



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

**Monday, March 1, 2021  
1:30 PM**

Committee Members:

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

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

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

To access the meeting remotely using the internet: Join from a PC, Mac, iPad, iPhone, or Android device: Use URL <https://us02web.zoom.us/j/87963480871>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon on the screen.

To join by phone: Dial **1-669-900-9128 or 1-877-853-5257 (Toll Free)** and Enter Meeting ID: **879 6348 0871**. If you wish to comment during the public comment portion of the agenda, press \*9 and wait to be recognized by the Chair.

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

# AGENDA

## Roll Call

## Minutes for Approval

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

### 1. Minutes - February 18, 2021

## 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. **Quadplex Zoning** *(Item contains revised material.)*  
**From: Councilmember Droste (Author), Councilmember Taplin (Author), Councilmember Kesarwani (Author), Mayor Arreguin (Co-Sponsor)**  
**Referred: February 8, 2021**  
**Due: June 29, 2021**  
**Recommendation:**
1. Refer to the City Manager and Planning Commission revisions to the zoning code and General Plan, to require proposed housing developments containing up to 4 residential units to be considered ministerially, if the proposed housing development meets certain requirements but not limited to:
    - that the proposed housing development would not require demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income,
    - that the development is not located within a historic district, is not included in the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.
    - that the development is not located within particularly vulnerable high fire wildfire danger areas, as specified by Cal Fire.
- Additional considerations:
- Consider a local affordable housing density bonus for deeper affordability in certain jobs-rich or transit-oriented areas if a certain percentage of the units are affordable to 80% of area median income.
  - Conduct a displacement risk analysis and consider possible ways that zoning changes can be crafted to prevent and mitigate negative externalities which could affect tenants and low and moderate-income homeowners.
  - Allow for the possibility of existing homes/footprints/zoning envelopes to be divided into up to four units, potentially scaling the floor area ratio (FAR) to increase as the number of units increase onsite, creating homes that are more affordable, saving and lightly modifying an older structure as part of internally dividing it into more than one unit.
- Council directs that staff initiate this work immediately and the Planning Commission incorporate zoning reform into its 2021 and 2022 work plan to institute these changes in anticipation of the Housing Element update. Staff and the commission should examine how other cities have prepared for and implemented missing middle housing in Minneapolis, Portland, and Sacramento and conduct extensive community outreach during the course of this update.
- Financial Implications:** See report  
Contact: Lori Droste, Councilmember, District 8, (510) 981-7180

## Items for Future Agendas

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

## Adjournment

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*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. Members of the City Council who are not members of the standing committee may attend a standing committee meeting even if it results in a quorum being present, provided that the non-members only act as observers and do not participate in the meeting. If only one member of the Council who is not a member of the committee is present for the meeting, the member may participate in the meeting because less than a quorum of the full Council is present. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900.*



### COMMUNICATION ACCESS INFORMATION:

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at (510) 981-6418 (V) or (510) 981-6347 (TDD) at least three business days before the meeting date.

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I hereby certify that the agenda for this meeting of the Standing Committee 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 February 25, 2021.

A handwritten signature in black ink that reads "Mark Numainville".

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, and are available upon request by contacting the City Clerk Department at (510) 981-6908 or [policycommittee@cityofberkeley.info](mailto:policycommittee@cityofberkeley.info).*

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

**Thursday, February 18, 2021  
10:30 AM**

Committee Members:

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

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

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

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

**Roll Call:** 10:33 am. Councilmembers Droste, Hahn, and Robinson present.

**Public Comment on Non-Agenda Matters:** 25 speakers.

### **Minutes for Approval**

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

1. **Minutes - February 4, 2021**  
**Action:** M/S/C (Droste/Hahn) to approve the February 4, 2021 minutes.  
**Vote:** All Ayes.

## Committee Action Items

*The public may comment on each item listed on the agenda for action as the item is taken up. The Chair will determine the number of persons interested in speaking on each item. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Chair may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. Following review and discussion of the items listed below, the Committee may continue an item to a future committee meeting, or refer the item to the City Council.*

### 2. Quadplex Zoning

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

**Referred: February 8, 2021**

**Due: June 29, 2021**

**Recommendation:**

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

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

Additional considerations:

-Consider a local affordable housing density bonus for deeper affordability in certain jobs-rich or transit-oriented areas if a certain percentage of the units are affordable to 80% of area median income.

-Conduct a displacement risk analysis and consider possible ways that zoning changes can be crafted to prevent and mitigate negative externalities which could affect tenants and low and moderate-income homeowners.

-Allow for the possibility of existing homes/footprints/zoning envelopes to be divided into up to four units, potentially scaling the floor area ratio (FAR) to increase as the number of units increase onsite, creating homes that are more affordable, saving and lightly modifying an older structure as part of internally dividing it into more than one unit.

Council directs that staff initiate this work immediately and the Planning Commission incorporate zoning reform into its 2021 and 2022 work plan to institute these changes in anticipation of the Housing Element update. Staff and the commission should examine how other cities have prepared for and implemented missing middle housing in Minneapolis, Portland, and Sacramento and conduct extensive community outreach during the course of this update.

**Financial Implications:** See report

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

**Action:** 65 speakers. Discussion held. Item continued to a future meeting of the policy committee.

## Committee Action Items

### 3. Tenant Opportunity to Purchase Act, Adding BMC Chapter 13.89

**From: Mayor Arreguin (Author)**

**Referred: February 24, 2020**

**Due: April 20, 2021**

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

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

1. Developing Administrative Regulations;

2. Preparing an implementation strategy;

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

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

5. Timelines for project “roll-out”;

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

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

**Financial Implications:** See report

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

**Action:** No discussion held. Item continued to the next meeting of the policy committee.

## Committee Action Items

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

**From: Councilmember Taplin (Author), Mayor Arreguin (Co-Sponsor), Councilmember Hahn (Co-Sponsor)**

**Referred: February 8, 2021**

**Due: June 29, 2021**

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

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

**Financial Implications:** See report

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

**Action:** No discussion held. Item continued to the next meeting of the policy committee.



## Unscheduled Items

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

### 5. Amendments to Berkeley Municipal Code 23C.22: Short Term Rentals

**From: Councilmember Harrison (Author)**

**Referred: July 28, 2020**

**Due: September 30, 2021**

**Recommendation:** Amend Berkeley Municipal Code 23C.22: Short Term Rentals to clarify the ordinance and insure adequate host responsibilities, tenant protections and remedies for violating the ordinance.

**Financial Implications:** See report

Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

## Items for Future Agendas

- Discussion of items to be added to future agendas

## Adjournment

Meeting adjourned at 1:08 pm due to lack of quorum.

I hereby certify that this is a true and correct record of the Land Use, Housing, & Economic Development Committee meeting held on February 18, 2021.

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Sarah K. Bunting, Assistant City Clerk

## Communications

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Lori Droste  
Vice Mayor, District 8

## SUPPLEMENTAL AGENDA MATERIAL

For the Land Use and Economic Development Policy Committee

Meeting Date: February 18, 2021

Item Number: 2

Submitted by: Vice Mayor Lori Droste

The recommendation has been amended to:

1. Clarify which Berkeley high wildfire zones (ES-R) will be exempt because CalFire zones do not align with Berkeley fire zones.
2. Make explicit tenant protections that currently exist under state and local regulations will still apply and added language to provide further tenant protections under this measure.
3. Provided additional language to address potential alternatives or incentives to capture more affordability.

Non-substantive or background edits:

4. Change the title to “Inclusive Neighborhood Scale Zoning”
5. Minor background edits as it relates to:
  - a. RHNA allocations
  - b. Neighborhood Preservation Ordinance
  - c. Research on housing prices
  - d. Recent discourse on exclusionary zoning
  - e. American Community Survey data showing building age and median income.
  - f. Links to articles on zoning history



Lori Droste  
Vice Mayor, District 8

**ACTION CALENDAR**  
March XX, 2021

**To:** Honorable Mayor and Members of the City Council

**From:** Vice Mayor Lori Droste, Councilmember Terry Taplin, Councilmember Rashi Kesarwani **and Mayor Jesse Arreguín**

**Subject:** Inclusive Neighborhood Scale Zoning

**RECOMMENDATION**  
**RECOMMENDATION**

Refer to the City Manager and Planning Commission to develop and recommend revisions to the zoning code and General Plan, to permit developments of up to 4 residential units in all residential zoning districts, except in the ES-R District, and subject to the requirements below.

Proposed housing developments containing up to four residential units may be approved ministerially, if the proposed housing development meets certain requirements/limitations including but not limited to:

- that the proposed housing development would not require demolition or elimination of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income, (i.e. subsidized affordable units, inclusionary housing or units under Section 8 contract) or units subject to Berkeley's Rent Stabilization and Eviction for Good Cause Ordinance.

- that the development is not located within a historic district, is not included in the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.
- ~~that the development is not located within particularly vulnerable high fire wildfire danger areas, as specified by Cal Fire.~~
- expanded and permanent tenant protections pursuant to Government Code 66300<sup>1</sup>, including but not limited to increased relocation payments and conferring right-to-return and relocation benefits to tenants not covered by Berkeley's Rent Stabilization Ordinance.
- projects involving the demolition of an existing tenant-occupied single family home or multi-unit property to create a four-unit project shall be subject to the city's Demolition Ordinance, BMC Chapter 23C.08.

Additional anti-displacement, affordability, and design considerations:

- Consider a local affordable housing density bonus for deeper affordability in certain jobs-rich or transit-oriented areas if a certain percentage or number of the units are affordable to 80% or less of area median income<sup>2</sup> or further zoning incentives in exchange for capturing additional affordability in the form of fees or units, including waiving or increasing certain lot development standards.
- Prohibit ministerial approval of a 4-unit project if the building was removed from the rental market under the Ellis Act during the preceding five (5) years or there have been verified cases of harassment or threatened or actual illegal eviction during the immediately preceding three years.
- Require notice be provided to tenants of an application for demolition, elimination or consolidation of units to create a 4-unit project (notice is not required if the project is ministerially approved).
- Conduct a displacement risk analysis and consider possible ways that zoning changes can be crafted to prevent and mitigate negative externalities which could affect tenants and low and moderate-income homeowners.

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<sup>1</sup>[https://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=GOV&division=1.&title=7.&part=&chapter=12.&article=](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=1.&title=7.&part=&chapter=12.&article=)

<sup>2</sup> Jobs-rich and transit-oriented definitions should be defined by the Planning Commission in consultation with staff.

- Allow for the possibility of existing homes/footprints/zoning envelopes to be divided into up to four units, potentially scaling the floor area ratio (FAR) to increase as the number of units increase onsite, creating homes that are more affordable, saving and lightly modifying an older structure as part of internally dividing it into more than one unit.<sup>3</sup>
- Consider permitting a variety of building types (attached, detached, etc.) to maximize potential opportunities for homeownership.

Council directs that staff initiate this work immediately and the Planning Commission incorporate zoning reform into its 2021 and 2022 work plan to institute these changes in anticipation of the Housing Element update. Staff and the commission should examine how other cities have prepared for and implemented missing middle housing in Minneapolis, Portland, and Sacramento and conduct extensive community outreach during the course of this update. In addition, Planning staff is encouraged to seek regional and state funding to support this work.

### **CURRENT PROBLEM AND ITS EFFECTS**

The nine-county Bay Area region is facing an extreme shortage of homes that are affordable for working families. The Metropolitan Transportation Commission illustrates the job-housing imbalance in a report showing that only one home is added for every 3.5 jobs created in the Bay Area region.<sup>4</sup> Governor Gavin Newsom has called for a “Marshall Plan for affordable housing” and has pledged to create millions of more homes in California to tackle the state’s affordability and homelessness crisis.

In Berkeley, the median sale price of a home is \$1.4 million (as of December 2020)—an increase of 56% over the median sale price in December 2015 of \$895,000.<sup>5</sup> These escalating costs coincided with an increase of 14% in Berkeley’s homeless population from 2017 to 2019, and a 34% increase from 2015 to 2019 point-in-time counts.<sup>6</sup> These skyrocketing housing costs put extreme pressure on low-, moderate- and middle-income households, as they are forced to spend an increasing percentage share of their income on housing (leaving less for other necessities like food and medicine), live in overcrowded conditions, or endure super-commutes of 90 minutes or more in order to make ends meet.

#### *Low-Income Households Cannot Afford to Live in Berkeley*

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<sup>3</sup> City of Portland, <https://www.portlandoregon.gov/bps/article/711691>

<sup>4</sup> Metropolitan Transportation Commission, 2018. <http://www.vitalsigns.mtc.ca.gov/>

<sup>5</sup> Berkeley Home Prices and Values, <https://www.zillow.com/berkeley-ca/home-values/>

<sup>6</sup> [https://everyonehome.org/wp-content/uploads/2019/09/2019HIRDReport\\_Berkeley\\_2019-Final.pdf](https://everyonehome.org/wp-content/uploads/2019/09/2019HIRDReport_Berkeley_2019-Final.pdf)

Recently, low-income households experienced the greatest increases in rent as a portion of their monthly income. The U.S. Department of Housing and Urban Development (HUD) defines "affordable" as housing that costs no more than 30 percent of a household's monthly income. Households are considered to be "rent burdened" when more than a third of their income goes toward housing costs. In Alameda County, "Although rent burden increased across all income groups, it rose most substantially for low- and very low-income households. In both 2000 and 2015, extremely low-income renters were by far the most likely to experience severe rent burden, with nearly three quarters spending more than half their income on rent."<sup>7</sup>

Although residents of Berkeley passed Measure O which will substantially increase funding for affordable housing, low-income units are increasingly expensive to create. Low-income housing units typically cost well over \$500,000 to create and the demand for this type of affordable/subsidized housing exceeds the supply.<sup>8</sup> Without a substantial additional increase in funding for affordable housing, the City will be increasingly challenged to create enough subsidized housing to meet the demand. For example, roughly 700 seniors applied for the 42 affordable/subsidized units at Harpers Crossings in Berkeley. This project cost \$18 million to build.<sup>9</sup> While Berkeley should continue to support subsidized housing, subsidized housing alone is insufficient to address the growing housing and homelessness crisis.

#### *Middle-Income Households Can't Afford to Live in Berkeley*

In the Bay Area, those earning middle incomes are facing similar challenges in finding affordable homes. The Pew Research Center classifies middle income households as those with "adults whose annual household income is two-thirds to double the national median." In 2018, middle income households were those earning approximately \$48,500 to \$145,500 for a household of three.<sup>10</sup> According to the Pew Research Center, "The San Francisco-Oakland-Hayward metropolitan area in California is one of the most expensive areas, with a price level that was 31.6% higher than the national average. Thus, to step over the national middle-class threshold of \$48,500... a household in the San Francisco area needs a reported income of about \$63,800, or 31.6% more than the U.S. norm, to join the middle class."<sup>11</sup>

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<sup>7</sup> Zuk, M., & Chapple, K. (2015). Urban Displacement Project.

[http://www.urbandisplacement.org/sites/default/files/images/alameda\\_final.pdf](http://www.urbandisplacement.org/sites/default/files/images/alameda_final.pdf)

<sup>8</sup> "The Cost of Building Housing" *The Turner Center* <https://turnercenter.berkeley.edu/construction-costs-series>

<sup>9</sup> Flood, Lucy. (1/18/2018). "Berkeley low-income seniors get a fresh start at Harper Crossing."

<https://www.berkeleyside.com/2018/01/18/berkeley-low-income-seniors-get-fresh-start-harper-crossing>

<sup>10</sup> <https://www.pewresearch.org/fact-tank/2020/07/23/are-you-in-the-american-middle-class/>

<sup>11</sup> <https://www.pewresearch.org/fact-tank/2020/07/23/are-you-in-the-american-middle-class/>

In the Bay Area, a family currently has to earn \$200,000 annually to afford the principal, interest, taxes and insurance payments on a median-priced home in the Bay Area (assuming they can pay 20 percent of the median home price of \$1.4 million up front).<sup>12</sup> This means that many City of Berkeley employees couldn't afford to live where they work: a fire captain (making \$144,000) with a stay at home spouse wouldn't be able to afford a home. Even a firefighter (earning \$112,000 annually) and a groundskeeper (making \$64,000), or two librarians (making \$89,000 each) couldn't buy a house.<sup>13</sup>

Berkeley Unified School District employees have recently been advocating for teacher housing. Unfortunately, the housing options for teachers are insufficient for the overwhelming need. According to a recent Berkeley Unified School District (BUSD) survey, 69% of teachers or staff who rent believe that high housing costs will impact their ability to retain their BUSD positions.<sup>14</sup> Since individual K-12 teacher salaries average ~\$75,962,<sup>15</sup> the majority of teachers are not classified as low-income (<\$62,750), according to Housing and Urban Development guidelines. As a result, many cannot qualify for affordable housing units. Since middle-income individuals and families can't qualify for affordable housing units and very few subsidies are available to help, the vast majority have to rely on non-governmental subsidized methods and the private market to live in the Bay Area.

### *Families Are Struggling to Live in Berkeley*

Many families are fleeing the Bay Area due to the high cost of living. According to a study by the Turner Center for Housing Innovation, the income and racial patterns of out-migration and in-migration indicate that "the region risks backsliding on inclusion and diversity and displacing its economically vulnerable and minority residents to areas of more limited opportunity."<sup>16</sup> Rent for a two-bedroom apartment in Berkeley costs approximately \$2,070/month<sup>17</sup> while the median child care cost in Alameda County is \$1,824 a month, an increase of 36% in the past four years.<sup>18</sup> Consequently, many families are paying well over \$60,000 for living and childcare expenses alone.

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<sup>12</sup> "The salary you must earn to buy a home in the 50 largest metros" (10/14/2018). HSH.com <https://www.hsh.com/finance/mortgage/salary-home-buying-25-cities.html#>

<sup>13</sup> City of Berkeley Human Resources, "Job Descriptions" <http://agency.governmentjobs.com/berkeley/default.cfm?action=agencyspecs&agencyID=1568>

<sup>14</sup> Berkeley Unified School District, "Recommendation for District-Owned Rental Housing for Employees", <https://documentcloud.adobe.com/link/track?uri=urn%3Aaaid%3Aascds%3AUS%3Adfd74865-9541-4ff8-b6a6-4dcbd30acdc3>

<sup>15</sup> Education Data Partnership, "Teacher Salaries" <http://www.ed-data.org/district/Alameda/Berkeley-Unified>

<sup>16</sup> Romem, Issa and Elizabeth Kneebone, 2018. "Disparity in Departure: Who Leaves the Bay Area and Where Do They Go?" <https://turnercenter.berkeley.edu/disparity-in-departure>

<sup>17</sup> Berkeley Rentals, <https://www.zumper.com/blog/san-francisco-bay-area-metro-report/>

<sup>18</sup> D'Souza, Karen, 2/3/19. "You think Bay Area housing is expensive? Child care costs are rising, too." <https://www.mercurynews.com/2019/02/03/you-think-bay-area-housing-is-expensive-childcare-costs-are-rising-too/amp/>



### *Homelessness is on the Rise in the Bay Area*

High housing costs also lead to California having among the highest rates of poverty in the nation at 19%.<sup>19</sup> Consequently, homelessness is on the rise throughout California. The Bay Area has one of the largest and least-sheltered homeless populations in North America.<sup>20</sup> The proliferation of homeless encampments—from select urban neighborhoods to locations across the region—is the most visible manifestation of the Bay Area’s extreme housing affordability crisis. According to the 2019 point-in-time count, Berkeley had approximately 1,108 individuals experiencing homelessness on any given night.<sup>21</sup> In order to act in accordance with best practices research on alleviating homelessness and help homeless individuals get housed, the City needs to create more homes.<sup>22</sup> Tighter housing markets are associated with higher rates of homelessness, indicating that the creation of additional housing for all income levels is key to mitigating the crisis.<sup>23</sup> In the 1,000 Person Plan to Address Homelessness, Berkeley’s Health, Housing and Community Services staff also recommend that Council prioritizes “implementing changes to Berkeley’s Land Use, Zoning, Development Review Requirements for new housing with an eye toward alleviating homelessness.”

### **BACKGROUND**

In 2019, Councilmembers Lori Droste, Ben Bartlett, Rashi Kesarwani and Rigel Robinson introduced Missing Middle Housing legislation in order to facilitate the construction of naturally affordable missing middle housing. Missing middle housing refers to small multi-unit buildings that are compatible in scale with single-family neighborhoods. The final legislation passed by Council was an agreement to **study** how the City of Berkeley can incorporate varying building types throughout Berkeley and address exclusionary zoning practices. While the entire City Council voted unanimously to study this, the COVID-19 pandemic led to budget cuts which would have funded such a study. In July of 2020, Berkeley City Council additionally supported Senate Bill 902,

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<sup>19</sup> The U.S. Census The Supplemental Poverty Measure adjusts thresholds based on cost of living indexes.

<sup>20</sup> SPUR: Ideas and Action for a Better City. “Homelessness in the Bay Area: Solving the problem of homelessness is arguably our region’s greatest challenge.” Molly Turner, Urbanist Article, October 23, 2017 <https://www.spur.org/publications/urbanist-article/2017-10-23/homelessness-bay-area>

<sup>21</sup> Berkeley Homeless Point-in-Time Count and Survey Data, 2019. [https://everyonehome.org/wp-content/uploads/2019/09/2019HIRDReport\\_Berkeley\\_2019-Final.pdf](https://everyonehome.org/wp-content/uploads/2019/09/2019HIRDReport_Berkeley_2019-Final.pdf)

<sup>22</sup> United States Interagency Council on Homelessness “The Evidence behind Approaches that Drive an End to Homelessness” December 2017, [https://www.usich.gov/resources/uploads/asset\\_library/evidence-behind-approaches-that-end-homelessness.pdf](https://www.usich.gov/resources/uploads/asset_library/evidence-behind-approaches-that-end-homelessness.pdf)

<sup>23</sup> *Homeless in America, Homeless in California*. John M. Quigley, Steven Raphael, and Eugene Smolensky. The Review of Economics and Statistics, February 2001, 83(1): 37–51 © 2001 by the President and Fellows of Harvard College and the Massachusetts Institute of Technology. [https://urbanpolicy.berkeley.edu/pdf/qrs\\_restat01pb.pdf](https://urbanpolicy.berkeley.edu/pdf/qrs_restat01pb.pdf)

which would have allowed missing middle housing in transit-oriented or jobs-rich areas.<sup>24</sup>

### *Regional Housing Needs Goals*

In January of 2021, the Association of Bay Area Governments passed new Regional Housing Needs Allocations for the Bay Area. As a result, Berkeley will have to plan for approximately 8,900 homes. This is a significant increase over the previous years. As a result, Berkeley **must** zone for significantly more housing. One way Berkeley can address this proposed increase is to allow quadplexes throughout Berkeley and undo the legacy of exclusionary zoning. **While zoning for four units will not meet the city's assigned Regional Housing Needs Allocations, it is important for the entire city to contribute to the final zoned capacity of approximately 9,000 units and not concentrate these zoning changes in certain parts of the city.**<sup>25</sup>

### **Quadplexes**

*What are quadplexes?*

Quadplexes are:

1. A type of missing middle housing that has up to four units within a structure that is often similar in size, scale, and design to a large single-family home.
2. Housing types that are naturally affordable and less expensive than most housing options available within Berkeley.

The current housing market has led to “barbell” housing delivery. That is, new units tend to be highly-priced (market rate or luxury) or highly subsidized (affordable).

Consequently, the majority of the population can't access quadplexes and other missing middle units because the dearth of funding, scarcity of land, and high construction costs impose challenges on viability. One study found that individuals trying to create missing middle housing cannot compete financially with larger projects in areas zoned for higher density, noting “many smaller developers have difficulty obtaining the necessary resources, including the competitive funding, required to offset the high initial per-unit development costs, and larger developers with deeper pockets and more experience navigating complex regulatory systems will almost always opt to build projects that are large enough to achieve the bulk per-unit development rate.”<sup>26</sup>

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<sup>24</sup>[https://www.cityofberkeley.info/Clerk/City\\_Council/2020/07\\_Jul/Documents/07-28\\_Annotated\\_Agenda\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/07-28_Annotated_Agenda_pdf.aspx)

<sup>25</sup> Association of Bay Area Governments, “Draft 2023-2031 RHNA Methodology”, January 2021. <https://mtc.legistar.com/View.ashx?M=F&ID=9072762&GUID=41EF088E-3326-4D6E-9984-04A4F053AC78>

<sup>26</sup> The Montgomery Planning Dept., “The Missing Middle Housing Study,” September 2018. [http://montgomeryplanning.org/wp-content/uploads/2018/09/MissingMiddleHousingStudy\\_9-2018.pdf](http://montgomeryplanning.org/wp-content/uploads/2018/09/MissingMiddleHousingStudy_9-2018.pdf)

Additionally, missing middle housing is not permitted in areas zoned R1 (single family family and one accessory dwelling unit only), R1A (limited two family), and R2 (restricted two family). Other factors that may prevent the creation of missing middle housing include lot coverage ratios and setback and parking requirements.<sup>27</sup>

According to the U.S. Census American Community Survey, newly built missing middle housing like duplexes and quadplexes more often houses middle and lower income families in Berkeley, while single-family homes, no matter what year built, are exclusively higher income.

Median household income, Berkeley & Albany, by building age & type					
	Pre-1950	1950-1969	1970-1989	1990-2004	2005-
Single-family detached	148,590	139,295	107,081	131,004	148,835
Single-family attached	84,903	126,930	96,233	167,025	134,460
2-4 units	79,012	63,973	53,335	45,403	48,691
5-19 units	46,037	41,104	39,811	42,243	27,950
20+ units	25,628	42,319	41,387	23,585	40,518

Source: American Community Survey, 2014-18, Public Use Microdata Set, US Census.

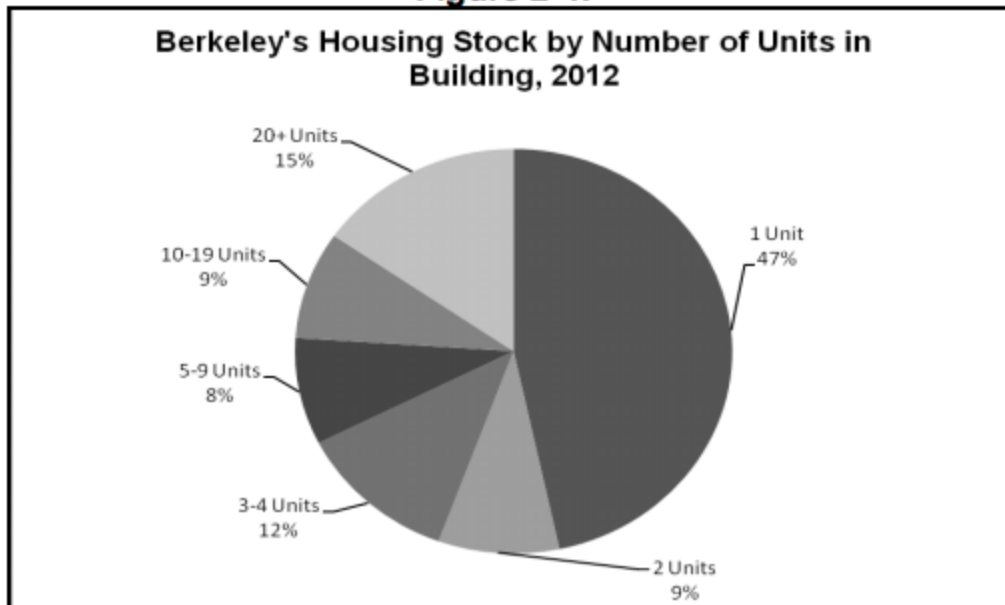
Quadplexes generally have small- to medium-sized footprints and are often two stories or less, allowing them to blend into the existing neighborhood while still encouraging greater socioeconomic diversity. One home within a quadplex is undeniably less expensive than comparable single family homes, leading to greater accessibility to those earning median, middle, or lower incomes. The median price of a single family home in Berkeley is \$1.4 million, which is out of reach for the majority of working people.<sup>28</sup> While some may erroneously argue that the *only* way to address the needs of low- or moderate- income families is to provide subsidized housing, ample research indicates this is not the case because the distribution of land costs can be spread across multiple units and construction costs are lower. Approximately half of Berkeley’s housing stock consists of single family units<sup>29</sup> and more than half of Berkeley’s residential land is zoned in ways that preclude most quadplexes. As a result, today, mainly wealthy households can afford homes in Berkeley.

<sup>27</sup> Ibid.

<sup>28</sup> Berkeley Home Prices and Values, <https://www.zillow.com/berkeley-ca/home-values/>

<sup>29</sup> City of Berkeley 2015 -2023 Housing Element.

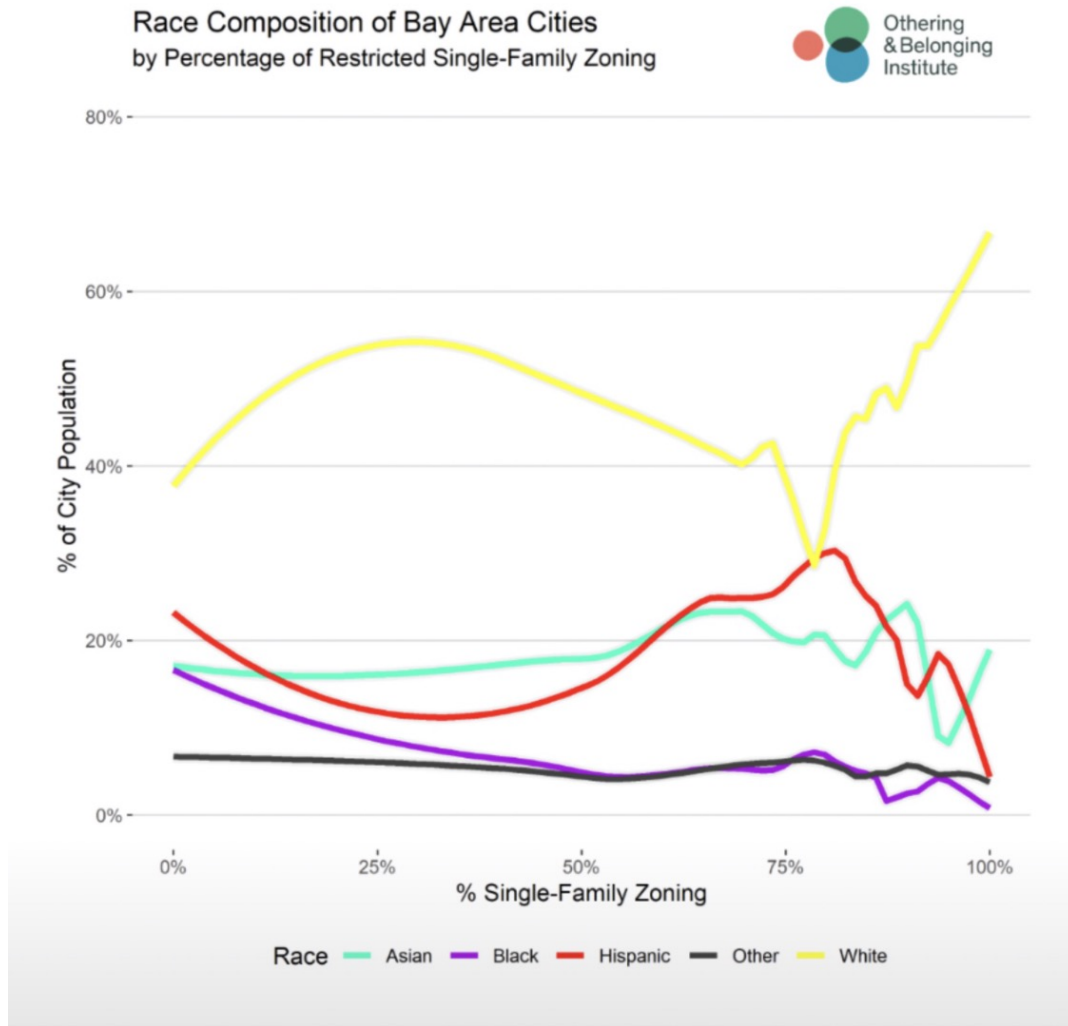
[https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Commissions/Commission\\_for\\_Planning/2015-2023%20Berkeley%20Housing%20Element\\_FINAL.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2015-2023%20Berkeley%20Housing%20Element_FINAL.pdf)

**Figure 2-4:**

Source: US Census, ACS 2008-2012 5-Year Estimate., Table B25024

These types of homes exist in every district of Berkeley, having been built before they were banned in districts only allowing single family homes. Quadplexes were severely limited in other districts by zoning changes initiated in 1973 with the Neighborhood Preservation Ordinance. Regardless of the original intent of the Neighborhood Preservation Ordinance, the effect of this citizen-led measure was to downzone large swaths of Berkeley. Downzoning meant that fewer housing units were allowed to be built in Berkeley over the past 47 years. Many scholars have studied the effect of land use policies and have concluded that downzoning leads to higher housing costs and economic and racial segregation.<sup>30</sup>

<sup>30</sup> Lens, Michael and Paavo Monkonnen. (2015). "Do Strict Land Use Regulations Make Metropolitan Areas More Segregated by Income?" <https://www.tandfonline.com/doi/full/10.1080/01944363.2015.1111163#abstract>



***History of Exclusionary Zoning, Racial and Economic Segregation, and Current Zoning***

Single family residential zoning was born in Berkeley in the Elmwood neighborhood in 1916. This zoning regulation forbade the construction of anything other than one home per lot. In 1915, Berkeley’s City Attorney Frank V. Cornish wrote, “Apartment houses are the bane of the owner of the single family dwelling” while the consultant who penned Berkeley’s zoning ordinance stated, “[The] great principle of protecting the home against the intrusion of the less desirable and floating renter class.”<sup>31</sup> Subsequently, the Mason McDuffie Company’s use of Berkeley’s zoning laws and racially-restrictive

<sup>31</sup> Frank V. Cornish. “The Legal Status of Zone Ordinances” and Charles Cheney. “The Necessity for a Zone Ordinance in Berkeley.” Berkeley Civic Bulletin, May 18, 1915.

property deeds and covenants prevented Black, Indigenous, and People of Color from purchasing or leasing property in east Berkeley.<sup>32</sup>

Mason-McDuffie race-restrictive covenants stated, “if prior to the first day of January 1930 any person of African or Mongolian descent shall be allowed to purchase or lease said property or any part thereof, then this conveyance shall be and become void...”<sup>33</sup> In 1916, McDuffie began lobbying for the exclusionary zoning ordinances in Berkeley to protect against the “disastrous effects of uncontrolled development”<sup>34</sup> and restrict Chinese laundromats and African American dance halls, particularly in the Elmwood and Claremont neighborhoods.<sup>35</sup>

After *Buchanan v. Warley* in 1917, explicit racially restrictive zoning became illegal. However, consideration to maintaining the character of districts became paramount and Mason-McDuffie contracts still stipulated that property owners must be white.

In 1933, the federal government created a Home Owners Loan Corporation (HOLC), which produced residential maps of neighborhoods to identify mortgage lending risks for real estate agents, lenders, etc. These maps were based on racial composition, quality of housing stock, access to amenities, etc. and were color coded to identify best (green), still desirable (blue), definitely declining (yellow), and hazardous (red) neighborhoods. These maps enabled discriminatory lending practices (later called ‘redlining’) and allowed lenders to enforce local segregation standards.<sup>36</sup>

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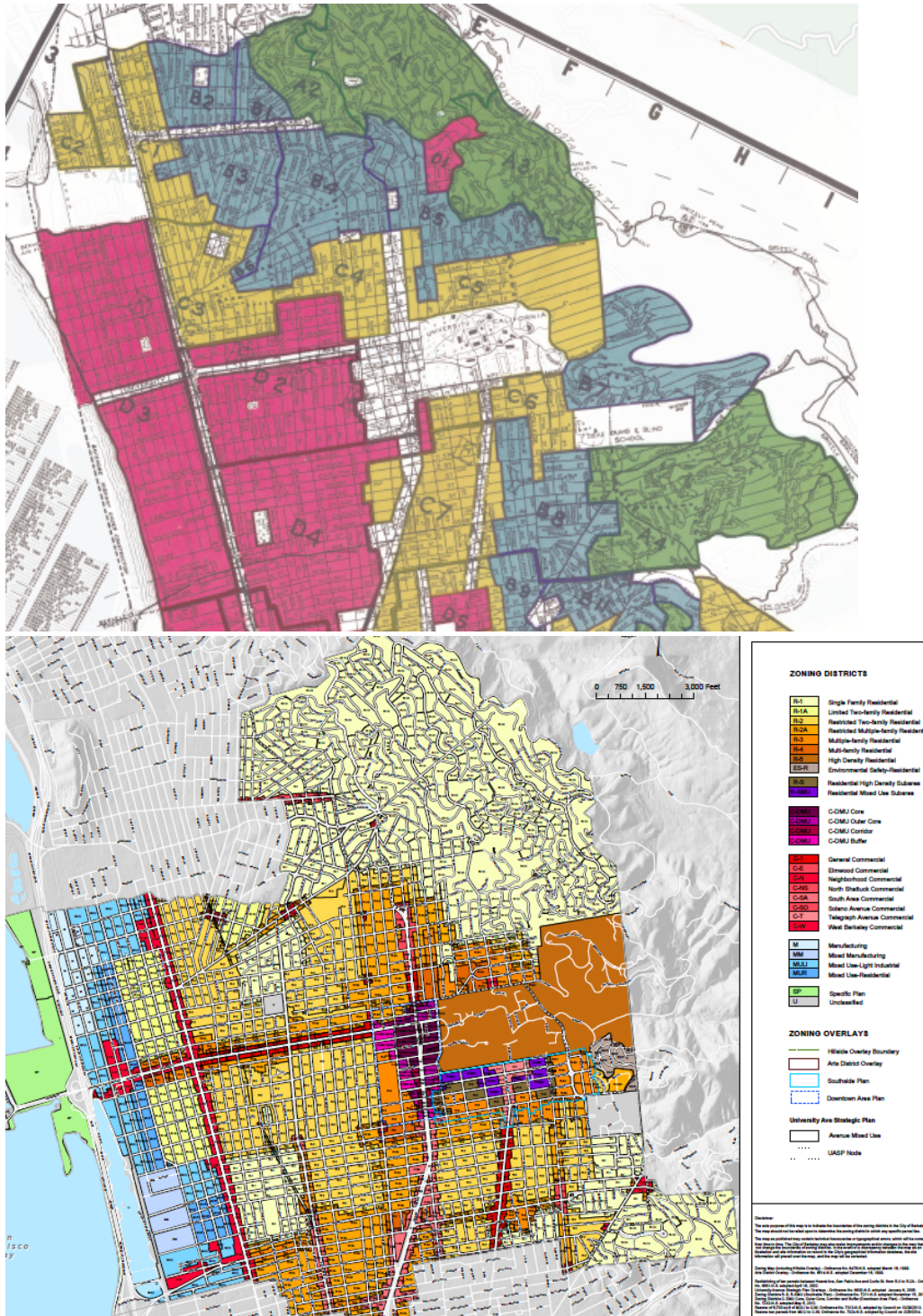
<sup>32</sup> Wollenberg, *Berkeley, A City in History*, 2008.

<sup>33</sup> Claremont Park Company Indenture, 1910

<sup>34</sup> Lory, Maya Tulip. “A History of Racial Segregation, 1878–1960.” *The Concord Review*, 2013. <http://www.schoolinfosystem.org/pdf/2014/06/04SegregationinCA24-2.pdf>

<sup>35</sup> Weiss, M. A. (1986). Urban Land Developers and the Origins of Zoning Laws: The Case of Berkeley. *Berkeley Planning Journal*, 3(1). Retrieved from <https://escholarship.org/uc/item/26b8d8zh>

<sup>36</sup> NCRC Opening Doors to Economic Opportunity, “HOLC “REDLINING” MAPS: The persistent structure of segregation and economic inequality.” Bruce Mitchell and Juan Franco. [https://ncrc.org/wp-content/uploads/dlm\\_uploads/2018/02/NCRC-Research-HOLC-10.pdf](https://ncrc.org/wp-content/uploads/dlm_uploads/2018/02/NCRC-Research-HOLC-10.pdf)



The images above compare a HOLC-era (Thomas Bros Map) map of Berkeley with a current zoning map. Neighborhoods identified as “best” in green on the HOLC-era map typically remain zoned as single family residential areas today. Red ‘hazardous’ neighborhoods in the first map are now largely zoned as manufacturing, mixed use, light industrial, or limited two family residential.<sup>37</sup>

<sup>37</sup> Robert K. Nelson, LaDale Winling, Richard Marciano, Nathan Connolly, et al., “Mapping Inequality,” American Panorama, ed. Robert K. Nelson and Edward L. Ayers, <https://dsl.richmond.edu/panorama/redlining/#loc=10/37.8201/-122.4399&opacity=0.8&sort=17&city=oakland-ca&adview=full>

Prior to the 1970s and the passage of the Neighborhood Preservation Ordinance, a variety of missing middle housing --duplexes, triplexes, and other smaller multi-unit building typologies-- was still being produced and made available to families throughout the Bay Area, particularly in Berkeley. In 1973, the residents of Berkeley passed the Neighborhood Preservation Ordinance which restricted multi-unit housing in certain parts of Berkeley. As Councilmember Ben Bartlett and Yelda Bartlett wrote in their 2017 *Berkeleyside* op-ed, the neighborhood preservation ordinance “[the Neighborhood Preservation Ordinance] did not mention race, but instead tried to preserve ‘neighborhood character.’ As a result, from 1970 to 2000, fewer than 600 dwelling units were built in Berkeley. Areas zoned for single family residential (R-1), limited two-family residential (R-1A), and restricted two-family residential (R-2) are now some of the most expensive parts of our city—especially on a per-unit basis.”<sup>38</sup>

Until 1984, Martin Luther King Jr Way was known as Grove Street. For decades, Grove Street created a wall of segregation down the center of Berkeley. Asian-Americans and African-Americans could not live east of Grove Street due to race-restrictive covenants that barred them from purchasing or leasing property. While race-restrictive covenants no longer prohibit individuals from purchasing or leasing homes, most cities still retain the vestiges of exclusionary zoning practices.

The UC Othering and Belonging Institute recently released a study on racial segregation and zoning practices which revealed that 83% of residential land in the Bay Area is zoned for single family homes.<sup>39</sup> The authors found that the ramifications of such zoning practices leads to a greater percentage of white residents, as recounted in KQED’s “The Racist History of Single Family Zoning.”<sup>40</sup> By banning less expensive housing options, such as duplexes, tri-/four-plexes, courtyard apartments, bungalow courts, and townhouses, in low-density, “desirable” places in Berkeley, the current zoning map dictates that only wealthier families will be able to live or rent in certain parts of Berkeley, mainly in North and East Berkeley. Today, with the median home sale price at \$1.3 million<sup>41</sup> and the typical White family having eight times the wealth of the typical Black family,<sup>42</sup> this de-facto form of segregation is even more pronounced. *Missing*

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<sup>38</sup><https://www.berkeleyside.com/2017/06/13/opinion-berkeleys-zoning-laws-wall-off-communities-color-seniors-low-income-people-others>

<sup>39</sup>Racial Segregation in the San Francisco Bay Area (2020) UC Othering and Belonging Institute. <https://belonging.berkeley.edu/racial-segregation-san-francisco-bay-area-part-5>

<sup>40</sup> <https://www.kqed.org/news/11840548/the-racist-history-of-single-family-home-zoning>

<sup>41</sup> Berkeley, CA Real Estate Market (2021). [https://www.realtor.com/realestateandhomes-search/Berkeley\\_CA/overview](https://www.realtor.com/realestateandhomes-search/Berkeley_CA/overview)

<sup>42</sup> Survey of Consumer Finances (2020). Federal Reserve. <https://www.federalreserve.gov/econres/scfindex.htm>



*middle housing can directly benefit those harmed by this modern-day exclusionary zoning practice that perpetuates socioeconomic and racial segregation.*

According to the data mapped by UC Berkeley's Urban Displacement Project, most of the low-income tracts in Berkeley are at-risk or have ongoing displacement and gentrification. Higher-income tracts in Berkeley are classified as 'at-risk of exclusion', currently feature 'ongoing exclusion', or are at stages of 'advanced exclusion'. Degrees of exclusion are measured by a combination of data: the loss of low-income households over time, presence of high income households, being considered in a 'hot housing market,' and migration patterns. The Urban Displacement Project's findings indicate that exclusion is more prevalent than gentrification in the Bay Area.<sup>43</sup> While Berkeley has created policies and designated funding to prevent gentrification, policies that focus on preventing exclusion have lagged.

University of California-Berkeley Professor Karen Chapple, anti-displacement expert and director of the Urban Displacement Project, stated that "the Urban Displacement Project has established a direct connection between the neighborhood designations by the Home Owners Loan Corporation (HOLC), and 75% of today's exclusionary areas in the East Bay... Thus, this historic legacy, compounded by Berkeley's early exclusionary zoning practices, continues to shape housing opportunity and perpetuate inequities today."<sup>44</sup> Not surprisingly, Chapple has indicated that zoning reform "has the potential not just to address the housing crisis but also to become a form of restorative or even transformative justice. There is no more important issue for planners to tackle today."<sup>45</sup>

### ***Historic Redlining***

Redlining was a practice whereby certain neighborhoods or areas were designated as being high-risk for investment. These high-risk designations were literally marked on maps using red coloring or lines, hence "redlining." The designations were typically applied to areas with large non-white and/or economically disadvantaged populations, and resulted in people who lived in or wanted to move to these areas being denied loans, or only being provided loans on much worse terms than their counterparts who could access non-redlined areas, due to their ethnicity or higher economic status.

Because redlining practices were contemporaneous with segregationist race-restricted deeds that largely locked minorities out of non-redlined neighborhoods, most non-white

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<sup>43</sup> Zuk, M., & Chapple, K. (2015). Urban Displacement Project. <http://www.urbandisplacement.org/map/sf>

<sup>44</sup> Karen Chapple's February 25, 2019 letter to Berkeley City Council in support of this proposal. <https://www.berkeley.com/wp-content/uploads/2019/02/Letter-on-Council-Item-22-Chapple-2.25.19.pdf>

<sup>45</sup> Ibid.

households were effectively forced to live in areas where buying and/or improving residential property was extremely difficult. Consequently, low-income and minority families were often locked out of homeownership, and all the opportunities for stability and wealth-building that entails. Therefore redlining tended to reinforce the economic stagnation of the areas to which it was applied, further depressing property values and leading to disinvestment. Although redlining is no longer formally practiced in the fashion it was historically, its effects continued to be felt in wealth disparities, educational opportunity gaps, and other impacts.

One way in which the practice of redlining continues to be felt is through the continuation of exclusionary zoning. By ensuring that only those wealthy enough to afford a single family home with a relatively large plot of land could live in certain areas, exclusionary zoning worked hand in hand with redlining to keep low-income families out of desirable neighborhoods with good schools and better economic opportunity. Cities, including Berkeley, adopted zoning that effectively prohibited multi-family homes in the same areas that relied on race restrictive deeds to keep out non-whites, meaning that other areas, including redlined areas, were more likely to continue allowing multi-family buildings. [Economists Enrico Moretti and Chiang Tai Hsieh have estimated that strict zoning laws and other restrictive land use policies have inflated housing prices so much it lowered aggregate growth by 50% from 1964-2009.](#)<sup>46</sup>

Ironically, because these patterns of zoning have persisted, many areas that were historically redlined are now appealing areas for new housing development precisely because they have continued to allow multi-family homes. Any area which sees its potential housing capacity increase will become more appealing for new housing development. When these changes are made in historically redlined areas where lower-income and minority households tend to be more concentrated, it is especially important to ensure those policies do not result in displacement or the loss of rent-controlled or naturally affordable housing units.

### **[Current Discourse on Exclusionary Zoning Regulations](#)**

[In 2019, Councilmembers Lori Droste, Ben Bartlett, Rashi Kesarwani and Rigel Robinson introduced Missing Middle Housing legislation in order to facilitate the construction of naturally affordable missing middle housing. The final legislation passed by Council was an agreement to study how the City of Berkeley can incorporate varying building types throughout Berkeley and address exclusionary practices. While the entire City Council voted unanimously to study this, the COVID-19 pandemic led to budget cuts which would have funded such a study. In July of 2020, Berkeley City Council](#)

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<sup>46</sup> "Housing Constraints and Spatial Misallocation" Hsieh, Chang-Tai and Enrico Moretti, *National Bureau of Economic Research*, [https://www.nber.org/system/files/working\\_papers/w21154/w21154.pdf](https://www.nber.org/system/files/working_papers/w21154/w21154.pdf)

additionally supported Senate Bill 902, which allowed for missing middle housing in transit-oriented or jobs-rich areas.<sup>47</sup>

Exclusionary zoning laws also became a prevalent national topic during the 2020 Presidential campaign under the guise of “protect[ing] America’s suburbs.”<sup>48</sup> Celebrity Apprentice host and former President Donald Trump and his Housing and Urban Development Secretary Ben Carson expressed a concern that removing exclusionary zoning laws would prevent single family home ownership and “destroy suburbs” despite the fact that these reforms don’t bar single family home construction but allow the creation of duplexes, triplexes, and other multi-unit properties. Furthermore, exclusionary zoning practices were amplified with the termination of the 2015 Obama-era Fair Housing rule which outlawed discrimination in housing. In doing so, Trump stated that Democrats wanted to “eliminate single-family zoning, bringing who knows into your suburbs, so your communities will be unsafe and your housing values will go down.”<sup>49</sup> On the other hand, Democratic Presidential candidates embraced zoning reform, most notably Elizabeth Warren and Cory Booker. President Biden has also indicated that he plans to invest \$300 million in local housing policy grants to give communities the planning support they need to eliminate exclusionary zoning.<sup>50</sup>

Even the League of California Cities, which has opposed many state measures to spur housing production, has endorsed the concept of fourplexes in single family zones in their 2020 *Blueprint for More Housing*.<sup>51</sup>

In January 2021, the Association of Bay Area Governments also voted to approve the implementation of Senate Bill 828 which was designed to address the extreme housing shortage across California. As a result, Bay Area cities will have to zone for 441,000 new homes. Berkeley will see a 19% increase — approximately 8,900 — in the number of homes for which it must zone.

## **ALTERNATIVE ACTIONS CONSIDERED**

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<sup>47</sup>[https://www.cityofberkeley.info/Clerk/City\\_Council/2020/07\\_Jul/Documents/07-28\\_Annotated\\_Agenda\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/07-28_Annotated_Agenda_pdf.aspx)

<sup>48</sup> Trump, Donald J and Ben Carson. “We’ll Protect America’s Suburbs.” Wall Street Journal. <https://www.wsj.com/articles/well-protect-americas-suburbs-11597608133>

<sup>49</sup> “Seeking Suburban Votes, Trump to Repeal Rule Combating Racial Bias in Housing.” (2020). NPR <https://www.npr.org/2020/07/21/893471887/seeking-suburban-votes-trump-targets-rule-to-combat-racial-bias-in-housing>

<sup>50</sup> “The Biden Plan for Investing in Our Communities Through Housing.” (2020) <https://joebiden.com/housing/>

<sup>51</sup> “Blueprint for More Housing” *League of California Cities* <https://www.cacities.org/Resources-Documents/News/News/2020/Housing-Production-Proposal-Factsheet.aspx>

The authors considered passing a budget referral to fund another study for missing middle housing. However, given the new Regional Housing Needs Allocations, [the pending Housing Element update, and](#) the scarcity of housing for individuals and families throughout the Bay Area, we felt the need to act immediately and not wait to study this issue.

### **FINANCIAL IMPLICATIONS**

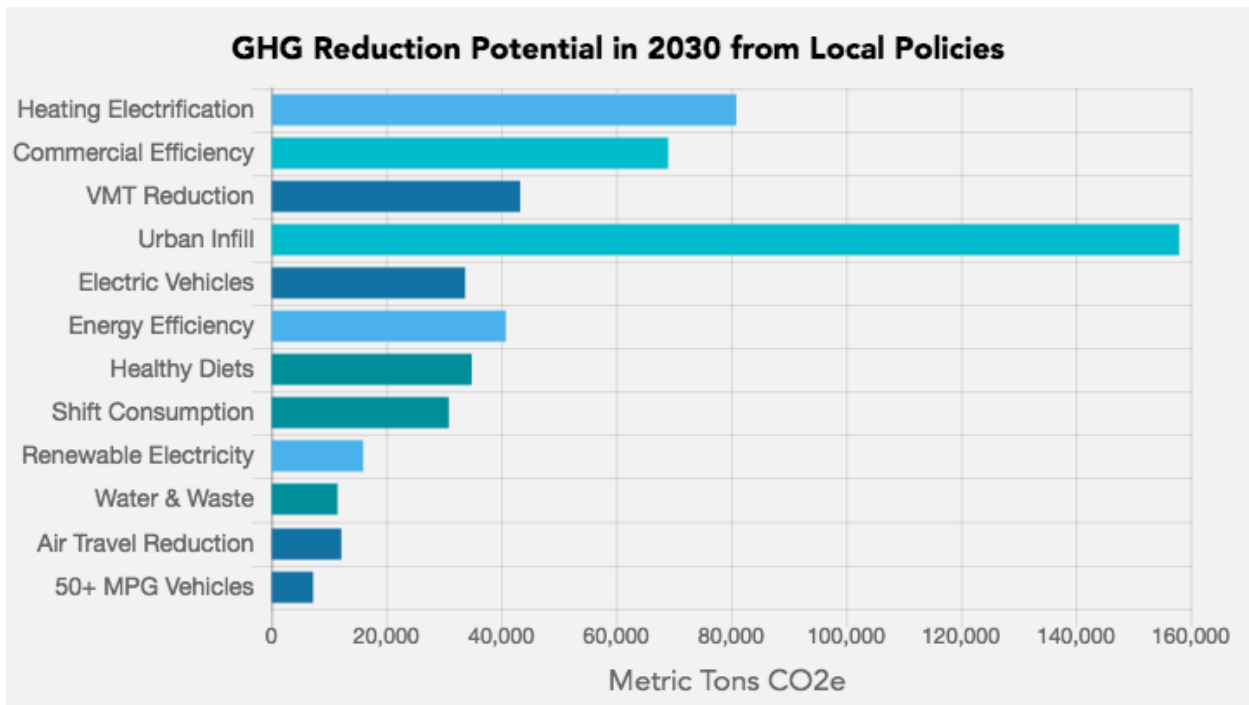
Costs for consultants to provide additional analysis can range from \$25,000-\$100,000. Staff should also consider augmenting existing work on the Housing Element update and density standard study to align with the objectives of this legislation.

### **ENVIRONMENTAL SUSTAINABILITY**

Berkeley declared a climate emergency in 2018. Among other concerns, wildfires and sea level rise are constant ecological threats to our community. The City of Berkeley needs to act urgently to address this imminent danger. Last year, climate researchers in Berkeley quantified local and state opportunities to reduce greenhouse gases from a “comprehensive consumption-based perspective.”<sup>52</sup> The most impactful local policy to potentially reduce greenhouse gas consumption by 2030 is urban infill. In short, Berkeley can meaningfully address climate change if we allow the production of more homes near job centers and transit.

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<sup>52</sup> “Carbon Footprint Planning: Quantifying Local and State Mitigation Opportunities for 700 California Cities.” Christopher M. Jones, Stephen M. Wheeler, and Daniel M. Kammen. *Urban Planning* (ISSN: 2183–7635) 2018, Volume 3, Issue 2. <https://rael.berkeley.edu/wp-content/uploads/2018/04/Jones-Wheeler-Kammen-700-California-Cities-Carbon-Footprint-2018.pdf>



**CONTACT PERSON(S):**

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**ATTACHMENTS/LINKS:**

Minneapolis Plan:

[https://minneapolis2040.com/media/1428/pdf\\_minneapolis2040\\_with\\_appendices.pdf](https://minneapolis2040.com/media/1428/pdf_minneapolis2040_with_appendices.pdf)

Seattle Plan:

<http://www.seattle.gov/Documents/Departments/SeattlePlanningCommission/SPCNeighborhoodsForAllFINAL121318digital.pdf>

Sacramento's Plan:

[https://sacramento.granicus.com/MetaViewer.php?view\\_id=22&clip\\_id=4822&meta\\_id=612624](https://sacramento.granicus.com/MetaViewer.php?view_id=22&clip_id=4822&meta_id=612624)

## **Berkeleyside**

### **Opinion: We can design our way out of Berkeley's housing crisis with 'missing middle' buildings**

*A Berkeley architect argues that Berkeley should build more small-scale, multi-unit buildings such as duplexes, bungalow courts, fourplexes, and small mansion apartments.*

By Daniel Parolek

Dec. 19, 2017

Berkeley's housing problems have gone national recently, as The New York Times' Conor Dougherty highlighted in a thought-provoking article, "The Great American Single-Family Home Problem." Dougherty examines the conflicting interests and regulations that threatened to halt the development of one lot on Haskell Street, and shows how those conflicting forces are contributing to the affordable housing crisis we are seeing in our state – and across the country.

As an architect and urban designer based in Berkeley for the past 20 years, I agree that California municipalities have an urgent need to deliver more housing. That said, just delivering more housing is not enough. We need to think about how this housing reinforces a high quality built environment and how to provide a range of housing for all segments of the market, including moderate and low-income households. More small-scale, multi-unit buildings such as duplexes, bungalow courts, fourplexes, and small mansion apartments, or what I call "Missing Middle Housing," should be a key focus of that housing.

Unfortunately, the design proposed for the Haskell Street site in Berkeley does not deliver on reinforcing a high quality built environment or affordability and, as the NYT article makes clear, does not deliver on any level of affordability. There are better design solutions that deliver a more compatible form, that have more and a broader range of housing units, and that can be more effective at building local support for this and similar infill projects.

For example, the 50' x 150' lot at 310 Haskell Street is big enough to accommodate a traditional fourplex, with two units down and two units above in a building that is the scale of a house (see image attached from our Missing Middle research). The units would typically be between 750-900 square feet each. An important characteristic of this housing type is that they do not go deeper onto the lot than a traditional house, thus eliminating the concern about privacy and shading and providing high-quality outdoor

living spaces. These fourplex housing types exist all over Berkeley and are often successfully integrated onto blocks with single-family homes.

So how do we get there? Berkeley and most cities across the country need to sharpen their pencils on their outdated zoning codes, first to remove barriers for better solutions and secondly, to create a set of regulations that ensure that inappropriate design solutions like the one proposed for Haskell Street or even worse are not allowed on these sites. Lower densities do not equal better design solutions and higher densities do not need to mean larger or more buildings. This is a delicate balance that few zoning codes achieve and few code writers fully understand.

We also need to change the way we communicate about housing needs in our communities. If we are using George Lakoff's rules for effective communication we would never go into a housing conversation with a community and use terms like "increasing density, adding multi-family, or upzoning a neighborhood." I can think of few neighborhoods that would feel good about saying yes to any of those options if they were framed in that way, but which can mostly get on board with thinking about aging within a neighborhood, or ensuring their kids or grandkids can afford to move back to the city they grew up in. Beginning this conversation by simply showing photographic and/or local existing documented examples of good Missing Middle housing types often disarms this conversation and leads to more fruitful results.

Berkeley's challenges related to housing are not going to go away anytime soon. We need to thoughtfully remove barriers to enable a broad range of solutions like the fourplex that have been a core part of choices provided in our communities already and learn how to effectively build consensus and support for good design solutions such as Missing Middle housing types.

*Daniel Parolek is an architect and urban designer who co-authored the book "Form-Based Codes," coined the term Missing Middle Housing ([www.missingmiddlehousing.com](http://www.missingmiddlehousing.com)) and speaks and consults nationally on these topics.*



February 25, 2019

Honorable Mayor and City Council members:

I am writing to convey my strong support for the "Missing Middle Report" on your 2/26 Council meeting.

As the Council item co-authored by Councilmembers Droste, Bartlett, Kesarwani, and Robinson points out, Berkeley's housing crisis today is a legacy of its past racist and exclusionary practices. I commend their effort to push Berkeley to confront its history in order to build a more inclusive future.

Our research at the Urban Displacement Project has established a direct connection between the neighborhood designations by the Home Owners Loan Corporation (HOLC) and today's patterns of residential displacement and exclusion.<sup>1</sup> Overall, 83% of today's gentrifying areas in the East Bay were rated as "hazardous" (red) or "definitely declining" (yellow) by the HOLC, and 75% of today's exclusionary areas in the East Bay were rated as "best" (green) or "still desirable" (blue) by HOLC. Thus, this historic legacy, compounded by Berkeley's early exclusionary zoning practices, continues to shape housing opportunity and perpetuate inequities today.

Should Berkeley elect to proceed to study the potential for zoning reform, it will be in good company. As the item authors note, Minneapolis and Seattle are already experimenting with ways to open up single-family zones, and Berkeley should be leading the charge as well.<sup>2</sup> Zoning reform has the potential not just to address the housing crisis but also to become a form of restorative or even transformative justice. There is no more important issue for planners to tackle today.

I urge you to vote yes on Item 22 to request a Missing Middle report. Please do not hesitate to call on me if any research on zoning impacts or alternatives is needed.

Sincerely,

Karen Chapple  
Professor, City and Regional Planning  
Carmel P. Friesen Chair in Urban Studies  
Faculty Director, The Urban Displacement Project

<sup>1</sup> See <http://www.urbandisplacement.org/redlining>

<sup>2</sup> Interestingly, leading the charge in Minneapolis is City Council President Lisa Bender, a graduate of UC-Berkeley's Department of City and Regional Planning.

[Other articles of interest:](#)



<https://www.kqed.org/news/11840548/the-racist-history-of-single-family-home-zoning>

<https://www.vox.com/22252625/america-racist-housing-rules-how-to-fix>

<https://www.berkeleyside.com/2021/02/17/berkeley-may-get-rid-of-single-family-zoning-as-a-way-to-correct-the-arc-of-its-ugly-housing-history>

<https://www.berkeleyside.com/2019/03/12/berkeley-zoning-has-served-for-many-decades-to-separate-the-poor-from-the-rich-and-whites-from-people-of-color>



Lori Droste  
Vice Mayor, District 8

**ACTION CALENDAR**  
February 23, 2021

**To:** Honorable Mayor and Members of the City Council

**From:** Vice Mayor Lori Droste, Councilmember Terry Taplin, Councilmember Rashi Kesarwani, Mayor Jesse Arreguin

**Subject:** Quadplex Zoning

**RECOMMENDATION**

1. Refer to the City Manager and Planning Commission revisions to the zoning code and General Plan, to require proposed housing developments containing up to 4 residential units to be considered ministerially, if the proposed housing development meets certain requirements but not limited to:
  - that the proposed housing development would not require demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income,
  - that the development is not located within a historic district, is not included in the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.
  - that the development is not located within particularly vulnerable high fire wildfire danger areas, as specified by Cal Fire.

Additional considerations:

- Consider a local affordable housing density bonus for deeper affordability in certain jobs-rich or transit-oriented areas if a certain percentage of the units are affordable to 80% of area median income.<sup>1</sup>
- Conduct a displacement risk analysis and consider possible ways that zoning changes can be crafted to prevent and mitigate negative externalities which could affect tenants and low and moderate-income homeowners.
- Allow for the possibility of existing homes/footprints/zoning envelopes to be divided into up to four units, potentially scaling the floor area ratio (FAR) to increase as the number of units increase onsite, creating homes that are more affordable, saving and lightly modifying an older structure as part of internally dividing it into more than one unit.<sup>2</sup>

Council directs that staff initiate this work immediately and the Planning Commission incorporate zoning reform into its 2021 and 2022 work plan to institute these changes in anticipation of the Housing Element update. Staff and the commission should examine how other cities have prepared for and implemented missing middle housing in Minneapolis, Portland, and Sacramento and conduct extensive community outreach during the course of this update.

### **CURRENT PROBLEM AND ITS EFFECTS**

The nine-county Bay Area region is facing an extreme shortage of homes that are affordable for working families. The Metropolitan Transportation Commission illustrates the job-housing imbalance in a report showing that only one home is added for every 3.5 jobs created in the Bay Area region.<sup>3</sup> Governor Gavin Newsom has called for a “Marshall Plan for affordable housing” and has pledged to create millions of more homes in California to tackle the state’s affordability and homelessness crisis.

In Berkeley, the median sale price of a home is \$1.4 million (as of December 2020)—an increase of 56% over the median sale price in December 2015 of \$895,000.<sup>4</sup> These escalating costs coincided with an increase of 14% in Berkeley’s homeless population from 2017 to 2019, and a 34% increase from 2015 to 2019 point-in-time counts.<sup>5</sup> These skyrocketing housing costs put extreme pressure on low-, moderate- and middle-income households, as they are forced to spend an increasing percentage share of their income on housing (leaving less for other necessities like food and medicine), live in

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<sup>1</sup> Jobs-rich and transit-oriented definitions should be defined by the Planning Commission in consultation with staff.

<sup>2</sup> City of Portland, <https://www.portlandoregon.gov/bps/article/711691>

<sup>3</sup> Metropolitan Transportation Commission, 2018. <http://www.vitalsigns.mtc.ca.gov/>

<sup>4</sup> Berkeley Home Prices and Values, <https://www.zillow.com/berkeley-ca/home-values/>

<sup>5</sup> [https://everyonehome.org/wp-content/uploads/2019/09/2019HIRDReport\\_Berkeley\\_2019-Final.pdf](https://everyonehome.org/wp-content/uploads/2019/09/2019HIRDReport_Berkeley_2019-Final.pdf)

overcrowded conditions, or endure super-commutes of 90 minutes or more in order to make ends meet.

### *Low-Income Households Cannot Afford to Live in Berkeley*

Recently, low-income households experienced the greatest increases in rent as a portion of their monthly income. The U.S. Department of Housing and Urban Development (HUD) defines "affordable" as housing that costs no more than 30 percent of a household's monthly income. Households are considered to be "rent burdened" when more than a third of their income goes toward housing costs. In Alameda County, "Although rent burden increased across all income groups, it rose most substantially for low- and very low-income households. In both 2000 and 2015, extremely low-income renters were by far the most likely to experience severe rent burden, with nearly three quarters spending more than half their income on rent."<sup>6</sup>

Although residents of Berkeley passed Measure O which will substantially increase funding for affordable housing, low-income units are increasingly expensive to create. Low-income housing units typically cost well over \$500,000 to create and the demand for this type of affordable/subsidized housing exceeds the supply.<sup>7</sup> Without a substantial additional increase in funding for affordable housing, the City will be increasingly challenged to create enough subsidized housing to meet the demand. For example, roughly 700 seniors applied for the 42 affordable/subsidized units at Harpers Crossings in Berkeley. This project cost \$18 million to build.<sup>8</sup> While Berkeley should continue to support subsidized housing, subsidized housing alone is insufficient to address the growing housing and homelessness crisis.

### *Middle-Income Households Can't Afford to Live in Berkeley*

In the Bay Area, those earning middle incomes are facing similar challenges in finding affordable homes. The Pew Research Center classifies middle income households as those with "adults whose annual household income is two-thirds to double the national median." In 2018, middle income households were those earning approximately \$48,500 to \$145,500 for a household of three.<sup>9</sup> According to the Pew Research Center, "The San Francisco-Oakland-Hayward metropolitan area in California is one of the most expensive areas, with a price level that was 31.6% higher than the national average. Thus, to step over the national middle-class

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<sup>6</sup> Zuk, M., & Chapple, K. (2015). Urban Displacement Project.

[http://www.urbandisplacement.org/sites/default/files/images/alameda\\_final.pdf](http://www.urbandisplacement.org/sites/default/files/images/alameda_final.pdf)

<sup>7</sup> "The Cost of Building Housing" *The Turner Center* <https://turnercenter.berkeley.edu/construction-costs-series>

<sup>8</sup> Flood, Lucy. (1/18/2018). "Berkeley low-income seniors get a fresh start at Harper Crossing."

<https://www.berkeleyside.com/2018/01/18/berkeley-low-income-seniors-get-fresh-start-harper-crossing>

<sup>9</sup> <https://www.pewresearch.org/fact-tank/2020/07/23/are-you-in-the-american-middle-class/>

threshold of \$48,500... a household in the San Francisco area needs a reported income of about \$63,800, or 31.6% more than the U.S. norm, to join the middle class.”<sup>10</sup>

In the Bay Area, a family currently has to earn \$200,000 annually to afford the principal, interest, taxes and insurance payments on a median-priced home in the Bay Area (assuming they can pay 20 percent of the median home price of \$1.4 million up front).<sup>11</sup> This means that many City of Berkeley employees couldn't afford to live where they work: a fire captain (making \$144,000) with a stay at home spouse wouldn't be able to afford a home. Even a firefighter (earning \$112,000 annually) and a groundskeeper (making \$64,000), or two librarians (making \$89,000 each) couldn't buy a house.<sup>12</sup>

Berkeley Unified School District employees have recently been advocating for teacher housing. Unfortunately, the housing options for teachers are insufficient for the overwhelming need. According to a recent Berkeley Unified School District (BUSD) survey, 69% of teachers or staff who rent believe that high housing costs will impact their ability to retain their BUSD positions.<sup>13</sup> Since individual K-12 teacher salaries average ~\$75,962,<sup>14</sup> the majority of teachers are not classified as low-income (<\$62,750), according to Housing and Urban Development guidelines. As a result, many cannot qualify for affordable housing units. Since middle-income individuals and families can't qualify for affordable housing units and very few subsidies are available to help, the vast majority have to rely on non-governmental subsidized methods and the private market to live in the Bay Area.

### *Families Are Struggling to Live in Berkeley*

Many families are fleeing the Bay Area due to the high cost of living. According to a study by the Turner Center for Housing Innovation, the income and racial patterns of out-migration and in-migration indicate that “the region risks backsliding on inclusion and diversity and displacing its economically vulnerable and minority residents to areas of more limited opportunity.”<sup>15</sup> Rent for a two-bedroom apartment in Berkeley costs approximately \$2,070/month<sup>16</sup> while the median child care cost in Alameda County is

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<sup>10</sup> <https://www.pewresearch.org/fact-tank/2020/07/23/are-you-in-the-american-middle-class/>

<sup>11</sup> “The salary you must earn to buy a home in the 50 largest metros” (10/14/2018). HSH.com <https://www.hsh.com/finance/mortgage/salary-home-buying-25-cities.html#>

<sup>12</sup> City of Berkeley Human Resources, “Job Descriptions” <http://agency.governmentjobs.com/berkeley/default.cfm?action=agencyspecs&agencyID=1568>

<sup>13</sup> Berkeley Unified School District, “Recommendation for District-Owned Rental Housing for Employees”, <https://documentcloud.adobe.com/link/track?uri=urn%3Aaaid%3Aascds%3AUS%3Adfd74865-9541-4ff8-b6a6-4dcbd30acdc3>

<sup>14</sup> Education Data Partnership, “Teacher Salaries” <http://www.ed-data.org/district/Alameda/Berkeley-Unified>

<sup>15</sup> Romem, Issa and Elizabeth Kneebone, 2018. “Disparity in Departure: Who Leaves the Bay Area and Where Do They Go?” <https://turnercenter.berkeley.edu/disparity-in-departure>

<sup>16</sup> Berkeley Rentals, <https://www.zumper.com/blog/san-francisco-bay-area-metro-report/>

\$1,824 a month, an increase of 36% in the past four years.<sup>17</sup> Consequently, many families are paying well over \$60,000 for living and childcare expenses alone.

### *Homelessness is on the Rise in the Bay Area*

High housing costs also lead to California having among the highest rates of poverty in the nation at 19%.<sup>18</sup> Consequently, homelessness is on the rise throughout California. The Bay Area has one of the largest and least-sheltered homeless populations in North America.<sup>19</sup> The proliferation of homeless encampments—from select urban neighborhoods to locations across the region—is the most visible manifestation of the Bay Area’s extreme housing affordability crisis. According to the 2019 point-in-time count, Berkeley had approximately 1,108 individuals experiencing homelessness on any given night.<sup>20</sup> In order to act in accordance with best practices research on alleviating homelessness and help homeless individuals get housed, the City needs to create more homes.<sup>21</sup> Tighter housing markets are associated with higher rates of homelessness, indicating that the creation of additional housing for all income levels is key to mitigating the crisis.<sup>22</sup> In the 1,000 Person Plan to Address Homelessness, Berkeley’s Health, Housing and Community Services staff also recommend that Council prioritizes “implementing changes to Berkeley’s Land Use, Zoning, Development Review Requirements for new housing with an eye toward alleviating homelessness.”

## **BACKGROUND**

In 2019, Councilmembers Lori Droste, Ben Bartlett, Rashi Kesarwani and Rigel Robinson introduced Missing Middle Housing legislation in order to facilitate the construction of naturally affordable missing middle housing. Missing middle housing refers to small multi-unit buildings that are compatible in scale with single-family neighborhoods. The final legislation passed by Council was an agreement to **study** how the City of Berkeley can incorporate varying building types throughout Berkeley and

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<sup>17</sup> D’Souza, Karen, 2/3/19. “You think Bay Area housing is expensive? Child care costs are rising, too.” <https://www.mercurynews.com/2019/02/03/you-think-bay-area-housing-is-expensive-childcare-costs-are-rising-too/amp/>

<sup>18</sup> The U.S. Census The Supplemental Poverty Measure adjusts thresholds based on cost of living indexes.

<sup>19</sup> SPUR: Ideas and Action for a Better City. “Homelessness in the Bay Area: Solving the problem of homelessness is arguably our region’s greatest challenge.” Molly Turner, Urbanist Article, October 23, 2017 <https://www.spur.org/publications/urbanist-article/2017-10-23/homelessness-bay-area>

<sup>20</sup> Berkeley Homeless Point-in-Time Count and Survey Data, 2019. [https://everyonehome.org/wp-content/uploads/2019/09/2019HIRDReport\\_Berkeley\\_2019-Final.pdf](https://everyonehome.org/wp-content/uploads/2019/09/2019HIRDReport_Berkeley_2019-Final.pdf)

<sup>21</sup> United States Interagency Council on Homelessness “The Evidence behind Approaches that Drive an End to Homelessness” December 2017, [https://www.usich.gov/resources/uploads/asset\\_library/evidence-behind-approaches-that-end-homelessness.pdf](https://www.usich.gov/resources/uploads/asset_library/evidence-behind-approaches-that-end-homelessness.pdf)

<sup>22</sup> *Homeless in America, Homeless in California*. John M. Quigley, Steven Raphael, and Eugene Smolensky. The Review of Economics and Statistics, February 2001, 83(1): 37–51 © 2001 by the President and Fellows of Harvard College and the Massachusetts Institute of Technology. [https://urbanpolicy.berkeley.edu/pdf/qrs\\_restat01pb.pdf](https://urbanpolicy.berkeley.edu/pdf/qrs_restat01pb.pdf)

address exclusionary zoning practices. While the entire City Council voted unanimously to study this, the COVID-19 pandemic led to budget cuts which would have funded such a study. In July of 2020, Berkeley City Council additionally supported Senate Bill 902, which would have allowed missing middle housing in transit-oriented or jobs-rich areas.<sup>23</sup>

### *Regional Housing Needs Goals*

In January of 2021, the Association of Bay Area Governments passed new Regional Housing Needs Allocations for the Bay Area. As a result, Berkeley will have to plan for approximately 8,900 homes. This is a significant increase over the previous years. As a result, Berkeley needs to zone for significantly more housing. One way Berkeley can address this proposed increase is to allow quadplexes throughout Berkeley and undo the legacy of exclusionary zoning.

### **Quadplexes**

#### *What are quadplexes?*

Quadplexes are:

1. A type of missing middle housing that has up to four units within a structure that is often similar in size, scale, and design to a large single-family home.
2. Housing types that are naturally affordable and less expensive than most housing options available within Berkeley.

The current housing market has led to “barbell” housing delivery. That is, new units tend to be highly-priced (market rate or luxury) or highly subsidized (affordable).

Consequently, the majority of the population can’t access quadplexes and other missing middle units because the dearth of funding, scarcity of land, and high construction costs impose challenges on viability. One study found that individuals trying to create missing middle housing cannot compete financially with larger projects in areas zoned for higher density, noting “many smaller developers have difficulty obtaining the necessary resources, including the competitive funding, required to offset the high initial per-unit development costs, and larger developers with deeper pockets and more experience navigating complex regulatory systems will almost always opt to build projects that are large enough to achieve the bulk per-unit development rate.”<sup>24</sup>

Additionally, missing middle housing is not permitted in areas zoned R1 (single family family and one accessory dwelling unit only), R1A (limited two family), and R2

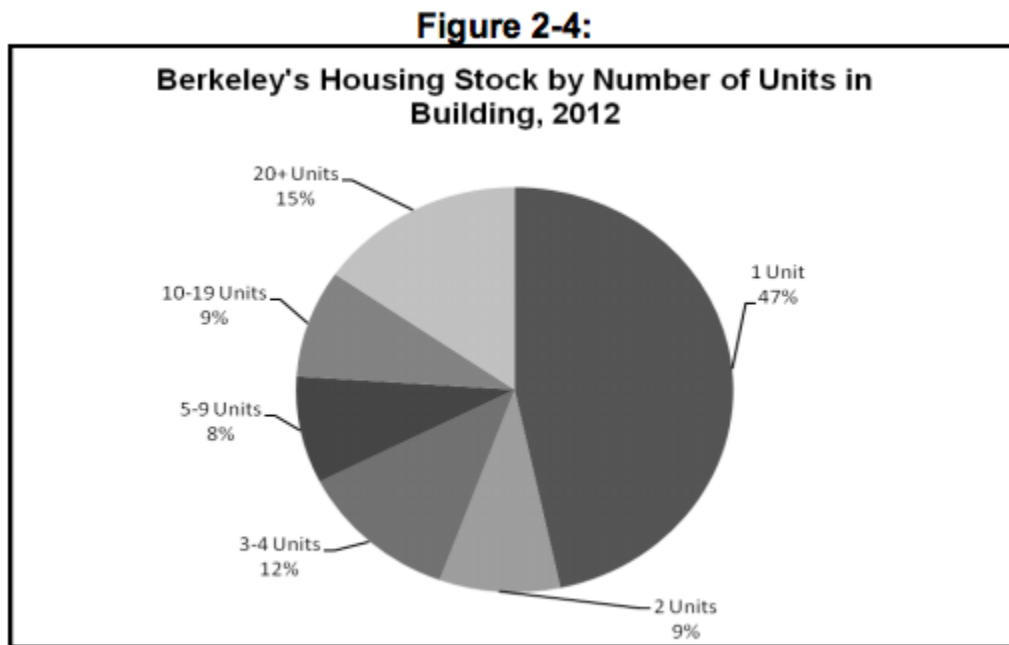
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<sup>23</sup>[https://www.cityofberkeley.info/Clerk/City\\_Council/2020/07\\_Jul/Documents/07-28\\_Annotated\\_Agenda\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/07-28_Annotated_Agenda_pdf.aspx)

<sup>24</sup> The Montgomery Planning Dept., “The Missing Middle Housing Study,” September 2018. [http://montgomeryplanning.org/wp-content/uploads/2018/09/MissingMiddleHousingStudy\\_9-2018.pdf](http://montgomeryplanning.org/wp-content/uploads/2018/09/MissingMiddleHousingStudy_9-2018.pdf)

(restricted two family). Other factors that may prevent the creation of missing middle housing include lot coverage ratios and setback and parking requirements.<sup>25</sup>

One home within a quadplex is undeniably less expensive than comparable single family homes, leading to greater accessibility to those earning median, middle, or lower incomes. Currently, the median price of a single family home in Berkeley is \$1.4 million dollars, which is out of reach for the majority of working people.<sup>26</sup> While some may erroneously argue that the *only* way to address the needs of low- or moderate- income families is to provide subsidized housing, ample research indicates this is not the case because the distribution of land costs can be spread across multiple units and construction costs are lower. Approximately half of Berkeley's housing stock consists of single family units<sup>27</sup> and more than half of Berkeley's residential land is zoned in ways that preclude most quadplexes. As a result, today, only wealthy households can afford homes in Berkeley.



Source: US Census, ACS 2008-2012 5-Year Estimate., Table B25024

Quadplexes generally have small- to medium-sized footprints and are often two stories or less, allowing them to blend into the existing neighborhood while still encouraging greater socioeconomic diversity. These types of homes exist in every district of Berkeley, having been built before they were banned in districts only allowing single

<sup>25</sup> Ibid.

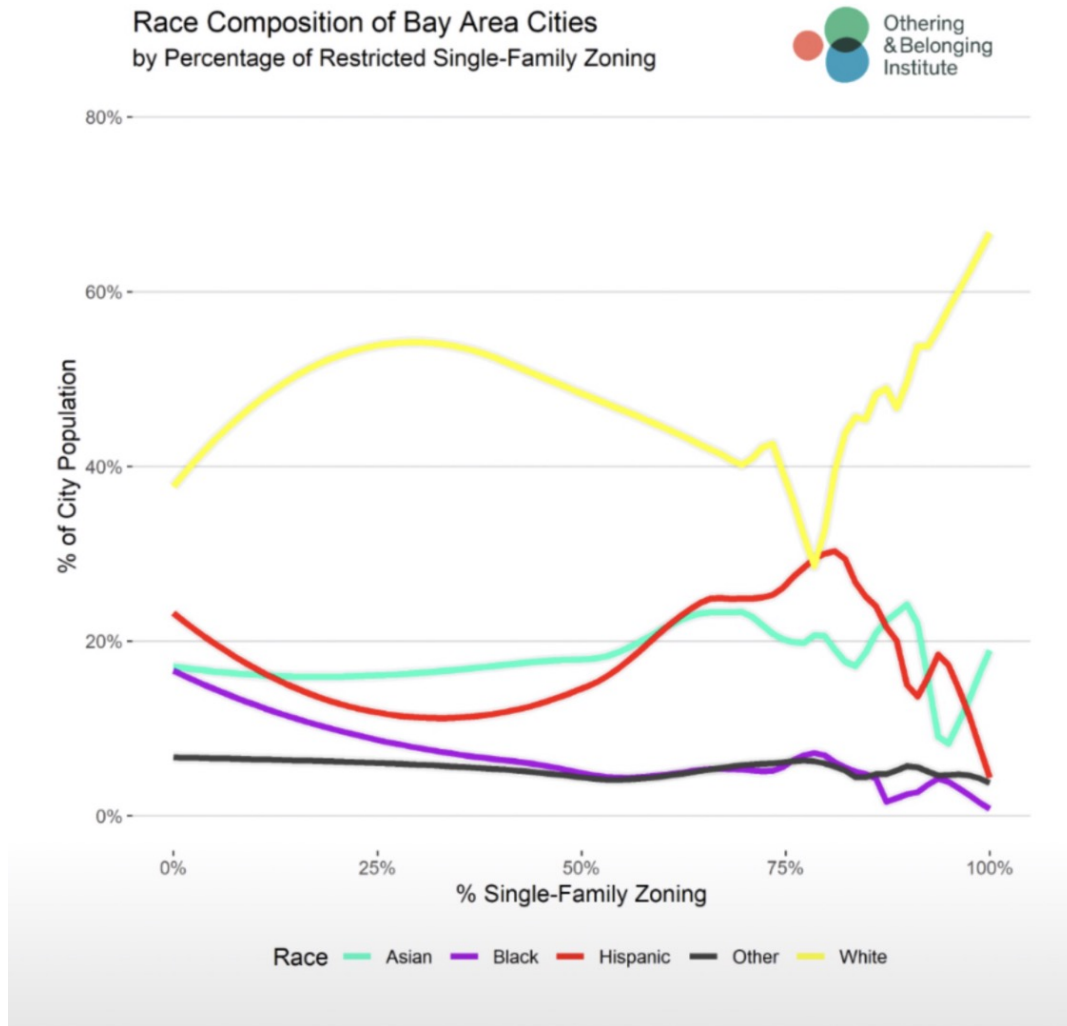
<sup>26</sup> Berkeley Home Prices and Values, <https://www.zillow.com/berkeley-ca/home-values/>

<sup>27</sup> City of Berkeley 2015 -2023 Housing Element.

[https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Commissions/Commission\\_for\\_Planning/2015-2023%20Berkeley%20Housing%20Element\\_FINAL.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2015-2023%20Berkeley%20Housing%20Element_FINAL.pdf)



family homes. Quadplexes were severely limited in other districts by zoning changes initiated in 1973 with the Neighborhood Preservation Ordinance. Regardless of the original intent of the Neighborhood Preservation Ordinance, the effect of this citizen-led measure was to downzone large swaths of Berkeley. Downzoning meant that fewer housing units were allowed to be built in Berkeley over the past 47 years. Many scholars have studied the effect of land use policies and have concluded that downzoning leads to higher housing costs and economic and racial segregation.<sup>28</sup>



<sup>28</sup> Lens, Michael and Paavo Monkonnen. (2015). "Do Strict Land Use Regulations Make Metropolitan Areas More Segregated by Income?" <https://www.tandfonline.com/doi/full/10.1080/01944363.2015.1111163#abstract>

### ***History of Exclusionary Zoning, Racial and Economic Segregation, and Current Zoning***

Single family residential zoning was born in Berkeley in the Elmwood neighborhood in 1916. This zoning regulation forbade the construction of anything other than one home per lot. In 1915, Berkeley's City Attorney Frank V. Cornish wrote, "Apartment houses are the bane of the owner of the single family dwelling" while the consultant who penned Berkeley's zoning ordinance stated, "[The] great principle of protecting the home against the intrusion of the less desirable and floating renter class."<sup>29</sup> Subsequently, the Mason McDuffie Company's use of Berkeley's zoning laws and racially-restrictive property deeds and covenants prevented Black, Indigenous, and People of Color from purchasing or leasing property in east Berkeley.<sup>30</sup>

Mason-McDuffie race-restrictive covenants stated, "if prior to the first day of January 1930 any person of African or Mongolian descent shall be allowed to purchase or lease said property or any part thereof, then this conveyance shall be and become void..."<sup>31</sup> In 1916, McDuffie began lobbying for the exclusionary zoning ordinances in Berkeley to protect against the "disastrous effects of uncontrolled development"<sup>32</sup> and restrict Chinese laundromats and African American dance halls, particularly in the Elmwood and Claremont neighborhoods.<sup>33</sup>

After *Buchanan v. Warley* in 1917, explicit racially restrictive zoning became illegal. However, consideration to maintaining the character of districts became paramount and Mason-McDuffie contracts still stipulated that property owners must be white.

In 1933, the federal government created a Home Owners Loan Corporation (HOLC), which produced residential maps of neighborhoods to identify mortgage lending risks for real estate agents, lenders, etc. These maps were based on racial composition, quality of housing stock, access to amenities, etc. and were color coded to identify best (green), still desirable (blue), definitely declining (yellow), and hazardous (red) neighborhoods. These maps enabled discriminatory lending practices (later called 'redlining') and allowed lenders to enforce local segregation standards.<sup>34</sup>

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<sup>29</sup> Frank V. Cornish. "The Legal Status of Zone Ordinances" and Charles Cheney. "The Necessity for a Zone Ordinance in Berkeley." Berkeley Civic Bulletin, May 18, 1915.

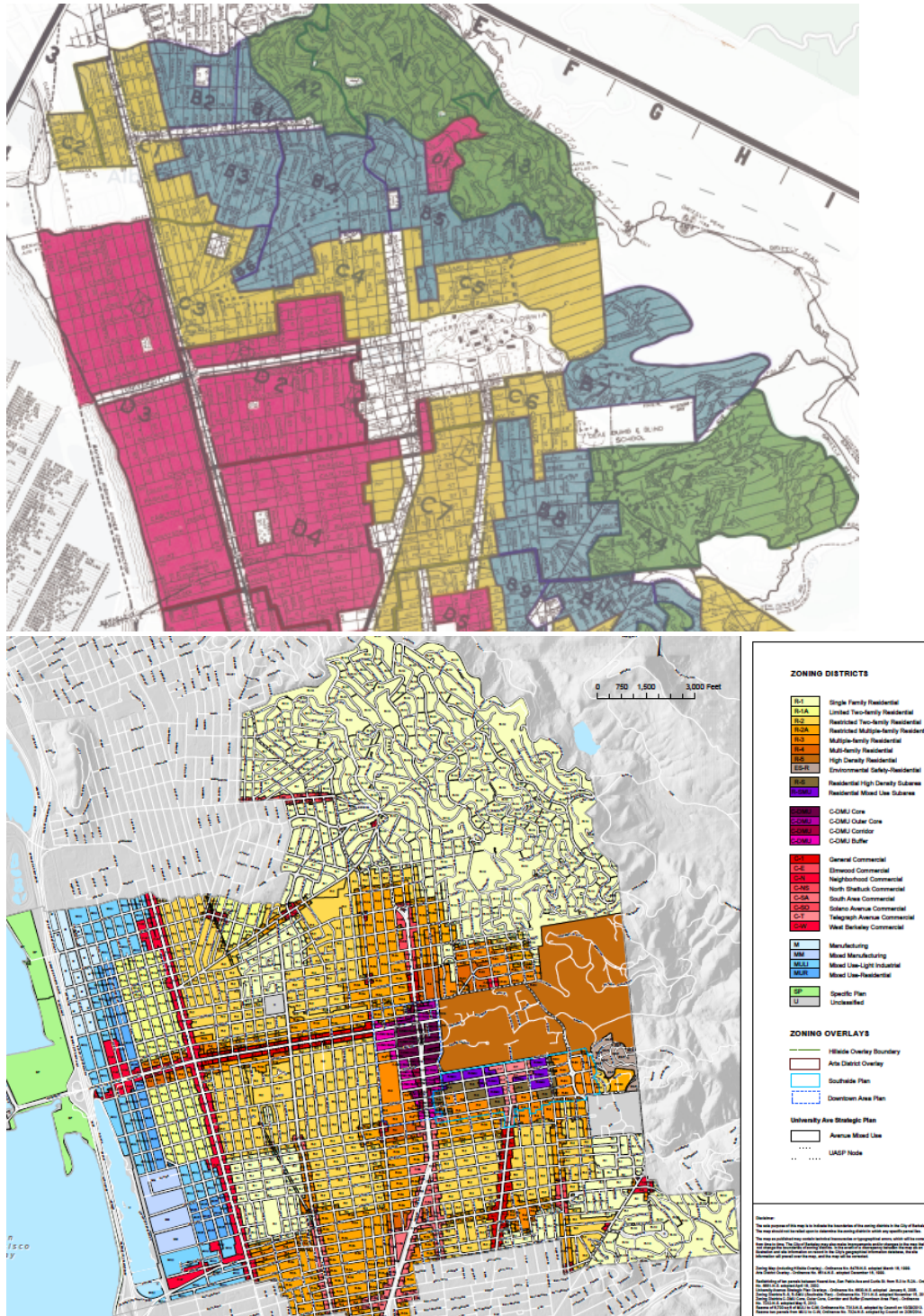
<sup>30</sup> Wollenberg, *Berkeley, A City in History*, 2008.

<sup>31</sup> Claremont Park Company Indenture, 1910

<sup>32</sup> Lory, Maya Tulip. "A History of Racial Segregation, 1878–1960." *The Concord Review*, 2013. <http://www.schoolinfosystem.org/pdf/2014/06/04SegregationinCA24-2.pdf>

<sup>33</sup> Weiss, M. A. (1986). Urban Land Developers and the Origins of Zoning Laws: The Case of Berkeley. Berkeley Planning Journal, 3(1). Retrieved from <https://escholarship.org/uc/item/26b8d8zh>

<sup>34</sup> NCRC Opening Doors to Economic Opportunity, "HOLC "REDLINING" MAPS: The persistent structure of segregation and economic inequality." Bruce Mitchell and Juan Franco. [https://ncrc.org/wp-content/uploads/dlm\\_uploads/2018/02/NCRC-Research-HOLC-10.pdf](https://ncrc.org/wp-content/uploads/dlm_uploads/2018/02/NCRC-Research-HOLC-10.pdf)



The images above compare a HOLC-era (Thomas Bros Map) map of Berkeley with a current zoning map. Neighborhoods identified as “best” in green on the HOLC-era map typically remain zoned as single family residential areas today. Red ‘hazardous’ neighborhoods in the first map are now largely zoned as manufacturing, mixed use, light industrial, or limited two family residential.<sup>35</sup>

<sup>35</sup> Robert K. Nelson, LaDale Winling, Richard Marciano, Nathan Connolly, et al., “Mapping Inequality,” American Panorama, ed. Robert K. Nelson and Edward L. Ayers, <https://dsl.richmond.edu/panorama/redlining/#loc=10/37.8201/-122.4399&opacity=0.8&sort=17&city=oakland-ca&adview=full>

Prior to the 1970s and the passage of the Neighborhood Preservation Ordinance, a variety of missing middle housing --duplexes, triplexes, and other smaller multi-unit building typologies-- was still being produced and made available to families throughout the Bay Area, particularly in Berkeley. In 1973, the residents of Berkeley passed the Neighborhood Preservation Ordinance which outlawed multi-unit housing in certain parts of Berkeley. As Councilmember Ben Bartlett and Yelda Bartlett wrote in their 2017 *Berkeleyside* op-ed, the neighborhood preservation ordinance “[the Neighborhood Preservation Ordinance] did not mention race, but instead tried to preserve ‘neighborhood character.’ As a result, from 1970 to 2000, fewer than 600 dwelling units were built in Berkeley. Areas zoned for single family residential (R-1), limited two-family residential (R-1A), and restricted two-family residential (R-2) are now some of the most expensive parts of our city—especially on a per-unit basis.”<sup>36</sup>

Until 1984, Martin Luther King Jr Way was known as Grove Street. For decades, Grove Street created a wall of segregation down the center of Berkeley. Asian-Americans and African-Americans could not live east of Grove Street due to race-restrictive covenants that barred them from purchasing or leasing property. While race-restrictive covenants no longer prohibit individuals from purchasing or leasing homes, most cities still retain the vestiges of exclusionary zoning practices.

The UC Othring and Belonging Institute recently released a study on racial segregation and zoning practices which revealed that 83% of residential land in the Bay Area is zoned for single family homes.<sup>37</sup> The authors found that the ramifications of such zoning practices leads to a greater percentage of white residents, as recounted in KQED’s “The Racist History of Single Family Zoning.”<sup>38</sup> By banning less expensive housing options, such as duplexes, tri-/four-plexes, courtyard apartments, bungalow courts, and townhouses, in low-density, “desirable” places in Berkeley, the current zoning map dictates that only wealthier families will be able to live or rent in certain parts of Berkeley, mainly in North and East Berkeley. Today, with the median home sale price at \$1.3 million<sup>39</sup> and the typical White family having eight times the wealth of the typical Black family,<sup>40</sup> this de-facto form of segregation is even more pronounced. *Missing*

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<sup>36</sup><https://www.berkeleyside.com/2017/06/13/opinion-berkeleys-zoning-laws-wall-off-communities-color-seniors-low-income-people-others>

<sup>37</sup>Racial Segregation in the San Francisco Bay Area (2020) UC Othring and Belonging Institute. <https://belonging.berkeley.edu/racial-segregation-san-francisco-bay-area-part-5>

<sup>38</sup> <https://www.kqed.org/news/11840548/the-racist-history-of-single-family-home-zoning>

<sup>39</sup> Berkeley, CA Real Estate Market (2021). [https://www.realtor.com/realestateandhomes-search/Berkeley\\_CA/overview](https://www.realtor.com/realestateandhomes-search/Berkeley_CA/overview)

<sup>40</sup> Survey of Consumer Finances (2020). Federal Reserve. <https://www.federalreserve.gov/econres/scfindex.htm>

*middle housing can directly benefit those harmed by this modern-day exclusionary zoning practice that perpetuates socioeconomic and racial segregation.*

According to the data mapped by UC Berkeley's Urban Displacement Project, most of the low-income tracts in Berkeley are at-risk or have ongoing displacement and gentrification. Higher-income tracts in Berkeley are classified as 'at-risk of exclusion', currently feature 'ongoing exclusion', or are at stages of 'advanced exclusion'. Degrees of exclusion are measured by a combination of data: the loss of low-income households over time, presence of high income households, being considered in a 'hot housing market,' and migration patterns. The Urban Displacement Project's findings indicate that exclusion is more prevalent than gentrification in the Bay Area.<sup>41</sup> While Berkeley has created policies and designated funding to prevent gentrification, policies that focus on preventing exclusion have lagged.

University of California-Berkeley Professor Karen Chapple, anti-displacement expert and director of the Urban Displacement Project, stated that "the Urban Displacement Project has established a direct connection between the neighborhood designations by the Home Owners Loan Corporation (HOLC), and 75% of today's exclusionary areas in the East Bay... Thus, this historic legacy, compounded by Berkeley's early exclusionary zoning practices, continues to shape housing opportunity and perpetuate inequities today."<sup>42</sup> Not surprisingly, Chapple has indicated that zoning reform "has the potential not just to address the housing crisis but also to become a form of restorative or even transformative justice. There is no more important issue for planners to tackle today."<sup>43</sup>

### ***Historic Redlining***

Redlining was a practice whereby certain neighborhoods or areas were designated as being high-risk for investment. These high-risk designations were literally marked on maps using red coloring or lines, hence "redlining." The designations were typically applied to areas with large non-white and/or economically disadvantaged populations, and resulted in people who lived in or wanted to move to these areas being denied loans, or only being provided loans on much worse terms than their counterparts who could access non-redlined areas, due to their ethnicity or higher economic status.

Because redlining practices were contemporaneous with segregationist race-restricted deeds that largely locked minorities out of non-redlined neighborhoods, most non-white

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<sup>41</sup> Zuk, M., & Chapple, K. (2015). Urban Displacement Project. <http://www.urbandisplacement.org/map/sf>

<sup>42</sup> Karen Chapple's February 25, 2019 letter to Berkeley City Council in support of this proposal. <https://www.berkeley.com/wp-content/uploads/2019/02/Letter-on-Council-Item-22-Chapple-2.25.19.pdf>

<sup>43</sup>Ibid.

households were effectively forced to live in areas where buying and/or improving residential property was extremely difficult. Consequently, low-income and minority families were often locked out of homeownership, and all the opportunities for stability and wealth-building that entails. Therefore redlining tended to reinforce the economic stagnation of the areas to which it was applied, further depressing property values and leading to disinvestment. Although redlining is no longer formally practiced in the fashion it was historically, its effects continued to be felt in wealth disparities, educational opportunity gaps, and other impacts.

One way in which the practice of redlining continues to be felt is through the continuation of exclusionary zoning. By ensuring that only those wealthy enough to afford a single family home with a relatively large plot of land could live in certain areas, exclusionary zoning worked hand in hand with redlining to keep low-income families out of desirable neighborhoods with good schools and better economic opportunity. Cities, including Berkeley, adopted zoning that effectively prohibited multi-family homes in the same areas that relied on race restrictive deeds to keep out non-whites, meaning that other areas, including redlined areas, were more likely to continue allowing multi-family buildings.

Ironically, because these patterns of zoning have persisted, many areas that were historically redlined are now appealing areas for new housing development precisely because they have continued to allow multi-family homes. Any area which sees its potential housing capacity increase will become more appealing for new housing development. When these changes are made in historically redlined areas where lower-income and minority households tend to be more concentrated, it is especially important to ensure those policies do not result in displacement or the loss of rent-controlled or naturally affordable housing units.

### **ALTERNATIVE ACTIONS CONSIDERED**

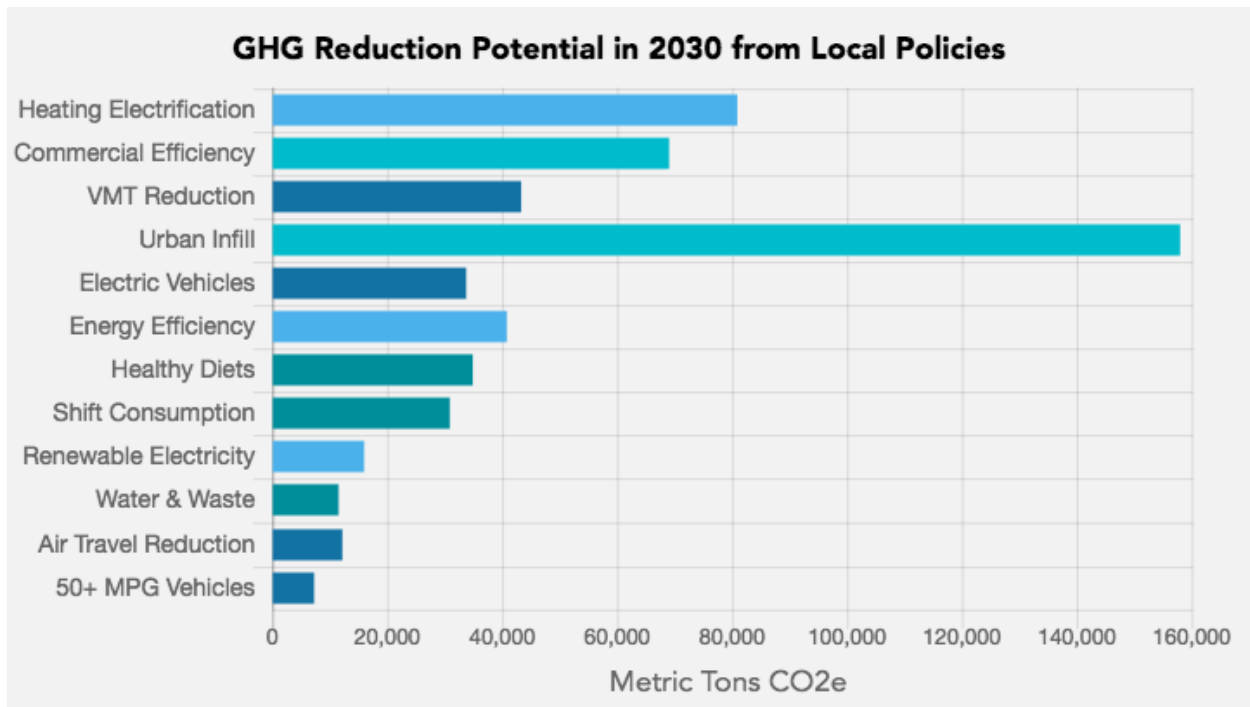
The authors considered passing a budget referral to fund another study for missing middle housing. However, given the new Regional Housing Needs Allocations and the scarcity of housing for individuals and families throughout the Bay Area, we felt the need to act immediately and not wait to study this issue.

### **FINANCIAL IMPLICATIONS**

Costs for consultants to provide additional analysis can range from \$25,000-\$100,000. Staff should also consider augmenting existing work on the Housing Element update and density standard study to align with the objectives of this legislation.

### **ENVIRONMENTAL SUSTAINABILITY**

Berkeley declared a climate emergency in 2018. Among other concerns, wildfires and sea level rise are constant ecological threats to our community. The City of Berkeley needs to act urgently to address this imminent danger. Last year, climate researchers in Berkeley quantified local and state opportunities to reduce greenhouse gases from a “comprehensive consumption-based perspective.”<sup>44</sup> The most impactful local policy to potentially reduce greenhouse gas consumption by 2030 is urban infill. In short, Berkeley can meaningfully address climate change if we allow the production of more homes near job centers and transit.



**CONTACT PERSON(S):**

Lori Droste, 510-981-7180

**ATTACHMENTS/LINKS:**

Minneapolis Plan:

[https://minneapolis2040.com/media/1428/pdf\\_minneapolis2040\\_with\\_appendices.pdf](https://minneapolis2040.com/media/1428/pdf_minneapolis2040_with_appendices.pdf)

Seattle Plan:

<sup>44</sup> “Carbon Footprint Planning: Quantifying Local and State Mitigation Opportunities for 700 California Cities.” Christopher M. Jones, Stephen M. Wheeler, and Daniel M. Kammen. Urban Planning (ISSN: 2183–7635) 2018, Volume 3, Issue 2. <https://rael.berkeley.edu/wp-content/uploads/2018/04/Jones-Wheeler-Kammen-700-California-Cities-Carbon-Footprint-2018.pdf>

<http://www.seattle.gov/Documents/Departments/SeattlePlanningCommission/SPCNeighborhoodsForAllFINAL121318digital.pdf>

Sacramento's Plan:

[https://sacramento.granicus.com/MetaViewer.php?view\\_id=22&clip\\_id=4822&meta\\_id=612624](https://sacramento.granicus.com/MetaViewer.php?view_id=22&clip_id=4822&meta_id=612624)



## **Berkeleyside**

### **Opinion: We can design our way out of Berkeley's housing crisis with 'missing middle' buildings**

*A Berkeley architect argues that Berkeley should build more small-scale, multi-unit buildings such as duplexes, bungalow courts, fourplexes, and small mansion apartments.*

By Daniel Parolek  
Dec. 19, 2017

Berkeley's housing problems have gone national recently, as The New York Times' Conor Dougherty highlighted in a thought-provoking article, "The Great American Single-Family Home Problem." Dougherty examines the conflicting interests and regulations that threatened to halt the development of one lot on Haskell Street, and shows how those conflicting forces are contributing to the affordable housing crisis we are seeing in our state – and across the country.

As an architect and urban designer based in Berkeley for the past 20 years, I agree that California municipalities have an urgent need to deliver more housing. That said, just delivering more housing is not enough. We need to think about how this housing reinforces a high quality built environment and how to provide a range of housing for all segments of the market, including moderate and low-income households. More small-scale, multi-unit buildings such as duplexes, bungalow courts, fourplexes, and small mansion apartments, or what I call "Missing Middle Housing," should be a key focus of that housing.

Unfortunately, the design proposed for the Haskell Street site in Berkeley does not deliver on reinforcing a high quality built environment or affordability and, as the NYT article makes clear, does not deliver on any level of affordability. There are better design solutions that deliver a more compatible form, that have more and a broader range of housing units, and that can be more effective at building local support for this and similar infill projects.

For example, the 50' x 150' lot at 310 Haskell Street is big enough to accommodate a traditional fourplex, with two units down and two units above in a building that is the scale of a house (see image attached from our Missing Middle research). The units would typically be between 750-900 square feet each. An important characteristic of this housing type is that they do not go deeper onto the lot than a traditional house, thus eliminating the concern about privacy and shading and providing high-quality outdoor

living spaces. These fourplex housing types exist all over Berkeley and are often successfully integrated onto blocks with single-family homes.

So how do we get there? Berkeley and most cities across the country need to sharpen their pencils on their outdated zoning codes, first to remove barriers for better solutions and secondly, to create a set of regulations that ensure that inappropriate design solutions like the one proposed for Haskell Street or even worse are not allowed on these sites. Lower densities do not equal better design solutions and higher densities do not need to mean larger or more buildings. This is a delicate balance that few zoning codes achieve and few code writers fully understand.

We also need to change the way we communicate about housing needs in our communities. If we are using George Lakoff's rules for effective communication we would never go into a housing conversation with a community and use terms like "increasing density, adding multi-family, or upzoning a neighborhood." I can think of few neighborhoods that would feel good about saying yes to any of those options if they were framed in that way, but which can mostly get on board with thinking about aging within a neighborhood, or ensuring their kids or grandkids can afford to move back to the city they grew up in. Beginning this conversation by simply showing photographic and/or local existing documented examples of good Missing Middle housing types often disarms this conversation and leads to more fruitful results.

Berkeley's challenges related to housing are not going to go away anytime soon. We need to thoughtfully remove barriers to enable a broad range of solutions like the fourplex that have been a core part of choices provided in our communities already and learn how to effectively build consensus and support for good design solutions such as Missing Middle housing types.

*Daniel Parolek is an architect and urban designer who co-authored the book "Form-Based Codes," coined the term Missing Middle Housing ([www.missingmiddlehousing.com](http://www.missingmiddlehousing.com)) and speaks and consults nationally on these topics.*



February 25, 2019

Honorable Mayor and City Council members:

I am writing to convey my strong support for the "Missing Middle Report" on your 2/26 Council meeting.

As the Council item co-authored by Councilmembers Droste, Bartlett, Kesarwani, and Robinson points out, Berkeley's housing crisis today is a legacy of its past racist and exclusionary practices. I commend their effort to push Berkeley to confront its history in order to build a more inclusive future.

Our research at the Urban Displacement Project has established a direct connection between the neighborhood designations by the Home Owners Loan Corporation (HOLC) and today's patterns of residential displacement and exclusion.<sup>1</sup> Overall, 83% of today's gentrifying areas in the East Bay were rated as "hazardous" (red) or "definitely declining" (yellow) by the HOLC, and 75% of today's exclusionary areas in the East Bay were rated as "best" (green) or "still desirable" (blue) by HOLC. Thus, this historic legacy, compounded by Berkeley's early exclusionary zoning practices, continues to shape housing opportunity and perpetuate inequities today.

Should Berkeley elect to proceed to study the potential for zoning reform, it will be in good company. As the item authors note, Minneapolis and Seattle are already experimenting with ways to open up single-family zones, and Berkeley should be leading the charge as well.<sup>2</sup> Zoning reform has the potential not just to address the housing crisis but also to become a form of restorative or even transformative justice. There is no more important issue for planners to tackle today.

I urge you to vote yes on Item 22 to request a Missing Middle report. Please do not hesitate to call on me if any research on zoning impacts or alternatives is needed.

Sincerely,

Karen Chapple  
Professor, City and Regional Planning  
Carmel P. Friesen Chair in Urban Studies  
Faculty Director, The Urban Displacement Project

<sup>1</sup> See <http://www.urbandisplacement.org/redlining>

<sup>2</sup> Interestingly, leading the charge in Minneapolis is City Council President Lisa Bender, a graduate of UC-Berkeley's Department of City and Regional Planning.