

The Berkeley Architectural Heritage Association



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## Editorial, The Urban Observer, February 2026 – Part 1<sup>1</sup>

### Why Are Developers Demolishing Buildings... and Then Doing Nothing? Understanding Berkeley's New Wave of "Entitle, Demolish, and Stall"

Across Berkeley, residents are seeing the same troubling pattern: beautiful buildings, useful housing, and busy retail blocks are demolished, lots are cleared, permits are granted ... and then nothing happens. No construction. No new housing. Just fenced-off dirt. It's not your imagination, and it's not a coincidence. This is a new development strategy, shaped by state law, financial markets, and the rise of institutional investors; it has very little to do with actually building the much-promised housing.

Here is what is most likely going on, and why preservationists and community members are increasingly alarmed.

#### A. SB 330 Turns Land Into a Financial Product

Under California's SB 330 (the "Housing Crisis Act"), once a developer files a preliminary application, the rules governing the property are frozen: zoning, height, density, fees, and design standards. This freezing dramatically increases the land's value – even if nothing is ever built – by eliminating regulatory risk for future buyers. An SB 330 filing is not just a housing application. It is a land-value enhancement tool.

For most of American history, people assumed a deed was simply a document that transferred land from one owner to the next. But deeds have always carried a

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second function: they are investment instruments. In the 1980s, for example, waves of foreign investors purchased California real estate not to live in it or improve it, but to hold the deeds as appreciating assets—often leaving the properties empty or neglected while they waited for values to rise. Their profit came from the deed itself, not the land’s use. By the 2000s, deeds were increasingly encumbered by mortgage liens, turning them into collateral within a much larger financial system. Homeowners could not sell without satisfying the lender’s claim, and those mortgage-encumbered deeds were then bundled into complex financial products. When the housing bubble burst, the collapse of those mortgage-backed securities triggered mass foreclosures, stripping owners of their deeds entirely. In each era, the deed functioned less as a record of ownership and more as a vehicle for financial extraction.

There is growing recognition that California may be experiencing a new form of speculative investment cycle — whether driven by design or by policymakers who believe they can legislate housing prices into submission. Governor Newsom has complained that “investors are crushing the dream of home ownership and forcing rents too damn high for everybody else”.<sup>2</sup> Whatever the motivation, the effect is the same: these policies are reshaping Berkeley’s built environment, enriching intermediaries who profit from trading paper rather than building homes, and failing to deliver the housing outcomes the public has been promised.

## **B. Demolition Makes Land Easier to Sell**

Once a building is demolished, the parcel becomes what investors call a “clean site.” A clean site has no tenants, no relocation obligations, no rent control, no habitability or maintenance issues, no code enforcement risk, and no historic-resource arguments. A cleared lot with SB 330 rights attached is a highly marketable asset, even if the developer never intends to build.

Berkeley residents have also noticed that SB 330 applications often coincide with lot aggregation — multiple parcels purchased in a row, structures demolished, and merged into one large site. A single large parcel is far more valuable to investors than several small ones.

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<sup>2</sup> There is bipartisan support for restricting large corporations from monetizing California single-family houses for investment purposes. Quote from Governor Newsom, CBS News 8, January 12, 2026.

### **C. The Real Money Is in Flipping Entitled Land — Not in Construction**

Developers, planning staff, and elected officials often claim that projects are “stalled for macroeconomic reasons” and that construction will resume when interest rates fall or materials become cheaper. But California construction has always been expensive, risky, and sensitive to market swings. What has changed is the business model.

Many entities buying land in Berkeley today are not builders. They are entitlement platforms — companies whose business is to acquire multiple parcels, file SB 330 applications, secure demolition and building permits, clear the land, and sell the entire package to another large investor. This is not development. It is financial engineering using land as the underlying asset. And it is extremely profitable.

### **D. Lot Aggregation Is a Red Flag**

Residents opposing recent upzoning-proposals for neighborhood commercial zones have warned that these areas will be wiped out. They are not wrong. Small, one- or two-story commercial buildings extremely useful and beloved by the community have little investor value. To unlock higher returns, investors must demolish the buildings, aggregate the lots, attach SB 330 entitlements, and market the site to institutional capital (investment companies, banks, real estate investment trusts, crowdfunding companies, and limited liability investment corporations).

A three-parcel site entitled for 120 units is far more valuable than three small infill lots. That is why Berkeley is seeing aggressive acquisitions, fast demolitions, and large, generic building diagrams — followed by no action. The deed then moves into one or several investment companies, including private equity funds and REITs (real estate investment trusts). These entities may hold the land for 5–10 years, collecting investor distributions while the property appreciates.

The “plans” shown to the public are not community-oriented designs. They are generic marketing materials for investors, signaling that the land is shovel-ready and construction risk has been minimized.

### **E. High Interest Rates Make “Holding” More Profitable Than Building**

With construction financing costs at historic highs, many developers cannot build profitably right now. But they can entitle, demolish, hold, refinance, or sell later

when conditions improve. Vacant land has become a speculative asset, not a construction site.

What about property taxes? Demolition does not reduce property taxes. In California, land value is the majority of the assessment. Taxes reset to the purchase price when the property changes hands. Demolition only removes the (often minimal) value of the razed structure, and vacant parcels may incur additional taxes or fees due to bond measures. For investors, the tax bill is negligible compared to the potential appreciation of entitled land.

#### **F. The Result: Vacant Land as a Speculative Asset, Not a Construction Site**

The outcome is predictable: demolition without housing, empty lots, loss of below-market-rate units, loss of historic buildings, disrupted streetscapes, no new housing, no community benefit, and no accountability. Turning pre-1940 housing into dust for the purpose of creating speculative investments threatens the very qualities that make Berkeley vibrant: its architecture, its small businesses, its cultural identity, and its sense of place.

When demolition becomes a step in a financial strategy — rather than a step toward construction — the city loses its heritage, its unique qualities that differentiates it from “Anywhere USA,” and its trust in local and state officials. The public is left gazing at mud lots through chain link fencing, wondering why the promised housing is not being built.

Every round of resale, stalling, and profit-taking gets capitalized into the land price. And when someone finally builds, those inflated land costs do not disappear — they get passed directly to future renters. No developer can or will absorb them. This means that even if housing is eventually built, it will debut at higher rents than it would have if the property had not been treated as a financial instrument. Speculation today guarantees higher rents tomorrow. That pattern has been identified by Governor Newsom and legislators. AB 1240 (Alex Lee) is designed to stop the progression to higher rents by restricting large corporations from owning more than 1,000 single family houses as investments. However, as we show you in Part 2, for Berkeley the pattern includes demolition and stalling for 5 to 10 years.

In Part 3, we will explain the expected results from the state and local governments’ policy impacts on Berkeley.



The Hinks "mud lot" one year ago.

(Photo by Anthony Bruce)

TO: City of Berkeley City Manager, Paul Buddenhagen  
City of Berkeley Planning Director, Jordan Klein

FROM: Landmarks Preservation Commission (LPC)

SUBJECT: Response to Referral to Amend Berkeley Municipal Codes 3.24.120 and  
3.24.300 to Improve Procedure for Designating Landmarks, Historic Districts and  
Structure of Merit

DATE: March LPC meeting, March 5, 2026

### **EXECUTIVE SUMMARY**

In response to the Berkeley City Commission referral at the November 10, 2025, regular meeting regarding amendments to Berkeley Municipal Codes 3.24.120 "Landmarks, Historic Districts and Structures of Merit-Designation-Initiation Procedures," and its related BMC section 3.24.300 "Appeals-Procedures Required-City Council Authority," (see [Supplemental 1](#) and [Supplemental 2](#)) the Landmarks Preservation Commission (LPC) submits the following comments:

#### General comments:

- The LPC recommends that any changes or amendments to the ordinance include a public comment process. This ensures the LPO remains compliant with SHPO, retaining its CLG status and preserving eligibility for state and federal grant funding and other benefits.

#### Specific comments regarding the Supplemental Packets 1 and 2:

- Landmark Initiations and Appeals: For initiations by the public, we endorse increasing the required number of signatures from 50 to 100.
- Owner-Initiated Path: This process should remain unchanged and does not require public signatures.
- State Housing Law Compliance: To address new and future state laws, we recommend stating the relevant policies on the application and the City website rather than altering the ordinance itself.

### **LEGISLATIVE CONTEXT**

The Berkeley City Council is proposing to make changes to the Landmarks Preservation Ordinance (LPO). We draw the Council's attention to the fact that Berkeley is currently a Certified Local Government (CLG) for the purposes of identification, evaluation, registration, and preservation of historic properties within Berkeley. CLG status is the "gold standard" to municipal historic preservation programs in California. Currently, only about 70 of California's nearly 500 incorporated cities and towns (including Berkeley) have earned CLG status and programs are monitored annually by the State for conformance.

Being a CLG opens the door to State and Federal funding for preservation efforts. Most recently, Berkeley was able to obtain a CLG grant that made it possible to conduct the last historic survey in the city, the Downtown Survey for the 2012 Downtown Plan.

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Under the CLG program, local preservation ordinances must conform to certain standards, and changes to an ordinance should be reviewed by the State Office of Historic Preservation (SHPO) to ensure they are in conformity with CLG policies and goals. If an ordinance or city practices do not conform, the city risks loss of its CLG status and loss of access to federal and state grant funding and other CLG benefits.

A SHPO review of Berkeley's proposed changes, and the opportunity for public comment to the SHPO during that review, is an important procedure to build into any process for amending Berkeley's LPO, before final adoption. The Commission raised this issue with the Director of Planning and LPC staff at the February LPC meeting. We have not yet received information on whether the opportunity for public comment has been initiated.

Information on the CLG program can be found here: [https://ohp.parks.ca.gov/?page\\_id=21239](https://ohp.parks.ca.gov/?page_id=21239)

### **RECOMMENDATIONS**

The recommendations below are based on the Supplemental Packets 1 and 2 received at the November 10, 2025, City of Berkeley Council meeting.

#### **1. Signature requirements for Landmark initiation and appeals:**

Supplemental Packet 1 proposes increasing the required signatures for public nominations from 50 to 400 (without owner consent) and 200 (with owner consent). Supplemental Packet 2 proposes increasing the required signatures from 50 to 200 for both public designations and appeals.

The LPC provides the following comments and recommendations:

The LPC acknowledges the Council's concerns regarding staff workload and the potential for the current low threshold to cause project delays and uncertainty. Accordingly, the LPC supports doubling the signature requirement from 50 to 100. However, we believe that raising the requirement to 200 or 400 is onerous and would effectively eliminate the public's ability to participate in the landmarking process. Such a significant increase is contrary to Berkeley's long tradition of active, participatory democracy.

To address the issue of staff time and expenses, Council might consider an additional hourly fee for complex applications to supplement the standard flat fee. This would incentivize parties to resolve disagreements outside of the formal city process, thereby minimizing delays.

#### **2. Property Owner Approval of Designation:**

Supplemental Packet #1 currently requires 200 signatures with property owner approval or 400 signatures without it. Supplemental Packet #2 removes the requirement for owner approval if the 200 signatures have been collected (except for SB330 projects as addressed in item 3 below.)

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The Landmarks Preservation Commission (LPC) agrees with the Packet #2 proposal - but with the 100 signatures as stated in item 1 above. The simplified alternative presented in Packet #2 is more logical and will be easier to administer.

If a landmark initiation proposal is submitted and the owner either supports the initiation or remains silent, the process should proceed.

**3. SB 330 related amendments:**

Supplemental Packet #2 proposes to restrict an initiation of landmarking designation for five (5) years following the receipt of a Preliminary Use Permit application under SB 330 (the Housing Crisis Act of 2019) by the City of Berkeley, unless initiated by the property owner of record.

The LPC is concerned that this proposal to simply restrict landmarking designations for five years following a Preliminary Use Permit application lacks the necessary accountability measures as applied to SB 330 projects generally.

Specifically, the current proposal:

- Does not require the submission of a complete use permit or building permit application.
- Does not mandate that construction begin within a specific timeframe.
- Risks inviting bad-faith applications intended solely to block landmark initiations.
- Allows any new preliminary application to restart the five-year clock indefinitely.

Furthermore, we believe that incorporating SB 330 requirements directly into the ordinance unnecessarily complicates the text and could jeopardize the City's eligibility for future grants per SHPO as described above.

As state housing laws evolve, amending the ordinance for each individual law is time-intensive, costly in staff time to the City, and may lead to inconsistencies or legal challenges.

The LPC recommends that the City of Berkeley follow the City of San Francisco's model. Instead of amending the ordinance, we suggest incorporating language into the Landmark Application and onto the City's website stating that applications may not be submitted for local landmark or structure of merit designation while there is an active project application for development pursuant to the Housing Crisis Act (SB 330).

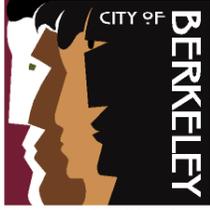
**CONTEXT**

In response to the

1. Case Study #1 (1915 Berryman Street) & #2 (910 Indian Rock Avenue):
  - a. LPC did not vote to approve to designate landmark or structure of merit either of these properties.
  - b. By increasing the number of signatures to 100 AND changing the fee structure to pay for additional staff time beyond that covered by the fee, should serve as adequate deterrence.

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2. Case Study #3 (2425 Durant Avenue) & #4 (2138 Kittredge Street)
  - a. LPC followed City Planning staff advice at the time based on City Attorney analysis (see attachment) with the understanding that landmarking structures on these two sites would be stayed as long as the SB 330 applications were active. When both applications were appealed to the City Council, City Planning staff changed their position. LPC now follows the current policy as articulated by the City Council.



Office of the City Attorney

## MEMORANDUM

July 8, 2020

To: Jordan Klein, Interim Planning Director

From: Farimah Brown, City Attorney  
Chris Jensen, Assistant City Attorney

Re: **Impact of SB 330 on Landmarks Preservation Commission Review of Housing Development Projects**

The Land Use Planning Division has requested an opinion as to whether SB 330 (2019) limits the authority of Landmarks Preservation Commission (“LPC”) to conduct historic resource evaluations of applications for housing projects.

SB 330 applies to any “housing development project,” which is defined as any residential development, mixed-use development with at least two-thirds of the square footage designated for residential use, or transitional housing or supportive housing development. (Gov. Code § 65589.5(h)(2).)

Where the requirements of SB 330 apply, determinations as to whether the site of the proposed project is historic site must be made “at the time the application for the housing development project is deemed complete.” (Gov. Code § 65913.10(a).) That determination “shall remain valid during the pendency of the housing development project for which the application was made unless any archaeological, paleontological, or tribal cultural resources are encountered during any grading, site disturbance, or building alteration activities.” (*Ibid.*)

“Deemed complete” is defined in two different ways in SB 330. Government Code section 65905.5(b)(1) provides that “deemed complete” means “the application has met all of the requirements specified in the relevant list compiled pursuant to Section 65940<sup>1</sup> that was available at the time when the application was submitted.” (Gov. Code § 65905.5(b)(1).) However, Government Code 65589.5(h)(5) states: “Notwithstanding any other law, until January 1, 2025, ‘deemed complete’ means that the applicant has

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<sup>1</sup> Government Code section 65940 provides that “[e]ach public agency shall compile one or more lists that shall specify in detail the information that will be required from any applicant for a development project.” (Gov. Code § 65940(a).)

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submitted a preliminary application pursuant to Section 65941.1.” (Gov. Code § 65589.5(h)(5).) Until January 1, 2025, section 65589.5(h)(5) controls, “[n]otwithstanding any other law.”

Government Code section 65941.1 defines the requirements for a “preliminary application,” which include information about “[a]ny historic or cultural resources known to exist on the property.” (Gov. Code § 65941.1(a)(9).) Upon providing this information about known historic or cultural resources, along with the other information listed in section 65941.1, the application must be “deemed complete,” as set forth in Government Code section 65589.5(h)(5). Government Code section 65913.10(a) prohibits the City from imposing additional historic or cultural resources protections after this time.

Taken together, these provisions of SB 330 have the effect of divesting the LPC of jurisdiction to require applicants to comply with any cultural or historic resource preservation requirements after the time that a “preliminary application” for a housing development project is deemed complete. LPC and the City are prohibited by state law from denying or imposing conditions on a housing development project based on any cultural or historic resources protections imposed after the date on which the application was “deemed complete,” and any historic resources information required as part of the preliminary application must be limited to the identification of resources that are “known to exist” at the time of the application. Demolition referrals for commercial buildings that are over 40 years old are still required under the Zoning Ordinance, but cannot lead to the imposition of conditions of approval on the project if the LPC acts after the application is deemed complete.

SB 330 does not impact the LPC’s jurisdiction over purely commercial projects or any other project that does not meet the definition of a housing development project under Government Code section 65589.5(h)(2). In addition, SB 330 does not limit the City’s obligation to assess the impact of a proposed project on cultural resources under CEQA and to impose measures to mitigate any adverse impact on cultural resources. (See Gov. Code § 65913.10(c).)