

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

**Thursday, October 7, 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 Government Code Section 54953(e) and the state declared emergency, this meeting of the City Council Land Use, Housing, & Economic Development Committee will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be 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/89061698001>. 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: **890 6169 8001**. 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.

# MINUTES

**Roll Call** 10:32 am. Councilmembers Droste, Hahn, and Robinson present.

**Public Comment on Non-Agenda Matters:** 2 speakers.

## Minutes for Approval

*Draft minutes for the Committee's consideration and approval.*

- 1. Minutes - June 17, 2021 and September 28, 2021**  
**Action:** M/S/C (Droste/Hahn) to approve the June 17, 2021 and September 28, 2021 minutes.  
**Vote:** All Ayes.

## 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.*

- 2. Affordable Housing Overlay**  
**From:** Councilmember Taplin (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Robinson (Co-Sponsor) (Item contains revised material.)  
**Referred:** February 22, 2021  
**Due:** February 3, 2022  
**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 (AB-1763) with additional local height and density incentives, including waivers and modifications similar to those vested in state density bonus law, with ministerial approval for qualifying 100% affordable projects deed-restricted for Low, Very Low, Extremely Low, and Moderate Income households (exclusive of manager's unit) pursuant to AB-1763, and maintaining demolition restrictions consistent with state law, specifying: a. In R3, R4, MU-R, and all C-prefixed zoning districts, a local density bonus in addition to, and duplicative of, the state density bonus under Government Code Section 65915 for qualifying projects, waiving limits on floor area ratio, and permitting up to 80% lot coverage; and study additional incentives in these zones; b. In R-1, R-1A, R-2, and R-2A zones, a local density bonus for qualifying projects inclusive of existing density bonuses, waiving limits on floor area ratio, and permitting up to 80% lot coverage; and study project feasibility in these zones; c. Create General Plan amendments that allow for 100% affordable qualifying projects to increase density while avoiding inconsistencies with General Plan

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densities; d. Skilled and trained workforce standards as defined by SB-7 (Atkins, 2021) for qualifying projects with at least 50,000 square feet of total floor area;

2. Exempting parcels with Designated City, State, and Federal Historic Landmarks;
3. Exempting parcels in Very High Fire Hazard Severity Zones (VHFHSZ) as determined by the California Department of Forestry and Fire Protection (CalFire), and in City of Berkeley Fire Zones 2 and 3;
4. Develop objective design standards for qualifying projects to receive ministerial approval, including guidelines for architectural details with respect to neighborhood context, massing, and building facades; materials, color, and finishes; open space, public art, and landscaping; circulation and outdoor lighting; 20' average building setback above the fourth floor (or 45') from any property line that is adjacent to a low or low-to-medium residential district; utilities; interiors; financial feasibility, and environmental sustainability, to be implemented with the following provisions:
  - a. Solicit community input, including through public outreach to be conducted in the Housing Element update process, for design standards that would ensure consistency with the City of Berkeley's architectural quality;
  - b. Establish an advisory Design Review process through the Design Review Committee (DRC). An applicant may elect to return for advisory comment up to two more times. For projects with fewer than 150 units, the City shall review and approve, based on consistency with objective standards, an affordable housing application within 90 days of submission. After 60 days, the City shall provide the applicant with an exhaustive list of objective standards not met by the project, and how the standards could or should be met. For projects with 150 units or more, these time frames shall be 90 and 180 days, respectively. The time under these provisions will toll between the City's issuance of a letter describing inconsistency with objective standards and the time necessary for the applicant to respond to those items.

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 cycle. 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 jurisdictions.

**Financial Implications:** See report

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

**Action:** 5 speakers. Discussion held. M/S/C (Robinson/Hahn) Positive recommendation to approve the item as submitted in supplemental material from the Author; revising the first paragraph of the recommendation to read *"Council refers to the City Manager and the Planning Commission to consider an Affordable Housing Overlay for 100% affordable housing and seek to integrate it into the ongoing Housing Element process in anticipation of the 2023-2031 RHNA cycle. Staff should consider revisions to the zoning code and General Plan, permitting increased height and density for 100% affordable housing developments, including specific consideration of labor and design/form standards, to achieve the underlying goals:"*; and adding the words *"or form-based standards"* to bullet 4 of the recommendation.

**Vote:** All Ayes.

## 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.*

- 3. Amendments to Berkeley Municipal Code 23C.22: Short Term Rentals**  
**From: Councilmember Harrison (Author)**  
**Referred: July 28, 2020**  
**Due: February 3, 2022**  
**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
- 4. Referral to the City Manager to Streamline Accessory Dwelling Unit (ADU) Permit Review and Approval**  
**From: Councilmember Kesarwani (Author), Councilmember Wengraf (Co-Sponsor), Councilmember Droste (Co-Sponsor), and Councilmember Bartlett (Co-Sponsor)**  
**Referred: April 26, 2021**  
**Due: February 14, 2022**  
**Recommendation:** 1. Refer to the City Manager to streamline the Accessory Dwelling Unit (ADU) permitting process in order to reduce staff time spent on review and enhance customer service. Further, assess effectiveness of process improvements specified below by reviewing over time: the number of ADUs permitted, average amount of staff time spent on ADU permit review, and permit fee levels.  
2. Recommend that the City Manager develop for Planning staff use an ADU Universal Checklist and accompanying user-friendly webpage: a. ADU Universal Checklist. A clear set of universal guidelines and construction requirements should be developed among staff from Planning (both Land Use and Building and Safety Divisions), Fire, and Public Works Departments that is easy to follow in order to eliminate (or significantly reduce) the need for multiple departments to review ADU permit applications and for multiple rounds of review by the same department. The Universal Checklist should be a single document utilized by all City staff to review ADU permit applications and by customers to understand code requirements. The Universal Checklist should enable all City staff and customers to have the same clear understanding of all of the requirements that, if adhered to, would expedite the permitting process and lead to lower permit fees over time. b. Accompanying User-Friendly Webpage. As a companion to the ADU Universal Checklist, the City should also create a user-friendly webpage for customers (and prospective customers) with up-to-date information that provides clarity and greater certainty about the process and expected timeline for the creation of an ADU or Junior ADU, which is within a main dwelling unit. At a minimum, the webpage should include: i. A list of relevant fees and expected payment amounts for permits, inspections, and other requirements; ii. Plan requirements, worksheets, and projected timelines for each step of the process; and iii. Consolidated up-to-date state and local regulations that are easy to understand.

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3. Recommend that the City Manager consider adoption of the following two best practices: a. Pre-Approved ADU Design Plans. Consider development of (1) free ADU designs available to download--of varying sizes and styles--that already conform to all City and state requirements and safety codes; and/or (2) a list of vendors with architectural designs and construction drawings that have already been approved by the City and are available to customers for a nominal fee to the architect. b. ADU Ally. Consider dedicating existing Planning staff member(s) time to the role of an "ADU Ally." The ADU Ally is a customer-facing staff person(s) who is an expert on all current state and local ADU regulations and acts as an ally to customers through the planning and building process.

**Financial Implications:** See report

Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110

## Items for Future Agendas

- None

## Adjournment

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

**Vote:** All Ayes.

Adjourned at 11:56 a.m.

I hereby certify that this is a true and correct record of the Land Use, Housing, & Economic Development Committee meeting held on October 7, 2021.

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Sarah K. Bunting, Assistant City Clerk