Supplemental Communications

(Received before 12pm July 17)

Supplemental Communications

From: BPEorg <bpeorg2024@gmail.com>
Sent: Tuesday, July 16, 2024 6:10 PM
To: Planning Commission
Subject: Fwd: Biolabs zoning change @ Planning Commission 7/17/24

Greetings Planning Commission,

I attended the May 1st meeting of the Planning Commission as a member of Berkeley Public Eye and though I wasn't expecting to participate in Public Comment, when I heard the presentation on BioLabs and the change in zoning regulations I had to speak in opposition. My main point was that expanding labs into West Berkeley would increase rents landlords would charge and adversely affect small manufacturing enterprises such as Adams and Chittenden Scientific Glass which rents their space.

Since then I have researched biolabs and wrote the letter below and sent it Friday, July 12, 2024, to Berkeleyside. **My major concern is that inspection of labs was never mentioned in the Planning Department's presentation.**

Labs cannot be put next to residences and retail without a rigid inspection plan in place. AND that sort of inspection protocol is not currently in place anywhere. And the City of Berkeley is unlikely to create a Department of Biomedical Inspection or pay out millions of dollars (is it ever less than millions for contracted services?) for third party inspections.
-bernard (BPE)

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Dear Berkeleyside Editor,

A change in zoning regulations regarding the expansion of BioLabs throughout Berkeley will be discussed at a Public Hearing of the Planning Commission (PC) Wednesday, July 17 at 6pm.

The proposal before the PC would place **biolabs next to homes and retail businesses.** The current zoning regulations require a **500ft distance** be maintained from residences and businesses.

This is a significant change which should be widely discussed and publicized,

Berkeley Public Eye posted a complete video of the May 1st meeting of the Planning Department's (PD) presentation which can be viewed here --> https://www.youtube.com/@BerkeleyPublicEye2024

The reason for changing the current zoning regulation is the City administration's desire to compete with nearby cities for UCB's spin-off start-ups labs. UCB is expanding their biolab footprint beyond the campus with their Innovation Center planned for the space (plus additional land) currently occupied by the abandoned administration building, University Hall, at the corner of University and Fulton. This expansion into the commercial zone of downtown would put into question the current zoning code regulation of labs.

Biolabs are designated by a biosafety level from BSL- 1 through 4.

The PC proposal would apply to BSL-2 labs. Here is the definition of BSL-2 labs:

Biosafety level 2 (BSL-2) covers all laboratories that work with agents associated with human diseases — that is, pathogenic or infectious organisms — that pose a moderate health hazard. Common examples of agents found in a BSL-2 lab include equine encephalitis viruses, HIV, and staphylococcus aureus (staph infections).

BSL-2 labs are required to maintain the same standard microbial practices as BSL-1 labs, as well as enhanced measures due to the potential risk the aforementioned microbes pose. Personnel working in biosafety level 2 laboratories are expected to take even greater care to prevent injuries, such as cuts and other breakage to the skin, as well as ingestion and mucous membrane exposures.

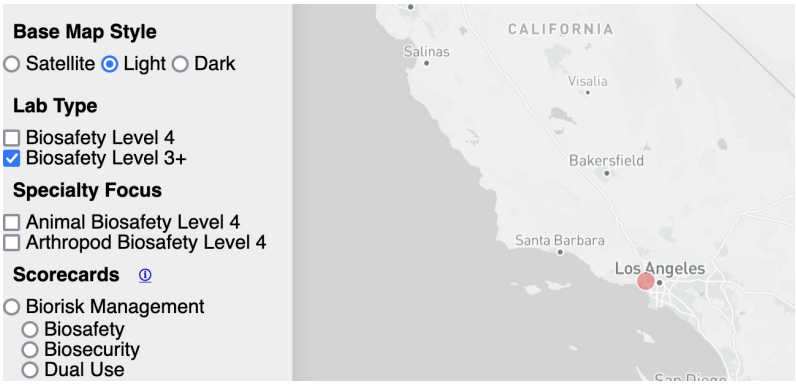
In addition to the safety protocols established for BSL-1 labs, BSL-2 labs are subject to the following safety controls:

- The use of PPE, including lab coats, gloves, eye protection, and — in some cases — face shields
- All procedures that could cause infection from aerosols or splashes must be performed within a biological safety cabinet.
- Decontamination of infectious materials prior to disposal, generally through the use of an autoclave
- Self-closing, lockable doors
- Access to a sink and eyewash station
- Biohazard warning signs

Access to a biosafety level 2 lab is far more restrictive than to a biosafety level 1 lab. Outside personnel, or those with an increased risk of contamination, are often restricted from entering the area while work is underway.

There are numerous BSL-2 labs on the campus. In fact, there are three much more restricted BSL-3 labs on campus. **CA Public Health has 17 BSL-3 labs throughout California, three in Richmond, CA alone.**

Not to get into the weeds here, but there are also BSL-2+ labs as there are also BSL-3+ labs.
The Planning Department in its presentation stated that there is only ONE BSL-3 lab in Califonia when in fact their reference was to a chart that indicated only one BSL-3+ lab in SoCal!



BSL designations are only a **reference to expectations of safety procedures - the real issue is inspection.**

The lack of inspection in China's Wuhan Lab - a BSL-2 lab near the "wet" market - led to the catastrophic disasterous leak the world experienced four years ago.

While we can be assured that UCB inspections are rigid for their campus labs, we cannot be so assured that start-up private labs off campus will have those same standards.

Does the City of Berkeley have a team to inspect biomedical labs?

Certainly the City failed to inspect restaurants, a more straightforward type inspection, because of a staff shortage, as was recently reported.

Furthermore, do nearby cities with less restrictive zoning measures regarding labs have inspection teams?

Federal Inspections of labs is mainly reactive to a complaint. With the massive expansion of biomedical labs after Covid and the increase in venture capital into this sector, it is highly unlikely that the Federal Government has increased its inspection staffing. (When I called the CDC in Atlanta regarding their inspection program the phone listed on their website was no longer in operation and no new phone number was provided!)

An excellent review of the issue of expanding labs throughout Berkeley can be found here:
https://www.berkeleydailyplanet.com/issue/2024-06-01/article/50712

I believe that the public needs to understand the consequences of a drastic change in zoning which would require a complete public discussion at a special public meeting.

I hope Berkeleyside will contribute to that discussion by inquiring into the Planning Department's proposed zoning changes.

Thank you,
Bernard Marszalek
510 693 5760

Supplemental Communications

From: Zelda <zjb1731@comcast.net>
Sent: Wednesday, July 17, 2024 6:11 AM
To: Planning Commission
Subject: for public record of PC's July 17 meeting, Item 11

Note to Planning Commission Secretary: Please post the attached in the Planning Commission's Public Record as comment on Item 11 in the commission's July l7 agenda. I previously sent a link to the article; this is the full text. Thank you. Zelda Bronstein

Biolabs in Your Backyard?
by Zelda Bronstein
Berkeley Daily Planet, June 6, 2024
Berkeley City Hall's efforts to enable the University of California's expansion in Berkeley have taken a new turn. Having already facilitated the school's colonization of residential areas in Southside and Downtown, Berkeley city officials are now trying to expedite UCB's appropriation of Berkeley's commercial districts, as well as industrial zones in West Berkeley.

On June 1, the city Planning Commission reviewed a draft of zoning amendments that would permit with a Zoning Certificate (no public hearing) Research and Development (R&D) businesses, including biolabs, under 20,000 square feet in West Berkeley, as well as on several commercial corridors (University, San Pablo, and Telegraph) that back up on residential neighborhoods. Staff also proposed revising or removing the regulation of Biological SafetyLevel (BSL) organisms from the Zoning Ordinance. (See Item 10 on the agenda. A video of the meeting and a transcript of the proceedings have been posted on the just-launched Berkeley Public Eye website.)
According to the June 1 staff report, the impetus for the proposed changes comes from a March 2022 referral from the council entitled "Keep Innovation in Berkeley," which is attached to the staff report. Authored by now-former Councilmember Rigel Robinson and co-sponsored by Councilmember Terry Taplin, Mayor Jesse Arreguín, and now-former Councilmember and now mayor candidate Kate Harrison, the referral was designed "to provide relief from regulations that are 'inhibit[ing] innovation in Berkeley.'"

Translation: Planning staff report that R&D startups founded by UC professors and graduate students are having a hard time finding Berkeley space "that meets their operating needs." Companies "have grown out of their facilities on the UC Berkeley campus or in local incubators and coworking spaces" but still want to be close to the "talent, facilities and entrepreneur support programs" on campus and/or at Lawrence Berkeley National Laboratory. If they can't find such space in Berkeley, they will go to "[n]eighboring jurisdictions, including Oakland, Emeryville, San Leandro, and Alameda," that "have a wider selection of eligible real estae opportunities. Updated zoning codes which permit R&D uses and streamlined permitting processes will give the City of Berkeley a competitive advantage for business retention and attraction."

Deregulating biolabs
Most concerning is the proposed "relief from regulations" of biolabs smaller than 20,000 square feet. The staff report explains:

"Biological Safety Levels (BSL) are define by the Centers for Disease Control (CDC) and the National In-Istitute of Health (NIH) to prescribe the work practices, engineering controls, personal protect equipment, and facility requirements for working with biological agents in a lab setting."
There are four levels of safety. "The lower the number, the lower the risk....[T]he factors considered in the rating include the nature of the work conducted and the infectivity, severity of disease, and transmissibility associated with the biological agents used in the lab."

BSL-1 labs present minimal risk and thus are "not required to be isolated from surrounding facilities." BSL-2 labs, which "are ubiquitous on research university campuses such as UC Berkeley," must include enhanced safety measures. The staff report claims that there is only one BSL-3 lab in California.

Currently, the Berkeley Zoning Ordinance prohibits "Commercial or physical or biological laboratories using Class 3 organisms" in the Mixed-Use Light Industrial (MU-LI) district in West Berkeley. It allows the use of Class 2 organisms, i.e., BSL-2 labs, "only in locations at least 500 feet from a Residential District or a MU-R [Mixed Use-Residential] district in West Berkeley."
City staff reviewed the zoning ordinances for nineteen other Bay Area jurisdictions (p. 11), "as well as cities across the country that support a broad range of R&D uses, such as Sacramento, San Diego, and Cambridge," and "found that the City of Berkeley's regulation of BSL activities is more restrictive than all of these jurisdictions." (Fremont, offered as a model for Berkeley in the council referral, doesn't appear in the staff's list.) Most of the nearby cities "do not note BSL at all in their zoning ordinances." Moreover, UC Berkeley "has many labs utilizing class 2 organisms within 500 feet from other types of buildings, including student housing and classrooms, and has not encountered safety problems with such co-location."
We are told that the "West Berkeley Plan includes a policy to 'periodically review the City's regulation of biotechnology to assure that it both meets City regulatory objectives and does not unnecessarily interfere with the creation and expansion of biotechnology firms." We are not told, however, whether such reviews have actually taken place, how often, and with what outcomes.

Also missing from the staff report is information about exactly any of the twenty-two referenced cities allow BSL-2 biolabs. It's one thing to permit such facilities in, say, Oakland, San Jose, or South San Francisco, all of which are much larger places than built-out Berkeley. Do they allow BSL-2 biolabs next to residential neighborhoods? What about the smaller referenced jurisdictions, such as Belmont and Millbrae?

Killing the street
What makes commercial streets lively are businesses with interesting objects or activities in their windows—typically retail establishments. At the May 1 meeting, staff noted R&D startups are usually working on projects whose details are secret. It follows that they don't want the public peering into their spaces. The shades will be drawn. Promoting the location of such businesses on Telegraph, San Pablo, and University will deaden the ambiance of those streets.

Commercial and industrial gentrification
Also unmentioned by staff was the effect that R&D business would have on rents. That's long been an explicit issue in West Berkeley. As stated in the Zoning Ordinance, the purposes of the Mixed-Use Light Industrial (MU-LI) District include:

3. Encourage development of an area where light manufacturers can operate free from the economic, physical and social constraints caused by incompatible uses;

and

4. Encourage the creation and continuation of well-paid jobs which do not require advanced degrees.

The stated market for R&D expansion is people with advanced degrees—UC professsors and graduate students. Their start-ups can pay rents that light manufacturers, who include artisans, cannot afford. Encouraging their start-ups to locate in West Berkeley will increase the economic constraints on the town's surviving light manufacturers and artisans, few of whom own their buildings.

And what about rents on the commercial corridors? What can retailers, especially independent retailers, afford? How do those rents compare to the rents that R&D start-ups can make?

City staff didn't ask these questions. Instead, their major concern, as stated in the penultimate sentence of the staff report, is to foreclose "the possibility that Berkeley's additional limitations on laboratory uses may put the city at a competitive disadvantage compared to nearby jurisdictions that do not supplement existing regulations with city-specific regulations."

The question isn't what other cities are doing. It's why they're doing it, and whether their rationales are valid. Again, neither staff nor the council raised that point.

Instead, we're told that having more biolabs and other R&D businesses in town will "create new wealth for our community," a claim followed by the statement that "in 2023 alone, 84 Berkeley companies raised $840 million of

venture and seed capital and 11 companies received nearly $17 million in federal and state government grants for R&D." (p. 12). Exactly how this "bring[s] economic benefits to the economy citywide" is never specified.

The real goal here is to continue remaking the city of Berkeley in the image of UC.

On June 26, the commission was scheduled to hold a special meeting to conduct a public hearing on a draft West Berkeley Research and Development Zoning District and accompanying EIR, but as of June 5, the agenda had not been published. Now that meeting has been postponed, or perhaps cancelled.

Supplemental Communications

From: Alfred Twu <alfredtwu@gmail.com>
Sent: Wednesday, July 17, 2024 8:00 AM
To: Planning Commission
Subject: Comments on the R&D Zoning Proposal
Attachments: Keep Innovation in Berkeley comments - Alfred Twu.pdf

Hi Commission Staff,

Please share with the other Commissioners the attached.

I will also bring copies to the meeting.

Thanks
Alfred

Comments on R&D Zoning Changes

The Keep Innovation in Berkeley ordinance can lead to some of the largest changes yet in Berkeley, by creating a major R&D job center that could have more jobs than downtown Oakland.

Benefits:
- Allows startups to stay and grow in Berkeley.
- Would bring in lots of tax revenue.

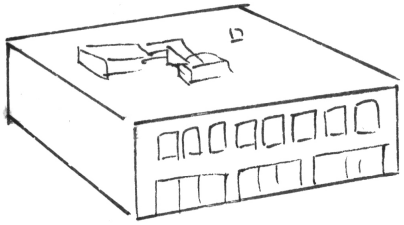
Impacts:
R&D will take over downtown.
- Experience of other universities shows that R&D wants to be next to campus.
- R&D is the most profitable use with the highest rents.
- Mixed use R&D buildings that combine R&D with housing do not exist. The financing, functions, and building code requirements do not mix.

Major increase in housing demand:
- If downtown fills up with R&D, will need 4 more downtowns of housing to balance out the housing demand.

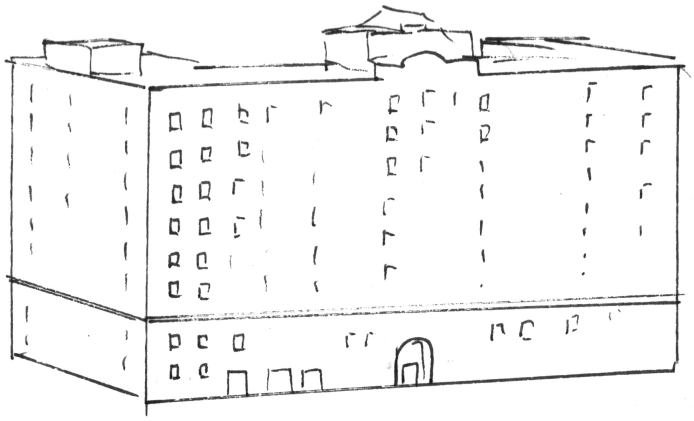
Comparisons:
- Cambridge, Massachusetts has a lot of R&D jobs downtown, highrise housing along major streets and near transit, and Middle Housing apartment buildings in most of the city.
- Palo Alto, California has a large R&D area but is mostly single family zoning, has some of the highest housing costs in the world.

Recommendations:
- Implementation of Keep Innovation in Berkeley should be after the passing of Middle Housing.
- Corridor Zoning Updates will need significant density increases, especially for North Shattuck.
- Use Cambridge as an example, but will need more housing density than Cambridge, as Cambridge has more jobs than homes and high housing costs similar to Berkeley.

R&D space creates large demand for housing



20,000 square foot R&D building
2-story building on a 100'x100' lot
100 people working inside



100-unit apartment building

Comparison: Berkeley & Cambridge

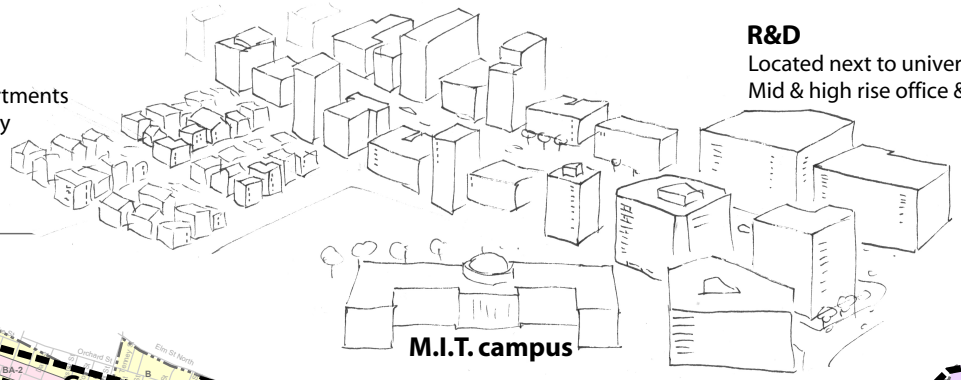
Berkeley	Cambridge
City Population: 124,300 City Land Area: 10.4 square miles	City Population: 118,400 City Land Area: 6.4 square miles
45,000 students at UC Berkeley	33,000 students at MIT & Harvard
R&D Limited	R&D Large scale - Kendall Square is a major biotech hub
Residential Development - High rises downtown - Mid-rise along some corridors - Houses and duplexes elsewhere	Residential Development - High rises downtown - High rise and mid rise along corridors - Middle housing elsewhere (3 story)

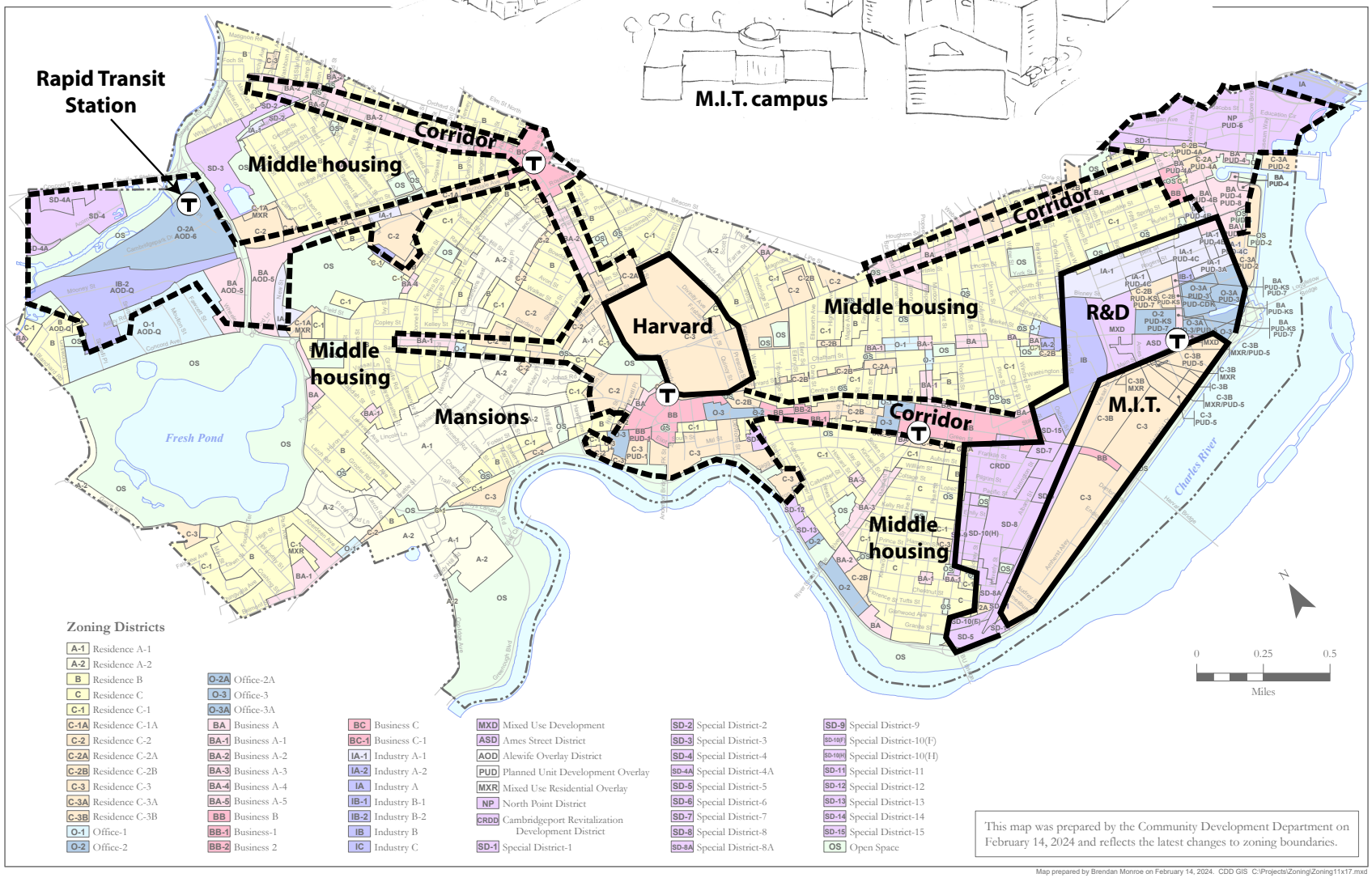
Cambridge, Massachusetts

Corridor
Mid & high rise housing over shops

Middle housing
Houses & 3-story apartments
Covers most of the city

R&D
Located next to university.
Mid & high rise office & lab.





Cambridge, Massachusetts