps projects reach economic feasibility, while also providing the option to pay the in-lieu affordable housing fee for *all* condo units on site. These funds can then be used to fund 100 percent below-market-rate affordable housing elsewhere in Berkeley, such as at the Ashby East Parking Lot that is now owned by the City. The requirement under the state density bonus to provide below-market-rate units on site for condo developments currently renders these types of projects infeasible, as the for-sale price for below-market-rate condos is too low to be absorbed by the project's market-rate units. Costs for purchasing a condo unit can be considerable as they include mortgage loan payments, homeowner's insurance payments, property taxes and assessments, homeowner's association fees, utilities allowances, insurance premiums, etc., making ownership units much more costly to subsidize than rental units.⁴ A local density bonus exclusively for condo projects could allow some of the stalled rental projects to convert to condo developments, providing the City with affordable housing in-lieu fee revenue that it cannot otherwise realize for stalled rental projects under current economic conditions.

Creating a Local Density Bonus to Jumpstart Stalled Residential Development Provides Fiscal Benefits to City and Economic Development in Downtown. By developing a citywide local density bonus, the City of Berkeley can help to ensure that some of the stalled rental projects can move forward as condo projects, providing significant fiscal benefits to the City. The City would realize affordable housing in-lieu fee revenue to fund 100 percent affordable housing as well as property tax revenue to support baseline City services. Further, new condominiums will bring new residents to our downtown who will patronize downtown small businesses, restaurants, and arts venues—acting as an economic force multiplier.

Condo Development in Downtown Offers Starter Homeownership Opportunities for Young Families and Downsizing Opportunities for Empty Nesters That's Walkable to Amenities and Public Transit. The City's median home price of \$1.3 to \$1.5 million remains out of reach for all but the wealthiest families. This is an issue of public concern because our community must be able to provide long-term viable home options for the families of middle-class workers who serve our community, including police officers, firefighters, teachers, and health care workers. For aging empty nesters

⁴ Meyers|Nave 2024 California Developers' Toolkit: Density Bonus Law, Housing Laws, & Strategies for Success, p. 4: <https://www.meyersnave.com/wp-content/uploads/2024.10-California-Developers-Toolkit-Density-Bonus-Law.pdf>

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living in larger homes in the hills, there are virtually no opportunities to remain in the community and downsize to a smaller home that is walkable to amenities like grocery stores and public transit. A local density bonus for stalled rental projects seeking to convert to condo projects addresses the need to create smaller and more affordable ownership units for those seeking more affordable homeownership opportunities than a single-family home.

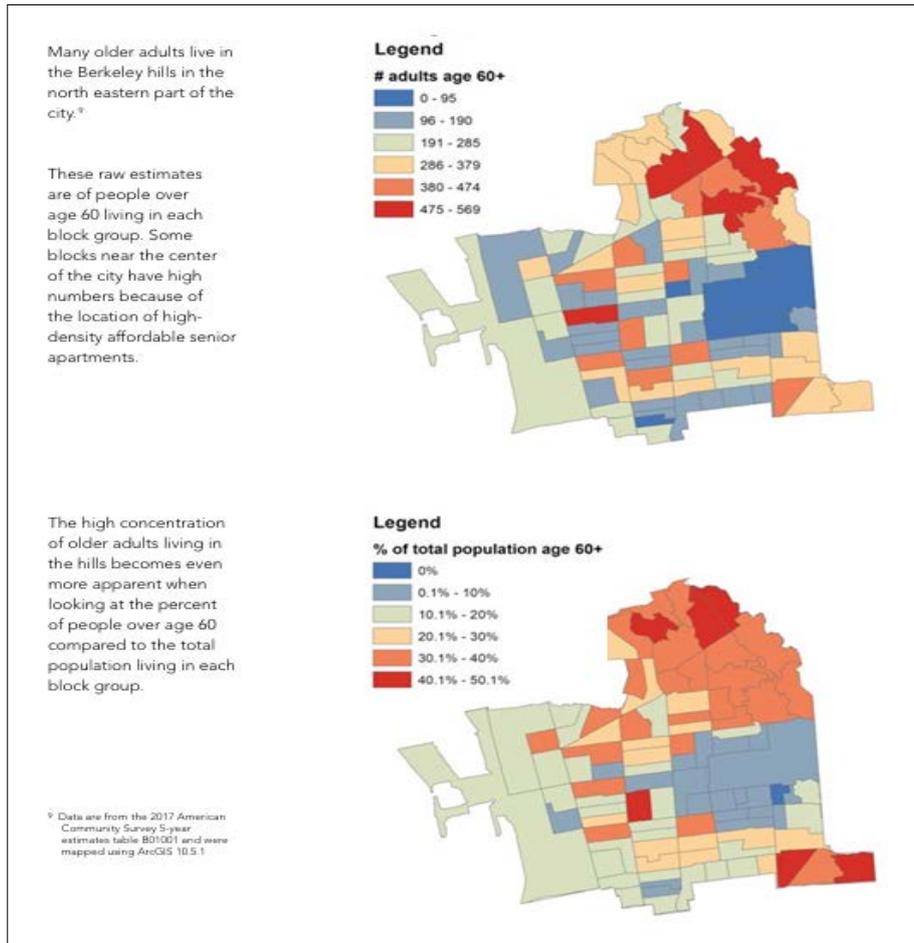
BACKGROUND

The State Density Bonus Is a Powerful Tool to Help Residential Development Reach Feasibility. The state density bonus law allows developers to build more housing units than normally permitted by local zoning standards in exchange for including affordable deed-restricted units on site. Depending on the number of below-market-rate units and the affordability level, developers can increase the project's density. For example, providing 20 percent of units at a very low-income level allows a developer to utilize a 50 percent density bonus. The goal of the state density bonus law is to incentivize the creation of affordable housing by helping a project reach economic feasibility. For each project that utilize a density bonus, local jurisdictions are required to provide up to four concessions to achieve an "identifiable and actual cost reduction" per State Government Code Section 65915(k) as well as an unlimited number of waivers as long as the developer can prove that the project cannot be built without them.

Berkeley Has a Significant Aging Population of Homeowners. Slightly over a quarter of all Berkeley residents are 55 and older.⁵ A high concentration of these older residents live in the Berkeley Hills, as shown in Exhibit 2 below. For aging residents wishing to remain in the community and downsize to a home they can own that is walkable to amenities and public transit, there are few options. Some new senior housing has been developed in recent years, such as Jordan Court for low-income seniors (corner of Oxford and Cedar), The Ivy at Berkeley assisted living and memory care home (corner of Dwight and Milvia), and Elegance Berkeley assisted living (corner of San Pablo Avenue and Addison). However, given the City's significant aging population, more ownership opportunities are needed for seniors seeking to downsize and relocate to a walkable neighborhood as they age.

⁵ State of Public Health in Berkeley Summary Report, Information Report presented at the June 24, 2025 City Council meeting: <https://berkeleyca.gov/sites/default/files/documents/2025-06-24%20Item%2030%20State%20of%20Public%20Health%20in%20Berkeley%20Summary%20Report.pdf>

Exhibit 2: Aging Berkeley Residents Are Concentrated In Berkeley Hills



Source: Age-Friendly Berkeley Action Plan, 2018, : <https://berkeleyca.gov/sites/default/files/2022-01/Age-Friendly-Berkeley-Action-Plan.pdf>

Condo Affordable Housing In-Lieu Fee Has Been Lowered To Be Equal to Rental Affordable Housing Fee, With Potential to Encourage New Condo Development. Historically, the affordable housing in-lieu fee for condo developments has been much higher than the fee imposed on rental projects; it was calculated as 62.5 percent of the difference between the market price for each unit and the below-market-rate price for each inclusionary unit.⁶ In January 2023, the Berkeley City Council modified the affordable housing in-lieu fee to be applied on a square-foot basis, and to be applied equally to rental and ownership units.⁷ Effective

⁶ Klein, Jordan and Warhuus, Lisa. "Citywide Affordable Housing Requirements," Jan. 17, 2023, <https://berkeleyca.gov/sites/default/files/documents/2023-01-17%20Item%2021%20Citywide%20Affordable%20Housing%20Requirements.pdf>

⁷ Klein, Jordan and Warhuus, Lisa. "Citywide Affordable Housing Requirements," Jan. 17, 2023, <https://berkeleyca.gov/sites/default/files/documents/2023-01-17%20Item%2021%20Citywide%20Affordable%20Housing%20Requirements.pdf>

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July 1, 2025, the current in lieu fee is \$62.83 per square foot, with all projects receiving a discount on the first 5,000 square feet.⁸

Oakland, San Francisco, and Hayward Have Implemented a Local Density Bonus To Further Policy Goals. Neighboring jurisdictions have adopted their own local density programs going beyond state requirements to further their own specific policy goals. In Oakland, the Zoning Incentive Program allows additional density beyond what is allowed by the Downtown Oakland Specific Plan Base Zoning in exchange for a variety of community benefits, on-site affordable housing and with the option of paying in-lieu fees.⁹ San Francisco's local density program, HOME-SF,¹⁰ allows more height than the state's density bonus in exchange for 20 to 30 percent of the units being affordable to low and moderate-income families, with 40 percent of the total units being two-bedrooms or larger, in an effort to provide more family-friendly housing. The City of Hayward allows an additional density bonus, incentives, and concessions for housing targeted to special populations, such as large families (3+ bedrooms), projects including universal design features for people with disabilities, seniors, college students, and foster youth to name several examples.¹¹ While this item is somewhat novel in allowing condominium projects to pay an in-lieu fee into our Housing Trust Fund only and not build affordable units on site, these other examples illustrate the flexibility that a local density bonus can provide to address local concerns.

FISCAL IMPACT

The fiscal impacts of this referral would be staff time to draft municipal code updates and implement the referral. The overall fiscal benefits to the City could be notable if we are able to incentivize stalled rental projects to move forward as condo developments.

ENVIRONMENTAL SUSTAINABILITY

Implementing a local density bonus for condo development will help create more infill housing in closer proximity to public transit. Studies show that infill development is an effective strategy for reducing greenhouse gas emissions by reducing vehicle miles traveled when compared to homes created in outlying undeveloped areas.

⁸ Affordable Housing Requirements for Developers, City of Berkeley, <https://berkeleyca.gov/construction-development/permits-design-parameters/design-parameters/affordable-housing#:~:text=Effective%20July%201%2C%202025%2C%20the%20rental%20or,from%20the%20Residential%20Unit%20Floor%20Area%20calculation>

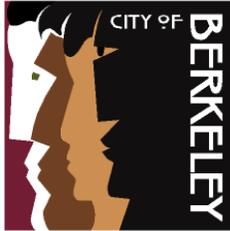
⁹ Hausrath Economics Group Memorandum: Comparative Analysis of Housing Outcomes: Downtown Oakland Specific Plan Zoning Incentive Program and California Density Bonus Law, March 10, 2023: <https://www.oaklandca.gov/files/assets/city/v/1/public-meetings/zoning-update-committee/2023/b-comparing-zip-and-sdb-housing-outcomes.pdf>

¹⁰ San Francisco Planning Department: HOME-SF: <https://sfplanning.org/home-sf>

¹¹ City of Hayward, Hayward Density Bonus User Guide, June 2025: <https://www.hayward-ca.gov/sites/default/files/documents/City-of-Hayward-Density-Bonus-User-Guide-2506.pdf>

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Planning and Development Department
Land Use Planning Division

STAFF REPORT
February 4, 2026

TO: Members of the Planning Commission

FROM: Justin Horner, Principal Planner

SUBJECT: Density Bonus in the Adeline Corridor Commercial (C-AC) Zoning District

RECOMMENDATION

Review the staff report, receive the staff presentation, consider public comments, and provide feedback on policy questions related to density bonus utilization in the Adeline Corridor Commercial (C-AC) zoning district.

BACKGROUND

Adeline Corridor Commercial (C-AC) Zoning District

The Adeline Corridor Commercial (C-AC) zoning district is unique among the City’s zoning districts in that development standards for residential and mixed-use projects vary based on the percentage of affordable units included in a proposed project. Projects that include more affordable units are granted more generous development standards related to height, floor area ratio (FAR), residential density and maximum lot coverage. These variable development standards are summarized in Table 1:

Table 1 C-AC Development Standards

	Less than 14% Affordable (Tier 1)	14% Affordable (Tier 2)	21% Affordable (Tier 3)	25% Affordable (Tier 4)	100% Affordable
Maximum Height					
South Shattuck Subarea	4 stories 45 feet	6 stories 65 feet	7 stories 75 feet	8 stories 90 feet	
North/South Adeline Subarea	3 stories 35 feet	5 stories 55 feet	6 stories 65 feet	7 stories 75 feet	7 stories 80 feet
Maximum FAR					
South Shattuck Subarea	2.5	4.0	5.0	5.5	
North and South Adeline Subarea	2.0	3.5	4.0	5.0	
Maximum Density (du/acre)					
South Shattuck Subarea	120	210	250	300	
North and South Adeline Subarea	100	150	210	250	
Maximum Lot Coverage, Interior Lot					
Both Subareas	60%	90%			
Maximum Lot Coverage, Corner Lot					
Both Subareas	70%	90%		95%	

These different development standards, by providing increased development intensity with the provision of affordable housing, effectively constitute a type of local density bonus program.

State Density Bonus

The State's Density Bonus Law (Government Code Section 65915) was enacted in 1979 to encourage the creation of more housing and address the severe shortage of affordable housing in California. The law allows a housing development to exceed the maximum allowable residential density established for a site by the Zoning Ordinance through the allocation of a specific percentage of deed-restricted affordable housing units included in the project, and can include additional incentives, concessions, and/or waivers to development standards.

State Density Bonus Law defines "maximum allowable residential density" as:

the greatest number of units allowed under the zoning ordinance, specific plan, or land use element of the general plan, or, if a range of density is permitted, means the greatest number of units allowed by the specific zoning range, specific plan, or land use element of the general plan applicable to the project. Density shall be determined using dwelling units per acre.

Using the maximum allowable residential density standard for a particular site, a project applicant develops a "Base Project," which is used to determine the additional development capacity that can be conveyed through the State Density Bonus.

Adeline Corridor Specific Plan

The C-AC zoning district was implemented as part of the adoption of the Adeline Corridor Specific Plan.¹ The C-AC's development standards were intended to create a "supplemental affordable housing incentive unique to the Specific Plan Area that offers a bonus for development projects that provide high levels of affordable housing."

The Adeline Corridor Specific Plan states that any additional density or development capacity pursued through this Adeline-specific affordable housing incentive, or through the State Density Bonus pathway, must be calculated starting with the residential density values for a Tier 1 project. BMC Section 23.204.150 (C-AC Adeline Corridor Commercial District) includes Tables 23.204-43 and 23.204-44, both of which include a note which states "For the purposes of calculating the State Density Bonus the Tier 1 density shall constitute the maximum allowable gross residential density." This reflects the Specific Plan's intent that the Adeline-specific affordable housing incentives "are to be used in lieu of (and not on top of) the State Density Bonus."

In short, the Adeline Corridor Specific Plan does not intend to allow "stacking" of the C-AC zoning district's local density bonus approach with the State Density Bonus.

¹ Adeline Corridor Specific Plan, 2022. <https://berkeleyca.gov/sites/default/files/2022-03/Adeline-Corridor-Specific-Plan.pdf>

DISCUSSION

C-AC's Variable Development Standards and State Density Bonus

The C-AC zoning district's variable development standards have raised interpretive questions as to how the State Density Bonus law intersects with the local ordinance. To avoid state law pre-emption concerns, staff recommend either amending the existing standards or creating an independent local density bonus program as authorized by state law.

HOME-SF and Local Density Bonus

San Francisco's HOME-SF² is an example of an optional local density bonus program for developers constructing mixed-income in certain areas of San Francisco. Under HOME-SF, 20 to 30 percent of the units in a new housing project must be affordable, and 40 percent of the total units in the building must be two bedrooms or larger. In return, density bonuses and zoning modifications (similar to waivers under State Density Bonus law) are provided, allowing project sponsors to accommodate additional affordable units. To qualify for HOME-SF, a project sponsor must attest that they are "not seeking or receiving any additional state or local development bonuses." That is, they must choose between HOME-SF or the State Density Bonus.

POLICY QUESTION FOR THE PLANNING COMMISSION

Staff is seeking direction from the Planning Commission on the following questions:

1. Should the C-AC zoning standards be revised to clarify that the development standards for a Base Project are determined by the Tier for which the project qualifies? Revising the standard:
 - *would* require an amendment to BMC 23.204.150, removing the notes pertaining to Tier 1 standards; and
 - *could* require an amendment to the Adeline Corridor Specific Plan to revise those sections that refer to Tier 1 standards serving as the development standards for any project proposing to use the State Density Bonus.
2. Shall City staff explore the creation of a local density bonus program that includes benefits like those provided in the C-AC zoning district standards, and which exists as a stand-alone alternative to the State Density Bonus, similar to HOME-SF?

ENVIRONMENTAL REVIEW

There are no identifiable environmental effects or opportunities associated with this informational report.

² <https://sfplanning.org/home-sf#about>

Density Bonus and the C-AC Zoning District
Staff Report

Planning Commission
February 4, 2026

CONTACT PERSON

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