



Planning Commission

# AGENDA

## REGULAR MEETING OF THE PLANNING COMMISSION

This meeting is held in a wheelchair accessible location.

**Wednesday, April 3, 2024**

6:00 PM

**North Berkeley Senior Center**

1901 Hearst Avenue, Berkeley

See **“MEETING PROCEDURES”** below.

All written materials identified on this agenda are available on the Planning Commission webpage: <https://berkeleyca.gov/your-government/boards-commissions/planning-commission>

### **PRELIMINARY MATTERS**

- 1. Roll Call:** **Merker, Blaine**, appointed by Councilmember Kesarwani, District 1  
**Vincent, Jeff, Chair**, appointed by Councilmember Taplin, District 2  
**Moore III, John E. “Chip”**, appointed by Councilmember Bartlett, District 3  
**Oatfield, Christina**, appointed by Councilmember Harrison, District 4  
**Mikiten, Elisa**, appointed by Councilmember Hahn, District 5  
**Marthinsen, Emily**, appointed by Councilmember Wengraf, District 6  
**Twu, Alfred**, appointed by Councilmember Robinson, District 7  
**Hauser, Savlan**, appointed by Councilmember Droste, District 8  
**Ghosh, Barnali, Vice Chair**, appointed by Mayor Arreguín
- 2. Land Acknowledgement:** The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley’s residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley’s incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.

- 3. **Order of Agenda:** The Commission may rearrange the agenda or place items on the Consent Calendar.
- 4. **Public Comment:** Comments on subjects not included on the agenda. Speakers may comment on agenda items when the Commission hears those items. (See “Public Testimony Guidelines” below):
- 5. **Planning Staff Report:** In addition to the items below, additional matters may be reported at the meeting. **Next Commission meeting: May 1, 2024**
- 6. **Chairperson’s Report:** Report by Planning Commission Chair.
- 7. **Committee Reports:** Reports by Commission committees or liaisons. In addition to the items below, additional matters may be reported at the meeting.
- 8. **Approval of Minutes:** Approval of Draft Minutes from the regular meeting on February 7, 2024.
- 9. **Future Agenda Items and Other Planning-Related Events:** None.

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

- 10. **Action:** **Public Hearing: Middle Housing General Plan Map Amendment**  
  - Recommendation:** Review the proposed General Plan amendments to Title 23. Take public comment, discuss draft amendments, and make a recommendation to City Council.
  - Written Materials:** Attached.
  - Presentation:** N/A
- 11. **Discussion:** **San Pablo Specific Plan**  
  - Recommendation:** Receive an update on the San Pablo Specific Plan and discuss.
  - Written Materials:** N/A.
  - Presentation:** N/A.

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

**Information Items:**

- March 26, 2024 – City Council conducted a public hearing to consider Zoning Ordinance Amendments to Berkeley Municipal Code Chapter 23.326 Demolition and Dwelling Unit Controls, <https://berkeleyca.gov/city-council-regular-meeting-eagenda-march-26-2024>

**Communications:** BART

**Late Communications:** (Received after the packet deadline):

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

**ADJOURNMENT**

### **Meeting Procedures**

#### **Public Testimony Guidelines:**

Speakers are customarily allotted up to two minutes each and may not cede their time to another speaker. The Commission Chair may limit the number of speakers and the length of time allowed to each speaker to ensure adequate time for all items on the Agenda. **To speak during Public Comment or during a Public Hearing, please line up behind the microphone.** Customarily, speakers are asked to address agenda items when the items are before the Commission rather than during the general public comment period. Speakers are encouraged to submit comments in writing. See “Procedures for Correspondence to the Commissioners” below.

#### **Consent Calendar Guidelines:**

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

#### **Procedures for Correspondence to the Commissioners:**

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

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

**Communications are Public Records:** Communications to Berkeley boards, commissions, or committees are public records and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses,**

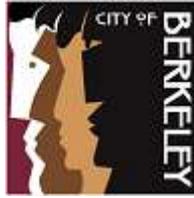
**and other contact information are not required, but if included in any communication to a City board, commission, or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service, or in person, to the Secretary of the relevant board, commission, or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the Secretary to the relevant board, commission, or committee for further information.

***Written material*** may be viewed in advance of the meeting at the Department of Planning & Development, Permit Service Center, **1947 Center Street, 3<sup>rd</sup> Floor**, during regular business hours.

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

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

***Please refrain from wearing scented products to public meetings.***



Planning Commission

1                   **DRAFT MINUTES OF THE REGULAR PLANNING COMMISSION MEETING**  
2                   **February 7, 2024**

3 The meeting was called to order at 6:02 p.m.

4 **Location:** North Berkeley Senior Center, 1901 Hearst Avenue, Berkeley, CA 94709

5 • **ROLL CALL:**

6       **Commissioners Present:** Blaine Merker, Debra Sanderson (alternate for Jeff Vincent), John  
7       E. Moore, Christina Oatfield, Elisa Mikiten, Emily Marthinsen, Alfred Twu, Savlan Hauser,  
8       and Barnali Ghosh.

9  
10       **Commissioner Absent:** Jeff Vincent (excused).

11  
12       **Staff Present:** Secretary Anne Hersch, Clerk Zoe Covello, Justin Horner, and Brian Garvey.

13 • **LAND ACKNOWLEDGEMENT.**

14       The City of Berkeley recognizes that the community we live in was built on the territory of  
15       xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-  
16       chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the  
17       sovereign Verona Band of Alameda County. This land was and continues to be of great  
18       importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin  
19       our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the  
20       documented 5,000-year history of a vibrant community at the West Berkeley Shellmound,  
21       and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's  
22       residents have and continue to benefit from the use and occupation of this unceded stolen  
23       land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating  
24       the City of Berkeley, it is not only vital that we recognize the history of this land, but also  
25       recognize that the Ohlone people are present members of Berkeley and other East Bay  
26       communities today. The City of Berkeley will continue to build relationships with the Lisjan  
27       Tribe and to create meaningful actions that uphold the intention of this land  
28       acknowledgement.

29 • **ORDER OF AGENDA:** No changes.

30 • **PUBLIC COMMENT PERIOD:** 1.

31 • **PLANNING STAFF REPORT:**

- 32       • The next commission meeting is planned for March 6, 2024.

33 **Information Items:** None.

34 **Communications:**

- 35 • None.

36 **Late Communications:**

- 37 • Supplemental 1.
- 38 • Supplemental 2

39

40 • **CHAIR REPORT:**

- 41 • None.

42 • **COMMITTEE REPORT:** Reports by Commission committees or liaisons. In addition to the  
43 items below, additional matters may be reported at the meeting.

44

- 45 • None.

46 **8. APPROVAL OF MINUTES:**

47 Motion/Second/Carried (Mikiten/Sanderson) to approve the Planning Commission Meeting  
48 Minutes from January 17, 2024.

49

50 Ayes: Sanderson, Moore, Oatfield, Mikiten, Marthinsen, Twu, and Ghosh. Noes: None.

51 Abstain: Merker and Hauser. Absent: None. (7-0-2-0)

52

53 **9. OTHER PLANNING RELATED EVENTS:**

- 54 • None.

55

56 **AGENDA ITEMS**

57 **10. Action: 2024 Elections for Chair and Vice Chair**

58 The Commission held elections for Chair and Vice Chair of the Planning Commission.

59 Motions/Second/Carried (Sanderson/Hauser) to reelect Chair Vincent as Chair of the Planning  
60 Commission at 6:09 pm.

61

62 Ayes: Merker, Sanderson, Moore, Mikiten, Marthinsen, Twu, Hauser, and Ghosh. Noes: None.

63 Abstain: Oatfield. Absent: None. (8-0-1-0)

64

65 Motions/Second/Carried (Merker/Marthinsen) to reelect Vice Chair Ghosh as Vice Chair of the  
66 Planning Commission at 6:10 pm.

67  
68 Ayes: Merker, Sanderson, Moore, Mikiten, Marthinsen, Twu, Hauser, and Ghosh. Noes: None.  
69 Abstain: Oatfield. Absent: None. (8-0-1-0)  
70

71 **Public Comments: 0**

72 **11. Public Hearing: Middle Housing**

73 Associate Planner Justin Horner presented proposed amendments to Title 23 of the Berkeley  
74 Municipal Code, the Zoning Map, and the General Plan, which would encourage the  
75 development of “middle housing” in areas currently zoned R-1, R-1A, R-2, R-2A and MU-R. The  
76 Commissioners asked clarifying questions, held a public hearing, took public comment,  
77 discussed the proposed ordinance language, and recommended the ordinance to City Council  
78 with a series of recommended changes.

79 Motion/Second/Carried (Mikiten/Merker) to close the public hearing at 7:15 pm.

80  
81 Ayes: Merker, Sanderson, Moore, Oatfield, Mikiten, Marthinsen, Twu, Hauser, and Ghosh.  
82 Noes: None. Abstain: None. Absent: None. (9-0-0-0)  
83

84 **Public Comments: 12**

85 Motion/Second/Carried (Merker/Sanderson) to recommend that City Council adopt staff's  
86 recommended ordinance with the following changes:

- 87  
88 1. Remove the floor area ratio (FAR) standard for all zones being discussed,  
89 2. Remove the maximum residential density standard for all zones being discussed,  
90 3. Increase the lot coverage to 60% for all zones being discussed,  
91 4. Remove language specific to additional permit requirements for bedrooms in BMC Section  
92 23.202.030(B)(1), and  
93 5. Remove development standards specific to additions and instead rely solely on main  
94 building standards,

95  
96 at 8:33 pm.

97  
98 Ayes: Merker, Sanderson, Moore, Marthinsen, Twu, Hauser, and Ghosh. Noes: Oatfield and  
99 Mikiten. None. Abstain: None. Absent: None. (7-2-0-0)  
100

101 Motion/Second/Passed (Ghosh/Merker) to permit the construction of all housing types that  
102 increase density, including single-family homes, with a Zoning Certificate, at 8:37 pm.

103  
104 Ayes: Merker, Sanderson, Marthinsen, Twu, Hauser, and Ghosh. Noes: Moore and Mikiten.  
105 Abstain: Oatfield. Absent: None. (6-2-1-0)

106

107

Motion/Second/Failed (Mikiten/Moore) to further recommend that the ordinance is revised to leave the core section in West Berkeley (10<sup>th</sup> Street through 7<sup>th</sup> Street) as R-1 at 8:55 pm.

108

109

110

Ayes: Moore and Mikiten. Noes: Merker, Sanderson, Marthinsen, Twu, Hauser, and Ghosh.

111

Abstain: Oatfield. Absent: None. (2-6-1-0)

112

113

Motion/Second/Carried (Moore/Mikiten) to adjourn the meeting at 8:57 pm.

114

115

Ayes: Merker, Sanderson, Moore, Oatfield, Mikiten, Marthinsen, Twu, Hauser, and Ghosh.

116

Noes: None. Abstain: None. Absent: None. (9-0-0-0)

117

118

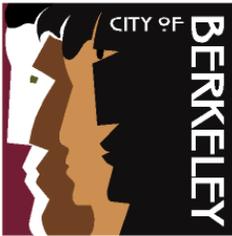
**Members in the public in attendance: 14**

119

**Public Speakers: 13**

120

**Length of the meeting: 2 hr 55 minutes**



Planning and Development Department  
Land Use Planning Division

## STAFF REPORT

DATE: April 3, 2024  
TO: Members of the Planning Commission  
FROM: Justin Horner, Associate Planner  
SUBJECT: Amendments to the General Plan to Encourage Middle Housing

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### RECOMMENDATION

Planning Commission is asked to hold a public hearing, receive and provide comment on General Plan text and map amendments, and make a recommendation for consideration by the City Council.

### BACKGROUND

At its February 7, 2024 meeting, the Planning Commission held a public hearing and made a recommendation to City Council regarding zoning ordinance amendments to promote middle housing in parcels currently located in the Single-Family Residential (R-1), Limited Two-family Residential (R-1A), Restricted Two-family Residential (R-2), Restricted Multiple-family Residential (R-2A and Mixed Use-Residential (MU-R) zoning districts (**Attachment 1**). The Planning Commission's recommendation requires conforming amendments to the General Plan and General Plan Map (**Attachment 2**) before it can be considered and adopted by the City Council.

### DISCUSSION

To ensure conformance between the General Plan and the Planning Commission's recommendation, staff are proposing amendments to the text of the Land Use Element of the General Plan as well as amendments to the General Plan map (**Attachment 2**).

#### General Plan Text Amendments

*Land Use Classification Descriptions:* Currently, there are three different land use classifications that characterize the R-1, R-1A, R-2, and R-2A zoning districts:

1. Low Density Residential for the R-1 and Environmental Safety Residential (ES-R) zoning districts;
2. Low Medium Density Residential for the R-1A and R-2 zoning districts; and
3. Medium Density Residential for the R-2A and R-3 zoning districts.

Staff proposes reducing the number of land use classifications that apply to these districts to two. This is consistent with the Planning Commission's recommendation to consolidate the R-1A and R-2 zoning districts and to adopt development standards that are largely consistent across these low-density residential zoning districts. Specifically, staff recommends:

1. Renaming the Low Density Residential classification to Low Medium Density Residential;
2. Assigning the Medium Density Residential classification to the R-2, R-2A and R-3 zoning districts; and
3. Including technical edits that reflect the Planning Commission's recommendation with respect to the names of zoning districts and the proposed development standards.

The proposed General Plan amendments also include minor changes to the Mixed-Use Residential land use classification to accurately state the zoning district's Floor Area Ratio and height regulations.

#### General Plan Map Amendments

Consistent with the recommended General Plan text changes, the General Plan Map would be amended to a) rename the Low Density Residential classification; and b) expand the Medium Density Residential classification to include the R-2 and R-2A zoning districts.

#### **ENVIRONMENTAL REVIEW**

Development projections for this project were analyzed in the Environmental Impact Report (EIR) for the 2023-2031 Housing Element Update, which was certified by the City Council on January 18, 2023.<sup>1</sup>

#### **NEXT STEPS**

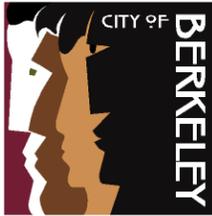
Upon receiving Planning Commission recommendation and public comment, staff will forward the General Plan text and map amendments, to City Council for consideration and adoption.

#### **ATTACHMENTS**

1. Planning Commission Staff Report – February 7, 2024.
2. Draft Resolution - General Plan Map and Text Amendments
3. Public Hearing Notice

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<sup>1</sup> Housing Element Update 2023-2031 Final EIR.  
[https://berkeleyca.gov/sites/default/files/documents/ATT%20%20FEIR\\_RTC.pdf](https://berkeleyca.gov/sites/default/files/documents/ATT%20%20FEIR_RTC.pdf)



Planning and Development Department  
Land Use Planning Division

## STAFF REPORT

DATE: February 7, 2024  
To: Members of the Planning Commission  
From: Justin Horner, Associate Planner  
Subject: Public Hearing: Amendments to Title 23, the Zoning Map, and the General Plan Relating to Middle Housing

### RECOMMENDATION

Conduct a public hearing, receive public comment, and upon conclusion, make a recommendation to the City Council on proposed amendments to Title 23 (**Attachment 1**), the Zoning Map, and the General Plan (**Attachment 4**) to encourage the development of “middle housing” in areas currently zoned R-1, R-1A, R-2, R-2A and MU-R (“low-density residential districts”).

### BACKGROUND

The proposed zoning amendments are prepared in response to a number of City Council referrals and to satisfy the requirements of Program 29—Middle Housing in the adopted Housing Element. Detailed discussion of the relevant referrals, Program 29 of the Housing Element, and previous deliberations on the issue of middle housing can be found in **Attachment 2**.

At its meeting of November 1, 2023, the Planning Commission received an informational report from staff on the development of zoning changes to encourage middle housing in low-density residential districts and provided the following direction to staff:

- **Middle Housing Zoning:** Prepare zoning ordinance amendments that include changes to development standards to encourage middle housing;
- **Demolition of Single-Family Homes:** Prepare zoning ordinance amendments to permit demolition of single-family dwellings with a Zoning Certificate (ZC) if associated with a middle housing project.

At its January 17<sup>th</sup>, 2024 meeting, the Planning Commission recommended a change to the Demolition Ordinance which permitted demolition of a single-family dwelling without tenants with an Administrative Use Permit (AUP). The 4x4 Joint

Task Force Committee on Housing has recommended a set of changes to the Demolition Ordinance that maintained the requirement of a Use Permit for the demolition of any dwelling unit.

The proposed ordinance includes a new revision to the Demolition Ordinance that permits the demolition of single-family dwellings with a ZC, as long as the demolition is part of a development project that results in an increase in density. Pursuant to SB 9, demolition for the purposes of increasing density on a lot is permitted by-right in the R-1 zoning district, which is currently a single-family zone. The proposed ordinance, however, includes revisions to the R-1 development standards which would result in the R-1 no longer qualifying as a single-family zone, thus eliminating the by-right demolition conveyed by SB 9. Therefore, the proposed ordinance includes a by-right demolition provision to preserve a right that already exists in the R-1 zoning district. Most middle housing development is anticipated to involve the redevelopment of existing properties. Maintaining a requirement to obtain a Use Permit to demolish a single-family dwelling to develop middle housing effectively creates a Use Permit threshold for approval of a middle housing project.

As the Environmental Impact Report for the Housing Element disclosed, “development accommodated by the proposed Housing Element Update [including middle housing and by-right demolition] could adversely affect known and previously unidentified historic period resource.” Currently, the requirement to obtain a Use Permit to demolish a structure requires properties more than 40 years old to be subject to an Historic Resource Evaluation (HRE), which helps establish whether a property is an historic or cultural resource. If demolition were permitted with a ZC, an HRE would not be required. As a result, some properties that have not yet had their historic or cultural resources status evaluated could be subject to demolition without preservation review.

The Housing Element EIR includes the following mitigation measure to address this potential impact:

**CUL-1 Historic Context Statement, Cultural Resources Survey and Designations.** During the period of this Housing Element, the City should conduct a citywide historic context statement and a cultural resource survey to identify historic resources, with priority given to sites in the EIR Site Inventory, to determine if there are designed built environment features which are over 40 years of age proposed to be altered or demolished. Designation of historic or cultural resources should be conducted by the Landmarks Preservation Commission pursuant to 3.24.260 of the Berkeley Municipal Code.

The development of a citywide historic context statement has been proposed but has not yet been budgeted. As part of its recommendation, the Planning Commission could include a suggestion that the City Council provide funding for a citywide historic context statement. To reduce the time and cost related to such a study, an historic context statement could also be focused geographically on areas of the city that are either a) particularly rich in potential historic resources, and/or b) are anticipated to experience redevelopment as a result of the proposed ordinance.

- **Hillside Overlay Zone:** Ensure that the proposed zoning amendments apply to low-density residential districts both within, and outside of, the Hillside Overlay zone.

Staff's recommendation to the Planning Commission at its November 1, 2023 meeting excluded parcels in the R-1H, R-2H, and R-2AH from the proposed middle housing standards. The proposed ordinance includes those parcels, which would be subject to specific development standards (minimum and maximum densities, and front, rear, and side setbacks) that would apply only to parcels in the Hillside Overlay zone, as presented to the City Council in September, 2022.

Planning Commissioners also provided the following suggestions:

- **Remove Floor Area Ratio (FAR) maximums.** Some commissioners remarked that building bulk is adequately-regulated through development standards related to height, setbacks and lot coverage.
- **Remove maximum residential density standards.** Some commissioners remarked that development standards should only regulate the size and bulk of a building, not the maximum number of units within it. A maximum density standard was seen an unnecessary cap on the number of housing units when building size and bulk are regulated through development standards related to height, setbacks and lot coverage.
- **Increase maximum lot coverage to 60%.** Some commissioners remarked that allowing 60% lot coverage on all parcels would increase the feasibility of middle housing projects while preserving sufficient open space for resident use and maintaining the residential feel of these zoning districts.

The proposed ordinance maintains staff's November 1, 2023 recommendation for these three development standards. During the development of the proposed ordinance, staff received feedback from both the City Council and the Planning Commission that the middle housing standards should promote the creation of more housing units, and should not simply allow larger unit sizes at low densities. The key trade-off within the proposed ordinance is that larger development projects are permitted, with the understanding that these projects contribute to addressing the city's housing shortage by providing more housing units. Accordingly, FAR and lot coverage are scaled up so as to be more expansive for projects that include more units. Staff continues to recommend this approach.

- **Maintain parking maximums** for middle housing projects. Although parking maximums may make the marketing of middle housing projects more difficult, the City's policies related to greenhouse gas reduction and promoting alternatives to private vehicle travel continue to justify this policy. The proposed ordinance does not include any revisions to the maximum parking requirements.

The proposed ordinance also includes the following three revisions that relate to the conversion of existing residential buildings:

- The definition of a **Residential Addition** is revised to exclude floor area associated with new dwelling units that are added to an existing single-family or multi-family dwelling. Currently, BMC Section 23.502.020.A.8 requires an AUP for a Residential Addition that exceeds a certain size, and the Addition is subject to height limits that are more restrictive than those for new main buildings. As the proposed ordinance would permit altogether new Multi-Family Residential buildings ministerially, it would be inconsistent to require a discretionary review process for additional units that are added to an existing building. The AUP requirement would remain for a Residential Addition that is solely for the purpose of expanding the size of an existing unit;
- The proposed ordinance includes a revision which excludes **bedrooms** proposed within new dwelling units that are added to existing dwellings or lots developed with existing residential uses. Currently, BMC Section 23.202.030 requires an AUP when adding a fifth bedroom *to a lot*, and a UP for adding any bedroom beyond the fifth *to a lot*. As the proposed ordinance would permit altogether new Multi-Family Residential buildings ministerially, it would be inconsistent to require a discretionary review process for the additional bedrooms that would be added to the lot as a result of a new building or addition that includes new units. The AUP and UP requirements would remain for projects adding bedrooms to an existing lot solely for the purpose of expanding the size(s) of an existing unit(s); and
- A note is added to the **Floor Area Ratio, Maximum** development standard in the R-1, R-2 and R-2A Development Standards Tables that clarifies that the FAR of an existing residential building does not need to be reduced to comply with the maximum Floor Area Ratio standard to add new units. There may be cases where an existing residential building exceeds the allowable maximum FAR. If there were a requirement to reduce the size of the existing building to comply with the maximum FAR applicable to a new building, it could deter the creation of more dwelling units within that existing building.

The proposed zoning amendments are included in **Attachment 1** and are summarized in Table 1, below. Existing and proposed development standards are also summarized in comparative tables in **Attachment 3**.

**Table 1. Summary of Proposed Middle Housing Zoning Amendments**

Ord. Sect.	BMC Section & Title	Description of Changes	Rationale
<b>Title 23, Division 1 – General Provisions</b>			
1	23.108.020 Zoning Districts	<ul style="list-style-type: none"> <li>R-1A district removed;</li> <li>R-1, R-2, and R-2A renamed.</li> </ul>	Conforming edits.
<b>Title 23, Division 2 – Zoning Districts</b>			
2	23.202.020 Allowed Land Uses Table	<ul style="list-style-type: none"> <li>R-1A district removed;</li> <li>Two-Family land use type removed;</li> <li>Multi-Family Residential land use type revised: two or more units permitted with a ZC in the R-1, R-2, and R-2A zoning district.</li> </ul>	Permitting middle housing by-right.
3	23.202.030 Additional Permit Requirements	<ul style="list-style-type: none"> <li>R-1A district removed.</li> <li>Requirements for additional bedrooms in new units removed.</li> </ul>	Conforming edit.  Promoting middle housing.
4, 5	23.202.050 R-1 Title and District Purpose	<ul style="list-style-type: none"> <li>R-1 renamed;</li> <li>District purpose revised.</li> </ul>	Clarifying that R-1 is not a single-family only district.
6	23.202.050 R-1 Development Standards	<ul style="list-style-type: none"> <li>Development standards revised.</li> </ul>	Promoting middle housing.
7	23.202.060 R-1A District	<ul style="list-style-type: none"> <li>R-1A district removed.</li> </ul>	Merging of R-1A and R-2 zoning districts.
8, 9	23.202.070 ES-R District	<ul style="list-style-type: none"> <li>Renumbering.</li> </ul>	Renumbering.
10, 11	23.202.080 R-2 Title and District Purpose	<ul style="list-style-type: none"> <li>R-2 district renamed.</li> <li>District purpose revised.</li> </ul>	Conforming edit.
12	23.202.080 R-2 Development Standards	<ul style="list-style-type: none"> <li>Development standards revised.</li> </ul>	Promoting middle housing.
13, 14	23.202.090 R-2A Title and District Purpose	<ul style="list-style-type: none"> <li>R-2A district renamed.</li> <li>District purpose revised.</li> </ul>	Conforming edit.
15	23.202.090 R-2A Development Standards	<ul style="list-style-type: none"> <li>Development standards revised.</li> </ul>	Promoting middle housing.
16-33	Various	<ul style="list-style-type: none"> <li>Renumbering.</li> </ul>	Renumbering.

34	23.206.020 Allowed Land Use in Manufacturing Districts	<ul style="list-style-type: none"> <li>Two-Family land use type removed;</li> <li>Multi-Family Residential land use type revised: two or more units permitted with a ZC in the MU-R district.</li> </ul>	Permitting middle housing by-right in the MU-R.
35	23.206.090 MU-R District	<ul style="list-style-type: none"> <li>Provisions conditioning residential uses in the MU-R district removed.</li> </ul>	Permitting middle housing by-right in the MU-R.
36	23.206.090 MU-R Development Standards	<ul style="list-style-type: none"> <li>Development standards revised.</li> </ul>	Promoting middle housing.
37	23.210.020 Hillside Overlay Zone	<ul style="list-style-type: none"> <li>Prohibition of multiple dwellings on a parcel in the R-2H removed.</li> </ul>	Promoting middle housing.
38	23.210.020 Hillside Overlay Zone Development Standards	<ul style="list-style-type: none"> <li>R-1A district removed;</li> <li>3 stories maximum removed (maximum height unchanged).</li> </ul>	Conforming edit.  Promoting middle housing.
<b>Title 23, Division 3 – Citywide Provisions</b>			
39	23.304.030 Setbacks	<ul style="list-style-type: none"> <li>R-1A district removed.</li> </ul>	Conforming edit.
40	23.304.030 Allowed Setback Reductions	<ul style="list-style-type: none"> <li>R-1A district removed.</li> <li>Revised minimum setback with reduction to 4 feet in the R-2 and R-2A zoning districts</li> </ul>	Conforming edits.
41	23.304.040 Permits Required for Building Separation	<ul style="list-style-type: none"> <li>R-1A district removed.</li> </ul>	Conforming edit.
42	23.322.100 On-site Loading Spaces	<ul style="list-style-type: none"> <li>R-1A district removed.</li> </ul>	Conforming edit
43	23.326.030 Eliminating Dwelling Units through Demolition	<ul style="list-style-type: none"> <li>Demolition of single-family dwellings permitted with a ZC, if project results in increased density.</li> </ul>	Promoting middle housing.
<b>Title 23, Division 5 – Glossary</b>			
44	23.502.020 Defined Terms	<ul style="list-style-type: none"> <li>Revised definition of Addition to exclude new floor area that consists of new unit(s).</li> </ul>	Promote middle housing.
45		<ul style="list-style-type: none"> <li>Revised definition of Multi-family Dwelling from three or more units to two or more units.</li> </ul>	Promote middle housing.  Conforming edit.

		<ul style="list-style-type: none"> <li>Define Multi-Family Residential land use type.</li> </ul>	
46		<ul style="list-style-type: none"> <li>Remove definition of rear building.</li> </ul>	Conforming edit.
47		<ul style="list-style-type: none"> <li>Add Single-Family Residential land use type</li> </ul>	Conforming edit.
48		<ul style="list-style-type: none"> <li>Remove definition of Two-Family Dwelling</li> </ul>	Conforming edit.
<b>Zoning Map</b>			
Att. A	Zoning Map	<ul style="list-style-type: none"> <li>Replace all R-1A zone labels with R-2.</li> </ul>	Conforming edit.

The proposed zoning changes require conforming General Plan amendments. **Attachment 4** is a resolution that includes the text of these amendments. The amendments are summarized below:

- Removal of R-1A Zoning District:* The proposed zoning changes include consolidating parcels currently zoned as R-1A and R-2 into a single R-2 zoning district. The proposed General Plan amendments include removal of references to the R-1A zoning district.
- Renaming R-1, R-2, and R-2A Zoning Districts:* The proposed zoning changes include new names for the R-1, R-2 and R-2A zoning districts. The proposed General Plan amendments incorporate these new names.
- Density, Height and FAR:* The proposed zoning changes include revisions to development standards related to density, height and FAR. The General Plan includes descriptions of each Land Use Classification that note the density, height and FAR anticipated to characterize each area. The proposed General Plan amendments include updates to the Low Density Residential, Low Medium Density Residential, Medium Density Residential and Mixed-Use Residential descriptions to reflect the revised development standards in the proposed zoning changes.

**ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS**

*Housing Element Update EIR*

Development projections for this project and all reasonably foreseeable growth resulting from development contemplated by the City’s updated Housing Element were analyzed in the Environmental Impact Report (EIR) for the 2023-2031 Housing Element Update (“Housing Element Update EIR”), which was certified by the City Council on January 18, 2023.<sup>1</sup>

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<sup>1</sup> Housing Element Update 2023-2031 Final EIR.  
[https://berkeleyca.gov/sites/default/files/documents/ATT%20%20FEIR\\_RTC.pdf](https://berkeleyca.gov/sites/default/files/documents/ATT%20%20FEIR_RTC.pdf)

The Housing Element EIR identified one significant and unavoidable environmental impact related to Cultural Resources (impacts to historic-period resources), one significant and unavoidable impact related to Noise (temporary construction noise) and four significant and unavoidable impacts related to Wildfire (emergency evacuation and response, wildfire risk and pollutant exposure, terrain and slope impacts, and infrastructure). All other environmental effects of the proposed Project can be reduced to less than significant levels through implementation of Standard Condition(s) of Approval and/or recommended mitigation measures. Adopting the Housing Element EIR included a statement of overriding consideration that provides reasons the Housing Element could be adopted even though those impacts could occur.

CONTACT PERSON

Justin Horner, Associate Planner, Planning and Development, 510-981-7476

Attachments:

- 1: Ordinance
  - A: Zoning Map Changes
- 2: Planning Commission Staff Report, November 1, 2023.
- 3: Existing and Proposed Development Standards Tables.
- 4: Resolution -- General Plan Amendments.
- 5: Pubic Hearing Notice.

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

A RESOLUTION APPROVING AND ADOPTING GENERAL PLAN AMENDMENTS, INCLUDING AMENDMENTS TO THE LAND USE DIAGRAM TO RE-DESIGNATE CERTAIN PARCELS, AND AMENDMENTS TO THE LOW DENSITY RESIDENTIAL, LOW MEDIUM DENSITY RESIDENTIAL, MEDIUM DENSITY RESIDENTIAL, AND MIXED-USE RESIDENTIAL LAND USE DESIGNATIONS TO BE CONSISTENT WITH ASSOCIATED ZONING TEXT AMENDMENTS TO PROMOTE MIDDLE HOUSING

WHEREAS, the adopted Housing Element includes “Program 29 – Middle Housing” to pursue zoning map and development standard amendments to allow multi-unit development on one lot in the lower density districts: R-1, R-1A, R-2, R-2A and MU-R; and

WHEREAS, on February 7, 2024, the Planning Commission held a duly noticed public hearing and took public testimony, which was preceded by the distribution of notices in accordance with State and local noticing requirements; and, after conducting and closing the public hearing, recommended that the City Council adopt zoning ordinance amendments to allow multi-unit development on one lot in the lower density districts;

WHEREAS, on April 3, 2024, the Planning Commission held a duly noticed public hearing and took public testimony, which was preceded by the distribution of notices in accordance with State and local noticing requirements; and, after conducting and closing the public hearing, recommended that the City Council (1) Adopt a Resolution to (a) amend the General Plan Land Use Diagram to re-designate certain parcels Medium Density Residential, and (b) amend the General Plan Low Density Residential, Low Medium Density Residential, Medium Density Residential, and Mixed-Use Residential Designations to be consistent with associated zoning text amendments that increase residential development potential; and

WHEREAS, on XXX, 2024 the City Council held a duly noticed public hearing to consider the General Plan and zoning ordinance amendments, and make conforming changes to other BMC sections; and

WHEREAS, the proposed amendments are consistent with the adopted Housing Element and serve the public interest by facilitating additional housing capacity and production to better meet student-oriented housing demand in the Southside Plan Area; and

WHEREAS, the amendments would not be detrimental to the public health, safety and welfare of the City because they would facilitate development that would be completed in compliance with current building and fire codes and regulations; and would be subject to the City’s standard conditions of approval regarding noise and air quality, waste diversion, toxics and stormwater requirements, as well as applicable mitigation measures included in the Housing Element Update EIR ; and

WHEREAS, the amendments do not change the designation of any parcel to reduce the intensity of use allowed under the existing General Plan or zoning pursuant to Gov. Code section 66300(b)(1); and

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

NOW THEREFORE, BE IT RESOLVED, that the amendments are consistent with Program 29 of the adopted HEU; that the environmental effects of the amendments were evaluated in the certified Final EIR of the HEU and the Addendum to the Final EIR; and

NOW THEREFORE, BE IT FURTHER RESOLVED by the City Council that the General Plan Land Use Diagram is hereby amended, as shown in Exhibit A, and the General Plan Land Use Designations are hereby amended, as shown in Exhibit B; and

BE IT FURTHER RESOLVED that the City Council hereby authorizes the City Manager to make non-substantive, technical conforming edits (e.g., correction of typographical errors and/or clerical errors) to the Berkeley Municipal Code, including but not limited to page, figure or table numbering, or internal cross-references to amended or new sections of the Berkeley Municipal Code, and to return to the Planning Commission and City Council for major revisions only; and

BE IT FURTHER RESOLVED that nothing in this Resolution shall be interpreted or applied so as to create a requirement, power, or duty in conflict with any federal or State law.

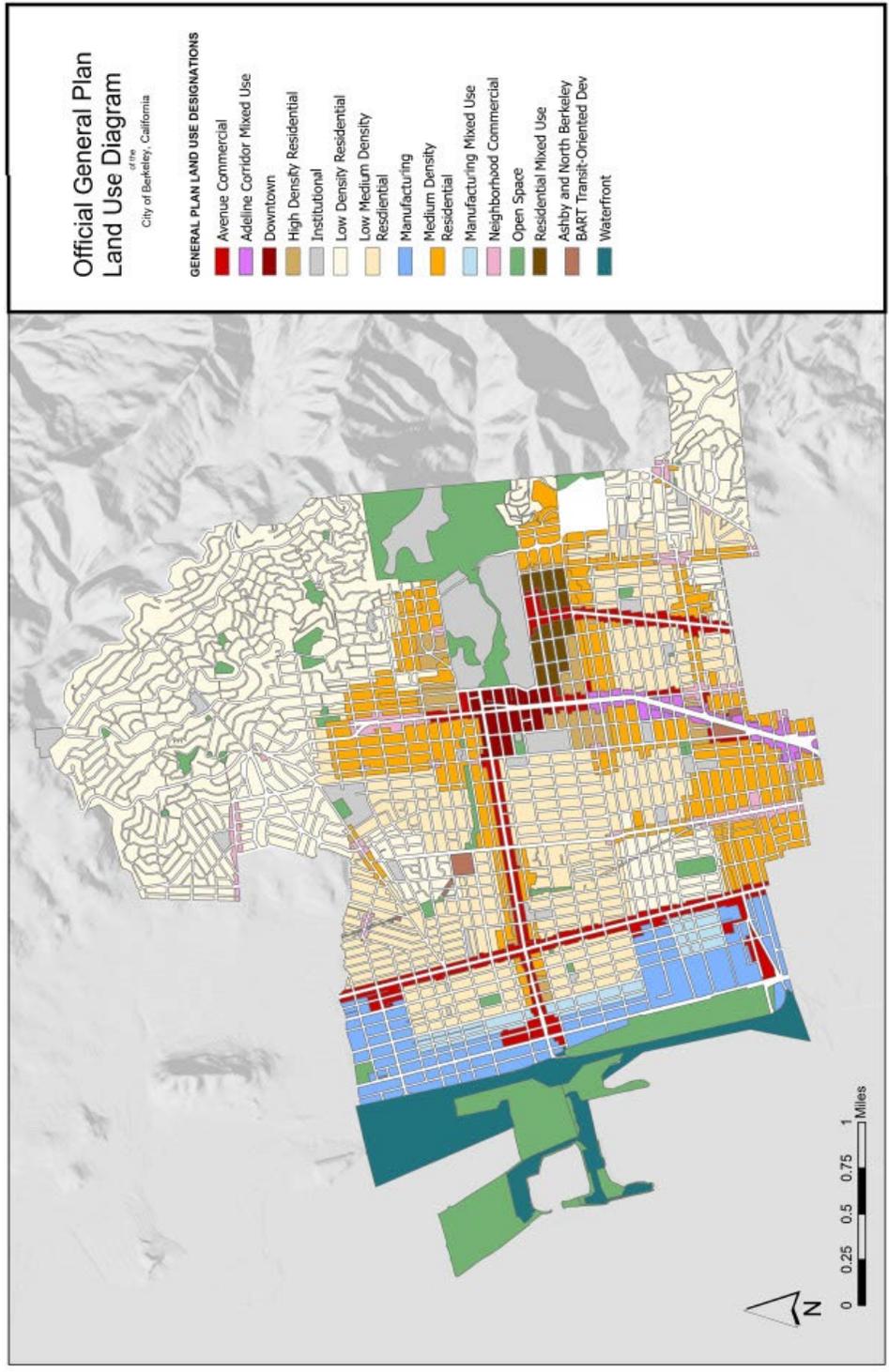
Exhibits

A: Maps of existing and proposed General Plan Land Use Diagram.

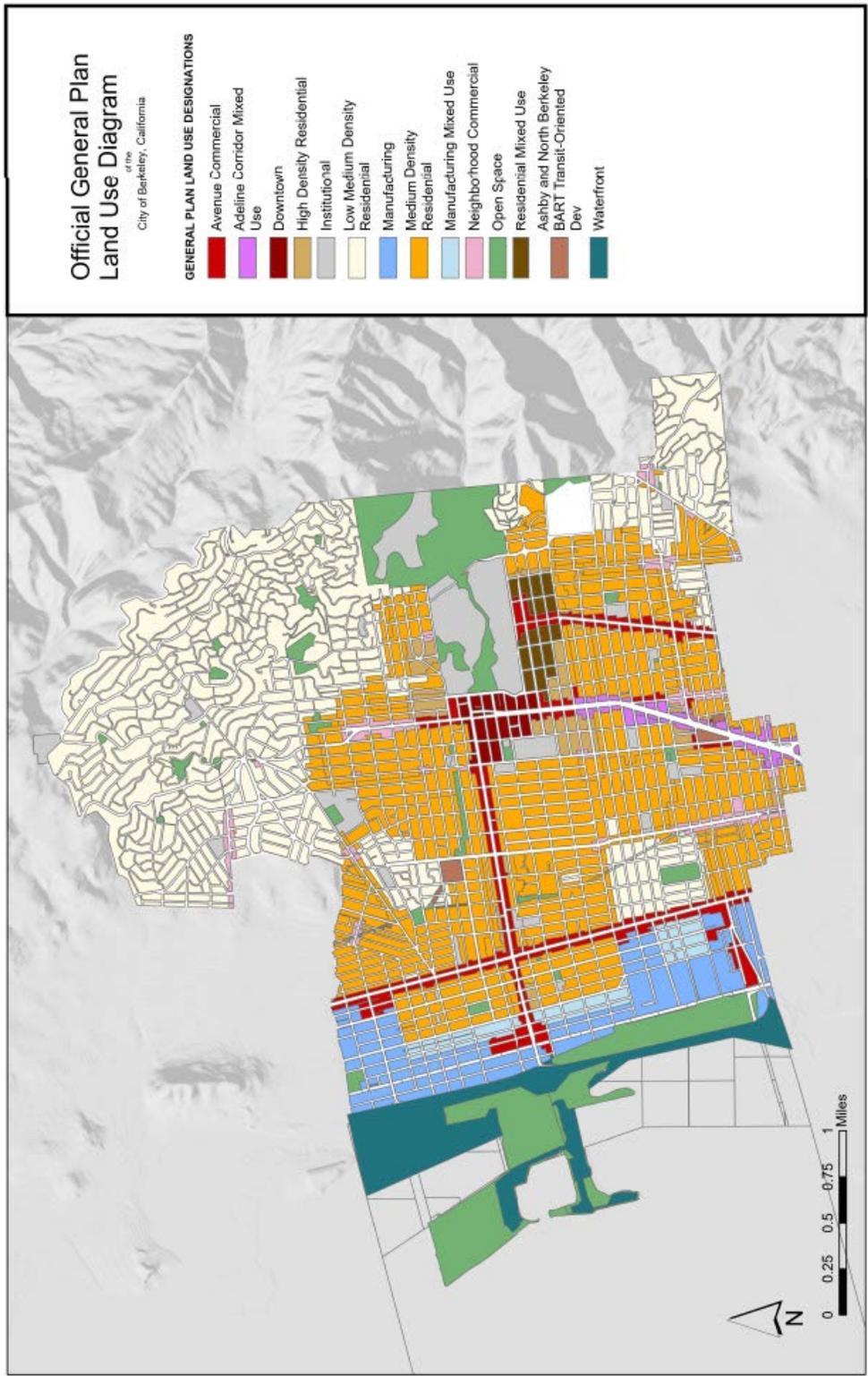
B: Text of General Plan Land Use Designation amendments.

### Exhibit A

Map 1. Existing General Plan Land Use Designations



Map 2. Proposed General Plan Land Use Designations



## Exhibit B

### Policy LU-7 Neighborhood Quality of Life

Preserve and protect the quality of life in Berkeley's residential areas through careful land use decisions.

#### Actions:

- A. Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.
- B. Carefully evaluate and monitor new and existing uses to minimize or eliminate negative impacts on adjacent residential uses.
- C. Carefully review and regulate proposals for additional residential development in the Hill Fire Hazard Area and the tsunami, seismic and landslide hazard areas identified in the Disaster Preparedness and Safety Element. (Also see Disaster Preparedness and Safety Policies S-14 and S-16.)
- D. Strengthen Zoning Ordinance language to ensure greater protection of solar access to adjacent properties when new projects or additions are proposed.
- E. Acquire an analysis of the implications of revising R-1, R-2, R-2A, MU-R, and C-N zoning to require a Use Permit and public hearings for projects that exceed 28 feet.

## LAND USE CLASSIFICATIONS

### Low Medium Density Residential

These areas are generally characterized by single-family homes, and small multi-family structures. Appropriate uses for these areas include: residential, community services, schools, home occupations, recreational uses, and open space and institutional facilities. Building intensity will range from one to 10 dwelling units per net acre<sup>1</sup>, not including secondary units, and the population density will generally not exceed 22 persons per acre.

For information purposes, the compatible zoning districts for this classification are: Residential Multi-Unit 1 (R-1), and Environmental Safety- Residential (ES-R), which allows approximately 5 dwelling units per acre. Height limits in these zoning districts are 28 feet average maximum height and 35 feet maximum height.

### Medium Density Residential

These areas of Berkeley are generally characterized by a mix of single-family homes and small to medium sized multi-family structures. The same uses appropriate in Low Medium Density Residential are appropriate in Medium Density Residential areas. Building intensity will range from 20 to 40 dwelling units per net acre, and the population density will generally range from 44 to 88 persons per acre, with the exception of the Southside Plan Area.

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<sup>1</sup> Net acreage excludes land area dedicated to roads, watercourses, and dedicated rights-of-way.

For information purposes, the compatible zoning districts for this classification are: Residential Multi-Unit 2 (R-2), Residential Multi-Unit 2A (R-2A), and Multiple-family Residential (R-3), which allows approximately 26 units per acre. Height limits in the R-2 and R-2A zoning district are 28 feet average height and 35 feet maximum height, and are 35 feet in the R-3 and R-3H zoning district (or 45 feet in the R-3 zoning district within the Southside Plan Area).

Within the R-3 within the Southside Plan Area, except in areas located in the Hillside Overlay zoning district, building intensity will range from a FAR of less than 1.0 to a FAR of 3.0. Residential development is subject to a minimum density of 60 dwelling units per acre and a minimum population density of 150 persons per acre. There is no residential density limit. This allows for greater flexibility in housing types to maximize housing opportunities in the Southside Plan Area.

### **Mixed Use-Residential**

These areas are intended to maintain and preserve areas of the city for lighter manufacturing and industrial uses and allow for additional uses, including residential, where determined appropriate by zoning, and only if the use will not weaken Berkeley's manufacturing and industrial economy. Appropriate uses for these areas are identified in the West Berkeley Plan. Within these areas, building intensity will generally range from a Floor Area Ratio (FAR) of less than 1 to an FAR of 1.5. Population density will generally range from 22 to 44 persons per acre, where housing is allowed.

For information purposes, the compatible zoning district for this classification is Mixed Use-Residential (MU-R), which allows a maximum FAR of 1.5 for non-residential uses and a maximum building height of 35 feet.



# PLANNING COMMISSION

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## Notice of Public Hearing

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### Wednesday, April 3, 2024

### Adoption of General Plan Amendments to Encourage Middle Housing

The Planning Commission of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23.412, on **Wednesday, April 3, 2024 at 6:00 p.m.** at the **North Berkeley Senior Center**, 1901 Hearst Ave, Berkeley (wheelchair accessible). In accordance with the Brown Act, Planning Commission meetings will be held in person only.

The agenda will be posted on the Planning Commission website (<https://berkeleyca.gov/your-government/boards-commissions/planning-commission>) no later than 5:00 p.m. on Friday, March 29, 2024.

#### PROJECT DESCRIPTION

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On February 7, 2024, the Planning Commission conducted a public hearing and made a recommendation to the City Council on proposed amendments to the City's Zoning Ordinance (Title 23), in response to City Council referrals, and the requirements of the City's 2023-2031 Housing Element to promote "middle housing" (2-6 units) in the Single-Family Residential (R-1), Limited Two-Family Residential (R-1A), Restricted Two-Family Residential (R-2), Restricted Multiple-Family (R-2A) and Mixed-Use Residential (MU-R) zoning districts.

The recommended Zoning Ordinance amendments require conforming edits to the City's General Plan before they can be adopted by the City Council. The proposed General Plan amendments include revisions to land use descriptions and designations, as well as technical edits to conform with the Planning Commission's recommended Zoning Ordinance amendments.

**LOCATION:** The proposed General Plan amendments would apply to all parcels currently located in the Single-Family Residential (R-1), Limited Two-Family Residential (R-1A), Restricted Two-Family Residential (R-2), Restricted Multiple-Family (R-2A) and Mixed-Use Residential (MU-R) zoning districts. The general plan map is available online:

<https://berkeley.maps.arcgis.com/apps/webappviewer/index.html?id=2c7dfafbb1f64e159f4fdf28a52f51c6&showLayers=Berkeley%20Parcels;Planning%20and%20Building>

#### ENVIRONMENTAL REVIEW STATUS

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Development projections for this project and all reasonably foreseeable growth resulting from development contemplated by the City's updated Housing Element, including the proposed amendments, were analyzed in the Environmental Impact Report (EIR) for the 2023-2031 Housing Element Update ("Housing Element Update EIR"), which was certified by the City Council on January 18, 2023.<sup>1</sup>

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<sup>1</sup> Housing Element Update 2023-2031 Final EIR.  
[https://berkeleyca.gov/sites/default/files/documents/ATT%20%20FEIR\\_RTC.pdf](https://berkeleyca.gov/sites/default/files/documents/ATT%20%20FEIR_RTC.pdf)

## **PUBLIC COMMENT & FURTHER INFORMATION**

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All persons are welcome to attend the hearing and will be given an opportunity to address the Commission. Comments may be made verbally at the public hearing and/or in writing before the hearing. Written comments must be directed to:

Zoe Covello  
Planning Commission Clerk  
Email: [PlanningPC@berkeleyca.gov](mailto:PlanningPC@berkeleyca.gov)

City of Berkeley, Land Use Planning Division  
1947 Center Street, 2<sup>nd</sup> Floor  
Berkeley, CA 94704

Correspondence received by **12pm on Tuesday, March 26, 2024**, will be included as a Communication in the agenda packet. Correspondence received after this deadline will be conveyed to the Commission and the public in the following manner:

- Correspondence received by **12pm on Monday, April 1, 2024** will be included in a Supplemental Packet, which will be posted to the online agenda as a Late Communication one day before the public hearing.
- Correspondence received by **5pm on Tuesday, April 2, 2024** will be included in a second Supplemental Packet, which will be posted to the online agenda as a Late Communication by 5pm on the day of the public hearing.
- Correspondence received **after 5pm on Tuesday, April 2, 2024** will be saved as part of the public record.

Members of the public may submit written comments just before or at the beginning of the meeting by providing 15 printed copies of the correspondence to the Planning Commission Secretary.

## **COMMUNICATION ACCESS**

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To request a meeting agenda in large print, Braille, or on audiocassette, or to request a sign language interpreter for the meeting, call (510) 981-7410 (voice) or 981-6903 (TDD). Notice of at least five (5) business days will ensure availability. All materials will be made available via the Planning Commission agenda page online at <https://berkeleyca.gov/your-government/boards-commissions/planning-commission>.

## **FURTHER INFORMATION**

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Questions should be directed to Justin Horner, at (510) 981-7476 or [jhorner@berkeleyca.gov](mailto:jhorner@berkeleyca.gov). Current and past agendas are available on the City of Berkeley website at: <https://berkeleyca.gov/your-government/boards-commissions/planning-commission>.

## Communications

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**From:** Leonard Mudrock <lmudrock@icloud.com>  
**Sent:** Monday, February 26, 2024 10:17 PM  
**To:** Planning Commission; Berkeley Mayor's Office  
**Cc:** Bartlett, Ben; Harrison, Kate; Humbert, Mark; Kesarwani, Rashi; Robinson, Rigel; Hahn, Sophie; Wengraf, Susan; Taplin, Terry; Rebecca Saltzman; Shannon Dodge; jstern@bridgehousing.com; bwiblin@bridgehousing.com; BART Board; Debora.Allen@bart.gov; Mark.Foley@bart.gov; Robert.Raburn@bart.gov; elizabeth.ames@bart.gov; Lateefah.Simon@bart.gov; Janice.Li@bart.gov; bevan.dufty@bart.gov; Leonard Mudrock  
**Subject:** Re: Recommendation and Street safety at North Berkeley BART.

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Planning Commission and BART directors and Developers and Mayor of Berkeley,

I read Berkeleyside article "Developers submit North Berkeley BART housing proposal" and I noticed the housing plan map about the garage entrance on Delaware Street, I am concerned about potential traffic flow on the garage entrance. What is the city code for "No driveway shall be located less than how many feet from the nearest T intersection of garage entrance's two ways lanes" ?

See a screenshot of housing proposal map of the garage entrance on Delaware St. (See red arrow) below:

it



I could not find the Berkeley code for a driveway and a “T” intersection on the internet search. I could see several cities code. See screenshot for an example of San Ramon’s code below.

 enCodePlus  
<https://online.encodeplus.com/sanramon-ca/doc-viewer>

**san ramon, california - municipal code**

No driveway shall be located less than 150 feet from the nearest street intersection, as measured from the centerline of the driveway to the centerline of the ...

For your reference, I wrote about my recommendation on October 16, 2023 in my forward email below. My suggestion is that a garage entrance should be located at either Short St of Delaware or Francisco St of Acton due to the opening area where night light beams of cars coming out. I think that the garage entrance at Francisco St of Acton seems more safe than Delaware St because Delaware Street has bike and jogging paths and a lot of traffic during peak time.

Regards,  
Leonard Mudrock  
1408 Delaware Street