BERKELEY CITY COUNCIL LAND USE, HOUSING, & ECONOMIC DEVELOPMENT COMMITTEE

REGULAR MEETING

BERKELEY CITY COUNCIL SPECIAL MEETING

Thursday, May 16, 2019
10:30 AM

2180 Milvia Street, 1st Floor - Cypress Room

Committee Members:

Mayor Jesse Arreguin, and Councilmembers Sophie Hahn and Lori Droste

AGENDA

Roll Call

Public Comment on Non-Agenda Matters

Minutes for Approval

Draft minutes for the Committee's consideration and approval.

1. Minutes for Approval - May 2, 2019

Committee Action Items

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

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

Committee Action Items

2. **Measure O Affordable Housing Bond Planning** *(Item contains revised material.)*
From: City Manager
Financial Implications: See report.
Contact: Kelly Wallace, Housing & Community Services Division, 981-5400

3. **Berkeley Qualified Opportunity Fund** *(Item contains revised material.)*
From: Councilmember Bartlett
Referred: March 19, 2019
Due: September 23, 2019
Recommendation: On March 19, 2019 City Council referred this item to the Land Use, Housing, and Economic Development Committee with the request to consider the following items:
• Refer to the Budget Process to conduct an equity assessment and community process to discuss opportunity zones, particularly in South Berkeley.
• Engage the Office of Economic Development in the community process.
• Set up standards that reflect the City's goals for the opportunity zones.
• Set priorities for public projects that the City would like to have completed in the opportunity zones.
Financial Implications: See report.
Contact: Ben Bartlett, Councilmember, District 3, 981-7130

Committee Action Items

4. Local Construction Workforce Development Policy
From: Councilmember Bartlett and Mayor Arreguin
Referred: April 8, 2019
Due: October 7, 2019
Recommendation: Policy Recommendation: That the City Council refer to the Planning Commission to address the shortage of qualified local construction workers; worker retention, and elevated labor costs through the creation of a construction workforce development policy. This local workforce development policy will encourage housing and nonresidential development applicants to require contractors to utilize apprentices from state-approved, joint labor-management training programs, and to offer employees employer-paid health insurance plans. The policy will help stabilize regional construction markets; and enhance productivity of the construction workforce Berkeley needs to meet its General Plan’s build-out goals.
Program: The City should require contractor prequalification for General Plan Area projects of 30,000 square feet or more.
Apprenticeship: Each general contractor and subcontractor (at every tier for the project) will sign a statement stipulating that it participates in a Joint Apprenticeship Program approved by the State of California, Division of Apprenticeship Standards. For each apprenticeable craft a contractor or subcontractor employs on its workforce, the contractor will maintain the ratio of apprentices as required by California Labor Code section 1777.5 which apprentices are enrolled and participating in a Joint Apprenticeship Program approved by the State of California, Division of Apprenticeship Standards.
Health Care Coverage: Each general contractor or subcontractor (at every tier for the project) will sign a statement stipulating to and providing documented proof that the contractor pays at least 75 percent of the cost of the premiums for health insurance at the silver level (as set forth by Covered California) for all its construction craft employees and the employees’ dependents and that this coverage has been maintained for 180 consecutive days prior to the submission of the pre-qualification documents (a copy of the Declaration of Insurance Coverage showing the dates of continuous coverage or proof that the Contractor contributes to an Employee Benefit Plan shall qualify) OR documentary proof that such medical coverage has been offered to employees within 180 days prior to the submission of pre-qualification documents. Any change in coverage must be immediately provided to the City of Berkeley.
Financial Implications: See report.
Contact: Ben Bartlett, Councilmember, District 3, 981-7130

Committee Action Items

5. Open Doors Initiative: First Time Homebuyer Program
From: Councilmembers Bartlett and Robinson, and Mayor Arreguin
Referred: February 11, 2019
Due: July 1, 2019
Recommendation: That the City Council direct the Planning Commission to design a regulatory mechanism (Open Doors Initiative) to incentivize the creation of affordable starter homes for Berkeley city employees and persons of moderate income. Also recommend that the City Council direct Housing and Economic Development to analyze the financial barriers to access for low-income homeowners, and to develop a financial program of low-interest loans tied to outreach and education to ensure low-income homeowners can participate and benefit from this program. The Open Doors Initiative is intended to provide assistance to homeowners in R1 and R1A zones to renovate their properties and become multi-family condominiums (the "Missing Middle"). To qualify for zoning approval, families must agree to deed restrictions which limit the sale of the newly-created condominiums to Employees of the City of Berkeley and/or first time moderate income first time home buyers.
Increasing the supply of one bedroom and studio condominiums also allow community members, previously shut out of the middle class, the opportunity to own a home while simultaneously enabling older homeowners to downsize and efficiently utilize their equity. The deed restrictions provided a path to homeownership for moderate income persons; first responders to be on hand in the event of a crisis; and for workers to avoid long commutes by owning homes in the city they serve.
The Open Doors initiative serves the policy goals of economic inclusion, community resilience, and environmental sustainability.
Financial Implications: To be determined by an impact study.
Contact: Ben Bartlett, Councilmember, District 3, 981-7130

Unscheduled Items

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

6. Referral: Fee on New Non-Residential Development to Contribute to the Revolving Loan Fund
From: Councilmember Robinson
Referred: March 18, 2019
Due: September 22, 2019
Recommendation: Refer to the City Manager to develop a new fee on non-residential development to contribute to the City of Berkeley's Revolving Loan Fund (RLF) for small business financing.
Financial Implications: See report
Contact: Rigel Robinson, Councilmember, District 7, 981-7170

Unscheduled Items

7. **Referral to City Manager to Return to Council with an Amnesty Program for Legalizing Unpermitted Dwelling Units**
From: Councilmembers Wengraf, Harrison, and Hahn, and Mayor Arreguin
Referred: April 8, 2019
Due: October 7, 2019
Recommendation: That the City of Berkeley create and launch an Amnesty Program to incentivize the legalization of unpermitted dwelling units in order to improve the health/safety and preserve and possibly increase the supply of units available. A set of simple and clearly defined standards and a well-defined path for meeting those standards should be established in order to achieve the greatest success.
Financial Implications: See report
Contact: Susan Wengraf, Councilmember, District 6, 981-7160

8. **Prioritizing Affordable Housing for Homeless**
From: Mayor Arreguin
Referred: April 15, 2019
Due: October 7, 2019
Recommendation: Refer to the Housing Advisory Commission to develop an ordinance to set aside 20% of affordable housing units for individuals experiencing homelessness, with preference given to BUSD students.
Financial Implications: Staff time
Contact: Jesse Arreguin, Mayor, 981-7100

Adjournment

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This is a meeting of the Berkeley City Council Land Use, Housing & Economic Development Committee. Since a quorum of the Berkeley City Council may actually be present to discuss matters with the Council Land Use, Housing & Economic Development Committee, this meeting is being noticed as a special meeting of the Berkeley City Council as well as a Council Land Use, Housing & Economic Development Committee meeting.

Written communications addressed to the Land Use, Housing & Economic Development Committee and submitted to the City Clerk Department will be distributed to the Committee prior to the meeting.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, 981-6900.

COMMUNICATION ACCESS INFORMATION:
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 business days before the meeting date. Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.
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I hereby certify that the agenda for this special meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on May 9, 2019.

Mark Numainville, City Clerk

Communications

Communications submitted to City Council Policy Committees are on file in the City Clerk Department at 2180 Milvia Street, 1st Floor, Berkeley, CA.
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BERKELEY CITY COUNCIL LAND USE, HOUSING, & ECONOMIC DEVELOPMENT COMMITTEE
REGULAR MEETING MINUTES

BERKELEY CITY COUNCIL SPECIAL MEETING MINUTES

Thursday, May 2, 2019
10:30 AM

2180 Milvia Street, 6th Floor - Redwood Room

Committee Members:

Mayor Jesse Arreguin, and Councilmembers Sophie Hahn and Lori Droste

AGENDA

Roll Call: 10:30 a.m.

Present: Droste, Hahn, Arreguin

Public Comment on Non-Agenda Matters: 2 speakers.

Minutes for Approval

Draft minutes for the Committee's consideration and approval.

1. Minutes from April 25, 2019 - Special Meeting

Action: M/S/C (Droste/Hahn) to approve the minutes as presented.
Vote: All Ayes.

Committee Action Items

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

Committee Action Items

2. Measure O Affordable Housing Bond Planning
From: City Manager
Recommendation:
Financial Implications: See report.
Contact: Kelly Wallace, Housing & Community Services Division, 981-5400

Action: 6 speakers. Questions asked and discussion held. Continued to the next meeting, May 16, 2019.

3. Berkeley Qualified Opportunity Fund
From: Councilmember Bartlett
Referred: March 19, 2019
Due: September 23, 2019
Recommendation: On March 19, 2019 City Council referred this item to the Land Use, Housing, and Economic Development Committee with the request to consider the following items:
• Refer to the Budget Process to conduct an equity assessment and community process to discuss opportunity zones, particularly in South Berkeley.
• Engage the Office of Economic Development in the community process.
• Set up standards that reflect the City's goals for the opportunity zones.
• Set priorities for public projects that the City would like to have completed in the opportunity zones.
Financial Implications: See report.
Contact: Ben Bartlett, Councilmember, District 3, 981-7130

Action: 5 speakers. Questions asked and discussion held. Continued to the next meeting, May 16, 2019

Unscheduled Items

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

Unscheduled Items

4. **Open Doors Initiative: First Time Homebuyer Program**
From: Councilmembers Bartlett and Robinson, and Mayor Arreguin
Referred: February 11, 2019
Due: July 1, 2019
Recommendation: That the City Council direct the Planning Commission to design a regulatory mechanism (Open Doors Initiative) to incentivize the creation of affordable starter homes for Berkeley city employees and persons of moderate income. Also recommend that the City Council direct Housing and Economic Development to analyze the financial barriers to access for low-income homeowners, and to develop a financial program of low-interest loans tied to outreach and education to ensure low-income homeowners can participate and benefit from this program. The Open Doors Initiative is intended to provide assistance to homeowners in R1 and R1A zones to renovate their properties and become multi-family condominiums (the "Missing Middle"). To qualify for zoning approval, families must agree to deed restrictions which limit the sale of the newly-created condominiums to Employees of the City of Berkeley and/or first time moderate income first time home buyers.
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The Open Doors initiative serves the policy goals of economic inclusion, community resilience, and environmental sustainability.
Financial Implications: To be determined by an impact study.
Contact: Ben Bartlett, Councilmember, District 3, 981-7130

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Financial Implications: See report
Contact: Rigel Robinson, Councilmember, District 7, 981-7170

Unscheduled Items

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Health Care Coverage: Each general contractor or subcontractor (at every tier for the project) will sign a statement stipulating to and providing documented proof that the contractor pays at least 75 percent of the cost of the premiums for health insurance at the silver level (as set forth by Covered California) for all its construction craft employees and the employees' dependents and that this coverage has been maintained for 180 consecutive days prior to the submission of the pre-qualification documents (a copy of the Declaration of Insurance Coverage showing the dates of continuous coverage or proof that the Contractor contributes to an Employee Benefit Plan shall qualify) OR documentary proof that such medical coverage has been offered to employees within 180 days prior to the submission of pre-qualification documents. Any change in coverage must be immediately provided to the City of Berkeley.
Financial Implications: See report.
Contact: Ben Bartlett, Councilmember, District 3, 981-7130

Unscheduled Items

7. **Update on North Berkeley BART Zoning and Future Development**
   From: Mayor Arreguin
   Referred: April 3, 2019
   Due: October 8, 2019
   Recommendation: The intent of this Information item is to give the Land Use, Housing & Economic Development Policy Committee a status update on, and opportunity to discuss, the visioning process for North Berkeley BART Zoning and Future Development to date and next steps prior to the May 9th Special Council Meeting.
   Financial Implications: Staff time.
   Contact: Jesse Arreguin, Mayor, 981-7100

8. **Referral to City Manager to Return to Council with an Amnesty Program for Legalizing Unpermitted Dwelling Units**
   From: Councilmembers Wengraf, Harrison, and Hahn, and Mayor Arreguin
   Referred: April 8, 2019
   Due: October 7, 2019
   Recommendation: That the City of Berkeley create and launch an Amnesty Program to incentivize the legalization of unpermitted dwelling units in order to improve the health/safety and preserve and possibly increase the supply of units available. A set of simple and clearly defined standards and a well-defined path for meeting those standards should be established in order to achieve the greatest success.
   Financial Implications: See report
   Contact: Susan Wengraf, Councilmember, District 6, 981-7160

9. **Prioritizing Affordable Housing for Homeless**
   From: Mayor Arreguin
   Referred: April 15, 2019
   Due: October 7, 2019
   Recommendation: Refer to the Housing Advisory Commission to develop an ordinance to set aside 20% of affordable housing units for individuals experiencing homelessness, with preference given to BUSD students.
   Financial Implications: Staff time
   Contact: Jesse Arreguin, Mayor, 981-7100

Adjournment

Action: M/S/C (Droste /Hahn) to adjourn the meeting.
Vote: All Ayes.

Adjourned at 12:37 p.m.

Communications

Communications submitted to City Council Policy Committees are on file in the City Clerk Department at 2180 Milvia Street, 1st Floor, Berkeley, CA.

I hereby certify that this is the true and correct record of the Land Use, Housing and Economic Development Committee meeting of May 2, 2019.

____
Deon Sailes, Assistant City Clerk

RECEIVED AT COUNCIL MEETING OF: 02

MAY 02 2019

OFFICE OF THE CITY CLERK
CITY OF BERKELEY

CITY OF BERKELEY

Health Housing and
Community Services Department
Housing & Community Services Division

MEMORANDUM

To: Land Use, Housing & Economic Development Committee Agenda

From: Amy Davidson, Interim Manager, Housing & Community Services

Date: May 2, 2019

Subject: **Measure O Planning**

This report seeks to facilitate final recommendations related to Measure O implementation based on initial discussions from the January 15, 2019 Council worksession and the April 25, 2019 Land Use, Housing & Economic Development Committee meeting. Staff requests the Council, in collaboration with the Measure O Bond Oversight Committee, provide direction regarding the use of Measure O funds and the role and responsibilities of the Measure O Bond Oversight Committee. Key issues for Council and Committee input are outlined below.

Priority Issues for Council Guidance

1. **Will the Committee recommend that Council approve using Measure O funds to fund the City's existing reservations of funds to the Berkeley Way and 1601 Oxford projects, assuming they receive State funding this summer and are ready to go into construction in early 2020 (no later than April 2020)?** Staff estimate the initial Measure O bond issuance can generate approximately $30M in funds. The total amount of Measure O eligible funds for the two projects is currently estimated at $15.5M. This number may change if the Berkeley Way project receives a commitment of project-based Section 8 vouchers from the Berkeley Housing Authority, which would reduce the City's overall contribution and may result in more costs being Measure O-eligible. Staff have not identified another source of funds that could cover these reservations within this timeframe. Clarifying this issue will frame the Measure O Committee's recommendations for the first issuance of bond funding and provide clarity for each of these project's funding plans.

2. **Should the City prioritize the Housing Trust Fund (HTF) program for the first issuance of bond funding?** If Council wishes to fund multifamily housing development for people with very low and extremely low incomes, staff recommend that the Council identify a target amount of Measure O funds that would be made

available through an HTF Request for Proposals (RFP) process. The actual amount of Measure O funds awarded would be determined by Council with input from the Measure O Oversight Committee., and could differ from the target if merited by proposals and feasible for bond issuance.

The process in the Housing Trust Fund program guidelines for awarding funds can easily take at least six months to conduct due to the participation of commissioners, the commission and Council agenda processes, and the time required for sponsors to prepare and staff to review complex applications. Projects typically need City funding reservations before they can apply for state and other funds, so City support is a critical first step.

If Council wishes to award Measure O funds to Housing Trust Fund projects in time for them to apply for state funds in early 2020, it will be important to provide direction to staff on this priority, and question #3 below, in the near future (ideally by the end of June 2019). There will be state funding applications available prior to early 2020, but completing Measure O funding awards much before that time may not be feasible.

3. **What will the respective roles of the Housing Advisory Commission and Measure O Bond Oversight Committee be?**
The ordinance language does not define "oversight", and the term could be interpreted in a variety of ways. Staff recommend that the Measure O Bond Oversight Committee be assigned the role of identifying program priorities and recommending the distribution of funds for eligible program areas. For example, with Measure A1, the County established various programs (i.e. a Housing Trust Fund type program, a housing innovations program, assistance for homebuyers, etc.) and identified the amount of bond funds for each category, which were then distributed via competitive processes.

The list below outlines many of the decisions that will be required to use Measure O funds. If the Council decides to offer Measure O funds through the HTF program, possibly at the recommendation of the Measure O Bond Oversight Committee, the Housing Advisory Commission could continue to review and make recommendations on specific projects.

Some of the considerations involved with assigning review of Housing Trust Fund program applications are detailed below:

<u>Housing Advisory Commission</u>
- Currently assigned role of review body
- Experience with City's HTF program and processes
- Known to many potential applicants and community members in this role

- Would avoid having to transition back and forth for duration of Measure O funds
- Measure O Bond Oversight Committee would provide oversight with a separation of duties
- Does not include new perspectives of Measure O Bond Committee membership

Measure O Bond Oversight Committee

- Would be able to consider projects in the context of all Measure O funding
- Would require revision of HTF guidelines to change assignment from HAC
- Brings new perspectives on housing activities
- Duplicative role – would provide oversight to itself

Steps for Approving Measure O Funds

Many decisions will need to be made before Measure O funding can be available for housing production. This section lists some of those decisions. Staff request Council's direction on which of these steps it would like the Committee to weigh in on, if any.

1. Identify priorities for Measure O funding. Priorities could include:
    - New construction
    - Renovation
    - Preservation
    - Predevelopment
    - Target AMIs
    - Target populations
    - Rental/homeownership

2. Allocate available funds to the priority program(s) identified

	Option 1	**Option 2**	**Option 3**
Options for Allocating Measure O Funds	Allocate funds to an existing multifamily housing program (Housing Trust Fund Program or Small Sites Program)	Allocate funds to an existing single family home program (Senior and Disabled Home Rehab Program)	Allocate funds to new program(s)
Program Guidelines	Use existing either with a resolution amending certain sections or revise existing, depending on desired timeframe	Use existing	Identify goals of the program(s) and develop new program guidelines

Staffing	Not anticipated to require additional staffing beyond current and approved positions.	Evaluate staffing and identify funds to support increased staffing need, as applicable	To be determined, based on the complexity of the program(s) and capacity of existing and approved staff.
Underwriting Guidelines	Use existing	Use existing	Develop underwriting guidelines to evaluate projects in new program(s)

3. Draft and issue a Request for Proposals (RFP) or Notice of Funding Availability (NOFA)
4. Review and underwriting of proposals
5. Recommendation of funding to City Council
6. City Council reservation of funds (via Council resolution)
7. Negotiation and execution of loan documents

Health Housing and
Community Services Department
Housing & Community Services Division

MEMORANDUM

To: Land Use, Housing & Economic Development Committee Agenda

From: Amy Davidson, Interim Manager

Date: April 15, 2019

Subject: **Measure O Planning**

Update on Measure O Bond Oversight Committee Formation
As of April 11, seven of Commissioners have been appointed to the Measure O Bond Oversight Committee. A roster of appointees is attached (*Attachment 1*). The first meeting of the Committee is scheduled for Monday, April 29. After an irregular schedule the first few months, necessitated by staff and space conflicts, the Committee will meet the third Monday of the month. Committee information is available online at: *https://www.cityofberkeley.info/Clerk/Commissions/Commissions__Measure_O_Bond_Oversight_Committee.aspx*

Update on Projects with Housing Trust Fund Reservations
Council allocated funds for predevelopment loans to the Bay Area Community Land Trust, SAHA, and BRIDGE Housing, and reserved $29.5M for future loans for two developments through the Housing Trust Fund (HTF) program:

- Berkeley Way, BRIDGE Housing Corporation / Berkeley Food and Housing Project, $23.5M (at least $9.5M Measure O eligible)
- 1601 Oxford, Satellite Affordable Housing Associates, $6M (all Measure O eligible).

However, other than $4.6M in the HTF, the City does not have funds budgeted to satisfy the $29.5M reservation. As of February 2019, the balance of general fund revenue received from M~~m~~easure U1 was $3,337,066. Information about the current balance in the Housing Trust Fund is included as *Attachment 2*. Revenue from the Affordable Housing Mitigation Fee (AHMF) and federal funds are not anticipated to reach this level in the near future. Measure O funds could cover at least $15.5M of the reserved total. This includes $9.5M of Berkeley Way's $23.5M reservation (the projected $14M capitalized operating reserve cannot be funded from Measure O proceeds), plus $6M for the Oxford Senior Apartments. Staff continue to work with BRIDGE, BFHP and the Berkeley Housing Authority to explore whether project-based Section 8 vouchers may

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E-mail: HHCS@cityofberkeley.info - http://www.cityofberkeley.info/housing/

be available for both projects, which could reduce the need for capitalized operating reserve funding for Berkeley Way from the City.

As reported at the January 15, 2019 City Council worksession on Measure O, BRIDGE and BFHP applied for three sources of state funding in January and February of this year: Affordable Housing and Sustainable Communities (AHSC, awards projected for Summer 2019), No Place Like Home (NPLH, awards expected June 2019), and Supportive Housing Multifamily Housing Program (SHMHP, awards expected July 2019). 1601 Oxford is waiting on an award of No Place Like Home funds so the projects are on similar timelines.

If the projects are successful in their current funding rounds, they will next need to apply for an allocation of noncompetitive 4% Low Income Housing Tax Credits this summer, with awards expected in the fall. Both would need to start construction within about 180 days of the tax credit allocation, no later than early 2020. If Measure O funds will be used to fund these projects, the City can wait until they are awarded Low Income Housing Tax Credits to issue bonds in order to minimize the City's bond expenditure timing risks.

Projected HTF Revenue

The most reliable source of funds for the HTF are federal HOME funds. The City has historically allocated $500,000 to $700,000 per year in HOME funds into the HTF. In recent years, the HTF has been in a tenuous position as federal budget negotiations have proposed completely eliminating the HOME program; the program ultimately received continued funding, but neither this trend, nor the current federal administration allow for confident predications for future federal funding.

Most HTF revenue comes from mitigation fees which vary considerably with the economy and real estate market. The largest source of fee revenue is the Affordable Housing Mitigation Fee on new rental housing, which accounts for $1.5M of the $4.6M currently available for the HTF program. Developers have the option of paying the fee, building Below Market Rate units, or providing a combination of units and fees. Of the 14 projects completed as of April 1, 2019 that were subject to the AHMF, four paid the full fee, five provided units in lieu of any fee, and five provided a combination of units and a proportional fee. It is difficult to predict fee revenue with any certainty since there are usually several years between when a project is entitled and completed, and because owners have until the Certificate of Occupancy to decide whether to pay a fee and/or provide units. The largest fee payment anticipated from a project in construction (the best indicator of whether the project will be completed) will be from Modera Acheson Common, which is expected to pay a total of $4.1 million.

Measure O Bond Implementation

This report seeks to build on initial discussions from the January 15, 2019 Council worksession and request that the Council in collaboration with the Measure O Bond Oversight Committee provide staff direction regarding the use of Measure O funds and the role and responsibilities of the Measure O Bond Oversight Committee. Key issues for Council and Committee input are outlined below.

1. **Should the City explore establishing new programs for the initial issuance of Measure O bond funds or to focus on the Housing Trust Fund program (new construction and rehab)? Is this a question for the Measure O Committee to evaluate?**

As indicated in the January 15, 2019 report, an initial issuance of $30M to $40M could be used to fund $15.5M in existing HTF reservations as described above, leaving $14.5M to $24.5M available for other projects. Since the HTF guidelines allow predevelopment loan applications to be submitted at any time, without issuance of a Request for Proposals (RFP), staff have already reviewed applications for developments projecting a total of $30M in additional HTF requests.[1] If the City issued an RFP for HTF proposals using Measure O funds, these projects and others would be likely to apply.

If any Measure O funds will be used for the HTF program, staff will need to revise the HTF guidelines to be more consistent with current practices and priorities.

2. **How does Council define the roles and responsibilities of the Measure O Oversight Committee? If any Measure O funds will be used for the Housing Trust Fund program, will the Housing Advisory Commission or the Measure O Committee review project applications? If the Measure O Committee will fill this role, should the HAC review changes to the HTF guidelines?**

Measure O states the Oversight Committee should be tasked with ensuring all expenditures are consistent with the stated intention of measure. Providing additional clarity on the roles and responsibilities of the Committee is necessary to understand how the City will integrate Measure O funds into its current process for reviewing and recommending loans for affordable housing projects.

The City has historically used the HTF program to combine multiple revenue sources from local and federal funds into a consolidated loan. Leveraging the City's share of federal funds with local funds provides the City the flexibility to support specific project needs while staying in compliance with applicable federal requirements. Since federal Department of Housing and Urban Development (HUD) funds come with many stringent requirements; using them in combination with local funds facilitates local flexibility to support additional uses and needs. For example, HOME funds typically have stringent commitment deadlines but are not sufficient to fully fund most projects; combining them with local funds allows a pipeline of projects that can use the funds in time. Similarly, Measure O funds could not fund capitalized operating reserves that could be needed for a homeless-serving development, while general funds like Measure U1 revenue could.

[1] SAHA's 2527 San Pablo Avenue ($12M), RCD's 2001 Ashby ($18M)

The HTF program guidelines specify that the Housing Advisory Commission will review all funding application. Requiring multiple commissions to review a single loan would create the potential for confusion and conflict that could impede timely use of funds.

3. Should the Housing Trust Fund guidelines be revised to allow for moderate income developments? If so, to what extent?

Currently the HTF guidelines require that a total of 60% of the units be restricted at or below 60% of area median income (currently up to $62,760 for a family of three), including 20% of units at or below 30% of area median income (AMI). These requirements overlay well with Low Income Housing Tax Credit funding and state funding sources designed to complement tax credits. The revised guidelines could establish an additional option for moderate-income developments above these AMI levels.

As noted in the January 15, 2019 report, moderate income housing is eligible for fewer funding sources than housing below 60% AMI and therefore requires a higher local subsidy. As an example, The San Francisco Examiner recently reported the City of San Francisco plans to fund a teachers' housing project for moderate income households (80% - 120% AMI) at $385,000 to $513,000 of City funds per unit. For comparison, the City has reserved $171,429 per unit for 1601 Oxford.

4. If an HTF RFP is issued, should there be a priority or a requirement for certain types of activities such as new construction, rehabilitation of existing affordable housing, and/or acquisition and rehabilitation of existing, unsubsidized housing?

Limiting HTF funds to new construction will prioritize adding units to the City's portfolio, while allowing rehabilitation of existing affordable housing will preserve current affordable housing for the long term. Regardless, staff recommend that projects be evaluated on cost per square foot among other criteria to encourage use of innovative construction solutions such as modular housing.

5. If an HTF RFP is issued, should there be a priority or a requirement for serving certain populations, i.e. homeless adults, moderate income families, etc.?

<u>Possible Timeline for Next Steps</u>

Staff are working with bond counsel to refine required steps and possible timeline.

Process step	Possible dates
Council Policy Committee feedback on Measure O priorities	April 25, 2019

Measure O subcommittee feedback on Measure O priorities and HTF guidelines revisions	April 29, 2019 May 15, 2019 June 17, 2019
Commission HTF Subcommittee and full Commission review of HTF guidelines revisions	June – September 2019
Council direction on Measure O priorities and possible authorization of an RFP	September 10, 2019
Issuance of HTF RFP	September 11, 2019
Application period	September 11, 2019 – October 21, 2019
Staff evaluation of HTF applications *timeline may need to be extended depending on number and complexity of applications received	October 21, 2019 – November 18, 2019
Commission subcommittee review of HTF application	November 22 – December 13, 2019 -
Commission approval of funding recommendations	December/January 2019
Measure O bond issuance	January 2020
Loan closing for Berkeley Way and Oxford Senior Apartments	February – April, 2020
Council approval of funding recommendations	February 2020

Attachments .

1. Measure O Oversight Committee Roster as of April 5, 2019
2. Funds Currently in Housing Trust Fund by Source

Attachment 1 – Measure O Commission Roster
Current as of April 11, 2019

Name	**Appointed by Councilmember**
vacant	Kesarwani/District 1
vacant	Davila/District 2
Mr. Igor Tregub	Bartlett/District 3
Mr. Nico Calavita	Harrison/District 4
Ms. Christina Oatfield	Hahn/District 5
Ms. Emily Marthinsen	Wengraf/District 6
Ms. Eleanor Smith	Robinson/District 7
Ms. Kim-Mai Cutler	Droste/District 8
Mr. Joshua Daniels	Arreguin/Mayor

Attachment 2 – Funds Currently in Housing Trust Fund by Source

Source	**Unencumbered Balance as of 4/1/2019**
HUD HOME	1,020,992
Affordable Housing Mitigation Fee Revenue	1,462,501
Housing Mitigation Fee on Commercial Development	876,283
Inclusionary Housing Ordinance Fees (includes HTF loan repayments)	349,716
Condominium Conversion Fee	853,596
Total	**4,563,088**

03

03 RECEIVED AT COUNCIL MEETING OF:

MAY 02 2019

OFFICE OF THE CITY CLERK
CITY OF BERKELEY

Councilmember Ben Bartlett
City of Berkeley, District 3
2180 Milvia Street, 5th Floor
Berkeley, CA 94704
PHONE 510-981-7130
EMAIL: bbartlett@cityofberkeley.info

CONSENT CALENDAR
May 2, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmember Ben Bartlett
Subject: Berkeley Qualified Opportunity Fund

SUBJECT
Creation of a Municipal Qualified Opportunity Fund to invest in Berkeley's Qualified Opportunity Zones

RECOMMENDATION
Short Term Referral to Planning Commission
City Manager
City Economic Development Officer
Housing Advisory Commission
Office of Economic Development

I. Zoning Overlay - That the City Council direct the City Manager to create a Qualified Opportunity Zone, zoning overlay. This zoning overlay will cover the five Berkeley Federal Opportunity Zones. The zoning overlay will set parameters for development within the confines of the Opportunity Zone districts. These equitable development standards are meant to prevent displacement and create shared prosperity. The standards include enhanced housing affordability levels, local job creation, arts & culture, small business retention, and environmental sustainability.

II. Qualified Opportunity Fund - That the City Council direct the City Manager to enter into a limited partnership agreement with an outside vendor investment company to create, market, and administer a qualified Opportunity Fund.

The Fund will be governed by a Berkeley Opportunity Governance Body. The Berkeley Opportunity Governance Body will be privately managed, autonomous, and consist of an Investment Board, Advisory Board, and a Community Investment Board.

A. The Investment Board:
(1) Consists of experts in community development, infrastructure, and investing.
(2) Assesses projects in Berkeley's Opportunity Zones, fundraise for those projects, and drive investment decisions.
(3) Work closely with the City of Berkeley and Berkeley residents to identify and market transformative Opportunity Zone projects.
(4) Drafts an Equitable Development Toolkit that outlines the investment parameters for the zone.

B. The Advisory Board:

(1) Consists of City Councilmembers from each district within the Opportunity Zones (Districts 2, 3, 4, and 7) and the Mayor.
(2) Sets policy guidelines for Opportunity Zone investment projects and approves investments that are within the guidelines.

C. The Community Investment Commission:
(1) Consists of district leaders from Opportunity Zone Council districts and one at-large member.
(2) Sources Opportunity Zone projects that enhance the standard of living for Berkeley residents and foster an inclusive economy through rigorous community engagement.

Berkeley's Opportunity Governance Body will leverage the Qualified Opportunity Fund to promote inclusive economic development, affordable housing, arts & culture, and sustainability.

The Governance Body will prioritize projects that foster an equitable community such as: job creation, financial inclusion, arts & culture, and sustainable innovation. The Governance Body will work with the City to align technical expertise with municipal support.

The City of Berkeley and the Berkeley Opportunity Governance Body will:

1. Leverage tax incentives to ensure jobs created in qualified Opportunity Zones go to local residents, pay a livable wage, and offer worker protections and benefits that protect families.
2. Ensure historically disadvantaged entities have access to contracting opportunities in qualified Opportunity Zones.
3. In order to support local OZ residents, require 50% affordable housing with ratios to be determined by process.
4. Invest in small businesses serving the local community.
5. Ensure that populations in qualified Opportunity Zones have access to critical services such as healthcare, green transportation, healthy food, and quality education services by investing in entities that meet these needs.
6. Take steps to include historically underrepresented groups in every aspect of the OZ process including investment, construction, operation, and purchase.
7. Ensure Opportunity Fund projects provide sustainable development which satisfies fundamental human needs.
8. Invest in entities promoting local arts & culture, such as performance spaces, and digital arts and music production.

~~That the City Council refer to the City Manager to enter into a limited partnership with an outside vendor investment company to create, market, and administer a qualified Opportunity Fund. The City of Berkeley will have an advisory role on the Opportunity Fund. The Advisory Board will consist of:¶~~

~~1) Councilmembers from each district with an Opportunity Zone (districts 2, 3, 4, and 7) and the Mayor. ¶~~
~~2) Community members from districts with Opportunity Zones.¶~~

¶

~~Berkeley's Opportunity Fund shall advance the goals of inclusive economic development, affordable housing, and sustainability. The vendor should prioritize projects that foster an equitable community through job creation, financial inclusion, and sustainable innovation. Vendor will work with the Advisory Board to align technical expertise with municipal support. That the City Council create a municipal qualified Opportunity Fund to invest in qualified Opportunity Zones to stimulate economic growth and createdevelop more affordable housing in Berkeley. The Opportunity Fund and related development of Opportunity Zones will serve the goals of shared economic development, more affordable housing, and economic inclusion by incentivizing investors to direct capital gains toward economically vulnerable neighborhoods in Berkeley while allowing the city to stipulate conditions of on the structures built and jobs created. Creating a municipal Opportunity Fund will~~

~~convene key stakeholders to drive alignment among the private, public, and academic sectors. An Opportunity Fund will set these interests to work for the neighborhoods harboring Opportunity Zones.~~ ¶

¶

~~The City of Berkeley, the Advisory Board, and the vendor will:~~¶

¶

1) ~~Leverage tax incentives to ensure jobs created in Qualified Opportunity Zones go to local residents, pay a liveable wage, and offer worker protections and benefits that protect families.~~¶
2) ~~Ensure historically disadvantaged businesses have access to contracting opportunities in Qualified Opportunity Zones.~~¶
3) ~~Require 50% of housing built in Qualified Opportunity Zones to be affordable to those making 60% of less than Median Area Income and less to support local inhabitants already living in Qualified Opportunity Zones.~~¶
4) ~~Ensure that populations in Qualified Opportunity Zones have access to critical services such as healthcare, transportation, healthy food, and quality education services.~~¶
5) ~~Take steps to include historically underrepresented groups in every aspect of the QOZ process including investment, construction, operation, and purchase.~~¶
6) ~~Ensure Opportunity Fund projects provide sustainable development which satisfies fundamental human needs.~~

¶

~~Qualified Opportunity Funds give investors the opportunity to defer delay capital gains taxes by investing in property sited in Qualified Opportunity Zones. After holding the investment for five years investors, can exclude 10% of the deferred gain, After seven years investors can exclude 15% of the deferred gain, and after ten years 100% of the post-acquisition gain. and after ten years investors can exclude from income the post-acquisition gain.[1].~~¶

¶

~~Creating a Municipal Qualified Opportunity Fund will give the City of Berkeley a means of enhancing the existing Opportunity Zone Legislation. A Berkeley Opportunity Fund enables the City to compete with market-driven investment by offering alternative models of community-centric, equitable investment in neighborhoods. A Berkeley QOF would feature:~~ ¶

1) ~~Enhanced affordability requirements~~¶
2) ~~Growth in good jobs and business opportunities for historically disadvantaged groups~~¶
3) ~~Next-generation sustainabilitySustainable development to satisfy fundamental human needs~~

CURRENT SITUATION

Specific areas of Berkeley have been selected by the State of California and certified by the U.S. Treasury Department as Qualified Opportunity Zones. The State of California selected these zones in economically-distressed areas. Provided investors meet certain requirements, they can defer capital gains taxes and eventually exclude value appreciation on investments from taxes by investing in Opportunity Zones. Municipalities can establish their own Opportunity Funds to compete with private Opportunity Funds. A municipal Opportunity Fund can be mutually beneficial to both investors and municipalities by combining the knowledge and vision of the public sector with impact investing capital. ~~the tax on value appreciation when investing in these zones.~~

BACKGROUND

The Tax Cuts and Jobs Act of 2017 created a vehicle for individuals to invest in their communities while realizing tax savings. When an individual sells an investment which generates capital gains, that person can

~~[1] https://www.irs.gov/newsroom/opportunity-zones-frequently-asked-questions~~¶

invest any portion of those gains into a Qualified Opportunity Fund within 180 days. The deferred capital gains will be taxed on the date the investment in the Qualified Opportunity Fund is sold, or on December 31, 2026, whichever comes first. Qualified Opportunity Funds must invest in property ~~, either directly or indirectly,~~ in distressed communities designated as q~~Q~~ualified Opportunity Zones by the IRS[2]. Such zones in Berkeley that have been designated by the California Department of Finance as qualified Opportunity Zones include the Alameda County tract numbers 4232, 4235, 4239.01, and 4525. These areas include several blocks surrounding Shattuck Avenue from University Avenue to Ashby Avenue, several streets surrounding Adeline Street until 52nd Street (often referred to as the "Adeline Corridor"), and a rectangular shape of land bordering University Avenue north and San Pablo Avenue to the east and terminating at Dwight Way[3].

Qualified Opportunity Funds can invest in ~~be invested into~~ specific q~~Q~~ualified Opportunity Zones which have been selected by the Internal Revenue Service and state governments across the United States. q~~Q~~ualified Opportunity Zones are eligible investments for q~~Q~~ualified Opportunity Funds anywhere within the state they exist, and from other parts of the U.S. By establishing a municipal q~~Q~~ualified Opportunity Fund, the city of Berkeley will take a proactive approach to its development and be able to tailor that development to meet the specific needs of current Berkeley residents.

Investors can defer capital gains which are invested into q~~Q~~ualified Opportunity Funds. I~~Moreover, i~~nvestments in q~~Q~~ualified Opportunity Funds held longer than 5 years allow taxpayers to exclude 10% of the deferred gain, those held longer than 7 years allow taxpayers to exclude a total of 15% of the deferred gain, and those held longer than 10 years allow the taxpayer to exclude the post-acquisition gain on the investment in the Funds.

These new q~~Q~~ualified Opportunity Funds are not without critiques, however. As structures in the q~~Q~~ualified Opportunity Zones become replaced or refurbished and the neighborhood itself becomes more appealing, there is a risk that housing prices will rise, driving out the existing low-income residents, disproportionately ~~and~~ people of color, in Berkeley. Furthermore, locally-owned small businesses could face increased competition from large franchises and may also be unable to meet rising rental costs from the developing q~~Q~~ualified Opportunity Zones. New locations of existing franchised businesses may bring new jobs, but those jobs may not pay a living wage or benefits that allow Berkeley workers to support themselves. In short, the city of Berkeley must also leverage the creation of the q~~Q~~ualified Opportunity Fund to ensure that current Berkeley residents living in q~~Q~~ualified Opportunity Zones are able to benefit from the revitalized and new buildings.

~~The City of Berkeley should consider the following policies in the creation of a Qualified Opportunity Fund to protect current Berkeley residents from adverse effects of the expected development:~~

~~7) Leverage tax incentives to ensure jobs created in qQualified Opportunity Zones go to local residents, pay a liveable wage, and offer worker protections and benefits that protect families~~
~~8) Ensure historically disadvantaged businesses have access to contracting opportunities in qQualified Opportunity Zones~~
~~9) Require 50% of housing built in qQualified Opportunity Zones to be affordable to those making 60% of less than Mmedian Aarea Iincome and less to support local inhabitants already living in Qualified Opportunity Zones~~
~~10) Ensure that populations in qQualified Opportunity Zones have access to critical services such as healthcare, transportation, healthy food, and quality education services~~
~~11) Take steps to include historically underrepresented groups in every aspect of the QOZ process including investment, construction, operation, and purchase.~~

[2] https://www.congress.gov/bill/115th-congress/house-bill/1
[3] https://opzones.ca.gov/oz-map/

~~12) Ensure Opportunity Funds provide sustainable development satisfies fundamental human needs ¶~~

¶

~~In short, a municipal Qualified Opportunity Fund should ensure integration-forward housing~~

REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, LAWS

Qualified Opportunity Funds and Zones were created as part of the Tax Cuts and Jobs Act of 2017. The City of Birmingham has already established a municipal Opportunity Fund. Birmingham's Opportunity Fund is a public-private partnership, with an Investment Board made up of investment and community development experts assessing projects and fundraising for Birmingham's Fund. A Community Investment Board, made up of members from each Council district, complements the private Investment Board, and designs and executes a community engagement strategy. The Birmingham Fund was used as a template for this proposal, and this proposal builds off of the Birmingham framework.

ACTIONS/ALTERNATIVES CONSIDERED

Opportunity Funds and Zones exist outside of any actions taken by the city of Berkeley. If no action is taken, Berkeley's Opportunity Zones can be invested in regardless. Establishing a Berkeley Opportunity Funds merely provides the city with a resource to direct investment to protect and actually benefit current Berkeley residents.~~Because qQualified Opportunity Funds and Zones are new, there are no other jurisdictions to draw from as an example.~~

CONSULTATION/OUTREACH OVERVIEW AND RESULTS

External stakeholders include residents and businesses in the q~~Q~~ualified Opportunity Zones, their neighbors, potential investors, and contractors. Internal stakeholders include the Berkeley City Office of Economic Development, City Manager, City Planner, and Zoning Advisory Board.

RATIONALE FOR RECOMMENDATION

Qualified Opportunity Funds can exist independently of a municipal Fund set up by the city of Berkeley. It is legal, however, for the city to set up its own q~~Q~~ualified Opportunity Fund to compete with other Funds to invest in q~~Q~~ualified Opportunity Zones. If the city sets up its own Fund it can direct investments in a deliberate manner, using its municipal q~~Q~~ualified Opportunity Fund to set de facto housing and planning policy through which properties it invests in and how it chooses to renovate those properties. Creating a municipal q~~Q~~ualified Opportunity Fund will give the city of Berkeley greater influence over how investments into its neighborhoods are directed, and how those neighborhoods develop. This is an avenue through which the goals of economic inclusion, affordable housing, and continued neighborhood authenticity and character can be achieved.

Investors can and will create q~~Q~~ualified Opportunity Funds to invest in Berkeley's q~~Q~~ualified Opportunity Zones independent of a municipal q~~Q~~ualified Opportunity Fund. The purpose of creating a municipal q~~Q~~ualified Opportunity Fund is to allow the city of Berkeley to centralize and focus investments into the city, leveraging those investments to ensure current Berkeley residents realize the benefits of q~~Q~~ualified Opportunity Zones. The San Francisco Bay Area has a large community of impact investors, those desiring their investments to benefit communities, and a municipal q~~Q~~ualified Opportunity Fund will serve as a vehicle to centralize and direct these investments. The City has the broadest purview of its own neighborhoods, what community members needs, and which investments will yield the greatest return for both investors and Berkeley residents. The City is uniquely equipped with vehicles such as zoning permitting, and other incentives, to direct investment in a way that will actually benefit its neighborhoods without displacement or gentrification.

IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT

The City of Berkeley would create a q~~Q~~ualified Opportunity Fund to serve as a "bucket" for funds to invest in q~~Q~~ualified Opportunity Zones designated by the State of California and certified by the U.S. Treasury Department.

ENVIRONMENTAL SUSTAINABILITY

Creating a municipal q~~Q~~ualified Opportunity Fund will allow the city of Berkeley more influence in how q~~Q~~ualified Opportunity Zones are developed. Though new construction and renovation can offer environmental risks and hazards, the City can use q~~Q~~ualified Opportunity Funds to set specific terms for development, such as requiring buildings be carbon neutral. Thus, establishing a q~~Q~~ualified Opportunity Fund could yield a positive environmental effect relative to allowing purely independent q~~Q~~ualified Opportunity Funds to develop the same areas of Berkeley.

FISCAL IMPACTS

The potential revenue capture for the city of Berkeley is difficult to calculate, but increased property taxes, sales tax revenue, and other forms of revenue for the city are extremely likely outcomes. As q~~Q~~ualified Opportunity Zones are refurbished or developed and new housing and shopping is created, the city of Berkeley will benefit from the economic stimulation created by development.

OUTCOMES AND EVALUATION

To be determined by an impact study.

¶

¶

¶

¶

CONTACT PERSON

Councilmember Ben Bartlett:	510-981-7130
Matthew Napoli	510-981-7131 ~~napoli.matthew@gmail.com~~

ATTACHMENTS/SUPPORTING MATERIALS

03

Issue Brief

California Budget & Policy Center
Independent Analysis. Shared Prosperity.

APRIL 2019 | BY KAYLA KITSON

The Federal Opportunity Zones Program and Its Implications for California Communities

The 2017 federal Tax Cuts and Jobs Act (TCJA) included a provision creating a new program designed to encourage private investments in economically distressed communities. The Opportunity Zones program provides federal tax incentives for investments in areas that meet certain criteria and have been designated as Opportunity Zones (OZs). Additionally, Governor Gavin Newsom's 2019-20 budget proposal would provide state-level tax incentives for investments in OZs. There are 879 designated OZs in California, located in nearly all of the state's counties. More than 4 million Californians live in these areas and will be potentially impacted by new investments eligible for Opportunity Zones tax incentives. The Opportunity Zones program has the potential to encourage new investments in eligible communities that improve the lives of residents with low incomes. However, the vast majority of the tax benefits will be realized by wealthy investors, and the program may accelerate gentrification in some areas or subsidize investments that offer little or no benefit to community residents.

This *Issue Brief*, the first in a series of Budget Center publications exploring the Opportunity Zones program, explains the structure of the program, its tax incentives, and how California's communities may be affected.

The Basics: Opportunity Zones, Qualified Opportunity Funds, and Qualified Opportunity Zone Businesses

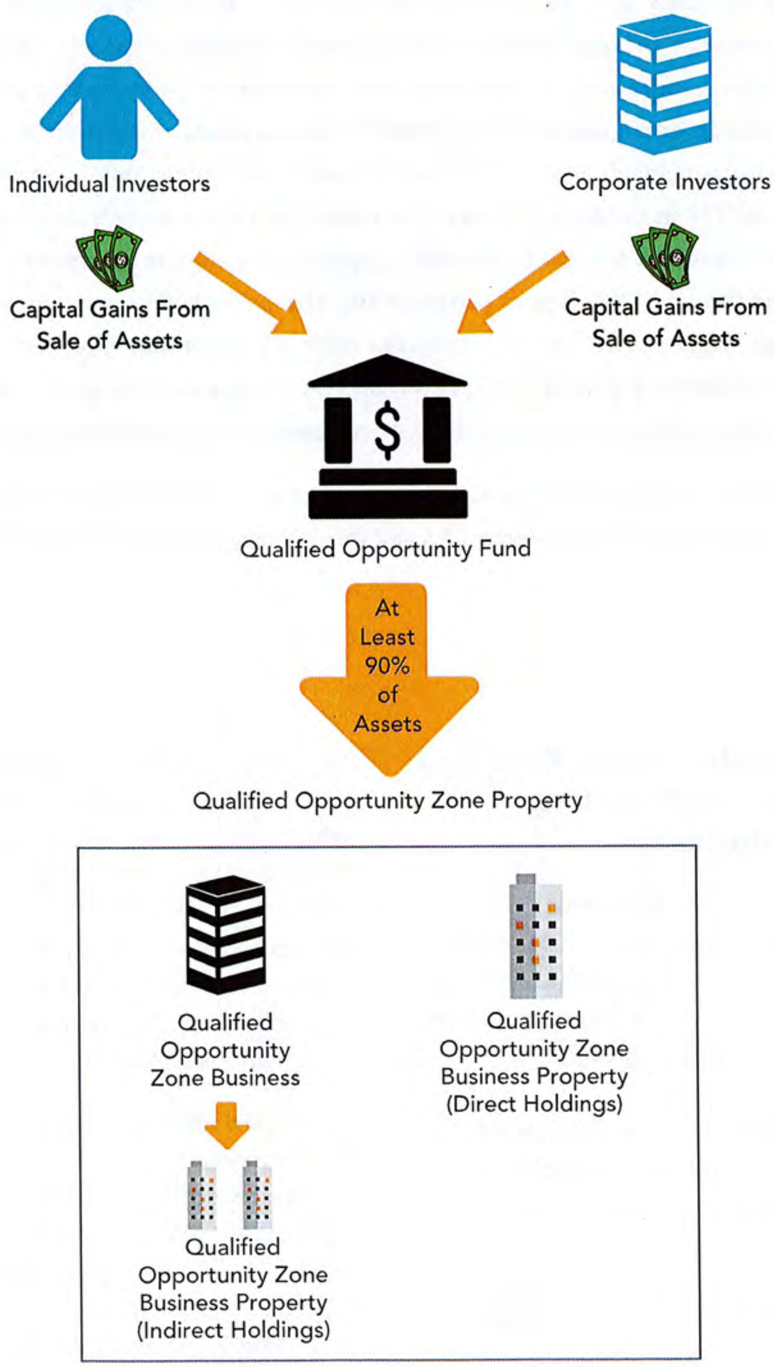
The TCJA allowed governors to nominate census tracts for OZ designation following certain federal criteria.[1] To qualify, census tracts must generally be low-income communities, defined as having a poverty rate of at least 20% or a median family income of 80% or less of the metropolitan area or state median family income.[2] States were also permitted to select a limited number of "contiguous tracts" that are not low-income communities but border a qualified low-income community and have a median family income that does not exceed 125% of that of the adjacent qualified low-income tract. Contiguous tracts may not comprise more than 5% of a state's total selected OZs. Each state was permitted to nominate a total number of OZs not exceeding one-quarter of all eligible low-income tracts. In California, Governor Jerry Brown's administration nominated 879 census tracts to become OZs, and the US Treasury Department certified all of them. One-tenth of California's population (10.7%), nearly 4.2 million residents, live in OZ census tracts.[3] These designations will remain in effect for 10 years.

Individuals and corporations that invest in a Qualified Opportunity Fund (QOF) – an entity that in turn makes investments in OZs – are eligible for several tax benefits, discussed below. To be a QOF, at least 90% of the fund's assets must be invested in "Qualified Opportunity Zone Property," which may include either a stock or partnership interest in a

"Qualified Opportunity Zone Business" that holds tangible property – such as buildings and equipment – in an OZ (known as "Qualified Opportunity Zone Business Property") or direct holdings of such business property (Figure 1). A QOF, which may be a corporation or partnership, does not need to apply for QOF designation and may self-certify with the Internal Revenue Service (IRS).

FIGURE 1

How Opportunity Zone Investments Work



The TCJA statute is vague about how much of a QOF's or Qualified Opportunity Zone Business' property must be located in an OZ, but the IRS has issued proposed regulations that seek to clarify this issue. If these proposed regulations go into effect, a QOF could have less than half of its assets in use within an OZ and its investors would still be eligible for the full tax benefit.[4]

The law also specifies that, if the original use of the Qualified Opportunity Zone Business Property does not start with the QOF investment, the property must be "substantially improved" – requiring the QOF to spend at least as much to improve the property as it spent to acquire it. Ostensibly, this requirement aims to prevent investors from getting tax benefits by simply buying property in an OZ without adding any value for the community. The IRS' proposed regulations would make this requirement more flexible, which could increase the likelihood that tax subsidies will go to investments that provide few community benefits.[5]

The broad definitions in the law and the flexibility offered in the proposed regulations mean there will likely be few limitations on the types of investments that will qualify for preferred tax treatment. For example, investments in startup businesses, expansions of existing businesses, construction or substantial rehabilitation of residential or commercial properties, and infrastructure improvements are all likely to qualify. The only businesses explicitly prohibited from receiving Opportunity Zone tax benefits are so-called "sin businesses" including liquor stores, gambling facilities, golf courses, country clubs, tanning facilities, and massage parlors.

The regulations for the Opportunity Zones program have not been finalized at the time of this publication, and the IRS will issue further proposed regulations to clarify other aspects of the law in the coming months. The final regulations will impact the degree to which tax-privileged investments substantively benefit OZ residents and the generosity of the tax benefits for investors.

Tax Incentives for Investors Can Be Lucrative

The Opportunity Zones program attempts to promote investments in OZ census tracts by providing several tax breaks on capital gains that are reinvested into a QOF. A capital gain results when a taxpayer sells or exchanges an asset – such as corporate stock shares or real estate – at a price higher than its purchase price.[6] For federal tax purposes, the short-term capital gains tax rate, which applies to gains on assets held for one year or less, is equal to the taxpayer's ordinary income tax rate, with a maximum rate of 37%. Lower federal rates apply to long-term capital gains on assets held for more than one year. The maximum rate for long-term capital gains is 20% plus a 3.8% surtax related to the Affordable Care Act.[7] Under the Opportunity Zones program, taxpayers reinvesting capital gains into a QOF within 180 days of the sale or exchange of the original investment are eligible for three federal tax benefits:

- Deferral of tax on the capital gain on the *original investment* until 2026 (or the time the QOF investment is disposed of, if earlier) – allowing the reinvestment of the entire capital gain into a QOF with the potential benefit of a higher return.
- Reduction of tax on the capital gain on the *original investment* if the QOF investment is held long enough (the taxable value of the capital gain – and thus the tax liability – is reduced by 10% if the QOF investment is held for five years and by 15% if the QOF investment is held for seven years).
- Elimination of tax on the capital gain on the *QOF investment* if it is held for 10 years.

There is no upper limit on the tax benefits any QOF investor can receive, nor on the overall cost to the federal government in foregone tax revenues. (See text box for an example of the potential tax benefits from investing in a QOF.)

Wealthiest Investors Will Reap Greatest Share of Tax Savings While Community Benefits Are Uncertain

Taxpayers with holdings of appreciated assets will be the direct beneficiaries of Opportunity Zones tax incentives. Most of these benefits will accrue to very well-off investors, who hold a disproportionate share of such assets. Only 9.2% of all taxpayers report realizing any long-term capital gains, according to estimates from the Urban-Brookings Tax Policy Center.[8] In addition, capital gains are highly concentrated at the top of the income distribution. The top 20% receive 90.2% of all reported long-term capital gains, with the top 1% collecting 68.7% of these gains (Figure 2). Thus, very few low- or middle-income families will receive any *tax* benefits from the Opportunity Zones incentives.

While the benefits to wealthy investors are clear, there is no guarantee that the subsidized investments will positively impact current residents of designated OZs. The Opportunity Zones program is not the first attempt to bring investment and employment into areas that lack financial resources and jobs. A variety of federal and state programs have provided tax incentives and other benefits to attract business and capital investment and to increase employment in such areas, including Empowerment Zones, Enterprise Communities, Renewal Communities, New Market Tax Credits, and state-level enterprise zones. Research on the community impacts of these programs has reached mixed conclusions. Some studies have found increases in employment and wages and reductions in poverty in designated zones relative to similar communities where these incentives were unavailable, while others have found little evidence that the incentives led to statistically significant community improvements.[9] The inconclusiveness of the research exploring the connection between economic development tax incentives and community outcomes suggests that the costs of such incentives may outweigh the benefits.

A primary concern is investors may be drawn to projects or businesses in areas already in the process of gentrification, as these investments will likely yield the highest returns.[10] If investors do prioritize projects in gentrifying areas, a large portion of the

Example of Potential Tax Reductions from Investing in a Qualified Opportunity Fund (QOF)

A taxpayer sells stock shares for $200,000 that were purchased for $100,000, generating a capital gain of $100,000. Assuming the taxpayer is subject to the top federal long-term capital gains rate of 23.8%, she would normally owe $23,800 in tax on the $100,000 gain. However, if the taxpayer reinvested the $100,000 into a QOF in 2019 and held that investment for 10 years, she reduces her tax liability twice. First, she would owe only $20,230 in tax on the original gain in 2026 instead of $23,800, reducing her tax liability by $3,570. This is because she is able to defer paying tax on the original $100,000 gain until 2026, at which point she would have held the QOF investment for seven years, allowing her to receive a 15% tax reduction on the original gain. Second, she would eliminate the entire tax on any capital gain on the QOF investment after holding it for 10 years. If she sells the QOF investment in 2029 for $215,000 (assuming an annual return rate of about 8%), she would owe *zero* tax on the $115,000 increase in the value of the QOF investment, a $27,370 reduction in tax liability relative to what she would have owed on a regular investment. Her overall capital gains tax reduction would be $30,940, and the effective tax rate on the aggregate capital gains from the two investments would decline from 23.8% to 9.4%. Since the majority of the tax reduction comes from the exclusion of gains on the QOF investment, the effective tax rate would be lower for QOF investments that have higher rates of return, and higher for investments with lower returns.

Original Investment: Capital Gains Tax Reduction

Purchase Value	$100,000
Sale Value	$200,000
Capital Gain	$100,000
Regular Tax Liability (at 23.8% Top Rate)	$23,800
Actual Tax Liability in 2026	$20,230*
Reduction in Tax Liability	**-$3,570**
Effective Tax Rate	20.2%

*This tax is based on the top capital gains tax rate of 23.8% and a reduced capital gain of $85,000. The original capital gain that was realized in 2019 ($100,000) is eligible for a 15% discount because the QOF investment will have been held for seven years in 2026.

Capital gain proceeds reinvested into QOF

+

QOF Investment: Capital Gains Tax Elimination

Purchase Value	$100,000
Sale Value (Assuming 8% rate of return over 10 years)	$215,000
Capital Gain	$115,000
Regular Tax Liability (at 23.8% Top Rate)	$27,370
Actual Tax Liability When Investment Is Sold After 10 Years	$0
Reduction in Tax Liability	**-$27,370**
Effective Tax Rate	0%

=

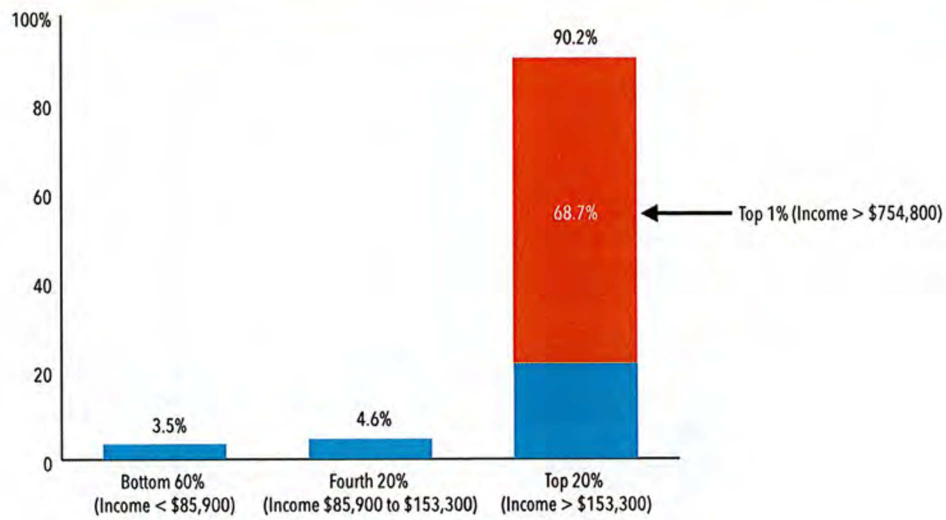
Overall Capital Gains Tax Reduction

Total Capital Gains	$215,000
Regular Tax Liability (at 23.8% Top Rate)	$51,170
Total Tax Liability	$20,230
Reduction in Tax Liability	**-$30,940**
Effective Tax Rate	9.4%

FIGURE 2

Capital Gains Are Concentrated Among the Highest-Income Taxpayers

Share of Nationwide Long-Term Capital Gains by Income Percentile, 2018



Notes: Capital gains are considered long-term if the asset was held for more than one year. Percentages do not sum to 100 due to rounding.
Source: Urban-Brookings Tax Policy Center

tax-preferred investments could flow into communities that have fewer challenges attracting capital, meaning US taxpayers would be unnecessarily subsidizing investments that likely would have occurred without the incentives. The extent to which this occurs will partially depend on which census tracts states designated as OZs. (The next publication in this series will examine California's selection of OZs, including the share of selected areas showing signs of gentrification.)

Since the professed goal of the Opportunity Zones program is to improve economically distressed communities, and not to give tax breaks to wealthy investors, the primary question should be whether the inflow of funds meaningfully improves the circumstances of residents in those communities. For instance, if the incentive results in more affordable housing or local businesses that create job opportunities for low-income residents, this would be considered a successful outcome – even if wealthy investors become wealthier in the process. However, given the few restrictions placed on the investments that can be made, and the laxness of some of the regulations proposed by the IRS, there is a real possibility that some of these new investments will contribute to the gentrification of communities. For example, QOFs may invest in luxury condominiums or companies that mostly employ high-skilled workers from outside the community. In fact, these types of investments may be more attractive than "social impact" investments due to potentially higher returns. This could put low-income residents at risk of facing increased costs of living or being displaced, harming the very people the incentive is intended to help. And since OZ census tracts have higher concentrations of black and Latinx residents than other communities, this could exacerbate existing racial and ethnic inequities.[11]

Some of the most disadvantaged communities may not see any new investment at all. These communities have a scarcity of assets to attract investors, present higher risks, and offer potentially lower returns. Therefore, investors are more likely to choose projects in areas that are already more advantaged or showing signs of revitalization over neighborhoods that have the greatest need for new resources.

Another consideration is the overall cost of the Opportunity Zones incentives in the form of foregone federal revenues from capital gains taxes. These lost revenues – mostly benefiting high-income investors – could instead help pay for other services that may have a greater impact on vulnerable communities in California and across the nation. The official cost estimate for the tax incentives is small relative to total cost of the TCJA – $1.6 billion over 10 years in a package of nearly $2 *trillion* in tax cuts.[12] However, the long-run costs could be much greater given that this estimate does not include revenue losses from the complete exclusion of gains on QOF investments held for 10 years, which fall outside the 10-year period for which budget estimates were made.

The high levels of flexibility for investors and uncertainty regarding the potential benefits and harms to OZ residents elevate the need for strong reporting and data collection requirements. The law does not include such requirements, but the US Treasury Department has the discretion to issue them in forthcoming regulations. Thus, until the final regulations are released, it is unknown whether there will be sufficient and transparent information available to determine how the tax incentives are being used and how subsidized investments are affecting the communities in which they are made.

What's Next for California's Opportunity Zones?

Now that the selection of OZ census tracts in California has been finalized, state and local leaders are contemplating how to encourage meaningful investments that will improve the lives of people in struggling communities. Policymakers are considering whether to provide state-level tax incentives to make QOF investments even more attractive, how to align existing state and local resources with those investments, and how to ensure transparency and accountability. Given that the federal tax benefits are heavily skewed toward wealthy investors (as would be state-level capital gains tax breaks) and that residents of affected communities may face affordability pressures and displacement risks, any state-level Opportunity Zones incentives should be structured to 1) provide greater opportunities for lower-income community members, 2) safeguard residents against displacement, and 3) avoid providing a windfall for the wealthy at the expense of the state's finances. Finally, if state and local governments provide additional incentives to encourage investments in OZs, such incentives should be more narrowly targeted to investments likely to benefit current residents, and data collection and evaluation requirements should be established to enable an assessment of whether the incentives are achieving their intended purpose.

Kayla Kitson prepared this *Issue Brief*. The Budget Center was established in 1995 to provide Californians with a source of timely, objective, and accessible expertise on state fiscal and economic policy issues. The Budget Center engages in independent fiscal and policy analysis and public education with the goal of improving public policies affecting the economic and social well-being of low- and middle-income Californians. General operating support for the Budget Center is provided by foundation grants, subscriptions, and individual contributions. Please visit the Budget Center's website at calbudgetcenter.org.

ENDNOTES

1 The statute governing Opportunity Zones is found in the new Section 1400Z of the US Internal Revenue Code (26 US Code Section 1400Z).

2 The definition of "low-income community" for the Opportunity Zones program comes from the statute governing the New Markets Tax Credit (26 US Code Section 45D(e)). For a census tract located in a metropolitan area to qualify, it must have a poverty rate of at least 20% *or* a median family income not exceeding 80% of the *greater of* the statewide median family income or the metropolitan area median family income. For a census tract not located in a metropolitan area to qualify, it must have a poverty rate of at least 20% *or* a median family income not exceeding 80% of the statewide median family income.

3 Rebecca Lester, Cody Evans, and Hanna Tian, "Opportunity Zones: An Analysis of the Policy's Implications," *State Tax Notes* (October 15, 2018), Table 1.

4 The TCJA requires that "substantially all" of a business' tangible property be Qualified Opportunity Zone Business Property, "substantially all" of which is in use in an OZ. The law does not define "substantially all," but the IRS' proposed regulations would define it as 70% in both cases. This means a business would only need to have 49% of its tangible property in an OZ (70% times 70%). Since the law requires only 90% of a QOF's assets to be Qualified Opportunity Zone Property, a QOF holding property through an operating business could have as little as 44.1% of its assets being used in an OZ. US Department of the Treasury, Internal Revenue Service, *REG-120186-18: Investing in Qualified Opportunity Funds* (April 17, 2019), pp. 77-78.

5 The proposed regulations released in October 2018 specify that only the value of buildings, excluding the value of the underlying land, would be considered in the calculation to determine whether a property has been substantially improved, which would allow more real estate investments to meet this test. Brett Theodos, Steven M. Rosenthal, and Brady Meixell, *The IRS Proposes Generous Rules for Opportunity Zone Investors but What Will They Mean for Communities?* (Urban-Brookings Tax Policy Center: October 23, 2018). Additionally, proposed regulations released in April 2019 clarify that unimproved land does not need to be substantially improved, but that such land must be used in a trade or business and would not be considered Qualified Opportunity Zone Business Property if it were being held for investment. The IRS is seeking comments on whether additional rules are needed to prevent QOFs from acquiring land in an OZ without adding any value or economic activity. US Department of the Treasury, Internal Revenue Service, *REG-120186-18: Investing in Qualified Opportunity Funds* (April 17, 2019), pp. 12-14.

6 Technically, a capital gain is the difference between an asset's sale price and its "basis," which equals the asset's purchase price with some adjustments, such as the cost of commissions for stocks or the cost of improvements minus depreciation for real property.

7 Thus, the maximum federal tax rate on long-term capital gains is 23.8%. This includes the top long-term capital gains rate of 20%, which for the 2019 tax year applies to taxpayers with incomes above $434,550 ($488,850 for married taxpayers filing jointly). An additional 3.8% surtax on net investment income, including capital gains, helps fund Affordable Care Act benefits. This surtax applies to single taxpayers with incomes over $200,000 ($250,000 for married taxpayers filing jointly). In contrast to federal law, California taxes all capital gains as ordinary income, at a maximum rate of 13.3%.

8 Urban-Brookings Tax Policy Center, *Table T18-0231: Distribution of Long-Term Capital Gains and Qualified Dividends by Expanded Cash Income Percentile, 2018* (November 16, 2018).

9 See reviews of the literature in Congressional Research Service, *Empowerment Zones, Enterprise Communities, and Renewal Communities: Comparative Overview and Analysis* (February 14, 2011), pp. 17-18; David Neumark and Helen Simpson, *Do Place-Based Policies Matter?* (Federal Reserve Bank of San Francisco Economic Letter: March 2, 2015), pp. 2-3; and Rebecca Lester, Cody Evans, and Hanna Tian, "Opportunity Zones: An Analysis of the Policy's Implications," *State Tax Notes* (October 15, 2018), p. 226.

10 As described by the Urban Displacement Project, gentrification is "a process of neighborhood change that includes economic change in a historically disinvested neighborhood – by means of real estate investment and new higher-income residents moving in – as well as demographic change – not only in terms of income level, but also in terms of changes in the education level or racial make-up of residents." Gentrification can lead to displacement, meaning long-term community residents are no longer able to live in gentrified communities. See Miriam Zuk and Karen Chapple, "Gentrification Explained" (Urban Displacement Project: 2015).

11 Brett Theodos, Brady Meixell, and Carl Hedman, *Did States Maximize Their Opportunity Zone Selections? Analysis of the Opportunity Zone Designations* (Urban Institute: May 2018, revised July 2018), Table 3.

12 US Joint Committee on Taxation, *Estimated Budget Effects of the Conference Agreement for H.R.1, the "Tax Cuts and Jobs Act"* (December 18, 2017); Congressional Budget Office, *The Budget and Economic Outlook: 2018 to 2028* (April 2018), p. 106.

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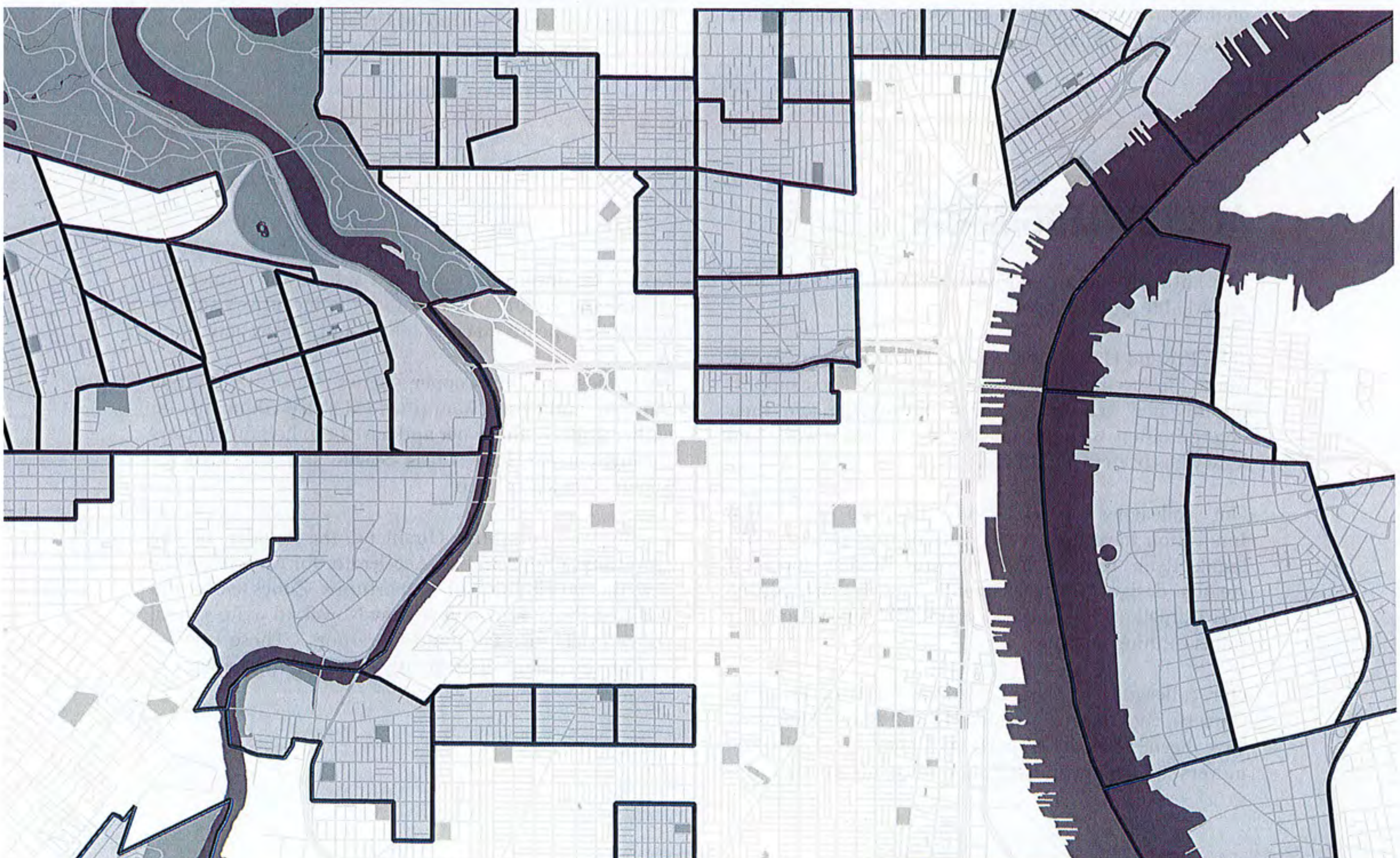
OFFICE OF THE CITY CLERK
CITY OF BERKELEY

EXECUTIVE SUMMARY

From Transactions to Transformation:

How Cities Can Maximize Opportunity Zones

Co-Authors: Bruce Katz and Evan Weiss



DREXEL UNIVERSITY
Nowak Metro Finance Lab
Lindy Institute for Urban Innovation

In Partnership With:

ACCELERATOR FOR AMERICA

ABOUT THE AUTHORS

Bruce Katz is the founding director of the Nowak Metro Finance Lab at Drexel University and the co-author (with Jeremy Nowak) of The New Localism: How Cities Can Thrive in the Age of Populism. Previously he served as the inaugural Centennial Scholar at the Brookings Institution, as chief of staff to the secretary of Housing and Urban Development, and as staff director of the Senate Subcommittee on Housing and Urban Affairs. Katz co-led the Obama administration's housing and urban transition team.

Evan Weiss is Director of PEL Analytics, a 501(c)(3) research and advisory firm that develops and fully implements financial recovery and economic development strategies for government and non-profits across the United States. He previously served as Budget and Operations Advisor in the Office of Newark Mayor Cory Booker and has worked closely on all aspects of the Opportunity Zone program since its inception, helping states and cities implement the program and design several place-based and sector specific Qualified Opportunity Funds, focused on infrastructure and workforce housing, as well as higher education and philanthropic partnerships.

ABOUT ACCELERATOR FOR AMERICA

Accelerator for America is a non-profit organization created by Los Angeles Mayor Eric Garcetti in November 2017. It seeks to provide strategic support to the best local initiatives to strengthen people's economic security, specifically those initiatives that connect people with existing jobs, create new opportunities and foster infrastructure development.

ABOUT DREXEL UNIVERSITY NOWAK METRO FINANCE LAB

The Nowak Metro Finance Lab was formed by Drexel University in July 2018. It is focused on helping cities find new ways to "finance the inclusive city" by making sustained investments in innovation, infrastructure, affordable housing, quality places, and the schooling and skilling of children and young adults. It is situated within the Drexel's Lindy Institute of Urban Innovation.

ACKNOWLEDGMENTS

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Our colleagues at the Accelerator for America—Eric Garcetti, Rick Jacobs, Yoomee Ha and Aaron Thomas—have been exceptional partners. They are truly first movers on Opportunity Zones, recognizing that this federal tax incentive could be a vehicle for connecting capital and community and that the incentive's success or failure depends on cities taking and scaling action.

Ira Goldstein, Tai Cooper, Agnes Dasewicz, Margie Sullivan, and Kesha Ram provided sharp comments on earlier drafts of the paper and have been helpful advisors throughout—as have Chris Slevin and the team at Senator Booker's Office.

Finally, we thank Mike Hirshland, the founder of The Governance Project. Like Accelerator for America, Mike saw the possibilities of Opportunity Zones early and engaged Bruce Katz and Jeremy Nowak to write several policy briefs for States and Governors. Those briefs—and Mike's vision—have greatly informed this paper.

EXECUTIVE SUMMARY

The Tax Cuts and Jobs Act of 2017 provides a new tax incentive—centered around the deferral, reduction, and elimination of capital gains taxes—to spur private investments in low-income areas designated by states as Opportunity Zones. This provision is based on the bipartisan Investing in Opportunity Act (S. 1639) introduced by Senator Cory Booker (D-NJ) and Senator Tim Scott (R-SC). Given the significant interest among investors, it is possible that this new incentive could attract hundreds of billions of dollars in private capital, making it one of the largest economic development initiatives in U.S. history.

The broad objective of this incentive—expanding economic opportunities for places and people left behind—cannot be achieved by the market and outside investors alone. Cities in the broadest sense—local governments, urban institutions, networks, and civic leaders—will need to act decisively if Opportunity Zones are to engender not only a large volume of individual transactions but broader growth that is inclusive, sustainable and truly transformative for each city's economy. The promise of Opportunity Zones is not just to match private capital to investable projects but to inspire cities to reexamine and rediscover the fundamentals of economic development for all by channeling the resources of their own communities. Cities who are able to coordinate and focus investment will drive not just growth in the near term but institutional and financial reforms that will reposition cities for success over the long haul.

The new incentive differs from other federal tax incentives in several ways. First, it is more market driven; it does not use a federal or state agency to distribute the incentives but rather relies on the decisions of individual investors and fund managers, meaning local governments will likely not be even aware of most Opportunity Zone investments in their communities. Secondly, it can be used for a wide variety of projects—residential, commercial, industrial, infrastructure—rather than being restricted to a relatively narrow purpose like low-income housing or historic preservation. Third, there are no requirements for investors to ensure a certain outcome, such as job creation or local financial matches. Finally, there is no cap on the amount of the benefit if regulations are followed.

The federal law governing the Opportunity Zone incentive does not provide any guidance on the role of cities, yet city governments and other local entities can shape markets and maximize economic and social outcomes by smartly deploying their complex set of powers, resources, assets and relationships. Cities, unlike the federal government and state governments, are networks of institutions and individuals that can "think like a system and act like an entrepreneur." In this way, cities are primed to aggregate and align public, private and civic capital for strategic investments in economic development, schools and skills, infrastructure and affordable housing, the critical ingredients for long-term inclusive growth.

Since the Opportunity Zones incentive was introduced, two dominant, overly simplistic narratives have taken hold. On one hand, there is the view that all cities should merely compile and bundle a list of investable projects and reveal the true strength of the market for some distant investor on Wall Street or in Silicon Valley. This perspective treats the market failure that Opportunity Zones was intended to resolve as one primarily involving information and marketing rather than underlying business demand and economic realities. On the other hand, there is fear that Opportunity Zones will put gentrification on steroids, spiking housing prices and displacing residents. This perspective assumes that the principal challenge facing all cities is excessive value appreciation rather than poverty, high vacancy and low demand.

This policy brief advocates for a more balanced approach that reflects the market variance and complexity within and across cities, organized around Seven Principles to guide city analysis and strategy for leveraging newly established Opportunity Zones. The principles are designed both to enable cities to further capital investment in traditionally disadvantaged places in order to spur job creation and broader opportunities—the core objectives of this new tax incentive—as well as sharpen local strategies and modernize the institutions that design and deliver those strategies. To actualize these principles, we offer 10 Steps to leverage local advantages, knowledge and experience to fully realize the economic and social potential of this unique tax incentive.

Section 1400Z of Internal Revenue Code, amended by The Tax Cuts and Jobs Act of 2017, allows a taxpayer to defer paying federal capital gains tax on the sale of property if that gain is invested in a Qualified Opportunity Fund ("QOF"). A QOF must invest at least 90% of its assets in businesses or property in designated low-income communities known as "Opportunity Zones." In addition, taxpayers who hold investments in those funds for at least five years receive a 10 percent reduction in their original capital gains tax obligation; holding investments at least seven years adds an additional 5 percent reduction for a total of 15 percent; finally, holding an investment a full ten years allows taxpayers to avoid any capital gains tax on the appreciation of the new investment.

OVERARCHING PRINCIPLES

Principle One: See the big picture

Investors naturally focus on the merits associated with individual transactions or financial products. Cities, by contrast, can think about impacts beyond the tradeoffs involved in a particular transaction to advance systemic goals, like enhancing the public sector's fiscal capacity or strengthening the regional economic ecosystem. Cities should create the conditions for long-term growth rather than chase capital for short-term outcomes.

Principle Two: Act as networks, not as governments

Cities are more than governments and elected officials. They're networks of institutions and leaders who co-produce the economy and co-govern many aspects of urban life. Maximizing the potential of Opportunity Zones requires the full engagement of different sectors and stakeholders who can leverage their collective assets and align their decisions.

Principle Three: Identify the distinctive competitive assets and advantages of Opportunity Zones

To reduce friction in the market, cities should be an engaged, reliable source of intelligence about their overall economies and each of their Opportunity Zones. Each city should be able to state definitively what gives disparate Opportunity Zones their market traction and potential.

Principle Four: Balance rewards and controls, incentives and protections

Opportunity Zones are a market driven incentive; most cities won't know how much or where Opportunity Fund investments have been made. Cities can use public resources to steer market investment, particularly towards historically disadvantaged areas. Cities should ensure that every Opportunity Zone is included in a citywide inclusive zoning, procurement, and development policy that focuses on residents and require data transparency for deals that receive public subsidy.

Principle Five: Structure strong, inclusive partnerships

Opportunity Zones could catalyze the aggregation of smart public, private and civic capital for a positive, compounding effect. Smart public and civic investments in community infrastructure and human capital can provide a platform for private sector investment. In low-demand Opportunity Zones, smart public, private and civic financial instruments can attract and de-risk tax advantaged capital.

Principle Six: Link market investments to investments in human capital and other strategies that maximize impact for lower income residents

Cities have a unique potential, given the localization of many schools and skills institutions and initiatives, to focus on human capital by giving students and residents who live in or near Opportunity Zones the ability to access existing and future employment opportunities. Cities can go further and drive inclusive growth through supporting minority owned businesses, homeownership, affordable housing and neighborhood amenities.

Principle Seven: Use Opportunity Zones as a catalyst for modernizing local institutions

In many communities, fragmented local governments simply do not have the capacity or professional expertise to design, finance and deliver sophisticated market and social initiatives. On the private and civic side, most communities collaborate through loosely organized informal networks that do not have sufficient capital or capacity, or with a scope too limited to drive sustainable broad impact. Cities should use Opportunity Zones as a vehicle for modernizing and redefining their institutions to act with purpose and discipline to maximize economic, social and environmental impact.

TEN STEPS

Step One: Design and market an Investment Prospectus to showcase the distinctive assets and investable projects in a city's Opportunity Zones

Set the context of the regional market, offer detail on local organizations and projects, and the advantages of individual opportunity zones through a marketing tool with a strong, cohesive narrative.

Step Two: Maximize the economic impact of anchor institutions, particularly institutions of higher learning

Spread the word to community anchors about Opportunity Zones and seek to understand their needs that the incentive might meet; encourage their own formation of Opportunity Funds or to serve as a clearinghouse for potential investors and projects.

Step Three: Maximize the economic impact of publicly owned assets

Ensure each public entity's assets are widely known and easily identifiable; agencies should use their own property holdings to shape and incentivize markets to serve the broader public as part of a city-wide strategy.

Step Four: Accelerate employment density, business demand and smart place-making

With careful rezoning and planning, cities can spur the co-location of corporations, university assets, start-ups and scale-ups, driving the enhancement of commercialization and tech transfer efforts in ways that support the regeneration and animation of public and private spaces.

Step Five: Ensure that Opportunity Zone related infrastructure is high quality and meets performance and sustainability standards

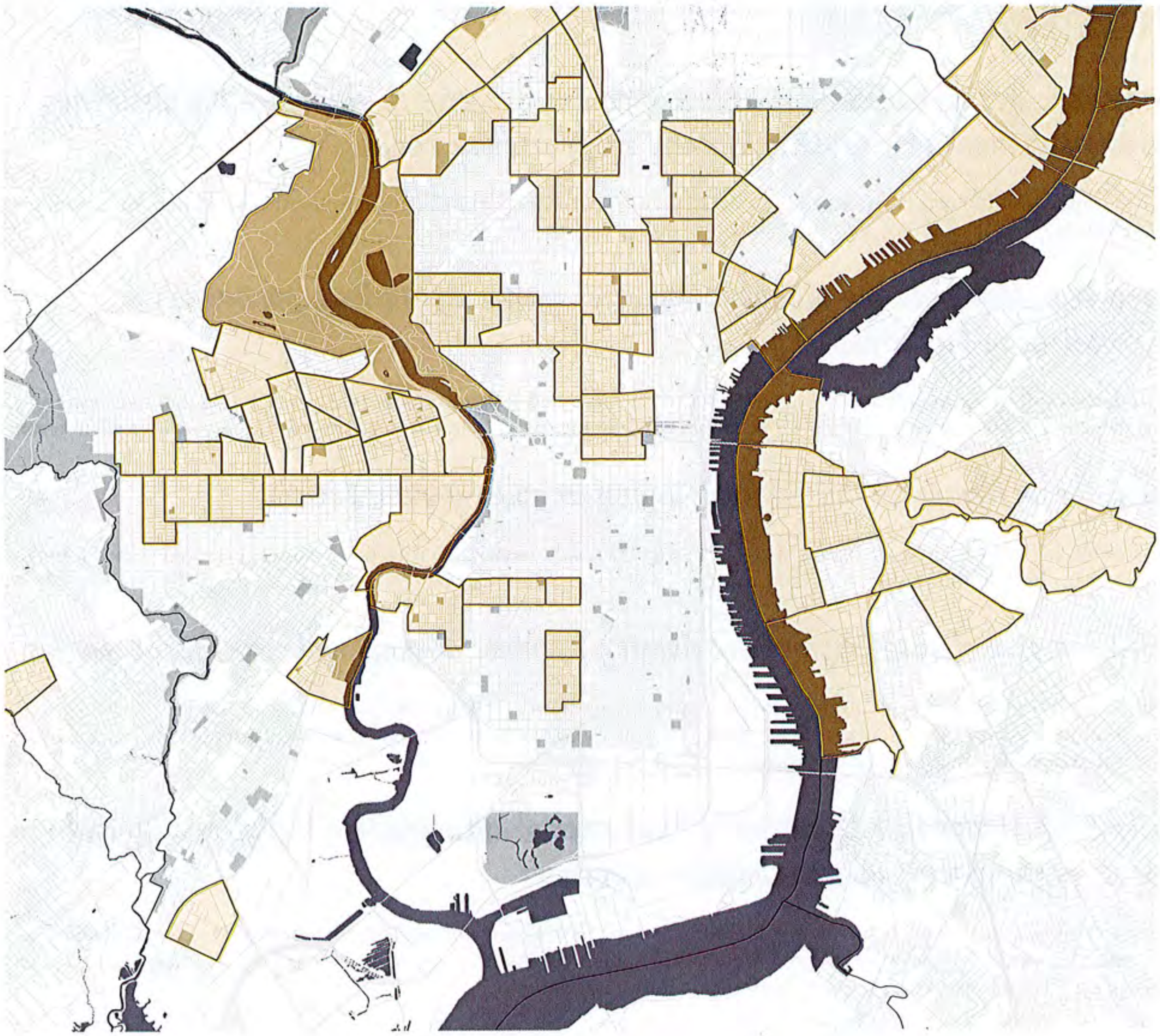
Cities should market their infrastructure, including freight rail, wastewater, and storm water investments, and align tax increment financing opportunities from Opportunity Zone investment to ensure project and community infrastructure is high quality and meets performance and sustainability standards.

Step Six: Align city investments, procurement, tax preferences, zoning, and other decisions with the distinctive competitive assets of each Opportunity Zone

Available local incentives should be well-publicized and easily accessible to potential investors to determine eligibility; cities can also use incentives as regulators to monitor Opportunity Zone investments. Fast tracking entitlements, given the time limitations of the Opportunity Zone incentive, offers a significant competitive edge.

Step Seven: Support local entrepreneurs and developers (particularly female- and minority-owned businesses) gain access to capital, technical assistance, mentoring, legal services and other resources

Spur inclusive growth through a legal and financial entrepreneurship clinic to help community members gain access to capital and technical assistance, including mentoring, legal services and other resources, to support citywide inclusionary development and purchasing policies.



Step Eight: Help local residents obtain the skills or competencies necessary to meet existing or future labor demand

Work closely with local school districts to create "cradle-to-career initiatives" and better link anchor employers to workers; cooperation should be incentivized.

Step Nine: Support the production and preservation of affordable/workforce housing

Maximize impact of existing housing institutions and intermediaries and leverage other tax incentives that support housing, such as Low Income Housing Tax Credits and New Markets Tax Credits.

Step Ten: Repurpose existing institutions and build new institutions to carry out core missions

Understand existing institutions and explore new governance structures to create a suite of adequately-resourced modern institutions. Move quickly and get started by offering a front door to investors, a clear lead, and an engaged community.

Original Investment: Capital Gains Tax Reduction

Purchase Value	$100,000
Sale Value	$200,000
Capital Gain	$100,000
Regular Tax Liability (at 23.8% Top Rate)	$23,800
Actual Tax Liability in 2026	$20,230*
Reduction in Tax Liability	**-$3,570**
Effective Tax Rate	20.2%

*This tax is based on the top capital gains tax rate of 23.8% and a reduced capital gain of $85,000. The original capital gain that was realized in 2019 ($100,000) is eligible for a 15% discount because the QOF investment will have been held for seven years in 2026.

Capital gain proceeds reinvested into QOF

+

QOF Investment: Capital Gains Tax Elimination

Purchase Value	$100,000
Sale Value (Assuming 8% rate of return over 10 years)	$215,000
Capital Gain	$115,000
Regular Tax Liability (at 23.8% Top Rate)	$27,370
Actual Tax Liability When Investment Is Sold After 10 Years	$0
Reduction in Tax Liability	**-$27,370**
Effective Tax Rate	0%

=

Overall Capital Gains Tax Reduction

Total Capital Gains	$215,000
Regular Tax Liability (at 23.8% Top Rate)	$51,170
Total Tax Liability	$20,230
Reduction in Tax Liability	**-$30,940**
Effective Tax Rate	9.4%

CITY OF BERKELEY

Office of Economic Development

Opportunity Zones in Berkeley, California

There are five census tracts in Berkeley that have been designated by the California Department of Finance as qualified Opportunity Zones. They are Alameda County tract numbers 4232, 4235, 4239.01, 4240.01, and 4525, as indicated in the above map.

For more information about Opportunity Zones, take advantage of these resources:

- California Department of Finance: http://www.dof.ca.gov/Forecasting/Demographics/opportunity_zones/index.html
- California's dedicated website for OZs: https://opzones.ca.gov/
- Council of Development Finance Agencies resources and newsletter: https://www.cdfa.net/cdfa/cdfaweb.nsf/ord.html?open&tag=Opportunity%20Zones

To discuss your Opportunity Zone project in Berkeley, contact the Office of Economic Development at ecodev@cityofberkeley.info or (510) 981-7530.

Councilmember Ben Bartlett

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CONSENT CALENDAR

To: Honorable Mayor and Members of the City Council
From: Councilmember Ben Bartlett
Subject: Berkeley Qualified Opportunity Fund

TITLE/ Subject
Creation of a Municipal Qualified Opportunity Fund to invest in Berkeley's Qualified Opportunity Zones

RECOMMENDATION
Short Term Referral to Planning Commission
City Manager
City Economic Development Officer
Housing Advisory Commission
Office of Economic Development

That the City Council create a municipal Qualified Opportunity Fund to invest in Qualified Opportunity Zones to stimulate economic growth and develop more affordable housing in Berkeley. The Opportunity Fund and related development of Opportunity Zones will serve the goals of shared economic development, more affordable housing, and economic inclusion by incentivizing investors to direct capital gains toward economically vulnerable neighborhoods in Berkeley while allowing the city to stipulate conditions on the structures built and jobs created.

Qualified Opportunity Funds give investors the opportunity to delay capital gains taxes by investing in property sited in Qualified Opportunity Zones. After holding the investment for five years investors, can exclude 10% of the deferred gain, After seven years investors can exclude 15% of the deferred gain, and after ten years 100% of the post-acquisition gain. and after ten years investors can exclude from income the post-acquisition gain.[1].

Creating a Municipal Qualified Opportunity Fund will give the City of Berkeley a means of enhancing the existing Opportunity Zone Legislation. A Berkeley Opportunity Fund enables the City to compete with market driven investment by offering alternative models of community-centric, equitable investment in neighborhoods. A Berkeley QOF would feature:

1) Enhanced affordability requirements
2) Growth in good jobs and business opportunities for historically disadvantaged groups

CURRENT SITUATION
Specific areas of Berkeley have been selected by the State of California and certified by the U.S. Treasury Department as Qualified Opportunity Zones. The State of California selected these zones

[1] https://www.irs.gov/newsroom/opportunity-zones-frequently-asked-questions

in economically-distressed areas. Provided investors meet certain requirements, they can defer capital gains taxes and eventually the tax on value appreciation when investing in these zones.

<u>BACKGROUND</u>

The Tax Cuts and Jobs Act created a vehicle for individuals to invest in their communities while realizing tax savings. When an individual sells an investment which generates capital gains, that person can invest any portion of those gains into a Qualified Opportunity Fund within 180 days. The deferred capital gains will be taxed on the date the investment in the Qualified Opportunity Fund is sold, or on December 31, 2026, whichever comes first. Qualified Opportunity Funds must invest, either directly or indirectly, in distressed communities designated as Qualified Opportunity Zones by the IRS[2]. Such zones in Berkeley that have been designated by the California Department of Finance as qualified Opportunity Zones include the Alameda County tract numbers 4232, 4235, 4239.01, and 4525. These areas include several blocks surrounding Shattuck Avenue from University Avenue to Ashby Avenue, several streets surrounding Adeline Street until 52nd Street (often referred to as the "Adeline Corridor"), and a rectangular shape of land bordering University Avenue north and San Pablo Avenue to the east and terminating at Dwight Way[3].

Qualified Opportunity Funds can be invested into specific Qualified Opportunity Zones which have been selected by the Internal Revenue Service and state governments across the United States. Qualified Opportunity Zones are eligible investments for Qualified Opportunity Funds anywhere within the state they exist, and from other parts of the U.S. By establishing a municipal Qualified Opportunity Fund, the city of Berkeley will take a proactive approach to its development and be able to tailor that development to meet the specific needs of current Berkeley residents.

Investors can defer capital gains which are invested into Qualified Opportunity Funds. Moreover, investments in Qualified Opportunity Funds held longer than 5 years allow taxpayers to exclude 10% of the deferred gain, those held longer than 7 years allow taxpayers to exclude a total of 15% of the deferred gain, and those held longer than 10 years allow the taxpayer to exclude the post-acquisition gain on the investment in the Funds.

These new Qualified Opportunity Funds are not without critiques, however. As structures in the Qualified Opportunity Zones become replaced or refurbished and the neighborhood itself becomes more appealing, there is a risk that housing prices will rise, driving out the existing low-income residents and people of color in Berkeley. Furthermore, locally-owned small businesses could face increased competition from large franchises and may also be unable to meet rising rental costs from the developing Qualified Opportunity Zones. New locations of existing franchised businesses may bring new jobs, but those jobs may not pay a living wage or benefits that allow Berkeley workers to support themselves. In short, the city of Berkeley must also leverage the creation of the Qualified Opportunity Fund to ensure that current Berkeley residents living in Qualified Opportunity Zones are able to benefit from the revitalized and new buildings.

The City of Berkeley should consider the following policies in the creation of a Qualified Opportunity Fund to protect current Berkeley residents from adverse effects of the expected development:

1) Leverage tax incentives to ensure jobs created in Qualified Opportunity Zones go to local residents, pay a liveable wage, and offer worker protections and benefits that protect families

[2] https://www.congress.gov/bill/115th-congress/house-bill/1
[3] https://opzones.ca.gov/oz-map/

2) Ensure historically disadvantaged businesses have access to contracting opportunities in Qualified Opportunity Zones
3) Require 50% of housing built in Qualified Opportunity Zones to be affordable to those making less than median area income to support local inhabitants already living in Qualified Opportunity Zones
4) Ensure that populations in Qualified Opportunity Zones have access to critical services such as healthcare, transportation, healthy food, and quality education services
5) Take steps to include historically underrepresented groups in every aspect of the QOZ process including investment, construction, operation, and purchase.

<u>REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, LAWS</u>
Qualified Opportunity Funds and Zones were created as part of the Tax Cuts and Jobs Act of 2017.

<u>ACTIONS/ALTERNATIVES CONSIDERED</u>
Because Qualified Opportunity Funds and Zones are new, there are other jurisdictions to draw from as an example.

<u>CONSULTATION/OUTREACH OVERVIEW AND RESULTS</u>
External stakeholders include residents and businesses in the Qualified Opportunity Zones, their neighbors, potential investors, and contractors. Internal stakeholders include the Berkeley City Office of Economic Development, City Manager, City Planner, and Zoning Advisory Board.

<u>RATIONALE FOR RECOMMENDATION</u>
Qualified Opportunity Funds can exist independently of a municipal Fund set up by the city of Berkeley. It is legal, however, for the city to set up its own Qualified Opportunity Fund to compete with other Funds to invest in Qualified Opportunity Zones. If the city sets up its own Fund it can direct investments in a deliberate manner, using its municipal Qualified Opportunity Fund to set de facto housing and planning policy through which properties it invests in and how it chooses to renovate those properties. Creating a municipal Qualified Opportunity Fund will give the city of Berkeley greater influence over how investments into its neighborhoods are directed, and how those neighborhoods develop. This is an avenue through which the goals of economic inclusion, affordable housing, and continued neighborhood authenticity and character can be achieved.

Investors can and will create Qualified Opportunity Funds to invest in Berkeley’s Qualified Opportunity Zones independent of a municipal Qualified Opportunity Fund. The purpose of creating a municipal Qualified Opportunity Fund is to allow the city of Berkeley to centralize and focus investments into the city, leveraging those investments to ensure current Berkeley residents realize the benefits of Qualified Opportunity Zones. The San Francisco Bay Area has a large community of impact investors, those desiring their investments to benefit communities, and a municipal Qualified Opportunity Fund will serve as a vehicle to centralize and direct these investments.

<u>IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT</u>
The City of Berkeley would create a Qualified Opportunity Fund to serve as a “bucket” for funds to invest in Qualified Opportunity Zones designated by the State of California and certified by the U.S. Treasury Department.

ENVIRONMENTAL SUSTAINABILITY
Creating a municipal Qualified Opportunity Fund will allow the city of Berkeley more influence in how Qualified Opportunity Zones are developed. Though new construction and renovation can offer environmental risks and hazards, the City can use Qualified Opportunity Funds to set specific terms for development, such as requiring buildings be carbon neutral. Thus, establishing a Qualified Opportunity Fund could yield a positive environmental effect relative to allowing purely independent Qualified Opportunity Funds to develop the same areas of Berkeley.

FISCAL IMPACTS
The potential revenue capture for the city of Berkeley is difficult to calculate, but increased property taxes, sales tax revenue, and other forms of revenue for the city are extremely likely outcomes. As Qualified Opportunity Zones are refurbished or developed and new housing and shopping is created, the city of Berkeley will benefit from the economic stimulation created by development.

OUTCOMES AND EVALUATION

To be determined by an impact study.

CONTACT PERSON

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ATTACHMENTS/SUPPORTING MATERIALS

04

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CONSENT CALENDAR
April 23rd, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmember Ben Bartlett and Mayor Jesse Arreguin
Subject: Local Construction Workforce Development Policy

RECOMMENDATION:

Policy Recommendation:
That the City Council refer to the Planning Commission to address the shortage of qualified local construction workers; worker retention, and elevated labor costs through the creation of a construction workforce development policy. This local workforce development policy will encourage housing and nonresidential development applicants to require contractors to utilize apprentices from state-approved, joint labor-management training programs, and to offer employees employer-paid health insurance plans. The policy will help stabilize regional construction markets; and enhance productivity of the construction workforce Berkeley needs to meet its General Plan's build-out goals.

Program:
The City should require contractor prequalification for General Plan Area projects of 30,000 square feet or more.

Apprenticeship:
Each general contractor and subcontractor (at every tier for the project) will sign a statement stipulating that it participates in a Joint Apprenticeship Program approved by the State of California, Division of Apprenticeship Standards. For each apprenticeable craft a contractor or subcontractor employs on its workforce, the contractor will maintain the ratio of apprentices as required by California Labor Code section 1777.5 which apprentices are enrolled and participating in a Joint Apprenticeship Program approved by the State of California, Division of Apprenticeship Standards.

Health Care Coverage
Each general contractor or subcontractor (at every tier for the project) will sign a statement stipulating to and providing documented proof that the contractor pays at least 75 percent of the cost of the premiums for health insurance at the silver level (as set forth by Covered California) for all its construction craft employees and the employees' dependents and that this coverage has been maintained for 180 consecutive days prior to the submission of the pre-qualification documents (a copy of the Declaration of Insurance Coverage showing the dates of continuous coverage or proof that the Contractor contributes to an Employee Benefit Plan shall qualify) OR documentary proof that such medical coverage has been offered to employees within

180 days prior to the submission of pre-qualification documents. Any change in coverage must be immediately provided to the City of Berkeley.

CURRENT SITUATION:
As the City of Berkeley plans to increase production of housing, commercial buildings, and public facilities, the need for a skilled construction workforce is vital. Shortages of skilled construction workers, particularly residential trades workers, threaten to delay or derail development plans.
The shortages are attributable to factors such as reduced utilization of state-approved apprenticeships, fewer young labor force entrants, dwindling contractor offerings of health and retirement plans, and the related trend of lagging construction productivity growth. These realities have been affecting the land use goals of local jurisdictions. For instance, in San Francisco, many entitled projects with thousands of units awaiting construction are stalled due to skilled labor shortages, diminished contractor productivity, and construction costs that spiked.
The creation and utilization of apprenticeship acts to both recruit and retain an adequate base of construction workers and to be a pipeline for future supervisors and licensed independent contractors. Requiring contractors on major projects in Berkeley to employ apprentices results in a higher volume of apprentice training, and thus, an increase in the construction labor force.

BACKGROUND:

In the 1960s, the introduction of a requirement to employ apprentices on public works projects dramatically increased the amount of apprentice training. Later, this allowed for higher amounts of apprentices to be employed in the private sector, helping builders produce over 4.1 million housing units between 1970 and 1989.

More than 96 percent of the 21,000 apprentices in the greater San Francisco Bay Area who were active or completed their state-approved programs between 2013 and 2018 were affiliated with joint apprenticeship programs.

According to the State of California’s 2014 Affordable Housing Cost Study and Economic Census data specific to California’s construction industry, construction labor wages and benefits account for only 15% of total project costs. Meanwhile, since 1992 the industry’s basis for profitability has increased 50% more than either construction labor or materials.

Despite this increase in profitability, there is still a disconnect between construction workers to apprenticeship and health insurance plans, resulting in a shrinking supply of labor. This has constrained the construction industry’s ability to expand in response to the rising construction needs of California and its many cities.

Thus, it is in the City of Berkeley’s economic interest as a land use regulator to support a pipeline of skilled workers to accomplish the construction objectives and policies of the Berkeley General Plan. More specifically, the policy will promote the following Plan's goals:

1) Ensure that Berkeley has an adequate supply of decent housing, living wage jobs, and businesses providing basic goods and services.
2) New housing should be developed to expand housing opportunities in Berkeley to meet the needs of all income groups.
To increase the prospects for successful implementation and build-out goals of the Plan, it is advised that the City adopt the aforementioned local construction workforce development policy.

REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS
Over 96 percent of the nearly 21,000 apprentices from the greater San Francisco Bay Area who were active or completed their state-approved programs between 2013 and 2018 were affiliated with joint apprenticeship programs.

OUTREACH OVERVIEW AND RESULTS
Counsel and recommendations were received from the Building and Construction Trades Council of Alameda County.

RATIONALE FOR RECOMMENDATION
The City of Berkeley, along with numerous neighboring cities, school districts, special districts and the state of California plans to increase production of housing, commercial buildings, and/or public facilities. Shortages of skilled construction workers, however, will likely prevent many cities from achieving these goals. Thus, it is vital for the City to enact this policy in order to increase the construction labor supply to adequate levels for Berkeley's goals.

IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT
The Planning Commission will create the policy on local construction workforce development which will be enforced by the City.

FISCAL IMPACTS OF RECOMMENDATION
Costs associated with administering the prequalification compliance documentation.

ENVIRONMENTAL SUSTAINABILITY No negative impact.

OUTCOMES AND EVALUATION
It is expected that the City Council will refer to the Planning Commission to create a policy requiring contractors to utilize apprentices from state-approved, joint labor-management training programs, and to offer employees employer-paid health insurance plans.

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CITY OF BERKELEY

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To: Honorable Mayor and Members of the City Council
From: Councilmembers Ben Bartlett and Rigel Robinson, and Mayor Jesse Arreguin
Subject: Open Doors Initiative: First Time Homebuyer Program

Short Term Referral to Planning Commission

RECOMMENDATION

That the City Council direct the Planning Commission to design a regulatory mechanism (Open Doors Initiative) to incentivize the creation of affordable starter homes for Berkeley city employees and persons of moderate income. Also recommend that the City Council direct ~~h~~Housing and ~~e~~Economic ~~d~~Development to analyze the financial barriers to access for low-income homeowners, and to develop a financial program of low-interest loans tied to outreach and education to ensure low-income homeowners can participate and benefit from this program. The Open Doors Initiative is intended to provide assistance to homeowners in R1 and R1A zones to renovate their properties and become multi-family condominiums (the "Missing Middle"). To qualify for zoning approval, families must agree to deed restrictions which limit the sale of the newly-created condominiums to Employees of the City of Berkeley and/or first time moderate income first time home buyers~~– – the 'Missing Middle'~~.

Increasing the supply of one bedroom and studio condominiums also allow community members, previously shut out of the middle class, the opportunity to own a home while simultaneously enabling older homeowners to downsize and efficiently utilize their equity. The deed restrictions provide a path to homeownership for moderate income persons; first responders to be on hand in the event of a crisis; and for workers to avoid long commutes by owning homes in the city they serve.

The Open Doors Initiative serves the policy goals of economic inclusion, community resilience, and environmental sustainability.

CURRENT SITUATION

Ever-Increasing Housing Costs Have Drastically Reduced First-Time Home Buyers

Housing ownership is a human right. The Open Doors Initiative is meant to increase home ownership opportunities for first-time home buyers ~~among the 'missing middle' (people~~ earning 80-120% AMI) who are increasingly shut out of the market.

Housing is now prohibitively expensive. California ranks 49th in homes per capita and an abysmal 49th in home ownership rates. Likewise, the nation has seen a steep decline of first-time home buyers. In 2010, first-time buyers purchased roughly half of the homes sold nationally; in 2016, only 35% went to first-time buyers[1].

[1] https://www.nytimes.com/2017/04/21/realestate/first-time-home-buyers-statistics.html

While the number of first-time home buyers has steadily decreased, the cost of homes has simultaneously increased. Zillow reports that the median home value in Berkeley is $1,231,400 and predicts that Berkeley home values will rise 5.9% within the next year.[2] In comparison, the median home value in the United States is $222,800[3] - just 18% of the median home value in Berkeley.

Many would-be home buyers are finding that they cannot afford to do so. In fact, a recent Credit Sesame survey of more than 1,000 renters found that roughly half of renters only rent a home because they can't afford to own.[4]

Low-income homeowners face challenges affording and maintaining their homes
In Berkeley, many long-time homeowners were able to purchase their homes when values were much lower. Even though redlining and discrimination by financial institutions greatly limited access to capital for African Americans in particular, many were still able to become homeowners in South and West Berkeley.

BACKGROUND

The Need for Starter Homes

The Open Doors Initiative proposes to increase the number of starter homes, such as condominiums. It envisions residential homeowners dividing their properties into condominiums in Berkeley. Homeowners are granted increased density, with administrative approval, and other fiscal incentives -- provided the homeowner meets certain affordability restrictions and sells to city employees, and first-time homebuyers of moderate income.

Previous generations leveraged the rising housing market to utilize the equity of "starter" homes to allow them to purchase larger homes. This process also gave young families experience of maintaining homes and building community. Today this fundamental act has become more difficult, as the supply of starter homes have drastically dwindled[5].

Bloomberg reports that starter home inventory has hit its lowest level since Trulia began keeping track in 2012[6]. The supply of starter homes is declining at 17% year-over-year, nearly twice as fast as all homes, and over 3 times faster than larger homes[7]. In July 2017, only 450,000 homes listed below $200,000 remained in the market, which was about 120,000 fewer than in July 2015 (See id.)

Berkeley is now presented with an historic opportunity to impact the housing crisis by increasing its availability of starter homes. Currently, "[o]ver a third, or 35 percent, of millennials say 'the down payment' is their biggest obstacle to buying a home.[8]"

With the Open Doors Initiative, houses that once cost upwards of $1,000,000 and require a 20% down payment of $200,000 (and often being sold for cash outright) will now be incentivized to become individual starter homes with drastically reduced costs – four condominiums created from the above converted home would

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[2] https://www.zillow.com/berkeley-ca/home-values/

[3] https://www.zillow.com/home-values/

[4] https://www.gobankingrates.com/investing/real-estate/reasons-women-struggling-buy-home/

[5] https://optimise-design.com/bring-back-starter-home/

[6] https://www.bloomberg.com/news/articles/2018-03-21/u-s-starter-homes-are-pricier-smaller-older-and-scarcer

[7] https://www.realtor.com/research/housingshortage_starterhomes/

[8] https://www.cnbc.com/2018/09/14/the-2-main-reasons-young-people-cant-buy-homes.html

ideally each cost approximately $250,000 with a 20% down payment of only $50,000. Such a change would turn homeownership into an achievable goal for many people, including young families.

"Americans 65 to 74 are now the country's fastest-growing age group. According to a 2014 AARP survey, 88 percent of older Americans want to remain in place as they age."[9] Open Doors Initiative encourages seniors in Berkeley who own large homes to downsize, earn money and while saving their assets.

In summary, we believe that increasing starter homes, will increase accessibility to homeownership for under-represented communities, artists, younger people, first responders, and teachers. This will, in turn:

a. Reduce the wealth gap between older, predominately white homeowners and underrepresented communities;
b. Increase diversity of Berkeley neighborhoods;
c. Support Resiliency and Sustainability by reducing commute times for First Responders and City Employees;
d. Provide financial benefit to senior homeowners

<u>High Home Prices Place Homeownership Out of Reach for a Majority of City Workers and Berkeley Residence</u>

<u>Berkeley salaries[10] are competitive in the region, but still fall below the threshold required to compete in the current housing market.</u>

Table 2-20: Average Annual Salary by Job Type, Oakland, Fremont, Hayward Metro Area, 1st Quarter 2013

Job Title	Avg. Annual Salary
Health Care	
Physicians and Surgeons, All Other	> $203,051
Registered Nurses	$122,458
Physician Assistants	$107,636
Pharmacy Technicians	$50,535
Healthcare Support Workers, All Other	$49,022
Home Health Aides	$31,802
Higher Education	
Engineering Teachers, Postsecondary	$111,076
History Teachers, Postsecondary	$98,592
Social Science Research Assistants	$54,683
Graduate Teaching Assistants	$30,028
Local Government	
Urban and Regional Planners	$85,419
Fire Fighters	$88,704
Parking Enforcement Workers	$50,796
Other Office	
Receptionists and Information Clerks	$35,734
Office and Administrative Support Workers, All Other	$36,696
Retail and Service	
Waiters and Waitresses	$22,723
Dishwashers	$21,372
Retail Salespersons	$28,825

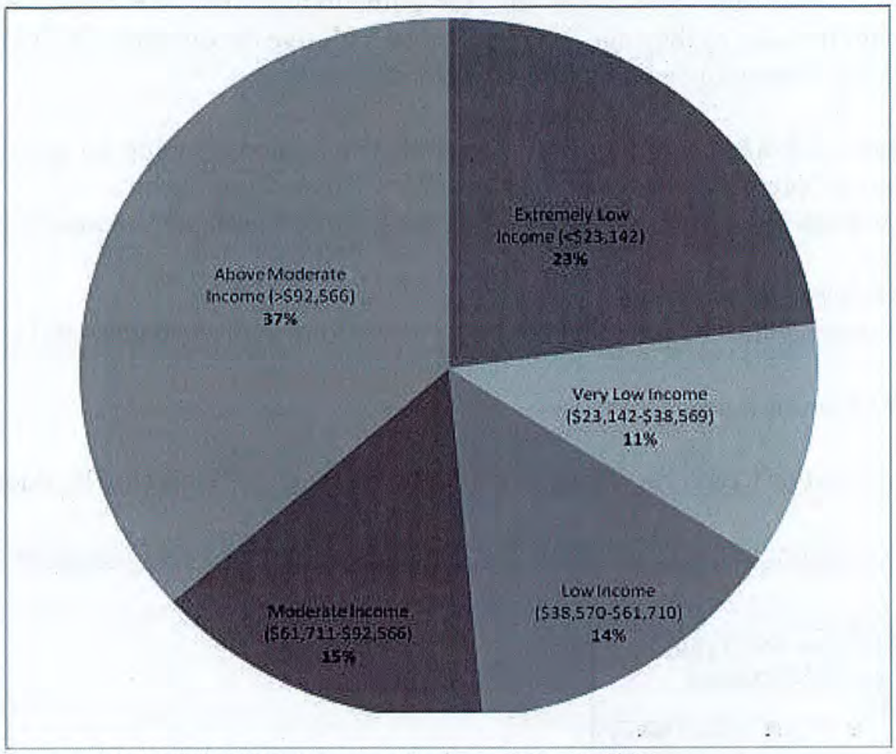
Source: CA Employment Development Department, Occupational Employment Statistics (OES) Survey Results [11]

[9] https://www.huffingtonpost.com/entry/housing-crisis-inequality-harvard-report_us_5b27c1f1e4b056b2263c621e

[10] https://www.cityofberkeley.info/uploadedFiles/Human_Resources/Level_3_-__General/SalaryListNONBENEFITED.pdf

[11] https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-Commissions/Commission_for_Planning/2015-2023%20Berkeley%20Housing%20Element_FINAL.pdf

Figure 2-7: Household Income Distribution in Berkeley, ACS 2008-20012 Estimates



Source: ACS 2008-2012 5-year estimates, Table S1901 [12]

Accommodating City Workers Will Benefit Minority Groups, Who Are Disproportionately Unable to Purchase Homes~~.~~

To accommodate workers like teachers and first responders in Berkeley, federal housing rules allow us to set aside workforce housing through a deed restriction. For example, in Colorado, the Peak One Neighborhood, Frisco Town Council, and Summit County Combined Housing Authority has adopted a deed restriction[13] limited sales to municipal workers[14] or work in the County[15]. A workforce deed restriction, accompanied by a change in zoning, can ensure that new homes with deed restricted units are only made available to people who have a history of employment in Berkeley/Alameda County and/or meet certain income requirements. Not only would this deed restriction ensure that units are never sold or rented to anyone who earns income outside of the Berkeley/Alameda County, but also it would protect Berkeley's long-term local workers by stabilizing the housing supply for residents. Because Berkeley city workers are disproportionately minorities, accommodating city workers with deed restrictions will benefit Berkeley minorities.

To successfully increase accessibility for these different communities, we have to change the underlying zoning in order to allow developers to convert single-family homes into duplexes, fourplexes, and other forms of housing that could house multiple groups of people. Currently, these types of housing are not allowed to be built

[12] https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-Commissions/Commission_for_Planning/2015-2023%20Berkeley%20Housing%20Element_FINAL.pdf

[13] https://peakoneneighborhood.com/pdf/Peak_One_Income_Deed_Restriction.pdf

[14] https://peakoneneighborhood.com/pdf/Peak_One_Non-Income_Deed_Restriction.pdf

[15] https://peakoneneighborhood.com/community/locals-price-deed-restriction/

in the R1 and in a few R2 districts as a result of zoning issues. Thus, we need to address zoning conditions in order to increase accessibility to homeownership for our constituents.

Wealth Gaps Have Resulted from Homeownership Inequalities

The impact of rising housing costs has manifested itself in glaring wealth disparities between homeowners and renters. Roughly half (51.2%) of the total wealth accumulated by the typical American homeowner is derived from the value of their primary residence[16]. Owning a home can drastically improve one's net worth. "Since 2013, the average homeowner has seen their net worth rise from $201,600 to $231,400. Renters have watched theirs fall from $5,600 to $5,000."[17]
Due to the increase in housing costs and the resulting inaccessibility to homeownership for many people, fewer people are able to accrue wealth by purchasing a home. These wealth disparities are most prevalent in underrepresented communities. For instance, a significant wealth gap has appeared between white and non-white households. "Recent data from the Survey of Income and Program Participation (2014) shows that black households hold less than seven cents on the dollar compared to white households.[18]"

"The Institute for Policy Studies recent report The Road to Zero Wealth: How the Racial Divide is Hollowing Out the America's Middle Class (RZW) showed that between 1983 and 2013, the wealth of the median black household declined 75 percent (from $6,800 to $1,700), and the median Latino household declined 50 percent (from $4,000 to $2,000). At the same time, wealth for the median white household increased 14 percent from $102,000 to $116,800."[19]

This gap shows no sign of slowing, but rather is projected to increase in the coming years. "In fact, by 2020 [...] black and Latino households are projected to lose even more wealth: 18 percent for the former, 12 percent for the latter. After those declines, the median white household will own 86 times more wealth than its black counterpart, and 68 times more wealth than its Latino one." (See id.)

Another wealth disparity that has grown more extreme is between the younger and older generation. "Older people have always had more net worth than younger people, of course, but never like this. Thirty years ago, families headed by someone over 62 had eight times the median wealth of families headed by someone under 40. By 2013, older families had 15 times the wealth of younger families."[20]

Because homeownership increases one's ability to expand one's net worth, it is the surest on-ramp to addressing these grotesque wealth disparities.

Displacement as a Result of High Home Costs

Historically, Berkeley's redlining policies denied people of color access to its best neighborhoods. Today, though these policies have long been gone, the residual effect of those policies combined with the housing crisis has had the effect of reinforcing similar divides. "The difference between the large homes and winding roads of the predominantly white neighborhoods of the Hills and the Claremont neighborhood, and the modest, mixed-

[16] https://www.zillow.com/research/black-hispanic-home-wealth-16753/

[17] https://www.huffingtonpost.com/entry/housing-crisis-inequality-harvard-report_us_5b27c1f1e4b056b2263c621e

[18] https://insightcced.org/what-we-get-wrong-about-closing-the-racial-wealth-gap/

[19] https://www.forbes.com/sites/brianthompson1/2018/02/18/the-racial-wealth-gap-addressing-americas-most-pressing-epidemic/#25b6eb127a48

[20] https://www.huffingtonpost.com/entry/housing-crisis-inequality-harvard-report_us_5b27c1f1e4b056b2263c621e

use character of racially diverse South and West Berkeley is indicative of the city's racial and class-based divisions."[21]

Housing costs in the United States have condemned many to a life of poverty, especially African Americans and Hispanics. "Though the number of Americans living in poverty has increased by 41 percent since 2000, the number of "high-poverty census tracts" has increased even faster. By now, 51 percent of blacks and 44 percent of Hispanics live in these areas of concentrated poverty, compared to just 17 percent of whites. According to numerous studies, children who grow up in areas of concentrated poverty are disadvantaged on nearly every measure, from school quality to violence to social mobility."[22]

The ever-increasing cost of housing has also forced teachers and first responders to live long distances from their workplaces. For example, San Francisco has seen a teacher shortage, because housing is so costly that the average teacher can only afford .7% of the homes on the market.[23] In addition, despite earning more than $100,000 in San Francisco and San Jose, first responders can afford just 2.4% and 6.6% of currently listed homes, respectively.[24] In the event of a fire or massive tragedy, we need first responders to be able to live in Berkeley.

A closer look at the makeup of first-time buyers reveals a disturbingly large gap between white and non-white purchasers. The breakdown is as follows: 79% were white, 9% Hispanic, 8% Asian Pacific Islander, 7% African American, and 3% other[25].

This racial divide is not just present in first-time buyers. Zillow reports that "[i]n 1900, the gap in the homeownership rate between black and white households was 27.6 percentage points. It's now 30.3 percentage points.[26]" Additionally, according to the same report, "the difference between white and Hispanic homeownership rates has more than tripled", from 7.9 percentage points in 1900 to 25.7 percentage points in 2016. (See id.) "It's the widest gap among whites, blacks, Hispanics and Asians." (See id.)

It is likely that the racial and gender wage gaps present in the United States have directly affected homeownership rates. When getting approved for a mortgage, a borrower's income is an important factor when lenders assess his or her reliability, which puts borrowers with less income at a severe disadvantage.

In 2016, Pew Research found that African American men earned 73% of what white men earned, and Hispanic men earned approximately 69%[27]. White women earn approximately 82% of white men, Asian women earn 87%, African American women earn 65%, and Hispanic women earned only 58%. (See id.)

The New York Times's study of first-time buyers reflects the effect of the gender wage gap; while the median home price for a single male was $157,000, the median price for a single female was $146,300[28].

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[21] https://www.berkeleyside.com/2018/09/20/redlining-the-history-of-berkeleys-segregated-neighborhoods

[22] *https://www.huffingtonpost.com/entry/housing-crisis-inequality-harvard-report_us_5b27c1f1e4b056b2263c621e*

[23] https://www.sfgate.com/technology/businessinsider/article/SF-teachers-cant-afford-housing-in-SF-12797504.php

[24] https://www.trulia.com/research/affordable-housing-occupation-2018/

[25] The percentage exceeds 100% because participants could choose more than one ethnicity. https://www.nytimes.com/2017/04/21/realestate/first-time-home-buyers-statistics.html

[26] https://www.zillow.com/research/homeownership-gap-widens-19384/

[27] http://www.pewresearch.org/fact-tank/2016/07/01/racial-gender-wage-gaps-persist-in-u-s-despite-some-progress/

[28] https://www.nytimes.com/2017/04/21/realestate/first-time-home-buyers-statistics.html

Another group adversely affected by the rising housing costs is young people, who are increasingly unable to afford homes. "Though every age bracket contains significant inequalities, Americans over 65 are the only cohort with higher homeownership rates now than in 1987. Homeownership for every other age group has fallen significantly"[29]

Many young people continue to be hindered by their student loans, preventing them from purchasing a home. "Paying college loans is a big burden for homebuyers. It's harder to save for a down payment and can make qualifying for a mortgage more difficult. It can also delay a purchase as people pay down their debt." [30]

A recent study has also revealed that people in the LGBTQ+ community face unique challenges when buying a home. In April 2018, a survey by Freddie Mac among 2,313 LGBT community members (aged 22 to 72) living in the United States found that "49 percent of LGBT households are likely to own a home - considerably lower than the current national rate (64.3 percent)."[31] The study showed that when deciding where to live, LGBT renters cited price, safety and a LGBT-friendly location as the most important factors. (See id.)

Berkeley prides itself on accepting people from all walks of life. However, unless a conscious effort is made to increase accessibility of homeownership, underrepresented communities will continue to be denied access to the same benefits enjoyed by current, often very wealthy, homeowners. "Homeownership has become an indispensable part of being a full participant in American society," National Urban League President and CEO Marc H. Morial said. "An erosion of homeownership rates among African Americans represents not only a devastating financial loss but a barrier to full participation in the American dream."[32]

Funding

In addition to private lenders and federal and state homeownership programs, potential funding sources include Measure A1 Homeowner Development Funds and Qualified Opportunity Zones.

In 2016, Alameda County passed Measure A1, which issued $580 million in bonds to acquire and improve real property to help poor and middle-class people buy homes.[33] The Open Doors Initiative proposes to use these A1 Homeowner Development Funds for low income first-time home buyers.

Additionally, the Initiative proposes to explore the use of Qualified Opportunity Zone funds to aid in financing[34] construction costs[35]. Qualified Opportunity Zone funds were established in the Tax Cuts and Jobs Act of 2017 with the purpose of improving Qualified Opportunity Zones.[36] Investors with capital gains can defer taxes on those gains if they invest within Qualified Opportunity Zones.[37]

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[29] https://www.huffingtonpost.com/entry/housing-crisis-inequality-harvard-report_us_5b27c1f1e4b056b2263c621e

[30] http://www.nareb.com/black-hispanic-homeownership-rates-remain-stuck-below-whites/

[31] https://freddiemac.gcs-web.com/news-releases/news-release-details/new-research-finds-lgbt-homeownership-rates-lag-behind-general

[32] https://newsroom.wf.com/press-release/consumer-lending/wells-fargo-commits-increase-african-american-homeownership

[33] https://ballotpedia.org/Alameda_County,_California,_Affordable_Housing_Bond_Issue,_Measure_A1_(November_2016)

[34] www.verbhouse.com

[35] www.divvyhomes.com

[36] https://www.wellsfargo.com/the-private-bank/insights/planning/wpu-qualified-opportunity-zones/

[37] https://www.wealthmanagement.com/high-net-worth/what-are-qualified-opportunity-zones

These Qualified Opportunity Zone funds should be used towards the construction costs related to the creation of starter homes. This will ease the financial burden of seniors seeking to downsize their homes and promote the construction of new starter homes in Berkeley.

REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, LAWS

Currently Berkeley has a number of units zoned as R1 and R1A, Single Family Residential. The Open Doors Initiative will allow homeowners in an R1 and R1A zone to apply for administrative approval to convert their single family home into a multi-family unit, provided they meet affordability restrictions and agree to sell to moderate income persons and/or city workers including, first responders, firefighters, and other public employees.

The Open Doors Initiative will also require deed restrictions in units that are converted from R1 and R1A to multi-family condos to sell to city workers that meet income requirements, ensuring that the "Missing Middle" of income earners with the city of Berkeley have access to home ownership.

Low-~~i~~Income ~~h~~Homeowners ~~f~~Face ~~c~~Challenges ~~a~~Affording and ~~m~~Maintaining ~~t~~Their ~~h~~Homes
In Berkeley, many long-time homeowners were able to purchase their homes when values were much lower. Even though redlining and discrimination by financial institutions greatly limited access to capital for African Americans in particular, many were still able to become homeowners in South and West Berkeley.

The Open Doors Initiative would benefit these homeowners by providing a means financial stability. However, in order to realize these benefits, homeowners would be required to make substantial home improvements. The current cost in Berkeley for home improvements is $400-500 per square foot.

Such prices will likely require the homeowner to receive commercial home improvement loans. This is problematic because, many homeowners of color still face barriers and discrimination in accessing commercial home improvement loans.

This practice of discrimination by lenders can result in homes falling into disrepair. Coupled with aggressive code enforcement has led to some community members losing their homes to receivership and the courts.

For these reasons, the Open Doors Initiative will include not only regulatory changes, but financial and informational programs to ensure low-income homeowners are able to participate and benefit from this program. The Open Doors Initiative helps low-income homeowners realize some of the equity locked up in their home, invest in maintenance and improvements, and provide affordable homeownership opportunities for others in the community. Thus, the program meets the city's goals of stabilizing communities that are facing displacement while adding to the affordable homeownership stock.

ACTIONS/ALTERNATIVES CONSIDERED

That the City Council adopt The Open Doors Initiative to assist the creation of affordable starter homes and empower city employees and first-time home buyers. The Open Doors Initiative will allow homeowners in R1 and R1A zones to apply to renovate their properties to become multi-family condominiums, while providing incentives for doing so. To qualify for zoning approval, families must agree to deed restrictions which prohibit them from selling the newly-created condominiums to anyone who is not an employee with the city of Berkeley or does not meet income requirements. These deed restrictions are meant to provide a path to home ownership for persons within the missing middle and workers with the city of Berkeley who could otherwise not afford to own a home in the city they serve.

RATIONALE FOR RECOMMENDATION

As noted above, the homeownership has become increasingly more difficult. By financially incentivizing R1 homeowners to convert to multi-family condominiums, the city of Berkeley will offer a path to older homeowners seeking to downsize to leverage their equity while providing Berkeley city workers with a supply of affordable condominiums. Over time, as the housing market rises, Berkeley city workers and moderate income persons who own these condominiums will be able to leverage the equity themselves when taking out loans, or sell the condominiums to other Berkeley city workers and moderate income persons.

IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT

To be determined.

FISCAL IMPACTS OF RECOMMENDATION

To be determined by an impact study.

ENVIRONMENTAL SUSTAINABILITY

Duplexing single family homes promotes environmentally sounded infill housing development. In addition, the Open Doors Initiative does not require the creation of additional parking spaces.

OUTCOMES AND EVALUATION

To be determined.

CONTACT PERSON

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James Chang	jchang@cityofberkeley.info
Katie Ly	katiely22@berkeley.edu
Matthew Napoli	napoli.matthew@gmail.com

Attachment:

1) **City of Berkeley Employee Salaries:**
   https://www.cityofberkeley.info/uploadedFiles/Human_Resources/Level_3_-__General/SalaryListNONBENEFITED.pdf

Councilmember Ben Bartlett

City of Berkeley, District 3
2180 Milvia Street, 5th Floor
Berkeley, CA 94704
PHONE 510-981-7130
EMAIL: bbartlett@cityofberkeley.info

To: Honorable Mayor and Members of the City Council
From: Councilmembers Ben Bartlett and Rigel Robinson, and Mayor Jesse Arreguin
Subject: Open Doors Initiative

Short Term Referral to Planning Commission

RECOMMENDATION

That the City Council direct the Planning Commission to design a regulatory mechanism (Open Doors Initiative) to incentivize the creation of affordable starter homes for Berkeley city employees and persons of moderate income. The Open Doors Initiative is intended to provide assistance to homeowners in R1 and R1A zones to renovate their properties and become multi-family condominiums. To qualify for zoning approval, families must agree to deed restrictions which limit the sale of the newly-created condominiums to Employees of the City of Berkeley and/or first time moderate income first time home buyers -- the 'Missing Middle'..

Increasing the supply of one bedroom and studio condominiums also allow community members, previously shut out of the middle class, the opportunity to own a home while simultaneously enabling older homeowners to downsize and efficiently utilize their equity. The deed restrictions provide a path to homeownership for moderate income persons; first responders to be on hand in the event of a crisis; and for workers to avoid long commutes by owning homes in the city they serve.

The Open Doors Initiative serves the policy goals of economic inclusion, community resilience, and environmental sustainability.

CURRENT SITUATION

Ever-Increasing Housing Costs Have Drastically Reduced First-Time Home Buyers

Housing ownership is a human right. The Open Doors Initiative is meant to increase home ownership opportunities for first-time home buyers among the 'missing middle' (people earning 80-120% AMI) who are increasingly shut out of the market.

Housing is now prohibitively expensive. The nation has seen a steep decline of first-time home buyers. In 2010, first-time buyers purchased roughly half of the homes sold nationally; in 2016, only 35% went to first-time buyers[1].

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[1] https://www.nytimes.com/2017/04/21/realestate/first-time-home-buyers-statistics.html

While the number of first-time home buyers has steadily decreased, the cost of homes has simultaneously increased. Zillow reports that the median home value in Berkeley is $1,231,400 and predicts that Berkeley home values will rise 5.9% within the next year.[2] In comparison, the median home value in the United States is $222,800[3] - just 18% of the median home value in Berkeley.

Many would-be home buyers are finding that they cannot afford to do so. In fact, a recent Credit Sesame survey of more than 1,000 renters found that roughly half of renters only rent a home because they can't afford to own.[4]

BACKGROUND

The Need for Starter Homes

The Open Doors Initiative proposes to increase the number of starter homes, such as condominiums. It envisions residential homeowners dividing their properties into condominiums in Berkeley. Homeowners are granted increased density, with administrative approval, and other fiscal incentives -- provided the homeowner meets certain affordability restrictions and sells to city employees, and first-time homebuyers of moderate income.

Previous generations leveraged the rising housing market to utilize the equity of "starter" homes to allow them to purchase larger homes. This process also gave young families experience of maintaining homes and building community. Today this fundamental act has become more difficult, as the supply of starter homes have drastically dwindled[5].

Bloomberg reports that starter home inventory has hit its lowest level since Trulia began keeping track in 2012[6]. The supply of starter homes is declining at 17% year-over-year, nearly twice as fast as all homes, and over 3 times faster than larger homes[7]. In July 2017, only 450,000 homes listed below $200,000 remained in the market, which was about 120,000 fewer than in July 2015 (See id.)

Berkeley is now presented with an historic opportunity to impact the housing crisis by increasing its availability of starter homes. Currently, "[o]ver a third, or 35 percent, of millennials say 'the down payment' is their biggest obstacle to buying a home.[8]"

With the Open Doors Initiative, houses that once cost upwards of $1,000,000 and require a 20% down payment of $200,000 (and often being sold for cash outright) will now be incentivized to

[2] https://www.zillow.com/berkeley-ca/home-values/
[3] https://www.zillow.com/home-values/
[4] https://www.gobankingrates.com/investing/real-estate/reasons-women-struggling-buy-home/
[5] https://optimise-design.com/bring-back-starter-home/
[6] https://www.bloomberg.com/news/articles/2018-03-21/u-s-starter-homes-are-pricier-smaller-older-and-scarcer
[7] https://www.realtor.com/research/housingshortage_starterhomes/
[8] https://www.cnbc.com/2018/09/14/the-2-main-reasons-young-people-cant-buy-homes.html

become individual starter homes with drastically reduced costs – four condominiums created from the above converted home would ideally each cost approximately $250,000 with a 20% down payment of only $50,000. Such a change would turn homeownership into an achievable goal for many people, including young families.

"Americans 65 to 74 are now the country's fastest-growing age group. According to a 2014 AARP survey, 88 percent of older Americans want to remain in place as they age."[9] Open Doors Initiative encourages seniors in Berkeley who own large homes to downsize, earn money and while saving their assets.

In summary, we believe that increasing starter homes, will increase accessibility to homeownership for under-represented communities, artists, younger people, first responders, and teachers. This will, in turn:

a. Reduce the wealth gap between older, predominately white homeowners and underrepresented communities;
b. Increase diversity of Berkeley neighborhoods;
c. Support Resiliency and Sustainability by reducing commute times for First Responders and City Employees;
d. Provide financial benefit to senior homeowners

<u>Accommodating City Workers Will Benefit Minority Groups, Who Are Disproportionately Unable to Purchase Homes.</u>

To accommodate workers like teachers and first responders in Berkeley, federal housing rules allow us to set aside workforce housing through a deed restriction. A workforce deed restriction, accompanied by a change in zoning, can ensure that new homes with deed restricted units are only made available to people who have a history of employment in Berkeley/Alameda County and/or meet certain income requirements. Not only would this deed restriction ensure that units are never sold or rented to anyone who earns income outside of the Berkeley/Alameda County, but also it would protect Berkeley's long-term local workers by stabilizing the housing supply for residents. Because Berkeley city workers are disproportionately minorities, accommodating city workers with deed restrictions will benefit Berkeley minorities.

To successfully increase accessibility for these different communities, we have to change the underlying zoning in order to allow developers to convert single-family homes into duplexes, fourplexes, and other forms of housing that could house multiple groups of people. Currently, these types of housing are not allowed to be built in the R1 and in a few R2 districts as a result of zoning issues. Thus, we need to address zoning conditions in order to increase accessibility to homeownership for our constituents.

<u>Wealth Gaps Have Resulted from Homeownership Inequalities</u>

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[9] https://www.huffingtonpost.com/entry/housing-crisis-inequality-harvard-report_us_5b27c1f1e4b056b2263c621e

The impact of rising housing costs has manifested itself in glaring wealth disparities between homeowners and renters. Roughly half (51.2%) of the total wealth accumulated by the typical American homeowner is derived from the value of their primary residence[10]. Owning a home can drastically improve one's net worth. "Since 2013, the average homeowner has seen their net worth rise from $201,600 to $231,400. Renters have watched theirs fall from $5,600 to $5,000."[11]
Due to the increase in housing costs and the resulting inaccessibility to homeownership for many people, fewer people are able to accrue wealth by purchasing a home. These wealth disparities are most prevalent in underrepresented communities. For instance, a significant wealth gap has appeared between white and non-white households. "Recent data from the Survey of Income and Program Participation (2014) shows that black households hold less than seven cents on the dollar compared to white households. [12]"

"The Institute for Policy Studies recent report The Road to Zero Wealth: How the Racial Divide is Hollowing Out the America's Middle Class (RZW) showed that between 1983 and 2013, the wealth of the median black household declined 75 percent (from $6,800 to $1,700), and the median Latino household declined 50 percent (from $4,000 to $2,000). At the same time, wealth for the median white household increased 14 percent from $102,000 to $116,800."[13]

This gap shows no sign of slowing, but rather is projected to increase in the coming years. "In fact, by 2020 […] black and Latino households are projected to lose even more wealth: 18 percent for the former, 12 percent for the latter. After those declines, the median white household will own 86 times more wealth than its black counterpart, and 68 times more wealth than its Latino one." (See id.)

Another wealth disparity that has grown more extreme is between the younger and older generation. "Older people have always had more net worth than younger people, of course, but never like this. Thirty years ago, families headed by someone over 62 had eight times the median wealth of families headed by someone under 40. By 2013, older families had 15 times the wealth of younger families."[14]

Because homeownership increases one's ability to expand one's net worth, it is the surest on-ramp to addressing these grotesque wealth disparities.

<u>Displacement as a Result of High Home Costs</u>

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[10] https://www.zillow.com/research/black-hispanic-home-wealth-16753/

[11] https://www.huffingtonpost.com/entry/housing-crisis-inequality-harvard-report_us_5b27c1f1e4b056b2263c621e

[12] https://insightcced.org/what-we-get-wrong-about-closing-the-racial-wealth-gap/

[13] https://www.forbes.com/sites/brianthompson1/2018/02/18/the-racial-wealth-gap-addressing-americas-most-pressing-epidemic/#25b6eb127a48

[14] https://www.huffingtonpost.com/entry/housing-crisis-inequality-harvard-report_us_5b27c1f1e4b056b2263c621e

Historically, Berkeley's redlining policies denied people of color access to its best neighborhoods. Today, though these policies have long been gone, the residual effect of those policies combined with the housing crisis has had the effect of reinforcing similar divides. "The difference between the large homes and winding roads of the predominantly white neighborhoods of the Hills and the Claremont neighborhood, and the modest, mixed-use character of racially diverse South and West Berkeley is indicative of the city's racial and class-based divisions."[15]

Housing costs in the United States have condemned many to a life of poverty, especially African Americans and Hispanics. "Though the number of Americans living in poverty has increased by 41 percent since 2000, the number of "high-poverty census tracts" has increased even faster. By now, 51 percent of blacks and 44 percent of Hispanics live in these areas of concentrated poverty, compared to just 17 percent of whites. According to numerous studies, children who grow up in areas of concentrated poverty are disadvantaged on nearly every measure, from school quality to violence to social mobility."[16]

The ever-increasing cost of housing has also forced teachers and first responders to live long distances from their workplaces. For example, San Francisco has seen a teacher shortage, because housing is so costly that the average teacher can only afford .7% of the homes on the market.[17] In addition, despite earning more than $100,000 in San Francisco and San Jose, first responders can afford just 2.4% and 6.6% of currently listed homes, respectively.[18] In the event of a fire or massive tragedy, we need first responders to be able to live in Berkeley.

A closer look at the makeup of first-time buyers reveals a disturbingly large gap between white and non-white purchasers. The breakdown is as follows: 79% were white, 9% Hispanic, 8% Asian Pacific Islander, 7% African American, and 3% other[19].

This racial divide is not just present in first-time buyers. Zillow reports that "[i]n 1900, the gap in the homeownership rate between black and white households was 27.6 percentage points. It's now 30.3 percentage points.[20]" Additionally, according to the same report, "the difference between white and Hispanic homeownership rates has more than tripled", from 7.9 percentage points in 1900 to 25.7 percentage points in 2016. (See id.) "It's the widest gap among whites, blacks, Hispanics and Asians." (See id.)

It is likely that the racial and gender wage gaps present in the United States have directly affected homeownership rates. When getting approved for a mortgage, a borrower's income is an

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[15] https://www.berkeleyside.com/2018/09/20/redlining-the-history-of-berkeleys-segregated-neighborhoods

[16] *https://www.huffingtonpost.com/entry/housing-crisis-inequality-harvard-report_us_5b27c1f1e4b056b2263c621e*

[17] https://www.sfgate.com/technology/businessinsider/article/SF-teachers-cant-afford-housing-in-SF-12797504.php

[18] https://www.trulia.com/research/affordable-housing-occupation-2018/

[19] The percentage exceeds 100% because participants could choose more than one ethnicity. https://www.nytimes.com/2017/04/21/realestate/first-time-home-buyers-statistics.html

[20] https://www.zillow.com/research/homeownership-gap-widens-19384/

important factor when lenders assess his or her reliability, which puts borrowers with less income at a severe disadvantage.

In 2016, Pew Research found that African American men earned 73% of what white men earned, and Hispanic men earned approximately 69%[21]. White women earn approximately 82% of white men, Asian women earn 87%, African American women earn 65%, and Hispanic women earned only 58%. (See id.)

The New York Times's study of first-time buyers reflects the effect of the gender wage gap; while the median home price for a single male was $157,000, the median price for a single female was $146,300[22].

Another group adversely affected by the rising housing costs is young people, who are increasingly unable to afford homes. "Though every age bracket contains significant inequalities, Americans over 65 are the only cohort with higher homeownership rates now than in 1987. Homeownership for every other age group has fallen significantly"[23]

Many young people continue to be hindered by their student loans, preventing them from purchasing a home. "Paying college loans is a big burden for homebuyers. It's harder to save for a down payment and can make qualifying for a mortgage more difficult. It can also delay a purchase as people pay down their debt." [24]

A recent study has also revealed that people in the LGBTQ+ community face unique challenges when buying a home. In April 2018, a survey by Freddie Mac among 2,313 LGBT community members (aged 22 to 72) living in the United States found that "49 percent of LGBT households are likely to own a home - considerably lower than the current national rate (64.3 percent)."[25] The study showed that when deciding where to live, LGBT renters cited price, safety and a LGBT-friendly location as the most important factors. (See id.)

Berkeley prides itself on accepting people from all walks of life. However, unless a conscious effort is made to increase accessibility of homeownership, underrepresented communities will continue to be denied access to the same benefits enjoyed by current, often very wealthy, homeowners. "Homeownership has become an indispensable part of being a full participant in American society," National Urban League President and CEO Marc H. Morial said. "An erosion of homeownership rates among African Americans represents not only a devastating financial loss but a barrier to full participation in the American dream."[26]

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[21] http://www.pewresearch.org/fact-tank/2016/07/01/racial-gender-wage-gaps-persist-in-u-s-despite-some-progress/

[22] https://www.nytimes.com/2017/04/21/realestate/first-time-home-buyers-statistics.html

[23] https://www.huffingtonpost.com/entry/housing-crisis-inequality-harvard-report_us_5b27c1f1e4b056b2263c621e

[24] http://www.nareb.com/black-hispanic-homeownership-rates-remain-stuck-below-whites/

[25] https://freddiemac.gcs-web.com/news-releases/news-release-details/new-research-finds-lgbt-homeownership-rates-lag-behind-general

[26] https://newsroom.wf.com/press-release/consumer-lending/wells-fargo-commits-increase-african-american-homeownership

Funding

In addition to private lenders and federal and state homeownership programs, potential funding sources include Measure A1 Homeowner Development Funds and Qualified Opportunity Zones.

In 2016, Alameda County passed Measure A1, which issued $580 million in bonds to acquire and improve real property to help poor and middle-class people buy homes.[27] The Open Doors Initiative proposes to use these A1 Homeowner Development Funds for low income first-time home buyers.

Additionally, the Initiative proposes to explore the use of Qualified Opportunity Zone funds to aid in financing construction costs. Qualified Opportunity Zone funds were established in the Tax Cuts and Jobs Act of 2017 with the purpose of improving Qualified Opportunity Zones.[28] Investors with capital gains can defer taxes on those gains if they invest within Qualified Opportunity Zones.[29]

These Qualified Opportunity Zone funds should be used towards the construction costs related to the creation of starter homes. This will ease the financial burden of seniors seeking to downsize their homes and promote the construction of new starter homes in Berkeley.

REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, LAWS

Currently Berkeley has a number of units zoned as R1 and R1A, Single Family Residential. The Open Doors Initiative will allow homeowners in an R1 and R1A zone to apply for administrative approval to convert their single family home into a multi-family unit, provided they meet affordability restrictions and agree to sell to moderate income persons and/or city workers including, first responders, firefighters, and other public employees.

The Open Doors Initiative will also require deed restrictions in units that are converted from R1 and R1A to multi-family condos to sell to city workers that meet income requirements, ensuring that the "Missing Middle" of income earners with the city of Berkeley have access to home ownership.

ACTIONS/ALTERNATIVES CONSIDERED

That the City Council adopt The Open Doors Initiative to assist the creation of affordable starter homes and empower city employees and first-time home buyers. The Open Doors Initiative will allow homeowners in R1 and R1A zones to apply to renovate their properties to become multi-family condominiums, while providing incentives for doing so. To qualify for zoning approval, families must agree to deed restrictions which prohibit them from selling the newly-created

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27 https://ballotpedia.org/Alameda_County,_California,_Affordable_Housing_Bond_Issue,_Measure_A1_(November_2016)

28 https://www.wellsfargo.com/the-private-bank/insights/planning/wpu-qualified-opportunity-zones/

29 https://www.wealthmanagement.com/high-net-worth/what-are-qualified-opportunity-zones

condominiums to anyone who is not an employee with the city of Berkeley or does not meet income requirements. These deed restrictions are meant to provide a path to home ownership for persons within the missing middle and workers with the city of Berkeley who could otherwise not afford to own a home in the city they serve.

RATIONALE FOR RECOMMENDATION

As noted above, the homeownership has become increasingly more difficult. By financially incentivizing R1 homeowners to convert to multi-family condominiums, the city of Berkeley will offer a path to older homeowners seeking to downsize to leverage their equity while providing Berkeley city workers with a supply of affordable condominiums. Over time, as the housing market rises, Berkeley city workers and moderate income persons who own these condominiums will be able to leverage the equity themselves when taking out loans, or sell the condominiums to other Berkeley city workers and moderate income persons.

IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT

To be determined.

FISCAL IMPACTS OF RECOMMENDATION

To be determined by an impact study.

ENVIRONMENTAL SUSTAINABILITY

Duplexing single family homes promotes environmentally sounded infill housing development. In addition, the Open Doors Initiative does not require the creation of additional parking spaces.

OUTCOMES AND EVALUATION

To be determined.

CONTACT PERSON

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Matthew Napoli	napoli.matthew@gmail.com

06

CITY COUNCILMEMBER
RIGEL ROBINSON
DISTRICT 7

ACTION CALENDAR
April 2, 2019

To: Honorable Mayor and Members of the City Council

From: Councilmember Rigel Robinson

Subject: Referral: Fee on New Non-Residential Development to Contribute to the Revolving Loan Fund

RECOMMENDATION

Refer to the City Manager to develop a new fee on non-residential development to contribute to the City of Berkeley's Revolving Loan Fund (RLF) for small business financing.

BACKGROUND

Small businesses play a critical part in Berkeley's identity, community, and economy. In the City's Economic Development Worksession on Small Business Support, the Office of Economic Development (OED) found that Berkeley is comprised of 5,000 small businesses.[1] These small businesses are diverse by sector, type, and ownership demographics and contribute to the substantial overall fiscal impact of businesses to the City of Berkeley. 25% of the City's general fund revenues are generated by business-related taxes.

The OED's Revolving Loan Fund (RLF) offers loans directly to businesses with interest rates and terms that are below market. Small businesses can take advantage of the RLF monies to fund fixed assets, equipment, working capital, and real estate.[2]

In order to encourage and support local small businesses, we must continue to provide low-interest loans by expanding and strengthening the RLF. Levying a new fee on non-residential development would provide support for small businesses and nonprofits impacted by these construction and development projects.

Cities such as Toronto and Seattle have acknowledged the direct impact of construction on nearby local businesses and as a result considered financial assistance.[3] [4] In the presence of construction, vehicle, bus, and foot traffic can plummet. This makes it difficult for a family-owned business to sustain itself during this time. While grants or tax

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[1] https://www.cityofberkeley.info/Clerk/City_Council/2018/01_Jan/Documents/2017-01-16_WS_Item_01_Economic_Development_Worksession.aspx
[2] https://www.cityofberkeley.info/Clerk/City_Council/2019/02_Feb/Documents/2019-02-05_WS_Item_02_Referral_Response_Small_Business_pdf.aspx
[3] https://www.toronto.ca/legdocs/2000/agendas/council/cc/cc000509/wks8rpt/cl002.pdf
[4] https://nextcity.org/daily/entry/seattle-complete-streets-project-small-business-impact

reliefs for affected businesses are prohibited, expanding the RLF would be a measure in support of small businesses.

New commercial developments with established retailers can also contribute to gentrification, pushing out potential local businesses. In addition, some retailers also mentioned the competition posed by bigger stores or chains with greater economies of scale.[5] The RLF supports small businesses to navigate these challenges.

Construction costs in Berkeley continue to rise by the day. In drafting their recommendation, staff should consider the impact of the potential fee on project viability, especially as it relates to mixed use developments which include both residential and non-residential uses.

FINANCIAL IMPLICATIONS
Potential revenue increases to the RLF from higher fees on non-residential development.

ENVIRONMENTAL SUSTAINABILITY
None.

CONTACT PERSON
Councilmember Rigel Robinson, (510) 981-7170
David Lin, Intern

Attachments:
1: City Council Report - Economic Development Worksession: Small Business Report (https://www.cityofberkeley.info/Clerk/City_Council/2018/01_Jan/Documents/2017-01-16_WS_Item_01_Economic_Development_Worksession.aspx)
2: City Council Report - Referral Response: Small Business Support (https://www.cityofberkeley.info/Clerk/City_Council/2019/02_Feb/Documents/2019-02-05_WS_Item_02_Referral_Response_Small_Business_pdf.aspx)
3: City of Toronto - Construction Effects on Small Businesses (https://www.toronto.ca/legdocs/2000/agendas/council/cc/cc000509/wks8rpt/cl002.pdf)

[5] https://www.cityofberkeley.info/Clerk/City_Council/2018/01_Jan/Documents/2017-01-16_WS_Item_01_Economic_Development_Worksession.aspx

Susan Wengraf
Councilmember District 6

CONSENT CALENDAR
April 23, 2019

To: Honorable Mayor and Members of the City Council

From: Councilmembers Wengraf, Harrison, Hahn, and Mayor Arreguin

Subject: Referral to City Manager to Return to Council with an Amnesty Program for Legalizing Unpermitted Dwelling Units

RECOMMENDATION

That the City of Berkeley create and launch an Amnesty Program to incentivize the legalization of unpermitted dwelling units in order to improve the health/safety and preserve and possibly increase the supply of units available. A set of simple and clearly defined standards and a well-defined path for meeting those standards should be established in order to achieve the greatest success.

FINANCIAL IMPLICATIONS

Staff time in Planning, Building and Safety, and Legal Departments

BACKGROUND

Berkeley currently has an inventory of thousands of unpermitted dwelling units that are either being rented illegally or are being kept off the market. Building inspectors are required, under current regulations, to tell owners that these illegally constructed units must be demolished when it is discovered that they were built without permits.

While legal construction should always be the goal, many of the existing unpermitted structures in Berkeley are being put to beneficial use and have existed in the community for years. As long as safety and habitability can be ensured, the continued use of these units is in the public interest, especially given the crisis of available housing and very high housing costs.

Realizing that the state-wide housing crisis has created extraordinary circumstances, and that it is critical to preserve the current housing stock, many California cities have already enacted amnesty programs to address this issue. For example, San Francisco, City of Alameda, Daly City, County of San Mateo, County of Santa Cruz, Los Angeles, West Hollywood all have programs in place that incentivize the legalization of illegally constructed units.

ENVIRONMENTAL SUSTAINABILITY

Preserving dwelling units, rather than demolishing them is consistent with our Climate Action Goals

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E-Mail: swengraf@cityofberkeley.info

<u>CONTACT PERSON</u>

Councilmember Wengraf	Council District 6	510-981-7160

08

Office of the Mayor

CONSENT CALENDAR
April 30, 2019

To: Honorable Mayor and Members of the City Council

From: Mayor Jesse Arreguín

Subject: Prioritizing Affordable Housing for Homeless

RECOMMENDATION

Refer to the Housing Advisory Commission to develop an ordinance to set aside 20% of affordable housing units for individuals experiencing homelessness, with preference given to BUSD students.

BACKGROUND

An estimated 1,000 individuals experience homelessness in Berkeley in any given day, not including people who couch surf or live in vehicles. Over the course of a year, it is estimated up to 2,000 people will experience homelessness in Berkeley. The homeless population has been growing by approximately 10% every two years. In a meeting of the 2x2 Committee (Council + School Board) in October 2017, it was reported that 291 students experience some form of homelessness, ranging from temporary housing with other families (231 students) to completely unsheltered (8).

In April 2017, the City Council voted to have staff develop the 1,000 Person Plan to create a plan to house 1,000 homeless residents by 2028. In the referral response to the 1,000 Person Plan, staff conclude that “the single largest “missing piece” in Berkeley’s efforts to end homelessness is permanently subsidized, affordable housing.” One of the four strategic goals proposed in the response is the need to accelerate the creation of affordable housing, with a focus on alleviating homelessness.

All homeless services providers in Alameda County must adhere to the Housing First policy. Major programs in Berkeley, such as the Hub and STAIR Center, prioritize Housing First by working to achieve permanent housing for the highest-needs clients. While following a Housing First model is essential in the task of ending homelessness, it is meaningless if there is no means of providing the housing. The high cost of housing, even with an extreme level of subsidies, means being able to maintain rent payments is unattainable for many. The average rent of a 2 bedroom unit in Berkeley is three times as much as in Salt Lake City, which is often cited as an ideal example for Housing First policies. The reality is as long as there is a lack of affordable housing in Berkeley and the Bay Area, the challenges of homelessness will continue.

2180 Milvia Street, Berkeley, CA 94704 ● Tel: (510) 981-7100 ● TDD: (510) 981-6903 ● Fax: (510) 981-7199
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RATIONALE FOR RECOMMENDATION

Prioritizing housing for the homeless is an important step in addressing the homeless crisis. Reducing and ultimately eliminating homelessness of BUSD students is crucial in creating an environment that is conductive for learning.

FINANCIAL IMPLICATIONS

Staff Time

ENVIRONMENTAL SUSTAINABILITY

Not applicable.

CONTACT PERSON

Mayor Jesse Arreguín 510-981-7100