

**BERKELEY CITY COUNCIL LAND USE, HOUSING, & ECONOMIC
DEVELOPMENT COMMITTEE
REGULAR MEETING**

**Thursday, March 4, 2021
10:30 AM**

Committee Members:

Councilmembers Sophie Hahn, Rigel Robinson, and Lori Droste
Alternate: Councilmember Ben Bartlett

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH
VIDEOCONFERENCE AND TELECONFERENCE**

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council Land Use, Housing, & Economic Development Committee will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

To access the meeting remotely using the internet: Join from a PC, Mac, iPad, iPhone, or Android device: Use URL <https://us02web.zoom.us/j/88089267316>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon on the screen.

To join by phone: Dial **1-669-900-9128 or 1-877-853-5257 (Toll Free)** and Enter Meeting ID: **880 8926 7316**. If you wish to comment during the public comment portion of the agenda, press *9 and wait to be recognized by the Chair.

Written communications submitted by mail or e-mail to the Land Use, Housing, & Economic Development Committee by 5:00 p.m. the Friday before the Committee meeting will be distributed to the members of the Committee in advance of the meeting and retained as part of the official record. City offices are currently closed and cannot accept written communications in person.

Roll Call: 10:31 am. Councilmembers Droste, Hahn, and Robinson present.

Public Comment on Non-Agenda Matters: 23 speakers.

Minutes for Approval – None

Draft minutes for the Committee's consideration and approval.

Committee Action Items

The public may comment on each item listed on the agenda for action as the item is taken up. The Chair will determine the number of persons interested in speaking on each item. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Chair may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

Following review and discussion of the items listed below, the Committee may continue an item to a future committee meeting, or refer the item to the City Council.

1. **Quadplex Zoning** *(Item contains revised material.)*

From: Councilmember Droste (Author), Councilmember Taplin (Author), Councilmember Kesarwani (Author), Mayor Arreguin (Co-Sponsor)

Referred: February 8, 2021

Due: June 29, 2021

Recommendation: 1. Refer to the City Manager and Planning Commission revisions to the zoning code and General Plan, to require proposed housing developments containing up to 4 residential units to be considered ministerially, if the proposed housing development meets certain requirements but not limited to:

- that the proposed housing development would not require demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income,
- that the development is not located within a historic district, is not included in the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.
- that the development is not located within particularly vulnerable high fire wildfire danger areas, as specified by Cal Fire.

Additional considerations:

- Consider a local affordable housing density bonus for deeper affordability in certain jobs-rich or transit-oriented areas if a certain percentage of the units are affordable to 80% of area median income.
 - Conduct a displacement risk analysis and consider possible ways that zoning changes can be crafted to prevent and mitigate negative externalities which could affect tenants and low and moderate-income homeowners.
 - Allow for the possibility of existing homes/footprints/zoning envelopes to be divided into up to four units, potentially scaling the floor area ratio (FAR) to increase as the number of units increase onsite, creating homes that are more affordable, saving and lightly modifying an older structure as part of internally dividing it into more than one unit.
- Council directs that staff initiate this work immediately and the Planning Commission incorporate zoning reform into its 2021 and 2022 work plan to institute these changes in anticipation of the Housing Element update. Staff and the commission should examine how other cities have prepared for and implemented missing middle housing in Minneapolis, Portland, and Sacramento and conduct extensive community outreach during the course of this update.

Financial Implications: See report

Contact: Lori Droste, Councilmember, District 8, (510) 981-7180

Action: No discussion held. Item continued to a future meeting of the policy committee.

Committee Action Items

2. Tenant Opportunity to Purchase Act, Adding BMC Chapter 13.89

From: Mayor Arreguin (Author)

Referred: February 24, 2020

Due: April 20, 2021

Recommendation: 1. Adopt a first reading of an ordinance adding Berkeley Municipal Code Chapter 13.89, the Tenant Opportunity to Purchase Act (TOPA), that will take effect on final adoption with an implementation start upon completion of Administrative Regulations and funding of related program costs; and

2. Direct the City Manager to take all necessary steps to implement this chapter including, but not limited to:

1. Developing Administrative Regulations;

2. Preparing an implementation strategy;

3. Identifying resources to align databases from Finance, Planning, and the Rent Board to accurately reflect the properties that would be subject to TOPA;

4. Determining necessary staffing for program administration and hearing officers for adjudication;

5. Timelines for project “roll-out”;

6. Determining appropriate amount of funding needed to support the acquisition of TOPA properties and recommending possible funding sources;

7. Quantifying an annual program budget and referring such program costs to the June 2020 Budget process.

Financial Implications: See report

Contact: Jesse Arreguin, Mayor, (510) 981-7100

Action: No discussion held. Item continued to a future meeting of the policy committee.

Committee Action Items

3. **Resolution Recognizing Housing as Human Right; Referring City Manager to Study Financial Feasibility of Municipal Housing Development Pilot Program with Cooperative, Nonprofit, and Public Ownership Models, Administered as Automatic Stabilizers to Guarantee Adequate Housing** (*Item contains revised material.*)

From: Councilmember Taplin (Author), Mayor Arreguin (Co-Sponsor), Councilmember Harrison (co-sponsor), Councilmember Hahn (Co-Sponsor)

Referred: February 8, 2021

Due: June 29, 2021

Recommendation:

Refer the City Manager's office to study the financial feasibility of a municipal housing development pilot program administering automatic stabilizers to guarantee adequate housing security in Berkeley, with regular community input and periodic monitoring of socioeconomic indicators. Pilot program feasibility study shall include, but not be limited to:

1. Feasibility study of public lands suitable mixed-income transit-oriented housing development identified in 2017 Analysis of City-Owned Lands and zoning changes needed for affordable housing at listed sites to address all income categories in upcoming Regional Housing Needs Allocation (RHNA) cycle;
2. Pilot program to establish a Reparative Justice Revolving Loan Fund with affirmative racial justice and anti-displacement goals, providing low-interest loans for tenants, nonprofits, limited-equity co-operatives, and community land trusts to acquire, develop, and/or maintain permanently affordable housing.
3. Pilot program to establish publicly available, user-friendly data dashboard monitoring Housing Justice Indicators in the city including, but not limited to, (a) health and safety standards, (b) affordability, (c) stability, and (d) discrimination and disparate impacts under US Department of Housing and Urban Development's Affirmatively Furthering Fair Housing (AFFH) rule; aligning Indicators with thresholds for corrective actions including land-use policy review and fiscal analysis.
4. State and regional partnerships with the California Department of Housing and Community Development, the Metropolitan Transportation Commission (MTC) and Association of Bay Area Governments (ABAG), UC Berkeley, and Bay Area Rapid Transit to develop fiscally resilient mixed-income housing and community reinvestment through land held in public trust and/or limited-equity cooperatives and community land trusts.

Financial Implications: See report

Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

Action: 14 Speakers. Discussion held. Item continued to a future meeting of the policy committee.

Committee Action Items

4. Affordable Housing Overlay

From: Councilmember Taplin (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Robinson (Co-Sponsor)

Referred: February 22, 2021

Due: July 12, 2021

Recommendation: Refer to the City Manager and Planning Commission revisions to the zoning code and General Plan, permitting increased height and density for 100% affordable housing developments, including but not limited to:

1. Exceeding standards set forth in California Government Code Section 65915 with additional height and density incentives for qualifying 100% affordable projects deed-restricted for low- and moderate-income households, including:
 - a. An additional 33' local density bonus for qualifying projects with low- and moderate-income units deed-restricted for households earning up to 100% of Area Median Income, aiming to maximize total unit count restricted for Very Low and Extremely Low Income households;
 - b. Expanding waiver of density limits, including units per acre and floor area ratio, for transit-adjacent projects to include all parcels within one half mile of a commuter rail station, and within 1/4 mile of an AC Transit bus route with 7-day service in Fiscal Year 2019;
 - c. Reduced density limits for projects outside of transit proximity threshold with additional Transportation Demand Management (TDM) policies, including bike parking, paratransit and shared micro-mobility systems;
 - d. Ministerial approval of all qualifying projects meeting objective design criteria and union labor requirements;
 - e. Exempting parcels with Designated Historic Landmarks and maintaining demolition restrictions consistent with state law.
2. Ministerial approval for a baseline of 76' for 100% affordable residential dwelling units in all commercial zones, and provisions for ground-floor retail and/or live-work space;
3. In R-1, R-1A and R-2 zones, provide ministerial approval for a 10' local density bonus for 100% affordable housing, with waived density requirements for dwelling units per acre and lot coverage. On parcels within high-risk wildfire zones as determined by the California Department of Forestry and Fire Protection (CalFire), ministerial approval for 100% affordable projects should be contingent on fire-blocking design and defensible space standards certified by the Planning Department.

Council directs the Planning Commission and staff to codify an Affordable Housing Overlay for 100% affordable housing as specified above in 2021-2022 work plans in anticipation of 2023-2031 RHNA targets. Staff and the commission should build upon the framework established in Government Code Section 65915 as well as municipal implementations of Affordable Housing Overlays in other states, such as Cambridge and Somerville, MA.

Financial Implications: See report

Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

Action: No discussion held. Item continued to a future meeting of the policy committee.

Unscheduled Items

These items are not scheduled for discussion or action at this meeting. The Committee may schedule these items to the Action Calendar of a future Committee meeting.

5. **Amendments to Berkeley Municipal Code 23C.22: Short Term Rentals**
From: Councilmember Harrison (Author)
Referred: July 28, 2020
Due: September 30, 2021
Recommendation: Amend Berkeley Municipal Code 23C.22: Short Term Rentals to clarify the ordinance and insure adequate host responsibilities, tenant protections and remedies for violating the ordinance.
Financial Implications: See report
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

Items for Future Agendas

- **Discussion of items to be added to future agendas**

Councilmember Droste absent 12:29 p.m. – 12:48 p.m.

Adjournment

Action: M/S/C (Hahn/Robinson) to adjourn the meeting.

Vote: Ayes – Hahn, Robinson; Noes – None; Abstain – None; Absent – Droste.

Adjourned at 12:48 pm.

I hereby certify that this is a true and correct record of the Land Use, Housing, & Economic Development Committee meeting held on March 4, 2021.

Sarah K. Bunting, Assistant City Clerk

Communications

Communications submitted to City Council Policy Committees are on file in the City Clerk Department at 2180 Milvia Street, 1st Floor, Berkeley, CA, and are available upon request by contacting the City Clerk Department at (510) 981-6908 or policycommittee@cityofberkeley.info.