

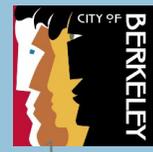


Amendments to BMC 22.16 Development Agreement Procedures

Item 10 - Presentation, Planning Commission

September 4th, 2024

Uttara Ramakrishnan, Associate Planner



Agenda

- I. Background
- II. Amendments
- III. Recommendation
- IV. Questions & Discussion

I. Background

- What is a Development Agreement?
- History of DA's in Berkeley
- Purpose

What is a Development Agreement?

- **Contract Between Public Agency & Sponsor:** Governs land use in a specific area
- **Site-Specific Standards:** Must align with local land use policies, freeze existing zoning
- **Mutual Benefits:** Assurance for the sponsor; potential city benefits like off-site improvements
- **Risk Reduction:** Secures certain rights for the sponsor
- **Elective Process:** Both parties must agree to negotiate

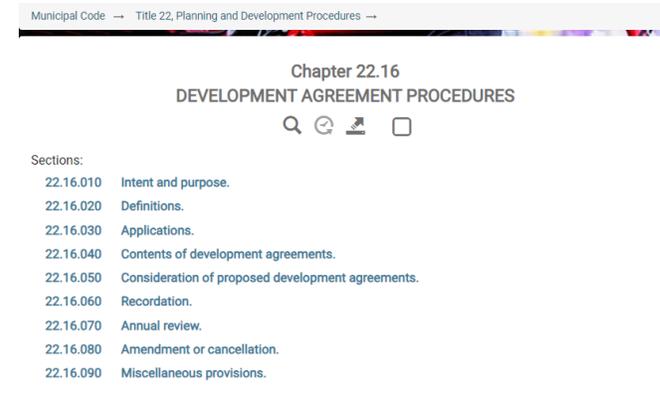


History of DA's in Berkeley

- **Cal Gov Code § 65864 – 65869.5 and BMC 22.16**
- **Bayer:** Berkeley's long-term DA with Bayer Pharmaceuticals for West Berkeley campus
- **BMC 22.16:** “Development Agreement Procedures” adopted in 1991
- **Not Used:** No new DAs since 1991 due to ordinance complexity and additional local requirements



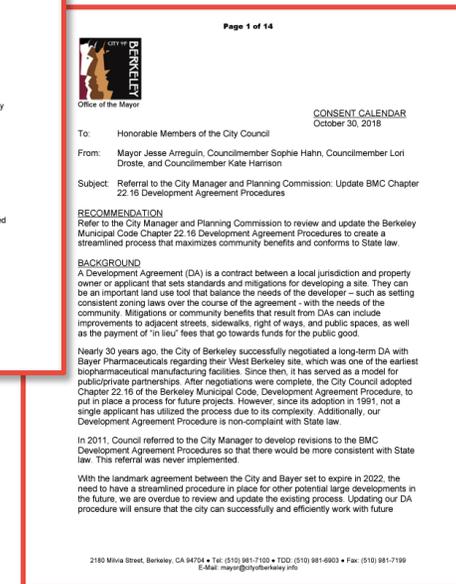
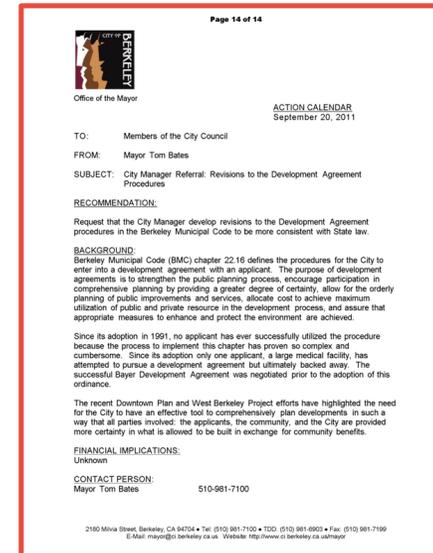
Credit: John Metcalfe for Berkeleyside



Purpose

- Addressing two City Council referrals:
 - 2011: Mayor Tom Bates
 - 2018: Mayor Arreguin & Councilmembers

“Updating our DA procedure will ensure that the city can successfully and efficiently work with future applicants to complete comprehensive plans for large projects, resulting in maximum community benefits and positive impacts to our economic development.”



II. Amendments

- BMC vs. State Law on DA's
- Ordinance Amendments
- Neighboring Jurisdictions

BMC vs State Law on DA's

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Topic	BMC	State Law
Deciding whether DA is appropriate	Requires City Manager to get PC and CC approval for appropriateness of DA entitlement	Does not require appropriateness approval of DA entitlement



**Article 2.5:
Development
Agreements
Cal. Gov. Code §**

65864 - 65869.5

BMC vs State Law on DA's

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1	Deciding whether DA is appropriate	Requires City Manager to get PC and CC approval for appropriateness of DA entitlement	Does not require appropriateness approval of DA entitlement
2	Before negotiation starts	Mandates community workshops and public notifications	Not required by state



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BMC vs State Law on DA's

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2	Before negotiation starts	Mandates community workshops and public notifications	Not required by state
3	Additional Commission Reviews	Requires PC, CC; recommends ZAB, DRC, and LPC conduct public hearing	Requires PC & CC public hearings



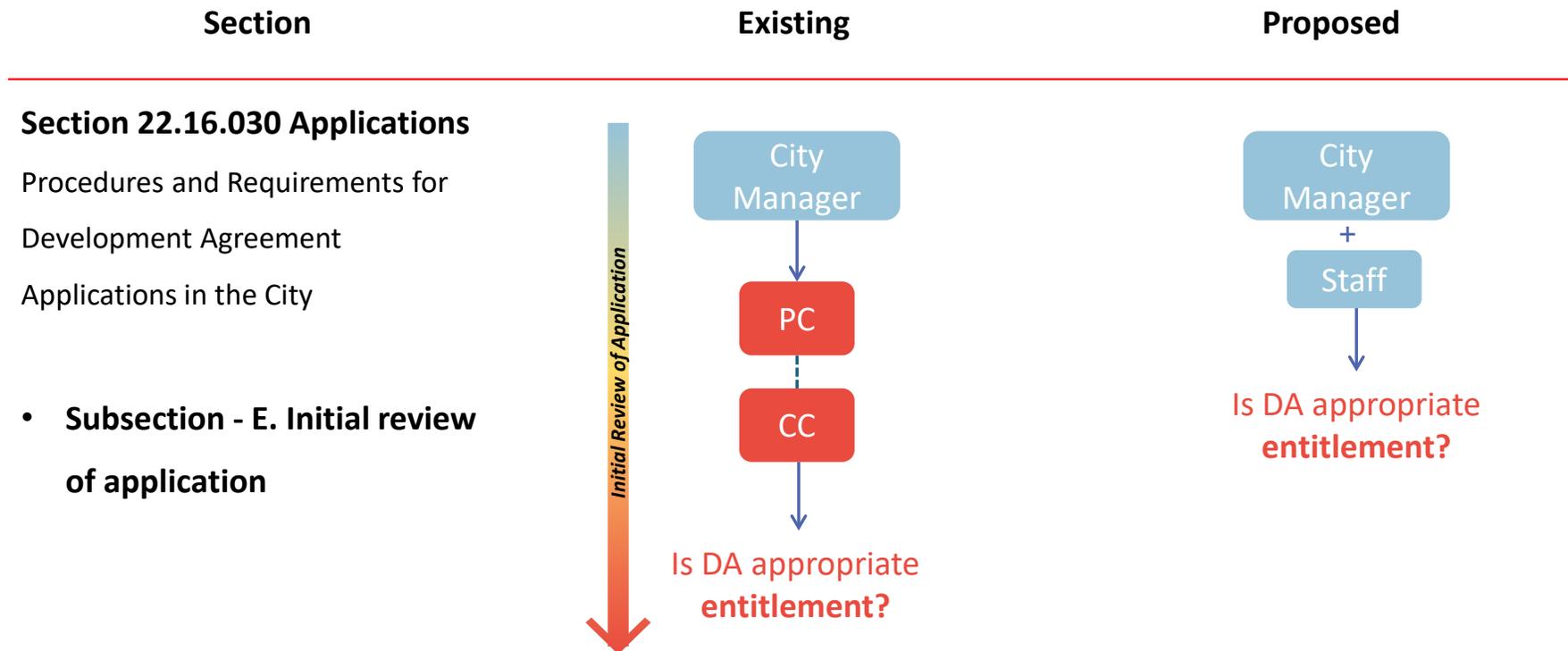
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Ordinance Amendments

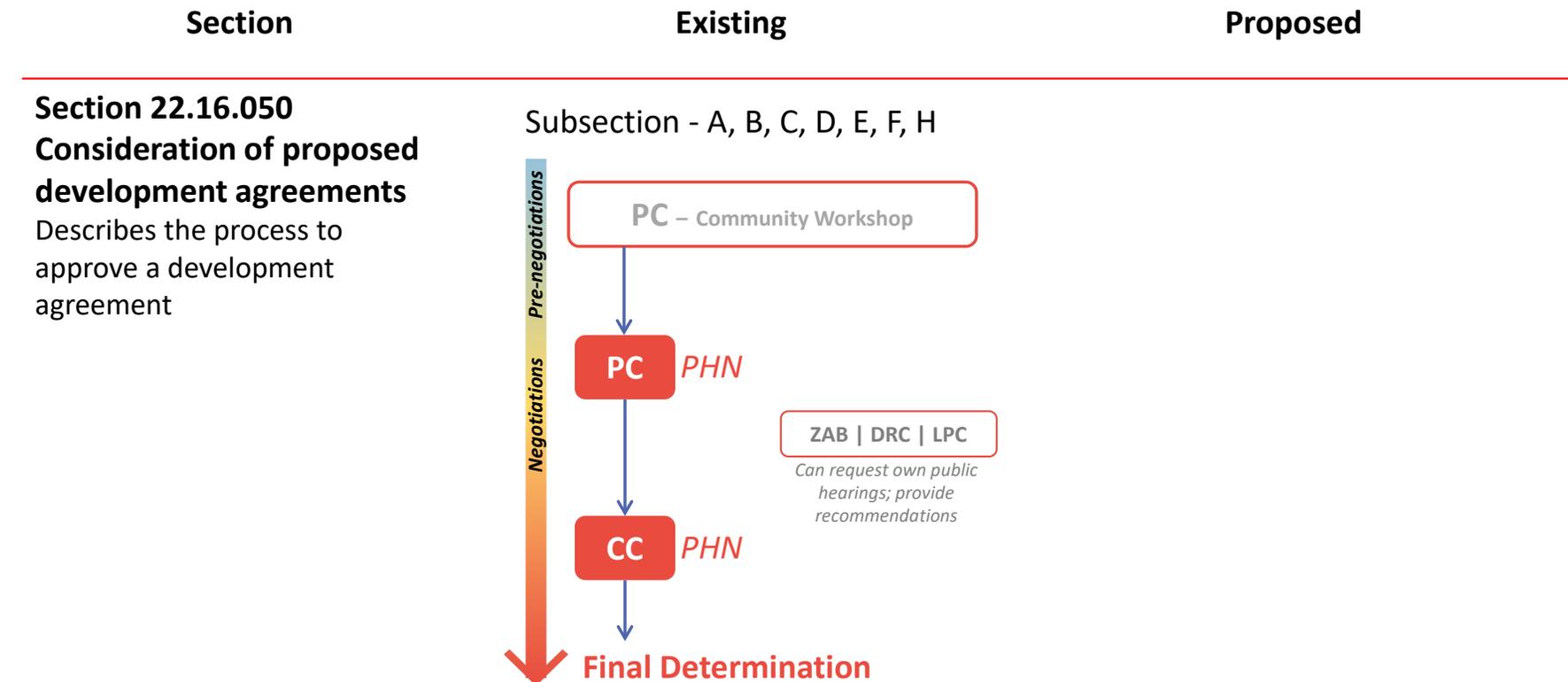
Section	Existing	Proposed
<p>Section 22.16.030 Applications Procedures and Requirements for Development Agreement Applications in the City</p> <ul style="list-style-type: none">• Subsection - E. Initial review of application	<pre>graph TD; CM[City Manager] --> PC[PC]; PC -.-> CC[CC]; CC --> Q[Is DA appropriate entitlement?];</pre> <p>Initial Review of Application</p>	

Ordinance Amendments

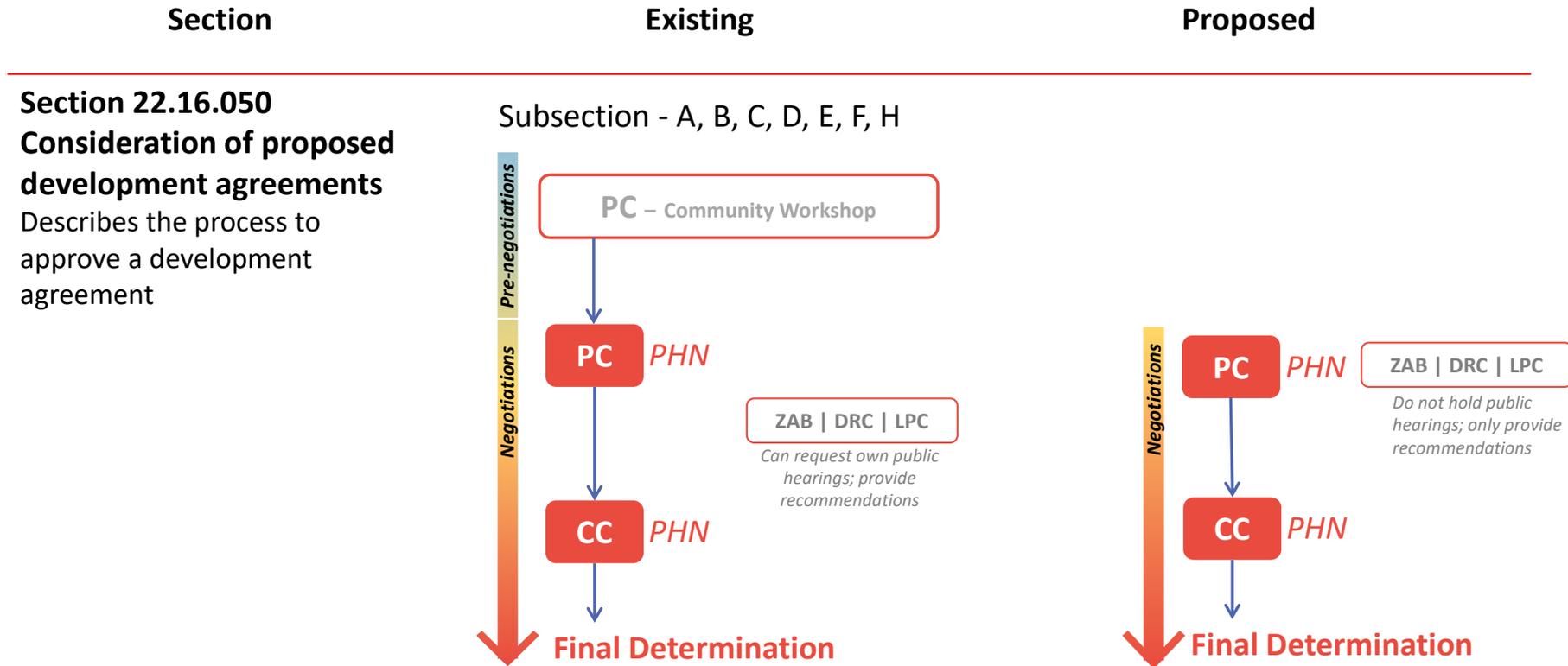


Internal

Ordinance Amendments



Ordinance Amendments



Ordinance Amendments

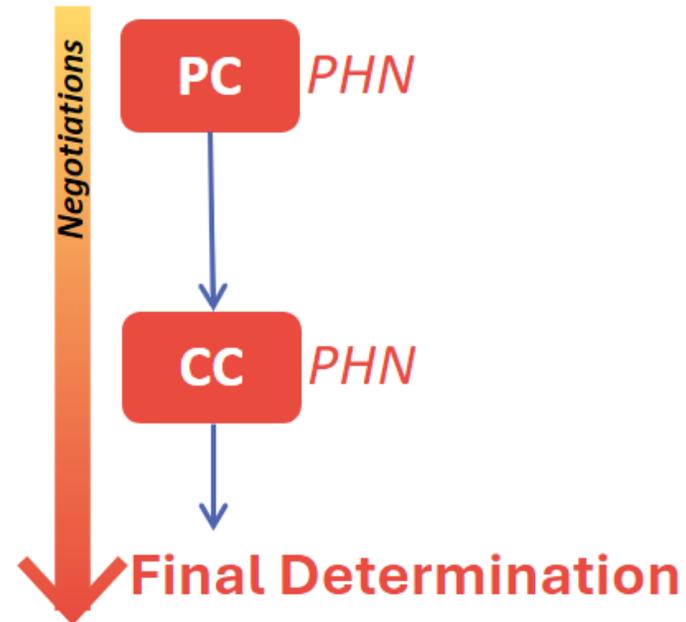
Section	Existing	Proposed
<p>Section 22.16.070 Annual review (Annual Review, Amendment, and Cancellation Procedures for Development Agreements)</p> <ul style="list-style-type: none">• D. Appeal of Determination	<p>Within ten days after issuance of a finding of compliance or a finding of noncompliance, any interested person may file a written appeal of the finding with the City Council.</p>	

Ordinance Amendments

Section	Existing	Proposed
<p>Section 22.16.070 Annual review (Annual Review, Amendment, and Cancellation Procedures for Development Agreements)</p> <ul style="list-style-type: none">• D. Appeal of Determination	<p>Within ten days after issuance of a finding of compliance or a finding of noncompliance, any interested person may file a written appeal of the finding with the City Council.</p>	<p>Edit to clarify who can appeal – a person who has submitted written or oral comments at either PC or CC public hearings</p>

Neighboring Jurisdictions

- General Process in Oakland, Emeryville, Richmond, Alameda



III. Next Steps

- Recommendation

Recommendation

- Conduct a public hearing
- Adopt a resolution
- Make a recommendation to City Council





IV. Questions & Discussion

Thank you!

E-mail questions to - Uttara Ramakrishnan, Associate Planner
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