



Planning Commission

AGENDA

REGULAR MEETING OF THE PLANNING COMMISSION

This meeting is held in a wheelchair accessible location.

Wednesday, February 7, 2018
7:00 PM

North Berkeley Senior Center
1901 Hearst Ave / MLK Jr. Way

See “*MEETING PROCEDURES*” below.

All written materials identified on this agenda are available on the Planning Commission webpage: <http://www.ci.berkeley.ca.us/ContentDisplay.aspx?id=13072>

PRELIMINARY MATTERS

1. **Roll Call:** Pinto, Prakash, Vice Chair, appointed by Councilmember Maio, District 1
Martinot, Steve, appointed by Councilmember Davila, District 2
Schildt, Christine, appointed by Councilmember Bartlett, District 3
Poschman, Gene, Chair, appointed by Councilmember Harrison, District 4
Beach, Benjamin, appointed by, Councilmember Hahn, District 5
Kapla, Robb William, for Councilmember Wengraf, District 6
Fong, Benjamin, appointed by Councilmember Worthington, District 7
Vincent, Jeff, appointed by Councilmember Droste, District 8
Wrenn, Rob, appointed by Mayor Arreguin
2. **Order of Agenda:** The Commission may rearrange the agenda or place items on the Consent Calendar.
3. **Public Comment:** Comments on subjects not included on the agenda. Speakers may comment on agenda items when the Commission hears those items. (See “*Public Testimony Guidelines*” below):
4. **Planning Staff Report:** In addition to the items below, additional matters may be reported at the meeting. **Next Commission meeting: February 21, 2018.**
5. **Chairperson’s Report:** Report by Planning Commission Chair.
6. **Committee Reports:** Reports by Commission committees or liaisons. In addition to the items below, additional matters may be reported at the meeting.
7. **Approval of Minutes:** [Approval of Draft Minutes from the meeting on January 17, 2018.](#)
8. **Future Agenda Items and Other Planning-Related Events:** None.

AGENDA ITEMS: All agenda items are for discussion and possible action. Public Hearing items require hearing prior to Commission action.

- 9. Discussion:** [Student Housing Initiative Discussion](#)
Recommendation: Planning Commission/UC Berkeley student leaders discuss student housing concerns and initiatives.
Written Materials: Attached.
Web Information: N/A.
Continued From: N/A.
- 10. Action:** [Public Hearing \(Time Certain 8:30 pm\): 1050 Parker Street Parcels Rezone and General Plan Amendment](#)
Recommendation: Consider and make recommendations regarding the rezone and General Plan re-designation of APNs 054-1763-001-03 and 054-1763-010-00.
Written Materials: Attached.
Web Information: N/A.
Continued From: N/A.
- 11. Discussion:** [Zoning Ordinance Cannabis Regulations](#)
Recommendation: Discuss Zoning Ordinance amendments in response to State law adopted 2017
Written Materials: Attached.
Web Information: N/A.
Continued From: N/A.
- 12. Action:** [Planning Commission Chair and Vice Chair Elections](#)
Recommendation: Select a Chair and Vice Chair for the Planning Commission for February 2018 to February 2019.
Written Materials: N/A.
Web Information: N/A.
Continued From: N/A.

ADDITIONAL AGENDA ITEMS: In compliance with Brown Act regulations, no action may be taken on these items. However, discussion may occur at this meeting upon Commissioner request.

Information Items: None.

Communications:

- [2018-02-07 Communications Sutter Health](#)

Late Communications: (Received after the packet deadline):

- [2018-02-07 – Christine Schwartz, We Support More Student Housing Now email](#)
- [2018-02-07 – Igor Tregub, More Student Housing Now Actions email](#)

Late Communications: (Received and distributed at the meeting):

- [2018-02-07 – UC Berkeley Students, More Student Housing Now Resolution](#)
- [2018-02-07 – UC Berkeley Students, More Students Housing Now Maps](#)
- [2018-02-07 – Toni Mester, Three Referrals related to San Pablo Avenue Plan](#)
- [2018-02-07 – Staff, Matrix of the Existing and Proposed Cannabis Zoning Regulations](#)

Meeting Procedures

Public Testimony Guidelines:

Speakers are customarily allotted up to three minutes each. The Commission Chair may limit the number of speakers and the length of time allowed to each speaker to ensure adequate time for all items on the Agenda. ***To speak during Public Comment or during a Public Hearing, please line up behind the microphone.*** Customarily, speakers are asked to address agenda items when the items are before the Commission rather than during the general public comment period. Speakers are encouraged to submit comments in writing. See “Procedures for Correspondence to the Commissioners” below.

Consent Calendar Guidelines:

The Consent Calendar allows the Commission to take action with no discussion on projects to which no one objects. The Commission may place items on the Consent Calendar if no one present wishes to testify on an item. Anyone present who wishes to speak on an item should submit a speaker card prior to the start of the meeting, or raise his or her hand and advise the Chairperson, and the item will be pulled from the Consent Calendar for public comment and discussion prior to action.

Procedures for Correspondence to the Commissioners:

To distribute correspondence to Commissioners prior to the meeting date, submit comments by 12:00 p.m. (noon), eight (8) days before the meeting day (Tuesday) (email preferred):

- If correspondence is more than twenty (20) pages, requires printing of color pages, or includes pages larger than 8.5x11 inches, please provide 15 copies.
- Any correspondence received after this deadline will be given to Commissioners on the meeting date just prior to the meeting.
- Staff will not deliver to Commissioners any additional written (or emailed) materials received after 12:00 p.m. (noon) on the day of the meeting.
- Members of the public may submit written comments themselves early in the meeting. To distribute correspondence at the meeting, please provide 15 copies and submit to the Planning Commission Secretary just before, or at the beginning, of the meeting.
- Written comments should be directed to the Planning Commission Secretary, at the Land Use Planning Division (Attn: Planning Commission Secretary).

Communications are Public Records: Communications to Berkeley boards, commissions, or committees are public records and will become part of the City’s electronic records, which are accessible through the City’s website. ***Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission, or committee, will become part of the public record.*** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service, or in person, to the Secretary of the relevant board, commission, or committee. *If you do not want your contact information included in the public record, please do not include that information in your communication.* Please contact the Secretary to the relevant board, commission, or committee for further information.

Written material may be viewed in advance of the meeting at the Department of Planning & Development, Permit Service Center, **1947 Center Street, 3rd Floor**, during regular business hours, or at the Reference Desk, of the Main Branch Library, 2090 Kittredge St., or the West Berkeley Branch Library, 1125 University Ave., during regular library hours.

Note: If you object to a project or to any City action or procedure relating to the project application, any lawsuit which you may later file may be limited to those issues raised by you or

someone else in the public hearing on the project, or in written communication delivered at or prior to the public hearing. The time limit within which to commence any lawsuit or legal challenge related to these applications is governed by Section 1094.6, of the Code of Civil Procedure, unless a shorter limitations period is specified by any other provision. Under Section 1094.6, any lawsuit or legal challenge to any quasi-adjudicative decision made by the City must be filed no later than the 90th day following the date on which such decision becomes final. Any lawsuit or legal challenge, which is not filed within that 90-day period, will be barred.

Meeting Access: This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services Specialist, at 981-6418 (V) or 981-6347 (TDD), at least three (3) business days before the meeting date.

Please refrain from wearing scented products to public meetings.



Planning Commission

1 **DRAFT MINUTES OF THE REGULAR PLANNING COMMISSION MEETING**
2 **January 17, 2018**

3 The meeting was called to order at 7:05 p.m.

4 **Location:** North Berkeley Senior Center, Berkeley, CA

5 **Commissioners Present:** Steve Martinot, Benjamin Beach, Robb William Kapla, Benjamin
6 Fong, Gene Poschman, Christine Schildt, Jeff Vincent, Rob Wrenn, Prakash Pinto.

7 **Commissioners Absent:** None.

8 **Staff Present:** Alex Amoroso, Alene Pearson, and Sydney Stephenson.

9 **ORDER OF AGENDA:** No change.

10 **CONSENT CALENDAR:** None.

11 **PUBLIC COMMENT PERIOD:** No speakers.

12 **PLANNING STAFF REPORT:** Next meeting is February 7th, see Item 8 for future agenda items.

13 **COMMUNICATIONS IN PACKET:**

- 14 • 2018-01-17 Staff – Comprehensive Cannabis Ordinance packet
- 15 • 2018-01-17 Debbie Sanderson (ADU Task Force) – Proposed ADU Zoning Amendments

16
17 **LATE COMMUNICATIONS** (Received after the Packet deadline):

- 18 • 2018-01-17 Dan McDunn – Comments on ADUs
- 19 • 2018-01-17 Debbie Sanderson – Comments on Staff Recommendations for ADUs
- 20 • 2018-01-17 Rolf Bell – Comments on Proposed ADU Zoning Amendments

21 **LATE COMMUNICATIONS** (Received and distributed at the meeting): None.

22 **CHAIR REPORT:** No Chair Report was provided.

23 **COMMITTEE REPORT:** No Report.

24 **7. APPROVAL OF MINUTES:**

25 Motion/Second/Carried (GP/CS) to approve the Planning Commission Meeting Minutes from
26 December 20, 2017. Ayes: Poschman, Beach, Martinot, Schildt, Kapla, Fong, Vincent, Wrenn,
27 Pinto. Noes: None. Abstain: None. Absent: None. (9-0-0-0)

28
29 **8. FUTURE AGENDA ITEMS AND OTHER PLANNING-RELATED EVENTS:** The second
30 item on the Agenda has been postponed to the February 7th. On the February 7th there will be
31 discussion on Cannabis zoning regulations. Commission Fong also announced that at the
32 February 7th meeting there will be a discussion with students about affordable housing.

33 **AGENDA ITEMS**

34 **9. Action: Public Hearing: 1050 Parker Street Rezone and General Plan**
35 **Amendment**

36 This item is postponed to the February 7th meeting due to an error in the Public Hearing
37 Notice.

38 Public Comment: No speakers.

39 **10. Action: Public Hearing: Amendments to BMC Chapter 23D.10**
40 **Accessory Dwelling Units**

41 Staff presented the following amendments to the Accessory Dwelling Unit (ADU) ordinance
42 that required action by Planning Commission (PC):

- 43 1. Set Maximum Height at 14'
- 44 2. Allow Average Height Calculation in Hillside Overlay
- 45 3. Use District Standards for Height of Residential Additions when ADUs are created by
46 Addition to a Primary Dwelling Unit
- 47 4. Increase Maximum Size as Gross Floor Area (GFA)
- 48 5. Increase Maximum Size as Percentage of Primary Dwelling Unit (GFA)
- 49 6. Modify Levels of Discretion for Changes to Development Standards
- 50 7. Modify Findings for Changes to Development Standards
- 51 8. Consider Special Provisions to Demolition and Replacement of Accessory Buildings

52 Motion/Second/Carried (PP/RK) to open Public Hearing on amendments to BMC Chapter
53 23D.10. Ayes: Poschman, Beach, Martinot, Schildt, Kapla, Fong, Vincent, Wrenn, Pinto.
54 Noes: None. Abstain: None. Absent: None. (9-0-0-0)

55 Testimony was received by 8 members of the public.

56 Motion/Second/Carried (PP/GP) to close Public Hearing on amendments to BMC Chapter
57 23D.10. Ayes: Poschman, Beach, Martinot, Schildt, Kapla, Fong, Vincent, Wrenn, Pinto.
58 Noes: None. Abstain: None. Absent: None. (9-0-0-0)

59 Motion/Second/Carried (GP/PP) to recommend to the Council amendments to ADU
60 ordinance that the Planning Commission voted on from the October 4th and November 15th
61 meetings. Ayes: Poschman, Beach, Martinot, Schildt, Kapla, Fong, Vincent, Wrenn, Pinto.
62 Noes: None. Abstain: None. Absent: None. (9-0-0-0)

63 The Commission discussed the amendments to the development standards for ADUs listed
64 above. The Commission expressed concern about setting a Maximum Height of 14' for the
65 ADUs, without allowing for an option for an Administrative Use Permit (AUP) to allow taller
66 ADUs. Thus, the Commission voted to set the Maximum Height at 14', but to allow a
67 Maximum Height of 18' with an AUP. The Commission agreed with the staff's
68 recommendation for allowing the Average Height calculation for projects in the Hillside
69 Overlay with an AUP, and to align the heights with their decision about Maximum Heights,
70 Average Height of 18' in the Hillside Overlay would require an additional AUP. The PC
71 agreed to use the Districts' development standards for height on Residential Additions when
72 ADUs are created by an addition to the primary dwelling unit. In addition, the PC agreed to
73 increase the maximum Gross Floor Area (GFA) size to 850 sq. ft. and remove the maximum
74 size as a percentage of the primary dwelling unit. The Commission also discussed to not
75 allow projects to exceed the GFA with an AUP. The PC discussed the Findings section and
76 decided to recommend removing the following language from 23C.24.070.B: "is not
77 otherwise feasible because of unusual lot and/or building configurations that limit access,
78 affect constructability, or otherwise present unique hardships, and that the Accessory
79 Dwelling Unit...". Staff mentioned that considerations of special provisions to demolition and
80 replacement of accessory buildings will be brought back at a later Planning Commission
81 date. The Planning Commission made the following motions:

82 Motion/Second/Carried (GP/PP) to recommend to Council that a Maximum Height of 14' for
83 ADUs and allow an Administrative Use Permit (AUP) up to 18' Maximum Height. In addition,
84 recommend removing language from 23C.23.070.B: "is not otherwise feasible because of
85 unusual lot and/or building configurations that limit access, affect constructability, or
86 otherwise present unique hardships, and that the Accessory Dwelling Unit...". Ayes:
87 Poschman, Beach, Martinot, Schildt, Kapla, Fong, Vincent, Wrenn, Pinto. Noes: None.
88 Abstain: None. Absent: None. (9-0-0-0)

89 Motion/Second/Carried (GP/CS) to recommend to Council allowing the Average Height
90 calculation in Hillside Overlay with an AUP and to allow Average Height of 18' with an
91 additional AUP. Ayes: Poschman, Beach, Martinot, Schildt, Kapla, Fong, Vincent, Wrenn,
92 Pinto. Noes: None. Abstain: None. Absent: None. (9-0-0-0)

93 Motion/Second/Carried (GP/CS) to recommend to Council to use District Standards for
94 Height of Residential Additions when ADUs are created by Addition to a Primary Dwelling
95 Unit. Ayes: Poschman, Beach, Martinot, Schildt, Kapla, Fong, Vincent, Wrenn, Pinto. Noes:
96 None. Abstain: None. Absent: None. (9-0-0-0)

97 Motion/Second/Carried (RW/CS) to recommend to Council to increase the maximum Gross
98 Floor Area (GFA) to 850 square feet and remove the maximum size as a percentage of the
99 Primary Dwelling Unit. Ayes: Poschman, Beach, Martinot, Schildt, Kapla, Fong, Vincent,
100 Wrenn, Pinto. Noes: None. Abstain: None. Absent: None. (9-0-0-0)

101 Motion/Second/Carried (GP/JV) to recommend to Council to not allow an AUP to increase
102 GFA. Ayes: Poschman, Beach, Martinot, Schildt, Kapla, Fong, Vincent, Wrenn, Pinto. Noes:
103 None. Abstain: None. Absent: None. (9-0-0-0)

104 Motion/Second/Carried (GP/RK) to forward the above recommendations to Council. Ayes:
105 Poschman, Beach, Martinot, Schildt, Kapla, Fong, Vincent, Wrenn, Pinto. Noes: None.
106 Abstain: None. Absent: None. (9-0-0-0)

107 Public Comment: 8 speakers.

108 **The meeting was adjourned at 8:49 pm**

109 **Commissioners in attendance: 9 of 9**

110 **Members in the public in attendance: 21**

111 **Public Speakers: 8**

112 **Length of the meeting: 1 hour and 44 minutes**



Kriss Worthington

Councilmember, City of Berkeley, District 7
2180 Milvia Street, 5th Floor, Berkeley, CA 94704
PHONE 510-981-7170, FAX 510-981-7177, EMAIL
kworthington@cityofberkeley.info

CONSENT CALENDAR

January 23, 2018

To: Honorable Mayor and Members of the City Council
From: Councilmembers Kriss Worthington & Kate Harrison and Mayor Arreguin

Subject: Adopt a More Student Housing Now Resolution, to facilitate both University and private housing investment in the campus area as soon as possible

RECOMMENDATION:

That the City Council adopt a More Student Housing Now Resolution, to facilitate both University and private housing investment in the campus area as soon as possible, by prioritizing Planning Commission and City Council action to remove impediments.

BACKGROUND:

The student housing shortage is the foremost City issue mentioned by Berkeley students. This problem has emerged into a major crisis affecting many students. In light of the crisis, UC President Napolitano required each UC campus to prepare a housing plan. UC Berkeley Chancellor Christ spearheaded the founding of a comprehensive student housing plan. They both implemented significant steps towards addressing the student housing shortage. Berkeley should praise and recognize their commitment.

Berkeley should also support student requests for prompt City and University short and long term actions. Outdated zoning restrictions in Berkeley severely undermine the potential to deliver thousands of urgently needed student homes in the campus area. Although exempt by state law, the University indicates they want to try to comply with the city's regulations. It is crucial that the City of Berkeley remove impediments to student housing developments to ensure that Berkeley remains the top public destination for the world's brightest minds.

The primarily student residents in the immediate area between Dwight to Bancroft, and from College to Fulton have repeatedly supported more housing in their neighborhood. Increased density close to campus reduces air pollution and traffic congestion, and encourages pedestrian, transit and bicycle travel.

FINANCIAL IMPLICATIONS: Minimal.

ENVIRONMENTAL SUSTAINABILITY:

Multiple Climate Action Plan goals would be achieved if this is implemented.

CONTACT PERSON: Councilmember Kriss Worthington 510-981-7170

ATTACHMENT:

1. Resolution
2. Thank you letter to President Napolitano (03/10/2016)

RESOLUTION NO.####
MORE STUDENT HOUSING NOW RESOLUTION

WHEREAS, The student housing shortage is the foremost city issue mentioned by Berkeley students,

WHEREAS, Increased density close to campus reduces air pollution and traffic congestion, and encourages pedestrian, transit and bicycle travel.

WHEREAS, On March 10th, 2016, the Berkeley City Council voted unanimously to send a thank you letter to President Napolitano, which committed the city to addressing zoning barriers and obstacles preventing creating student housing, and,

WHEREAS, The scarcity of available, accessible, and affordable student housing impacts individuals and families across demographics throughout the City and the lack of production near the UC campus pushes students deeper into the City's scarce and competitive housing market, forcing them to compete with and increasing pressure on the City's lower and middle-income family and aging populations and,

WHEREAS, Most market rate units that are built close to campus are lived in by students. Even though market rate units are not defined as student housing, they provide much needed units primarily for middle class students. These units also contribute to creating affordable units because the inclusionary Ordinance is a major source of affordable housing in Berkeley. It requires 20% of a market rate project to be affordable, or the owner can pay an in-lieu fee of \$37,000 per unit, and

WHEREAS, Public Private Partnerships (PPP's) are a primary alternative to get funding for student housing on university property. The City of Berkeley continue to encourage PPP's provided they include student costs comparable to residence hall rate, labor standards and retaining or expanding UC sustainability standards to ensure greener buildings. Using University land in PPP has been done with success, including the 775-unit Bancroft project currently under construction.

THEREFORE BE IT RESOLVED that the city reaffirm our support for the thank you letter on March 10th, 2016 to President Napolitano.

THEREFORE BE IT RESOLVED that the City Council and the Planning Commission prioritize previous referrals from the City Council including the following:

- Facilitate primarily Student Housing by a Twenty Feet Height Increase and Adjust floor Area Ratio in the R-SMU, R-S and R-3 areas only from Dwight to Bancroft & from College to Fulton (Date: 10/31/2017)
- Create a Pilot Density Bonus Program for the Telegraph Avenue Commercial District (Date: 05/30/2017)
- Create a use permit process to allow non-commercial use on the Ground Floor in C-T

Telegraph Commercial District excluding Telegraph Ave (Date: 07/11/2017. This item is based on an original item submitted by Susan Wengraf on 01/20/2015)

- Develop an Ordinance Requiring New Residential Buildings to include essential wheelchair-accessible modifications, such as Auto-door Openers & Roll-in Shower (Date: 09/15/2015 & 07/11/2017)

THEREFORE BE IT FURTHER RESOLVED that the City and the Planning Commission will consider:

- Allowing conversion of vacant Telegraph area commercial space to housing only from Dwight to Bancroft & from College to Fulton (excluding Telegraph Avenue itself)
- Expanding the Car-Free Housing Overlay area between College and Fulton (including R-S & R-3 parcels between Fulton and Shattuck), Bancroft and Dwight.
- Allowing at least two high-rises for student housing in Southside campus area
- Investigate sites to build micro-units, which may create housing cheaper and faster
- Permitting and encouraging the construction of modular units

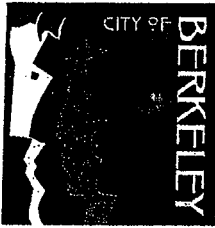
THEREFORE BE IT ALSO RESOLVED that the City strongly support UC President Napolitano and Chancellor Carol Christ in their pursuit of implementation of a comprehensive plan addressing the housing needs of students across all income levels with a specific focus on extremely low income, immigrant, and disabled students. Furthermore, the City encourages a University Short Term Implementation Plan for the approximately 1,500 remaining units already approved in the current LRDP. The City of Berkeley encourages the University to seriously consider potential short term consensus sites including Fulton & Bancroft; University & Oxford, formerly designated for a hotel; Channing Ellsworth tennis courts, and Unit 3 densification if done as modular units built elsewhere during the school year and placed on site during summer. The City supports University high rise development up to 12 stories at three out of four of these sites.

The foregoing Resolution was adopted by the Berkeley City Council on January 23rd, 2018 by the following vote

Ayes
Noes
Absent
Attest

Mark Numainville, City Clerk

Jesse Arreguin, Mayor



City Clerk Department

March 10, 2016

Janet Napolitano
Office of the President
University of California
1111 Franklin Street, 12th Floor
Oakland, CA 94607

RE: Letter to Chancellor Dirks Urging UC Berkeley to Build More Student Housing

At its meeting of March 8, 2016, the Berkeley City Council voted to send the following letter urging UC Berkeley to build more student housing to address the needs of existing students and planned enrollment increases.

President Napolitano,

Thank you for creating the President's Student Housing Initiative. The City of Berkeley greatly appreciates your commitment to accelerating the timetable in completing current student housing developments and also expanding the pool of student housing in the future. We share your concerns in both keeping housing as affordable as possible for UC students and maintaining sufficient amounts of housing to meet an ever-increasing demand. We appreciate your written commitment to meet with undergraduate and graduate student leaders. All of the above-mentioned features of the initiative are exemplary and we commend you for your leadership on this important issue.

In moving forward to implement your housing initiative, we encourage consideration of public-private partnerships (P3), which have the potential to address important concerns and help us meet the need for thousands of additional units of student housing. A model P3 project could meet the needs of all stakeholders, including students, the university, workers, environmentalists, and neighbors.

There are three high-priority criteria for specific features of a P3 that would build strong public support for using this tool to meet the need for student housing. These include:

- 1. Ensuring student costs will be comparable to residence hall rates and can be controlled in agreement with private developers.*

- 2 -

2. Meeting labor standards which include prevailing wage and recognized apprenticeship programs in accordance with the history and tradition of UC's construction projects. Alternatively, a project labor agreement could be considered.
3. Retaining or expanding current UC sustainability standards to ensure green buildings.

We encourage consideration of P3 agreements, provided they include the aforementioned components.

Multiple sections of the Berkeley General Plan support increased housing in downtown Berkeley. Increasing student housing in the downtown would help us implement the vision of transit-oriented development. There are multiple opportunity sites for student housing in downtown Berkeley.

The Telegraph Avenue area from Bancroft to Dwight is ideal for more student housing, given its close proximity to campus and the possibility of students walking or bicycling to class. Telegraph Avenue has been recognized as a Priority Development Area and contains multiple opportunity sites. Already, hundreds of millions of dollars have been invested in the Telegraph area in the recent years. The Telegraph Property Business Improvement District has put forward a powerful plan for community improvements, and the City of Berkeley adopted the South Side Plan, to which the University jointly agreed. Creating housing delivers on the goals of the South Side Plan. This also meets the demands of the area's overwhelming student population, who support additional student housing in their neighborhood.

The City currently has zoning barriers and obstacles which prevent creation of additional housing on or near Telegraph Avenue. Recently, the City Council voted unanimously to refer to the Planning Commission to remove those housing barriers, thus allowing the potential for numerous projects which could add many additional student housing units.

Thank you again for prioritizing the needs of students by creating the President's Student Housing Initiative. The City of Berkeley stands ready to help in any way possible to accomplish these goals.

Sincerely,



Mark Numainville
City Clerk

Cc: Jesse Arreguin, Councilmember, District 4
Tom Bates, Mayor
Dee Williams-Ridley, Interim City Manager

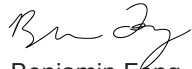
January 30, 2018

Dear Planning Commissioners,

Thank you for making time to focus on UC Berkeley student issues at the February 7, 2018, Planning Commission Meeting. After a brief introduction, the students will present for 15-20 minutes followed by discussion. As a recent Cal graduate myself and former Legislative Affairs Director for the UC Berkeley Graduate Assembly, I am familiar with the unique issues that students face. I believe the students will offer useful perspective both on issues relating to our workplan as well as new ideas for us to consider in the future.

I am attaching some documentation that the student leaders have sent as background material for that meeting, and I look forward to a productive meeting!

Sincerely,



Benjamin Fong
Planning Commissioner
City of Berkeley

Attachments:

- 1) "More Student Housing Now" – Associated Students of University of California Letter
- 2) Housing Survey – UC Berkeley Office of Planning and Analysis
- 3) "Where Berkeley Students Live" – UC Berkeley
- 4) Excerpts from the 2016 UC Berkeley Transportation Survey

ASUC
Associated Students
UNIVERSITY OF CALIFORNIA



January 7, 2018

Honorable Mayor & City Council
2180 Milvia Street, 5th Floor
Berkeley, CA 94704
Re: More Student Housing Now

Dear Honorable Mayor & City Councilmembers:

On behalf of the Associated Students of the University of California, we are writing to express strong support for January 23rd's **More Student Housing Now Resolution** as brought forth by Councilmembers Worthington, Harrison, and Mayor Arreguin.

Time and time again, students have condemned the severity of the student housing crisis in Berkeley and demanded results from city and university leadership. Time and time again, however, even proposed solutions have been bogged down in the bureaucratic process. We look forward to seeing the Planning Commission recognize the urgency that this moment requires and prioritize the various referrals from the council that they have received that would result in more student housing being developed as soon as possible.

We commend President Napolitano and Chancellor Christ for their commitments to expanding housing availability in Berkeley and across the UC and for their support of **long-term housing development** and **immediate emergency housing solutions**. Yet, there is much **housing development** that can still be accomplished in the **short-term** that we have not taken sufficient steps towards realizing, particularly given the approximately 1,500 units already approved in the current LRDP. The proposals referred to in this Resolution are an important series of steps in the right direction.

Thank you for your consideration of these comments. We would be happy to see this item pass through the consent calendar **unanimously and without amendments**.

Sincerely,

Zaynab AbdulQadir-Morris, ASUC President
Helen Yuan, ASUC Executive Vice President
Rigel Robinson, ASUC External Affairs Vice President
Andrew-Ian Bullitt, ASUC Academic Affairs Vice President
Jillian Free, ASUC Student Advocate

Housing Survey Preliminary Findings

Office of Planning & Analysis
Fall 2017

Background

Housing Master Plan Task Force January 2017 report:

- Demand for campus housing significantly outpaces supply
- UC Berkeley has the lowest percentage of beds for our student body of any campus in the UC system
- High prices of housing impacts student experience
- Identifies nine potential sites for development
- Calls for a survey as one aspect in decision-making process

Methodology

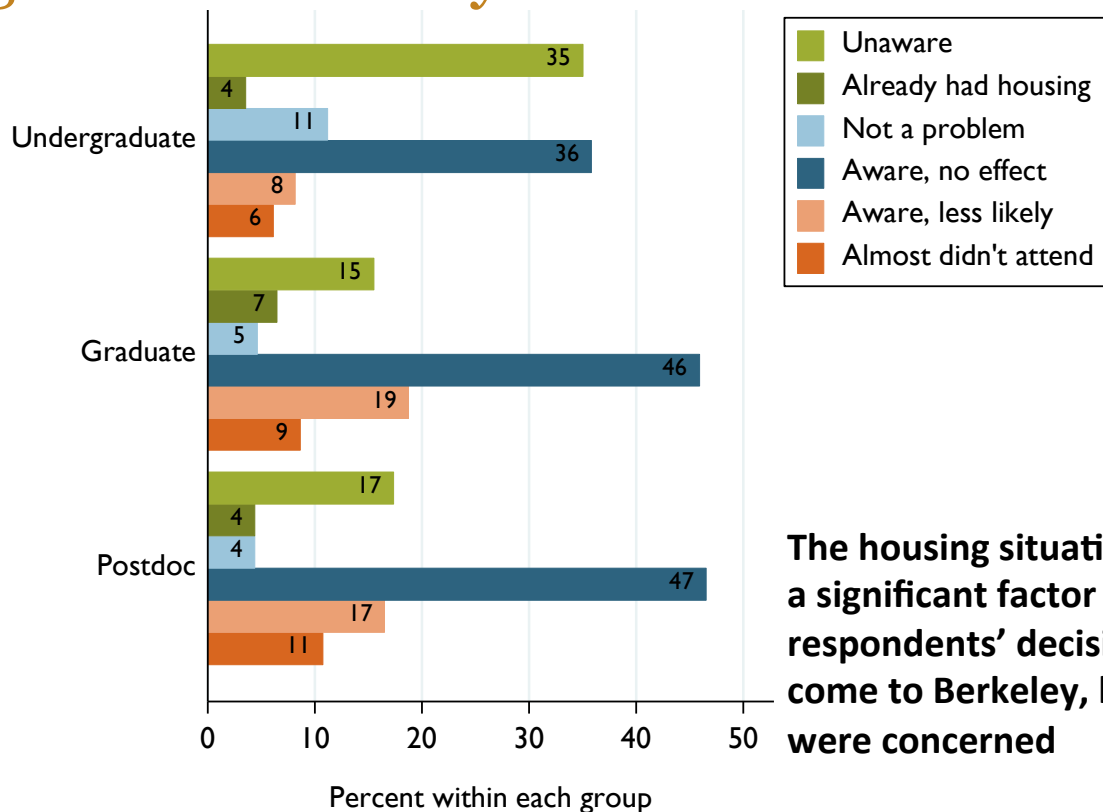
- Working group from the Office of the Executive Vice Chancellor and Provost, Division of Student Affairs, Office of Planning and Analysis, and Graduate Division met to design survey, collect data, and summarize results.
- Web survey went out to 27,292 undergraduates, 10,440 graduate students, and 1,160 postdocs during period of 4/7/17-5/16/17.
- CalNet authentication provided authorized access only and allowed for a generic survey link (CalNet UID mapped to unique survey ID).
- Prize drawing.
- Email notifications (initial invitation and 5 survey reminders) as well as social media and newsletter reminders.
- Survey content covered: Current housing situation, costs and satisfaction, housing security, impact of housing on experience, rankings of potential building locations.

Response

- Overall participation rate (completes + partials) of 24%
- 23% of undergraduates either completed or partially completed the survey
 - No significant difference in response between freshman/transfers
 - Seniors responded at a lower rate (17% v. 25%)
- 26% of graduate students responded
- 32% of postdocs responded

Crisis evaluation

Awareness of housing situation prior to coming to UC Berkeley



The housing situation was not a significant factor in respondents' decisions to come to Berkeley, but many were concerned

New undergraduate students' level of concern about finding affordable housing

Newly entering undergraduates express high levels of concern regarding finding affordable housing while at Berkeley

| "Finding affordable housing while I'm a student at UC Berkeley" | Not at all concerned (1) | (2) | (3) | (4) | (5) | Very concerned (6) |
|---|-----------------------------|-----|-----|-----|-----|-----------------------|
| Fall 2016 Transfer Entrants | 14% | 9% | 11% | 15% | 18% | 34% |
| Fall 2016 Freshman Entrants (excludes FPF) | 14% | 11% | 18% | 17% | 19% | 20% |
| Fall 2016 Fall Program for Freshmen (FPF) students | 10% | 16% | 9% | 9% | 28% | 29% |

Source: Fall 2016 Survey of New Students - (Student Life & Development Module)

Respondent comments: finding affordable housing

“I live in West Oakland because a **two month** search for affordable and livable options in Berkeley **proved to be unfruitful.**”

– Undergraduate Student

“**My housemates were strangers to me and my roommate before we moved into the house.** Moving to my current house was an **act of desperation** to find a place to live, and created a heavy burden for my single mother due to the rent and utilities cost being at the peak maximum of my mother's budget. In order to help my mom with these costs, I took on a part-time student job at the library. If my rent wasn't so high, taking on a job would be optional instead of mandatory.”

– Undergraduate Student

“Too expensive for not much space, but was the best I could find in this rental market. **Prolonged searches, and stress and uncertainty,** can put you in a more vulnerable situation depending on supply.”

– Undergraduate Student

Respondent comments: finding affordable housing (cont'd)

“After a **two months long search** I found a cheap room with good roommates. The issue is the constant fear of being asked to leave the apartment (i.e., by our landlady). I cannot afford rent anywhere else.”

- Postdoc

“**I searched for months** for housing, which **stressed me out a lot**. I wound up paying decent rent (\$2800 for 3 people) and have an apartment with livable space, but I am a 25-30 minute walk from my classes, so that's the trade off. I wish I could have lived closer to campus.”

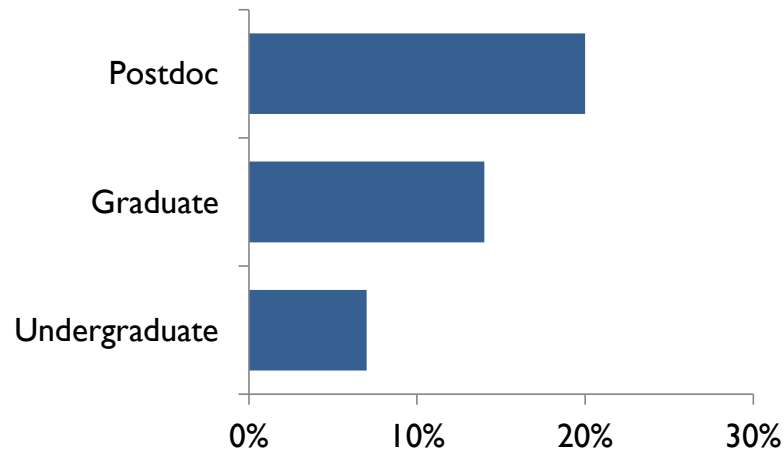
– Undergraduate Student

“If I had known how bad **the cost of living** would be here, **I would have seriously considered completing my PhD elsewhere**, and UC Berkeley has always been my dream.”

– Graduate Student

Percent experiencing homelessness while at UC Berkeley

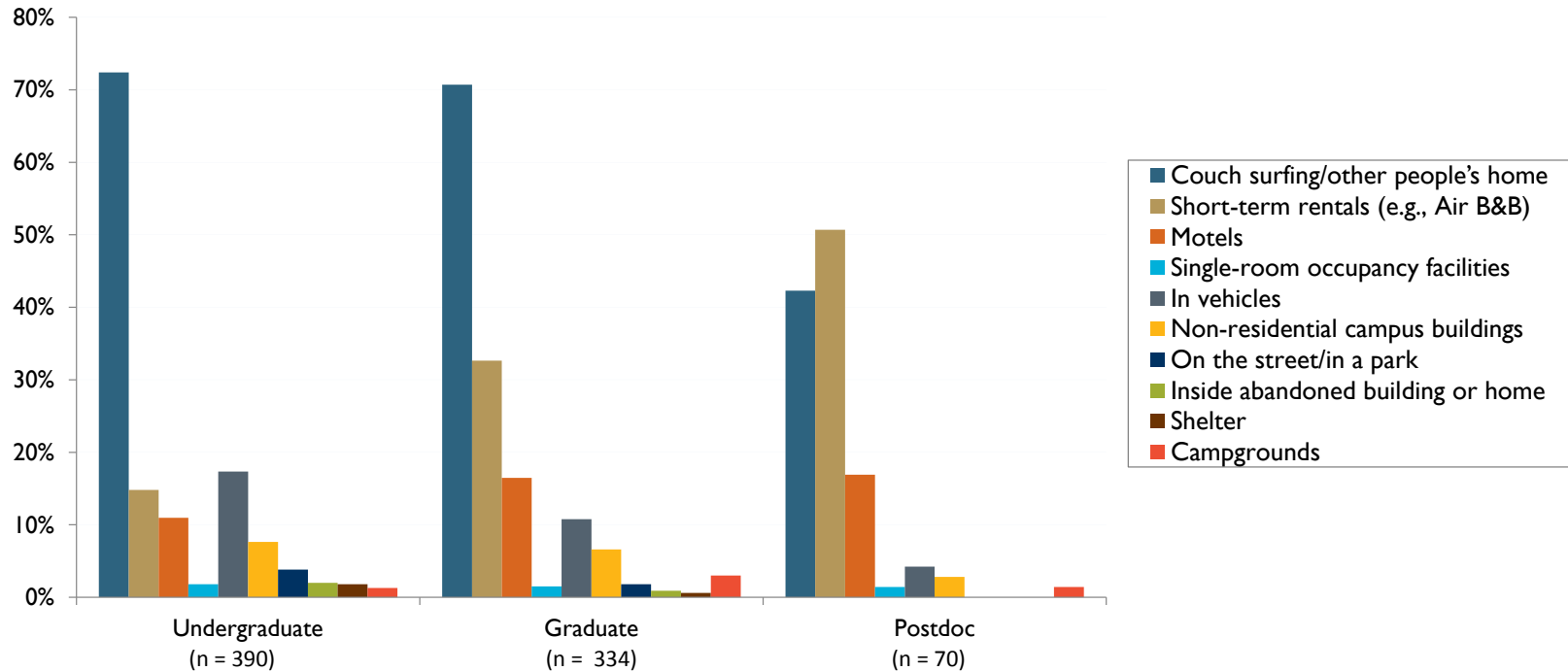
10% of all respondents self identified as having experienced homelessness at some point since arriving at UC Berkeley, the rate was double for postdocs



Survey Question: "Since arriving at UC Berkeley, have you ever been homeless for any length of time? (Homeless means not having stable or reliable housing, (e.g., living on the street, in vehicles, motels, short-term rentals, camp grounds, single-occupancy facilities, or couch surfing in other people's homes for temporary sleeping arrangements)."

Where respondents lived when homeless

Respondents lived in a range of locations when experiencing homelessness



Respondent comments: homelessness while at UC Berkeley

“As an older transfer student, my only UC housing offer was a shared triple unit bedroom and about a 25 minute walk from Campus. Deciding to live on my own instead, **I started the school year technically homeless, couch surfing and renting a room on a weekly basis.**”

– Undergraduate Student

“Housing prices are unmanageable, and I was **homeless and living in a car for three months** last semester with a friend!”

– Undergraduate Student

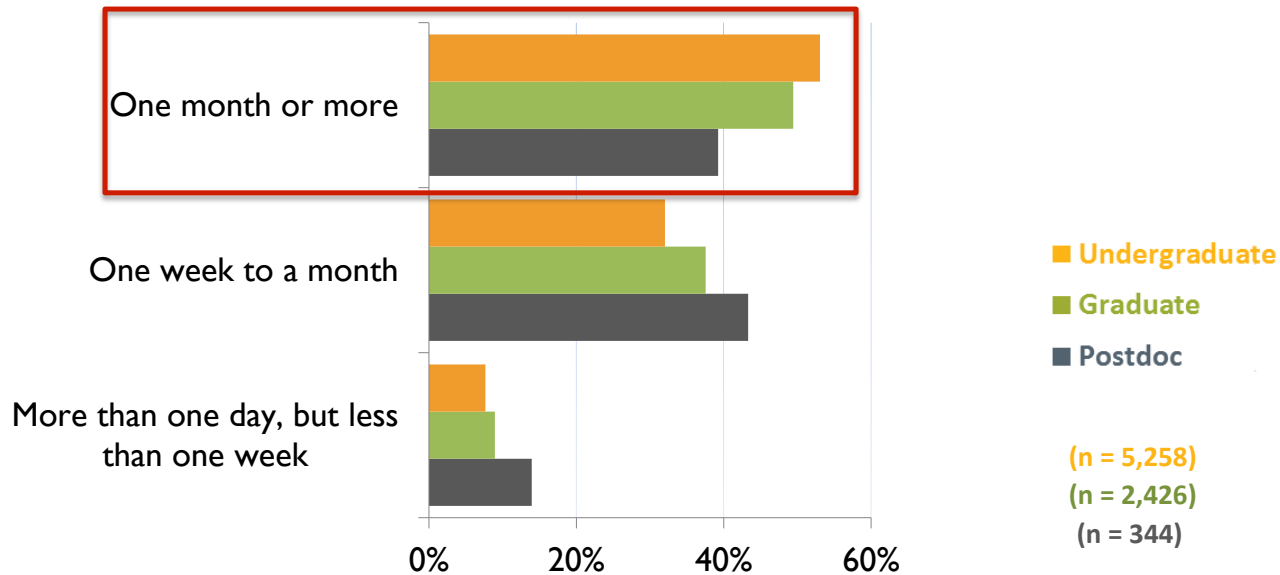
Duration of homelessness while at UC Berkeley

Most respondents experienced homelessness for one week to one month

| Duration of Homelessness | Undergraduate | Graduate | Postdoc |
|---------------------------------------|---------------|----------|---------|
| One day | 3% | <1% | 0% |
| More than a day, but less than 1 week | 19% | 17% | 29% |
| 1 week to a month | 44% | 54% | 46% |
| 1-2 months | 20% | 18% | 20% |
| 3-4 months | 8% | 5% | 4% |
| 5-6 months | 3% | 1% | 0% |
| More than 6 months | 3% | 4% | 1% |
| Total Respondent Count | 388 | 334 | 70 |

Length of time it took to find current housing

Half of respondents indicated that it took more than one month to find their current housing



Current housing situation

Percentage of respondents living with partners or children

Some undergraduate and graduate students and postdocs are making housing decisions for themselves and as well as partners and/or children.

| | Undergrads | Grad students | Postdocs |
|--|---------------------|---------------------|-------------------|
| No live-in partners or children | 5,945 (97%) | 1,906 (72%) | 168 (46%) |
| Respondents with partners ¹ | 106 (2%) | 544 (20%) | 109 (30%) |
| Respondents with children ² | 83 (1%) | 214 (8%) | 88 (24%) |
| TOTAL | 6,134 (100%) | 2,664 (100%) | 365 (100%) |

¹Excludes respondents living with children

²Includes respondents living with or without partners

Average monthly housing, food, and utility costs

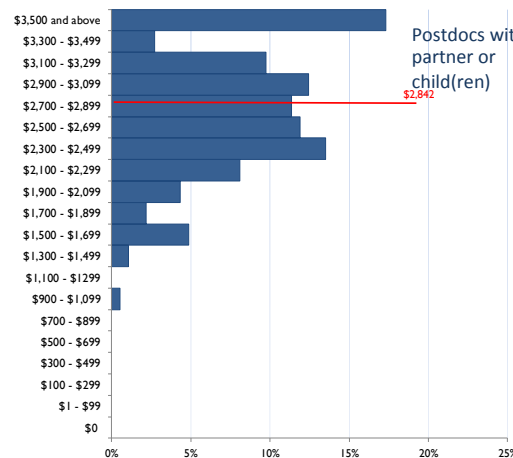
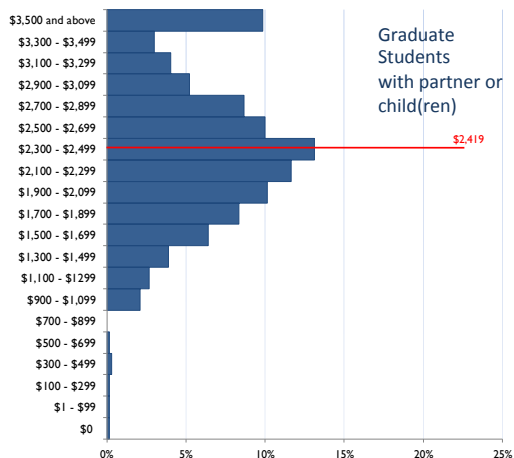
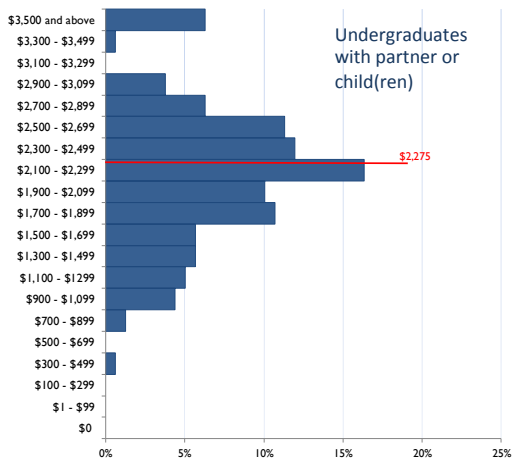
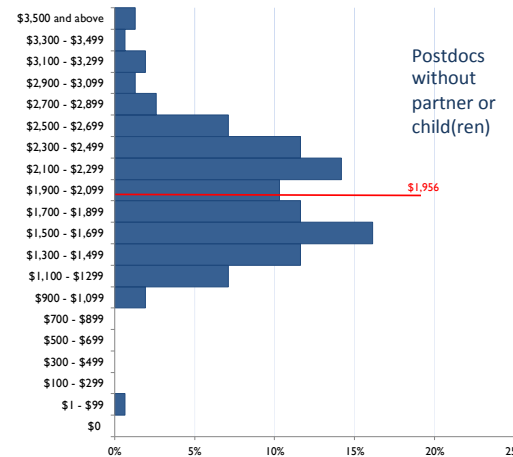
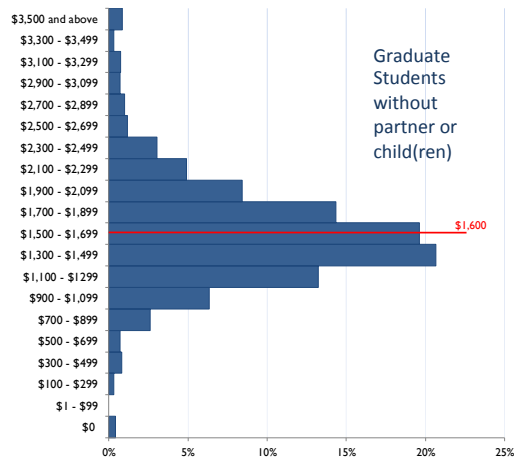
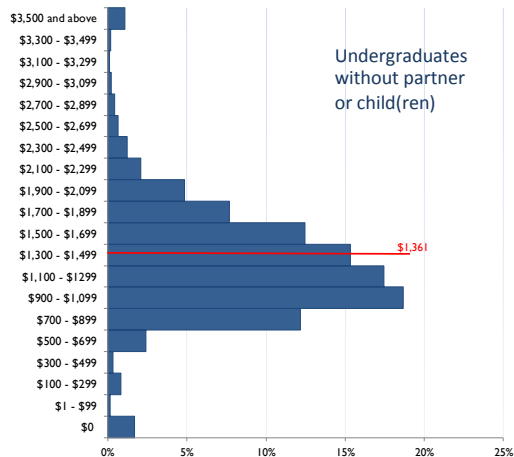
Undergraduates living in university owned housing reported higher monthly expenses than their respective counterparts living in non-university owned housing. For graduate students, this trend was reversed.

| | Undergraduate (n = 5,099) | | Graduate (n = 2,408) | | Postdoc (n = 340) | |
|---------------------------------|------------------------------|------------------------|-------------------------|----------------------|-----------------------------|---------------------|
| | Non-University Owned | University Owned | Non-University Owned | University Owned | Non- University Owned | University Owned |
| without partners or children | \$1,252 (n = 3,290) | \$1,577 (n = 1,650) | \$1,601 (n = 1,650) | \$1,579 (n = 88) | \$1,960 (n = 154) | n < 5 |
| with partners or children | \$2,108 (n = 79) | \$2,439 (n = 80) | \$2,478 (n = 471) | \$2,280 (n = 199) | \$2,839 (n = 166) | \$2,867 (n = 19) |

*Amounts shown represent an average of the monthly housing cost (e.g., rent), food, as well as select utilities.
 Utilities include: Water, Garbage, Gas, Electricity, and Internet*

Monthly reported housing, food, & utility costs

Respondents with families reported monthly housing, food, and utility costs of ~\$900 more on average than those without families



Values shown in red are the mean dollar amounts paid per month for housing, food, and utilities, by each respective respondent group.
 Utilities include: Water, Garbage, Gas, Electricity, and Internet

Respondent comments: satisfaction with housing

“I commute two hours every day to get to campus, riding my bike and BART for a total of > \$100/month, on top of my outrageous rent. I just **couldn’t afford an apartment closer to campus**. And I still have to live with a stranger in a tiny, loud apartment. **Even as a postdoc, I have no money saved at the end of every month.**”

- Postdoc

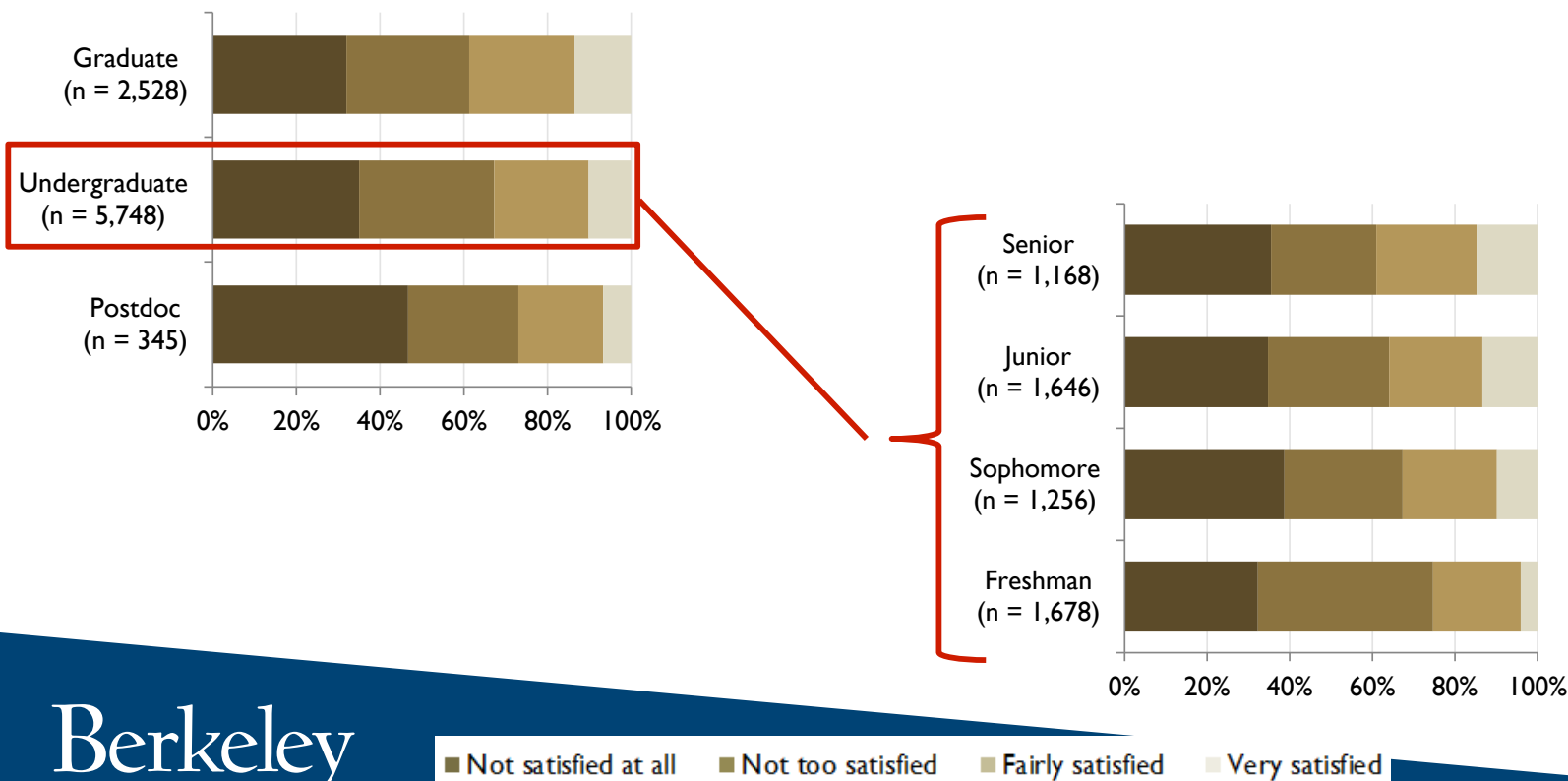
“I am so frustrated with our housing situation, considering UCLA students live in luxury compared to our housing. I **pay the same amount for a broken-down apartment** with insect problems in the basement with homeless people living outside my window **as my best friend does for an apartment** with laundry, a pool, a gym, and a dishwasher **in sparkling Westwood.**”

– Undergraduate Student

“The Berkeley Student Cooperative has given me **the absolute best living situation** I could ask for... It is extremely affordable and provides nutritious food, a welcoming and academically focused community and an abundance of amenities.” – Undergraduate Student

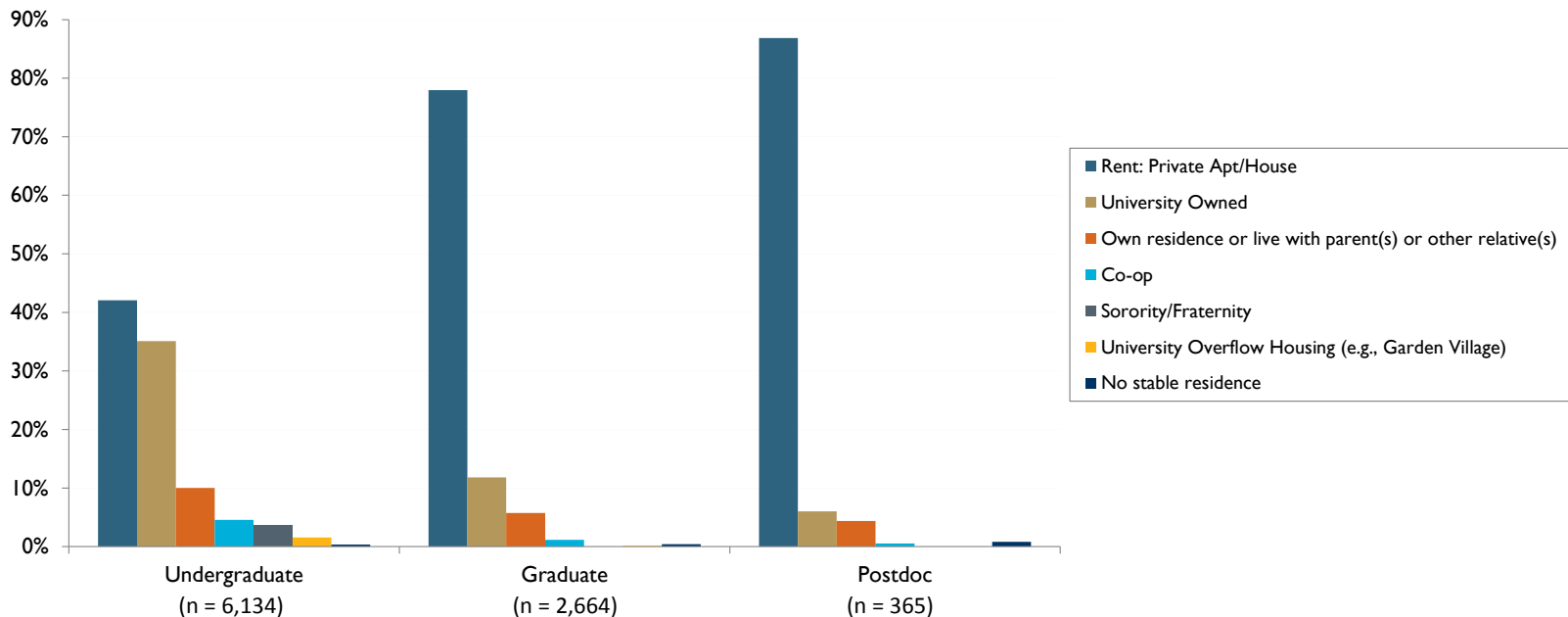
Level of satisfaction with current housing cost

Postdocs are least satisfied with their current housing cost, followed by undergraduates – particularly those with freshman class standing



The type of housing respondents were living in when surveyed

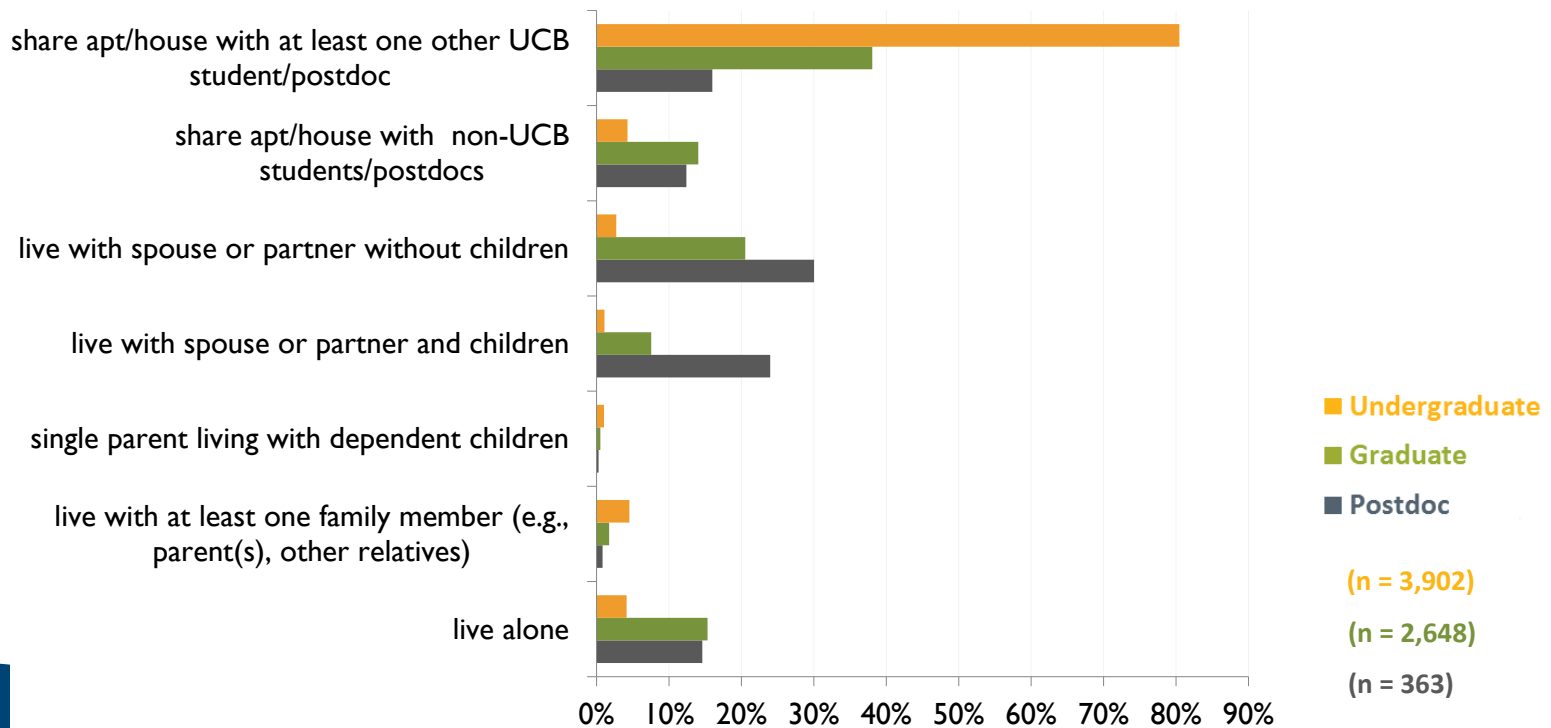
A greater proportion of undergraduates (35%) live in university owned housing as compared to graduate students (12%) and postdocs (6%)



Who respondents were living With

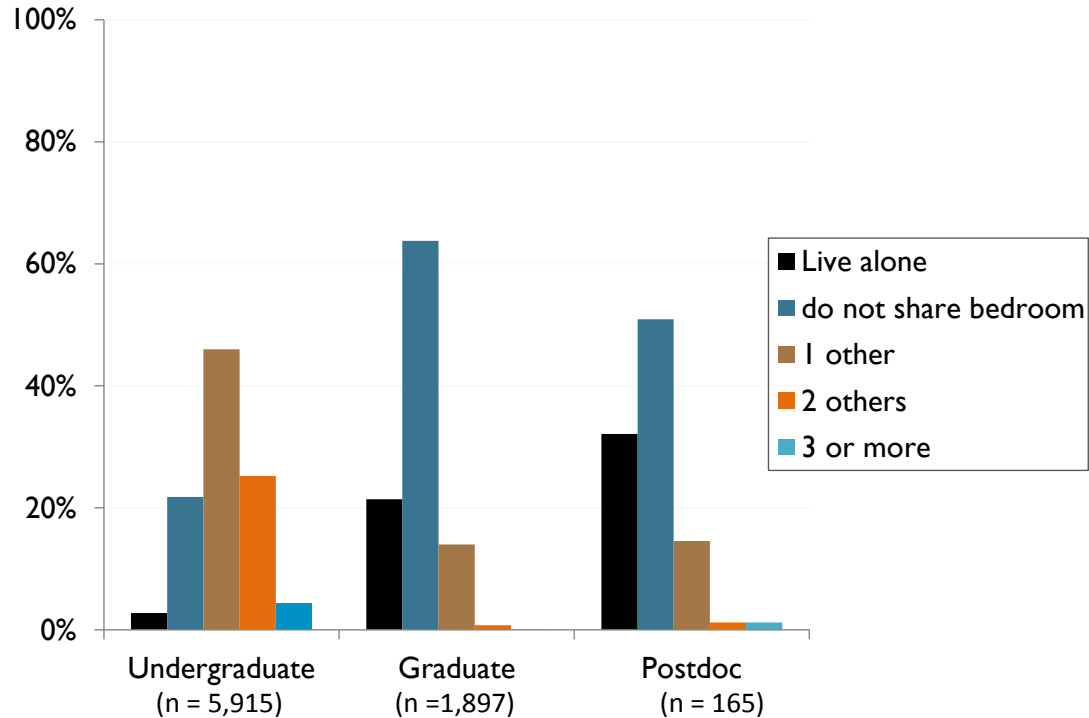
(Excludes those living in most types of undergrad university owned housing)

Most respondents reported living with some type of housemate; only 4% of undergrads and 15% of grad students and postdocs lived alone



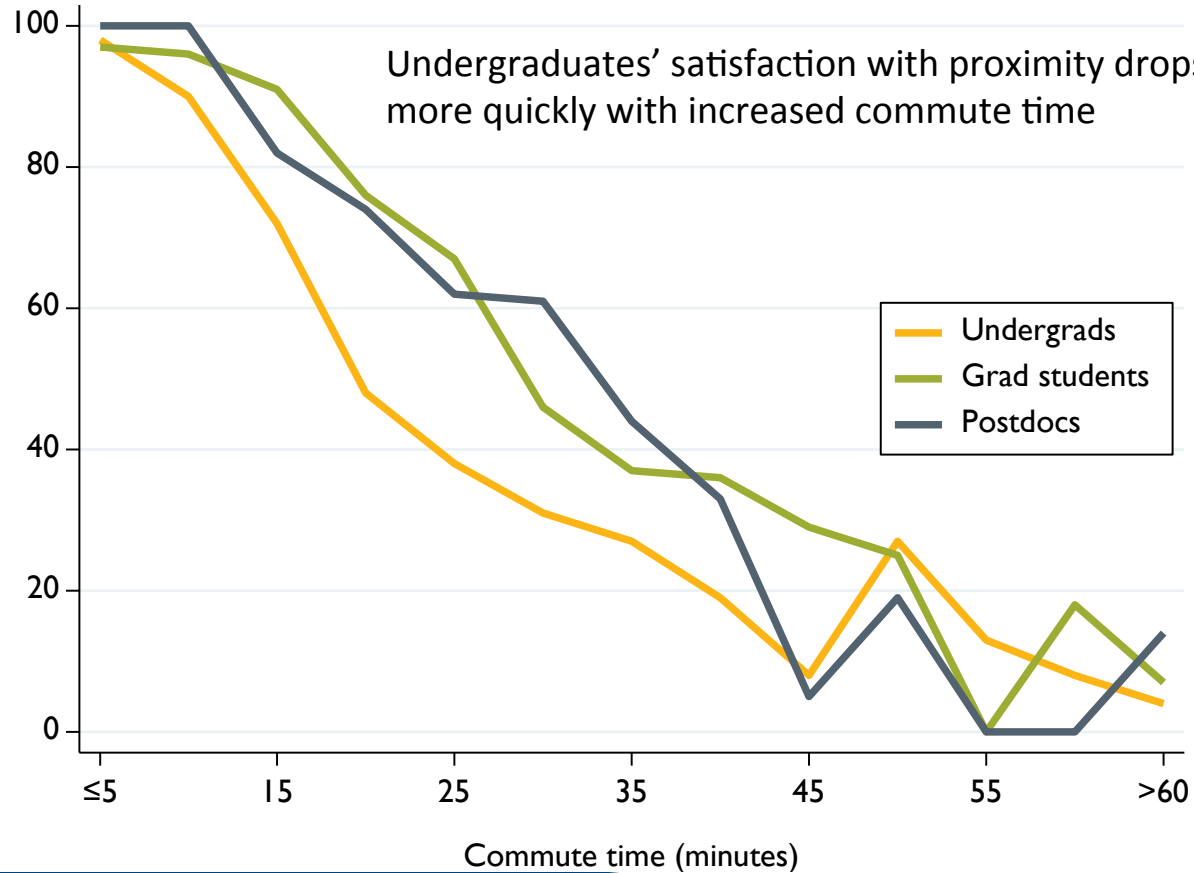
The proportion of respondents not living with a partner, who shared a bedroom

Undergrads are more likely to share a bedroom than are graduate students and postdocs

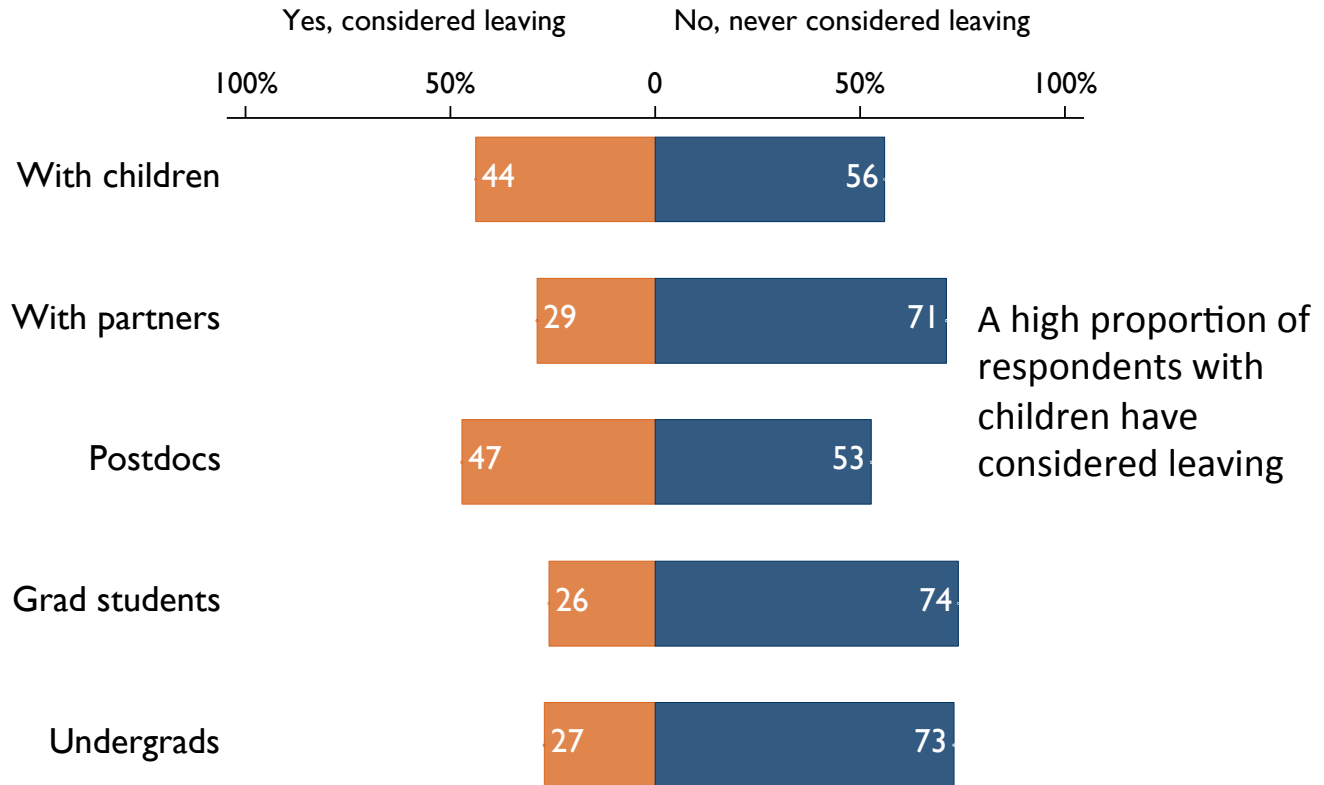


*Percentages exclude those who reported living with a partner/spouse, but include those who reported living alone
Represents responses to two different survey questions, which are shown on the previous two slides. Thus, the
difference in percentages shown in the number of respondents*

Satisfaction with current proximity to campus by commute time



Have you ever considered leaving UC Berkeley because of the housing situation?

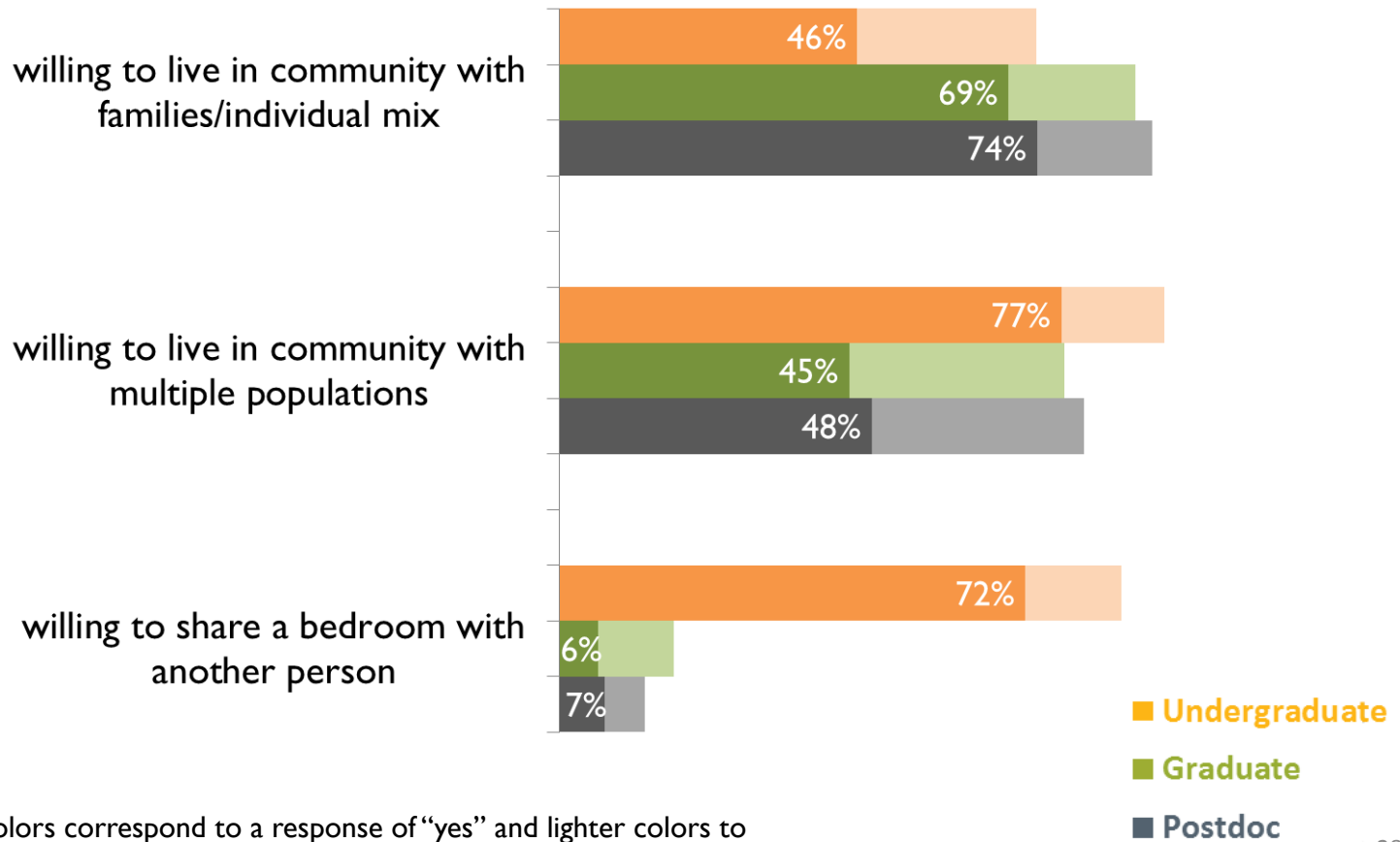


“Undergrads,” “Grad students,” and “Postdocs” exclude respondents living with partners and/or children
“With partners” includes respondents living with partners (without children)
“With children” includes respondents living with children (with or without partners)

“Unfortunately, postdocs are limited in the duration at the UC Village [student family housing]. I would have to leave in a few months which would increase all my cost by an additional 1500-200\$. **I am seriously thinking if we could afford staying in UC or terminating my position.**” - Postdoc

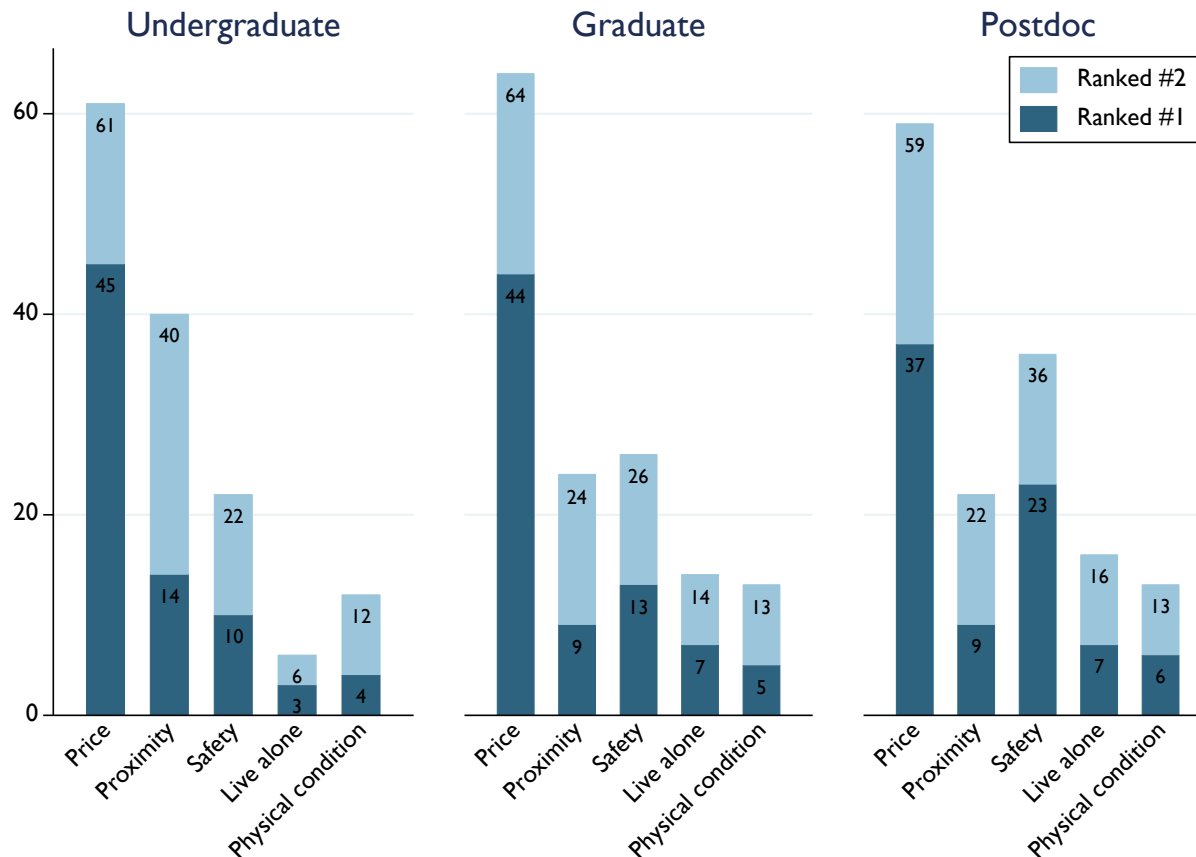
Potential housing

Postdocs & graduate students are most willing to live with a mix of families & individuals; Undergrads are most willing to live amongst multiple student populations

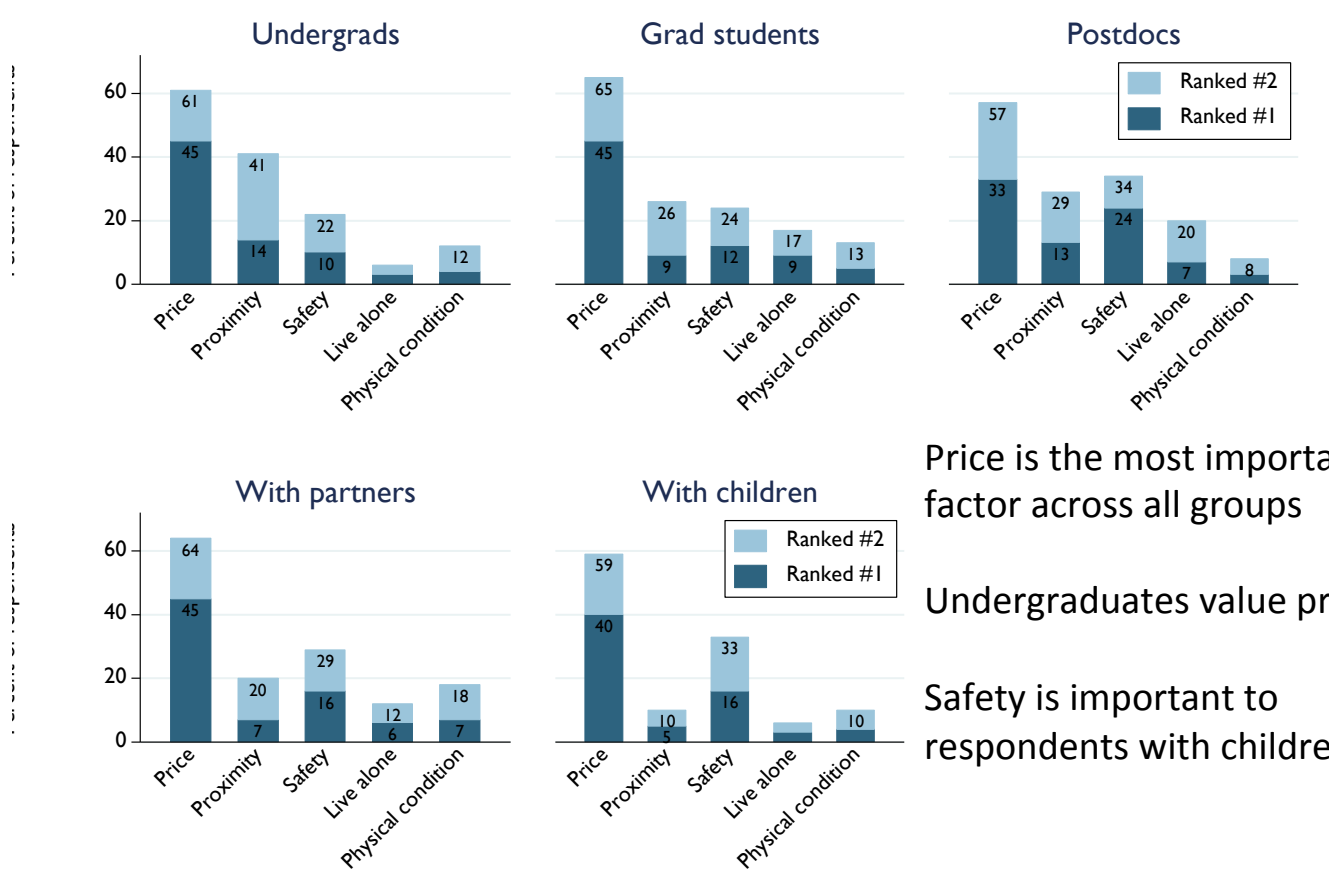


Darker colors correspond to a response of “yes” and lighter colors to a response of “maybe”

#1 and #2 most important factors in potential housing



#1 and #2 most important factors in potential housing



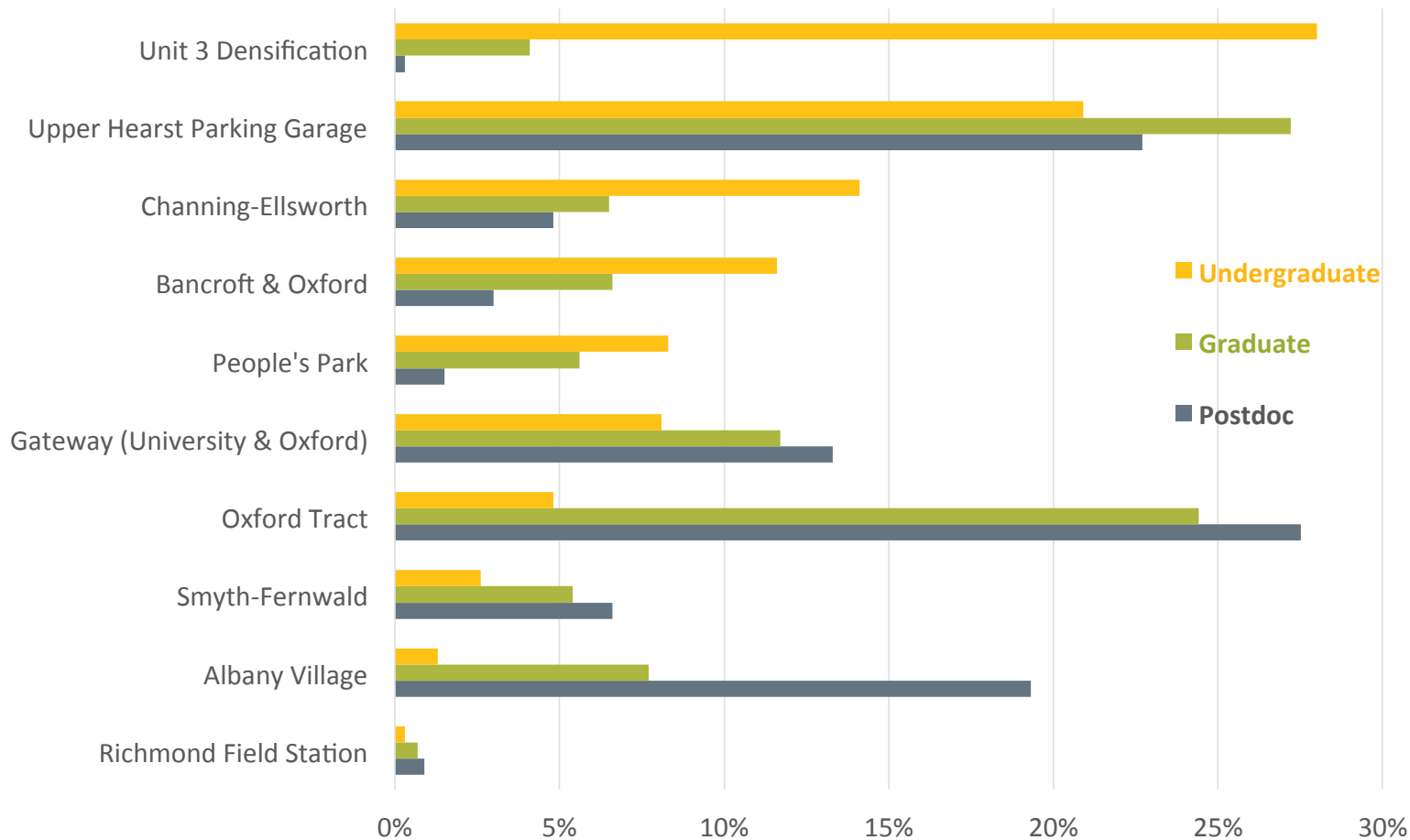
Price is the most important factor across all groups

Undergraduates value proximity

Safety is important to respondents with children

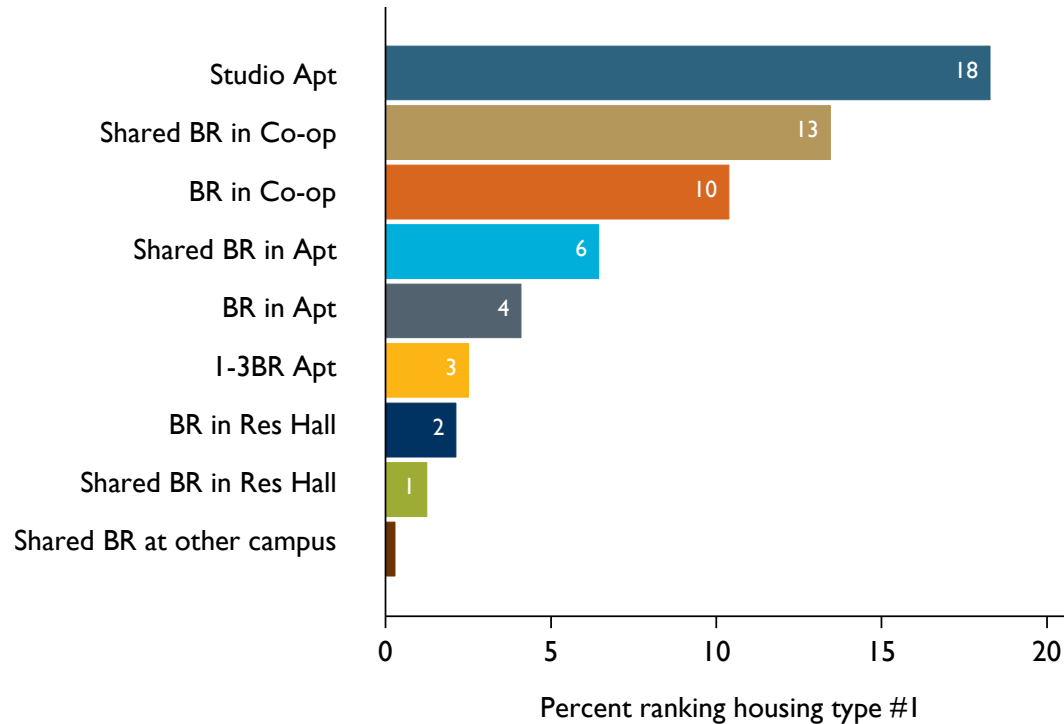
“Undergrads,” “Grad students,” and “Postdocs” exclude respondents living with partners and/or children
 “With partners” includes respondents living with partners (without children)
 “With children” includes respondents living with children (with or without partners)

Percent ranking the site #1



Percent rating the site #1

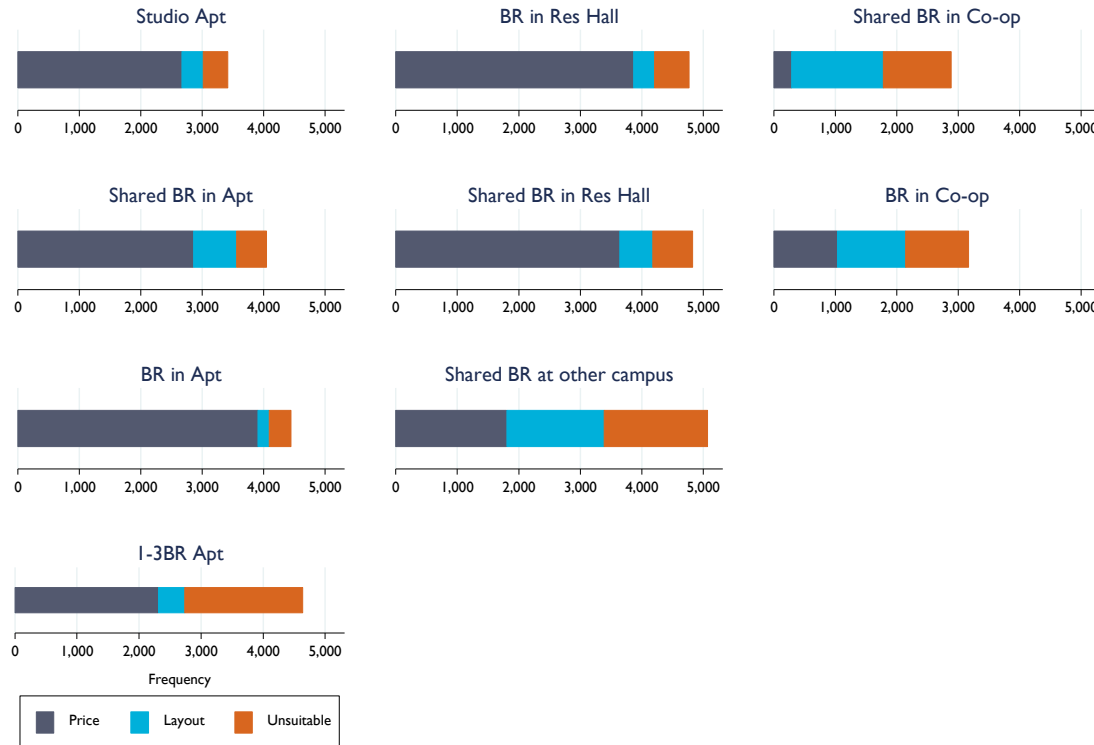
Undergraduates' preferred housing type



Percent of #1 rankings out of total valid responses for each housing type, range of valid responses (n = 5,276 - 5,404)
Excludes undergraduates who live with partners or children

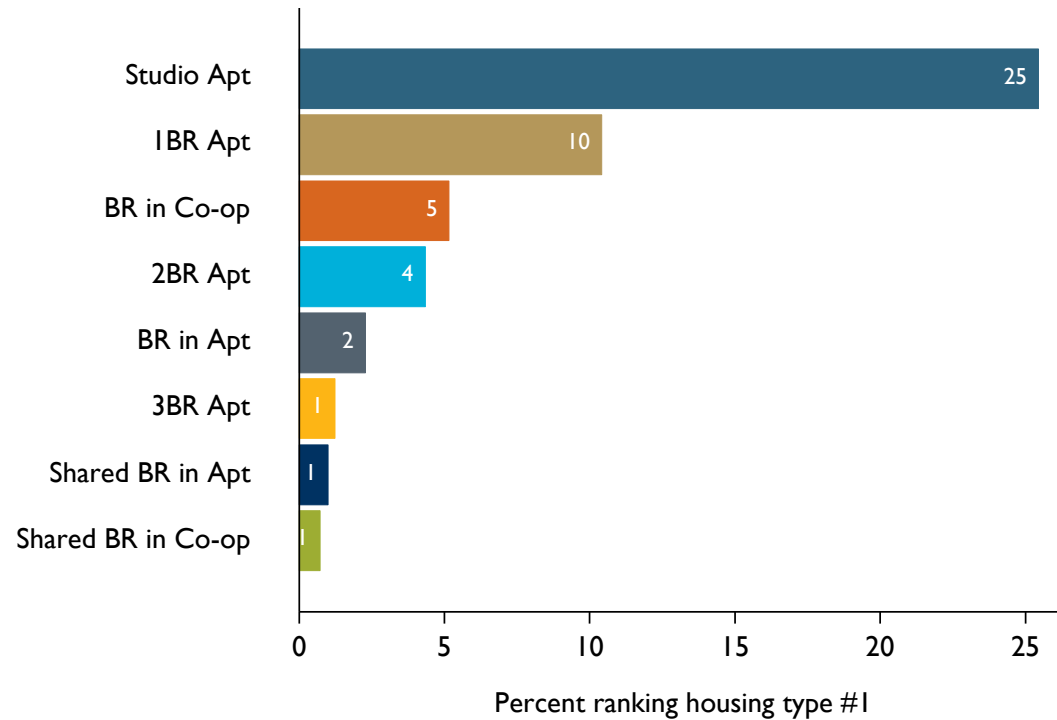
Undergraduates' reasons for **not** considering housing types

Undergraduates not living with partners or children



“Unsuitable” indicates it would not be an option for the respondent’s housing situation for any reason other than price or layout

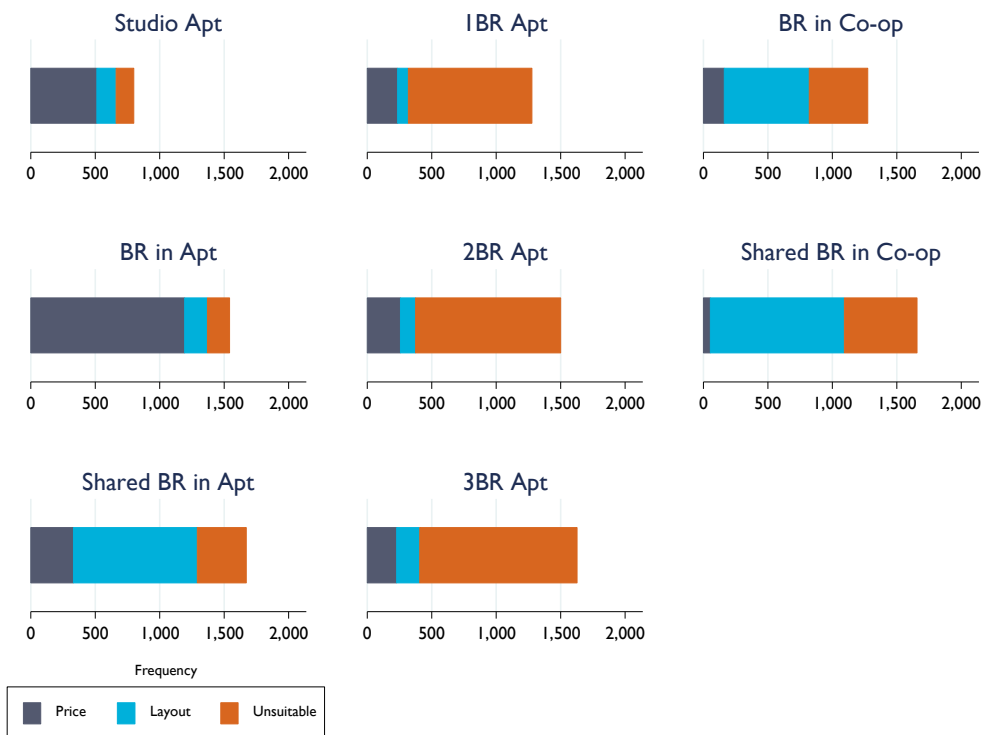
Graduate students' preferred housing type



Percent of #1 rankings out of total valid responses for each housing type, range of valid responses (n = 1,780-1,815)
Excludes respondents who live with partners or children

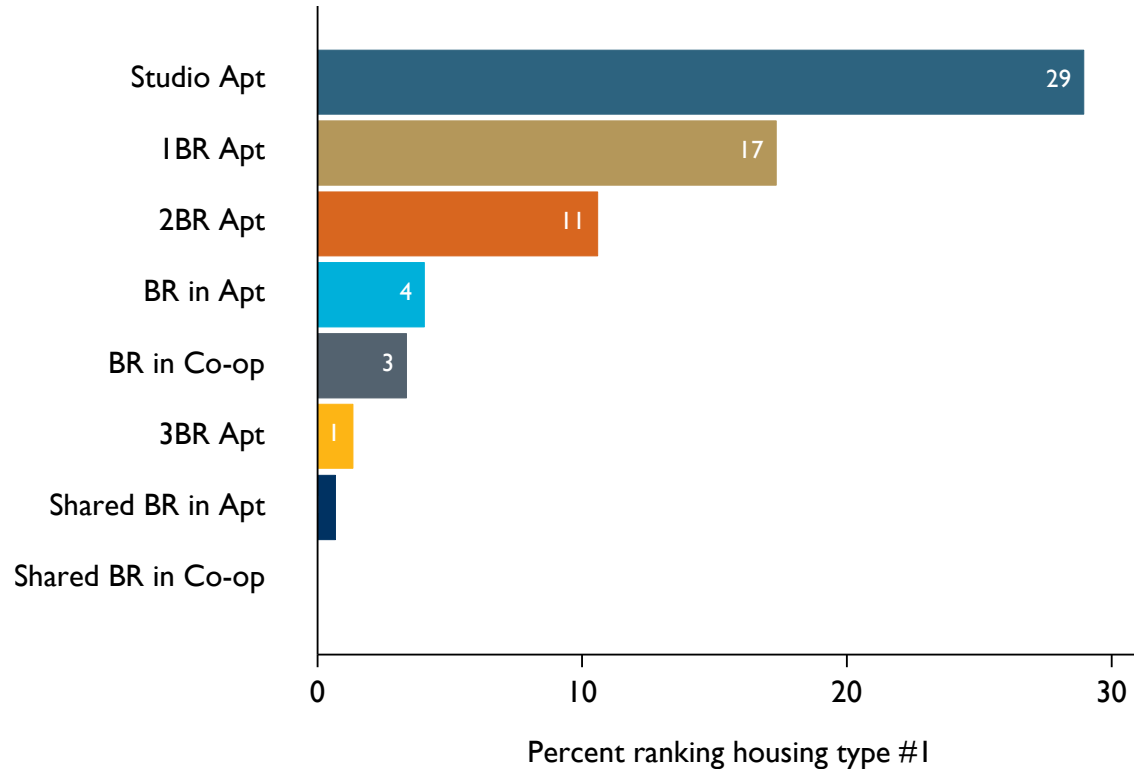
Graduate students' reasons for not considering housing types

Graduate students not living with partners or children



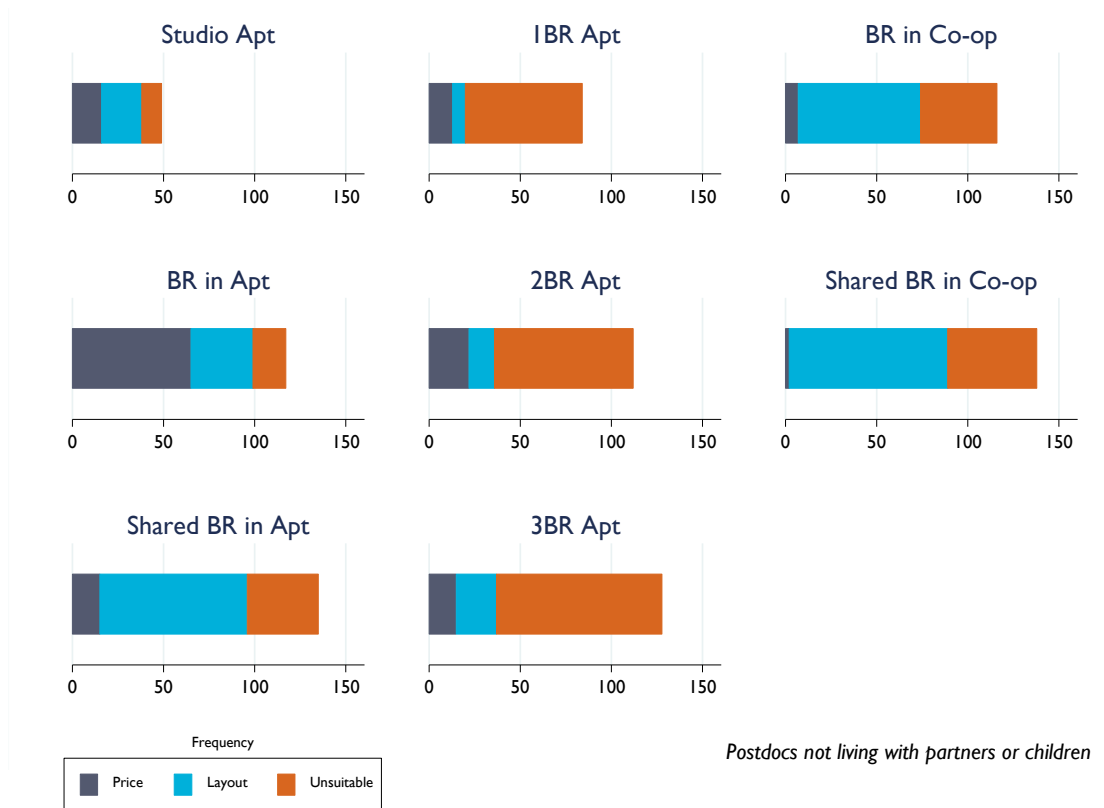
“Unsuitable” indicates it would not be an option for the respondent’s housing situation for any reason other than price or layout

Postdocs' preferred housing type



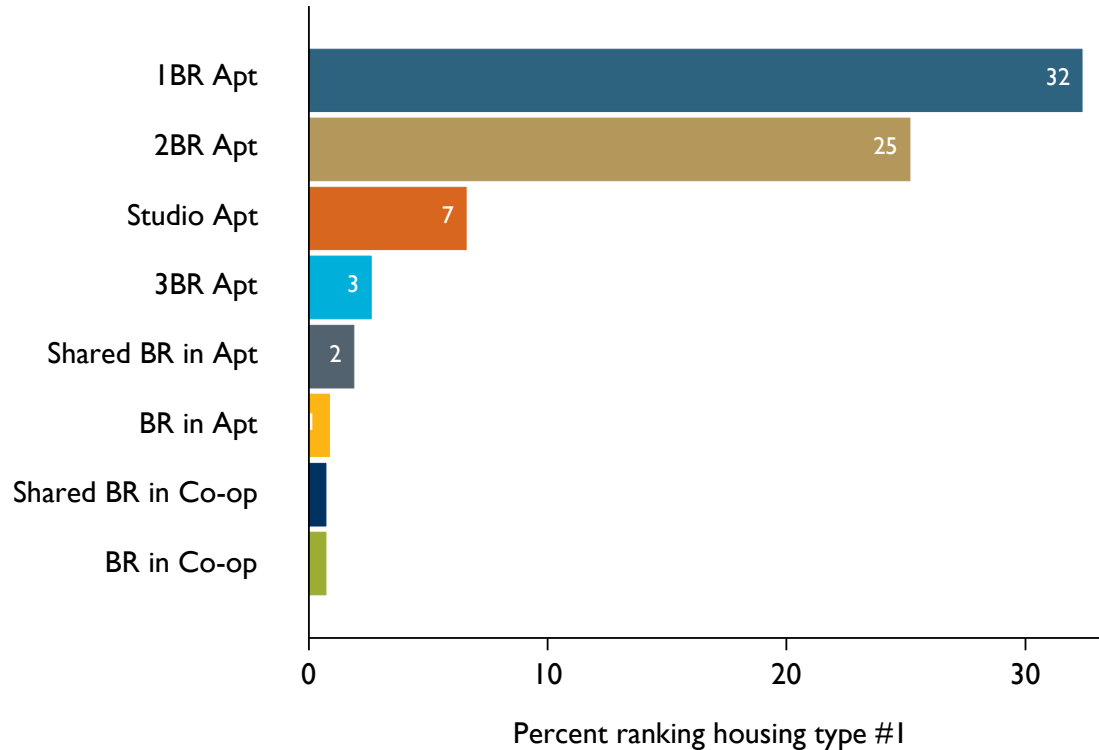
Percent of #1 rankings out of total valid responses for each housing type, range of valid responses (n = 144 - 152)
Excludes postdocs who live with partners or children

Postdocs' reasons for **not** considering housing types



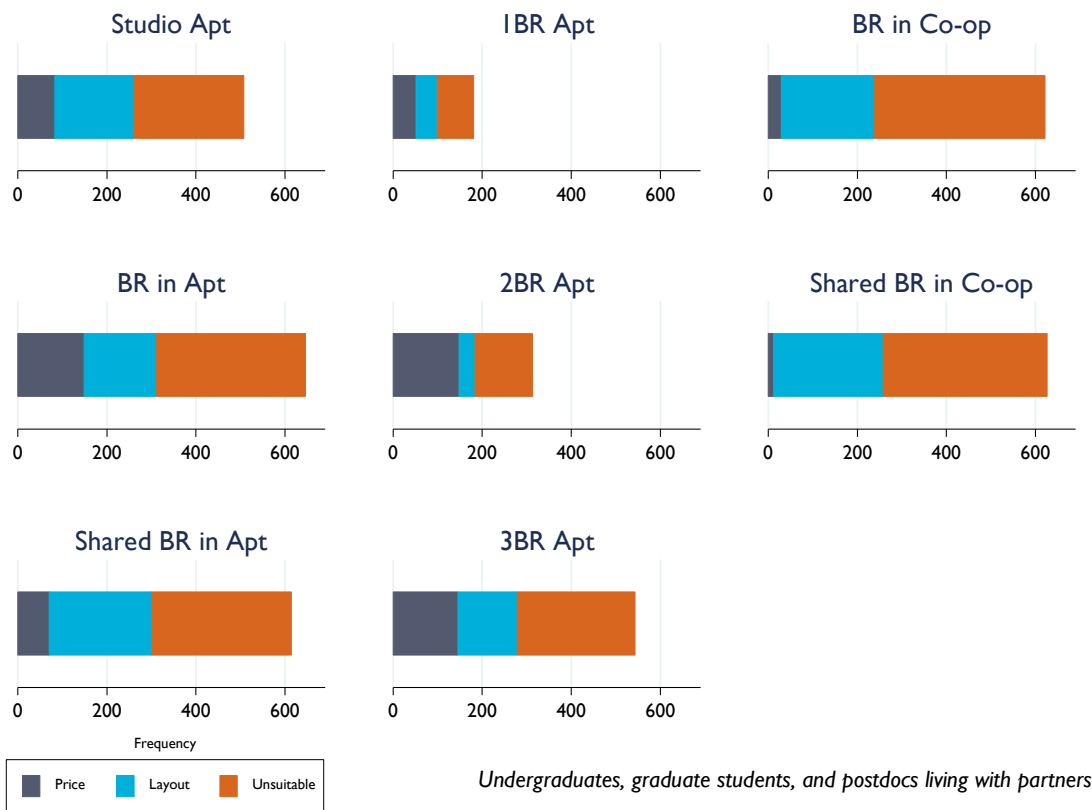
“Unsuitable” indicates it would not be an option for the respondent’s housing situation for any reason other than price or layout

Preferred housing type for respondents with partners



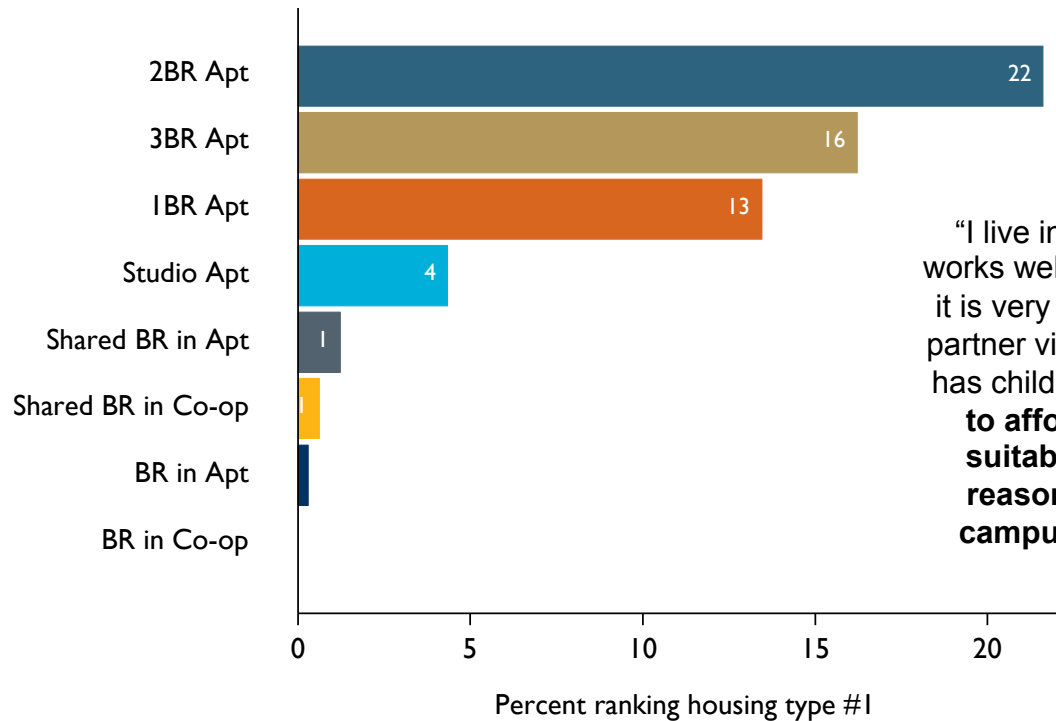
Percent of #1 rankings out of total valid responses for each housing type, range of valid responses (n = 683-704)
Includes undergraduates, graduate students and postdocs who live with partners

Respondents living with partners: reasons for not considering housing types



“Unsuitable” indicates it would not be an option for the respondent’s housing situation for any reason other than price or layout

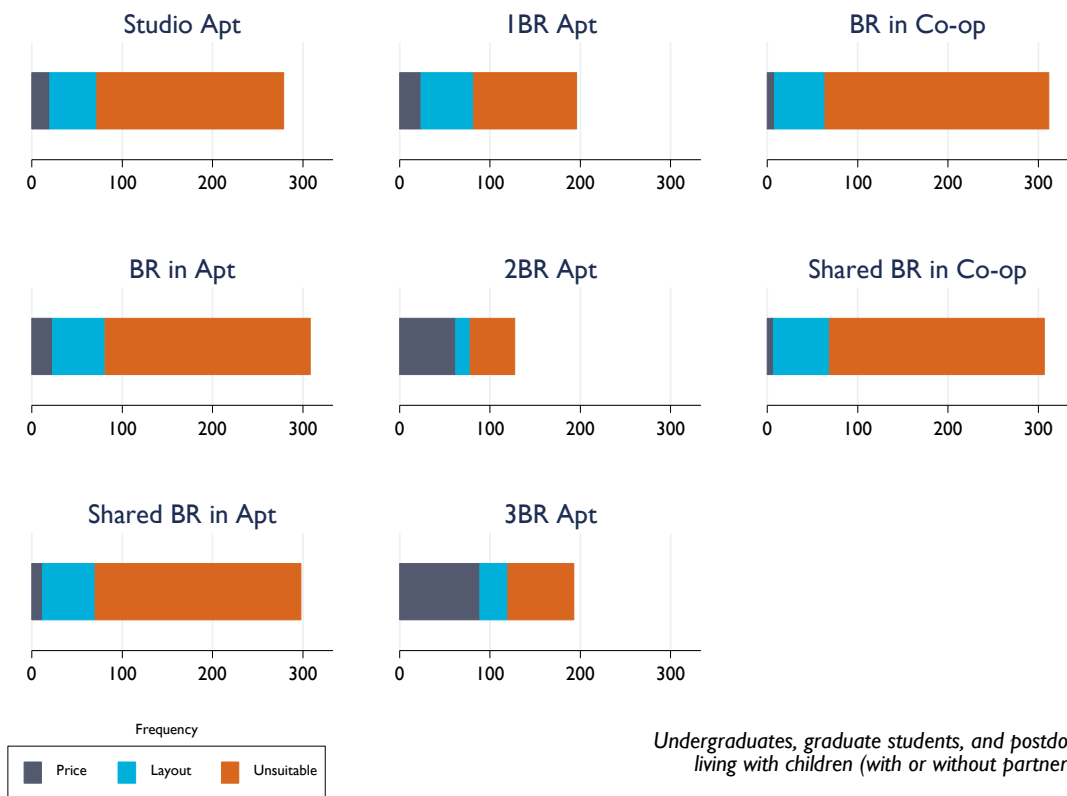
Preferred housing type for respondents with children



“I live in a studio which works well for me, although it is very difficult when my partner visits, because she has children. **It is difficult to afford something suitable for families reasonably close to campus.**” – Graduate Student

Percent of #1 rankings out of total valid responses for each housing type, range of valid responses (n = 322-347)
Includes undergraduates, graduate students and postdocs who live with children

Respondents living with children: reasons for not considering housing types



“Unsuitable” indicates it would not be an option for the respondent’s housing situation for any reason other than price or layout

Learn more
housing.berkeley.edu/housing-task-force-2017



Topic in Brief

Where Berkeley students live

May, 2016

This brief describes where and how far from campus students live, and what transportation they use to get to campus. The majority of students live within one mile of and walk to campus.

EXECUTIVE SUMMARY

From 2011 to 2014, the University of California Undergraduate Experience Survey (UCUES) results showed that about two-thirds of students lived less than one mile from campus and over 80% walked or biked to campus. About half of students lived off-campus in an apartment and one-fifth lived in a university residence hall.

The distance from campus of student residence was related to self-reported family social class. Those who identified as low-income or poor were less likely to live within one mile of campus compared to all students.

The proportions of students by distance from campus, mode of transportation, and housing type did not vary in the 2011, 2012, and 2014 UCUES results. Results from the 2014 survey are used in this briefing note.

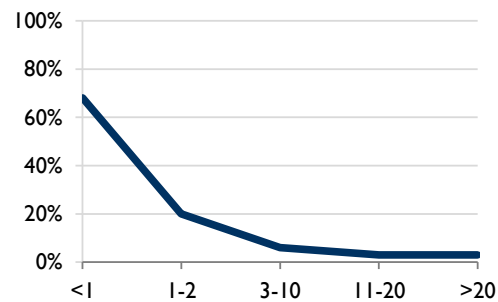
.....
Students' distance from campus, housing type, and transportation to campus did not change from 2011 to 2014.
.....

DISTANCE FROM CAMPUS

The chart below depicts the proximity to campus for students in 2014. The majority of students (68%) reported living less than one mile from campus, including living on campus. A further 20% said they lived 2 miles or fewer from campus. Remaining students lived 3 to 10 miles (6%), 11 to 20 miles (3%), and 21 miles or more (3%) from campus. The proportions of

students by distance from campus was similar in the UCUES results from 2011, 2012, and 2014.

How far students live from campus, in miles



Source: [UCUES 2014](#) (N = 8,385)

The chart below depicts the proximity to campus for students in 2014. The majority of students (68%) reported living less than one mile from campus, including living on campus.

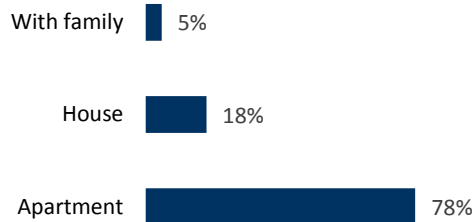
Fifty-eight percent of students who identified as low-income or poor and 59% of students who identified as working-class lived on campus or within one mile of campus, compared to 68% of all students. About one-fifth (22%) of all students lived in campus residence halls; and there was no difference in living in campus residence halls for low-income or poor students (22%) or working-class students (21%).

HOUSING TYPE

The chart below depicts the distribution of off-campus housing for students in 2014. The majority of students

(63%) lived off-campus, including apartments, houses, and with family.

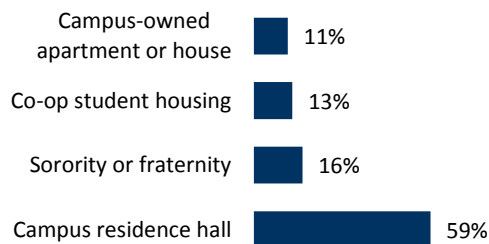
Off-campus housing types



Source: [UCUES 2014](#) (N = 5,250). Percentages may not add up to 100% due to rounding.

Among the 37% of students who lived in student housing, the majority (59%) were in residence halls, and others lived in a sorority or fraternity (16%), co-op student housing (13%) or a campus-owned apartment or house (11%).

Student housing types

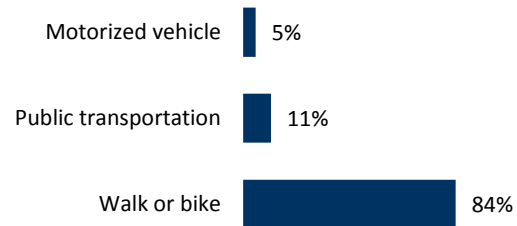


Source: [UCUES 2014](#) (N =3,036). Percentages may not add up to 100% due to rounding.

TRANSPORTATION TO CAMPUS

The majority of students reported walking (77%) to campus. The “walk or bike” category includes biking (6.6% within walk or bike group), using rollerblades, skateboard, skates, or scooter (0.6% within group), and mobility scooter, powered wheelchair, or wheelchair (0.1% within group).

Modes of transportation



Source: [UCUES 2014](#) (N =8,324)

Of the 11% of students who took public transportation to campus, 59% used the city bus, 25% took subway train, and 16% rode a campus bus. Students who used motorized vehicles drove alone (69% within motorized vehicle group), had a carpool (15% within group) or used a motorcycle, motorized scooter, or moped (16% within group).

UCUES RESULTS

Survey data was used due to the lack of available or reliable data for student addresses. Survey data is self-reported and may not be generalizable to the total populations. UCUES response rates from 2011, 2012, and 2014 were 33%, 39%, and 39% respectively.

For the full set of UCUES 2014 results, please visit:

<http://opa.berkeley.edu/2014-ucues-results-and-summary>

Web Address

opa.berkeley.edu

Office Address

Office of Planning & Analysis
 655 University Hall, Mail Code 1510
 Berkeley, CA 94720-1510
 Phone: 510-642-5735
 Fax: 510-643-8448

Excerpts from the 2016 UC Berkeley Transportation Survey

- less than 5% of ALL undergraduates drive to campus.
- over 90% of students come to campus in a mode other than a car -- approx. 40% walk, 20% bike, 26% transit
- less than 1% of ALL students living in the southside (94720, 94704) drive to campus.
- only about 15% of undergraduates living in the southside (94720, 94704) have access to a personal vehicle.
(access is not necessarily ownership)
- only about 35% of graduates living in the southside (94720, 94704) have access to a personal vehicle.
(access is not necessarily ownership)
- all students receive an AC transit bus pass as part of their student fees.
- students living within 2 miles of campus are not allowed to purchase campus parking permits.
- students living in UC housing are not permitted to bring cars to campus.



Planning and Development Department
Land Use Planning Division

STAFF REPORT

DATE: February 7, 2018

TO: Members of the Planning Commission

FROM: Alex Amoroso, Principal Planner

SUBJECT: Public Hearing Regarding the General Plan Re-designation and Zoning Map Amendment of a Portion of the Property Known as the "1050 Parker Street Project" from Manufacturing to Commercial - Assessor Parcel Numbers (APN) 054-1763-001-03 and 054-1763-010-00

Recommendation

Conduct a public hearing and make a recommendation to the City Council that parcels located at 1050 Parker Street and 2621 Tenth Street, assigned Assessor Parcel Numbers (APN) 054-1763-001-03 and 054-1763-010-00, be re-designated from Manufacturing Mixed Use to Avenue Commercial and be rezoned from Mixed Use Light Industrial (MU-LI) to West Berkeley Commercial (C-W).

Background

On December 19, 2017, the City Council referred this matter to the Planning Commission (Attachment 1). The subject parcels are part of a 1.6-acre site that has frontage on San Pablo Avenue, Tenth Street, and Parker Street. The three lots are proposed to be combined for the development known as 1050 Parker Street, which was approved by the Zoning Adjustments Board on December 14, 2017, pursuant to Use Permit ZP#2016-0170). The approved development would be a single three-story building that would provide about 20,000 square feet of new floor area on one parcel in the C-W zoned area and about 40,000 square feet on two parcels in the MU-LI zoned area. All of the parcels would be merged before a building permit is issued.

The project was approved to provide medical office use in the C-W zoned area and research and development in the MU-LI zoned area (Attachment 2). Those uses are mutually exclusive under the existing zoning so the project is designed to provide a physical separation of uses to the extent necessary along the existing zoning boundary, which runs north-south through the middle of the block bounded by San Pablo Avenue on the east and Tenth Street on the west. While the applicant received approval of a conforming development based on this use restriction, the pending request would allow

the medical office use to occupy the entirety of the site under a new Use Permit pursuant to the new zoning boundary.

As background, in 2016 the Planning Commission considered related issues including creating a new definition (Medical Office Building) and allowing Medical Office Buildings and Medical Practitioner Offices in the MU-LI District. The Commission concluded that allowing such uses throughout the MU-LI could overwhelm other industrial uses in the district. However, some Commissioners stated that they would consider re-designation/rezone of particular parcels on a case by case basis, if requested. Attachment 3 is the City Council staff report regarding the Planning Commission's prior statements and recommendations on this subject.

Discussion

The City Council has referred this action to the Planning Commission for consideration, with an expected return to Council by March 28, 2018. The Planning Commission is therefore requested to conduct a Public Hearing at this meeting (Public Hearing Notice Attachment 4).

The proposed rezone of the two parcels from MU-LI to C-W would change the allowable uses and development regulations. A broad range of different uses would be allowed; however, the approved R&D use at 1050 Parker would no longer be allowed in the C-W District. Because there is no building permit or business license for that use, the ZAB-authorized project would not be vested and that component of the approved Use Permit would be null and void. Therefore, a new Use Permit will be required for the redesignated project.

The Planning Commission role is to consider and recommend action to the City Council regarding the requested map amendments according to BMC Chapters 22.04.02 and 23A.20, and California Government Code sections 65353 *et seq* and 65853 *et seq*. To recommend in favor of a redesignation and rezoning, the Commission must consider the following two sets of findings. Staff has drafted statements in response to the findings to support the redesignation and rezoning of the parcels.

General Plan Redesignation Findings:

1. The proposed amendment is in the public interest.
 - The amendment serves the public interest through changing diversity of well-paying jobs in West Berkeley and along a major transit corridor. It also supports the sustainability goals of the City by providing jobs close to alternative modes of transportation.
2. The proposed amendment is consistent and compatible with the rest of the General Plan.
 - The amendment is consistent with the General Plan and West Berkeley Plan (WBP) by increasing land available for higher paying jobs in the Office/Medical sectors, and focusing development along the San Pablo Avenue corridor where the medical office use would be appropriate. The General Plan also supports

- economic development and a diversity of jobs along and adjacent to commercial corridors.
3. The potential effects of the proposed amendment have been evaluated and have been determined not to be detrimental to the public health, safety, or welfare.
 - The amendment would support the public health, safety and welfare of the City by bringing potential new mix of uses to the parcels, including healthcare services and job providers, to the community.
 4. The proposed amendment has been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act.
 - The amendment is being processed in accordance with Chapter 22.04.020 of the Municipal Code. The amendment was submitted to the Planning Commission for consideration; a Public Hearing was set for February 7, 2018, with at least fourteen day notice given according to the applicable procedures. The potential impacts of the 1050 Parker Street proposed development have been evaluated and reduced to a level of "less than significant" as determined by the Zoning Adjustments Board (ZAB) adoption of the Initial Study-Mitigated Negative Declaration (IS-MND) for Use Permit #ZP2016-0170. The CEQA evaluation assessed and proposed sufficient mitigation measures to address use of the entirety of the site for Medical Practitioners Use as a worst-case scenario for impacts such as traffic and greenhouse gas emissions. Conditions and mitigation measures were adopted and a Notice of Determination was filed.

Rezoning Findings:

1. The proposed rezoning is in the public interest.
 - The amendment serves the public interest through increasing the number and diversity of well-paying jobs in West Berkeley and along a major transit corridor. It also supports the sustainability goals of the City by providing jobs close to alternative modes of transportation.
2. The proposed rezone is compatible with adjacent zoning districts.
 - The purpose of the rezone is to allow for Medical Practitioners to occupy the entire development at 1050 Parker Street. The immediately adjacent C-W District allows for Medical Practitioners and this rezone would allow for that compatible use to continue onto the parcels in question. There are three other parcels on this block that are designated MU-LI that would remain unchanged.
3. The proposed rezone allows uses which would be compatible with adjacent districts uses.
 - The adjacent MU-LI District allows for medical related uses including laboratories. The C-W District allows for Medical Practitioners, who might use the services of the adjacent laboratory uses. The proposed rezone adjusts the boundary to allow these adjacent uses to occupy these parcels.

4. The potential effects of the proposed rezone will not to be detrimental to the public health, safety or welfare.
 - The property is currently vacant with a planned development which has been reviewed and approved by the ZAB. That approval includes mitigations for any known potential environmental impacts as described above, so it follows that there will be no detrimental impacts to the public health, safety or welfare.

Conclusion and Next Steps

Staff recommends that the Commission open the Public Hearing; consider public testimony; and make a recommendation to the City Council regarding the re-designation and rezone of the two parcels based on the findings listed above. The findings may be amended based on the public testimony and Commission deliberations. A draft resolution for Council consideration is attached and may be modified based on Commission feedback and recommendations (Attachment 5).

Recommended Action:

The Planning Commission recommends to the City Council the rezoning and General Plan re-designation of Assessor Parcel Numbers (APN) 054-1763-001-03 and 054-1763-010-00, from General Plan designation Manufacturing Mixed Use to Avenue Commercial and be rezoned from Mixed Use Light Industrial (MU-LI) to West Berkeley Commercial (C-W).

Attachments:

1. City Council Referral, December 19, 2017
2. Parcel Map, 1050 Parker and 2621 Tenth Street
3. City Council staff report re: medical office in MU-LI, January 24, 2017
4. Public Hearing Notice (with map)
5. Council Resolution (draft)



Office of the Mayor

CONSENT CALENDAR
December 19, 2017

To: Members of the City Council

From: Mayor Jesse Arreguin

Subject: Referral to Planning Commission: Reclassification of 1050 Parker Street/2621 Tenth Street

RECOMMENDATION

Pursuant to Berkeley Municipal Code Section 23A.20.020.B.1: Refer to the Planning Commission the reclassification of the existing MULI zoned portion of 1050 Parker Street/2621 Tenth Street (APN 054 176300103) to C-W West Berkeley Commercial District. Request that the Planning Commission submit its recommendation to the City Council on the reclassification request by March 27, 2018.

BACKGROUND

Berkeley Municipal Code Section 23A.20.020.B.1 states:

A reclassification may be initiated by resolution of the Planning Commission or the City Council which describes the present District classification of the affected property or properties, the proposed District classification and refers to an attached map that illustrates the affected property or properties.

The parcel located at 1050 Parker Street/2621 Tenth Street is split between two zoning districts: C-W (West Berkeley Commercial District) and MULI (Mixed-Use Light Industrial). Roughly half of the parcel is in the C-W district which allows a more expansive list of commercial uses.

Currently there is a land use application to construct a 61,000 square foot commercial building on the parcel. Kaiser Permanente has expressed a strong interest in leasing the entire building for medical offices to serve the Berkeley community. The split zoning prohibits the use of the entire property for Medical Practitioner Offices, since this use is prohibited in the MULI zone.

Reclassifying this parcel to C-W will allow the property to be used for a variety of commercial uses, including Medical Practitioner Office uses. This would be consistent with the West Berkeley Plan, adopted in 1993, which encourages medical and health care uses in West Berkeley, including in the MULI district. However, the zoning code explicitly prohibits Medical uses in the MULI.

FISCAL IMPACTS OF RECOMMENDATION

Increased tax revenue and employment opportunities.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with this report.

CONTACT PERSON

Mayor Jesse Arreguin

510-981-7100

Attachment:

1. Map
2. Letter from Chris Barlow, Wareham Development
3. Plans for proposed building at 1050 Parker Street

WAREHAM DEVELOPMENT : ZAENTZ CENTER CAMPUS
2600 Tenth Street / 1050 Parker - 2621 Tenth Street / Pardee Block





November 27, 2017

By Golden State Overnight and Electronic Mail

Mayor Jessie Arreguin
Mayor's Office
City of Berkeley
2180 Milvia Street
Berkeley, CA 94704

Re: 1050 Parker Street / 2621 Tenth Street, Berkeley CA

Dear Mayor Arreguin:

1050 Parker Street / 2621 Tenth Street is a vacant site located at the corner of Parker Street and San Pablo Avenue in West Berkeley.

The 68,331 square foot site comprises three parcels, two of which are adjacent to Tenth Street (total of 45,174 square feet) and zoned Mixed Use – Light Industrial (MU-LI) and one (23,157 square feet) adjacent to San Pablo Avenue which is zoned Commercial West Berkeley (CW).

The attached graphic shows the site outlined in yellow and also shows the adjacent parcels at 2600 Tenth Street and the Pardee Block which complete the Wareham Development Zaentz Center Campus.

A new commercial building with 61,000 square feet of gross floor area is currently in the entitlement process with the City and will be heard before the Zoning Adjustment Board on December 14, 2017. A graphic showing the building design is enclosed.

The new building will include a café located on San Pablo Avenue and pocket parks on San Pablo Avenue and the corner of Tenth and Parker Streets. The Zaentz Center Campus is served by the West Berkeley Shuttle which provides a reliable GPS tracked shuttle connection to the Ashby BART station.

This new building will straddle the zoning boundary between the CW and MU-LI portions of the site. These two zoning districts have different approved uses and therefore the uses within the different sections of the building will be different and consistent with the underlying zoning.

The uses within the building above the MU-LI parcels will most likely be Research and Development laboratories with associated support functions, while the uses above the CW parcel will most likely be Medical Office. "Medical Practitioners" is an approved use in CW but is specifically prohibited in MU-LI.

The property owner has had initial discussions with Kaiser Permanente regarding the possibility of Kaiser occupying the full building for medical office uses. Kaiser Permanente has expressed a strong interest in exploring the possibility of being located in the new building subject to the appropriate zoning for medical office use being in place.

The West Berkeley plan is very clear on the benefits to the residents of West Berkeley of health care and other social services (West Berkeley Plan : Housing and Social Services IV : Social Services Issues Goals and Policies, Goal 2).

We feel that the specific location of this site on a major transit corridor (San Pablo Avenue) coupled with the broader amenities supporting the Zaentz Center campus, such as the West Berkeley Shuttle, provide a unique opportunity to develop a medical office center at the site that will provide major benefits to those residing and working in West Berkeley.

The purpose of this letter is, therefore, to request that the City initiate the necessary process for the re-zoning of the MU-LI portions of the site to CW to allow for the new building to be 100% used as Medical Offices.

We understand that this process will take some time and therefore we will continue with the entitlements and approvals for the existing project with the understanding that the conversion of the use to 100% Medical Office in the future may require modifications to the approvals.

Please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chris Barlow', with a large, stylized flourish at the end.

Chris Barlow
Wareham Development

cc Rich Robbins
John Gooding

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phoenix • san francisco • lampa

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**1050 PARKER ST.
BERKELEY, CA**

**1050 Parker Street
Berkeley, CA**

owner:
2609 TENTH STREET, LLC
1120 NYE STREET, SUITE 400
SAN RAFAEL, CA 94901
415.457.8964

architect:
GOULD EVANS
85 BRADY STREET
SAN FRANCISCO, CA 94103
415.503.1411
www.gould-evans.com

civil engineer:
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LIVERMORE, CA 94551
925.245.8788

landscape architect:
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| 3 | Revision #2 | 12/05/16 |
| 4 | Revision #3 | 02/21/17 |
| 5 | Revision #4 | 06/29/17 |

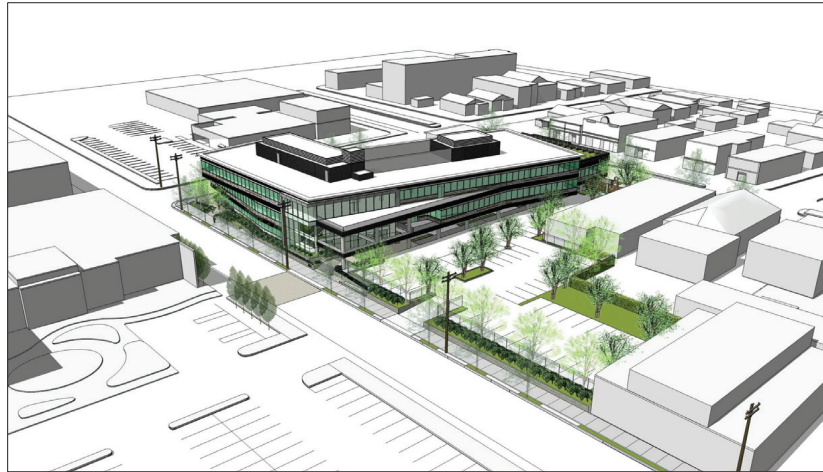
Project No: 1116-0040
Date: 06/29/2017
Sheet:



AERIAL VIEWS

A1.6

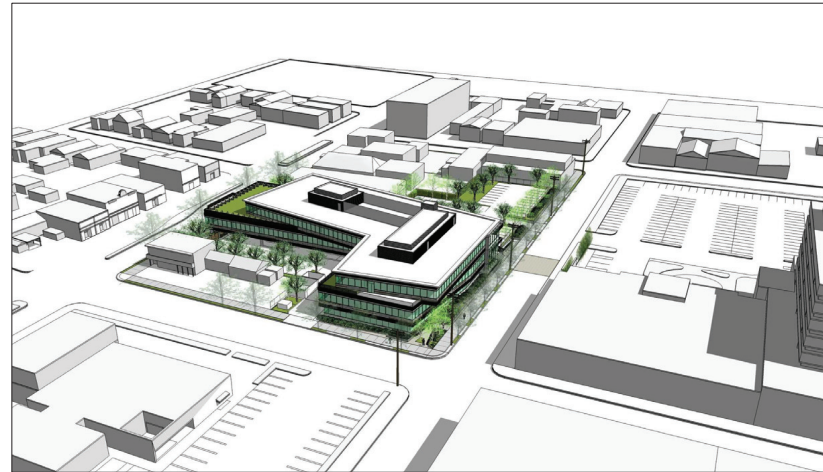
ZONING APPLICATION



VIEW OF SOUTHWEST CORNER

1

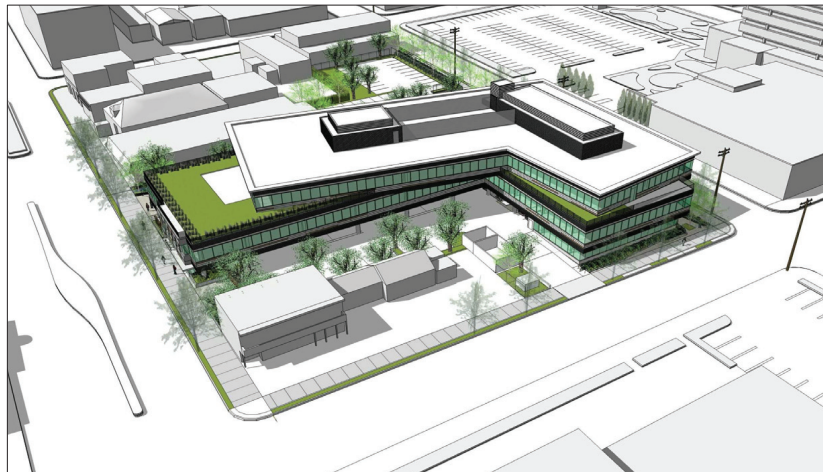
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VIEW OF NORTHWEST CORNER

2

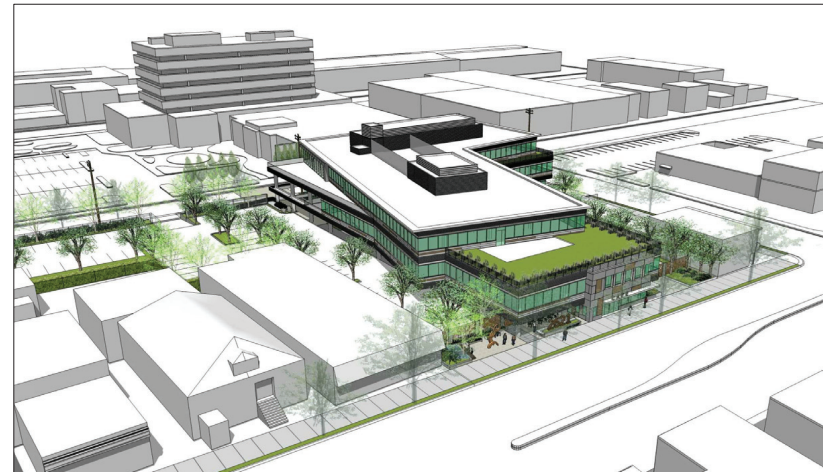
NOT TO SCALE



VIEW OF NORTHEAST CORNER

3

NOT TO SCALE



VIEW OF SOUTHEAST CORNER

4

NOT TO SCALE

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**1050 PARKER ST.
BERKELEY, CA**

**1050 Parker Street
Berkeley, CA**

owner:
260 TENTH STREET, LLC
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SAN RAFAEL, CA 94901
415.457.4964

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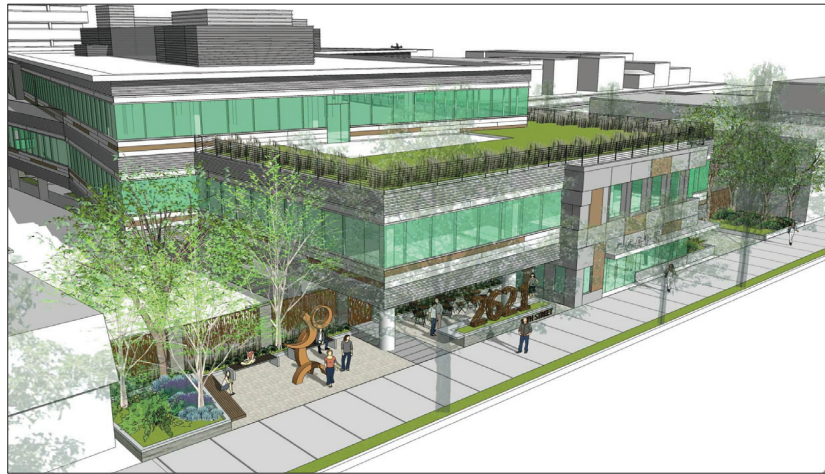
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| 3 | Revision #2 | 12/05/16 |
| 4 | Revision #3 | 02/27/17 |
| 5 | Revision #4 | 06/29/17 |

Project No: 1116-0040
Date: 06/29/2017
Sheet:

SAN PABLO FRONTAGE

A1.7

ZONING APPLICATION



AERIAL VIEW FROM SAN PABLO AVENUE

1

NOT TO SCALE



PERSPECTIVE FROM SAN PABLO AVENUE

2

NOT TO SCALE



PERSPECTIVE FROM NORTHEAST

3

NOT TO SCALE



PERSPECTIVE FROM SOUTHEAST

4

NOT TO SCALE



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1050 PARKER ST.
 BERKELEY, CA

1050 Parker Street
 Berkeley, CA

Source:
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KIER & WRIGHT
 CIVIL ENGINEERS & SURVEYORS, INC.
 2355 Collier Campus Road Phone (925) 245-8788
 Livermore, California 94551 Fax (925) 245-8796

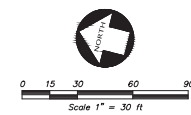
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| 1 | Zoning Submittal | 06/29/2016 |
| 2 | Revision #1 | 09/13/2016 |
| 3 | Revision #2 | 12/05/2016 |
| 4 | Revision #3 | 02/27/2017 |
| 5 | Revision #4 | 06/29/2017 |

Project No: A07525-2
 Date: 06/29/2017
 Sheet:

EXISTING CONDITIONS
 PLAN

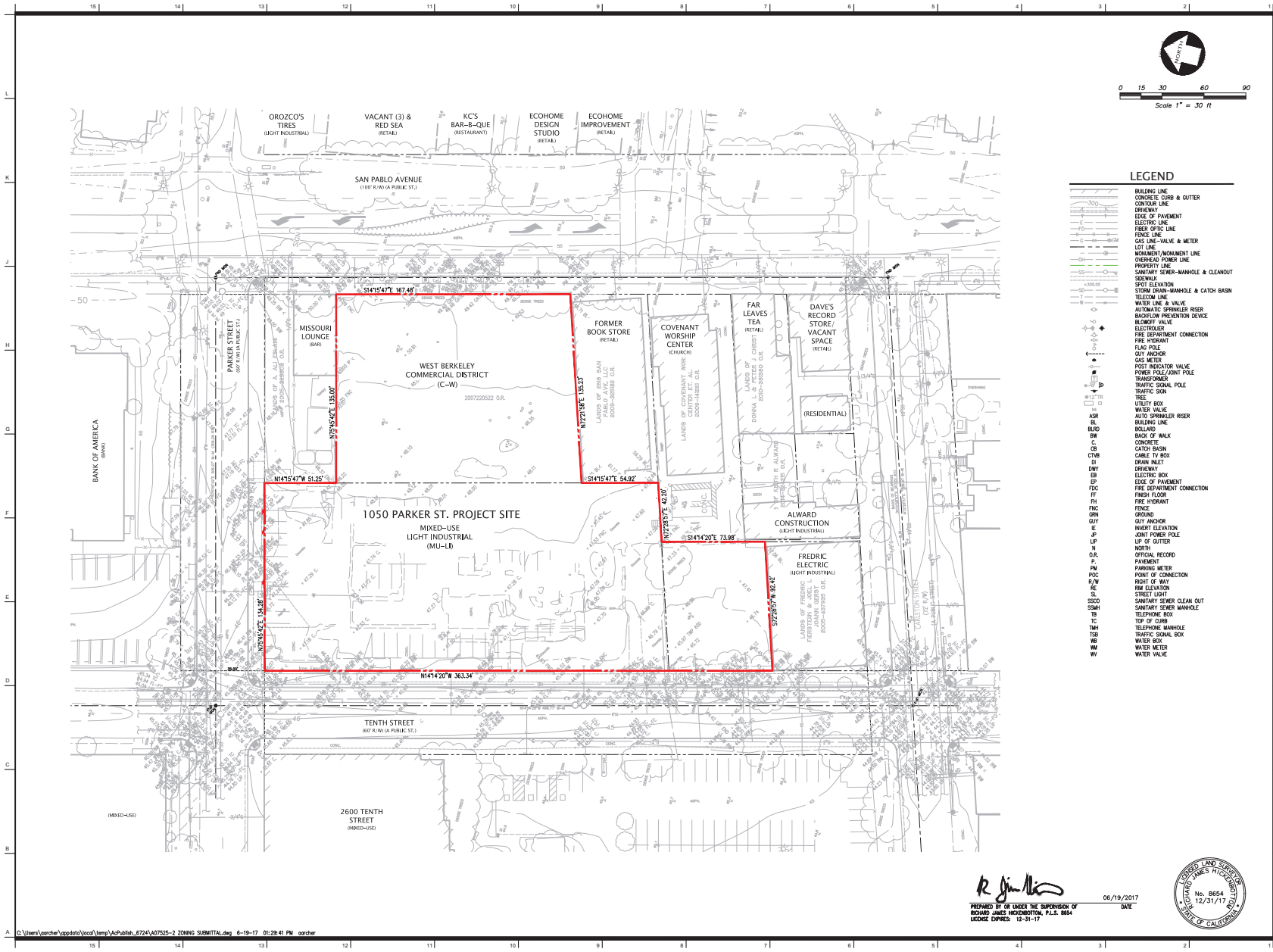
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ZONING APPLICATION



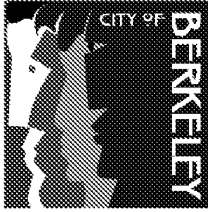
LEGEND

| | |
|--|-------------------------------------|
| | BUILDING LINE |
| | CONCRETE CURB & GUTTER |
| | CONTOUR LINE |
| | DRIVEWAY |
| | EDGE OF PAVEMENT |
| | ELECTRIC LINE |
| | FENCE - OPTIC LINE |
| | FENCE LINE |
| | GAS LINE - VALVE & METER |
| | LOT LINE |
| | MOMENT/ACCUMULATION LINE |
| | OVERHEAD POWER LINE |
| | PROPERTY LINE |
| | SANITARY SEWER - MANHOLE & CLEANOUT |
| | SEWER LINE |
| | SPOT ELEVATION |
| | STORM DRAIN - MANHOLE & CATCH BASIN |
| | TELEMETER LINE |
| | WATER LINE & VALVE |
| | AUTOMATIC SPRINKLER RESER |
| | BACKFLOW PREVENTION DEVICE |
| | BLOWOFF VALVE |
| | ELECTROMETER |
| | FIRE DEPARTMENT CONNECTION |
| | FIRE HYDRANT |
| | FLAG POLE |
| | CITY ANCHOR |
| | GAS METER |
| | POST INDICATOR VALVE |
| | POWER POLE/JOINT POLE |
| | TRANSFORMER |
| | TRAFFIC SIGNAL POLE |
| | TRAFFIC SIGN |
| | TREE |
| | UTILITY BOX |
| | WATER VALVE |
| | AUTO SPRINKLER RESER |
| | BUILDING LINE |
| | BOLLARD |
| | BACK OF WALK |
| | CATCH BASIN |
| | CABLE TV BOX |
| | DRAIN INLET |
| | DRIVEWAY |
| | ELECTRIC BOX |
| | EDGE OF PAVEMENT |
| | FIRE DEPARTMENT CONNECTION |
| | FINISH FLOOR |
| | FIRE HYDRANT |
| | FENCE |
| | FNC |
| | GIN |
| | GUY |
| | INVERT ELEVATION |
| | JOINT POWER POLE |
| | LIP OF GUTTER |
| | NORTH |
| | OFFICIAL RECORD |
| | PARKING METER |
| | POINT OF CONNECTION |
| | RIGHT OF WAY |
| | RM ELEVATION |
| | STREET LIGHT |
| | SSSO |
| | SANITARY SEWER CLEAN OUT |
| | SANITARY SEWER MANHOLE |
| | TB |
| | TC |
| | TMH |
| | TSB |
| | WB |
| | WM |
| | WV |



R. Jimenez
 06/19/2017
 PREPARED BY OR UNDER THE SUPERVISION OF
 RICHARD JAMES HICKSBROTH, P.L.S. 8654
 LICENSE EXPIRES: 12-31-17





Office of the City Manager

ACTION CALENDAR

January 24, 2017

(Continued from December 13, 2016)

To: Honorable Mayor and Members of the City Council
From: *DWR* Dee Williams-Ridley, City Manager
Submitted by: Carol Johnson, Director, Planning and Development
Subject: Referral Response: Planning Commission Response to Council Referral to Allow Medical Office Use in the Mixed Use-Light Industrial District

RECOMMENDATION

1. Affirm the Planning Commission's recommendation to not allow Medical Office use in the Mixed Use-Light Industrial District (MU-LI) by taking no action;
--OR--
2. Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapters 23E.80 and 23F.04 to allow Medical Office use in the Mixed Use-Light Industrial District (MU-LI).

FISCAL IMPACTS OF RECOMMENDATION

The possible future action would have unknown fiscal impact.

CURRENT SITUATION AND ITS EFFECTS

This report responds to referral that originally appeared on the agenda of the December 16, 2014 Council meeting and was sponsored by Councilmember Moore. This item has no referral tracking number because the Planning Commission was already in the process of discussing it prior to implementation of the referral ranking system.

On December 16, 2014, the City Council requested that the Planning Commission consider amending the Berkeley Zoning Ordinance Chapter 23E.80, Mixed Use-Light Industrial District Provisions, to allow Medical Office use. The stated intent of the referral was to align permitted uses in the Mixed Use-Light Industrial (MU-LI) District with the West Berkeley Plan, which identifies "Offices – General, medical, and professional" as an appropriate use for the MU-LI District.

The Planning Commission (PC) considered this referral at meetings on July 1, 2015; February 17, 2016; April 20, 2016; and May 18, 2016, with the last as a Public Hearing. This report describes the Planning Commission deliberation regarding the referral, resulting in their recommendation against the change. At the May 18th Planning Commission Public Hearing, staff presented draft Zoning Ordinance (ZO) language to: (1) create a new definition for Medical Office Building (MOB), and (2) permit MOB in the MU-LI. These two actions are necessary to fulfill the Council referral.

The Planning Commission discussed whether Medical Practitioner Office and Mental Health Practitioners Uses (two Medical Office uses defined in the ZO) are compatible uses for the MU-LI District. They considered amending the MU-LI ZO Chapter to allow Medical Office uses.

The majority of public comments heard at the Planning Commission meetings urged the Planning Commission to recommend against Medical Office use in the MU-LI District. Public concerns include rising rents in West Berkeley due to high cost uses and the potential displacement of light manufacturing businesses.

The Planning Commission acknowledged the need for Medical Office uses, along with acute care centers and other community health support, in the face of announced plans for the closure of the Alta Bates Medical Center in Berkeley. However, the Commission identified the following concerns with the proposal outlined in the Council referral:

- **Possible displacing of the existing light manufacturing and artist/craft businesses clustered in West Berkeley.** Medical Office uses can afford higher leasing rates than manufacturing and warehousing industry uses. The Planning Commission was concerned that allowing Medical Office use in MU-LI District would promote conversion of space, increase rents, and eventually push out existing and new manufacturing and artist/craft businesses clustered in West Berkeley. The average leasing rate for manufacturing and warehousing spaces is around \$10 per square foot per year compared to Medical Office uses, which can support leasing rates of between \$30 and \$50 per square foot.¹
- **Incompatibility of Medical Office Uses with the West Berkeley Plan.** The Planning Commission questioned the compatibility of medical offices with other MU-LI District uses. In addition, they questioned the validity of the use in the West Berkeley Plan area. The Planning Commission did not agree that a mention of the Medical Office use in the West Berkeley Plan was a sufficient reason to permit MOB's in the District. The MU-LI District goals and purposes are to encourage and protect light manufacturing businesses, which are often less competitive against other businesses that can afford higher lease rate, and require larger building spaces.
- **Unassessed Environmental Impacts.** The Planning Commission questioned viability of using the West Berkeley Plan Environmental Impact Report (EIR) that is more than 20 years old, without separate environmental review of the Medical Office use proposal.

BACKGROUND

On July 1, 2015, staff provided the Planning Commission background information regarding Medical Office uses in the MU-LI District. In May 2016, staff presented draft Zoning Ordinance amendments to allow Medical Office Use in the MU-LI and adding a

¹Cornish & Carey Commercial, Q1 2014 Quarterly Report; CoStar; City of Berkeley, Office of Economic Development analysis.

new definition for MOB (Attachment 1). The proposed changes to the MU-LI District would allow Medical Office uses within a MOB, which would agglomerate Medical Office uses within one building. The draft amendment included:

- **Different size threshold with different discretionary levels of review.** The proposed changes would prohibit Medical Office uses under 10,000 square feet in size, but allow them in spaces larger than 10,000 square feet. This is intended to address both the Planning Commission and the public concerns about potential displacement of light manufacturing space with individual Medical Offices.
- **Parking requirement for Medical Office uses.** The proposed parking standard (1 parking space per 300 square feet of gross floor area) would remain the same as Medical Office parking standards in other Zoning Districts where the use is allowed.
- **Definition for Medical Office Building.** The new term Medical Office Building defines a place (larger than 10,000 square feet) where individual Medical Office uses, currently defined in the Zoning Ordinance, might co-locate.

Alternative to the Referral:

Members of the community expressed the need for Medical Office uses and other similar resources in the City. However, they expressed equal concern with those uses being focused on West Berkeley without broader, citywide evaluation. As part of the community discussion, some West Berkeley sites were identified as potential MOB locations.

Some Planning Commissioners pointed out that potential MOB sites exist in the MU-LI District, located adjacent to the West Berkeley Commercial (C-W) District. The Commission further opined that these sites may be feasible for Medical Office uses, since they are directly adjacent to major corridors and commercial land. At least one Commissioner suggested rezoning individual parcels based on criteria such as adjacency to the C-W District might be a better approach to allow medical uses instead of amending the MU-LI District Chapter in total.

Final Planning Commission Motion:

The Commission recommended that the MU-LI not be amended to include Medical Office use, or MOB, without further clarification from the Council. The May 18th Planning Commission meeting minutes state the motion that was unanimously adopted by the Planning Commission (Attachment 2).

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental sustainability effects or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

The City Council directed the Planning Commission consider amending the MU-LI District regulations to allow medical office uses. However, possible displacement of the existing light manufacturing and artist/craft businesses clustered in West Berkeley,

Referral Response: Medical Office Use in the Mixed Use-Light Industrial District

ACTION CALENDAR
January 24, 2017

incompatibility of medical office uses with the West Berkeley, and unassessed environmental impacts were raised during deliberation, even with staff recommendations of having medical office uses only within established MOBs.

ALTERNATIVE ACTIONS CONSIDERED

The Planning Commission held a Public Hearing and considered the proposed changes to the MU-LI district to allow Medical Use, as well as the new definition for Medical Office Building. The draft Zoning Ordinance amendments are provided as Attachment 1.

CONTACT PERSON

Carol Johnson, Director, Planning and Development, 510-981-7401

Alex Amoroso, Principal Planner, Planning and Development, 510-981-7520

Attachments:

- 1: Ordinance
- 2: Final Meeting Minutes from the Planning Commission meeting on May 18, 2016
- 3: Staff Report from the Planning Commission meeting on May 18, 2016
- 4: Original Referral Report from December 16, 2014

ORDINANCE NO. -N.S.

MU-LI MIXED USE-LIGHT INDUSTRIAL DISTRICT PROVISIONS; AMENDING
 BERKELEY MUNICIPAL CODE CHAPTERS 23E.80 AND 23F.04

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code, Office Uses subsection of Table 23E.80.030 is amended to read as follows:

| Office Uses | | | | |
|--|--|---------------|---------------|--|
| Business Support Services | AUP | | | AUP up to 3,000 sq. ft. Use cannot exceed 3,000 sq. ft. See definition in Subtitle 23F for permitted uses. |
| Medical Office Building with Medical Practitioners, including Holistic Health Office and Mental Health Practitioners | <u>AUP: Prohibited if under 10,000</u> | <u>UP(PH)</u> | <u>UP(PH)</u> | See Section <u>23E.08.060</u> for <u>Medical Practitioners in Medical Office Buildings</u> ; See Section <u>23E.08.080</u> for <u>parking requirements</u> |
| All office uses (other than offices ancillary to a permitted use) | AUP | UP(PH) | UP(PH) | Includes publishing without printing. |

Section 2. That Berkeley Municipal Code Section 23E.80.060 is amended to read as follows:

Section 23E.80.060 Use Limitations

- A. Any use which is incidental to the primary use of a building or property shall be subject to the permit requirements identified in the Uses Incidental to a Permitted Use heading in Table 23E.80.030 and the limitations set forth in Section 23E.80.030.D.
- B. Any activity or use which occurs outside of a building shall be subject to the permit requirements identified in the Parking, Outdoor and Exterior Window Uses heading in Table 23E.80.030.
- C. Incidental Retail Sales shall meet the following:

1. Signs for Incidental Retail Sales use shall be of such a size and character as to clearly indicate that the retail use is not the Primary Use of the site;
 2. Retail Sales floor area shall not exceed 10% of total Gross Floor Area; and
 3. No outdoor sales or food service is allowed.
- D. Alcoholic Beverage Sales or Service Uses and Live/Work Uses shall be subject to the requirements of Chapters 23E.16 and 23E.20 in addition to the requirements of this District.
- E. No manufacturing or wholesale trade use may be established or expanded within 150 feet of a residential use in an R-District or in the MU-R District except as set forth herein:
1. If the use would require a Zoning Certificate in other locations of the MU-LI District, an Administrative Use Permit is required;
 2. If the use would require an Administrative Use Permit in other locations of the MU-LI District, a Use Permit is required.
- F. Pharmaceutical Manufacturing and Commercial Physical or Biological Laboratories using Class 2 Organisms are prohibited within 500 feet of a Residential or Mixed Use-Residential District.
- G. ~~Medical Individual Practitioner Offices would require~~ allowed with a Zoning Certificate if ~~the proposed use space is under 10,000 square feet and when located within an established Medical Office Building.~~
- H. For purposes of the Noise Ordinance, Chapter 13.40, the MU-LI District shall be considered an Industry District.
- I. Notwithstanding any other provision of this Ordinance, an existing use may be modified or intensified without a Use Permit if no provision of this chapter requires a Use Permit and if the Zoning Officer determines that the modification or intensification of the use can reasonably be expected not to increase any impact regulated under environmental performance standards.

Section 3. That Berkeley Municipal Code Table 23E.80.080 is amended to read as follows:

| Table 23E.80.080 | |
|-------------------|-------------------------------------|
| Parking Required* | |
| Use | Number of spaces |
| Art/Craft Studio | One per 1,000 sq. ft. of floor area |

| Table 23E.80.080 | |
|---|--|
| Parking Required* | |
| Use | Number of spaces |
| Laboratories | One per 650 sq. ft. of floor area |
| Live/Work Units | One per unit; provided however, that if any non-resident employees and/or customers and clients are permitted in any work area, there shall be one additional parking space for each 1,000 sq. ft. of such work area |
| Manufacturing uses (assembly, production, storage and testing space only), Storage, Warehousing and Wholesale Trade | One space per 1,000 sq. ft. of floor area for spaces of less than 10,000 sq. ft.; one space per 1,500 sq. ft. of floor area for spaces of 10,000 sq ft or more |
| Quick or Full Service Restaurants | One per 300 sq. ft. of floor area |
| Medical Practitioner Offices | One per 300 sq. ft. of floor area |
| All other non-residential uses, unless otherwise specified in Subsection B | Two per 1,000 sq. ft. of floor area |
| * See Subsection E for substitutions of up to 10% with bicycle/motorcycle parking | |

Section 4. That Berkeley Municipal Code Section 23F.04.010 is amended to add the following definition:

Medical Office Building: A building containing exclusively Medical Practitioner Office(s) and/or Mental Health Practitioner(s).

Section 5. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.



Planning Commission

1 **FINAL MINUTES OF THE REGULAR PLANNING COMMISSION MEETING**
2 **MAY 18, 2016**

3 The meeting was called to order by Chair Matthews at 7:05 p.m.

4 **Location:** North Berkeley Senior Center, Berkeley, CA

5 **Commissioners Present:** Matthews, Bartlett, Chapple, Kapla, Novosel, Poschman, Trevino.

6 **Commissioners Absent:** Davis, Murphy (excused)

7 **Staff Present:** Alex Amoroso, Kelly Cha, Elizabeth Greene.

8 **ORDER OF AGENDA:** None.

9 **CONSENT CALENDAR:** None.

10 **PUBLIC COMMENT PERIOD:** 2

11 **PLANNING STAFF REPORT:** Principal Planner Alex Amoroso introduced Alene Pearson, new
12 Associate Planner to Land Use Planning Division, and welcomed new Commissioner Robb
13 William Kapla. Amoroso updated status of past public hearing items: (1) Short-Term Rental
14 Ordinance is pending City Council action and will be before them in an immediate future; (2) 1%
15 for Art Ordinance is in its final stage for the City Council queue, and expected to go before the
16 City Council in July. Staff are currently working on the final modifications to the Ordinance and
17 Guidelines with City Attorneys and Civic Arts Commission; (3) Second reading on the proposed
18 amendments to Bike Parking and Off-Street Loading happened at the recent City Council
19 meeting; and (4) proposed changes to Telegraph Commercial (C-T) District is anticipated to go
20 to the City Council sometime in July.

21 At the next Commission meeting on 6/15, the Commission can anticipate a public hearing on the
22 Elmwood quotas, and a public hearing on adding two more medical marijuana dispensaries,
23 followed by a new discussion item on community gardens.

24 Amoroso also responded to the question regarding the City Council meeting on housing crisis
25 that it is intended to turn into a work plan prepared by staff to be presented to the City Council to
26 discuss and adopt in September/October.

27 **COMMUNICATIONS IN PACKET:**

- 28 • 2016-05-06 – Karen Rice, Commissioner, Medical Cannabis Commission, State Medical
29 Marijuana Laws.

- 30 • 2016-05-06 – Karen Rice, Commissioner, Medical Cannabis Commission, Downs, David.
31 "Emeryville and San Leandro to Legalize Medical Marijuana." East Bay Express, 30 Mar.
32 2016.
- 33 • 2016-05-06 – Karen Rice, Commissioner, Medical Cannabis Commission, Voynovskaya,
34 Nastia. "Will Oakland's Legal Weed Industry Leave People of Color Behind?" East Bay
35 Express, 30 Mar. 2016.
- 36 • 2016-05-09 – Karen Rice, Commissioner, Medical Cannabis Commission, "GW
37 Pharmaceuticals Receives Orphan Drug Designation from FDA for Cannabidiol for the
38 Treatment of Tuberous Sclerosis Complex." The New York Times, 11 May 2016.
- 39 • 2016-05-09 – Karen Rice, Commissioner, Medical Cannabis Commission, Pollack, Andrew.
40 "Marijuana-Based Drug Found to Reduce Epileptic Seizures." The New York Times, 14 Mar.
41 2016.
- 42 • 2016-05-09 – Karen Rice, Commissioner, Medical Cannabis Commission, Abrams, Rachel.
43 "The Rabbis Are Here to Inspect the (Legal) Weed." The New York Times, 06 May 2016.
- 44 • 2016-05-18 – Staff, Planning Commission Projects: Completed and Active, January 2015 to
45 May 2016.

46 **LATE COMMUNICATIONS** (Received after the Packet deadline):

- 47 • 2016-05-14 – Bianca Blesching, West Berkeley resident, Re: Planning Commission May 18-
48 M zone visit/expansion – Item 10
- 49 • 2016-05-16 – Deborah Matthew, Commissioner, Planning Commission, 2013 Health Report
50 (Executive Summary) – Item 9

51 **LATE COMMUNICATIONS** (Received and distributed at the meeting):

- 52 • 2016-05-18 – Ed Moore, Lack of Housing Mitigation Fee regarding the 170-unit housing
53 development at 1500 San Pablo Ave., approved by ZAB last Thursday
- 54 • 2016-05-18 – Rick Auerbach, WEBAIC, Maps of available sites in MU-LI District – Item 9
- 55 • 2016-05-18 – Rick Auerbach, WEBAIC, Map of MM District
- 56 • 2016-05-18 – Karen Rice, Commissioner, Medical Cannabis Commission, Important Facts –
57 Part IV: Medical Cannabis is Going Mainstream: Berkeley Should Ready Itself By Allowing
58 Cultivation Beyond the M District – Item 10
- 59 • 2016-05-18 – Gene Poschman, Commissioner, Planning Commission, the Control, Regulate
60 and Tax Adult Use of Marijuana Act – Item 10

61 **CHAIR REPORT:** Chair Matthews introduced new Commissioner Robb Kapla. He is a deputy
62 City Attorney for the City of San Francisco. He has a background in Environmental Law and
63 advocacy with Sierra Club and other groups.

64 **COMMITTEE REPORT:** Commissioner Novosel publicized that there is a very important
65 Adeline Corridor Planning Process community workshop on Saturday 5/21 at 10 AM. It will be
66 held at the South Berkeley Senior Center.

67 Commissioner Bartlett announced that Governor Brown has proposed a Statewide legislation to
68 allow new market-rate housing development with onsite affordable housing to be approved "as
69 of right."

70 **7. APPROVAL OF MINUTES:**

71 Motion/Second/Carried (KC/TZ) to approve the Planning Commission Meeting Minutes from
72 March 20, 2016 with a minor change. Ayes: Matthews, Bartlett, Chapple, Davis, Novosel,
73 Poschman, Trevino. Noes: None. Abstain: Kapla. Absent: Davis, Murphy. (6-0-1-2)

74

75 **8. FUTURE AGENDA ITEMS AND OTHER PLANNING-RELATED EVENTS:** None.

76 **AGENDA ITEMS**

77 **9. Public Hearing:** *ZO Changes to Allow Medical Use in the Mixed Use-Light*
78 *Manufacturing (MU-LI) District and Add a Definition*

79 Motion/Second/Carried (DM/GP) to reopen the public hearing. Ayes: Matthews, Bartlett, Chapple,
80 Kapla, Poschman, Trevino. Noes: None. Abstain: None. Absent: Davis, Murphy, Novosel. (6-0-0-
81 3)

82 Commissioner Novosel recused himself from the Medical Offices consideration due to a conflict
83 of interest.

84 Assistant Planner Kelly Cha explained that staff re-noticed the public hearing and included a
85 new definition of Medical Office Building (MOB). Staff report addressed the Commission's
86 requests, including modifying MOB definition to align with the existing medical office uses
87 (Medical Practitioner Office and Mental Health Practitioner); clarifying the intent of the Council
88 referral; providing parking requirements regulations for the same use in other Districts; and the
89 2013 City of Berkeley Health Report.

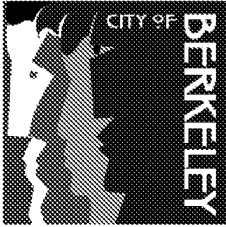
90 Public Speakers: 3

91 Motion/Second/Carried (GP/BB) to close the public hearing. Ayes: Matthews, Bartlett, Chapple,
92 Kapla, Poschman, Trevino. Noes: None. Abstain: None. Absent: Davis, Murphy, Novosel. (6-0-0-
93 3)

94

95 Motion/Second/Carried (GP/KC) to affirm that the Commission considered but could not support
96 recommendations to forward to the Council because the Council referral was too broad. Ayes:
97 Matthews, Bartlett, Chapple, Poschman, Trevino. Noes: None. Abstain: Kapla. Absent: Davis,
98 Murphy, Novosel. (5-0-1-3)

99



Planning and Development Department
Land Use Planning Division

STAFF REPORT

DATE: May 18, 2016
TO: Members of the Planning Commission
FROM: Kelly Cha, Assistant Planner
Alex Amoroso, Principal Planner
SUBJECT: Public Hearing: Allowing Medical Uses in the MU-LI District

Recommendation

1. Continue a Public Hearing on the draft Zoning Ordinance amendments, allowing Medical Office Use in Chapter 23E.80 (Mixed Use-Light Manufacturing District Provisions), and consider a new definition of Medical Office Building added to Chapter 23F.04 (Definitions).
2. Make a recommendation to the City Council regarding the draft Zoning Ordinance amendments.

Introduction/Background

At the Planning Commission meeting on April 20, 2016, the Commission that Staff re-notice the public hearing and include a new definition of Medical Office Building (MOB). Attachment 2 is the revised public hearing notice with a definition of MOB. The Commission asked Staff to provide additional information for their discussion and consideration, which is detailed in the Discussion section of this report.

Discussion

The Commission requested additional information, which is responded to by staff in the bullets below.

- Clarify the intent of the referral
Staff anticipates applications in the near future for MOBs, though none has been submitted to date. The intent of the referral (Attachment 1) is as stated: to align the MU-LI zoning, which prohibits Medical Office Use, with the West Berkeley Plan MU-LI suggested use list, which includes Medical Office Use.
- Provide the 2013 City of Berkeley Health Status Report

The Commission acknowledged that the medical service discussion is a very important. The City of Berkeley 2013 Health Status Report provides pertinent information about the City, so it is included as Links 1 (Executive Summary) and 2 (Full Report) at the end of this report. However, it does not change the nature or intent of this referral.

- **Refine the Definition of Medical Office Building**
 Staff modified the proposed definition of MOB, so it better aligns with other existing related definitions in the Zoning Ordinance (ZO). See the staff recommendation and draft ZO language for clarification.
- **Identify Medical Office Parking Requirements for Other Districts**
 The table below compares the proposed parking requirement in this draft ZO amendment with the requirements in other Zoning Districts where Medical Practitioner Office(s) and Mental Health Practitioner(s) are allowed. As shown below, the majority these districts allow these uses with the same parking ratio proposed by staff.

| Zoning District | Parking requirement |
|-----------------|---------------------------------|
| C-NS | 1 per 300 sq. ft. of floor area |
| C-SA | 1 per 300 sq. ft. of floor area |
| C-T | No off-street parking |
| C-SO | 1 per 300 sq. ft. of floor area |
| C-W | 1 per 300 sq. ft. of floor area |
| MU-R | 1 per 300 sq. ft. of floor area |

In addition, MU-LI District has no set minimum parking requirement other than the uses listed in Table 23E.80.080. Instead, the Zoning Officer determines appropriate minimum parking requirement for each use, including other offices uses allowed in MU-LI District.

Staff Recommendation

As shown in Attachment 3, the initial staff recommendation to amend the MU-LI District zoning regulations has not changed: allow Medical Practitioner Office and Mental Health Practitioner uses in the MU-LI. The proposed levels of discretion and threshold size related minimums remain, as does the requirement for public notification/hearing. As proposed, the draft zoning amendments would require that Medical Practitioner Office and Mental Health Practitioner uses be in a space of no less than 10,000 square feet. The expectation is that this will push these uses together in larger floor areas, creating the need for MOB. It consolidates the uses in the MU-LI, rather than allowing them to happen in a more spread out manner. This should reduce potential conflicts with immediately adjacent businesses, which might contain other uses.

The definition of MOB is modified to avoid confusion and align it with existing definitions:

Medical Office Building: *A building containing exclusively Medical Practitioner Office(s) and/or Mental Health Practitioner(s).*

An additional Use Permit would be required if the proposed change of use affects "protected space" as regulated Sections 23E.80.045 and 23E.80.090, which are provided in Attachment 4.

Environmental Review

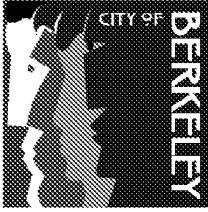
The West Berkeley Plan identifies Medical Offices as a use to be permitted in the Mixed Use Manufacturing District. However, the MU-LI District does not include this use. Since the West Berkeley Plan anticipated Medical Office use in the Plan area, there is no need for additional environmental assessment to modify the MU-LI District Zoning Ordinance language to allow Medical Office uses. New projects will require project-level environmental assessments, as most of the West Berkeley Plan area is designated as Environmental Management Area.

Attachments

1. Council Referral: West Berkeley Medical Use, December 16, 2014
2. Public Hearing Notice for the Public Hearing on May 18, 2016
3. Proposed Zoning Ordinance Amendments to Chapters 23E.80 and 23F.04
4. Zoning Ordinance Sections 23E.80.045 and 23E.80.090

Additional Information

1. 2013 Health Report – Executive Summary:
http://www.ci.berkeley.ca.us/uploadedFiles/Health_Human_Services/Level_3_-_Public_Health/BerkeleyHealthSummary_online_FINAL.pdf
2. 2013 Health Report – Full Report:
http://www.ci.berkeley.ca.us/uploadedFiles/Health_Human_Services/Level_3_-_Public_Health/BerkeleyHealthReport_online_FINALv2.pdf
3. Staff Report from the Planning Commission meeting on April 20, 2016 (Item 9):
[http://www.ci.berkeley.ca.us/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2016-04-20_Item%209_Medical%20Use%20in%20West%20Berkeley-Combined\(2\).pdf](http://www.ci.berkeley.ca.us/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2016-04-20_Item%209_Medical%20Use%20in%20West%20Berkeley-Combined(2).pdf)
4. Staff Report from the Planning Commission meeting on Feb. 17, 2016 (Item 11):
http://www.ci.berkeley.ca.us/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2016-02-17_Item11_COMBINED_West_Berk_Medical_Uses.pdf
5. Staff Report from the Planning Commission meeting on July 1, 2015 (Item 10):
http://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2015-07-01_Item%2010_West%20Berkeley%20Medical%20Uses-Combined.pdf
6. West Berkeley Plan: <http://www.cityofberkeley.info/ContentDisplay.aspx?id=406>



CITY COUNCIL

Darryl Moore
Councilmember District 2

CONSENT CALENDAR
December 16, 2014

To: Honorable Mayor and Members of the City Council
From: Councilmember Darryl Moore, District 2
Subject: Reconcile the West Berkeley Plan and the Zoning Code as it Pertains to Medical Uses

RECOMMENDATION

Refer to the Planning Commission the task of revising the current zoning ordinance so that it reflects the West Berkeley Plan's goals of encouraging medical uses in West Berkeley.

BACKGROUND

When the West Berkeley Plan was adopted in 1993, the zoning code was revised to reflect the goals and policies outlined in the plan. Since the revisions were made to an existing zoning ordinance, all of the goals and policies of the West Berkeley Plan were not necessarily translated appropriately into the revisions to the zoning code. One such omission pertains to medical uses in the Mixed Use/Light Industrial (MULI) zoning districts. The West Berkeley Plan encourages medical and healthcare uses in West Berkeley, including in the MULI zoning districts, but the zoning code explicitly prohibits "Medical Practitioners, including Holistic Health and Mental Health Practitioners" in the MULI.

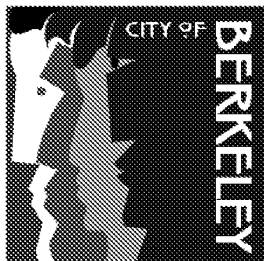
The City Council should refer the matter to the Planning Commission to develop revision language to the zoning ordinance to reconcile the code with the intent of the West Berkeley Plan to encourage medical and healthcare uses.

FISCAL IMPACTS OF RECOMMENDATION

Staff time to make the appropriate revisions.

CONTACT PERSON

Councilmember Darryl Moore, District 2 981-7120



PLANNING COMMISSION

NOTICE OF PUBLIC HEARING

MAY 18, 2016

Amendments to the Mixed Use Light Industrial (MU-LI) District, Chapter 23E.80, to Allow Medical Uses; and to the Definitions, Chapter 23F.04, to add a new definition for Medical Office Building

The Planning Commission, of the City of Berkeley, will hold a Public Hearing on the above matter, on **Wednesday, May 18, 2016**, at the North Berkeley Senior Center, 1901 Hearst Ave. (at Martin Luther King, Jr. Way), Berkeley, California (wheelchair accessible). The meeting starts at 7:00 p.m.

PROJECT DESCRIPTION: Amend Chapter 23E.80, Mixed Use Light Industrial (MU-LI) District, to allow Medical Uses in the district, as well as Chapter 23F.04, Definitions, to add a new definition for Medical Office Building. See Attached draft Zoning Ordinance language for specific details.

LOCATION: Mixed Use Light Industrial (MU-LI) District

ENVIRONMENTAL REVIEW STATUS: As indicated in the West Berkeley Plan, Medical Uses are identified as a use considered when the Plan was adopted. The proposed amendment to the MU-LI District will permit Medical Uses, already considered by the West Berkeley Plan, so no additional environmental review is required to allow the use. The zoning amendment will align the Zoning Ordinance with the West Berkeley Plan. Individual Medical Use projects will require project-level environmental assessments.

PUBLIC COMMENT & FURTHER INFORMATION

Comments may be made verbally at the Public Hearing, and in writing before the hearing. Those wishing to speak at the hearing must submit a speaker card. Written comments or questions concerning this project should be directed to:

Alex Amoroso
Planning Commission Secretary
City of Berkeley
Land Use Planning Division
2120 Milvia Street, 2nd Floor
Berkeley, CA 94704

E-mail: aamoroso@CityofBerkeley.info
Telephone: (510) 981-7520

To assure distribution to Commission members prior to the meeting, **correspondence must be received by 12:00 noon, seven (7) days before the meeting.** For items with more than ten (10) pages, fifteen (15) copies must be submitted to the Secretary by this deadline. For any item submitted less than seven (7) days before the meeting, fifteen (15) copies must be submitted to the Secretary prior to the meeting date.

COMMUNICATION ACCESS

To request a meeting agenda in large print, Braille, or on audiocassette, or to request a sign language interpreter for the meeting, call (510) 981-7410 (voice) or 981-6903 (TDD). Notice of at least five (5) business days will ensure availability. Agendas are also available on the Internet at: www.ci.berkeley.ca.us.

FURTHER INFORMATION

Questions should be directed to Alex Amoroso, at 981-7520, or aamoroso@CityofBerkeley.info.

Chapter 23E.80

MU-LI Mixed Use-Light Industrial District Provisions

Sections Affected:

- 23E.80.030 Uses Permitted
- 23E.80.060 Use Limitations
- 23E.80.080 Off-Street Parking and Loading Requirements

Section 23E.80.030 Uses Permitted

A. The following table sets forth the Permit required for each listed item. Each use or structure shall be subject to either a Zoning Certificate (ZC), an Administrative Use Permit (AUP) or a Use Permit approved after public hearing (UP(PH)), or is Prohibited.

| Table 23E.80.030 | | | | |
|--|--|-----------------|------------------|--|
| Use and Required Permits | | | | |
| Uses | Permits Required to Establish, Expand, or Change use by Floor Area (sq. ft.) | | | Special Requirements (if any) |
| | Under 20,000 | 20,000 – 30,000 | More than 30,000 | |
| Office Uses | | | | |
| Business Support Services | AUP | | | AUP up to 3,000 sq. ft. Use cannot exceed 3,000 sq. ft. See definition in Subtitle 23F for permitted uses. |
| Medical Practitioner Office and Mental Health Practitioner | AUP; Prohibited if under 10,000 | UP(PH) | UP(PH) | See Section 23E.80.060 for Medical Practitioners in Medical Office |

| Table 23E.80.030 | | | | |
|---|--|---|------------------|---|
| Use and Required Permits | | | | |
| Uses | Permits Required to Establish, Expand, or Change use by Floor Area (sq. ft.) | | | Special Requirements (if any) |
| | Under 20,000 | 20,000 – 30,000 | More than 30,000 | |
| | | | | <u>Buildings: See Section 23E.80.080 for parking requirements</u> |
| All office uses (other than offices ancillary to a permitted use) | AUP | UP(PH) | UP(PH) | Includes publishing without printing. |
| Legend: | | | | |
| ZC -- Zoning Certificate | | UP(PH) -- Use Permit, public hearing required | | |
| AUP -- Administrative Use Permit | | Prohibited -- Use not permitted | | |

- B. Any use not listed that is compatible with the purposes of the MU-LI District shall be permitted subject to securing an Administrative Use Permit. Any use that is not compatible with the purposes of the MU-LI District shall be prohibited.
- C. Any use which is incidental to the primary use of a building or property shall be subject to the permit requirements identified in the Uses Incidental to a Permitted Use heading under Table 23E.80.030, except for storage, wholesale, and specified manufacturing, uses that are allowed with a Zoning Certificate.
- D. The initial establishment or change of use of floor area of an existing non-residential building, or portion of building, shall be subject to the permit requirements as listed in the legend of Table 23E.80.030.
- E. Live/Work uses may only be established pursuant to the findings set forth in Section 23E.80.090.G and shall meet the following requirements:
 - 1. The specific activity a live/work resident will engage in must be stated;
 - 2. At least one occupant must be engaged in an art or craft listed in the definition of Art/Craft Studio in Sub-title 23F or which requires space not typically available in a conventional residential setting;
 - 3. The total floor area of a Live/Work Unit shall be at least 1,000 square feet.
- F. An Outdoor Recreation Sub-zone may be designated by the Council, upon recommendation of the Commission. In an Outdoor Recreation Sub-zone, parks and outdoor recreational uses may be permitted, subject to obtaining a Use Permit.

1. Properties designated as an Outdoor Recreation Sub-zone shall include all of the following:
 - a. Be designated specifically for outdoor recreational use in the West Berkeley Plan;
 - b. Be owned or under acquisition by a public agency which is subject to this Ordinance;
 - c. Be at least five contiguous acres in area;
 - d. Not be primarily used for a conforming use as designated in the West Berkeley Plan;
and
 - e. Be at least 1,000 feet from any other Outdoor Recreation Sub-zone.
2. The initial designation of an Outdoor Recreation Sub-zone shall expire five years from the designation date. In order to permit outdoor recreational uses after that date, the Council must renew the Outdoor Recreation Sub-zone designation. (Ord. 7358-NS §§ 3, 4, 2014; Ord. 7323-NS § 7, 2014; Ord. 7205-NS § 6, 2011; Ord. 7194-NS § 6, 2011; Ord. 7167-NS § 14, 2011; Ord. 7155-NS § 20, 2010; Ord. 7125-NS § 1, 2009; Ord. 6923-NS § 1 (part), 2006; Ord. 6738-NS § 1 (part), 2003; Ord. 6688-NS § 1, 2002; Ord. 6671-NS § 7, 2001; Ord. 6644-NS § 3, 2001; Ord. 6509-NS § 2 (part), 1999; Ord. 6478-NS § 4 (part), 1999)

Section 23E.80.060 Use Limitations

- A. Any use which is incidental to the primary use of a building or property shall be subject to the permit requirements identified in the Uses Incidental to a Permitted Use heading in Table 23E.80.030 and the limitations set forth in Section 23E.80.030.D.
- B. Any activity or use which occurs outside of a building shall be subject to the permit requirements identified in the Parking, Outdoor and Exterior Window Uses heading in Table 23E.80.030.
- C. Incidental Retail Sales shall meet the following:
 1. Signs for Incidental Retail Sales use shall be of such a size and character as to clearly indicate that the retail use is not the Primary Use of the site;
 2. Retail Sales floor area shall not exceed 10% of total Gross Floor Area; and
 3. No outdoor sales or food service is allowed.
- D. Alcoholic Beverage Sales or Service Uses and Live/Work Uses shall be subject to the requirements of Chapters 23E.16 and 23E.20 in addition to the requirements of this District.
- E. No manufacturing or wholesale trade use may be established or expanded within 150 feet of a residential use in an R-District or in the MU-R District except as set forth herein:
 1. If the use would require a Zoning Certificate in other locations of the MU-LI District, an Administrative Use Permit is required;
 2. If the use would require an Administrative Use Permit in other locations of the MU-LI District, a Use Permit is required.
- F. Pharmaceutical Manufacturing and Commercial Physical or Biological Laboratories using Class 2 Organisms are prohibited within 500 feet of a Residential or Mixed Use-Residential District.

G. Medical Practitioners Offices would require a Zoning Certificate if the proposed use space is under 10,000 square feet and located within an established Medical Office Building.

H. For purposes of the Noise Ordinance, Chapter 13.40, the MU-LI District shall be considered an Industry District.

I. Notwithstanding any other provision of this Ordinance, an existing use may be modified or intensified without a Use Permit if no provision of this chapter requires a Use Permit and if the Zoning Officer determines that the modification or intensification of the use can reasonably be expected not to increase any impact regulated under environmental performance standards. (Ord. 7358-NS § 6, 2014; Ord. 7167-NS § 16, 2011; Ord. 6688-NS § 2 (part), 2002; Ord. 6478-NS § 4 (part), 1999)

Section 23E.80.080 Off-Street Parking and Loading Requirements

A. For each of the following uses the minimum number of off-street parking spaces shall be provided and in accordance with Chapter 23E.28 except as set forth in Section 23E.80.080.E. Construction of new floor area and changes of use of existing floor area shall satisfy the parking requirements of this section.

| Table 23E.80.080 | |
|---|--|
| Parking Required* | |
| Use | Number of spaces |
| Art/Craft Studio | One per 1,000 sq. ft. of floor area |
| Laboratories | One per 650 sq. ft. of floor area |
| Live/Work Units | One per unit; provided however, that if any non-resident employees and/or customers and clients are permitted in any work area, there shall be one additional parking space for each 1,000 sq. ft. of such work area |
| Manufacturing uses (assembly, production, storage and testing space only), Storage, Warehousing and Wholesale Trade | One space per 1,000 sq. ft. of floor area for spaces of less than 10,000 sq. ft.; one space per 1,500 sq. ft. of floor area for spaces of 10,000 sq ft or more |
| <u>Medical Practitioner Office and Mental Health Practitioner</u> | <u>One per 300 sq. ft. of floor area</u> |
| Quick or Full Service Restaurants | One per 300 sq. ft. of floor area |
| All other non-residential uses, unless otherwise specified in Subsection B | Two per 1,000 sq. ft. of floor area |
| * See Subsection E for substitutions of up to 10% with bicycle/motorcycle parking | |

B. Unless otherwise specified in Subsection A, uses designated in this chapter as Other Industrial Uses; Automobile and Other Vehicle Oriented Uses; Outdoor Uses; Residential and Related Uses or as Miscellaneous Uses shall be required to provide the number of off-street parking spaces determined by the Zoning Officer or Board based of the amount of off-street parking demand generated by the particular use and comparable with specified standards for other

uses.

- C. Bicycle parking spaces shall be provided for new construction at the ratio of one space per 2,000 square feet of gross floor area of non-residential space, in accordance with Section 23E.28.070.
- D. Off-street parking required by this section may be satisfied by the provision of leased spaces, provided that the requirements of Section 23E.28.030 are met; however, the leased parking spaces may be within 500 feet of the property it serves, provided that leased parking at a distance greater than 500 feet may be approved by an Administrative Use Permit.
- E. Subject to the finding in Section 23E.80.090.H, an Administrative Use Permit may be issued to designate up to 10% of automobile parking required for a use for bicycle and/or motorcycle parking, unless a Use Permit from the Board is required to approve any part of the application, in which case the Use Permit shall be approved by the Board. Any bicycle parking created by this designation shall be in addition to otherwise required bicycle parking.
- F. Notwithstanding the requirements of Section 23E.28.080 (the general regulations concerning screening and landscaping of off-street parking), there shall be no requirement for screening or landscaping of that portion of any parking lot which is adjacent to Third Street (Southern Pacific Railroad).
- G. In buildings with one or more manufacturing, wholesale trade or warehouse use, all uses shall satisfy the loading space requirements of Chapter 23E.32. All uses which have one or more loading spaces shall retain at least one such space.
- H. Any construction which results in the creation of 10,000square feet of new or additional commercial or manufacturing gross floor area shall satisfy Chapter 23E.32. (Ord. 6856-NS § 23 (part), 2005; Ord. 6478-NS § 4 (part), 1999)

Chapter 23F.04

DEFINITIONS

Sections:

23F.04.010 Definitions

Section 23F.04.010 Definitions

For the purposes of this chapter certain terms used herein are defined as follows:

Medical Office Building: A building containing exclusively Medical Practitioner Office(s) and/or Mental Health Practitioner(s).

Berkeley Municipal Code
 Chapter 23E.80 MU-LI Mixed Use-Light Industrial
 District Provisions

Chapter 23E.80

MU-LI Mixed Use-Light Industrial District Provisions

Sections Affected:

- 23E.80.030 Uses Permitted**
- 23E.80.060 Use Limitations**
- 23E.80.080 Off-Street Parking and Loading Requirements**

Section 23E.80.030 Uses Permitted

A. The following table sets forth the Permit required for each listed item. Each use or structure shall be subject to either a Zoning Certificate (ZC), an Administrative Use Permit (AUP) or a Use Permit approved after public hearing (UP(PH)), or is Prohibited.

| Table 23E.80.030 | | | | |
|---|--|-----------------|------------------|--|
| Use and Required Permits | | | | |
| Uses | Permits Required to Establish, Expand, or Change use by Floor Area (sq. ft.) | | | Special Requirements (if any) |
| | Under 20,000 | 20,000 – 30,000 | More than 30,000 | |
| Office Uses | | | | |
| Business Support Services | AUP | | | AUP up to 3,000 sq. ft. Use cannot exceed 3,000 sq. ft. See definition in Subtitle 23F for permitted uses. |
| <u>Medical Practitioner Office and Mental Health Practitioner</u> | <u>AUP Prohibited if under 10,000</u> | <u>UP(PH)</u> | <u>UP(PH)</u> | <u>See Section 23E.80.060 for Medical Practitioners in Medical Office Buildings. See Section 23E.80.080 for parking requirements</u> |

| Table 23E.80.030 | | | | |
|---|--|---|------------------|---------------------------------------|
| Use and Required Permits | | | | |
| Uses | Permits Required to Establish, Expand, or Change use by Floor Area (sq. ft.) | | | Special Requirements (if any) |
| | Under 20,000 | 20,000 – 30,000 | More than 30,000 | |
| All office uses (other than offices ancillary to a permitted use) | AUP | UP(PH) | UP(PH) | Includes publishing without printing. |
| Legend: | | | | |
| ZC -- Zoning Certificate | | UP(PH) -- Use Permit, public hearing required | | |
| AUP -- Administrative Use Permit | | Prohibited -- Use not permitted | | |

- B. Any use not listed that is compatible with the purposes of the MU-LI District shall be permitted subject to securing an Administrative Use Permit. Any use that is not compatible with the purposes of the MU-LI District shall be prohibited.
- C. Any use which is incidental to the primary use of a building or property shall be subject to the permit requirements identified in the Uses Incidental to a Permitted Use heading under Table 23E.80.030, except for storage, wholesale, and specified manufacturing, uses that are allowed with a Zoning Certificate.
- D. The initial establishment or change of use of floor area of an existing non-residential building, or portion of building, shall be subject to the permit requirements as listed in the legend of Table 23E.80.030.
- E. Live/Work uses may only be established pursuant to the findings set forth in Section 23E.80.090.G and shall meet the following requirements:
 - 1. The specific activity a live/work resident will engage in must be stated;
 - 2. At least one occupant must be engaged in an art or craft listed in the definition of Art/Craft Studio in Sub-title 23F or which requires space not typically available in a conventional residential setting;
 - 3. The total floor area of a Live/Work Unit shall be at least 1,000 square feet.
- F. An Outdoor Recreation Sub-zone may be designated by the Council, upon recommendation of the Commission. In an Outdoor Recreation Sub-zone, parks and outdoor recreational uses may be permitted, subject to obtaining a Use Permit.
 - 1. Properties designated as an Outdoor Recreation Sub-zone shall include all of the following:

- a. Be designated specifically for outdoor recreational use in the West Berkeley Plan;
 - b. Be owned or under acquisition by a public agency which is subject to this Ordinance;
 - c. Be at least five contiguous acres in area;
 - d. Not be primarily used for a conforming use as designated in the West Berkeley Plan; and
 - e. Be at least 1,000 feet from any other Outdoor Recreation Sub-zone.
2. The initial designation of an Outdoor Recreation Sub-zone shall expire five years from the designation date. In order to permit outdoor recreational uses after that date, the Council must renew the Outdoor Recreation Sub-zone designation. (Ord. 7358-NS §§ 3, 4, 2014; Ord. 7323-NS § 7, 2014; Ord. 7205-NS § 6, 2011; Ord. 7194-NS § 6, 2011; Ord. 7167-NS § 14, 2011; Ord. 7155-NS § 20, 2010; Ord. 7125-NS § 1, 2009; Ord. 6923-NS § 1 (part), 2006; Ord. 6738-NS § 1 (part), 2003; Ord. 6688-NS § 1, 2002; Ord. 6671-NS § 7, 2001; Ord. 6644-NS § 3, 2001; Ord. 6509-NS § 2 (part), 1999; Ord. 6478-NS § 4 (part), 1999)

Section 23E.80.060 Use Limitations

- A. Any use which is incidental to the primary use of a building or property shall be subject to the permit requirements identified in the Uses Incidental to a Permitted Use heading in Table 23E.80.030 and the limitations set forth in Section 23E.80.030.D.
- B. Any activity or use which occurs outside of a building shall be subject to the permit requirements identified in the Parking, Outdoor and Exterior Window Uses heading in Table 23E.80.030.
- C. Incidental Retail Sales shall meet the following:
 1. Signs for Incidental Retail Sales use shall be of such a size and character as to clearly indicate that the retail use is not the Primary Use of the site;
 2. Retail Sales floor area shall not exceed 10% of total Gross Floor Area; and
 3. No outdoor sales or food service is allowed.
- D. Alcoholic Beverage Sales or Service Uses and Live/Work Uses shall be subject to the requirements of Chapters 23E.16 and 23E.20 in addition to the requirements of this District.
- E. No manufacturing or wholesale trade use may be established or expanded within 150 feet of a residential use in an R-District or in the MU-R District except as set forth herein:
 1. If the use would require a Zoning Certificate in other locations of the MU-LI District, an Administrative Use Permit is required;

Berkeley Municipal Code
 Chapter 23E.80 MU-LI Mixed Use-Light Industrial
 District Provisions

Page 4/5

2. If the use would require an Administrative Use Permit in other locations of the MU-LI District, a Use Permit is required.

F. Pharmaceutical Manufacturing and Commercial Physical or Biological Laboratories using Class 2 Organisms are prohibited within 500 feet of a Residential or Mixed Use-Residential District.

G. Medical Practitioners Offices would require a Zoning Certificate if the proposed use space is under 10,000 square feet and located within an established Medical Office Building.

GH. For purposes of the Noise Ordinance, Chapter 13.40, the MU-LI District shall be considered an Industry District.

H. Notwithstanding any other provision of this Ordinance, an existing use may be modified or intensified without a Use Permit if no provision of this chapter requires a Use Permit and if the Zoning Officer determines that the modification or intensification of the use can reasonably be expected not to increase any impact regulated under environmental performance standards. (Ord. 7358-NS § 6, 2014; Ord. 7167-NS § 16, 2011; Ord. 6688-NS § 2 (part), 2002; Ord. 6478-NS § 4 (part), 1999)

Section 23E.80.080 Off-Street Parking and Loading Requirements

A. For each of the following uses the minimum number of off-street parking spaces shall be provided and in accordance with Chapter 23E.28 except as set forth in Section 23E.80.080.E. Construction of new floor area and changes of use of existing floor area shall satisfy the parking requirements of this section.

| Table 23E.80.080 | |
|---|--|
| Parking Required* | |
| Use | Number of spaces |
| Art/Craft Studio | One per 1,000 sq. ft. of floor area |
| Laboratories | One per 650 sq. ft. of floor area |
| Live/Work Units | One per unit; provided however, that if any non-resident employees and/or customers and clients are permitted in any work area, there shall be one additional parking space for each 1,000 sq. ft. of such work area |
| Manufacturing uses (assembly, production, storage and testing space only), Storage, Warehousing and Wholesale Trade | One space per 1,000 sq. ft. of floor area for spaces of less than 10,000 sq. ft.; one space per 1,500 sq. ft. of floor area for spaces of 10,000 sq ft or more |
| <u>Medical Practitioner Office and Mental Health Practitioner</u> | <u>One per 300 sq. ft. of floor area</u> |

The Berkeley Municipal Code is current through Ordinance 7451-NS, passed December 15, 2015.

| Table 23E.80.080 | |
|---|-------------------------------------|
| Parking Required* | |
| Use | Number of spaces |
| Quick or Full Service Restaurants | One per 300 sq. ft. of floor area |
| All other non-residential uses, unless otherwise specified in Subsection B | Two per 1,000 sq. ft. of floor area |
| * See Subsection E for substitutions of up to 10% with bicycle/motorcycle parking | |

- B. Unless otherwise specified in Subsection A, uses designated in this chapter as Other Industrial Uses; Automobile and Other Vehicle Oriented Uses; Outdoor Uses; Residential and Related Uses or as Miscellaneous Uses shall be required to provide the number of off-street parking spaces determined by the Zoning Officer or Board based of the amount of off-street parking demand generated by the particular use and comparable with specified standards for other uses.
- C. Bicycle parking spaces shall be provided for new construction at the ratio of one space per 2,000 square feet of gross floor area of non-residential space, in accordance with Section 23E.28.070.
- D. Off-street parking required by this section may be satisfied by the provision of leased spaces, provided that the requirements of Section 23E.28.030 are met; however, the leased parking spaces may be within 500 feet of the property it serves, provided that leased parking at a distance greater than 500 feet may be approved by an Administrative Use Permit.
- E. Subject to the finding in Section 23E.80.090.H, an Administrative Use Permit may be issued to designate up to 10% of automobile parking required for a use for bicycle and/or motorcycle parking, unless a Use Permit from the Board is required to approve any part of the application, in which case the Use Permit shall be approved by the Board. Any bicycle parking created by this designation shall be in addition to otherwise required bicycle parking.
- F. Notwithstanding the requirements of Section 23E.28.080 (the general regulations concerning screening and landscaping of off-street parking), there shall be no requirement for screening or landscaping of that portion of any parking lot which is adjacent to Third Street (Southern Pacific Railroad).
- G. In buildings with one or more manufacturing, wholesale trade or warehouse use, all uses shall satisfy the loading space requirements of Chapter 23E.32. All uses which have one or more loading spaces shall retain at least one such space.
- H. Any construction which results in the creation of 10,000square feet of new or additional commercial or manufacturing gross floor area shall satisfy Chapter 23E.32. (Ord. 6856-NS § 23 (part), 2005; Ord. 6478-NS § 4 (part), 1999)

Chapter 23F.04

DEFINITIONS

Sections:

23F.04.010 Definitions

Section 23F.04.010 Definitions

For the purposes of this chapter certain terms used herein are defined as follows:

Medical Office Building: A building containing exclusively Medical Practitioner Office(s) and/or Mental Health Practitioner(s).

23E.80.045 Special Provisions: Changes of Use/Removal of Floor Area Used for Material Recovery Enterprise, Manufacturing, Wholesale Trade or Warehousing

A. Notwithstanding the provisions of Section 23E.80.030, no floor area in a building in which at least 33% of the floor area is used for any aspect of a Material Recovery Enterprise, manufacturing, warehousing or wholesale trade may be changed to uses other than Material Recovery Enterprise manufacturing, warehousing or wholesale trade without a Use Permit, except as otherwise provided in this Section.

1. The following uses may be established within protected Manufacturing, Material Recovery Enterprise, Wholesale Trade and/or Warehousing space, subject to the permit levels in Section 23E.80.030: Warehouse-based Non-store Retail, Art/Craft Studio, and Contractor use. The issuance of a Use Permit for Warehouse-based Non-store Retail, Art/Craft Studio, and Contractor uses under this subdivision shall not result in the removal or elimination of any protections for the prior use in Section 23E.80.045.

2. For the period of August 1, 2011, through July 31, 2016, space established prior to January 1, 2010, as protected, Warehouse and Wholesale Trade use may be changed to Research and Development (R&D) use as set forth below; provided, that issuance of a permit for R&D use under this subdivision shall not result in the removal or elimination of any protection for the prior use established through this subdivision and such protections shall remain if the R&D use ceases. As of August 1, 2016, there shall be no numerical limit on the number of gross square feet of protected Warehouse and Wholesale space that may be converted to R&D use within the MM (BMC 23E.76) and MU-LI (BMC 23E.80) zoning districts.

i. A combined total of 270,000 gross square feet of protected Warehouse and Wholesale space may be converted to R&D use within the MM (BMC 23E.76) and MU-LI (BMC 23E.80) zoning districts.

ii. No more than 150,000 gross square feet of this space may have been occupied on or after August 1, 2011, whether or not the use was legally established.

iii. The Zoning Officer may approve an Administrative Use Permit for a change of use of up to 20,000 gross square feet from protected Warehouse and/or Wholesale Trade to Research and Development (R&D).

iv. The Board may approve a Use Permit for a change of use over 20,000 gross square feet of protected Warehouse and/or Wholesale Trade to Research and Development (R&D).

v. Planning staff will report to the City Council once a cumulative total of 50,000 square feet in the MM and MU-LI districts of protected Warehousing and/or Wholesale Trade have been converted to Research and Development Use (or at the end of one year, whichever occurs first), with additional reports to be provided in the same increments thereafter. The reports are to include the gross square footage of building space converted and the number and type of jobs

expected to be created. No later than April 15, 2016, the City Manager shall provide a cumulative report to the City Council and schedule an action item for the Council's consideration so that it can provide direction as to what, if any, modifications it wishes to make to this Section.

B. Except as provided herein and in Paragraphs D and F of this section, no more than 25% of the space used for Material Recovery Enterprise, manufacturing, warehousing or wholesale trade in a building shall be removed and/or changed to another use, except as authorized by a Use Permit. No Use Permit under this subdivision may be issued absent the appropriate finding under Section 23E.80.090 D.

C. The Zoning Officer may issue an Administrative Use Permit to change the use of less than 20,000 square feet of floor area used for Material Recovery Enterprise, manufacturing, warehousing, or wholesale trade as long as the area converted is less than 25% of the space used for those purposes.

D. On a property consisting of a lot (or group of abutting and confronting lots) under one ownership containing more than one building, more than 25% of the use of a particular building or portion of building may be changed from Material Recovery Enterprise, manufacturing, warehousing, or wholesale, provided that for the property as a whole no more than a cumulative total of 25% of the floor area used for Material Recovery Enterprise, manufacturing, wholesale trade or warehousing is changed to another use.

E. As used in this Section, space used for manufacturing, warehousing or wholesale trade means space which is being used, or was previously used for the manufacture, assembly, processing, repair, testing (including prototype manufacturing), storage, display (other than in retail stores) or distribution of goods, unless the manufacturing, wholesale trade, or warehousing use is or was demonstrably ancillary to another use. For purposes of this section, use of the space shall be the use as of January 1, 1996 (or if vacant on that date, the most recent previous use).

F. Pursuant to the amendment to the West Berkeley Plan concerning 2929 Seventh Street, also known as the Langendorf Building, space used or last previously used for manufacturing, warehousing or wholesale trade in that building may be changed to other permitted uses provided that not less than 30,000 square feet of floor area is maintained for manufacturing, warehousing or wholesale trade uses. Retail Sales, Office Uses and Food and Alcohol Service Uses otherwise prohibited in this District, but permitted in the C-W District, may be permitted at this property, with a Use Permit, provided that the total floor area of such uses on the property in both this District and the C-W District does not exceed 10,000 square feet.

G. The limitations of this section on changes of use shall be cumulative. (Ord. 7358-NS § 5, 2014; Ord. 7194-NS § 7, 2011; Ord. 7167-NS § 15, 2011; Ord. 7125-NS § 5, 2009; Ord. 6509-NS § 3 (part), 1999; Ord. 6478-NS § 4 (part), 1999)

23E.80.090 Findings

A. In order to approve any Use Permit under this chapter the Zoning Officer or Board must make the finding required by Section 23B.32.040. The Zoning Officer or Board must also make the findings required by the

following paragraphs of this section to the extent applicable:

B. A proposed use or structure must:

1. Be consistent with the purposes of the District;
2. Be compatible with the surrounding uses and buildings;
3. Be consistent with the adopted West Berkeley Plan;
4. Be unlikely, under reasonably foreseeable circumstances, to either induce a substantial change of use in buildings in the District from manufacturing, wholesale trade or warehousing uses;
5. Be designed in such a manner to be supportive of the light industrial character of the district. Such physical compatibility shall include materials used; facade treatments; landscaping; lighting; type, size and placement of awnings, windows and signs; and all other externally visible aspects of the design of the building and site. If the building and/or site is split between the MU-LI District and the West Berkeley Commercial District that there are clear and appropriate distinctions in all design aspects between the portions of the building and site within the MU-LI District and the portions within the West Berkeley Commercial District;
6. Be able to meet any applicable performance standards as described in Section 23E.80.070.D.

C. In order to approve a Use Permit under Section 23E.80.040, the Zoning Officer or Board must find that the space formerly occupied by the protected use has been replaced with a comparable space in the West Berkeley Plan area, which is reserved for use by any protected use in the same category:

1. For purposes of this section, such replacement space shall not qualify for exemption under Section 23E.80.040.1 or by reason of having been established after July 6, 1989;
2. In considering whether a project will be detrimental, consideration shall be limited to the potential detriment associated with the new use and dislocation of any specific previous occupant or use shall not be a basis for finding detriment.

D. Except as permitted under 23E.80.045, subdivisions A.1 or A.2, in order to approve a Use Permit under Section 23E.80.045 to change the use of or remove more than 25% of the floor area of a building currently or most recently used for manufacturing, wholesale trade or warehousing, the Zoning Officer or Board must find:

1. Any necessary Use Permits that have been approved to provide comparable quality replacement manufacturing, wholesale trade and/or warehousing space in Berkeley at a comparable rent and that such replacement space will be available before the demolition or change of use of the space; or
2. As a result of lawful business and building activities, there are exceptional physical circumstances

(exclusive of the presence of hazardous materials in the building(s), soil or groundwater) found at the building not generally found in industrial buildings in the District which make it financially infeasible to reuse the building for any of the range of manufacturing, wholesale trade or warehouse uses permitted in the District. The analysis of the financial feasibility effects (which shall be verified by the City) of these physical circumstances shall consider those costs necessary to make the building meet current minimum standards for manufacturing, wholesale trade or warehouse buildings; and

3. Appropriate mitigation has been made for loss of the manufacturing, warehousing or wholesale trade space in excess of 25% of that space through providing such space elsewhere in the City, payment into the West Berkeley Building Acquisition Fund, or by other appropriate means.

E. In order to approve a Use Permit for division of space under Section 23E.80.050.D, the Zoning Officer or Board must find that the conversion would not create or contribute to a shortage of industrial spaces in West Berkeley for spaces of the size being converted and either:

1. The conversion can be reasonably expected to better serve the purposes of the District than leaving the space intact; or
2. The conversion would create spaces which could cross-subsidize larger industrial spaces.

F. In order to approve a Permit to establish or expand a Food Service Establishment, the Zoning Officer or Board must find that the establishment of the food service use, given its size, location, physical appearance and other relevant characteristics, will not have a significant detrimental impact on the industrial character of the area. In order to approve an Administrative Use Permit for a Food Service Establishment less than 5,000 square feet under Section 23E.80.030, the Zoning Officer must find that a substantial portion of the food consists of goods manufactured on site.

G. In order to approve a Use Permit to establish or modify a Live/Work Unit, the Zoning Officer or Board must make the findings required in Chapter 23E.20, as well as the following:

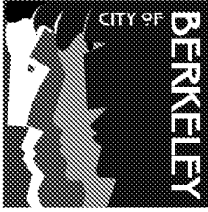
1. The applicants have made adequate provisions to insure that within the Live/Work Units, occupants of the Live/Work Units will only engage in the occupations listed in the definitions of Art/Craft Studios; and
2. Development of such Live/Work Units is not incompatible with adjacent and nearby industrial uses; and
3. The applicants have made adequate provisions to insure that occupant of each unit of the Live/Work space will be notified in writing that the unit is in the MU-LI District and that light manufacturing is the primary activity in the District, including a requirement that each occupant indicates that he or she has read and understood this information by means of a rider to a lease or a covenant to a deed, as appropriate.

H. In order to approve a Use Permit for the substitution of bicycle and/or motorcycle parking under Section

23E.80.080.E, the Zoning Officer or Board must find that the substitution will not lead to an undue shortage of automobile parking spaces and that it can be reasonably expected that there will be demand for the bicycle and/or motorcycle parking spaces.

I. In order to approve a Permit for the establishment or expansion of a child care center, or recreational or educational facility to be used by children, the Zoning Officer or Board must make all of the following findings:

1. Development of the school, child care center, large family day care or recreational facility to be used by children is not, in the particular circumstances of the project, incompatible with adjacent and nearby uses, including industrial uses;
2. An appropriate risk analysis or risk assessment, as defined by the City, has been made and has shown that there is not significant risk to children in the use from other activities near the site;
3. The applicants have made adequate provisions to ensure that all parents of students or children in the school, child care center, large family day care or recreational facility to be used by children will be notified in writing (on a form approved by the City) that the school is in the West Berkeley Plan MU-LI District, and that light manufacturing is a permitted activity in the District and that Primary Production Manufacturing or Construction Products Manufacturing may be permitted uses in adjacent districts, including a requirement that each parent will indicate that they have read and understood this information by means of a written statement returned to the school or child care center and available for review. (Ord. 7194-NS § 8, 2011; Ord. 7167-NS §§ 20 – 22, 2011; Ord. 6478-NS § 4 (part), 1999)



CITY COUNCIL

Darryl Moore
Councilmember District 2

CONSENT CALENDAR
December 16, 2014

To: Honorable Mayor and Members of the City Council
From: Councilmember Darryl Moore, District 2
Subject: Reconcile the West Berkeley Plan and the Zoning Code as it Pertains to Medical Uses

RECOMMENDATION

Refer to the Planning Commission the task of revising the current zoning ordinance so that it reflects the West Berkeley Plan's goals of encouraging medical uses in West Berkeley.

BACKGROUND

When the West Berkeley Plan was adopted in 1993, the zoning code was revised to reflect the goals and policies outlined in the plan. Since the revisions were made to an existing zoning ordinance, all of the goals and policies of the West Berkeley Plan were not necessarily translated appropriately into the revisions to the zoning code. One such omission pertains to medical uses in the Mixed Use/Light Industrial (MULI) zoning districts. The West Berkeley Plan encourages medical and healthcare uses in West Berkeley, including in the MULI zoning districts, but the zoning code explicitly prohibits "Medical Practitioners, including Holistic Health and Mental Health Practitioners" in the MULI.

The City Council should refer the matter to the Planning Commission to develop revision language to the zoning ordinance to reconcile the code with the intent of the West Berkeley Plan to encourage medical and healthcare uses.

FISCAL IMPACTS OF RECOMMENDATION

Staff time to make the appropriate revisions.

CONTACT PERSON

Councilmember Darryl Moore, District 2 981-7120



PLANNING COMMISSION

Notice of Public Hearing

February 7, 2018

**Amendments to the City of Berkeley Zoning Map and General Plan Map:
parcels located at 1050 Parker Street and 2621 Tenth Street,
Assessor Parcel Numbers (APN) 054-1763-001-03 and 054-1763-010-00**

The Planning Commission of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Sections 23A.20.030 and 22.04.020, on **Wednesday, February 7, 2018**, at the North Berkeley Senior Center, 1901 Hearst Ave. (at Martin Luther King, Jr. Way), Berkeley (wheelchair accessible). The meeting starts at 7:00 p.m.

PROJECT DESCRIPTION: The City Council proposes a rezoning and general plan amendment for two parcels located at 1050 Parker Street and 2621 Tenth Street, assigned Assessor Parcel Numbers (APN) 054-1763-001-03 and 054-1763-010-00 and shown on the attached map.

The subject parcels are part of a 1.6-acre site that is proposed to be combined for the development known as 1050 Parker Street, which was approved by the Zoning Adjustments Board on December 14, 2017, pursuant to Use Permit ZP#2016-0170. The approved development would be a single three-story building that would provide about 20,000 square feet of new floor area in the C-W zoned area and about 40,000 square feet in the MU-LI zoned area.

The proposed rezoning would change the parcels from the Mixed Use Light Industrial (MU-LI) District Chapter 23E.80 to the West Berkeley Commercial (C-W) District Chapter 23E.64. The proposed General Plan amendment would change the parcels from Manufacturing Mixed Use to Avenue Commercial. Rezoning and re-designating the parcel would allow for the entire 1050 Parker Street project to be used for Medical Office Use. Medical Office Use is allowed in the C-W, but prohibited in the MU-LI.

LOCATION: The two parcels located at 1050 Parker Street and 2621 Tenth Street, assigned Assessor Parcel Numbers (APN) 054-1763-001-03 and 054-1763-010-00.

ENVIRONMENTAL REVIEW STATUS: The proposed rezone and re-designation of the noted parcel would allow for Medical Office use throughout the project site. This use is evaluated in the 1050 Parker Street project Environmental Impact Report (EIR). Mitigations for the 1050 Parker Street project are identified that will bring any impacts to a level of insignificance, therefore the potential impacts of proposed rezone and re-designation can also be considered mitigated.

NOTICE OF PUBLIC HEARING

PUBLIC COMMENT & FURTHER INFORMATION: Comments may be made verbally at the Public Hearing and in writing before the hearing. Written comments or questions concerning this project should be directed to:

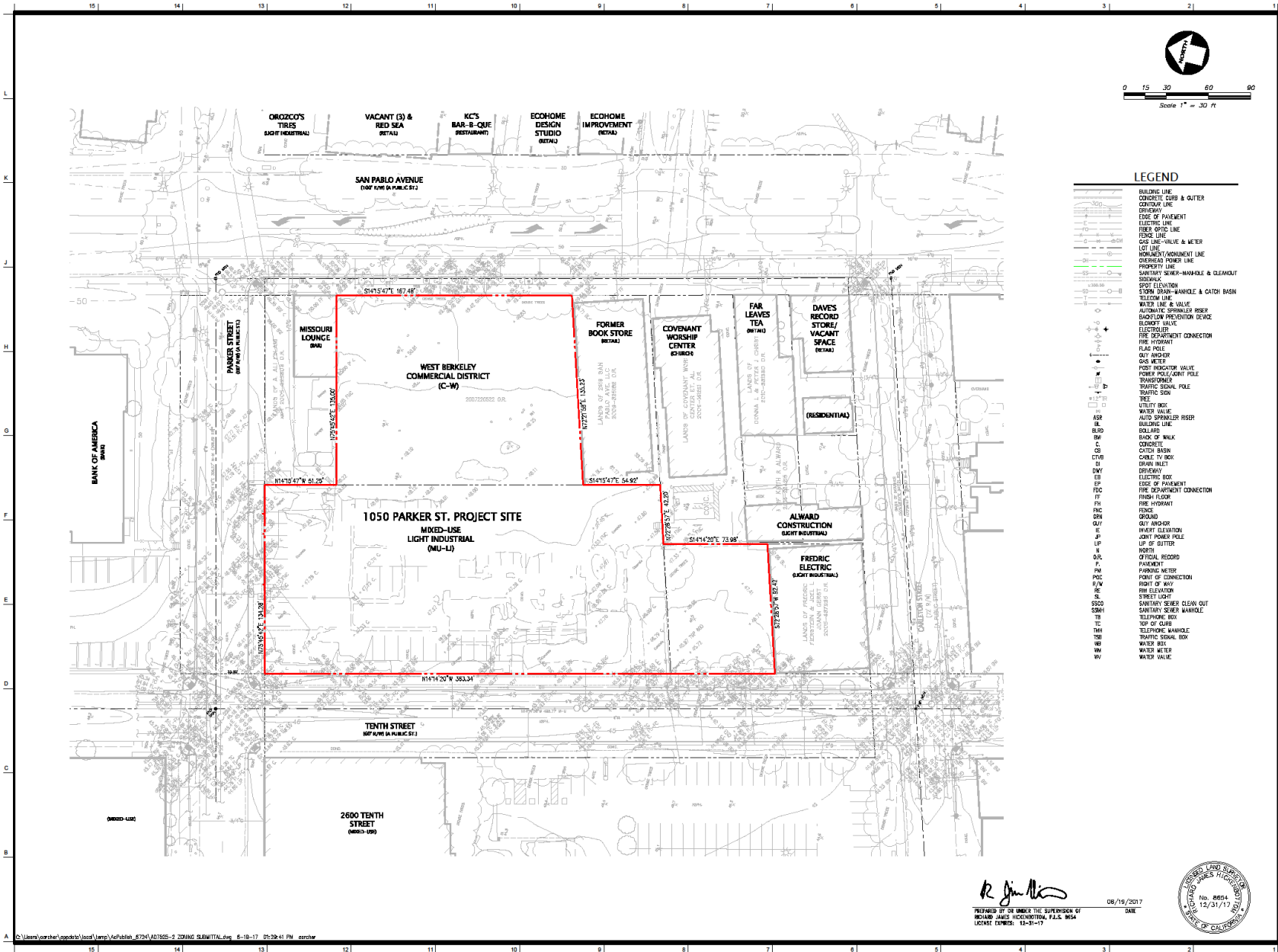
Alex Amoroso
Planning Commission Secretary
City of Berkeley, Land Use Planning Division
1947 Center Street, 2nd Floor
Berkeley, CA 94704
E-mail: aamoroso@cityofberkeley.info
Phone: 510/981-7520

To assure distribution to Commission members prior to the meeting, **correspondence must be received by 12:00 noon, seven (7) days before the meeting.** For items with more than ten (10) pages, fifteen (15) copies must be submitted to the Secretary by this deadline. For any item submitted less than seven (7) days before the meeting, fifteen (15) copies must be submitted to the Secretary prior to the meeting date.

COMMUNICATION ACCESS: To request a meeting agenda in large print, Braille, or on audiocassette, or to request a sign language interpreter for the meeting, call (510) 981-7410 (voice) or 981-6903 (TDD). Notice of at least five (5) business days will ensure availability. Agendas are also available on the Internet at: www.ci.berkeley.ca.us.

This material is available in alternative formats upon request. Alternative formats include audio-format, braille, large print, electronic text, etc. Please contact the Disability Services Specialist and allow 7-10 days for production of the material in an alternative format.

Ella Callow- Disability Services Specialist
Email: ecallow@cityofberkeley.info
Phone: 510/981-6418
TTY: 510/981-6347



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**1050 PARKER ST.
 BERKELEY, CA**

**1050 Parker Street
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 Architect:
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KIER & WRIGHT
 CIVIL ENGINEERS & SURVEYORS, INC.
 2810 Center Campus Road Phone (925) 245-6788
 Livermore, California 94551 Fax (925) 245-6786

| Number | Revision Description | Date |
|--------|----------------------|------------|
| 1 | Zoning Submission | 06/29/2016 |
| 2 | Revision #1 | 09/13/2016 |
| 3 | Revision #2 | 12/05/2016 |
| 4 | Revision #3 | 02/27/2017 |
| 5 | Revision #4 | 06/29/2017 |

Project No: A07525-2
 Date: 06/29/2017
 Sheet:

**EXISTING CONDITIONS
 PLAN**

C1.0

ZONING APPLICATION

R. Jimenez
 PREPARED BY OR UNDER THE SUPERVISION OF
 RICARDO JAMES HICKENBOTHAM, P.E., M.S.
 LICENSE NUMBER: 12-51-17
 08/18/2017
 DATE



RESOLUTION NO. ##,###-N.S

AMEND THE BERKELEY GENERAL PLAN TO RE-DESIGNATE AND REZONE PARCELS WITH ASSESSOR PARCEL NUMBERS (APN) 054-1763-001-03 and 054-1763-010-00 FROM LIGHT INDUSTRIAL TO AVENUE COMMERCIAL GENERAL PLAN DESIGNATIONS AND FROM MIXED USE LIGHT INDUSTRIAL (MU-LI) TO WEST BERKELEY COMMERCIAL (C-W) ZONING DISTRICT

WHEREAS, the City Council of the City of Berkeley has the authority to approve zoning ordinance amendments and re-designate parcels from one General Plan land use designation to another in order to address unforeseen circumstances and changing priorities; and

WHEREAS, the zoning amendment and General Plan re-designation of the noted parcels was prepared based on a request from a property owner that wishes to modify and unify the allowable uses within a building that has been approved to be built across General Plan and zoning district boundaries; and

WHEREAS, the Planning Commission held a duly noticed public hearing and took public testimony on February 7, 2018, which was preceded by the distribution of notices in accordance with State and local noticing requirements; and

WHEREAS, on February 7, 2018, the Planning Commission voted to recommend that the City Council adopt a General Plan re-designation and rezone of Assessor Parcel Numbers (APN) 054-1763-001-03 and 054-1763-010-00; and

WHEREAS, on ##/##/##, the City Council held a duly noticed public hearing to consider the General Plan re-designation and rezone of Assessor Parcel Numbers (APN) 054-1763-001-03 and 054-1763-010-00; and

WHEREAS, the amendment is consistent with the General Plan and West Berkeley Plan (WBP) by increasing land available for employment and community services in the Office/Medical business sectors, and increasing development potential along the San Pablo Avenue corridor where the medical office use would be appropriate. The General Plan also supports economic development and a diversity of jobs along and adjacent to commercial corridors; and

WHEREAS, the amendment serves the public interest through a diversity of well-paying jobs in West Berkeley and along a major transit corridor. It also supports the sustainability goals of the City by providing jobs close to alternative modes of transportation; and

WHEREAS, the amendment would support the public health, safety and welfare of the City by bringing a potential new mix of uses to the parcels, including healthcare services and job providers; and

WHEREAS, the potential impacts of the proposed development of the “1050 Parker Street” property have been evaluated and reduced to a level of “less than significant” as determined by the Zoning Adjustments Board (ZAB) through its adoption of the Initial

Study-Mitigated Negative Declaration (IS-MND) and conditions of approval for Use Permit #ZP2016-0170. The CEQA evaluation assessed and proposed sufficient mitigation measures to address use of the entirety of the site for Medical Practitioners Use as a worst-case scenario for impacts such as traffic and greenhouse gas emissions. Conditions and mitigation measures were adopted and a Notice of Determination was filed on ##/##/##; and

WHEREAS, the zoning amendment serves the public interest through increasing the number and diversity of well-paying jobs in West Berkeley and along a major transit corridor. It also supports the sustainability goals of the City by providing jobs close to alternative modes of transportation; and

WHEREAS, the purpose of the rezone is to allow for Medical Practitioners to occupy the entire development at “1050 Parker Street.” The immediately adjacent C-W District allows for Medical Practitioners and this rezone would allow for that compatible use to extend across the entire site and building, on the parcels in question; and

WHEREAS, the adjacent MU-LI District allows for medical-related uses including laboratories. The C-W District allows for Medical Practitioners, who might use the services of the adjacent laboratory uses. The proposed rezone adjusts the boundary to allow these adjacent uses to occupy these parcels; and

WHEREAS, there will be no detrimental impacts to the public health, safety or welfare, as the property is currently vacant with a planned development which has been reviewed and approved by the ZAB. That approval includes mitigations for any known potential environmental impacts as described above; and

WHEREAS, all documents constituting the record of this proceeding are and shall be retained by the City of Berkeley Planning and Development Department, Land Use Planning Division, at 1947 Center Street, Berkeley, California.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that the General Plan is hereby amended, as shown in Exhibit A, and the zoning map is amended as shown in Exhibit B.

Attachments:

EXHIBIT A: Map of General Plan amendment of two parcels from Light Industrial to Avenue Commercial, Assessor Parcel Numbers (APN) 054-1763-001-03 and 054-1763-010-00.

EXHIBIT B: Map of zoning district amendment from Mixed Use – Light Industrial (MU-LI) to West Berkeley Commercial (C-W), Assessor Parcel Numbers (APN) 054-1763-001-03 and 054-1763-010-00.

TO: Planning Commission

FROM: Elizabeth Greene, Senior Planner

SUBJECT: Comprehensive Cannabis ordinances

DATE: February 7, 2018

The focus of this meeting is to review the attached information and answer questions about the proposed changes to the Zoning Ordinance. The Commission will make a recommendation to Council about the proposed changes at a Public Hearing scheduled for the February 21, 2018 meeting.

BACKGROUND

Due to State legislative actions and the passage of Proposition 64, the State has developed a new regulatory system for medicinal and adult use (recreational) cannabis. City of Berkeley staff have developed draft changes to the Municipal Code and Zoning Ordinance in order to address these new regulations.

The attached information was initially distributed to the Planning Commission as a communication item in the January 17, 2018 packet. Attachments 1 and 2 give an overview of all of the proposed changes, while Attachments 3 and 4 focus on modifications to the Zoning Ordinance.

Currently, cannabis regulations in the Zoning Ordinance are contained in two Zoning Ordinance Sections:

- 23E.16.070 (Special Use Standards, Medical Cannabis Uses) and
- 23E.72.040 (M Manufacturing District, Medical Cannabis Cultivation).

The primary change to the Zoning Ordinance consists of moving these sections into a new chapter (23C.25), and modifying them to address new uses that are not currently in the Zoning Ordinance. Other changes consist of including cannabis uses in use tables in the commercial and manufacturing districts and adding or modifying the definitions chapter (23F.04) to clarify cannabis uses.

Attachments:

1. Cannabis Commission Staff report
2. Matrix of Existing and Proposed Ordinance/Regulations
3. Draft of new Zoning Ordinance Chapter (23C.25), use tables and definitions
4. Existing Zoning Ordinance Sections 23E.16.070 and 23E.72.040

TO: Cannabis Commission

FROM: Elizabeth Greene, Secretary

SUBJECT: Comprehensive Cannabis ordinances

DATE: January 18, 2018

City staff from the Planning, Environmental Health, Public Health, Finance, Police, Fire, and Code Enforcement departments, as well as the City Attorney's office, have drafted a proposed set of new cannabis regulations. The proposal consists of draft cannabis ordinances and a selection process for certain license types. The purpose of these regulations is to:

1. Respond to a Council referral (Attachment A);
2. Develop regulations for new license types permitted by the State so businesses can be approved/selected to operate in Berkeley;
3. Ensure that existing and proposed ordinances are consistent with State regulations; and
4. Simplify and clarify the ordinances.

This memo and its attachments guide the Commission through the ordinances and the approval process. It outlines:

- the focus of the proposed changes to the Berkeley Municipal Code (BMC) and the Zoning Ordinance (ZO),
- the significant changes and new language,
- the new ordinance chapters being created, and
- the next steps in approving the ordinances and selection. Information about the selection process will be included with the February 1, 2018 packet.

Focus of changes and new language

Changes to the BMC and ZO fall into two categories:

- General clean-up; and
- Revisions to reflect State regulations or new cannabis activities.

The clean-up language will cover such issues as changes to terms (i.e., Medical to Medicinal, Member to Customer), the addition of new definitions, and the removal of regulations that duplicate State regulations (i.e. background checks). These changes are not expected to change the current direction of the Berkeley ordinances.

The other revisions are more specific to cannabis uses. The changes in this category create regulations to match State license types that currently do not exist in Berkeley Ordinances, and may also change regulations for existing license types. The Existing and Proposed Regulations matrix (Attachment B) identifies these changes.

Existing and Proposed Regulations Matrix

The most straightforward way to learn how these changes would affect the way cannabis businesses could operate in Berkeley is to review the Existing and Proposed Regulations matrix. This matrix outlines existing regulations by business type, and shows how they would change with the new ordinances. Issues that do not involve a specific business type (billboards, lounges, etc.) are included at the end of the matrix. The code sections of the existing and proposed language are called out in the matrix; copies of the existing and proposed ordinances are also included with this memo.

Documents to be revised or created

The BMC and the ZO will be reorganized in order to make the information easier to find and less repetitive between chapters.

BMC: Three existing BMC chapters will be combined into two new chapters:

| Topic | Chapter to be Deleted | New Chapter |
|--|-----------------------|---|
| General Regulations (Definitions, Operating Standards) | 12.23 | 12.21 (includes Chapter 12.23 plus issues from 12.25 and 12.27 – security, records, etc. – that apply to all license types) |
| Cultivation | 12.25 | 12.22 |
| Dispensaries/ Collectives | 12.27 | 12.22 |
| Other license types | N/A | 12.22 |

Of the noted chapters, 12.25 and 12.27 have extensive redundancies. These redundancies are being removed and the chapters consolidated into Chapter 12.22. Chapter 12.23, along with portions of 12.25 and 12.27 will become Chapter 12.21. Existing Chapter 12.26 does not change. The new chapters are included as Attachments C and D. One additional BMC chapter, 20.XX is proposed for regulating cannabis advertising (see Attachment E).

Versions of the deleted chapters with references to the new location of existing information are also attached (Attachment F).

ZO: The Zoning Ordinance currently includes Cannabis use regulations in two chapters: 23E.16 and 23E.72 (M District). This information will be consolidated into a new Chapter: “Cannabis Uses” (23C.25). This chapter, along with minor changes to use tables in Commercial and Manufacturing districts and a new Definition (Cannabis Uses), are included in Attachment G. The original language in Chapters 23E.16 and 23E.72 is included in Attachment H.

Next Steps in Approval Process

Commission review: Four commissions will hold public meetings to review the proposals and provide an opportunity for public comment: Cannabis Commission (CC), Planning Commission (PC), Housing Advisory Commission (HAC) and Community Health Commission (CHC).

The HAC and the CHC will review specific components of the proposals at their respective February meetings (February 1, 2018 and February 22, 2018) and may provide feedback to the Council. The CC and PC will provide recommendations to the Council on all or portions of the cannabis proposals:

Cannabis Commission: Recommendations on the draft BMC, ZO and selection process. Anticipated Timeline: January 18th and February 1st meetings.

Planning Commission: Recommendations on the draft ZO. Anticipated timeline: February 7th and February 21st meetings.

All four commissions will hold public meetings to review the proposals and will provide an opportunity for public comment.

Finalize comments and draft report(s): As the commissions review the proposals, staff will draft the staff reports and any necessary commission reports for Council. Included in these reports will be discussions of the staffing impacts and fees necessary to enact the proposals and recommendations. Modifications may be made to the proposals based on commission discussion and public comment.

Council consideration: Based on the commission schedule above, the Council could consider the draft proposals, recommendations and other feedback at a meeting between April 24th and May 15th.

Attachments:

- A. 7-25-17 Council referral (without attachments)
- B. Matrix of existing and proposed ordinances/regulations
- C. Draft BMC Chapter 12.21
- D. Draft BMC Chapter 12.22
- E. Draft BMC Chapter 20.XX (Advertising)
- F. Existing BMC chapters related to cannabis with changes
- G. Draft ZO changes
- H. Existing ZO sections with changes

Existing and Proposed Cannabis Regulations

| Topic | Subtopic | Existing Regs (Ord) | Proposed Regs (Ord) |
|---|---------------------------------|--|--|
| Retail: Medicinal Use | Location | In any C-prefixed district (ZO 23E.16.070.A.1) | Same (ZO 23C.25.010.F) |
| | Quota limit | 6 (ZO 23E.16.070.A.1) | Same (ZO 23C.25.010.F) |
| | Buffer | 600' away from other cannabis retailers and schools with K-12 students (ZO 23E.16.070.A.2) | Same (ZO 23C.25.010.B) |
| | Security | Requirements for lighting, licensed, unarmed security guards, camera coverage, alarm system, storage of product and cash, bars on openings if no guards after hours. (BMC 12.27.050.E) | Same, with addition that any State requirements that are stricter will apply (BMC 12.21.040.G) |
| | On-site consumption | Allowed for non-combustible products (vaping, edibles, topicals, etc.) (BMC 12.27.050.G) | Language clarified to specifically allow non-combustible consumption at Retailers which allow customer visits. Removed language about smoking of cannabis within 50 feet of a Retailer (BMC 12.21.040.I and 12.22.040.G) |
| | Selection process | MBAP (Resolution 66,711-N.S.) | TBD, see Selection Process section (under Other topic) |
| | Change in location - relocation | Cannabis Commission review. | No recommendation yet |
| | Change in location - expansion | AUP if legal, non-conforming dispensary; otherwise assumed same as non-cannabis businesses | No recommendation yet |
| | Changes in ownership | No regulations | No recommendation yet |
| | Delivery regulations | Delivery permitted per definition, but no regulations (BMC 12.23.020.K.2) | Same delivery regulations as for delivery-only dispensaries (BMC 12.22.040.H) |
| Retail: Adult Use (No current regs. Proposed regs same as medicinal, except as shown) | Location | N/A | All C-prefixed districts (ZO 23C.25.010.G) |
| | Quota limit | N/A | Limit of 12, (ZO 23C.25.010.G) |

Existing and Proposed Cannabis Regulations

| Topic | Subtopic | Existing Regs (Ord) | Proposed Regs (Ord) |
|--|-------------------|--|--|
| Retail: Delivery-only ("Existing regs" are those proposed by Cann Comm and Planning Comm) | Location | All C-prefixed districts except C-N (recommended by Planning Comm) | All C-prefixed districts and in M-prefixed districts as an ancillary use to another cannabis business (recommended by staff) (ZO 23C.25.010.H.2) |
| | Quota limit | None (recommended by Cannabis Comm) | 10 (recommended by staff) (ZO 23C.25.010.H.1) |
| | Buffer | Same as medicinal retail (ZO 23E.16.070.A.2) | Same (ZO 23C.25.010.B) |
| | Selection process | No recommendation regarding discretionary review (Planning Commission) | Same selection process as other Retailers |
| Delivery-specific requirements | | Vehicle and driver requirements, insurance, signage, deliveries only to residence or business of Member. Only applied to delivery-only dispensaries (recommended by Cannabis Commission) | Same, but deliveries can only be to a residence. Regulations will apply to any Retailer making deliveries to patients. (BMC 12.22.040.H) |

Existing and Proposed Cannabis Regulations

| Topic | Subtopic | Existing regs (ord) | Proposed regs (ord) |
|-------------|---------------------------------|--|--|
| Cultivation | Location | M District only (ZO 23E.72.040.A) | Same (ZO 23C.25.020.A) |
| | Size | Maximum 22,000 sf (area of cultivation and associated uses) (ZO 23E.72.040.A.3) | Same maximum size, but measured by canopy area (ZO 23C.25.020.A.3) |
| | Quota limit | 180,000 sf cap on all commercial cultivation in city. (No decision on numeric quota for businesses) (ZO 23E.72.040.A.4) | 180,000 sf cap still applies. Numeric limit of 6 for businesses between 10,001 sf and 22,000 sf. No numeric limit for businesses under 10,000 sf, but 180,000 cap applies (ZO 23C.25.020.A.4, 5 and 6) |
| | Buffer | 600' away from schools with K-12 students (ZO 23E.72.040.B) | 300' away from schools with K-12 students (ZO 23C.25.020.C) |
| | Security | Requirements for lighting, licensed, unarmed security guards, camera coverage, alarm system, storage of product and cash, bars on openings if no guards after hours. (BMC 12.25.050.E) | Same, with addition that any State requirements that are stricter will apply (BMC 12.21.040.G) |
| | On-site consumption | Not permitted, except for employees with medical needs (BMC 12.25.050.G.1 and 4) | Same, except remove BMC 12.25.050.G.4 (BMC 12.21.040.I and 12.22.040.G) |
| | Selection process | Yes, but no decision on type | Yes |
| | Change in location - relocation | N/A | No recommendation yet |
| | Change in location - expansion | N/A | No recommendation yet |
| | Changes in ownership | N/A | No recommendation yet |
| Nurseries | Not mentioned | Businesses applying for a State Nursery permit must obtain the specific permits required for cultivation use at the site. (BMC 12.21.020 (definition)) | |

Existing and Proposed Cannabis Regulations

| Topic | Subtopic | Existing regs (ord) | Proposed regs (ord) |
|--|---|--|--|
| Manufacturing | Location | Same as non-cannabis Light Manufacturing (ZO 23E.16.070.C) | Same (ZO 23C.25.030) |
| | Quota limit | None required (not mentioned) | Same (not mentioned) |
| | Buffer | None required (not mentioned) | 300' away from schools with K-12 students (ZO 23C.25.020.B) |
| | Security | None required (not mentioned) | Same as dispensaries, cultivators and distributors for security, lighting, alarm system, storage of product and cash. No local requirement for guards and cameras. (BMC 12.21.040.G) |
| | On-site consumption | Not mentioned | Remove BMC 12.25.050.G.4 (BMC 12.21.040.I and 12.22.040.G) |
| | Selection process | None (not mentioned) | Same (not mentioned) |
| | Change in location - relocation | Same as non-cannabis Light Manufacturing | Same (not mentioned) |
| | Change in location - expansion | Same as non-cannabis Light Manufacturing | Same (not mentioned) |
| | Changes in ownership | Same as non-cannabis Light Manufacturing | Same (not mentioned) |
| Testing (same as Manufacturing, except as shown) | Location, changing location, expansion | Same as non-cannabis testing (23E.16.070.C) | Same (ZO 23C.25.030) |
| R&D (same as Manufacturing, except as shown) | Location, changing location, expansion | Same as non-cannabis R&D (23E.16.070.C) | Same (State license type = Manufacturing) (ZO 23C.25.030) |
| Distributor (same as Manufacturing, except as shown) | Security | N/A | Same as Retailer and Cultivator (BMC 12.21.040.G) |
| | Location, changing location expansion | N/A | Same as non-cannabis Wholesale Use (ZO 23C.25.030) |
| Microbusiness | Not called out in ordinance as a separate use. Businesses applying for a State microbusiness permit must obtain the specific permits required for the individual uses at the site. Any use that is included at a microbusiness site must meet the same requirements (location, buffer, quota, selection, security, etc) as if the use was a sole operator. (BMC 12.21.020 (definition)) | | |

Existing and Proposed Cannabis Regulations

| Topic | Subtopic | Existing regs (ord) | Proposed regs (ord) |
|----------------------------|--|---|--|
| General for all businesses | New definitions | N/A | Added new definitions to address new State regulations (BMC 12.21.020) |
| | Revised definitions | | Revised definitions to address new State regulations (BMC 12.21.020) |
| | Patient requirements and physician recommendations | Any person associated with a medical cannabis business must be a Qualified Patient or Primary Caregiver and members of the collective (State law, BMC 12.23.030.B and D, 12.26.040.B, 12.26.070.A and B, 12.27.050.D) | Remove references to membership requirements, including BMC 12.23.030.B and D, and 12.27.050.D (BMC 12.21.040) |
| | Ownership/profit status | Must operate as a collective and not-for-profit (State law, BMC 12.25.090.B.1, 12.27.090.B.1) | Removed both requirements |
| | Background checks | Businesses cannot be operated by or hire people with convictions for specific crimes (BMC 12.23.030.F) | Removed requirement – defer to State. |
| | Odor control | Not mentioned | Odor control plan language added (BMC 12.21.040.E) |
| | Non-diversion plan | Only for Dispensaries and Cultivators (BMC 12.25.050.B, 12.27.050.B) | Expanded to all Cannabis Businesses (BMC 12.21.040.F) |
| | Neighborhood compatibility | Only for Dispensaries and Cultivators (BMC 12.25.050.F, 12.27.050.F) | Expanded to all Cannabis Businesses, with no requirements for guards at Manufacturers and Testing Labs. Retailers shall provide Police and nearby residents contact information for the business. Remove hours of operations for Dispensaries. (BMC 12.21.040.H) |
| | Security | Only for Dispensaries and Cultivators (BMC 12.25.050.E, 12.27.050.E) | Expanded to all Cannabis Businesses, with no requirements for guards and bars on windows at Manufacturers and Testing Labs (BMC 12.21.040.G) |

Existing and Proposed Cannabis Regulations

| Topic | Subtopic | Existing regs (ord) | Proposed regs (ord) |
|-------|---|---|---|
| | Sale/consumption of tobacco and alcohol | Not permitted at Dispensaries and Cultivators (BMC 12.27.050.G and 12.25.050.G) | Not permitted at any Cannabis Business (BMC 12.21.040.I) |
| | Consumption of cannabis by patients | Only for Dispensaries and Cultivators (BMC 12.25.050.G, 12.27.050.G) | Add language about consumption being prohibited in public places. Remove language about smoking prohibition within 50' of Dispensaries (BMC 12.21.040.I, 12.22.040.G) |
| | Accessibility | All businesses must be accessible; three original businesses not required to comply as long as at original address | Same; add language that expansions of existing businesses must meet ADA requirements (BMC 12.22.040.E) |
| | Exterior signage | No language about Exterior signage. Signage discouraged for cultivators and dispensaries (BMC 12.25.060, 12.27.060) | Allow for customer-serving retail per other retail requirements; limit to directional signs for non-customer businesses (BMC 12.21.040.J, 12.22.040.F) |
| | Records/reporting requirements | Dispensaries and cultivators must report financial records to verify taxes, not-for-profit status and 2% to low-income distribution, and convictions (BMC 12.25.090, 12.27.090) | Expanded to all cannabis businesses. Removed reference to not-for-profit status, and reporting of convictions. (BMC 12.21.050) |
| | Ranking and Allocation | Council may establish a selection process for dispensaries and cultivators (BMC 12.25.100, 12.27.100) | Expanded to all Retailers and Major Cultivators. Minor changes to language. (BMC 12.22.020) |
| | Confidentiality of information | Only for Cultivators and Dispensaries (BMC 12.25.110, 12.27.110) | Same, but remove language regarding Medical membership records (BMC 12.21.070) |
| | Authority of City Manager | BMC 12.23.040, 12.25.120, 12.27.150 | Added subsection to allow City Manager to require businesses to obtain operating permits from Fire, Toxics and other divisions as necessary to ensure public safety. (BMC 12.21.080, 12.22.160) |
| | Abatement of violations | BMC 12.23.050, 12.25.130 | Same (BMC 12.21.090) |

Existing and Proposed Cannabis Regulations

| Topic | Subtopic | Existing regs (ord) | Proposed regs (ord) |
|------------------|---|--|---|
| | Fees | BMC 12.25.140, 12.27.140 | Same (BMC 12.21.100 12.22.150) |
| | Severability | BMC 12.23.060, 12.25.150, 12.27.160 | Same (BMC 12.21.110, 12.22.170) |
| Other | | | |
| | Use tables | N/A | Cannabis uses shown in use tables (Non-Residential District Uses Tables in the ZO) |
| | Growing in backyards | Patients can grow up to 10 plants in backyard – more if on rooftop or balcony not visible from other properties | Not mentioned, allowed per State law |
| | Billboards | Not mentioned | Prohibited |
| | Lounges | Not mentioned | Staff recommends considering the use a Retail (storefront) use, which would need a Retailer license (BMC 12.22.040.G) |
| | Temporary events | Not mentioned | Prohibited (BMC 12.22.100) |
| | Residential collectives | Allowed (BMC 12.27.120- 130) | Staff recommends to continue allowing Residential collectives but with additional regulations per the State (BMC 12.22.120-140) |
| | Taxes | Medical = 2.5% Non-medical = 10% | No recommendation yet |
| | Selection Process (equity, community benefit requirements, etc.) | | No recommendation yet |
| Not-for-profit | | All dispensaries and cultivators must operate on a not for profit basis. (12.25.090.B.1 and 12.27.090.B.1) | Only collectives must operate on a not-for-profit basis. (12.22.130.D) |
| Operating Permit | | The City Manager/Council may authorize regs to administer Chapter (12.25.140 and 12.27.140) | Operating permits for all cannabis businesses may be required by the City Manager (12.21.080.C and 12.22.160.C) |

1 **Chapter 23C.25**
2 **CANNABIS USES**

3 **Sections:**

4 **23C.25.010 Retail Uses**

5 **23C.25.020 Cultivation**

6 **23C.25.030 Manufacturing, Testing and Distribution**
7

8 **Section 23C.25.010 Retailer**

9 A. Retailer is defined in Section 12.21.020.

10 B. Retailers may not be located within 600 feet of another Retailer or a public or
11 private elementary, middle or high school.

12 C. Expansion of an approved Retailer shall follow the conversion regulations for the
13 Zoning District in which it is located and shall comply with subdivision (B) of this
14 Section.

15 D. An M-Retailer existing and authorized as of January 1, 2010, that does not comply
16 with this Section, may continue at its current medical cannabis dispensing location and
17 shall be considered a legal nonconforming use. Notwithstanding Section 23C.04.060 or
18 subdivision (B) of this Section, the Zoning Officer may approve an Administrative Use
19 Permit to allow the expansion of a legal nonconforming medical cannabis dispensary
20 use on any parcel or on two adjacent parcels where a dispensary was located on one of
21 the parcels as of July 1, 2010.

22 E. No changes in ownership or approved location shall be approved until such time as
23 the City Council established procedures and criteria to allow such changes.

24 **F. Medicinal Cannabis Retailers**

25 1. Six Medicinal Cannabis Retailers as defined in Section 12.21.020 shall be
26 permitted as of right with a Zoning Certificate in C-prefixed zones if they comply
27 with the parking requirements applicable to the uses they include, and any security
28 requirements promulgated by the Chief of Police.

29 **G. Adult Use Retailers**

30 1. Twelve Adult Use Retailers as defined in Section 12.21.020 shall be permitted
31 as of right with a Zoning Certificate in C-prefixed zones if they comply with the
32 regulations in BMC Chapter 12.XX, parking requirements applicable to the uses
33 they include, and any security requirements promulgated by the Chief of Police.

34 H. Delivery-only Retailers

35 1. ALTERNATIVE A: CANNABIS COMMISSION RECOMMENDATION - In
36 addition to the six existing Medicinal Cannabis Retailers, under Berkeley Municipal
37 Code Section 12.26.130 and any A-Retailers Dispensaries selected under Section
38 12.27.100, an unlimited number of Delivery-only Retailers shall be permitted, on a
39 first-come-first-served basis. OR

40 1. ALTERNATIVE B: STAFF RECOMMENDATION - In addition to the six
41 existing M-Retailers under Section 12.26.130 and any A-Retailers selected under
42 Section 12.27.100, ten (10) Delivery-only Retailers shall be permitted, subject to a
43 Council-approved selection process.

44 2. ALTERNATIVE A: PLANNING COMMISSION RECOMMENDATION
45 Delivery-only Retailers as defined in Section 12.21.020 shall be allowed subject to
46 issuance of an (Administrative Use Permit or Use Permit) in all C-prefixed zones
47 except Commercial Neighborhood (C-N). Delivery-only Retailers must comply
48 with the regulations in Chapters 12.21 and 12.22 and Title 23, comply with the
49 parking requirements applicable to retail uses, and any security requirements
50 promulgated by the Chief of Police.

51 2. ALTERNATIVE B: STAFF RECOMMENDATION Delivery-only Retailers as
52 defined in Section 12.21.020 shall be allowed in all C-prefixed zones.
53 Delivery-only businesses are permitted only on second floors. Delivery-only
54 Retailers must comply with the regulations in Chapters 12.21 and 12.22 and Title
55 23, comply with the parking requirements applicable to retail uses, and any
56 security requirements promulgated by the Chief of Police.

57 3. Delivery-Only Retailers may locate in all M-prefixed zones only as an ancillary
58 use to another type of Cannabis Business.

59 I. No new Retailer may be approved under this Section until the City Council adopts
60 a licensing process and standards for Retailers. Such standards may include, but shall
61 not be limited to, whether proposed dispensaries will provide a percentage of all
62 useable product dispensed at no cost to very low income patients and will provide
63 product that is produced using organic methods; and whether their form of organization,
64 ownership and practices ensure equity and accountability, low prices and an adequate
65 supply of high quality medical cannabis to their members.

66 **Section 23C.25.020 Cannabis Cultivation**

67 A. Notwithstanding anything to the contrary in this Chapter, cultivation of cannabis as
68 defined in Chapters 12.21 and 12.22 and MAUCRSA, shall be permitted as a matter of
69 right with a Zoning Certificate in all M-prefixed zones, subject to the following limitations:

- 70 1. Such locations shall be limited to licensed Cannabis Businesses.
- 71 2. Cannabis may not be dispensed, and client, patient or member services or
72 retail sales are prohibited, at such locations.
- 73 3. No single location used for cultivation and associated uses by a licensee may
74 exceed 22,000 square feet of total canopy area, except that separate spaces used
75 by different licensees may be aggregated on the same location.
- 76 4. Up to six Major Cultivation Facilities between the size of 10,000 sf and 22,000
77 sf in total canopy area are permitted.
- 78 5. There is no numeric limit for Cannabis Cultivation Facilities under 10,000 sf in
79 total canopy area. These uses are limited by the total area permitted for cannabis
80 cultivation set forth in subsection 23C.25.020.A.7 minus the area available for
81 Major Cultivation Facilities.
- 82 6. Outdoor commercial cultivation is prohibited.
- 83 7. The total canopy area used for cannabis cultivation shall not exceed 180,000
84 square feet. (23E.72.040.A)

85 B. Cannabis nurseries, as defined in Chapter 12.21 are considered Cannabis
86 Cultivation uses and are subject to the same regulations as Cultivators.

87 C. Such locations shall comply with all regulations in Chapter 12.XX, security
88 regulations promulgated by the Chief of Police, and the requirements of this Chapter,
89 and shall not be located within 300 feet of a private or public elementary, middle or high
90 school. Such locations may include testing, processing, manufacturing and food
91 preparation only to the extent expressly permitted by MAUCRSA.

92 D. No Cannabis uses may be approved under this Section until the City Council
93 adopts a licensing process and standards for such uses. Such standards shall include a
94 requirement that indoor cultivation uses provide for an energy offset through a program
95 specified by the City to offset the net increased energy that is used by the Facility as
96 compared to a regular industrial facility, and may include, but shall not be limited to,
97 whether proposed Facilities will provide a percentage of all usable product cultivated at
98 no cost to very low income patients and will use organic methods in cultivation and
99 processing to the maximum extent reasonable; and whether their form of organization,
100 ownership and practices ensure equity and accountability, low prices and an adequate
101 supply of high quality cannabis to Customers.

102 **Section 23C.25.030 Cannabis Manufacturing, Testing Labs and Distribution**

103 A. Uses such as, but not limited to, testing, processing, and food preparation, that
104 involve cannabis as defined in Chapter 12.21 but do not involve dispensing, client,

105 patient or member services, or cultivation (other than for testing), shall be evaluated and
106 regulated under this Title without regard to the fact that they involve cannabis.

107 B. Manufacturers, Testing Labs, and Distribution businesses which are licensed as
108 Cannabis Businesses by the State may not be located within 300 feet of a public or
109 private elementary, middle or high school.

110 C. For the purposes of this Chapter, the following Cannabis uses shall be evaluated
111 and regulated for Zoning purposes in the same way as the existing non-Cannabis uses,
112 with the exception of distance buffers from schools:

| Cannabis Use | Non-Cannabis Use |
|---|---------------------|
| Manufacturing, processing, food preparation ("Edibles") | Light Manufacturing |
| Testing labs | Testing labs |
| Distribution | Wholesale Uses |

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Changes to Definitions (Chapter 23F.04.010)

131 **Cannabis Uses:** Cannabis uses include retail sales, cultivation, manufacturing, testing, and
 132 distributing. See BMC Chapters 12.21 and 12.22 for cannabis regulations and Section 23C.24
 133 for land use regulations.

134 **Light Manufacturing:** Primarily involved in baking, brewing, fabricating, milling, processing and
 135 other similar forms of mechanical and chemical treatment. Light manufacturing uses are
 136 generally in the following groups in the North American Industrial Classification System
 137 (NAICS):

| Light Manufacturing Uses | NAICS Code |
|--|--|
| Apparel and Other Textile Mill Products | 314 – 33636 |
| Electronic and Electric Equipment, except semiconductors | 334412 – 335311, 334413, 333319, 333618, 333992, 335129, 35999 |
| Fabricated Metal Products | 332 – 332999 |
| Food Processing | 311 – 311999 |
| Furniture and Fixtures | 337 – 33792 |
| Industrial Machinery and Equipment | 333 – 333999 |
| Instruments and Related Products | 334511 – 334518 |
| Leather and Leather Products, except leather tanning | 3162 – 316999 |
| Lumber and Wood Products, except logging | 321 – 321999 |
| Miscellaneous Manufacturing | 339 – 339999 |
| Paper and Allied Products, except paper, pulp and paperboard mills | 3222 – 322299 |
| Perfumes, Cosmetics and Toilet Preparations | 325611 – 32562 |
| Printing and Publishing, except publishing without printing | 323 – 323122 |
| Rubber and Miscellaneous Plastic Products | 326 – 326299 |
| Stone, Clay and Glass Products, except cement | 327 – 327215, 32733 – |

| Light Manufacturing Uses | NAICS Code |
|--------------------------|--------------|
| | 327999 |
| Textile Mill Products | 313 – 31332 |
| Transportation Equipment | 336 – 336999 |
| Cannabis Manufacturing | |

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139 **Retail Products Store:** An establishment engaged in the sales of personal, consumer or
 140 household items to the customers who will use such items, including, but not limited to:

| Retail Products Stores | Comments |
|---|---|
| Antique Stores | Includes Collectibles |
| Art/Craft Shops | |
| Art Galleries | |
| Art and Craft Supply Stores | |
| Audio/Video Records, Tapes, Disks Sales Shops | Excludes video rental stores |
| Automobile Parts Stores | Excludes service of auto parts |
| Bicycle Shops | Includes sales, parts and repair/service |
| Bookstores, Periodical Stands | |
| Clothing Stores | Includes apparel, hats, shoes and accessories |
| Computer Stores | Hardware and software |
| Drugstores | Includes pharmaceutical, sundries, cosmetic/personal care items |
| Fabric, Textile and Sewing Supply Shops | |
| Flower and Plant Stores | Includes live, fresh-cut and/or dried flowers; excludes nurseries |

| Retail Products Stores | Comments |
|---|---|
| Food Products Stores, Specialized | Includes Bakeries |
| Food Products Stores, General | Includes groceries, markets and supermarkets |
| Furniture Stores, Household or Office | Includes carpets and rugs |
| Garden Supply Stores, Nurseries | Does not include Cannabis Nurseries, see Cannabis Cultivation definition in 12.21.020 |
| Gift/Novelty Shops | |
| Glass Pane and Mirror Stores | |
| Hobby Shops | |
| Household Hardware and Housewares Stores | |
| Household Electronics/Electrical Stores (Audio, Telephone and Video/TV) | Excludes video rental stores |
| Jewelry/Watch Shops | |
| Linen Shops | Includes bedding |
| Musical Instruments and Materials Stores | |
| Office Supply Stores | |
| Paint/Wallpaper Stores | |
| Photography Equipment Supply Stores | Includes cameras and film developing |
| Secondhand Stores | Includes used/vintage clothing and household goods |
| Small Appliance Stores | |
| Sporting Goods Stores | Includes equipment, clothing and supplies, excluding Firearm/Munitions Businesses |
| Stationery, Cards and Paper Goods Stores | |

| Retail Products Stores | Comments |
|------------------------|----------|
| Toy Stores | |
| Variety Stores | |

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149 **Changes to Commercial District and Manufacturing District Use**
150 **Tables (multiple chapters)**

151 **Table 23E.36.030 C-1 General Commercial District Provisions: Uses Permitted**

| Use | Classification | Special Requirements (if any) |
|--|----------------|---|
| Retail Sales | | |
| All Retail Sales Uses, except those listed below | ZC* | As defined in Sub-title F, except otherwise listed (does not include Video Rental Stores) |
| Alcoholic Beverage Retail Sales including Liquor Stores and Wine Shops | UP(PH) | Includes sale for off-site consumption at restaurants Prohibited within the University Avenue Strategic Plan Overlay (unless in conjunction with a restaurant or general food product store) |
| Department Stores | ZC* | |
| Firearm/Munitions Businesses | UP(PH) | Prohibited on any property devoted to residential use |
| Pawn Shops, including Auction Houses | UP(PH) | Prohibited within the University Avenue Strategic Plan Overlay |
| Pet Stores, including Sales and Grooming of Animals (but not Boarding) | UP(PH) | |
| Smoke Shops | UP(PH) | Prohibited if within 1,400 feet of a school or public park |
| Adult-Use Cannabis Retailer | ZC | ZC shall only be issued after business is approved through the selection process Subject to the requirements of Section 23C.24 and BMC Chapter 12.22 |
| Medicinal-Use Cannabis Retailer | ZC | ZC shall only be issued after business is approved through the selection process Subject to the requirements of Section 23C.24 and BMC Chapter 12.22 |
| Delivery-only Cannabis Retailer (Adult-use and Medicinal-use) | ZC, AUP or UP | ZC shall only be issued after business is approved through the selection process Subject to the requirements of Section 23C.24 and BMC Chapter 12.22 |

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| Miscellaneous Uses |
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|--|------------|---|
| Automatic Teller Machines | UP(PH) | When not a part of a Retail Financial Service |
| Cafeteria, Employee or Residential | UP(PH) | |
| Cemeteries, Crematories, Mausoleums | Prohibited | |
| Columbaria | AUP | Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, no more than 5% of the subject property area, and located within the main building |
| Circus or Carnival | UP(PH) | |
| Commercial Excavation | UP(PH) | Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas |
| Dry Cleaning and Laundry Plants | UP(PH) | |
| Emergency Shelter | | See Chapter 23C.10 . |
| Up to 25 beds | ZC | |
| More than 25 beds | UP(PH) | |
| Kennels or Pet Boarding | Prohibited | |
| Laboratories, Testing (including Cannabis Testing) | AUP** | |
| Mortuaries | UP(PH) | |
| Public Utility Substations, Tanks | UP(PH) | |
| Radio, Television, or Audio/Sound Recording and/or Broadcast Studios | UP(PH) | |
| Warehouses or Storage including Mini-storage | UP(PH) | Prohibited within the University Avenue Strategic Plan Overlay |

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|--|--------|--|
| Warehouses | | |
| Wireless Telecommunications Facilities | | |
| Microcell Facilities, Modifications to Existing Sites, and Additions to Existing Sites When the Site Is Not Adjacent to a Residential District | AUP | Subject to the requirements of Section 23C.17.100 |
| All Other Telecommunication Facilities | UP(PH) | Subject to the requirements and findings of Section 23C.17.100 |

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157 **Table 23E.40.030 C-N Neighborhood Commercial District Provisions: Uses Permitted**

| Use | Classification | Special Requirements (if any) |
|--|----------------|---|
| Retail Sales | | |
| All Retail Sales Uses, except those listed below | ZC* | As defined in Sub-title F, except otherwise listed. (Does not include Video Rental Stores) |
| Alcoholic Beverage Retail Sales including liquor stores and wine shops | UP(PH) | Includes sale for off-site consumption at restaurants |
| Department Stores | AUP | |
| Over 3,000 s.f. | Prohibited | |
| Drugstores | ZC* | A new or expanded Drugstore is prohibited if it is over 5000 square feet in Gross Floor Area, and within 1000 feet of any property containing an existing Drugstore, as measured by a straight line from the nearest point of the property line of the parcel on which the Drugstore is proposed to the nearest point of the property line of the parcel on which the nearest Drugstore is located. |

| Use | Classification | Special Requirements (if any) |
|--|--------------------------------|--|
| Firearm/Munitions Businesses | UP(PH) | Prohibited on any property devoted to residential use |
| Pawn Shops, including Auction Houses | Prohibited | |
| Pet Stores, including Sales and Grooming of Animals (but not Boarding) | UP(PH) | |
| Smoke Shops | UP(PH) | Prohibited if within 1,400 feet of a school or public park |
| Adult-Use Cannabis Retailer | ZC | ZC shall only be issued after business is approved through the selection process Subject to the requirements of Section 23C.24 and BMC Chapters 12.21 and 12.22 |
| Medicinal-Use Cannabis Retailer | ZC | ZC shall only be issued after business is approved through the selection process Subject to the requirements of Section 23C.24 and BMC Chapters 12.21 and 12.22 |
| Delivery-only Cannabis Retailer (Adult-use and Medicinal-use) | Prohibited OR ZC | ZC shall only be issued after business is approved through the selection process Subject to the requirements of Section 23C.24 and BMC Chapters 12.21 and 12.22 |

Commented [IS1]: We should say 12.21 and 12.22 in all of these places, right?

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160 **Table 23E.44.030 C-E Elmwood Commercial District Provisions: Uses Permitted**

| Use | Classification | Special Requirements (if any) |
|---|----------------|--|
| Retail Sales | | |
| All Retail Sales Uses, except those listed below | ZC* | As defined in Sub-title F, except otherwise listed (does not include Video Rental Stores). |
| Alcoholic Beverage Retail Sales, including liquor stores and wine | UP(PH) | Includes sale for off-site consumption at restaurants |

| Use | Classification | Special Requirements (if any) |
|---|-------------------|---|
| shops | | |
| Department Stores Over 3,000 s.f. | ZC* Prohibited | |
| Drugstores | ZC* | A new or expanded Drugstore is prohibited if it is over 5000 square feet in Gross Floor Area, and within 1000 feet of any property containing an existing Drugstore, as measured by a straight line from the nearest point of the property line of the parcel on which the Drugstore is proposed to the nearest point of the property line of the parcel on which the nearest Drugstore is located. |
| Firearm/Munitions Businesses | UP(PH) | Prohibited on any property devoted to residential use |
| Pawn Shops, including Auction Houses | Prohibited | |
| Pet Stores, including Sales and Grooming of Animals | UP(PH) | Does not include boarding of animals |
| Smoke Shops | UP(PH) | Prohibited if within 1,400 feet of a school or public park |
| Adult-Use Cannabis Retailer | ZC | ZC shall only be issued after business is approved through the selection process Subject to the requirements of Section 23C.24 and BMC Chapters 12.21 and 12.22 |
| Medicinal-Use Cannabis Retailer | ZC | ZC shall only be issued after business is approved through the selection process Subject to the requirements of Section 23C.24 and BMC Chapters 12.21 and 12.22 |
| Delivery-only Cannabis Retailer (Adult-use and Medicinal-use) | ZC, AUP or UP | ZC shall only be issued after business is approved through the selection process Subject to the requirements of Section 23C.24 and BMC Chapters 12.21 and 12.22 |

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163 Table 23E.48.030 C-NS North Shattuck Commercial District Provisions: Uses Permitted

| Use | Classification | Special Requirements (if any) |
|---|-------------------|---|
| Retail Sales | | |
| All Retail Sales Uses, except those listed below | ZC* | As defined in Sub-title F, except otherwise listed (does not include Video Rental Stores). |
| Alcoholic Beverage Retail Sales, including liquor stores and wine shops | UP(PH) | Includes sale for off-site consumption at restaurants |
| Department Stores Over 3,000 s.f. | ZC* Prohibited | |
| Drugstores | ZC* | A new or expanded Drugstore is prohibited if it is over 5000 square feet in Gross Floor Area, and within 1000 feet of any property containing an existing Drugstore, as measured by a straight line from the nearest point of the property line of the parcel on which the Drugstore is proposed to the nearest point of the property line of the parcel on which the nearest Drugstore is located. |
| Firearm/Munitions Businesses | UP(PH) | Prohibited on any property devoted to residential use |
| Pawn Shops, including Auction Houses | Prohibited | |
| Pet Stores, including Sales and Grooming of Animals (but not Boarding) | UP(PH) | |
| Smoke Shops | UP(PH) | Prohibited if within 1,400 feet of a school or public park |
| Adult-Use Cannabis Retailer | ZC | ZC shall only be issued after business is approved through the selection process Subject to the requirements of Section 23C.24 and BMC Chapters 12.21 and 12.22 |
| Medicinal-Use Cannabis Retailer | ZC | ZC shall only be issued after business is approved through the selection process Subject to the requirements of Section 23C.24 and BMC Chapters 12.21 and 12.22 |
| Delivery-only Cannabis Retailer | ZC, AUP or UP | ZC shall only be issued after business is |

| Use | Classification | Special Requirements (if any) |
|-------------------------------|----------------|--|
| (Adult-use and Medicinal-use) | | approved through the selection process Subject to the requirements of Section 23C.24 and BMC Chapters 12.21 and 12.22 |

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Table 23E.52.030 C-SA South Area Commercial District Provisions: Uses Permitted

| Use | Classification | Special Requirements (if any) |
|---|----------------|--|
| Retail Sales | | |
| All Retail Sales Uses, except those listed below | ZC* | As defined in Sub-title F, except otherwise listed (does not include Video Rental Stores) |
| Alcoholic Beverage Retail Sales, including liquor stores and wine shops | UP(PH) | Includes sale for off-site consumption at restaurants No sales of distilled alcoholic beverages are allowed along Adeline Street south of Ashby Avenue |
| Department Stores Over 3,000 s.f. | ZC* UP(PH) | |
| Firearm/Munitions Businesses | UP(PH) | Prohibited on any property devoted to residential use |
| Pawn Shops | Prohibited | Including Auction Houses |
| Pet Stores | UP(PH) | Including Sales and Grooming of Animals (but not Boarding) |
| Smoke Shops | UP(PH) | Prohibited if within 1,400 feet of a school or public park |
| Adult-Use Cannabis Retailer | ZC | ZC shall only be issued after business is approved through the selection process Subject to the requirements of Section 23C.24 and BMC Chapters 12.21 and 12.22 |
| Medicinal-Use Cannabis Retailer | ZC | ZC shall only be issued after business is approved through the selection process |

| Use | Classification | Special Requirements (if any) |
|---|-------------------|--|
| | | Subject to the requirements of Section 23C.24 and BMC Chapters 12.21 and 12.22 |
| Delivery-only Cannabis Retailer (Adult-use and Medicinal-use) | ZC, AUP or UP(PH) | ZC shall only be issued after business is approved through the selection process Subject to the requirements of Section 23C.24 and BMC Chapters 12.21 and 12.22 |

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171 **Table 23E.56.030 C-T Telegraph Avenue Commercial District Provisions: Uses Permitted**

| Use | Classification | Special Requirements (if any) |
|---|----------------|--|
| Retail Sales | | |
| All Retail Sales Uses, except those listed below | ZC | As defined in Sub-title 23F, except otherwise listed (does not include Video Rental Stores) |
| Alcoholic Beverage Retail Sales including liquor stores and wine shops | Prohibited | Includes sale for off-site consumption at restaurants |
| Department Stores Over 3,000 s.f. | ZC UP(PH) | |
| Drug Paraphernalia (any use involving the sale or distribution thereof) | Prohibited | As defined in California Health and Safety Code Section 11364.5(d) |
| Firearm/Munitions Businesses | UP(PH) | Prohibited on any property devoted to residential use |
| Pawn Shops | Prohibited | Including Auction Houses |
| Pet Stores | UP(PH) | Including Sales and Grooming of Animals (but not Boarding) |
| Smoke Shops | UP(PH) | Prohibited if within 1,400 feet of a school or public park |
| Adult-Use Cannabis Retailer | ZC | ZC shall only be issued after business is approved through the selection process Subject to the requirements of Section 23C.24 and BMC Chapters 12.21 and 12.22 |
| Medicinal-Use Cannabis | ZC | ZC shall only be issued after business is |

| Use | Classification | Special Requirements (if any) |
|---|-------------------|--|
| Retailer | | approved through the selection process Subject to the requirements of Section 23C.24 and BMC Chapters 12.21 and 12.22 |
| Delivery-only Cannabis Retailer (Adult-use and Medicinal-use) | ZC, AUP or UP(PH) | ZC shall only be issued after business is approved through the selection process Subject to the requirements of Section 23C.24 and BMC Chapters 12.21 and 12.22 |

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174 **Table 23E.60.030 C-SO Solano Avenue Commercial District Provisions: Uses Permitted**

| Use | Classification | Special Requirements (if any) |
|---|-------------------|---|
| Retail Sales | | |
| All Retail Sales Uses, except those listed below | ZC* | As defined in Sub-title F, except otherwise listed (does not include Video Rental Stores) |
| Alcoholic Beverage Retail Sales, including liquor stores and wine shops | UP(PH) | Includes sale for off-site consumption at restaurants |
| Department Stores Over 3,000 s.f. | ZC* Prohibited | |
| Drugstores | ZC* | A new or expanded Drugstore is prohibited if it is over 5000 square feet in Gross Floor Area, and within 1000 feet of any property containing an existing Drugstore, as measured by a straight line from the nearest point of the property line of the parcel on which the Drugstore is proposed to the nearest point of the property line of the parcel on which the nearest Drugstore is located. |
| Firearm/Munitions Businesses | UP(PH) | Prohibited on any property devoted to residential use |
| Pawn Shops | Prohibited | |
| Pet Stores including Sales and Grooming of Animals (but not Boarding) | UP(PH) | |

| Use | Classification | Special Requirements (if any) |
|---|-------------------|--|
| Smoke Shops | UP(PH) | Prohibited if within 1,400 feet of a school or public park |
| Adult-Use Cannabis Retailer | ZC | ZC shall only be issued after business is approved through the selection process Subject to the requirements of Section 23C.24 and BMC Chapters 12.21 and 12.22 |
| Medicinal-Use Cannabis Retailer | ZC | ZC shall only be issued after business is approved through the selection process Subject to the requirements of Section 23C.24 and BMC Chapters 12.21 and 12.22 |
| Delivery-only Cannabis Retailer (Adult-use and Medicinal-use) | ZC, AUP or UP(PH) | ZC shall only be issued after business is approved through the selection process Subject to the requirements of Section 23C.24 and BMC Chapters 12.21 and 12.22 |

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177 **Table 23E.64.030 C-W West Berkeley Commercial District Provisions: Uses Permitted**

| Use | Permits Required to Establish, Expand or Change Use (sq. ft.) | | | Special Requirements (if any) |
|--|---|-------------|---------------|---|
| | Under 3,500 | 3,500-7,500 | 7,500 or more | |
| Retail Sales | | | | |
| Retail uses as defined in Sub-title 23F , except otherwise listed. | | | | |
| All Retail Sales Uses, except those specified below | ZC | AUP | UP(PH) ** | **Except when part of a combination commercial/residential use; see Mixed Use Development heading |
| Alcoholic Beverage Retail Sales, including liquor stores and wine shops | UP(PH) | | | Includes sale for off-site consumption at restaurants |
| Firearm/Munitions Businesses | UP(PH) | | | Prohibited on any property devoted to residential use |

| Use | Permits Required to Establish, Expand or Change Use (sq. ft.) | Special Requirements (if any) |
|---|---|--|
| Pawn Shops, including Auction Houses | UP(PH) | |
| Smoke Shops | UP(PH) | Prohibited if within 1,400 feet of a school or public park |
| Adult-Use Cannabis Retailer | ZC | ZC shall only be issued after business is approved through the selection process Subject to the requirements of Section 23C.24 and BMC Chapters 12.21 and 12.22 |
| Medicinal-Use Cannabis Retailer | ZC | ZC shall only be issued after business is approved through the selection process Subject to the requirements of Section 23C.24 and BMC Chapters 12.21 and 12.22 |
| Delivery-only Cannabis Retailer (Adult-use and Medicinal-use) | ZC, AUP or UP(PH) | ZC shall only be issued after business is approved through the selection process Subject to the requirements of Section 23C.24 and BMC Chapters 12.21 and 12.22 |

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| Miscellaneous Uses | | |
|------------------------------------|------------|---|
| Automatic Teller Machines | AUP | When not part of a Retail Financial Service |
| Cafeteria, Employee or Residential | AUP | |
| Cemeteries and Mausoleums | Prohibited | |
| Columbaria | AUP | Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, no more than 5% of the subject property area, and located within the main building |
| Circus or Carnival | UP(PH) | Prohibited in designated nodes. See Section 23E.64.050.C |
| Commercial Excavation | Prohibited | Including earth, gravel, minerals or other building materials including drilling for, or |

| | | |
|--|---|--|
| | | removal of, oil or natural gas |
| Dry Cleaning and Laundry Plants | Prohibited | |
| Emergency Shelter Up to 25 beds More than 25 beds | ZC UP(PH) | See Chapter 23C.10 . |
| Kennels or Pet Boarding | UP(PH) | Prohibited on ground floor in designated node |
| Laboratories, Commercial Physical or Biological | Prohibited | See Section 23E.64.030.C |
| Laboratories, Testing (including Cannabis Testing) | AUP if less than 10,000 sq. ft. UP(PH) if more than 10,000 sq. ft. | |
| Mortuaries and Crematories | UP(PH) | |
| Public Utility Substations, Buildings, Tanks | UP(PH) | Prohibited in designated node. See Section 23E.64.050.C |
| Radio, Television, or Audio/Sound Recording and/or Broadcast Studios | UP(PH) | Prohibited on ground floor in designated node. See Section 23E.64.050.C |
| Wireless Telecommunications Facilities Microcell Facilities, Modifications to Existing Sites, and Additions to Existing Sites When the Site Is Not Adjacent to a Residential District All Other Telecommunication Facilities | AUP UP(PH) | Subject to the requirements and findings of Section 23C.17.100 Subject to the requirements and findings of Section 23C.17.100 |
| Light Manufacturing and Wholesale Trade Uses | | |
| Manufacturing uses prohibited on ground floors in designated nodes. See Section 23E.64.050.C | | |
| Light Manufacturing and Wholesale Trade Uses (including Cannabis Distributors) 5,000 or less sq. ft. 5,000 sq. ft. or more | AUP UP(PH) | |
| All Other Manufacturing Uses | UP(PH) | |
| Warehouses or Storage (including Mini-storage Warehouses) | Prohibited | |

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181 **Table 23E.68.030 C-DMU Downtown Mixed Use Commercial District Provisions: Uses**
 182 **Permitted**

| Use | Classification | Special Requirements |
|---|-------------------|--|
| Retail Sales | | |
| All Retail Sales Uses, except those listed below | ZC | As defined in Sub-title 23F , except otherwise listed |
| Alcoholic Beverage Retail Sales, including liquor stores and wine shops | UP(PH) | Includes sale for off-site consumption at restaurants |
| Department Stores Under 10,000 s.f. | AUP ZC | |
| Firearm/Munitions Businesses | Prohibited | |
| Pawn Shops, including Auction Houses | UP(PH) | |
| Pet Stores, including Sales and Grooming of Animals (but not Boarding) | UP(PH) | |
| Smoke Shops | Prohibited | |
| Adult-Use Cannabis Retailer | ZC | ZC shall only be issued after business is approved through the selection process Subject to the requirements of Section 23C.24 and BMC Chapters 12.21 and 12.22 |
| Medicinal-Use Cannabis Retailer | ZC | ZC shall only be issued after business is approved through the selection process Subject to the requirements of Section 23C.24 and BMC Chapters 12.21 and 12.22 |
| Delivery-only Cannabis Retailer (Adult-use and Medicinal-use) | ZC, AUP or UP(PH) | ZC shall only be issued after business is approved through the selection process Subject to the requirements of Section 23C.24 and BMC Chapters 12.21 and 12.22 |

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| Miscellaneous Uses | | |
|--|------------|--|
| Automatic Teller Machines When not a Part of a Retail Financial Service | | |
| Exterior | UP(PH) | |
| Interior | AUP | |
| Cafeteria, Employee or Residential | UP(PH) | |
| Cemeteries, Crematories, Mausoleums | Prohibited | |
| Columbaria | AUP | Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, no more than 5% of the subject property area, and located within the main building. |
| Circus or Carnival | UP(PH) | |
| Dry Cleaning and Laundry Plants | UP(PH) | |
| Emergency Shelter | | See Chapter 23C.10 . |
| Up to 60 beds | ZC | |
| More than 60 beds | UP(PH) | |
| Kennels or Pet Boarding | Prohibited | |
| Laboratories, Testing (including Cannabis Testing) | AUP | |
| Mortuaries | UP(PH) | |
| Public Utility Substations, Tanks | UP(PH) | |
| Radio, Television or Audio/Sound | | |
| Recording Studios | AUP | |
| Broadcast Studios | UP(PH) | |
| Warehouses or Storage including Mini-storage Warehouses | UP(PH) | |
| Wireless Telecommunications Facilities | | |
| Microcell Facilities, Modifications to Existing Sites, and Additions to Existing Sites When the Site Is Not Adjacent to a Residential District | AUP | Subject to the requirements and findings of Section 23C.17.100 |
| All Other Telecommunication Facilities | UP(PH) | Subject to the requirements and findings of Section 23C.17.100 |

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187 Table 23E.72.030 M Manufacturing District Provisions: Uses Permitted

| Uses | Permits Required to Establish, Expand or Change Use (sq. ft.) | | | Special Requirements (if any) |
|--|---|---------------------|------------------|---|
| | Under 20,000 | 20,000 – 40,000 | More than 40,000 | |
| Manufacturing and Wholesale Trade | | | | |
| Construction Products Manufacturing | ZC | AUP | UP(PH) | |
| Light Manufacturing | ZC | ZC | UP(PH) | |
| Mini-storage Warehouses | Prohibited | | | |
| Pesticides, herbicides and fertilizers | Prohibited | | | |
| Petroleum refining and products | Prohibited | | | |
| Pharmaceuticals | AUP | UP(PH) | UP(PH) | |
| Primary Production Manufacturing | AUP | UP(PH) | UP(PH) | |
| Semiconductors | UP(PH) | | | |
| Warehouses (other than Mini-storage) | ZC | AUP | UP(PH) | |
| Warehouse-Based Non-Store Retailers | ZC | AUP | UP(PH) | Allowed in Manufacturing, Wholesale Trade or Warehouse. See Section 23E.72.045.A |
| Wholesale Trade Establishments (including Cannabis Distributors) | ZC | AUP | UP(PH) | |
| Other Industrial Uses | | | | |
| Art/Craft Studio | ZC <10,000 | AUP 10,000 – 20,000 | UP(PH) >20,000 | Workspaces only, no Live/Work permitted. |
| Bus, cab, truck and public utility depots | AUP | UP | | |
| Commercial Excavation | UP(PH) | | | Including earth, gravel, minerals, or other building materials, including drilling for, or removal of, oil or natural gas |
| Contractors | AUP | | UP | |

| | | | | |
|--|------------|---------------------|----------------|--|
| Dry Cleaning and Laundry Plants | ZC | AUP | UP(PH) | No retail service permitted |
| Laboratories, Testing and Commercial Biological Research | Prohibited | | | |
| Media Production | ZC <10,000 | AUP 10,000 – 20,000 | UP(PH) >20,000 | |
| Recycled Materials Processing | ZC* | AUP | UP | * If all processing done indoors; if any outdoors, AUP |
| Repair Service (other than auto repair) | ZC | AUP | UP | No retail sales permitted |
| Services to Buildings and Dwellings | AUP | | | |
| Cannabis Cultivation | ZC | | | ZC shall only be issued after business is approved through the selection process Subject to the requirements of Section 23C.24 and BMC Chapters 12.21 and 12.22 |

188

189

190 **Table 23E.76.030 MM Mixed Manufacturing District Provisions: Uses Permitted**

| Uses | Permits Required to Establish, Expand or Change Use (sq. ft.) | | | Special Requirements (if any) |
|--|---|-----------------|------------------|---|
| | Under 20,000 | 20,000 – 40,000 | More than 40,000 | |
| Manufacturing and Wholesale Trade | | | | |
| Construction Products Manufacturing | ZC | AUP | UP(PH) | |
| Light Manufacturing | ZC | ZC | UP(PH) | |
| Mini-storage Warehouses | Prohibited | | | Changes of Use to Mini Storage Warehouse Prohibited |
| Pesticides, herbicides and fertilizers | Prohibited | | | |

| Uses | Permits Required to Establish, Expand or Change Use (sq. ft.) | | | Special Requirements (if any) |
|--|---|---------------------|------------------|---|
| | Under 20,000 | 20,000 – 40,000 | More than 40,000 | |
| Petroleum refining and products | Prohibited | | | |
| Pharmaceuticals | AUP | UP(PH) | UP(PH) | |
| Primary Production Manufacturing | AUP | UP | UP(PH) | |
| Semiconductors | UP(PH) | | | |
| Warehouse-Based Non-Store Retailers | ZC | AUP | UP(PH) | Allowed in Manufacturing, Wholesale Trade or Warehouse, See Section 23E.76.040.D |
| Warehouses (other than Mini-storage) | ZC | AUP | UP(PH) | |
| Wholesale Trade establishments (including Cannabis Distributors) | ZC | AUP | UP(PH) | |
| Other Industrial Uses | | | | |
| Art/Craft Studio | ZC <10,000 | AUP 10,000 – 20,000 | UP(PH) >20,000 | Workspaces only, no Live/Work permitted. Allowed in Manufacturing, Wholesale Trade or Warehouse. See Section 23E.76.040.D |
| Bus, cab, truck and public utility depots | AUP | UP | | |
| Commercial Excavation | UP(PH) | | | Including earth, gravel, minerals, or other building materials, including drilling for, or removal of, oil or natural gas |
| Contractors | AUP | | UP | Allowed in Manufacturing, Wholesale Trade or Warehouse. See Section 23E.76.040.D |
| Dry Cleaning and Laundry Plants | ZC | AUP | UP(PH) | No retail service permitted |
| Laboratories, Testing and | AUP | UP | UP(PH) | |

| Uses | Permits Required to Establish, Expand or Change Use (sq. ft.) | | | Special Requirements (if any) |
|---|---|---------------------|------------------|--|
| | Under 20,000 | 20,000 – 40,000 | More than 40,000 | |
| Commercial Biological Research (including Cannabis Testing) | | | | |
| Media Production | ZC <10,000 | AUP 10,000 – 20,000 | UP(PH) >20,000 | |
| Recycled Materials Processing | ZC* | AUP | UP | * If all processing done indoors; if any outdoors, AUP |
| Research and Development | ZC | AUP | | |
| Change of Use from Warehouse and Wholesale Trade | AUP | UP(PH) | UP(PH) | See Section 23E.80.045.A2 . |
| Repair Service (other than auto repair) | ZC | AUP | UP | No retail sales permitted |
| Services to Buildings and Dwellings | AUP | | | |

191

192

193 **Table 23E.80.030 MU-LI Mixed Use-Light Manufacturing District Provisions: Uses**
 194 **Permitted**

| Uses | Permits Required to Establish, Expand, or Change use by Floor Area (sq. ft.) | | | Special Requirements (if any) |
|---|--|-----------------|------------------|-------------------------------|
| | Under 20,000 | 20,000 – 30,000 | More than 30,000 | |
| Manufacturing and Wholesale Trade | | | | |
| Increased Permit requirements in locations within 150 ft. of a residential use in either the R or MU-R district. See Section 23E.80.060.D | | | | |
| Construction Products Manufacturing | UP(PH) | UP(PH) | UP(PH) | |
| Light Manufacturing | ZC | AUP | UP(PH) | |
| Mini-storage Warehouses | Prohibited | | | |
| Pesticides, Herbicides and Fertilizers | Prohibited | | | |
| Petroleum refining and products | Prohibited | | | |

| Uses | Permits Required to Establish, Expand, or Change use by Floor Area (sq. ft.) | | | Special Requirements (if any) |
|--|--|---------------------------|-------------------|---|
| | Under 20,000 | 20,000 – 30,000 | More than 30,000 | |
| Pharmaceuticals | AUP | UP(PH) | UP(PH) | Permitted only in locations at least 500 ft. from R or MU-R Districts; see Section 23E.80.060.F |
| Primary Production manufacturing | Prohibited | | | |
| Semiconductors and related devices | Prohibited | | | |
| Warehouses (other than Mini-storage) | ZC | AUP | UP(PH) | See Retail Uses for storage of goods for a retail use |
| Warehouse-Based Non-Store Retailers | ZC | AUP | UP(PH) | Allowed in Manufacturing, Material Recovery Enterprise, Wholesale Trade or Warehouse. See Section 23E.80.045.A.1 |
| Wholesale Trade establishments (including Cannabis Distributors) | ZC | AUP | UP(PH) | |
| Other Industrial Uses | | | | |
| Art/Craft Studios | ZC <10,000 | AUP 10,000 – 20,000 | UP(PH) >20,000 | Workspaces only, live/work limited. Section 23E.80.030.E . Allowed in Manufacturing, Material Recovery Enterprise, Wholesale Trade or Warehouse. See Section 23E.80.045.A.1 . |
| Bus, cab, truck, public utility depots | AUP | UP(PH) | UP(PH) | UP(PH) required if lot is over 20,000 sq. ft. regardless of floor area |
| Commercial Excavation | UP(PH) | | | Including earth, gravel, minerals, other building materials, drilling for oil or natural gas |
| Contractors | AUP | UP(PH) | UP(PH) | Allowed in |

| Uses | Permits Required to Establish, Expand, or Change use by Floor Area (sq. ft.) | | | Special Requirements (if any) |
|---|--|------------------------------------|------------------|--|
| | Under 20,000 | 20,000 – 30,000 | More than 30,000 | |
| | | | | Manufacturing, Material Recovery Enterprise, Wholesale Trade or Warehouse. See Section 23E.80.045.A.1. |
| Dry Cleaning and Laundry Plants | ZC | AUP | UP(PH) | |
| Laboratories, Commercial, Physical or Biological using: Class 1 Organisms only Class 2 Organisms Class 3 Organisms | | UP(PH) UP(PH) Prohibited | | Permitted only in locations at least 500 ft. from R or MU-R Districts. See Section 23E.80.060 |
| Laboratories, Motion Picture, Photo Processing | | UP(PH) | | |
| Laboratories, Testing (including Cannabis Testing) | | UP(PH) | | |
| Material Recovery Enterprise | | UP(PH) | | |
| Media Production | ZC <10,000 | AUP 10,000 – 20,000 | UP(PH) >20,000 | |
| Recycled Materials Processing | | UP(PH) | | If lot is over 20,000 sq. ft. |
| Recycling Redemption Center | | UP(PH) | | If lot is over 20,000 sq. ft. |
| Repair Service (other than auto repair) | ZC | AUP | UP(PH) | No retail sales permitted |
| Research and Development | ZC | AUP | | |
| Change of Use From Warehouse and Wholesale Trade | AUP | UP(PH) | UP(PH) | See Section 23E.80.045.A.2. |
| Services to Buildings and Dwellings | | AUP | | |

196

197 **Table 23E.84.030 MU-R Mixed Use-Residential District Provisions: Uses Permitted**

| Uses | Permit Required to Establish, Expand or Change Use (sq. ft.) | Special Requirements (if any) |
|---|--|---|
| Manufacturing and Wholesale Trade | | |
| Manufacturing Uses | | |
| Construction Products Manufacturing | Prohibited | |
| Light Manufacturing | AUP if 5,000 or less; UP(PH) if more than 5,000 | Subject to the finding under Section 23E.84.090.K and parking requirements under Section 23E.84.080.B |
| Primary Production Manufacturing | Prohibited | |
| Warehouses | | |
| Mini-storage Warehouses | Prohibited | |
| Warehouses or Storage | UP(PH) | See Retail Uses for Storage of Goods for a Retail Use; also see parking requirements under Section 23E.84.080.B |
| Wholesale Trade (including Cannabis Distributors) | AUP if 5,000 or less; UP(PH) if more than 5,000 | Subject to parking requirements; see Section 23E.84.080.B |

198

199

Sections 23E.16.070 and 23E.72.040 will be deleted. Many of the Sections/Subsections will be modified and placed in a new chapter: 23C.25. See comments to determine the new location of information contained within Sections/Subsections.

1

2 **Section 23E.16.070 Medical Cannabis Uses**

3 A. 1. Subject to the licensing requirement of paragraph 3, six medical cannabis
4 dispensaries as defined in Section 12.26.030 shall be permitted as of right with a
5 Zoning Certificate in C-prefixed zones if they comply with the parking requirements
6 applicable to the uses they include, and any security requirements promulgated by
7 the Chief of Police. When applicable, Zoning Certificates for medical cannabis uses
8 shall be issued without undue delay and following normal and expedient
9 consideration of the permit application.

Commented [GE1]: See 23C.25.010.F

10 2. Medical cannabis dispensaries may not be located within 600 feet of another
11 medical cannabis dispensary or a public or private elementary, middle or high
12 school. It is the intent of the voters that the Council not adopt buffer zones from
13 additional uses absent a compelling necessity.

Commented [GE2]: See 23C.25.010.B

14 ~~3. No new medical cannabis dispensary may be approved under this Section until~~
15 ~~the City Council adopts a licensing process and standards for medical cannabis~~
16 ~~dispensaries. Such standards may include, but shall not be limited to, whether~~
17 ~~proposed dispensaries will provide a percentage of all usable product dispensed~~
18 ~~at no cost to very low income patients and will provide product that is produced~~
19 ~~using organic methods; and whether their form of organization, ownership and~~
20 ~~practices ensure equity and accountability, low prices and an adequate supply of~~
21 ~~high quality medical cannabis to their members.~~

22 B. A medical cannabis dispensary existing and authorized as of January 1, 2010, that
23 does not comply with this Section, may continue at its current medical cannabis
24 dispensing location and shall be considered a legal nonconforming use.
25 Notwithstanding Section 23C.04.060 or subdivision (A)(2) of this Section, the Zoning
26 Officer may approve an Administrative Use Permit to allow the expansion of a legal
27 nonconforming medical cannabis dispensary use on any parcel or on two adjacent
28 parcels where a dispensary was located on one of the parcels as of July 1, 2010.

Commented [GE3]: See 23C.25.010.D

29 C. Uses such as, but not limited to, testing, processing, and food preparation, that
30 involve medical cannabis as defined in Chapter 12.26 but do not involve dispensing,
31 client, patient or member services, or cultivation (other than for testing), shall be
32 evaluated and regulated under this Title without regard to the fact that they involve
33 medical cannabis, except that no commercial facility used for medical cannabis food
34 preparation may be used for the preparation of any other type of food. (Ord.
35 7501-NS § 1, 2016; Ord. 7161-NS § 6, 2010; Ord. 7068-NS § 4 (part), 12/08/08)

Commented [GE4]: See 23C.25.030.A

36 **Section 23E.72.040 Medical Cannabis Cultivation**

37 A. Notwithstanding anything to the contrary in this Chapter, cultivation of medical
38 cannabis as defined in Chapter 12.26, Chapter 12.27 and the State's Medical
39 Marijuana Regulation and Safety Act shall be permitted as a matter of right with a
40 Zoning Certificate in the M District, subject to the following limitations:

- 41 1. Such locations shall be limited to licensed medical cannabis organizations.
- 42 2. Medical cannabis may not be dispensed, and client, patient or member services
43 are prohibited, at such locations.
- 44 3. No single location used for cultivation and associated uses by a licensee may
45 exceed 22,000 square feet, except that separate spaces used by different
46 licensees may be aggregated on the same location.
- 47 4. The total area used for medical cannabis cultivation shall not exceed 180,000
48 square feet.

49 B. Such locations shall comply with security regulations promulgated by the Chief of
50 Police, and the requirements of this Chapter, and shall not be located within 600 feet
51 of a private or public elementary, middle or high school. Such locations may include
52 testing, processing, manufacturing and food preparation, if permitted by the State's
53 Medical Marijuana Regulation and Safety Act.

54 C. No medical cannabis uses may be approved under this Section until the City Council
55 adopts a licensing process and standards for such uses. Such standards shall
56 include a requirement that indoor cultivation uses provide for an energy offset
57 through a program specified by the City to offset the net increased energy that is
58 used by the facility as compared to a regular industrial facility, and may include, but
59 shall not be limited to, whether proposed facilities will provide a percentage of all
60 usable product cultivated at no cost to very low income patients and will use organic
61 methods in cultivation and processing to the maximum extent reasonable; and
62 whether their form of organization, ownership and practices ensure equity and
63 accountability, low prices and an adequate supply of high quality medical cannabis
64 to their members. (Ord. 7464-NS § 1, 2016; Ord. 7161-NS § 7, 2010)

Commented [GE5]: See 23C.25.020.A

Commented [GE6]: See 23C.25.020.C

Commented [GE7]: See 23C.25.020.D

From: Wells, Stacey [<mailto:WellsS@sutterhealth.org>]
Sent: Wednesday, January 31, 2018 2:07 PM
To: Amoroso, Alexander <AAmoroso@cityofberkeley.info>
Subject: A message from Alta Bates Summit Medical Center

Dear Berkeley Planning Commission,

Please read this message from Alta Bates Summit Medical Center addressing the long range plans for the Alta Bates campus in Berkeley and correcting the facts surrounding this issue.

I'm available if you have any questions or would like to discuss further. More information is also at rebuild.altabatessummit.org.

Stacey Wells
Sutter Health/Alta Bates Summit
510-918-4170

A message to the community

**Berkeley's Alta Bates campus expected to stay open for another decade
Sutter Health to rebuild Emergency Room capacity in Oakland**

Sutter Health affirmed today that it will rebuild emergency room capacity when it closes hospital services at its Alta Bates campus due to state seismic regulations. The rebuilding process is expected to take up to 10 years, meaning the emergency room and inpatient hospital services provided at the Alta Bates campus in Berkeley will not move or close in 2019, as has been erroneously reported.

"I want to reassure our patients and community that we will continue providing all their healthcare needs with a robust network of new primary, specialty and urgent care in Berkeley--and in the next decade, with expanded emergency care nearby in Oakland," Chuck Prosper, CEO of Alta Bates Summit, says.

"There is no imminent closure of Alta Bates or loss of jobs associated with the closure when it happens. We will still need staff to care for patients at the new Alta Bates in Oakland," Prosper says.

Alta Bates Summit Medical Center is made up of three campuses: Alta Bates in Berkeley, Herrick in Berkeley and Summit in Oakland.

Sutter is currently conducting a thoughtful review of emergency services to ensure that residents of Berkeley, West Contra Costa County and UC Berkeley continue to have good access to emergency medical services. In addition, Sutter plans to rebuild its exceptional Women and Infants program and neonatal intensive care unit. Sutter is currently exploring rebuilding in Oakland, adjacent to its Summit campus.

"Starting in 2011, our Summit campus transitioned to become our designated EMS ambulance receiving center for all our cardiac and stroke patients. Ambulances across the East Bay—including from Berkeley and West Contra Costa County—have taken all our acute heart attack and stroke patients to our Summit Oakland emergency room," said Brian Potts, M.D., Medical Director of the Alta Bates Emergency Department in Berkeley.

“The health and well-being of our patients and community will not be adversely affected by the future short travel distance from Berkeley and neighboring communities to our new Oakland campus. Our Alta Bates Summit emergency physicians look forward to continuing to care for our entire East Bay community from a new, state-of-the-art, expanded Emergency Department in Oakland,” Potts says.

Sutter Health and Alta Bates Summit have held more than 60 meetings with elected officials, and community and healthcare leaders across the East Bay to discuss these long-range plans, caused by the state of California’s seismic regulations that require hospitals to rebuild or retrofit to meet enhanced seismic safety standards by 2030. Almost all of the Alta Bates campus in Berkeley cannot be retrofitted to meet the new state standards for inpatient, hospital care.

In spite of these seismic constraints, Sutter Health is committed to continuing to serve the inner East Bay with high quality, accessible emergency, medical and hospital services. It is partnering with physicians, staff and the community to develop plans that accomplish this goal, while taking into consideration that fewer patients today receive inpatient care in hospitals as more care is delivered in outpatient settings, like a doctor’s office, surgery center, or walk-in or urgent care clinic—all of which are less expensive to patients and insurers.

At the Oakland location, Alta Bates Summit would enlarge its existing medical campus with a second, state-of-the-art pavilion that ensures all patients—regardless of their insurance or ability to pay—have access to the latest healthcare technology and advances. This includes all private rooms, which have been proven to promote faster healing and recovery. Sutter Health expects this project will invest more than a half-billion dollars into the East Bay economy and provide hundreds of construction jobs in the trade unions.

In Berkeley, Sutter Health has committed to expanding access to outpatient services, including doctors’ visits, surgery and cancer care centers, and urgent care clinics that could be located at either the Alta Bates campus on Ashby Avenue or the Herrick campus on Dwight Way.

“Berkeley has been part of our healthcare network for more than 100 years and that’s not going to change,” Prosper said.

More information is at <http://rebuild.altabatessummit.org>, and community updates will be shared as information becomes available.

-

From: C schwartz <cschwartz29@yahoo.com>
Sent: Wednesday, February 07, 2018 4:41 PM
To: Amoroso, Alexander
Subject: We SUPPORT more Student Housing Now

Dear Chair Poschman and Planning Commissioners,

We are writing in support of more Student Housing now because, quite frankly, the University does not have enough housing for students, etc. and it is very difficult to afford to live here for everyone. We are tired of seeing students and others couchsurfing, crammed into Market rate housing, or even worse, be destined to be in the cold, dangerous, violent, unhealthy, lonely, and unforgiving streets where death can easily be met. No one should have to become homeless.

I am a Cal Grad, longtime housing advocate, long time resident (27 years). I realize that no one is in charge of our own destinies and of solving our housing crisis. The problem is humongous. There is no way around it. We need more housing. It is for these reasons that we strongly **SUPPORT MORE HOUSING NOW RESOLUTION**, and we ask for your support! This will help the housing situation for everyone.

We are unfortunately unable to attend tonight's meeting. Thank you in advance for your consideration and all of your hard work. We appreciate it.

Respectfully,

Christine Schwartz
& Conservator for Francine Schwartz

From: Igor Tregub <itregub@gmail.com>
Sent: Wednesday, February 07, 2018 3:22 PM
To: Amoroso, Alexander
Subject: More Student Housing Now Actions - SUPPORT

Dear Chair Poschman and Planning Commissioners,

As a Cal alum (class of 2008) and longtime housing advocate, I strongly support your consideration tonight of actions that are consistent with the More Housing Now Resolution that was passed unanimously by the Berkeley City Council. The resolution articulates how primarily student housing can be obtained through the easing of certain zoning restrictions in the Cal campus area. Though it will take some creative solutions to do so, the good news is that a number of them have already been under consideration for a while, by your commission as well as others. I will unfortunately be unable to attend tonight, but would like to thank you for your consideration of my request and for the many hours that you spend engaged in the noble trade of public service.

Respectfully,

Igor Tregub

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Sent from Gmail Mobile

RESOLUTION NO. 68,304-N.S.

MORE STUDENT HOUSING NOW RESOLUTION

WHEREAS, the student housing shortage is the foremost city issue mentioned by Berkeley students; and

WHEREAS, increased density close to campus reduces air pollution and traffic congestion, and encourages pedestrian, transit and bicycle travel; and

WHEREAS, on March 10, 2016, the Berkeley City Council voted unanimously to send a thank you letter to President Napolitano, which committed the city to addressing zoning barriers and obstacles preventing creating student housing; and

WHEREAS, the scarcity of available, accessible, and affordable student housing impacts individuals and families across demographics throughout the City and the lack of production near the UC campus pushes students deeper into the City's scarce and competitive housing market, forcing them to compete with and increasing pressure on the City's lower and middle-income family and aging populations; and

WHEREAS, most market rate units that are built close to campus are lived in by students. Even though market rate units are not defined as student housing, they provide much needed units primarily for middle class students. These units also contribute to creating affordable units because the inclusionary Ordinance is a major source of affordable housing in Berkeley. It requires 20% of a market rate project to be affordable, or the owner can pay an in-lieu fee of \$37,000 per unit; and

WHEREAS, Public Private Partnerships (PPP's) are a primary alternative to get funding for student housing on university property. The City of Berkeley continue to encourage PPP's provided they include student costs comparable to residence hall rate, labor standards and retaining or expanding UC sustainability standards to ensure greener buildings. Using University land in PPP has been done with success, including the 775-unit Bancroft project currently under construction.

NOW THEREFORE, BE IT RESOLVED that the City reaffirm our support for the thank you letter on March 10, 2016 to President Napolitano.

BE IT FURTHER RESOLVED that the City Council and the Planning Commission prioritize previous referrals from the City Council including the following:

- Facilitate primarily Student Housing by a Twenty Feet Height Increase and Adjust floor Area Ratio in the R-SMU, R-S and R-3 areas only from Dwight to Bancroft & from College to Fulton (Date: 10/31/2017)
- Create a Pilot Density Bonus Program for the Telegraph Avenue Commercial District (Date: 05/30/2017)
- Create a use permit process to allow non-commercial use on the Ground Floor in C-T Telegraph Commercial District excluding Telegraph Ave

(Date: 07/11/2017. This item is based on an original item submitted by Susan Wengraf on 01/20/2015)

- Develop an Ordinance Requiring New Residential Buildings to include essential wheelchair-accessible modifications, such as Auto-door Openers & Roll-in Shower (Date: 09/15/2015 & 07/11/2017)

BE IT FURTHER RESOLVED that the City and the Planning Commission will consider:

- Allowing conversion of vacant Telegraph area commercial space to housing only from Dwight to Bancroft & from College to Fulton (excluding Telegraph Avenue itself)
- Expanding the Car-Free Housing Overlay area between College and Fulton (including R-S & R-3 parcels between Fulton and Shattuck), Bancroft and Dwight.
- Allowing at least two high-rises for student housing in Southside campus area
- Investigate sites to build micro-units, which may create housing cheaper and faster
- Permitting and encouraging the construction of modular units

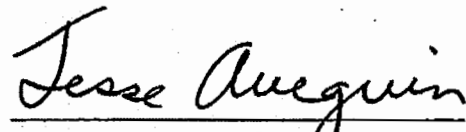
BE IT FURTHER RESOLVED that the City strongly support UC President Napolitano and Chancellor Carol Christ in their pursuit of implementation of a comprehensive plan addressing the housing needs of students across all income levels with a specific focus on extremely low income, immigrant, and disabled students. Furthermore, the City encourages a University Short Term Implementation Plan for the approximately 1,500 remaining units already approved in the current LRDP. The City of Berkeley encourages the University to seriously consider potential short term consensus sites including Fulton & Bancroft; University & Oxford, formerly designated for a hotel; Channing Ellsworth tennis courts, and Unit 3 densification if done as modular units built elsewhere during the school year and placed on site during summer. The City supports University high rise development up to 12 stories at three out of four of these sites.

The foregoing Resolution was adopted by the Berkeley City Council on January 23, 2018 by the following vote:

Ayes: Davila, Droste, Hahn, Harrison, Maio, Wengraf, Worthington and Arreguin.

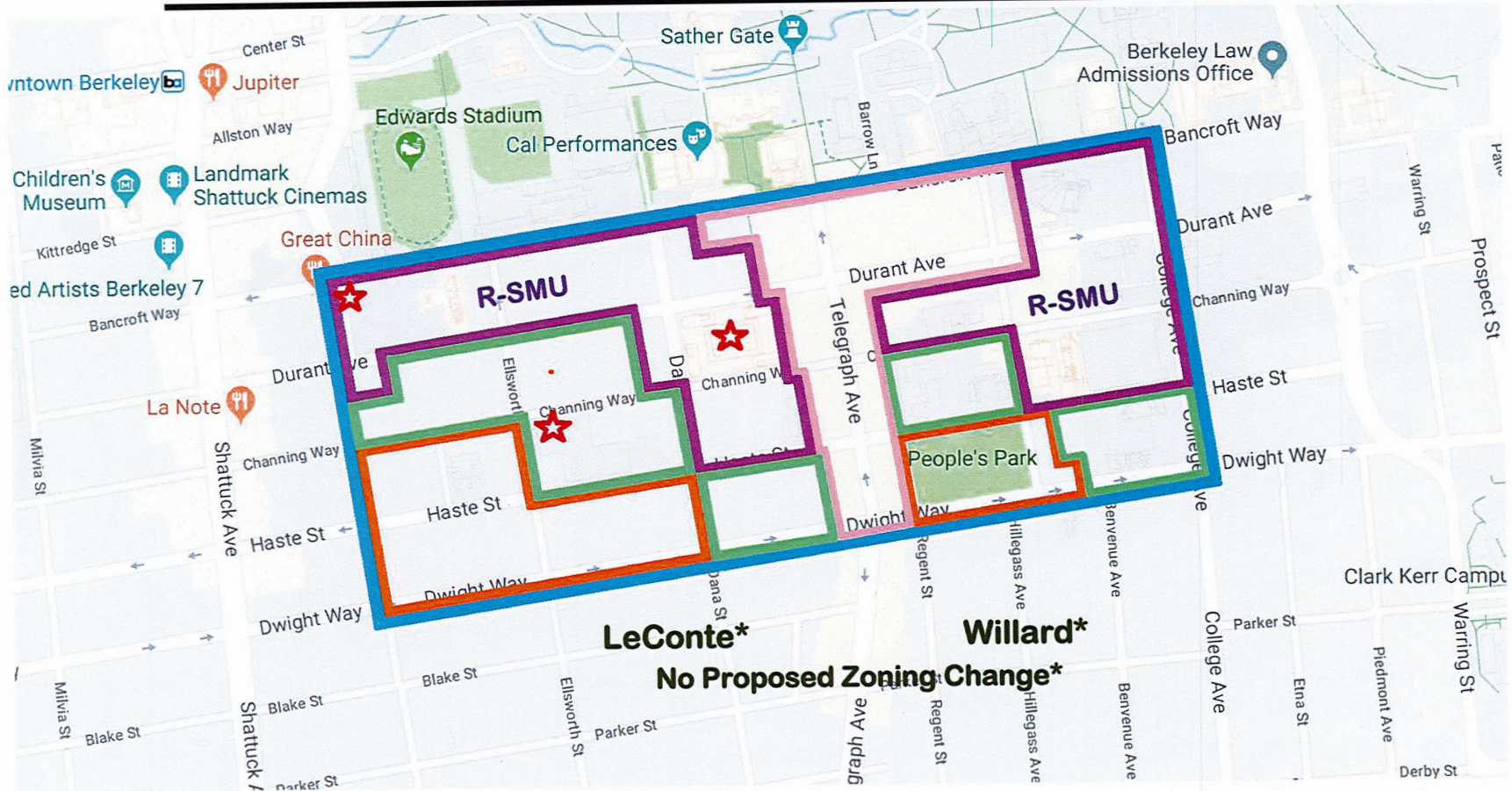
Noes: None.

Absent: Bartlett.


Jesse Arreguin, Mayor

Attest: 
Mark Numainville, City Clerk

More Student Housing Now!



Pilot City Density Bonus

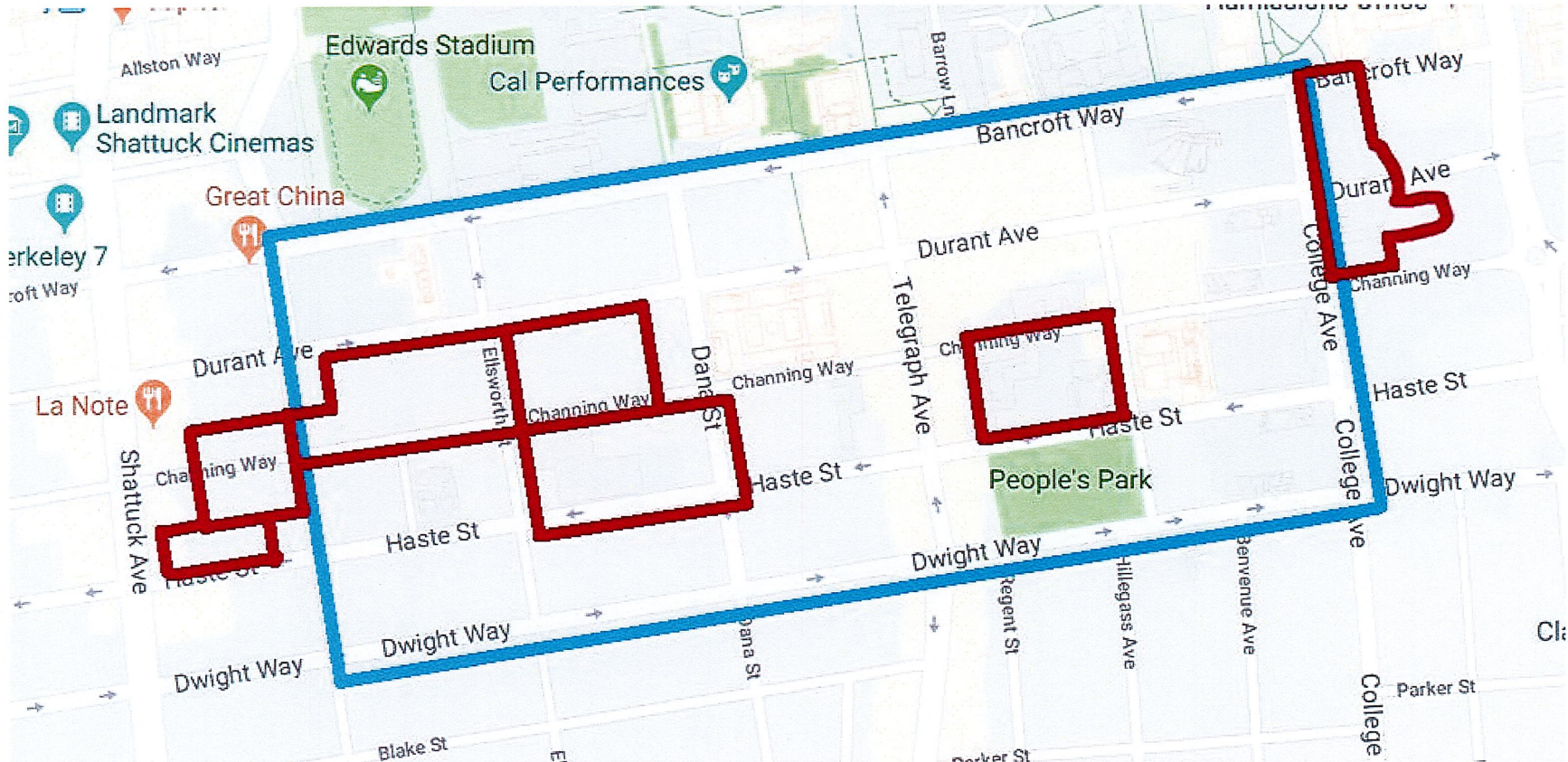
20ft. Height Increase

Ground Floor Residential

Late Communications
Planning Commission
FEB 07 2018

★ 4 Potential UC Student housing Sites
+ University & Oxford

Car – Free Overlay



Car Free Housing Allowed Now

Proposed Expansion

3 Referrals: San Pablo Avenue Plan

67. **Contract: Design and Construct Recreational Facilities at the Harrison Street Site**
From: City Manager
Recommendation: Adopt a Resolution to: 1) authorize the City Manager to execute a contract and any amendments in an amount not to exceed \$1,270,000 with the Association for Sport Field Users (ASFU), a non-profit organization, to design and construct recreational facilities on the 6.4 acre site located at 5th and Harrison Streets; and 2) waive all plan check and permit fees in an amount not to exceed \$45,000.
Action: Moved, seconded, carried (Spring/Armstrong; Abstain – Woolley, Worthington) to adopt Resolution No. 60,446-N.S. Councilmember Spring requested that staff not preclude a future option for baseball fields with the design of the creek.
68. **Housing Trust Fund Sources**
From: Councilmembers Maio and Breland
Recommendation: Direct the City Manager to develop proposals for the Council's consideration for a permanent funding source for the Housing Trust Fund, including looking at increasing fees on those rental property businesses that have experienced substantial increases in income due to vacancy de-control.
Action: Moved, seconded, carried (Maio/Breland; Noes – Armstrong, Olds, Woolley, Dean) to approve the recommendation to direct staff to explore and report back on funding proposals which could include a tax measure or increased fees and to be considerate of lower income tenants and landlords.
69. **San Pablo Avenue Planning Process**
From: Councilmembers Breland and Maio
Recommendation: Direct the City Manager to initiate a more detailed planning process for San Pablo Avenue than exists in the West Berkeley Plan and use the University Avenue Strategic Plan as the basis for the San Pablo plan
Action: Moved, seconded, carried (Spring/Maio; Abstain – Olds) to approve recommendation.
70. **Santa Fe Right-of-Way Planning Process**
From: Councilmembers Maio and Breland
Recommendation: Direct the City Manager to initiate a planning process for the Santa Fe Right-of-Way for the express purpose of utilizing the land for biking or walking paths; open space; workforce housing; and community gardens.
Action: Moved, seconded, carried (Maio/Armstrong; Abstain - Olds) to approve recommendation and to refer to the budget process the engineering costs.
71. **Contracts: University of California**
From: Peace and Justice Commission
Recommendation: Adopt a Resolution 1) providing that all proposals to contract with entities engaged in work for nuclear weapons, including any contracts between the University of California Berkeley and the City which involve the provision of revenue to the City, and the exchange of services without monetary compensation, except for the nine contracts specifically enumerated in Resolution No. 59,763-N.S., be subject to review by the Peace and Justice Commission, or other appropriate commissions, prior to being noticed on any Council agenda; and rescinding Resolution No. 59,779-N.S.; and 2)

State Communications
Planning Commission
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FEB 07 2018
at Meeting

Action Calendar – Budget

b. Restaurants and Food Service Quota

From: Councilmembers Worthington and Olds

Recommendation: Refer to the City Manager and Planning Commission the request from Northside Commercial District businesses, students and neighbors to establish restaurants and food service quota system similar to existing ones on Solano, College, and Telegraph Avenues.

Financial Implications: None.

Contact: Kriss Worthington, Councilmember District 7, 981-7170 and Betty Olds, Councilmember District 6, 981-7160

c. Specific Zoning for San Pablo Avenue

From: Councilmembers Maio and Moore

Recommendation: Request the City Manager to add specific zoning for San Pablo Avenue to the work plan projects for the Planning Department.

Financial Implications: Staff time.

Contact: Linda Maio, Councilmember District 1, 981-7110 and Darryl Moore, Councilmember District 2, 981-7120

Action: Moved and seconded (Spring) to recommend amending the West Berkeley Plan incrementally by studying rezoning Ashby and Gilman corridors between the freeway and San Pablo Avenue (Carried; Noes – Maio, Anderson, Spring, Worthington).

Moved, seconded, carried (Capitelli/Anderson) a main motion to approve the City Manager's recommendations for the Planning Department Work Plan as outlined in the slide presentation and amended to include South Berkeley Planning Process.

Moved, seconded, carried (Olds/Wozniak; Noes – Worthington) a motion to approve the City Manager's recommendation for the Office of Economic Development Workplan as outlined in the slide presentation.

Moved, seconded, carried (Wozniak/Olds) a motion to approve the City Manager's recommendation for the Office of Transportation Workplan as outlined in the slide presentation.

Moved, seconded, carried (Wozniak/Maio) a motion to approve the City Manager's recommendation for Housing Department Workplan projects as outlined in the slide presentation.

Moved, seconded, carried (Wozniak/Maio) a motion to approve the City Manager's recommendation on Workplan priorities for all other departments as presented and included in Attachment A.

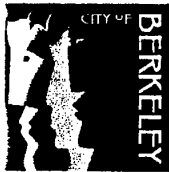
Recommendations to be brought back to Council as part of the Proposed Budget on May 10, 2005.

16. City Commissions - Reducing Staff Support and Frequency of Meetings as a Cost Reduction Measure

a. From: City Manager

Recommendation:

1. Adopt a Resolution authorizing the City Manager to implement the following changes to City Commissions in order to reduce staff costs:



CITY COUNCIL

CONSENT CALENDAR
July 14, 2015

TO: Honorable Mayor and Members of the City Council
FROM: Councilmembers Linda Maio and Darryl Moore
SUBJECT: Referral to Planning Commission: Guiding Development on San Pablo Avenue

RECOMMENDATION

Refer to the Planning Commission the development of a Plan to guide development on San Pablo Avenue.

BACKGROUND

There has been a spate of development on San Pablo Avenue recently and we can expect more development to occur. Neighbors are concerned that major corridors in the City have been the subject of a Plan to guide development, yet this major Avenue still lacks such a plan. This item initiates a planning process for San Pablo Avenue, including a major outreach component to the community.

FINANCIAL IMPLICATIONS

Staff time.

CONTACT

Councilmember Linda Maio, District 1, 510-981-7110
Councilmember Darryl Moore, District 2, 510-981-7120

Existing and Proposed Cannabis Regulations: Zoning Regulations

| Topic | Subtopic | Existing Regs (Ord) | Proposed Regs (Ord) |
|---|---------------------------------|--|--|
| Retail: Medicinal Use | Location | In any C-prefixed district (ZO 23E.16.070.A.1) | Same (ZO 23C.25.010.F) |
| | Quota limit | 6 (ZO 23E.16.070.A.1) | Same (ZO 23C.25.010.F) |
| | Level of Discretion | Zoning Certificate (ZC) with selection process | Same (Use tables) |
| | Buffer | 600' away from other cannabis retailers and schools with K-12 students (ZO 23E.16.070.A.2) | Same (ZO 23C.25.010.B) |
| | Selection process | Merit-Based (MBAP) | Yes, but no decision on type |
| | Change in location - relocation | Cannabis Commission review. | No recommendation yet |
| | Change in location - expansion | AUP if legal, non-conforming dispensary; otherwise assumed same as non-cannabis businesses | No recommendation yet |
| | Changes in ownership | No regulations | No recommendation yet |
| Retail: Adult Use (No current regs. Proposed regs same as medicinal, except as shown) | Location | N/A | All C-prefixed districts (ZO 23C.25.010.G) |
| | Level of Discretion | N/A | Zoning Certificate with selection process (Use tables) |
| | Selection process | N/A | Yes, but no decision on type |
| | Quota limit | N/A | Limit of 12, (ZO 23C.25.010.G) |
| Retail: Delivery-only ("Existing regs" are those proposed by Cann Comm and Planning Comm) | Location | All C-prefixed districts except C-N (recommended by Planning Comm) | All C-prefixed districts and in M-prefixed districts as an ancillary use to another cannabis business (recommended by staff) (ZO 23C.25.010.H.2) |
| | Level of Discretion | AUP and UP considered by PC; no recommendation made to Council | Zoning Certificate with selection process (Use tables) |
| | Selection process | N/A | Yes, but no decision on type |
| | Quota limit | None (recommended by Cannabis Comm) | 10 (recommended by staff) (ZO 23C.25.010.H.1) |
| | Buffer | Same as medicinal retail (ZO 23E.16.070.A.2) | Same (ZO 23C.25.010.B) |

Late Communications
 Planning Commission

FEB 07 2018

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 at Meeting

Existing and Proposed Cannabis Regulations: Zoning Regulations

| Topic | Subtopic | Existing regs (ord) | Proposed regs (ord) |
|-------------|---------------------------------|--|--|
| Cultivation | Location | M District only (ZO 23E.72.040.A) | Same (ZO 23C.25.020.A) |
| | Level of Discretion | Zoning Certificate with selection process (cultivation sites over 10,000 sf); Zoning Certificate alone (cultivation sites smaller than 10,000 sf) | Same (Use tables) |
| | Size | Maximum 22,000 sf (area of cultivation and associated uses) (ZO 23E.72.040.A.3) | Same maximum size, but measured by canopy area (ZO 23C.25.020.A.3) |
| | Quota limit | 180,000 sf cap on all commercial cultivation in city. (No decision on numeric quota for businesses) (ZO 23E.72.040.A.4) | 180,000 sf cap still applies. Numeric limit of 6 for businesses between 10,001 sf and 22,000 sf. No numeric limit for businesses under 10,000 sf, but 180,000 cap applies (ZO 23C.25.020.A.4, 5 and 6) |
| | Buffer | 600' away from schools with K-12 students (ZO 23E.72.040.B) | 300' away from schools with K-12 students (ZO 23C.25.020.C) |
| | Selection process | Yes, but no decision on type | Same |
| | Change in location - relocation | N/A | No recommendation yet |
| | Change in location - expansion | N/A | No recommendation yet |
| | Changes in ownership | N/A | No recommendation yet |

Existing and Proposed Cannabis Regulations: Zoning Regulations

| Topic | Subtopic | Existing regs (ord) | Proposed regs (ord) |
|--|--|--|---|
| Manufacturing | Location | Same as non-cannabis Light Manufacturing (ZO 23E.16.070.C) | Same (ZO 23C.25.030) |
| | Level of Discretion | Same as Light Manufacturing (ZO 23E.16.070.C) | Same (Use table) |
| | Quota limit | None required (not mentioned) | Same (not mentioned) |
| | Buffer | None required (not mentioned) | 300' away from schools with K-12 students (ZO 23C.25.020.B) |
| | On-site consumption | Not mentioned | Remove BMC 12.25.050.G.4 (BMC 12.21.040.I and 12.22.040.G) |
| | Selection process | None (not mentioned) | Same (not mentioned) |
| | Change in location - relocation | Same as non-cannabis Light Manufacturing | Same (not mentioned) |
| | Change in location - expansion | Same as non-cannabis Light Manufacturing | Same (not mentioned) |
| Testing (same as Manufacturing, except as shown) | Changes in ownership | Same as non-cannabis Light Manufacturing | Same (not mentioned) |
| | Location, level of discretion, changing location, expansion | Same as non-cannabis testing (ZO 23E.16.070.C) | Same (ZO 23C.25.030) |
| R&D (same as Manufacturing, except as shown) | Location, level of discretion, changing location, expansion | Same as non-cannabis R&D (ZO 23E.16.070.C) | Same (State license type = Manufacturing) (ZO 23C.25.030) |
| Distributor (same as Manufacturing, except as shown) | Location, level of discretion, changing location expansion | N/A | Same as non-cannabis Wholesale Use (ZO 23C.25.030) |
| Microbusiness | Not called out in ordinance as a separate use. Businesses applying for a State microbusiness permit must obtain the specific permits required for the individual uses at the site. Any use that is included at a microbusiness site must meet the same requirements (location, level of discretion, buffer, quota, selection, security, etc) as if the use was a sole operator. (BMC 12.21.020 (definition)) | | |

Existing and Proposed Cannabis Regulations: Zoning Regulations

| Topic | Subtopic | Existing regs (ord) | Proposed regs (ord) |
|-------|------------|---------------------|--|
| Other | | | |
| | Use tables | N/A | Cannabis uses shown in use tables (Non-Residential District Uses Tables in the ZO) |